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): August 18, 2020

HANNON ARMSTRONG SUSTAINABLE INFRASTRUCTURE CAPITAL, INC.
(Exact name of registrant as specified in its charter)

Maryland	**001-35877**	**46-1347456**
(State or other jurisdiction of incorporation)	**(Commission File Number)**	**(IRS Employer Identification No.)**

1906 Towne Centre Blvd, Suite 370 Annapolis, Maryland 21401
(Address of principal executive offices)

(410) 571-9860
(Registrant's telephone number, including area code)

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 Exchange Act:

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

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 or Rule 12b-2 of the Securities Exchange Act of 1934

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.

Underwriting Agreement

On August 18, 2020, Hannon Armstrong Sustainable Infrastructure Capital, Inc. (the "Company") entered into an underwriting agreement (the "Underwriting Agreement") with Morgan Stanley & Co. LLC, as representative of the several underwriters named in Schedule A thereto (the "Underwriters"), in connection with the offer and sale by the Company to the Underwriters of $125,000,000 aggregate principal amount of its 0% Convertible Senior Notes due 2023 (the "Base Notes"). Pursuant to the Underwriting Agreement, the Underwriters were granted the option to purchase within 30 days of August 18, 2020 up to an additional $18,750,000 aggregate principal amount of such notes from the Company (the "Additional Notes," and together with the Base Notes, the "Notes"), solely to cover over-allotments, which was exercised in full prior to the closing of the offering on August 21, 2021. The Underwriting Agreement contained customary representations, warranties and agreements of the Company, conditions to closing, indemnification rights and obligations of the parties and termination provisions.

The Company believes the Notes meet the environmental eligibility criteria for green bonds as defined by the International Capital Market Association's Green Bond Principles. The public offering generated net proceeds of approximately $139.9 million, after deducting the underwriting discount and estimated offering expenses. The Company intends to contribute the net proceeds to Hannon Armstrong Sustainable Infrastructure, L.P. (the "Operating Partnership"), its operating partnership subsidiary, in exchange for the issuance by the Operating Partnership of a senior unsecured note (the "Mirror Note") with terms that are substantially equivalent to the terms of the Notes. The Operating Partnership intends to utilize the net proceeds of this offering to acquire or refinance, in whole or in part, eligible green projects, which include assets that are neutral to negative on incremental carbon emissions. In addition, these projects may include projects with disbursements made during the twelve months preceding the issue date of the Notes and those with disbursements to be made following the issue date. Prior to the full investment of such net proceeds, the Company intends to invest such net proceeds in interest-bearing accounts and short-term, interest-bearing securities which are consistent with the Company's intention to continue to qualify for taxation as a real estate investment trust.

The Notes were issued under an indenture (the "Base Indenture"), dated as of August 22, 2017, between the Company and U.S. Bank National Association, as trustee (the "Trustee"), as supplemented by a supplemental indenture, dated as of August 21, 2020, between the Company and the Trustee (the "Supplemental Indenture" and, together with the Base Indenture, the "Indenture").

The Notes will not bear regular interest, and the principal amount of the Notes will not accrete. The Company may be required to pay special interest on the Notes upon an event of default ("special interest"). The Notes will mature on August 15, 2023 (the "Maturity Date"), unless earlier repurchased, redeemed or converted.

If the Company undergoes a "fundamental change" (as defined in the Indenture) involving the Company, subject to certain conditions, holders of the Notes may require the Company to repurchase for cash all or parts of such holders' Notes. The fundamental change repurchase price for the Notes generally will be equal to 100% of the principal amount of the Notes to be repurchased, plus accrued and unpaid special interest, if any, to, but excluding, the fundamental change repurchase date. Holders of the Notes may convert any of their Notes into shares of the Company's common stock, par value $0.01 per share (the "Common Stock"), at the applicable conversion rate at any time prior to the close of business on the second scheduled trading day immediately preceding the Maturity Date, unless the Notes have been previously redeemed or repurchased by the Company. Following the occurrence of a make-whole fundamental change, the Company will, in certain circumstances, increase the conversion rate for a holder that converts its Notes in connection with such make-whole fundamental change.

Any conversion of Notes into shares of Common Stock will be subject to certain ownership limitations (as more fully described in the Indenture). The initial conversion rate for each $1,000 aggregate principal amount of the Notes is 20.6779 shares of Common Stock, equivalent to a conversion price of approximately $48.36 per share of Common Stock, which is approximately a 27.5% premium to the closing price of the Common Stock on August 18, 2020. The conversion rate is subject to adjustment in certain circumstances.

The Company may redeem the Notes prior to August 15, 2023, to the extent the Company's board of directors determines such redemption is reasonably necessary to preserve its qualification as a real estate investment trust ("REIT") for U.S. federal income tax purposes. If the Company determines that redeeming the Notes is necessary to preserve its qualification as a REIT, then it may at any time prior to maturity redeem all or part (in a principal amount that is integral multiple of $1,000) of the Notes at a cash redemption price equal to the principal amount of the Notes to be redeemed, plus accrued and unpaid special interest, if any, to, but excluding, the redemption date.

Except as described in the Indenture, if an event of default with respect to the Notes occurs, holders of the Notes may, upon satisfaction of certain conditions, accelerate the principal amount of the Notes plus accrued and unpaid special interest, if any. In addition, the principal amount of the Notes plus accrued and unpaid special interest, if any, will automatically become due and payable in the case of certain types of bankruptcy or insolvency or events of default involving the Company.

The Notes are the senior unsecured obligations of the Company and rank (i) senior in right of payment to any indebtedness the Company may have that is expressly subordinated in right of payment to the Notes; (ii) equal in right of payment to the Company's existing and future unsecured indebtedness that is not so subordinated; (iii) effectively junior in right of payment to any of the Company's existing and future secured indebtedness, to the extent of the value of the assets securing such indebtedness; and (iv) structurally junior to all existing and future indebtedness (including trade payables) and any future preferred equity interests of the Company's subsidiaries as well as to any of the Company's existing or future indebtedness that may be guaranteed by any of the Company's subsidiaries (to the extent of any such guarantee), except for the unsecured and unsubordinated indebtedness of the Operating Partnership with which the Notes will rank equal in right of payment, including but not limited to the Mirror Note.

The preceding description is qualified in its entirety by reference to the Underwriting Agreement and the Supplemental Indenture, copies of which are attached as Exhibits 1.1 and 4.1, respectively, to this Current Report on Form 8-K and are incorporated herein by reference.

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

The information required by this Item 2.03 relating to the Notes and the Indenture is contained in Item 1.01 above and is incorporated herein by reference.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits.

Exhibit No.	Description
1.1	Underwriting Agreement, dated August 18, 2020, by and among the Company and Morgan Stanley & Co. LLC, as representative of the several underwriters named therein
4.1	Second Supplemental Indenture, dated as of August 21, 2020, between the Company and U.S. Bank National Association, as Trustee (including the form of 0% Convertible Senior Note due 2023)

5.1	Opinion of Clifford Chance US LLP (including consent of such firm)
8.1	Tax Opinion of Clifford Chance US LLP (including consent of such firm)
23.1	Consent of Clifford Chance US LLP (included in Exhibit 5.1)
23.2	Consent of Clifford Chance US LLP (included in Exhibit 8.1)
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)

SIGNATURES

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

HANNON ARMSTRONG SUSTAINABLE INFRASTRUCTURE CAPITAL, INC.

By: /s/ Steven L. Chuslo
Name: Steven L. Chuslo
Title: Executive Vice President and General Counsel

Date: August 21, 2020

Exhibit 1.1

Hannon Armstrong Sustainable Infrastructure Capital, Inc.

(a Maryland corporation)

$125,000,000 0.00% Convertible Senior Notes due 2023

UNDERWRITING AGREEMENT

Dated: August 18, 2020

Hannon Armstrong Sustainable Infrastructure Capital, Inc.
(a Maryland corporation)

$125,000,000 0.00% Convertible Senior Notes due 2023

UNDERWRITING AGREEMENT

August 18, 2020

Morgan Stanley & Co. LLC
as Representative of the several Underwriters

c/o Morgan Stanley & Co. LLC
1585 Broadway
New York, New York 10036

Ladies and Gentlemen:

Hannon Armstrong Sustainable Infrastructure Capital, Inc., a Maryland corporation (the "Company"), confirms its agreement with Morgan Stanley & Co. LLC and each of the other Underwriters named in Schedule A hereto (collectively, the "Underwriters," which term shall also include any underwriter substituted as hereinafter provided in Section 10 hereof), for whom Morgan Stanley & Co. LLC is acting as representative (in such capacity, the "Representative"), with respect to (i) the sale by the Company and the purchase by the Underwriters, acting severally and not jointly, of the respective principal amount of 0.00% Convertible Senior Notes due 2023 (the "Firm Notes") set forth in Schedule A hereto and (ii) the grant by the Company to the Underwriters, acting severally and not jointly, of the option described in Section 2(b) hereof to purchase up to an additional $18,750,000 aggregate principal amount of 0.00% Convertible Senior Notes due 2023 (the "Additional Notes"). The Firm Notes and all or any part of the Additional Notes subject to the option described in Section 2(b) hereof are herein called, collectively, the "Notes."

The Notes will be issued under an indenture dated as of August 22, 2017 (the "Base Indenture") between the Company and U.S. Bank, National Association, as Trustee (the "Trustee"), as supplemented by a supplemental indenture (the "Supplemental Indenture" and, together with the Base Indenture, the "Indenture"). The Notes will be issued to Cede & Co., as nominee of The Depository Trust Company ("DTC") pursuant to a blanket letter of representations, dated as of August 15, 2017 (the "DTC Agreement"), between the Company and DTC. The Notes will be convertible into shares (the "Underlying Securities") of common stock of the Company, par value $0.01 per share (the "Common Stock").

The Company understands that the Underwriters propose to make a public offering of the Notes as soon as the Representatives deem advisable after this Agreement has been executed and delivered.

The Company has filed with the Securities and Exchange Commission (the "Commission") an automatic shelf registration statement on Form S-3 (No. 333-230546), covering the public offering and sale of certain securities, including the Notes, under the Securities Act of 1933, as amended (the "1933 Act"), and the rules and regulations promulgated thereunder (the "1933 Act Regulations"), which shelf registration statement has become effective under Rule 462(e) under the 1933 Act Regulations ("Rule 462(e)"). Such registration statement, as of any time, means such registration statement as amended by any post-effective amendments thereto to such time, including the exhibits and any schedules thereto at such time, the documents incorporated or deemed to be incorporated by reference therein at such time pursuant to Item 12 of Form S-3 under the 1933 Act and the documents otherwise deemed to be a part thereof as of such time pursuant to Rule 430B under the 1933 Act Regulations ("Rule 430B"), is referred to herein as the "Registration Statement;" provided, however, that the "Registration Statement" without reference to a time means such registration statement as amended by any post-effective amendments thereto as of the time of the first contract of sale for the Notes, which time shall be considered the "new effective date" of such registration statement with respect to the Notes within the meaning of paragraph (f)(2) of Rule 430B, including the exhibits and schedules thereto as of such time, the documents incorporated or deemed to be incorporated by reference therein at such time pursuant to Item 12 of Form S-3 under the 1933 Act and the documents otherwise deemed to be a part thereof as of such time pursuant to Rule 430B. Each preliminary prospectus used in connection with the offering of the Notes, including the documents incorporated or deemed to be incorporated by reference therein pursuant to Item 12 of Form S-3 under the 1933 Act, are collectively referred to herein as a "preliminary prospectus." Promptly after execution and delivery of this Agreement, the Company will prepare and file a final prospectus relating to the Notes in accordance with the provisions of Rule 424(b) under the 1933 Act Regulations ("Rule 424(b)"). The final prospectus, in the form first furnished to the Underwriters for use in connection with the offering of the Notes, including the documents incorporated or deemed to be incorporated by reference therein pursuant to Item 12 of Form S-3 under the 1933 Act, are collectively referred to herein as the "Prospectus." For purposes of this Agreement, all references to the Registration Statement, any preliminary prospectus, the Prospectus or any amendment or supplement to any of the foregoing shall be deemed to include the copy filed with the Commission pursuant to its Electronic Data Gathering, Analysis and Retrieval system ("EDGAR").

As used in this Agreement:

"Applicable Time" means 4:30 P.M., New York City time, on August 18, 2020 or such other time as agreed by the Company and the Representatives.

"General Disclosure Package" means any Issuer General Use Free Writing Prospectuses (as defined below) issued at or prior to the Applicable Time, the most recent preliminary prospectus (including any documents incorporated therein by reference) that is distributed to investors prior to the Applicable Time and the pricing term sheet included on Schedule B-1 hereto, all considered together.

"Issuer Free Writing Prospectus" means any "issuer free writing prospectus," as defined in Rule 433 of the 1933 Act Regulations ("Rule 433"), including without limitation any "free writing prospectus" (as defined in Rule 405 of the 1933 Act Regulations ("Rule 405")) relating to the Notes that is (i) required to be filed with the Commission by the Company, (ii) a "road show that is a written communication" within the meaning of Rule 433(d)(8)(i), whether or not required to be filed with the Commission, or (iii) exempt from filing with the Commission pursuant to Rule 433(d)(5)(i) because it contains a description of the Notes or of the offering that does not reflect the final terms, in each case in the form filed or required to be filed with the Commission or, if not required to be filed, in the form retained in the Company's records pursuant to Rule 433(g).

"Issuer General Use Free Writing Prospectus" means any Issuer Free Writing Prospectus that is intended for general distribution to prospective investors (other than a *"bona fide* electronic road show," as defined in Rule 433), as evidenced by its being specified in ScheduleB-2 hereto.

"Issuer Limited Use Free Writing Prospectus" means any Issuer Free Writing Prospectus that is not an Issuer General Use Free Writing Prospectus.

All references in this Agreement to financial statements and schedules and other information which is "contained," "included" or "stated" in the Registration Statement, any preliminary prospectus or the Prospectus (or other references of like import) shall include all such financial statements and schedules and other information which is incorporated or deemed to be incorporated by reference in or otherwise deemed by 1933 Act Regulations to be a part of or included in the Registration Statement, any preliminary prospectus or the Prospectus, as the case may be, prior to the execution and delivery of this Agreement; and all references in this Agreement to amendments or supplements to the Registration Statement, any preliminary prospectus or the Prospectus shall include the filing of any document under the Securities Exchange Act of 1934, as amended (the "1934 Act"), which is incorporated or deemed to be incorporated by reference in or otherwise deemed by 1933 Act Regulations to be a part of or included in the Registration Statement, such preliminary prospectus or the Prospectus, as the case may be, at or after the execution and delivery of this Agreement.

SECTION 1. Representations and Warranties.

(a) *Representations and Warranties by the Company.* The Company represents and warrants to each Underwriter as of the date hereof, the Applicable Time, the Closing Time (as defined below) and any Date of Delivery (as defined below), and agrees with each Underwriter, as follows:

(i) Registration Statement and Prospectuses. The Company meets the requirements for use of FormS-3 under the 1933 Act. The Registration Statement is an "automatic shelf registration statement" (as defined in Rule 405) and the Notes have been and remain eligible for registration by the Company on

such automatic shelf registration statement. Each of the Registration Statement and any post-effective amendment thereto has become effective under the 1933 Act. No stop order suspending the effectiveness of the Registration Statement or any post-effective amendment thereto has been issued under the 1933 Act, no order preventing or suspending the use of any preliminary prospectus or the Prospectus has been issued and no proceedings for any of those purposes have been instituted or, to the Company's knowledge, are pending or contemplated by the Commission. The Company has complied with each request (if any) from the Commission for additional information.

Each of the Registration Statement and any post-effective amendment thereto, at the time of its deemed effectiveness and at each effective date with respect to the Underwriters pursuant to Rule 430B(f)(2) under the 1933 Act Regulations, complied in all material respects with the requirements of the 1933 Act and the 1933 Act Regulations. Each preliminary prospectus, the Prospectus and any amendment or supplement thereto, at the time each was filed with the Commission, complied in all material respects with the requirements of the 1933 Act and the 1933 Act Regulations and each preliminary prospectus and the Prospectus delivered to the Underwriters for use in connection with this offering was identical to the electronically transmitted copies thereof filed with the Commission pursuant to EDGAR, except to the extent permitted by Regulation S-T.

The documents incorporated or deemed to be incorporated by reference in the Registration Statement and the Prospectus, when they became effective or at the time they were or hereafter are filed with the Commission, complied and will comply in all material respects with the requirements of the 1934 Act and the rules and regulations of the Commission under the 1934 Act (the "1934 Act Regulations").

(ii) Accurate Disclosure. Neither the Registration Statement nor any amendment thereto, at its effective time, at the Closing Time or at any Date of Delivery, contained, contains or will contain an untrue statement of a material fact or omitted, omits or will omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading. As of the Applicable Time, neither of (A) the General Disclosure Package and (B) any individual Issuer Limited Use Free Writing Prospectus, when considered together with the General Disclosure Package, included, includes or will include an untrue statement of a material fact or omitted, omits or will omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. Neither the Prospectus nor any amendment or supplement thereto (including any prospectus wrapper), as of its issue date, at the time of any filing with the Commission pursuant to Rule 424(b), at the Closing Time or at any Date of Delivery, will include an untrue statement of a material fact or will omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. The documents incorporated or deemed to be incorporated

by reference in the Registration Statement, the General Disclosure Package and the Prospectus, at the time the Registration Statement became effective or when such documents incorporated by reference were filed with the Commission, as the case may be, when read together with the other information in the Registration Statement, the General Disclosure Package or the Prospectus, as the case may be, did not and will not include an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading.

The representations and warranties in this subsection shall not apply to statements in or omissions from the Registration Statement (or any post-effective amendment thereto), the General Disclosure Package or the Prospectus (or any amendment or supplement thereto) made in reliance upon and in conformity with written information furnished to the Company by any Underwriter through the Representatives expressly for use therein. For purposes of this Agreement, the only information so furnished shall be the information in the first and second paragraphs under the heading "Underwriting—Price Stabilization, Short Positions and Penalty Bids," in the third and fourth sentences in the paragraph under the heading "Underwriting—No Prior Market" and the information under the heading "Underwriting—Electronic Distribution" in each case contained in the Prospectus (collectively, the "Underwriter Information").

(iii) Issuer Free Writing Prospectuses. No Issuer Free Writing Prospectus conflicts or will conflict with the information contained in the Registration Statement or the Prospectus, including any document incorporated by reference therein, and any preliminary or other prospectus deemed to be a part thereof that has not been superseded or modified. Any offer that is a written communication relating to the Notes made prior to the initial filing of the Registration Statement by the Company or any person acting on its behalf (within the meaning, for this paragraph only, of Rule 163(c) of the 1933 Act Regulations) has been filed with the Commission in accordance with the exemption provided by Rule 163 under the 1933 Act Regulations ("Rule 163") and otherwise complied with the requirements of Rule 163, including without limitation the legending requirement, to qualify such offer for the exemption from Section 5(c) of the 1933 Act provided by Rule 163.

(iv) Well-Known Seasoned Issuer. (A) At the original effectiveness of the Registration Statement, (B) at the time of the most recent amendment thereto for the purposes of complying with Section 10(a)(3) of the 1933 Act (whether such amendment was by post-effective amendment, incorporated report filed pursuant to Section 13 or 15(d) of the 1934 Act or form of prospectus), (C) at the time the Company or any person acting on its behalf (within the meaning, for this clause only, of Rule 163(c) under the 1933 Act) made any offer relating to the Notes in reliance on the exemption of Rule 163 under the 1933 Act, and (D) as of the Applicable Time, the Company was and is a "well-known seasoned issuer" (as defined in Rule 405).

(v) Company Not Ineligible Issuer. At the time of filing the Registration Statement and any post-effective amendment thereto, at the earliest time thereafter that the Company made a *bona fide* offer (within the meaning of Rule 164(h)(2) of the 1933 Act Regulations) of the Notes and at the date hereof, the Company was not and is not an "ineligible issuer," as defined in Rule 405, without taking account of any determination by the Commission pursuant to Rule 405 that it is not necessary that the Company be considered an ineligible issuer.

(vi) Independent Accountants of the Company. Ernst & Young LLP, who audited the financial statements and supporting schedules of the Company and its subsidiaries included in the Registration Statement, the General Disclosure Package and the Prospectus, are independent public accountants as required by the 1933 Act, the 1933 Act Regulations, the 1934 Act, the 1934 Act Regulations and the Public Company Accounting Oversight Board.

(vii) Financial Statements; Non-GAAP Financial Measures. The historical financial statements included or incorporated by reference in the Registration Statement, the General Disclosure Package and the Prospectus, together with the related schedules and notes, present fairly the financial position of the Company and its consolidated subsidiaries at the dates indicated and the statement of operations, stockholders' and members' equity and cash flows of the Company and its consolidated subsidiaries for the periods specified; said financial statements have been prepared in conformity with U.S. generally accepted accounting principles ("GAAP") applied on a consistent basis throughout the periods involved. The supporting schedules, if any, present fairly in accordance with GAAP the information required to be stated therein. Except as disclosed in the Registration Statement, the General Disclosure Package and the Prospectus, the selected historical financial data and the summary historical financial information of the Company included in the Registration Statement, the General Disclosure Package and the Prospectus present fairly the information shown therein and have been compiled on a basis consistent with that of the audited financial statements included therein. Except as included therein, no historical or pro forma financial statements or supporting schedules are required to be included or incorporated by reference in the Registration Statement, the General Disclosure Package or the Prospectus under the 1933 Act, the 1933 Act Regulations, the 1934 Act and the 1934 Act Regulations. All disclosures contained in the Registration Statement, the General Disclosure Package or the Prospectus, or incorporated by reference therein, regarding "non-GAAP financial measures" (as such term is defined by the rules and regulations of the Commission) comply with Regulation G under the 1934 Act and Item 10 of Regulation S-K under the 1933 Act, to the extent applicable. The interactive data in eXtensible Business Reporting Language incorporated by reference in the Registration Statement, the General Disclosure Package and the Prospectus fairly presents the information called for in all material respects and has been prepared in accordance with the Commission's rules and guidelines applicable thereto.

(viii) No Material Adverse Change in Business. Except as otherwise stated therein, since the respective dates as of which information is given in the Registration Statement, the General Disclosure Package or the Prospectus, (A) there has been no material adverse change in the condition, financial or otherwise, or in the earnings, properties, business affairs or business prospects of the Company and its subsidiaries considered as one enterprise, whether or not arising in the ordinary course of business (a "Material Adverse Effect"), (B) there have been no transactions entered into by the Company or any of its subsidiaries, other than those in the ordinary course of business, which are material with respect to the Company and its subsidiaries considered as one enterprise, and (C) except for regular quarterly dividends on the Common Stock, there has been no dividend or other distribution of any kind declared, paid or made by the Company on any class of its capital stock.

(ix) Good Standing of the Company. The Company has been duly incorporated and is validly existing as a corporation in good standing under the laws of the State of Maryland and has corporate power and authority to own, lease and operate its properties and to conduct its business as described in the Registration Statement, the General Disclosure Package and the Prospectus and to enter into and perform its obligations under this Agreement and the Indenture; and the Company is duly qualified as a foreign corporation to transact business and is in good standing in each other jurisdiction in which such qualification is required, whether by reason of the ownership or leasing of property or the conduct of business, except where the failure so to qualify or to be in good standing would not reasonably be expected to result in a Material Adverse Effect.

(x) Good Standing of Subsidiaries. Each "significant subsidiary" of the Company (as such term is defined in Rule 1-02 of Regulation S-X) (each, a "Subsidiary" and, collectively, the "Subsidiaries") has been duly formed and is validly existing in good standing under the laws of the jurisdiction of its incorporation or formation, has corporate or similar power and authority to own, lease and operate its properties and to conduct its business as described in the Registration Statement, the General Disclosure Package and the Prospectus and is duly qualified to transact business and is in good standing in each jurisdiction in which such qualification is required, whether by reason of the ownership or leasing of property or the conduct of business, except where the failure to so qualify or to be in good standing would not reasonably be expected to result in a Material Adverse Effect. Except as otherwise disclosed in the Registration Statement, the General Disclosure Package and the Prospectus, all of the issued and outstanding capital stock or other equity securities of each Subsidiary has been duly authorized and validly issued, is fully paid and non-assessable (as applicable) and is owned by the Company, directly or through subsidiaries, free and clear of any security interest, mortgage, pledge, lien, encumbrance, claim or equity, except for any equity interests of subsidiaries pledged under the Company's credit facilities and nonrecourse notes and debt referred to on the face

of the Company's balance sheet for the year ended December 31, 2019 (or subsequently filed periodic reports of the Company) and such security interests, mortgages, pledges, liens, encumbrances, claims or equities which would not reasonably be expected to materially affect the ownership of such subsidiary by the Company, directly or through subsidiaries. None of the outstanding shares of capital stock or other equity securities of any Subsidiary were issued in violation of the preemptive or similar rights of any securityholder of such Subsidiary.

(xi) Capitalization. The authorized, issued and outstanding shares of capital stock of the Company are as set forth in the Company's most recent Form 10-Q (except for subsequent withholdings of shares of Common Stock by the Company in connection with tax withholding transactions and the vesting of stock grants, issuances pursuant to the Company's at-the-market offering program, issuances, if any, pursuant to this Agreement, pursuant to reservations, agreements or equity incentive or employee benefit plans referred to in the Registration Statement, the General Disclosure Package and the Prospectus or pursuant to the exercise, redemption or exchange of convertible or exchangeable securities, warrants or options referred to in the Registration Statement, the General Disclosure Package and the Prospectus, including units of limited partnership interest in Hannon Armstrong Sustainable Infrastructure, L.P., a Delaware limited partnership (the "Operating Partnership")). The outstanding shares of capital stock of the Company have been duly authorized and validly issued and are fully paid and non-assessable. None of the outstanding shares of capital stock of the Company were issued in violation of any preemptive or other similar rights of any securityholder of the Company.

(xii) Authorization of Agreement. This Agreement has been duly authorized, executed and delivered by the Company.

(xiii) Qualification of Indenture. The Indenture has been duly qualified under the Trust Indenture Act of 1939, as amended (the "Trust Indenture Act").

(xiv) The Indenture. The Indenture has been duly authorized and, at the time of purchase, will be executed and delivered by the Company, and when executed and delivered by the Trustee, will constitute a valid, binding and enforceable agreement of the Company in accordance with its terms, except as may be limited by applicable bankruptcy, fraudulent conveyance, reorganization, insolvency, moratorium or other laws affecting creditors' rights generally now or hereinafter in effect and by general equitable principles (regardless of whether such enforceability is considered in a proceeding in equity or at law).

(xv) The Notes. The Notes have been duly and validly authorized and, when issued, delivered and authenticated in the manner provided for in the Indenture against payment therefor by you as provided herein, will be valid and legal obligations of the Company enforceable in accordance with their terms,

except as may be limited by applicable bankruptcy, fraudulent conveyance, reorganization, insolvency, moratorium or other laws affecting creditors' rights generally now or hereinafter in effect and by general equitable principles (regardless of whether such enforceability is considered in a proceeding in equity or at law), and will conform in all material respects to the description of the Notes contained in the Registration Statement, the General Disclosure Package and the Prospectus; the offer and sale of the Notes as contemplated hereby has been duly approved by all necessary corporate or other action of the Company.

(xvi) Description of Notes. The statements in the Registration Statement, the General Disclosure Package and the Prospectus under the heading "Description of Notes" insofar as such statements summarize legal matters, agreements, documents or proceedings discussed therein, are fair and accurate in all material respects.

(xvii) Underlying Securities. The maximum number of shares of Common Stock issuable upon conversion of the Notes (including the maximum number of additional shares of Common Stock by which the Conversion Rate (as such term is defined in the Indenture) may be increased upon conversion in connection with a Make-Whole Fundamental Change (as such term is defined in the Indenture) or notice of redemption and assuming (x) a single holder of Notes converted all of the Notes and (y) the Underwriters exercise their option to purchase the Additional Notes in full) (the "Maximum Number of Underlying Securities") have been duly authorized by the Company and, when issued upon conversion of the Notes in accordance with the terms of the Notes, will be validly issued, fully paid and nonassessable; the issuance of the Maximum Number of Underlying Securities is not subject to any preemptive or similar rights; the Underlying Securities conform in all material respects to the description thereof contained in the Registration Statement, the General Disclosure Package and the Prospectus.

(xviii) Registration Rights. There are no persons with registration rights or other similar rights to have any securities registered for sale pursuant to the Registration Statement or otherwise registered for sale or sold by the Company under the 1933 Act pursuant to this Agreement, other than those rights that have been disclosed in the Registration Statement, the General Disclosure Package and the Prospectus and, to the extent applicable to the offering of the Notes, have been satisfied or waived.

(xix) Absence of Violations, Defaults and Conflicts. Neither the Company nor any of its subsidiaries is (A) in violation of its charter, bylaws or similar organizational document, (B) in default in the performance or observance of any obligation, agreement, covenant or condition contained in any contract, indenture, mortgage, deed of trust, loan or credit agreement, note, lease or other agreement or instrument to which the Company or any of its subsidiaries is a party or by which it or any of them may be bound or to which any of the

properties or assets of the Company or any subsidiary is subject (collectively, "Agreements and Instruments"), except for such defaults that would not, singly or in the aggregate, result in a Material Adverse Effect, or (C) in violation of any law, statute, rule, regulation, judgment, order, writ or decree of any arbitrator, court, governmental body, regulatory body, administrative agency or other authority, body or agency having jurisdiction over the Company or any of its subsidiaries or any of their respective properties, assets or operations (each, a "Governmental Entity"), except for such violations that would not, singly or in the aggregate, result in a Material Adverse Effect. The execution, delivery and performance of this Agreement, the Indenture and the Notes and the consummation of the transactions contemplated herein and therein and in the Registration Statement, the General Disclosure Package and the Prospectus (including the issuance and sale of the Notes, the use of the proceeds from the sale of the Notes as described therein under the caption "Use of Proceeds" and the issuance and delivery of the Maximum Number of Underlying Securities issuable upon conversion of the Notes) and compliance by the Company with its obligations hereunder have been duly authorized by all necessary corporate action and do not and will not, whether with or without the giving of notice or passage of time or both, conflict with or constitute a breach of, or default or Repayment Event (as defined below) under, or result in the creation or imposition of any lien, charge or encumbrance upon any properties or assets of the Company or any subsidiary pursuant to, the Agreements and Instruments (except for such conflicts, breaches, defaults or Repayment Events or liens, charges or encumbrances that would not, singly or in the aggregate, result in a Material Adverse Effect), nor will such action result in any violation of (i) the provisions of the charter, bylaws or similar organizational document of the Company or any of its subsidiaries or (ii) any applicable law, statute, rule, regulation, judgment, order, writ or decree of any Governmental Entity, except in the case of clause (ii) for such violations as would not, singly or in the aggregate result in a Material Adverse Effect. As used herein, a "Repayment Event" means any event or condition which gives the holder of any note, debenture or other evidence of indebtedness (or any person acting on such holder's behalf) the right to require the repurchase, redemption or repayment of all or a portion of such indebtedness by the Company or any of its subsidiaries.

(xx) Absence of Labor Dispute. No labor dispute with the employees of the Company or any of its subsidiaries exists or, to the knowledge of the Company, is imminent, which, in either case, would result in a Material Adverse Effect.

(xxi) Absence of Proceedings. Except as disclosed in the Registration Statement, the General Disclosure Package and the Prospectus, there are no actions, suits, proceedings, inquiries or investigations before or brought by any Governmental Entity now pending or, to the knowledge of the Company, threatened, against or affecting the Company or any of its subsidiaries, which

would, singly or in the aggregate, reasonably be expected to result in a Material Adverse Effect, or which would reasonably be expected to materially and adversely affect their respective properties or assets or the consummation of the transactions contemplated in this Agreement, the Indenture and the Notes or the performance by the Company of its obligations hereunder or thereunder (including, without limitation, the issuance and delivery of the Notes and the Maximum Number of Underlying Securities issuable upon conversion of the Notes).

(xxii) Accuracy of Exhibits. There are no contracts or documents to which the Company or any of its subsidiaries is subject or to which the Company or any of its subsidiaries is bound which are required to be described in the Registration Statement, the General Disclosure Package or the Prospectus or to be filed as exhibits to the Registration Statement which have not been so described and filed as required.

(xxiii) Absence of Further Requirements. No filing with, or authorization, approval, consent, license, order, registration, qualification or decree of, any Governmental Entity is necessary or required for the performance by the Company of its obligations hereunder, under the Indenture or the Notes, in connection with the offering, issuance or sale of the Notes hereunder, upon issuance of the Maximum Number of Underlying Securities upon conversion of the Notes, or the consummation of the transactions contemplated by this Agreement, under the Indenture or the Notes, except such as have been already obtained or as may be required under the 1933 Act, the 1933 Act Regulations, the rules of the New York Stock Exchange, state securities laws or the rules of the Financial Industry Regulatory Authority ("FINRA").

(xxiv) Possession of Licenses and Permits. The Company and its subsidiaries possess such permits, licenses, approvals, consents and other authorizations (collectively, "Governmental Licenses") issued by the appropriate Governmental Entities necessary to conduct the business now operated by them, except where the failure so to possess would not reasonably be expected to, singly or in the aggregate, result in a Material Adverse Effect. The Company and its subsidiaries are in compliance with the terms and conditions of all Governmental Licenses, except where the failure so to comply would not, singly or in the aggregate, result in a Material Adverse Effect. All of the Governmental Licenses are valid and in full force and effect, except when the invalidity of such Governmental Licenses or the failure of such Governmental Licenses to be in full force and effect would not reasonably be expected to, singly or in the aggregate, result in a Material Adverse Effect. Neither the Company nor any of its subsidiaries has received any notice of proceedings relating to the revocation or modification of any Governmental Licenses which, singly or in the aggregate, if the subject of an unfavorable decision, ruling or finding, would reasonably be expected to result in a Material Adverse Effect.

(xxv) Title to Property. The Company and its subsidiaries have good and marketable title to all real property, if any, owned by them and good title to all other properties, if any, owned by them, in each case, free and clear of all mortgages, pledges, liens, security interests, claims, restrictions or encumbrances of any kind except such as (A) are described in the Registration Statement, the General Disclosure Package and the Prospectus or (B) do not, singly or in the aggregate, materially affect the value of such property and do not and is not reasonably expected to materially interfere with the use made and proposed to be made of such property by the Company or any of its subsidiaries; and all of the leases and subleases of real property, if any, material to the business of the Company and its subsidiaries, considered as one enterprise, and under which the Company or any of its subsidiaries holds properties described in the Registration Statement, the General Disclosure Package or the Prospectus, are in full force and effect, with such exceptions as are not material and do not materially interfere with the use made or proposed to be made of such real property by the Company or any Subsidiary, and except as described in the Registration Statement, the General Disclosure Package and the Prospectus neither the Company nor any such subsidiary has any written notice of any material claim of any sort that has been asserted by anyone adverse to the rights of the Company or any subsidiary under any of the leases or subleases mentioned above, or affecting or questioning the rights of the Company or such subsidiary to the continued possession of the leased or subleased premises under any such lease or sublease.

(xxvi) Possession of Intellectual Property. The Company and its subsidiaries own or possess, or can acquire on reasonable terms, adequate patents, patent rights, licenses, inventions, copyrights, know-how (including trade secrets and other unpatented and/or unpatentable proprietary or confidential information, systems or procedures), trademarks, service marks, trade names or other intellectual property (collectively, "Intellectual Property") necessary to carry on the business now operated by them, and neither the Company nor any of its subsidiaries has received any notice or is otherwise aware of any infringement of or conflict with asserted rights of others with respect to any Intellectual Property or of any facts or circumstances which would render any Intellectual Property invalid or inadequate to protect the interest of the Company or any of its subsidiaries therein, and which infringement or conflict (if the subject of any unfavorable decision, ruling or finding) or invalidity or inadequacy, singly or in the aggregate, would reasonably be expected to result in a Material Adverse Effect.

(xxvii) Environmental Laws. Except as described in the Registration Statement, the General Disclosure Package and the Prospectus or would not, singly or in the aggregate, result in a Material Adverse Effect, (A) neither the Company nor any of its subsidiaries is in violation of any applicable federal, state, local or foreign statute, law, rule, regulation, ordinance, code, policy or rule of common law or any judicial or administrative interpretation thereof, including any

judicial or administrative order, consent, decree or judgment, relating to pollution or protection of human health, the environment (including, without limitation, ambient air, surface water, groundwater, land surface or subsurface strata) or wildlife, including, without limitation, laws and regulations relating to the release or threatened release of chemicals, pollutants, contaminants, wastes, toxic substances, hazardous substances, petroleum or petroleum products, asbestos-containing materials or mold (collectively, "Hazardous Materials") or to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials (collectively, "Environmental Laws"), (B) the Company and its subsidiaries have all permits, authorizations and approvals required for their operations under any applicable Environmental Laws and are each in compliance with their requirements, (C) there are no pending or, to the knowledge of the Company, threatened administrative, regulatory or judicial actions, suits, demands, demand letters, claims, liens, notices of noncompliance or violation, investigation or proceedings relating to any Environmental Law against the Company or any of its subsidiaries and (D) there are no events or circumstances that, to the knowledge of the Company, would reasonably be expected to form the basis of an order for clean-up or remediation, or an action, suit or proceeding by any private party or Governmental Entity, against or affecting the Company or any of its subsidiaries relating to Hazardous Materials or any Environmental Laws.

(xxviii) Accounting Controls and Disclosure Controls. The Company and each of its subsidiaries maintain effective internal control over financial reporting (as defined in Rule 13a-15 and 15d-15 of the 1934 Act Regulations) and a system of internal accounting controls sufficient to provide reasonable assurances that (A) transactions are executed in accordance with management's general or specific authorization; (B) transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP and to maintain accountability for assets; (C) access to assets is permitted only in accordance with management's general or specific authorization; (D) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences; and (E) the interactive data in eXtensible Business Reporting Language incorporated by reference in the Registration Statement, the General Disclosure Package and the Prospectus fairly presents the information called for in all material respects and is prepared in accordance with the Commission's rules and guidelines applicable thereto. The Company and each of its subsidiaries maintain an effective system of disclosure controls and procedures (as defined in Rule 13a-15 and Rule 15d-15 of the 1934 Act Regulations) that are designed to ensure that the information required to be disclosed by the Company in the reports that it files or submits under the 1934 Act is recorded, processed, summarized and reported, within the time periods specified in the Commission's rules and forms, and is accumulated and communicated to the Company's management, including its principal executive officer or officers and principal financial officer or officers, as

appropriate, to allow timely decisions regarding disclosure. Except as described in the Registration Statement, the General Disclosure Package and the Prospectus, since the end of the Company's most recent audited fiscal year, there has been (1) no material weakness in the Company's internal control over financial reporting (whether or not remediated) and (2) no change in the Company's internal control over financial reporting that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting.

(xxix) Compliance with the Sarbanes-Oxley Act. There is and has been no failure on the part of the Company or any of the Company's directors or officers, in their capacities as such, to comply in all material respects with any provision of the Sarbanes-Oxley Act of 2002 and the rules and regulations promulgated in connection therewith and with which the Company is required to comply, including Section 402 related to loans and Sections 302 and 906 related to certifications.

(xxx) Payment of Taxes. All United States federal income tax returns of the Company and its subsidiaries required by law to be filed have been filed (taking into account timely requested extensions) and all material taxes shown by such returns or all U.S. federal income taxes otherwise assessed, which are due and payable, have been paid, except assessments against which appeals have been or will be promptly taken and as to which adequate reserves have been provided. The Company and its subsidiaries have filed all other tax returns that are required to have been filed by them or have timely requested extensions thereof pursuant to applicable foreign, state, local or other law except insofar as the failure to file such returns would not result in a Material Adverse Effect, and have paid all taxes due pursuant to such returns or all taxes due pursuant to any assessment received by the Company and its subsidiaries, except where the failure to pay such taxes would not reasonably be expected to result in a Material Adverse Effect. The charges, accruals and reserves on the books of the Company in respect of any income and corporation tax liability for any years not finally determined are adequate to meet any assessments or re-assessments for additional income tax for any years not finally determined, except to the extent of any inadequacy that would not result in a Material Adverse Effect.

(xxxi) Insurance. Except with respect to circumstances where the United States Government is the obligor, the Company and its subsidiaries carry or are entitled to the benefits of insurance, with, to the Company's knowledge, financially sound and reputable insurers, in such amounts and covering such risks as is commercially reasonable for the value of the properties and assets owned by the Company and the subsidiaries and, to the Company's knowledge, all such insurance is in full force and effect. The Company has no reason to believe that it or any of its subsidiaries will not be able (A) to renew its existing insurance coverage as and when such policies expire or (B) to obtain comparable coverage from similar institutions as may be necessary or appropriate to conduct its business as now conducted and at a cost that would not result in a Material Adverse Effect. Neither of the Company nor any of its subsidiaries has been denied any insurance coverage which it has sought or for which it has applied.

(xxxii) Investment Company Act. The Company is not required, and upon the issuance and sale of the Notes as herein contemplated and the application of the net proceeds therefrom as described in the Registration Statement, the General Disclosure Package and the Prospectus will not be required, to register as an "investment company" under the Investment Company Act of 1940, as amended.

(xxxiii) Absence of Manipulation. None of the Company, any affiliate controlled by the Company or, to the knowledge of the Company, any affiliate not controlled by the Company has taken, nor will the Company or any affiliate controlled by the Company take, directly or indirectly, any action which is designed, or would be expected, to cause or result in, or which constitutes, the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of the Notes or to result in a violation of Regulation M under the 1934 Act.

(xxxiv) Foreign Corrupt Practices Act. None of the Company, any of its subsidiaries or, to the knowledge of the Company, any director, officer, agent, employee, affiliate or other person acting on behalf of the Company or any of its subsidiaries is aware of or has taken any action, directly or indirectly, that would result in a violation by such persons of the Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations thereunder (the "FCPA"), including, without limitation, making use of the mails or any means or instrumentality of interstate commerce corruptly in furtherance of an offer, payment, promise to pay or authorization of the payment of any money, or other property, gift, promise to give, or authorization of the giving of anything of value to any "foreign official" (as such term is defined in the FCPA) or any foreign political party or official thereof or any candidate for foreign political office, in contravention of the FCPA and the Company and, to the knowledge of the Company, its affiliates have conducted their businesses in compliance with the FCPA and have instituted and maintain policies and procedures designed to ensure, and which are reasonably expected to continue to ensure, continued compliance therewith.

(xxxv) Money Laundering Laws. The operations of the Company and its subsidiaries are and have been conducted at all times in compliance with applicable financial recordkeeping and reporting requirements of the Currency and Foreign Transactions Reporting Act of 1970, as amended, the money laundering statutes of all applicable jurisdictions, the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any Governmental Entity (collectively, the "Money Laundering Laws"); and no action, suit or proceeding by or before any Governmental Entity involving the Company or any of its subsidiaries with respect to the Money Laundering Laws is pending or, to the best knowledge of the Company, threatened.

(xxxvi) OFAC. None of the Company, any of its subsidiaries or, to the knowledge of the Company, any director, officer, agent, employee, affiliate or representative of the Company or any of its subsidiaries is an individual or entity ("Person") currently the subject or target of any sanctions administered or enforced by the United States Government, including, without limitation, the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC"), the United Nations Security Council ("UNSC"), the European Union, Her Majesty's Treasury ("HMT"), or other relevant sanctions authority (collectively, "Sanctions"), nor is the Company located, organized or resident in a country or territory that is the subject of Sanctions; and the Company will not directly or indirectly use the proceeds of the sale of the Notes, or lend, contribute or otherwise make available such proceeds to any subsidiaries, joint venture partners or other Person, to fund any activities of or business with any Person, or in any country or territory, that, at the time of such funding, is the subject of Sanctions or in any other manner that will result in a violation by any Person (including any Person participating in the transaction, whether as underwriter, advisor, investor or otherwise) of Sanctions.

(xxxvii) Lending Relationship. Except as disclosed in the Registration Statement, the General Disclosure Package and the Prospectus, the Company (i) does not have any material lending or other relationship with any bank or lending affiliate of any Underwriter and (ii) does not intend to use any of the proceeds from the sale of the Notes to repay any outstanding debt owed to any affiliate of any Underwriter.

(xxxviii) Statistical and Market-Related Data. Any statistical and market-related data included in the Registration Statement, the General Disclosure Package or the Prospectus are based on or derived from sources that the Company believes to be reliable and accurate in all material respects and, to the extent required by any agreement with any third party that has provided any such data or Rule 436 under the 1933 Act, the Company has obtained the written consent to the use of such data from such sources or determined that no such consent is required.

(xxxix) REIT Status. Commencing with its taxable year ended December 31, 2013, the Company has been organized and operated in conformity with the requirements for qualification and taxation as a "real estate investment trust" (a "REIT") under Sections 856 through 860 of the Internal Revenue Code of 1986, as amended, and the regulations and published interpretations thereunder (collectively, the "Code"), and the Company's current and proposed method of operation as described in the General Disclosure Package and the Prospectus will enable the Company to meet, on a continuing basis, the requirements for qualification and taxation as a REIT under the Code. The Company currently

intends to continue to operate in a manner which would permit it to qualify and be taxed as a REIT under the Code. All statements regarding the Company's organization and proposed method of operation set forth in the Registration Statement, the General Disclosure Package and the Prospectus are true, correct and complete in all material respects.

(xl) Cybersecurity. (i) There has been no security breach or incident, unauthorized access or disclosure, or other compromise of or relating to the Company or its subsidiaries information technology and computer systems, networks, hardware, software, data and databases (including the data and information of their respective customers, employees, suppliers, vendors and any third party data maintained, processed or stored by the Company and its subsidiaries, and any such data processed or stored by third parties on behalf of the Company and its subsidiaries), equipment or technology (collectively, "IT Systems and Data") except where such security breach or incident would not reasonably be expected to, individually or in the aggregate, result in a Material Adverse Effect; (ii) Neither the Company nor its subsidiaries have been notified of, and have no knowledge of any event or condition that would result in, any security breach or incident, unauthorized access or disclosure or other compromise to their IT Systems and Data except where such security breach or incident, unauthorized access or disclosure or other compromise would not reasonably be expected to, individually or in the aggregate, result in a Material Adverse Effect; and (iii) The Company and its subsidiaries have implemented appropriate controls, policies, procedures, and technological safeguards to maintain and protect the integrity, continuous operation, redundancy and security of their IT Systems and Data reasonably consistent with industry standards and practices, or as required by applicable regulatory standards. The Company and its subsidiaries are presently in material compliance with all applicable laws or statutes and all judgments, orders, rules and regulations of any court or arbitrator or governmental or regulatory authority, internal policies and contractual obligations relating to the privacy and security of IT Systems and Data and to the protection of such IT Systems and Data from unauthorized use, access, misappropriation or modification.

(b) *Officer's Certificates.* Any certificate signed by any officer of the Company or any of its subsidiaries delivered to the Representatives or to counsel for the Underwriters shall be deemed a representation and warranty by the Company to each Underwriter as to the matters covered thereby.

SECTION 2. Sale and Delivery to Underwriters; Closing

(a) *Firm Notes.* On the basis of the representations and warranties herein contained and subject to the terms and conditions herein set forth, the Company agrees to sell to each Underwriter, severally and not jointly, and each Underwriter, severally and not jointly, agrees to purchase from the Company, the principal amount of Firm Notes set forth in Schedule A opposite the name of such Underwriter, plus any additional principal

amount of Firm Notes which such Underwriter may become obligated to purchase pursuant to the provisions of Section 10 hereof, in each case, at a purchase price equal to 97.50% of the principal amount of the Firm Notes (the "Purchase Price").

(b) *Additional Notes.* In addition, on the basis of the representations and warranties herein contained and subject to the terms and conditions herein set forth, the Company hereby grants an option to the Underwriters, severally and not jointly, to purchase up to an additional $18,750,000 principal amount of Notes solely to cover over-allotments, if any, at the Purchase Price plus accrued interest from the Closing Time to the Date of Delivery. The option hereby granted may be exercised for 30 days after the date hereof and may be exercised in whole or in part at any time from time to time upon notice by the Representatives to the Company setting forth the principal amount of Additional Notes as to which the several Underwriters are then exercising the option and the time and date of payment and delivery for such Additional Notes. Any such time and date of delivery (a "Date of Delivery") shall be determined by the Representatives, but shall not be later than seven full business days after the exercise of said option, nor in any event prior to the Closing Time. If the option is exercised as to all or any portion of the Additional Notes, each of the Underwriters, acting severally and not jointly, will purchase that proportion of the principal amount of Additional Notes then being purchased which the principal amount of Firm Notes set forth in Schedule A opposite the name of such Underwriter bears to the aggregate principal amount of Firm Notes.

(c) *Payment.* Payment of the purchase price for the Firm Notes shall be made at the offices of Ropes & Gray LLP, or at such other place as shall be agreed upon by the Representatives and the Company, at 9:00 A.M. (New York City time) on the second (third, if the pricing occurs after 4:30 P.M. (New York City time) on any given day) business day after the date hereof (unless postponed in accordance with the provisions of Section 10), or such other time not later than ten business days after such date as shall be agreed upon by the Representatives and the Company (such time and date of payment and delivery being herein called "Closing Time").

In addition, in the event that any or all of the Additional Notes are purchased by the Underwriters, payment of the purchase price for such Additional Notes shall be made at the above-mentioned offices, or at such other place as shall be agreed upon by the Representatives and the Company, on each Date of Delivery as specified in the notice from the Representatives to the Company.

Payment shall be made to the Company by wire transfer of immediately available funds to bank accounts designated by the Company, against delivery to the Representatives for the respective accounts of the Underwriters of certificates or electronic book entries for the Notes to be purchased by them. It is understood that each Underwriter has authorized the Representatives, for its account, to accept delivery of, receipt for, and make payment of the purchase price for, the Firm Notes and the Additional Notes, if any, which it has agreed to purchase. The Representatives, individually and not as representatives of the Underwriters, may (but shall not be obligated to) make payment of the purchase price for the Firm Notes or the Additional

Notes, if any, to be purchased by any Underwriter whose funds have not been received by the Closing Time or the relevant Date of Delivery, as the case may be, but such payment shall not relieve such Underwriter from its obligations hereunder.

The Representatives will accept delivery of the Firm Notes and the Additional Notes, if any, from the Company through the facilities of The Depository Trust Company.

SECTION 3. Covenants of the Company. The Company covenants with each Underwriter as follows:

(a) *Compliance with Securities Regulations and Commission Requests.* The Company, subject to Section 3(b), will comply with the requirements of Rule 430B, and will notify the Representatives as soon as reasonably practicable, and confirm the notice in writing, (i) when any post-effective amendment to the Registration Statement shall become effective or any amendment or supplement to the Prospectus shall have been filed, (ii) of the receipt of any comments from the Commission, (iii) of any request by the Commission for any amendment to the Registration Statement or any amendment or supplement to the Prospectus, including any document incorporated by reference therein, or for additional information, (iv) of the issuance by the Commission of any stop order suspending the effectiveness of the Registration Statement or any post-effective amendment or of any order preventing or suspending the use of any preliminary prospectus or the Prospectus, or of the suspension of the qualification of the Notes for offering or sale in any jurisdiction, or of the initiation or threatening of any proceedings for any of such purposes or of any examination pursuant to Section 8(d) or 8(e) of the 1933 Act concerning the Registration Statement and (v) if the Company becomes the subject of a proceeding under Section 8A of the 1933 Act in connection with the offering of the Notes. The Company will effect all filings required under Rule 424(b), in the manner and within the time period required by Rule 424(b) (without reliance on Rule 424(b)(8)), and will take such steps as it deems necessary to ascertain promptly whether the form of prospectus transmitted for filing under Rule 424(b) was received for filing by the Commission and, in the event that it was not, it will promptly file such prospectus. The Company will make every reasonable effort to prevent the issuance of any stop order, prevention or suspension and, if any such order is issued, to obtain the lifting thereof as soon as reasonably practicable.

(b) *Continued Compliance with Securities Laws.* The Company will comply with the 1933 Act and the 1933 Act Regulations so as to permit the completion of the distribution of the Notes as contemplated in this Agreement and in the Registration Statement, the General Disclosure Package and the Prospectus. If at any time when a prospectus relating to the Notes is (or, but for the exception afforded by Rule 172 of the 1933 Act Regulations ("Rule 172"), would be) required by the 1933 Act to be delivered in connection with sales of the Notes, any event shall occur or condition shall exist as a result of which it is necessary, in the opinion of counsel for the Underwriters or for the Company, to (i) amend the Registration Statement in order that the Registration Statement will not include an untrue statement of a material fact or omit to state a

material fact required to be stated therein or necessary to make the statements therein not misleading, (ii) amend or supplement the General Disclosure Package or the Prospectus in order that the General Disclosure Package or the Prospectus, as the case may be, will not include any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein not misleading in the light of the circumstances existing at the time it is delivered to a purchaser or (iii) amend the Registration Statement or amend or supplement the General Disclosure Package or the Prospectus, as the case may be, in order to comply with the requirements of the 1933 Act or the 1933 Act Regulations, the Company will promptly (A) give the Representatives notice of such event, (B) prepare any amendment or supplement as may be necessary to correct such statement or omission or to make the Registration Statement, the General Disclosure Package or the Prospectus comply with such requirements and, a reasonable amount of time prior to any proposed filing or use, furnish the Representatives with copies of any such amendment or supplement and (C) file with the Commission any such amendment or supplement; provided that the Company shall not file or use any such amendment or supplement to which the Representatives or counsel for the Underwriters shall reasonably object. The Company will furnish to the Underwriters such number of copies of such amendment or supplement as the Underwriters may reasonably request. The Company has given the Representatives notice of any filings made pursuant to the 1934 Act or 1934 Act Regulations within 48 hours prior to the Applicable Time; the Company will give the Representatives notice of its intention to make any such filing from the Applicable Time to the Closing Time and will furnish the Representatives with copies of any such documents a reasonable amount of time prior to such proposed filing, as the case may be, and will not file or use any such document to which the Representatives or counsel for the Underwriters shall reasonably object.

(c) *Delivery of Registration Statements.* Upon request, the Company will furnish to counsel for the Underwriters, without charge, a signed copy of the Registration Statement as originally filed and each amendment thereto (including exhibits filed therewith or incorporated by reference therein and documents incorporated or deemed to be incorporated by reference therein) and copies of signed copies of all consents and certificates of experts, and will also deliver to counsel for the Representatives, without charge, a conformed copy of the Registration Statement as originally filed and each amendment thereto (without exhibits). The copies of the Registration Statement and each amendment thereto furnished to the Underwriters will be identical to the electronically transmitted copies thereof filed with the Commission pursuant to EDGAR, except to the extent permitted by Regulation S-T.

(d) *Delivery of Prospectuses.* The Company has delivered to each Underwriter, without charge, as many copies of each preliminary prospectus as such Underwriter reasonably requested, and the Company hereby consents to the use of such copies for purposes permitted by the 1933 Act. The Company will furnish to each Underwriter, without charge, during the period when a prospectus relating to the Notes is (or, but for the exception afforded by Rule 172, would be) required to be delivered under the 1933 Act, such number of copies of the Prospectus (as amended or supplemented) as

such Underwriter may reasonably request. The Prospectus and any amendments or supplements thereto furnished to the Underwriters will be identical to the electronically transmitted copies thereof filed with the Commission pursuant to EDGAR, except to the extent permitted by Regulation S-T.

(e) *Blue Sky Qualifications.* The Company will use its commercially reasonable best efforts, in cooperation with the Underwriters, to qualify the Notes for offering and sale under the applicable securities laws of such states and other jurisdictions (domestic or foreign) as the Representatives may designate and to maintain such qualifications in effect so long as required to complete the distribution of the Notes; provided, however, that the Company shall not be obligated to file any general consent to service of process or to qualify as a foreign corporation or as a dealer in securities in any jurisdiction in which it is not so qualified or to subject itself to taxation in respect of doing business in any jurisdiction in which it is not otherwise so subject.

(f) *Rule 158.* The Company will timely file such reports pursuant to the 1934 Act as are necessary in order to make generally available to its securityholders as soon as practicable an earnings statement for the purposes of, and to provide to the Underwriters the benefits contemplated by, the last paragraph of Section 11(a) of the 1933 Act.

(g) *Use of Proceeds.* The Company will use the net proceeds received by it from the sale of the Notes in the manner specified in the Registration Statement, the General Disclosure Package and the Prospectus under "Use of Proceeds."

(h) *Reservation of Common Stock.* To reserve and keep available at all times, free of preemptive rights, a number of Underlying Securities equal to the Maximum Number of Underlying Securities.

(i) *Listing.* The Company will use its best efforts to maintain the listing of the Common Stock on the New York Stock Exchange.

(j) *Restriction on Sale of Common Stock.* During a period of 30 days from the date of the Prospectus, the Company will not, without the prior written consent of the Representatives, (i) directly or indirectly, offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase or otherwise transfer or dispose of any shares of Common Stock or any securities convertible into or exercisable or exchangeable for Common Stock or file any registration statement or prospectus under the 1933 Act with respect to any of the foregoing (other than any registration on Form S-8 or on Form S-4 in connection with acquisitions of real property or real property companies) or (ii) enter into any swap or any other agreement or any transaction that transfers, in whole or in part, directly or indirectly, the economic consequence of ownership of the Common Stock, whether any such swap or transaction described in clause (i) or (ii) above is to be settled by delivery of Common Stock or such other securities, in cash or otherwise. The foregoing sentence shall not apply to (A) the Notes to be sold hereunder, (B) the issuance of the Underlying Securities upon conversion of the Notes, (C) any shares of Common

Stock issued by the Company upon the exercise of an option or warrant or the conversion, redemption or exchange of a security outstanding on the date hereof (including operating partnership units in the Operating Partnership) and referred to in the Registration Statement, the General Disclosure Package and the Prospectus, (C) any shares of Common Stock, shares of restricted stock, phantom shares, dividend equivalent rights or other equity-based awards, including long-term incentive units of the Operating Partnership in the Operating Partnership, issued or options to purchase Common Stock granted pursuant to existing employee benefit plans of the Company referred to in the Registration Statement, the General Disclosure Package and the Prospectus, (D) transactions which occur by operation of the provisions of Article VII of the Company's charter or (E) any shares of Common Stock issued pursuant to any non-employee director stock plan or dividend reinvestment plan referred to in the Registration Statement, the General Disclosure Package and the Prospectus.

(k) *Reporting Requirements.* The Company, during the period when a Prospectus relating to the Notes is (or, but for the exception afforded by Rule 172, would be) required to be delivered under the 1933 Act, will file all documents required to be filed with the Commission pursuant to the 1934 Act within the time periods required by the 1934 Act and 1934 Act Regulations. Additionally, the Company shall report the use of proceeds from the issuance of the Notes as may be required under Rule 463 under the 1933 Act.

(l) *Issuer Free Writing Prospectuses.* The Company agrees that, unless it obtains the prior consent of the Representatives, it will not make any offer relating to the Notes that would constitute an Issuer Free Writing Prospectus or that would otherwise constitute a "free writing prospectus," or a portion thereof, required to be filed by the Company with the Commission or retained by the Company under Rule 433; provided that the Representatives will be deemed to have consented to the Issuer Free Writing Prospectuses listed on Schedule B-2 hereto and any "road show that is a written communication" within the meaning of Rule 433(d)(8)(i) that has been reviewed by the Representatives. The Company represents that it has treated or agrees that it will treat each such free writing prospectus consented to, or deemed consented to, by the Representatives as an "issuer free writing prospectus," as defined in Rule 433, and that it has complied and will comply with the applicable requirements of Rule 433 with respect thereto, including timely filing with the Commission where required, legending and record keeping. If at any time following issuance of an Issuer Free Writing Prospectus there occurred or occurs an event or development as a result of which such Issuer Free Writing Prospectus conflicted or would conflict with the information contained in the Registration Statement, any preliminary prospectus or the Prospectus or included or would include an untrue statement of a material fact or omitted or would omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances existing at that subsequent time, not misleading, the Company will promptly notify the Representatives and will promptly amend or supplement, at its own expense, such Issuer Free Writing Prospectus to eliminate or correct such conflict, untrue statement or omission.

(m) *Listing of Underlying Securities.* To use its best efforts to list for quotation, subject to notice of issuance, a number of Underlying Securities equal to the Maximum Number of Underlying Securities on the New York Stock Exchange.

(n) *REIT Status.* The Company will use its best efforts to meet the requirements for qualification and taxation as a REIT under the Code for its taxable year ending December 31, 2020 and thereafter, unless the Board of Directors determines that it is no longer in the best interests of the Company to maintain the Company's qualification as a REIT under the Code.

SECTION 4. Payment of Expenses.

(a) *Expenses.* The Company will pay or cause to be paid all expenses incident to the performance of its obligations under this Agreement, including (i) the preparation, printing and filing of the Registration Statement (including financial statements and exhibits) as originally filed and each amendment thereto, (ii) the preparation, printing and delivery to the Underwriters of copies of each preliminary prospectus, each Issuer Free Writing Prospectus and the Prospectus and any amendments or supplements thereto and any costs associated with electronic delivery of any of the foregoing by the Underwriters to investors, (iii) the preparation, issuance and delivery of the Notes to the Underwriters and the Underlying Securities issuable upon conversion of the Notes, including any stock or other transfer taxes and any stamp or other duties payable upon the sale, issuance or delivery of the Notes to the Underwriters, (iv) the fees and disbursements of the Company's counsel, accountants and other advisors, (v) the qualification of the Underlying Securities under securities laws in accordance with the provisions of Section 3(e) hereof, including filing fees and the reasonable fees and disbursements of counsel for the Underwriters not in excess of $10,000 in connection therewith and in connection with the preparation of the Blue Sky Survey and any supplement thereto, (vi) the fees and expenses of the Trustee, including the fees and disbursements of counsel for the Trustee in connection with the Indenture and the Notes, (vii) the fees and expenses of any transfer agent or registrar for the Underlying Securities, (viii) the costs and expenses of the Company relating to investor presentations on any "road show" undertaken in connection with the marketing of the Notes, including without limitation, expenses associated with the production of road show slides and graphics, fees and expenses of any consultants engaged by the Company in connection with the road show presentations, travel and lodging expenses of the representatives and officers of the Company and any such consultants, and the cost of aircraft and other transportation chartered in connection with the road show, (ix) the filing fees incident to, and the reasonable fees and disbursements of counsel to the Underwriters in connection with, the review by FINRA of the terms of the sale of the Notes, (x) the fees and expenses incurred in connection with the listing of the Maximum Number of Underlying Securities on the New York Stock Exchange and (xi) the costs and expenses (including, without limitation, any damages or other amounts payable in connection with legal or contractual liability) associated with the reforming of any contracts for sale of the Notes made by the Underwriters caused by a breach of the representation contained in the third sentence of Section 1(a)(ii).

(b) *Termination of Agreement.* If this Agreement is terminated by the Representatives in accordance with the provisions of Section 5, Section 9(a)(i) or (iii) or Section 10 (except as set forth in the next sentence) hereof, the Company shall reimburse the Underwriters for all of their reasonable out-of-pocket expenses, including the reasonable fees and disbursements of counsel for the Underwriters. In the case of termination by the Representatives in accordance with Section 10, the Company shall have no obligation to reimburse any defaulting Underwriter pursuant to this Section 4(b).

SECTION 5. Conditions of Underwriters' Obligations. The obligations of the several Underwriters hereunder are subject to the accuracy of the representations and warranties of the Company contained herein or in certificates of any officer of the Company or any of its subsidiaries delivered pursuant to the provisions hereof, to the performance by the Company of its covenants and other obligations hereunder, and to the following further conditions:

(a) *Effectiveness of Registration Statement.* The Registration Statement, including any Rule 462(b) Registration Statement, has become effective and, at the Closing Time, no stop order suspending the effectiveness of the Registration Statement or any post-effective amendment thereto has been issued under the 1933 Act, no order preventing or suspending the use of any preliminary prospectus or the Prospectus has been issued and no proceedings for any of those purposes have been instituted or are pending or, to the Company's knowledge, contemplated; and the Company has complied with each request (if any) from the Commission for additional information. The Company shall have paid the required Commission filing fees relating to the Notes within the time period required by Rule 456(b)(1)(i) under the 1933 Act Regulations without regard to the proviso therein and otherwise in accordance with Rules 456(b) and 457(r) under the 1933 Act Regulations and, if applicable, shall have updated the "Calculation of Registration Fee" table in accordance with Rule 456(b)(1)(ii) either in a post-effective amendment to the Registration Statement or on the cover page of a prospectus filed pursuant to Rule 424(b).

(b) *Opinion of Counsel for Company.* At the Closing Time, the Representatives shall have received the opinion (including negative assurance), dated the Closing Time, of Clifford Chance US LLP, counsel for the Company, to the effect set forth in Exhibit A-1 hereto.

(c) *Opinion of Maryland Counsel for the Company.* At the Closing Time, the Representatives shall have received the opinion, dated the Closing Time, of Venable LLP, special Maryland counsel for the Company, to the effect set forth in Exhibit A-2 hereto.

(d) *Opinion of General Counsel or Deputy General Counsel of the Company.* At the Closing Time, the Representatives shall have received the opinion, dated the Closing Time, of the General Counsel or Deputy General Counsel of the Company, to the effect set forth in Exhibit A-3 hereto.

(e) *Opinion and Negative Assurance Letter of Counsel for Underwriters.* At the Closing Time, the Representatives shall have received the opinion and negative assurance letter, dated the Closing Time, of Ropes & Gray LLP, counsel for the Underwriters, together with signed or reproduced copies of such letter for each of the other Underwriters in form and substance reasonably satisfactory to the Representatives.

(f) *Officers' Certificate.* At the Closing Time, there shall not have been, since the date hereof or since the respective dates as of which information is given in the Registration Statement, the General Disclosure Package or the Prospectus, any Material Adverse Effect, and the Representatives shall have received a certificate of the Chief Executive Officer or the President of the Company and of the chief financial or chief accounting officer of the Company, dated the Closing Time, to the effect that (i) there has been no such material adverse change, (ii) the representations and warranties of the Company in this Agreement are true and correct with the same force and effect as though expressly made at and as of the Closing Time, (iii) the Company has complied with all agreements and satisfied all conditions on its part to be performed or satisfied at or prior to the Closing Time, and (iv) no stop order suspending the effectiveness of the Registration Statement under the 1933 Act has been issued, no order preventing or suspending the use of any preliminary prospectus or the Prospectus has been issued and no proceedings for any of those purposes have been instituted or are pending or, to their knowledge, contemplated.

(g) *Accountant's Comfort Letter.* At the time of the execution of this Agreement, the Representatives shall have received from Ernst & Young LLP a letter, dated such date, in form and substance satisfactory to the Representatives, together with signed or reproduced copies of such letter for each of the other Underwriters containing statements and information of the type ordinarily included in accountants' "comfort letters" to underwriters with respect to the financial statements and certain financial information contained in the Registration Statement, the General Disclosure Package and the Prospectus.

(h) *Bring-down Comfort Letter.* At the Closing Time, the Representatives shall have received from Ernst & Young LLP a letter, dated as of the Closing Time, to the effect that they reaffirm the statements made in the letter furnished pursuant to subsection (g) of this Section, except that the specified date referred to shall be a date not more than three business days prior to the Closing Time.

(i) *Indenture and Notes.* At or prior to the Closing Time, the Company and the Trustee shall have executed and delivered the Indenture and the Notes.

(j) *No Objection.* If applicable, FINRA has confirmed that it has not raised any objection with respect to the fairness and reasonableness of the underwriting terms and arrangements relating to the offering of the Notes.

(k) *Lock-up Agreements.* At the date of this Agreement, the Representatives shall have received an agreement substantially in the form of Exhibit B hereto signed by the persons listed on Schedule D hereto.

(l) *Maintenance of Rating.* Since the execution of this Agreement, there shall not have been any decrease in or withdrawal of the rating of any securities of the Company or any of its subsidiaries by any "nationally recognized statistical rating organization" (as defined in Section 3(a)(62) of the 1934 Act) or public announcement by such organization that it has under surveillance or review, or has changed its outlook with respect to, its rating of any such debt securities or preferred stock (other than an announcement with positive implications of a possible upgrading).

(m) *Listing of Underlying Securities.* An application for listing the Maximum Number of Underlying Securities shall have been approved by the New York Stock Exchange, subject only to official notice of issuance.

(n) *Conditions to Purchase of Additional Notes.* In the event that the Underwriters exercise their option provided in Section 2(b) hereof to purchase all or any portion of the Additional Notes, the representations and warranties of the Company contained herein and the statements in any certificates furnished by the Company hereunder shall be true and correct as of each Date of Delivery and, at the relevant Date of Delivery, the Representatives shall have received:

(i) Officers' Certificate. A certificate, dated such Date of Delivery, of the President or a Vice President of the Company and of the chief financial or chief accounting officer of the Company confirming that the certificate delivered at the Closing Time pursuant to Section 5(f) hereof remains true and correct as of such Date of Delivery.

(ii) Opinion of Counsel for Company. If requested by the Representatives, the opinion of Clifford Chance US LLP, counsel for the Company, dated such Date of Delivery, relating to the Additional Notes to be purchased on such Date of Delivery and otherwise to the same effect as the opinion required by Section 5(b) hereof.

(iii) Opinion of Maryland Counsel for the Company. If requested by the Representatives, the opinion of Venable LLP, special Maryland counsel for the Company, dated such Date of Delivery, relating to the Additional Notes to be purchased on such Date of Delivery and otherwise to the same effect as the opinion required by Section 5(c) hereof.

(iv) Opinion of General Counsel or Deputy General Counsel of the Company. If requested by the Representatives, the opinion of the General Counsel or Deputy General Counsel of the Company, dated such Date of Delivery, relating to the Additional Notes to be purchased on such Date of Delivery and otherwise to the same effect as the opinion required by Section 5(d) hereof.

(v) Opinion of Counsel for Underwriters. If requested by the Representatives, the opinion of Ropes & Gray LLP, counsel for the Underwriters, dated such Date of Delivery, relating to the Additional Notes to be purchased on such Date of Delivery and otherwise to the same effect as the opinion required by Section 5(e) hereof.

(vi) Bring-down Comfort Letter. If requested by the Representatives, a letter from Ernst & Young LLP, in form and substance satisfactory to the Representatives and dated such Date of Delivery, substantially in the same form and substance as the letter furnished to the Representatives pursuant to Section 5(g) hereof, except that the "specified date" in the letter furnished pursuant to this paragraph shall be a date not more than three business days prior to such Date of Delivery.

(o) *Additional Documents.* At the Closing Time and at each Date of Delivery (if any), counsel for the Underwriters shall have been furnished with such documents and opinions as they may reasonably require for the purpose of enabling them to pass upon the issuance and sale of the Notes as herein contemplated, or in order to evidence the accuracy of any of the representations or warranties, or the fulfillment of any of the conditions, herein contained; and all proceedings taken by the Company in connection with the issuance and sale of the Notes as herein contemplated shall be reasonably satisfactory in form and substance to the Representatives and counsel for the Underwriters.

(p) *Termination of Agreement.* If any condition specified in this Section shall not have been fulfilled when and as required to be fulfilled, this Agreement, or, in the case of any condition to the purchase of Additional Notes on a Date of Delivery which is after the Closing Time, the obligations of the several Underwriters to purchase the relevant Additional Notes, may be terminated by the Representatives by written notice to the Company at any time at or prior to Closing Time or such Date of Delivery, as the case may be, and such termination shall be without liability of any party to any other party except as provided in Section 4 and except that Sections 1, 6, 7, 8, 14, 15 and 16 shall survive any such termination and remain in full force and effect.

SECTION 6. Indemnification.

(a) *Indemnification of Underwriters.* The Company agrees to indemnify and hold harmless each Underwriter, its affiliates (as such term is defined in Rule 501(b) under the 1933 Act (each, an "Affiliate")), its selling agents and each person, if any, who controls any Underwriter within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act as follows:

(i) against any and all loss, liability, claim, damage and expense whatsoever, as incurred, arising out of any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement (or any amendment thereto), including any information deemed to be a part thereof pursuant to Rule 430B, or the omission or alleged omission therefrom of a material fact required to be stated therein or necessary to make the statements therein not misleading or arising out of any untrue statement or alleged untrue statement of a material fact included (A) in any preliminary prospectus, any Issuer Free Writing Prospectus, the General Disclosure Package or the Prospectus (or any amendment or supplement thereto) or (B) in any roadshow or investor presentations made to investors by the Company (whether in person or electronically), or the omission or alleged omission in any preliminary prospectus, Issuer Free Writing Prospectus, Prospectus or in any roadshow or investor presentations made to investors by the Company (whether in person or electronically) of a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(ii) against any and all loss, liability, claim, damage and expense whatsoever, as incurred, to the extent of the aggregate amount paid in settlement of any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or of any claim whatsoever based upon any such untrue statement or omission, or any such alleged untrue statement or omission; provided that (subject to Section 6(d) below) any such settlement is effected with the written consent of the Company;

(iii) against any and all expense whatsoever, as incurred (including the fees and disbursements of counsel chosen by the Representatives), reasonably incurred in investigating, preparing or defending against any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or any claim whatsoever based upon any such untrue statement or omission, or any such alleged untrue statement or omission, to the extent that any such expense is not paid under (i) or (ii) above;

provided, however, that this indemnity agreement shall not apply to any loss, liability, claim, damage or expense to the extent arising out of any untrue statement or omission or alleged untrue statement or omission made in the Registration Statement (or any amendment thereto), including any information deemed to be a part thereof pursuant to Rule 430B, the General Disclosure Package or the Prospectus (or any amendment or supplement thereto) in reliance upon and in conformity with the Underwriter Information.

(b) *Indemnification of Company and Directors and Officers.* Each Underwriter severally agrees to indemnify and hold harmless the Company, its directors, each of its officers who signed the Registration Statement, and each person, if any, who controls the Company within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act against any and all loss, liability, claim, damage and expense described in

the indemnity contained in subsection (a) of this Section, as incurred, but only with respect to untrue statements or omissions, or alleged untrue statements or omissions, made in the Registration Statement (or any amendment thereto), including any information deemed to be a part thereof pursuant to Rule 430B, the General Disclosure Package, any preliminary prospectus, any Issuer Free Writing Prospectus or the Prospectus (or any amendment or supplement thereto) in reliance upon and in conformity with the Underwriter Information.

(c) *Actions against Parties; Notification.* Each indemnified party shall give notice as promptly as reasonably practicable to each indemnifying party of any action commenced against it in respect of which indemnity may be sought hereunder, but failure to so notify an indemnifying party shall not relieve such indemnifying party from any liability hereunder to the extent it is not materially prejudiced as a result thereof and in any event shall not relieve it from any liability which it may have otherwise than on account of this indemnity agreement. In the case of parties indemnified pursuant to Section 6(a) above, counsel to the indemnified parties shall be selected by the Representatives, and, in the case of parties indemnified pursuant to Section 6(b) above, counsel to the indemnified parties shall be selected by the Company. An indemnifying party may participate at its own expense in the defense of any such action; provided, however, that counsel to the indemnifying party shall not (except with the consent of the indemnified party) also be counsel to the indemnified party. In no event shall the indemnifying parties be liable for fees and expenses of more than one counsel (in addition to any local counsel) separate from their own counsel for all indemnified parties in connection with any one action or separate but similar or related actions in the same jurisdiction arising out of the same general allegations or circumstances. No indemnifying party shall, without the prior written consent of the indemnified parties, settle or compromise or consent to the entry of any judgment with respect to any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or any claim whatsoever in respect of which indemnification or contribution could be sought under this Section 6 or Section 7 hereof (whether or not the indemnified parties are actual or potential parties thereto), unless such settlement, compromise or consent (i) includes an unconditional release of each indemnified party from all liability arising out of such litigation, investigation, proceeding or claim and (ii) does not include a statement as to or an admission of fault, culpability or a failure to act by or on behalf of any indemnified party.

(d) *Settlement without Consent if Failure to Reimburse.* If at any time an indemnified party shall have requested an indemnifying party to reimburse the indemnified party for fees and expenses of counsel, such indemnifying party agrees that it shall be liable for any settlement of the nature contemplated by Section 6(a)(ii) effected without its written consent if (i) such settlement is entered into more than 45 days after receipt by such indemnifying party of the aforesaid request, (ii) such indemnifying party shall have received notice of the terms of such settlement at least 30 days prior to such settlement being entered into and (iii) such indemnifying party shall not have reimbursed such indemnified party in accordance with such request prior to the date of such settlement.

SECTION 7. Contribution. If the indemnification provided for in Section 6 hereof is for any reason unavailable to or insufficient to hold harmless an indemnified party in respect of any losses, liabilities, claims, damages or expenses referred to therein, then each indemnifying party shall contribute to the aggregate amount of such losses, liabilities, claims, damages and expenses incurred by such indemnified party, as incurred, (i) in such proportion as is appropriate to reflect the relative benefits received by the Company, on the one hand, and the Underwriters, on the other hand, from the offering of the Notes pursuant to this Agreement or (ii) if the allocation provided by clause (i) is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) above but also the relative fault of the Company, on the one hand, and of the Underwriters, on the other hand, in connection with the statements or omissions which resulted in such losses, liabilities, claims, damages or expenses, as well as any other relevant equitable considerations.

The relative benefits received by the Company, on the one hand, and the Underwriters, on the other hand, in connection with the offering of the Notes pursuant to this Agreement shall be deemed to be in the same respective proportions as the total net proceeds from the offering of the Notes pursuant to this Agreement (before deducting expenses) received by the Company, on the one hand, and the total underwriting discount received by the Underwriters, on the other hand, in each case as set forth on the cover of the Prospectus, bear to the aggregate principal amount of the Notes as set forth on the cover of the Prospectus.

The relative fault of the Company, on the one hand, and the Underwriters, on the other hand, shall be determined by reference to, among other things, whether any such untrue or alleged untrue statement of a material fact or omission or alleged omission to state a material fact relates to information supplied by the Company or by the Underwriters and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission.

The Company and the Underwriters agree that it would not be just and equitable if contribution pursuant to this Section 7 were determined by pro rata allocation (even if the Underwriters were treated as one entity for such purpose) or by any other method of allocation which does not take account of the equitable considerations referred to above in this Section 7. The aggregate amount of losses, liabilities, claims, damages and expenses incurred by an indemnified party and referred to above in this Section 7 shall be deemed to include any legal or other expenses reasonably incurred by such indemnified party in investigating, preparing or defending against any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or any claim whatsoever based upon any such untrue or alleged untrue statement or omission or alleged omission.

Notwithstanding the provisions of this Section 7, no Underwriter shall be required to contribute any amount in excess of the underwriting commissions received by such Underwriter in connection with the Notes underwritten by it and distributed to the public.

No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the 1933 Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation.

For purposes of this Section 7, each person, if any, who controls an Underwriter within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act and each Underwriter's Affiliates and selling agents shall have the same rights to contribution as such Underwriter, and each director of the Company, each officer of the Company who signed the Registration Statement, and each person, if any, who controls the Company within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act shall have the same rights to contribution as the Company. The Underwriters' respective obligations to contribute pursuant to this Section 7 are several in proportion to the principal amount of Firm Notes set forth opposite their respective names in Schedule A hereto and not joint.

SECTION 8. Representations, Warranties and Agreements to Survive. All representations, warranties and agreements contained in this Agreement or in certificates of officers of the Company or any of its subsidiaries submitted pursuant hereto, shall remain operative and in full force and effect regardless of (i) any investigation made by or on behalf of any Underwriter or its Affiliates or selling agents, any person controlling any Underwriter, its officers or directors or any person controlling the Company and (ii) delivery of and payment for the Notes.

SECTION 9. Termination of Agreement.

(a) *Termination.* The Representatives may terminate this Agreement, by notice to the Company, at any time at or prior to the Closing Time (i) if there has been, in the judgment of the Representatives, since the time of execution of this Agreement or since the respective dates as of which information is given in the Registration Statement, the General Disclosure Package or the Prospectus, any Material Adverse Effect, or (ii) if there has occurred any material adverse change in the financial markets in the United States or the international financial markets, any outbreak of hostilities or escalation thereof or other calamity or crisis or any change or development involving a prospective change in national or international political, financial or economic conditions, in each case the effect of which is such as to make it, in the judgment of the Representatives, impracticable or inadvisable to proceed with the completion of the offering or to enforce contracts for the sale of the Notes, or (iii) if trading in any securities of the Company has been suspended or materially limited by the Commission or the New York Stock Exchange, or (iv) if trading generally on the New York Stock Exchange or in the Nasdaq Global Market has been suspended or materially limited, or minimum or maximum prices for trading have been fixed, or maximum ranges for prices have been required, by any of said exchanges or by order of the Commission, FINRA or any other governmental

authority, or (v) a material disruption has occurred in commercial banking or securities settlement or clearance services in the United States, or (vi) if a banking moratorium has been declared by either Federal or New York authorities.

(b) *Liabilities*. If this Agreement is terminated pursuant to this Section, such termination shall be without liability of any party to any other party except as provided in Section 4 hereof, and provided further that Sections 1, 6, 7, 8, 14, 15 and 16 shall survive such termination and remain in full force and effect.

SECTION 10. Default by One or More of the Underwriters. If one or more of the Underwriters shall fail at the Closing Time or a Date of Delivery to purchase the Notes which it or they are obligated to purchase under this Agreement (the "Defaulted Securities"), the Representatives shall have the right, within 24 hours thereafter, to make arrangements for one or more of the non-defaulting Underwriters, or any other underwriters, to purchase all, but not less than all, of the Defaulted Securities in such amounts as may be agreed upon and upon the terms herein set forth; if, however, the Representatives shall not have completed such arrangements within such 24-hour period, then:

(i) if the number of Defaulted Securities does not exceed 10% of the principal amount of Notes to be purchased on such date, each of the non-defaulting Underwriters shall be obligated, severally and not jointly, to purchase the full amount thereof in the proportions that their respective underwriting obligations hereunder bear to the underwriting obligations of all non-defaulting Underwriters, or

(ii) if the number of Defaulted Securities exceeds 10% of the principal amount of Notes to be purchased on such date, this Agreement or, with respect to any Date of Delivery which occurs after the Closing Time, the obligation of the Underwriters to purchase, and the Company to sell, the Additional Notes to be purchased and sold on such Date of Delivery shall terminate without liability on the part of any non-defaulting Underwriter.

No action taken pursuant to this Section shall relieve any defaulting Underwriter from liability in respect of its default.

In the event of any such default which does not result in a termination of this Agreement or, in the case of a Date of Delivery which is after the Closing Time, which does not result in a termination of the obligation of the Underwriters to purchase and the Company to sell the relevant Additional Notes, as the case may be, either the (i) Representatives or (ii) the Company shall have the right to postpone Closing Time or the relevant Date of Delivery, as the case may be, for a period not exceeding seven days in order to effect any required changes in the Registration Statement, the General Disclosure Package or the Prospectus or in any other documents or arrangements. As used herein, the term "Underwriter" includes any person substituted for an Underwriter under this Section 10.

SECTION 11. Notices. All notices and other communications hereunder shall be in writing and shall be deemed to have been duly given if mailed or transmitted by any standard form of telecommunication. Notices to the Underwriters shall be directed to Morgan Stanley & Co. LLC at 1585 Broadway, New York, NY 10036, Attention: Equity Syndicate Desk, with a copy to the Legal Department; notices to the Company shall be directed to it at 1906 Towne Centre Blvd, Suite 370, Annapolis, MD 41401 (facsimile: (410) 571-6199), attention of Office of the General Counsel.

SECTION 12. No Advisory or Fiduciary Relationship. The Company acknowledges and agrees that (a) the purchase and sale of the Notes pursuant to this Agreement, including the determination of the public offering price of the Notes and any related discounts and commissions, is an arm's-length commercial transaction between the Company, on the one hand, and the several Underwriters, on the other hand, (b) in connection with the offering of the Notes and the process leading thereto, each Underwriter is and has been acting solely as a principal and is not the agent or fiduciary of the Company, any of its subsidiaries, or its respective stockholders, creditors, employees or any other party, (c) no Underwriter has assumed or will assume an advisory or fiduciary responsibility in favor of the Company with respect to the offering of the Notes or the process leading thereto (irrespective of whether such Underwriter has advised or is currently advising the Company or any of its subsidiaries on other matters) and no Underwriter has any obligation to the Company with respect to the offering of the Notes except the obligations expressly set forth in this Agreement, (d) the Underwriters and their respective affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Company, (e) the Underwriters have not provided any legal, accounting, regulatory or tax advice with respect to the offering of the Notes and the Company has consulted its own respective legal, accounting, regulatory and tax advisors to the extent it deemed appropriate, and (f) none of the activities of the Underwriters in connection with the transactions contemplated herein constitutes a recommendation, investment advice, or solicitation of any action by the Underwriters with respect to any entity or natural person.

SECTION 13. Parties. This Agreement shall each inure to the benefit of and be binding upon the Underwriters and the Company and their respective successors. Nothing expressed or mentioned in this Agreement is intended or shall be construed to give any person, firm or corporation, other than the Underwriters, the Company and their respective successors and the controlling persons and officers and directors referred to in Sections 6 and 7 and their heirs and legal representatives, any legal or equitable right, remedy or claim under or in respect of this Agreement or any provision herein contained. This Agreement and all conditions and provisions hereof are intended to be for the sole and exclusive benefit of the Underwriters, the Company and their respective successors, and said controlling persons and officers and directors and their heirs and legal representatives, and for the benefit of no other person, firm or corporation. No purchaser of Notes from any Underwriter shall be deemed to be a successor by reason merely of such purchase.

SECTION 14. Trial by Jury. The Company (on its behalf and, to the extent permitted by applicable law, on behalf of its stockholders and affiliates) and each of the Underwriters hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Agreement or the transactions contemplated hereby.

SECTION 15. GOVERNING LAW. THIS AGREEMENT AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO ITS CHOICE OF LAW PROVISIONS.

SECTION 16. Consent to Jurisdiction. Any legal suit, action or proceeding arising out of or based upon this Agreement or the transactions contemplated hereby ("Related Proceedings") shall be instituted in (i) the federal courts of the United States of America located in the City and County of New York, Borough of Manhattan or (ii) the courts of the State of New York located in the City and County of New York, Borough of Manhattan (collectively, the "Specified Courts"), and each party irrevocably submits to the exclusive jurisdiction (except for proceedings instituted in regard to the enforcement of a judgment of any such court (a "Related Judgment"), as to which such jurisdiction is non-exclusive) of such courts in any such suit, action or proceeding. Service of any process, summons, notice or document by mail to such party's address set forth above shall be effective service of process for any suit, action or other proceeding brought in any such court. The parties irrevocably and unconditionally waive any objection to the laying of venue of any suit, action or other proceeding in the Specified Courts and irrevocably and unconditionally waive and agree not to plead or claim in any such court that any such suit, action or other proceeding brought in any such court has been brought in an inconvenient forum.

SECTION 17. TIME. TIME SHALL BE OF THE ESSENCE OF THIS AGREEMENT. EXCEPT AS OTHERWISE SET FORTH HEREIN, SPECIFIED TIMES OF DAY REFER TO NEW YORK CITY TIME.

SECTION 18. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all such counterparts shall together constitute one and the same Agreement.

SECTION 19. Effect of Headings. The Section headings herein are for convenience only and shall not affect the construction hereof.

SECTION 20. U.S. Special Resolution Regime. In the event that any Underwriter that is a Covered Entity becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer from such Underwriter of this Agreement, and any interest and obligation in or under this Agreement, will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if this Agreement, and any such interest and obligation, were governed by the laws of the United States or a state of the United States. In the event that any Underwriter that is a Covered Entity or a BHC

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

For purposes of this Section 20, "BHC Act Affiliate" has the meaning assigned to the term "affiliate" in, and shall be interpreted in accordance with, 12 U.S.C. § 1841(k). "Covered Entity" means any of the following: (i) a "covered entity" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b); (ii) a "covered bank" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or (iii) a "covered FSI" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b). "Default Right" has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable. "U.S. Special Resolution Regime" means each of (i) the Federal Deposit Insurance Act and the regulations promulgated thereunder and (ii) Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act and the regulations promulgated thereunder.

If the foregoing is in accordance with your understanding of our agreement, please sign and return to the Company a counterpart hereof, whereupon this instrument, along with all counterparts, will become a binding agreement among the Underwriters and the Company in accordance with its terms.

Very truly yours,

HANNON ARMSTRONG SUSTAINABLE INFRASTRUCTURE CAPITAL, INC.

By: /s/ Jeffrey W. Eckel
Name: Jeffrey W. Eckel
Title: Chairman of the Board of Directors, President and Chief Executive Officer

[*Signature Page to Underwriting Agreement*]

CONFIRMED AND ACCEPTED,
as of the date first above written:

MORGAN STANLEY & CO. LLC

By: /s/ Joel Carter
Name: Joel Carter
Title: Managing Director

For itself and as Representative of the other Underwriters named in Schedule A hereto.

SCHEDULE A

Name of Underwriter	Principal Amount of Firm Notes
Morgan Stanley & Co. LLC	$ 112,500,000
Oppenheimer & Co. Inc.	$ 12,500,000
Total	$ 125,000,000

SCHEDULE B-1

Pricing Term Sheet

PRICING TERM SHEET
Dated August 18, 2020

Issuer Free Writing Prospectus

Filed Pursuant to Rule 433
Registration Statement No. 333-230546
Supplementing the
Preliminary Prospectus Supplement dated
August 18, 2020 (To the Prospectus dated
March 27, 2019)

Hannon Armstrong Sustainable Infrastructure Capital, Inc.
$125,000,000
0% Convertible Senior Notes due 2023

This pricing term sheet supplements Hannon Armstrong Sustainable Infrastructure Capital, Inc.'s preliminary prospectus supplement, dated August 18, 2020 (the "Preliminary Prospectus Supplement"), including the documents incorporated by reference therein, relating to the offering of the Notes, and supersedes the information in the Preliminary Prospectus Supplement to the extent inconsistent with the information in the Preliminary Prospectus Supplement. In all other respects, this pricing term sheet is qualified in its entirety by reference to the Preliminary Prospectus Supplement. Terms used herein but not defined herein shall have the respective meanings as set forth in the Preliminary Prospectus Supplement. All references to dollar amounts are references to U.S. dollars. Unless the context otherwise requires, references to "Hannon Armstrong" or the "Issuer," "we," "us" and "our" in this pricing term sheet mean Hannon Armstrong Sustainable Infrastructure Capital, Inc. and not its subsidiaries.

Issuer:	Hannon Armstrong Sustainable Infrastructure Capital, Inc., a Maryland Corporation
Title of Securities:	0% Convertible Senior Notes due 2023 (the "Notes")
Ticker / Exchange:	HASI / New York Stock Exchange (the "NYSE")
Securities Offered:	$125,000,000 principal amount of Notes (plus up to an additional $18,750,000 principal amount if the underwriters exercise their over-allotment option to purchase additional Notes, if any)
Maturity:	August 15, 2023 unless earlier repurchased, redeemed or converted
Offering Price:	100%
Underwriting Discount:	2.50%
No Regular Interest; Special Interest	The Notes will not bear regular interest, and the principal amount of the Notes will not accrete. The Issuer will pay special interest, if any, at its election as the sole remedy relating to the Issuer's failure to comply with its reporting obligations as described under "Description of Notes—Events of Default" in the Preliminary Prospectus Supplement. Special interest, if any, will be payable semiannually in arrears on February 15 and August 15 of each year, beginning on February 15, 2021.

Special Interest Record Dates:	Each February 1 and August 1, beginning on February 1, 2021
Conversion Premium:	27.5% above the NYSE last reported sale price on August 18, 2020
NYSE Last Reported Sale Price on August 18, 2020	$37.93 per share of the Issuer's common stock
Initial Conversion Rate:	20.6779 shares of the Issuer's common stock for each $1,000 principal amount of Notes
Initial Conversion Price:	Approximately $48.36 per share of the Issuer's common stock
Redemption:	The Notes are redeemable by the Issuer to the extent the Issuer's board of directors determines such redemption is reasonably necessary to preserve the Issuer's qualification as a REIT at a cash redemption price equal to the principal amount of the Notes to be redeemed plus accrued and unpaid special interest, if any, to, but excluding, the redemption date.
Trade Date:	August 19, 2020
Expected Settlement Date:	August 21, 2020
Sole Book-Running Manager:	Morgan Stanley & Co. LLC
Co-manager:	Oppenheimer & Co. Inc.
CUSIP / ISIN:	41068X AD2/US41068XAD21
Expected Rating*:	BB+ by S&P/Fitch
Use of Proceeds:	The net proceeds from this offering will be approximately $121.6 million (or approximately $139.9 million if the underwriters exercise their over-allotment option to purchase additional Notes in full), after deducting underwriting discounts and estimated offering expenses payable by the Issuer. The Issuer intends to contribute the net proceeds from this offering to its operating partnership in exchange for the issuance by the operating partnership of the Mirror Note with terms that are substantially equivalent to the terms of the Notes offered through the Preliminary Prospectus Supplement. The Issuer's operating partnership intends to acquire or refinance, in whole or in part, Eligible Green Projects. Eligible Green Projects may include projects with disbursements made during the twelve months preceding the issue date of the Notes and projects with disbursements to be made following the issue date. Prior to the full investment of such net proceeds, the Issuer intends to invest such net proceeds in interest-bearing accounts and short-term, interest-bearing securities which are consistent with its intention to qualify for taxation as a REIT.

Adjustment to Shares Delivered Upon Conversion Upon a Make-Whole Fundamental Change:

The following table below sets forth the number of additional shares (as defined under "Description of the Notes —Adjustment to Conversion Rate Upon Conversion in Connection with a Make-Whole Fundamental Change" in the Preliminary Prospectus Supplement) to be received per $1,000 principal amount of Notes for each stock price and effective date set forth below:

	Share Price and Additional Shares											
Date	$37.93	$42.00	$45.00	$48.36	$52.00	$55.00	$58.00	$63.00	$67.00	$71.00	$75.00	$79.00	$84.00
August 21, 2020	5.6864	4.1248	3.2342	2.4398	1.7706	1.3378	0.9917	0.5670	0.3337	0.1732	0.0707	0.0154	0.0000
August 15, 2021	5.6864	4.1200	3.1607	2.3189	1.6250	1.1876	0.8471	0.4468	0.2401	0.1086	0.0337	0.0027	0.0000
August 15, 2022	5.6864	3.8012	2.7564	1.8741	1.1873	0.7838	0.4928	0.1914	0.0658	0.0097	0.0000	0.0000	0.0000
August 15, 2023	5.6864	3.1316	1.5443	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000

The exact stock prices and effective dates may not be set forth in the table above, in which case:

- if the stock price is between two stock prices in the table or the effective date is between two effective dates in the table, the number of additional shares will be determined by a straight-line interpolation between the number of additional shares set forth for the higher and lower stock prices and the earlier and later effective dates, as applicable, based on a 365-day year;
- if the stock price is greater than $84.00 per share (subject to adjustment in the same manner as the stock prices set forth in the column headings of the table above), no additional shares will be added to the conversion rate; or
- if the stock price is less than $37.93 per share (subject to adjustment in the same manner as the stock prices set forth in the column headings of the table above), no additional shares will be added to the conversion rate.

Notwithstanding the foregoing, in no event will the conversion rate be increased on account of a make-whole fundamental change to exceed 26.3643 shares of the Issuer's common stock per $1,000 principal amount of Notes, subject to adjustment in the same manner as the conversion rate is required to be adjusted as set forth under "Description of the Notes—Conversion Rights—Conversion Rate Adjustments" in the Preliminary Prospectus Supplement.

* An explanation of the significance of a rating may be obtained from the rating agency. Generally, rating agencies base their ratings on such materials and information, and such of their own investigations, studies and assumptions, as they deem appropriate. The rating of the Notes should be evaluated independently from similar ratings of other securities. A credit rating of a security is not a recommendation to buy, sell or hold securities and may be subject to review, revision, suspension, reduction or withdrawal at any time by the assigning rating agency.

General

This communication is intended for the sole use of the person to whom it is provided by the sender.

This communication shall not constitute an offer to sell or the solicitation of an offer to buy securities nor shall there be any sale of these securities in any state or jurisdiction in which such solicitation or sale would be unlawful prior to registration or qualification of these securities under the laws of any such state or jurisdiction.

This pricing term sheet does not contain a complete description of the Notes or the Notes offering. It should be read together with the Preliminary Prospectus Supplement and the accompanying Prospectus.

The Issuer has filed a registration statement (including a Prospectus, dated March 27, 2019, and a Preliminary Prospectus Supplement, dated August 18, 2020) with the Securities and Exchange Commission, or SEC, for the offering of the Notes. Before you invest, you should read the Preliminary Prospectus Supplement, the accompanying Prospectus and the other documents the Issuer has filed with the SEC for more complete information about the Issuer and the offering of the Notes. You may get these documents for free by visiting EDGAR on the SEC's website at www.sec.gov. Alternatively, copies may be obtained from Morgan Stanley & Co. LLC, Attention: Prospectus Department, 180 Varick Street, 2nd Floor, New York, NY 10014 or by emailing prospectus@morganstanley.com.

ANY DISCLAIMERS OR OTHER NOTICES THAT MAY APPEAR BELOW ARE NOT APPLICABLE TO THIS COMMUNICATION AND SHOULD BE DISREGARDED. SUCH DISCLAIMERS OR OTHER NOTICES WERE AUTOMATICALLY GENERATED AS A RESULT OF THIS COMMUNICATION BEING SENT VIA BLOOMBERG OR ANOTHER EMAIL SYSTEM.

SCHEDULE B-2

Free Writing Prospectuses

Pricing Term Sheet dated August 18, 2020.

SCHEDULE C

List of Persons and Entities Subject to Lock-up

Jeffrey W. Eckel
Jeffrey A. Lipson
J. Brendan Herron
Nathaniel J. Rose
Steven L. Chuslo
Daniel K. McMahon
Teresa M. Brenner
Michael T. Eckhart
Simone F. Lagomarsino
Charles M. O'Neil
Richard J. Osborne
Steven G. Osgood

Exhibit 4.1

EXECUTION VERSION

Hannon Armstrong Sustainable Infrastructure Capital, Inc.

as Issuer

U.S. Bank National Association

as Trustee

Second Supplemental Indenture

Dated as of August 21, 2020

to the Indenture

Dated as of August 22, 2017

0% Convertible Senior Notes due 2023

SECOND SUPPLEMENTAL INDENTURE (this "**Supplemental Indenture**"), dated as of August 21, 2020, between Hannon Armstrong Sustainable Infrastructure Capital, Inc., a Maryland corporation (the "**Company**"), and U.S. Bank National Association (the "**Trustee**"), as trustee under the Indenture dated as of August 22, 2017, between the Company and the Trustee (as amended or supplemented from time to time in accordance with the terms thereof, the "**Base Indenture**").

RECITALS OF THE COMPANY

WHEREAS, the Company executed and delivered the Base Indenture to the Trustee to provide, among other things, for the issuance, from time to time, of the Company's unsecured debt securities, in an unlimited aggregate principal amount, in one or more series to be established by the Company under, and authenticated and delivered as provided in, the Base Indenture;

WHEREAS, Section 9.01(c) of the Base Indenture provides for the Company and the Trustee to enter into supplemental indentures to the Base Indenture to establish the form and terms of Securities of any series as contemplated by Article II of the Base Indenture;

WHEREAS, the Board of Directors has duly adopted resolutions authorizing the Company to execute and deliver this Supplemental Indenture;

WHEREAS, pursuant to the terms of the Base Indenture, the Company has authorized the creation and issuance under this Supplemental Indenture of its 0% Convertible Senior Notes due 2023 (the "**Securities**"), the form and substance of such Securities and the terms, provisions and conditions thereof to be set forth as provided in the Base Indenture and this Supplemental Indenture; and

WHEREAS, the Company has requested that the Trustee execute and deliver this Supplemental Indenture, and that all requirements necessary to make (i) this Supplemental Indenture a valid instrument in accordance with its terms, and (ii) the Securities, when executed by the Company and authenticated and delivered by the Trustee, the valid obligations of the Company have been performed, and the execution and delivery of this Supplemental Indenture have been duly authorized in all respects.

NOW, THEREFORE, THIS SUPPLEMENTAL INDENTURE WITNESSETH, for and in consideration of the premises and the purchases of the Securities by the Holders thereof, it is mutually agreed, for the benefit of the Company and the equal and proportionate benefit of all Holders, as follows:

ARTICLE 1

DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

Section 1.01 *Scope of Supplemental Indenture.* The changes, modifications and supplements to the Base Indenture effected by this Supplemental Indenture shall be applicable only with respect to, and shall govern only the terms of (and only the rights of the Holders and the obligations of the Company with respect to), the Securities, which may be issued from time to time, and shall not apply to any other securities that may be issued under the Base Indenture (or govern the rights of the Holders or the obligations of the Company with respect to any such other securities) unless a supplemental indenture with respect to such other securities specifically incorporates such changes, modifications and supplements. The

provisions of this Supplemental Indenture shall, with respect to the Securities, supersede any corresponding provisions in the Base Indenture. Subject to the preceding sentence, and except as otherwise provided herein, the provisions of the Base Indenture shall apply to the Securities and govern the rights of the Holders of the Securities and the obligations of the Company and the Trustee with respect thereto.

Section 1.02 *Definitions.* For all purposes of the Indenture, except as otherwise expressly provided or unless the context otherwise requires:

(i) *the terms defined in this Article 1 shall have the meanings assigned to them in this Article 1 and include the plural as well as the singular; and*

(ii) *all words, terms and phrases defined in the Base Indenture (but not otherwise defined herein) shall have the same meanings as in the Base Indenture.*

"**Additional Shares**" has the meaning specified in Section 4.06(a) hereof.

"**Affiliate**" of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For the purposes of this definition, "control" when used with respect to any specified Person means the power to direct the management and policies of such 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.

"**Agent Members**" has the meaning specified in Section 2.02(c) hereof.

"**Applicable Procedures**" means, with respect to any matter at any time, the policies and procedures of the Depository, if any, that are applicable to such matter at such time.

"**Base Indenture**" has the meaning specified in the first paragraph of this Supplemental Indenture, as such instrument may be supplemented from time to time by one or more indentures supplemental thereto, including this Supplemental Indenture, entered into pursuant to the applicable provisions of the Base Indenture, including, for all purposes of the Base Indenture, this Supplemental Indenture and any such other supplemental indenture, the provisions of the TIA that are deemed to be a part of and govern the Base Indenture, this Supplemental Indenture and any other such supplemental indenture, respectively.

"**Board of Directors**" means (i) the board of directors of the Company, (ii) any duly authorized committee of such board, (iii) any committee of officers of the Company or (iv) any officer of the Company acting, in the case of clauses (iii) or (iv), pursuant to authority granted by the board of directors of the Company or any committee of such board.

"**Business Day**" means, notwithstanding anything to the contrary in Section 1.01 of the Base Indenture, any day other than a Saturday, a Sunday or a day on which the Federal Reserve Bank of New York is authorized or required by law, regulation or executive order to close or to be closed.

"**Capital Stock**" means, for any Person, any and all shares, interests, rights to purchase, warrants, options, participations or other equivalents of or interests in (however designated) the equity of such Person, but excluding any debt securities convertible into such equity.

"**Clause A Distribution**" has the meaning specified in Section 4.04(c) hereof.

"**Clause B Distribution**" has the meaning specified in Section 4.04(c) hereof.

"**Clause C Distribution**" has the meaning specified in Section 4.04(c) hereof.

"**Close of Business**" means 5:00 p.m., New York City time.

"**Common Equity**" of any Person means the Capital Stock of such Person that is generally entitled (a) to vote in the election of directors of such Person or (b) if such Person is not a corporation, to vote or otherwise participate in the selection of the governing body, partners, managers or others that will control the management or policies of such Person.

"**Common Stock**" means, subject to Section 4.07, the shares of common stock, par value $0.01 per share, of the Company authorized at the date of this instrument as originally executed or shares of any class or classes of common stock resulting from any reclassification or reclassifications thereof; *provided*, *however*, that if at any time there shall be more than one such resulting class, the shares so issuable on conversion of Securities shall include shares of all such classes, and the shares of each such class then so issuable shall be substantially in the proportion which the total number of shares of such class resulting from all such reclassifications bears to the total number of shares of all such classes resulting from all such reclassifications. "Common Stock" includes any stock of any class of Capital Stock which has no preference in respect of dividends or of amounts payable in the event of any voluntary or involuntary liquidation, dissolution or winding up of the issuer thereof and which is not subject to redemption by the issuer thereof.

"**Company**" has the meaning specified in the first paragraph of this Supplemental Indenture, and subject to the provisions of Section 9.02, shall include its successors and assigns.

"**Company Request**" and "**Company Order**" mean a written request or order, as applicable, signed in the name of the Company by its Chairman of the Board of Directors, President, Chief Executive Officer, Chief Financial Officer, Treasurer, Controller, General Counsel, Secretary or any Vice President, and delivered to the Trustee.

"**Continuing Director**" means a director who either was a member of the Company's board of directors on the date of the Preliminary Prospectus Supplement or who becomes a member of the Company's board of directors subsequent to that date and whose election, appointment or nomination for election by the Company's stockholders is duly approved by a majority of the "Continuing Directors" on the Company's board of directors at the time of such approval, either by a specific vote or by approval of the proxy statement issued by the Company on behalf of the Company's entire board of directors in which such individual is named as nominee for election as a director, and whose election is recommended by the board of directors.

"**Conversion Agent**" means the office or agency designated by the Company where Securities may be presented for conversion as specified in Section 5.02.

"**Conversion Date**" has the meaning specified in Section 4.02(b) hereof.

"**Conversion Notice**" has the meaning specified in Section 4.02(b)(1) hereof.

"**Conversion Obligation**" has the meaning specified in Section 4.03(a) hereof.

"**Conversion Price**" means, in respect of each Security, as of any date, $1,000 *divided* by the Conversion Rate in effect on such date.

"**Conversion Rate**" means initially 20.6779 shares of Common Stock per $1,000 principal amount of Securities, subject to adjustment as set forth herein.

"**Custodian**" means the Trustee, as custodian with respect to the Securities (so long as the Securities constitute Global Securities), or any successor entity.

"**Default**" means any event that is, or with the passage of time or the giving of notice or both would be, an Event of Default.

"**Depository**" means, unless otherwise specified by the Company, with respect to Securities issued as a Global Security, The Depository Trust Company, New York, New York, or any successor thereto registered as a clearing agency under the Exchange Act, as amended, or other applicable statute or regulation.

"**DTA**" has the meaning specified in Section 4.04(d) hereof.

"**Effective Date**" has the meaning specified in Section 4.06(c) hereof.

"**Event of Default**" has the meaning specified in Section 6.02 hereof.

"**Exchange Act**" means the Securities Exchange Act of 1934, as amended.

"**Ex-Dividend Date**" means the first date on which shares of the Common Stock trade on the applicable exchange or in the applicable market, regular way, without the right to receive the issuance, dividend or distribution in question.

"**Form of Assignment and Transfer**" means the "Form of Assignment and Transfer" attached as Attachment 3 to the Form of Security attached hereto as Exhibit A.

"**Form of Fundamental Change Purchase Notice**" means the "Form of Fundamental Change Purchase Notice" attached as Attachment 2 to the Form of Security attached hereto as Exhibit A.

"**Form of Notice of Conversion**" means the "Form of Notice of Conversion" attached as Attachment 1 to the Form of Security attached hereto as Exhibit A.

"**Fundamental Change**" shall be deemed to have occurred at the time after the Securities are originally issued if any of the following occurs:

(1) any "person" or "group" (within the meaning of Section 13(d) of the Exchange Act) other than the Company or its subsidiaries files a Schedule TO or any schedule, form or report under the Exchange Act disclosing that such person or group has become the direct or indirect ultimate "beneficial owner," as defined in Rule 13d-3 under the Exchange Act, of the Company's Common Stock representing more than 50% of the voting power of the Company's Common Stock;

(2) the consummation of (x) any consolidation, merger, amalgamation, scheme of arrangement or other binding share exchange or reclassification or similar transaction between the Company and another person (other than any of the Company's Subsidiaries), in each case pursuant to which the outstanding Common Stock shall be converted into, or exchanged for, cash, securities or other property or assets, other than a transaction (i) that results in the holders of all classes of the Company's Common Equity immediately prior to such transaction owning, directly or indirectly, as a result of such transaction, more than 50% of all classes of Common Equity of the surviving corporation or transferee or the parent thereof immediately after such event, or (ii) effected solely to change the Company's jurisdiction of incorporation or to form a holding company for the Company and that results in a share exchange or reclassification or similar exchange of the outstanding Common Stock solely into common shares of the surviving entity or (y) any sale, lease or other disposition in one transaction or a series of transactions of all or substantially all of the assets of the Company and its Subsidiaries, on a consolidated basis, to another person (other than any of the Company's Subsidiaries);

(3) Continuing Directors cease to constitute at least a majority of the Company's Board of Directors;

(4) the Company's stockholders approve any plan or proposal for the liquidation or dissolution of the Company (other than in a transaction described in clause (2) above); or

(5) the Common Stock ceases to be listed on The New York Stock Exchange, The Nasdaq Global Select Market or The Nasdaq Global Market (or any of their respective successors;

provided, *however*, that in the case of a transaction or event described in clause (1) or (2) above, if at least 90% of the consideration received or to be received by holders of the Common Stock (excluding cash payments for fractional shares) in the transaction or transactions that would otherwise constitute a "Fundamental Change" consists of shares of common stock or common equity interests that are traded on The New York Stock Exchange, The Nasdaq Global Select Market or The Nasdaq Global Market (or any of their respective successors) or that will be so traded when issued or exchanged in connection with the transaction that would otherwise constitute a "Fundamental Change" under clause (1) or (2) above ("**Publicly Traded Securities**"), and as a result of such transaction or transactions, the Securities become convertible into or by reference to such Publicly Traded Securities, excluding cash payments for fractional shares (subject to settlement in accordance with the provisions of Sections 4.03, 4.04 and 4.06 hereof), such event shall not be a "Fundamental Change."

"**Fundamental Change Company Notice**" has the meaning specified in Section 3.02(b) hereof.

"**Fundamental Change Expiration Time**" has the meaning specified in Section 3.02(a)(1) hereof.

"**Fundamental Change Purchase Date**" has the meaning specified in Section 3.02(a) hereof.

"**Fundamental Change Purchase Notice**" has the meaning specified in Section 3.02(a)(1) hereof.

"**Fundamental Change Purchase Price**" has the meaning specified in Section 3.02(a) hereof.

"**Global Security**" means a Security which is executed by the Company and authenticated and delivered to the Depository or its nominee, all in accordance with the Indenture and pursuant to a Company Order, which shall be registered in the name of the Depository or its nominee and which shall represent the amount of uncertificated Securities as specified therein.

"**Holder**" means, notwithstanding anything to the contrary in Section 1.01 of the Base Indenture, the Person in whose name a Security is registered in the Register.

"**Indenture**" means, notwithstanding anything to the contrary in Section 1.01 of the Base Indenture, the Base Indenture, as originally executed and as supplemented by this Supplemental Indenture, each as may be amended or supplemented from time to time.

"**Issue Date**" means, with respect to the Securities, August 21, 2020.

"**Last Reported Sale Price**" of the Common Stock for any Trading Day means the closing sale price per share (or, if no closing sale price is reported, the average of the last bid and last ask prices or, if more than one in either case, the average of the average last bid and the average last ask prices) on that Trading Day as reported in composite transactions for the principal U.S. national or regional securities exchange on which the Common Stock is traded. If the Common Stock is not listed for trading on a U.S. national or regional securities exchange on the relevant Trading Day, the "Last Reported Sale Price" will be the last quoted bid price for the Common Stock in the over-the-counter market on the relevant date as reported by OTC Markets Group Inc. or a similar organization. If the Common Stock is not so quoted, the "Last Reported Sale Price" will be the average of the mid-point of the last bid and last ask prices for the Common Stock on the relevant Trading Day from each of at least three nationally recognized independent investment banking firms selected by the Company for this purpose. Any such determination will be conclusive absent manifest error.

"**Make-Whole Fundamental Change**" means any event that (i) is a Fundamental Change or (ii) would be a Fundamental Change, but for the exclusion in section (x)(i) of clause (2) of the definition thereof.

"**Market Disruption Event**" means (1) a failure by the primary exchange or quotation system on which the Common Stock trades or is quoted to open for trading during its regular trading session or (2) the occurrence or existence, prior to 1:00 p.m., New York City time, on any Trading Day for the Common Stock, of an aggregate one half-hour period of any suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the stock exchange or otherwise) in the Common Stock or in any options, contracts or future contracts relating to the Common Stock.

"**Maturity Date**" means, with respect to any Security and the payment of the principal amount thereof, unless earlier repurchased, redeemed or converted, August 15, 2023.

"**Merger Event**" has the meaning specified in Section 4.07(a) hereof.

"**Non-Recourse Indebtedness**" means indebtedness of a Subsidiary, with respect to which (a) recourse for payment is limited to assets of such Subsidiary encumbered by a lien securing such indebtedness and/or the general credit of such Subsidiary but for which recourse shall not extend to the general credit of the Company or the general credit of any of other Subsidiary, it being understood that the instruments governing such indebtedness may include customary carve-outs to such limited recourse such as, for example, personal recourse to the Company or its Subsidiaries for breach of representations, fraud, misapplication or misappropriation of cash, voluntary or involuntary bankruptcy filings, violation of loan document prohibitions against transfer of assets or ownership interests therein, environmental liabilities, tax indemnities and liabilities and other circumstances customarily excluded by lenders from exculpation provisions and/or included in separate indemnification and/or guaranty agreements in project financing transactions.

"**Notice of Default**" has the meaning specified in Section 6.02(f) hereof.

"**Offer Expiration Date**" has the meaning specified in Section 4.04(e) hereof.

"**Open of Business**" means 9:00 a.m., New York City time.

"**Outstanding**" means, with respect to the Securities, any Securities authenticated by the Trustee except (i) Securities cancelled by it, (ii) Securities delivered to it for cancellation and (iii)(A) Securities replaced pursuant to Section 2.09 of the Base Indenture, on and after the time such Security is replaced (unless the Trustee and the Company receive proof satisfactory to them that such Security is held by a bona fide purchaser), (B) Securities converted pursuant to Article 4 hereof, on and after their Conversion Date, (C) any and all Securities, as of the Maturity Date, if the Paying Agent holds, in accordance with the Indenture, money sufficient to pay all of the Securities then payable, (D) Securities redeemed by the Company in accordance with Section 11.01(a) or (b), and (E) any and all Securities owned by the Company or any other obligor upon the Securities or any Affiliate of the Company or of such other obligor, except that in determining whether the Trustee shall be protected in relying upon any request, demand, authorization, direction, notice consent or waiver or other action that is to be made by a requisite principal amount of Outstanding Securities, for purposes of clause (E) only those Securities identified to the Trustee pursuant to an Officers' Certificate shall be disregarded and deemed not to be Outstanding.

"**Paying Agent**" has the meaning set forth in the Base Indenture and shall be the Person authorized by the Company to pay the principal amount of, any Special Interest on, or Fundamental Change Purchase Price or REIT Redemption Price of, any Securities on behalf of the Company.

"**Physical Securities**" means any non-Global Security issued pursuant to Section 2.03 that is in definitive, fully registered form, without interest coupons.

"**Place of Payment**" means the city or political subdivision so designated with respect to the Securities in accordance with the provisions of Section 5.02.

"**Preliminary Prospectus Supplement**" means the Preliminary Prospectus Supplement of the Company, dated August 18, 2020, to the Prospectus of the Company dated March 27, 2019, relating to the offering and sale of the Securities.

"**Publicly Traded Securities**" has the meaning specified in the definition of "Fundamental Change" in this Section 1.02.

"**Record Date**" means, with respect to any dividend, distribution or other transaction or event in which the holders of the Common Stock (or other applicable security) have the right to receive any cash, securities or other property or in which the Common Stock (or such other security) is exchanged for or converted into any combination of cash, securities or other property, the date fixed for determination of holders of the Common Stock (or such other security) entitled to receive such cash, securities or other property (whether such date is fixed by the Board of Directors or a duly authorized committee thereof, statute, contract or otherwise).

"**Redemption Date**" has the meaning specified in Section 11.02(a) hereof.

"**Redemption Notice**" has the meaning specified in Section 11.02(a) hereof.

"**Reference Property**" has the meaning specified in Section 4.07(a) hereof.

"**Register**" shall mean the register for the Securities maintained by the Registrar in accordance with Section 2.05 of the Base Indenture.

"**REIT Redemption**" has the meaning specified in Section 11.01(a) hereof.

"**REIT Redemption Price**" has the meaning specified in Section 11.01(a) hereof.

"**Reporting Event of Default**" has the meaning specified in Section 6.04(a) hereof.

"**Responsible Officer**" means any officer of the Trustee with direct responsibility for the administration of the Indenture and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of his knowledge of and familiarity with the particular subject.

"**Scheduled Trading Day**" means a day that is scheduled to be a Trading Day on the principal U.S. national or regional securities exchange or market on which the Common Stock is listed or admitted for trading. If the Common Stock is not so listed or admitted for trading, "Scheduled Trading Day" means a Business Day.

"**Security**" or "**Securities**" has the meaning specified in the fourth paragraph of the Recitals of this Supplemental Indenture, notwithstanding anything to the contrary in Section 1.01 of the Base Indenture.

"**Securities Act**" means the Securities Act of 1933, as amended.

"**Securityholder**" means a Person in whose name a Security is registered in the Register.

"**Significant Subsidiary**" means, with respect to any Person, a Subsidiary of such Person that would constitute a "significant subsidiary" as such term is defined in Article 1, Rule 1-02 of Regulation S-X, promulgated pursuant to the Securities Act, as in effect on the original date of issuance of the Securities.

"**Special Interest**" has the meaning specified in Section 6.04(a) hereof.

"**Special Interest Payment Date**" means, with respect to the payment of Special Interest, if any, on the Securities and notwithstanding anything to the contrary in Section 1.01 of the Base Indenture, each February 15 and August 15 of each year, beginning on February 15, 2021.

"**Special Interest Record Date**" means, with respect to any Special Interest Payment Date, the February 1 (whether or not a Business Day) or the August 1 (whether or not a Business Day), as the case may be, immediately preceding such Special Interest Payment Date.

"**Spin-Off**" has the meaning specified in Section 4.04(c) hereof.

"**Stock Price**" has the meaning specified in Section 4.06(c) hereof.

"**Successor Company**" has the meaning specified in Section 9.02(a) hereof.

"**Supplemental Indenture**" has the meaning specified in the first paragraph hereof, as such instrument may be supplemented from time to time by one or more indentures supplemental hereto, entered into pursuant to the applicable provisions of the Base Indenture and the Supplemental Indenture, including, for all purposes of this Supplemental Indenture and any such other supplemental indenture, the provisions of the TIA that are deemed to be a part of and govern the Base Indenture, this Supplemental Indenture and any other such supplemental indenture, respectively.

"**Trading Day**" means a day during which (i) trading in the Common Stock generally occurs on the primary exchange or quotation system on which the Common Stock then trades or is quoted and (ii) there is no Market Disruption Event. If the Common Stock is not so listed or traded, "Trading Day" means a Business Day.

"**Trigger Event**" has the meaning specified in Section 4.04(c) hereof.

"**Trustee**" means the Person named as the "Trustee" in the first paragraph of this Supplemental Indenture until a successor Trustee shall have become such pursuant to the applicable provisions of the Base Indenture and this Supplemental Indenture, and thereafter "Trustee" shall mean or include each Person who is then a Trustee hereunder.

"**Unit of Reference Property**" has the meaning specified in Section 4.07(a) hereof.

"**U.S.**" or "**United States**" means the United States of America.

"**Valuation Period**" has the meaning specified in Section 4.04(c)(3) hereof.

Section 1.03 *References to Special Interest.* Any reference to Special Interest on, or in respect of, any Security in the Indenture shall be deemed to refer to Special Interest if, in such context, Special Interest is, was or would be payable pursuant to Section 6.04.

ARTICLE 2

THE SECURITIES

Section 2.01 *Title and Terms; Payments.*

(a) *Establishment; Designation*. Pursuant to Section 2.02 of the Base Indenture, there is hereby established and authorized a new series of Securities under the Indenture, which series of Securities shall be designated the "0% Convertible Senior Notes due 2023."

(b) *Initial Issuance*. Subject to Section 2.01(c) hereof, the aggregate principal amount of Securities that may initially be authenticated and delivered under the Indenture is limited to $143,750,000. In addition, the Company may execute, and the Trustee may authenticate and deliver, in each case, in accordance with Section 2.04 of the Base Indenture, an unlimited aggregate principal amount of additional Securities upon the transfer, exchange, purchase or conversion of Securities pursuant to Sections 2.08, 2.09 and 2.11 of the Base Indenture and Sections 3.06 and 4.02 hereof.

(c) *Further Issues*. The Company may, without notice to or the consent of the Holders, issue additional Securities under the Indenture with the same terms and the same CUSIP number as the Securities initially issued under the Indenture in an unlimited aggregate principal amount; *provided*, that the Company may issue such additional Securities only if they are part of the same issue (and part of the same series) as the Securities initially issued hereunder for United States federal income tax purposes. Any such additional Securities will, for all purposes of the Indenture, including waivers, amendments and offers to purchase, be treated as part of the same series as the Securities initially issued under the Indenture.

(d) *Purchases*. The Company and its Subsidiaries may from time to time purchase Securities in open market purchases or negotiated transactions at the same or differing prices without giving prior notice to or obtaining any consent of the Holders. Any Securities purchased by the Company or any of its Subsidiaries pursuant to the foregoing sentence or otherwise will be retired and will no longer be Outstanding under the Indenture.

(e) *Denominations*. Pursuant to Sections 2.02 and 2.03 of the Base Indenture, the Securities will be issued only in minimum denominations of $1,000 and integral multiples of $1,000 in excess thereof.

Section 2.02 *Forms.*

(a) *In General*. Pursuant to Section 2.01 of the Base Indenture, the Securities will be substantially in the forms set forth in Exhibit A hereto, and may include such insertions, omissions, substitutions and other variations as are required or permitted by the Indenture, and may have such letters, numbers or other marks of identification and such legends or endorsements placed thereon as may be required to comply with the rules of any securities exchange or as may, consistently herewith, be determined by the officers executing such Securities, as evidenced by their execution of the Securities.

Notwithstanding Section 2.08 of the Base Indenture, each Security will bear a Trustee's certificate of authentication substantially in the form included in Exhibit A hereto. Each Security will also bear the Form of Notice of Conversion, the Form of Fundamental Change Purchase Notice and the Form of Assignment and Transfer.

Any Security that is a Global Security will bear a legend substantially in the form of the legend set forth in Exhibit A hereto and shall also bear the "Schedule of Increases and Decreases of Global Security" set forth in Annex A to Exhibit A hereto.

The terms and provisions contained in the Securities will constitute, and are hereby expressly made, a part of the Indenture and, to the extent applicable, the Company and the Trustee, by their execution and delivery of this Supplemental Indenture, expressly agree to such terms and provisions and to be bound thereby. However, to the extent that any provision of any Security conflicts with the express provisions of the Indenture, the provisions of this Supplemental Indenture will govern and control.

(b) *Initial and Subsequent Form of Securities.* The Company hereby initially appoints The Depository Trust Company as the Depository for the Securities, which initially shall be issued in the form of one or more Global Securities without interest coupons (i) registered in the name of Cede & Co., as nominee of the Depository, and (ii) delivered to the Trustee as custodian for the Depository.

So long as the Securities are eligible for book-entry settlement with the Depository, unless otherwise required by law, and except to the extent provided in Section 2.03(c)(1) through (3) hereof, all Securities will be represented by one or more Global Securities.

(c) *Global Securities.* Each Global Security will represent the aggregate principal amount of the then Outstanding Securities endorsed thereon and provide that it represents such aggregate principal amount of the then Outstanding Securities, which aggregate principal amount may, from time to time, be reduced or increased to reflect transfers, exchanges, conversions or purchases by the Company.

Only the Trustee, or the Custodian holding such Global Security for the Depository, at the direction of the Trustee, may endorse a Global Security to reflect the amount of any increase or decrease in the aggregate principal amount of the then Outstanding Securities represented thereby, and whenever the Holder of a Global Security delivers instructions to the Trustee to increase or decrease the aggregate principal amount of the then Outstanding Securities represented by a Global Security in accordance with the Indenture and the Applicable Procedures, the Trustee, or the Custodian holding such Global Security for the Depository, at the direction of the Trustee, will endorse such Global Security to reflect such increase or decrease in the aggregate principal amount of the then Outstanding Securities represented thereby. None of the Trustee, the Company or any agent of the Trustee or the Company will have any responsibility or bear any liability for any aspect of the records relating to or payments made on account of the ownership of any beneficial interest in a Global Security or with respect to maintaining, supervising or reviewing any records relating to such beneficial interest.

Members of, or participants in, the Depository ("**Agent Members**") shall have no rights under the Indenture with respect to any Global Security held on their behalf by the Depository, or the Trustee as its custodian, or under the Global Security, and Cede & Co., or such other Persons designated by the Depository as its nominee, may be treated by the Company, the Trustee and any agent of the Company or the Trustee as the absolute owner of the Global Security for all purposes whatsoever. Notwithstanding the foregoing, nothing herein shall prevent the Company, the Trustee or any agent of the Company or the Trustee from giving effect to any written certification, proxy or other authorization furnished by the Depository or impair, as between the Depository and its Agent Members, the operation of customary practices governing the exercise of the rights of any Holder.

Section 2.03 *Transfer and Exchange.*

(a) *In General*. Notwithstanding anything to the contrary in Article II of the Base Indenture, the Company is not required to transfer or exchange any Securities or portions thereof that have been surrendered for purchase in accordance with Article 3 hereof (unless the related Fundamental Change Purchase Notice is withdrawn in accordance with the provisions of Section 3.04) or for conversion in accordance with Article 4 hereof, and a written form of transfer substantially in the form of the Form of Assignment and Transfer will be deemed to be written instrument of transfer satisfactory to the Company and the Registrar.

At such time as all interests in a Global Security have been purchased, converted, redeemed, cancelled or exchanged for Securities in certificated form, such Global Security shall, upon receipt thereof, be canceled by the Trustee in accordance with standing procedures and instructions existing between the Depository and the Custodian for the Global Security. At any time prior to such cancellation, if any interest in a Global Security is purchased, converted, redeemed, cancelled or exchanged for Securities in certificated form, the principal amount of such Global Security shall, in accordance with the standing procedures and instructions existing between the Depository and the Custodian for the Global Security, be appropriately reduced, and an endorsement shall be made on such Global Security, by the Trustee or the Custodian for the Global Security, at the direction of the Trustee, to reflect such reduction.

(b) *Global Securities*. Notwithstanding anything to the contrary in Section 2.08 of the Base Indenture, every transfer and exchange of a beneficial interest in a Global Security will be effected through the Depository in accordance with the Applicable Procedures and the provisions of the Indenture, and each Global Security may be transferred only as a whole and only (A) by the Depository to a nominee of the Depository, (B) by a nominee of the Depository to the Depository or to another nominee of the Depository, or (C) by the Depository or any such nominee to a successor Depository or a nominee of such successor Depository.

(c) *Holders Deemed Owners*. Prior to due presentment of a Security for registration of transfer, the Company, the Trustee and any agent of the Company or the Trustee may treat the Person in whose name such Security is registered as the owner of such Security for the purpose of receiving payment of principal of and any Special Interest (subject to Section 2.13 of the Base Indenture) on such Security at the Maturity Date, in connection with a Fundamental Change, REIT Redemption, upon any conversion and for all other purposes whatsoever, including delivery of shares of Common Stock on conversion, for distribution of notices to such Holders or solicitations of their consent, whether or not such Security be overdue, and neither the Company, the Trustee nor any agent of the Company or the Trustee shall be affected by notice to the contrary.

Notwithstanding anything to the contrary in Section 2.08 of the Base Indenture:

(1) Each Global Security will be exchanged for Physical Securities if the Depository delivers notice to the Company that the Depository is unwilling, unable or no longer permitted under applicable law to continue to act as Depository, and, in each case, the Company promptly delivers a copy of such notice to the Trustee and the Company fails to appoint a successor Depository within 90 days after receiving notice from the Depository.

(2) If an Event of Default has occurred and is continuing, any owner of a beneficial interest in a Global Security may exchange such beneficial interest for Physical Securities by delivering a written request to the Registrar.

(3) If the Company notifies the Trustee that it wishes to terminate and exchange all or part of a Global Security for Physical Securities and the beneficial owners of the majority of the principal amount of such Global Security (or portion thereof) to be exchanged consent to such exchange, the Company may exchange all beneficial interests in such Global Security (or portion thereof) for Physical Securities by delivering a written request to the Registrar.

In the case of an exchange for Physical Securities under clause (1) above:

(A) each Global Security will be deemed surrendered to the Trustee for cancellation;

(B) the Trustee will cause each Global Security to be cancelled in accordance with the Applicable Procedures; and

(C) the Company, in accordance with Section 2.04 of the Base Indenture, will promptly execute, and, upon receipt of a Company Request, the Trustee, in accordance with Section 2.04 of the Base Indenture, will promptly authenticate and deliver, for each beneficial interest in each Global Security so exchanged, an aggregate principal amount of Physical Securities equal to the aggregate principal amount of such beneficial interest, registered in such names and in such authorized denominations as the Depository specifies, and bearing any legends that such Physical Securities are required to bear under the Indenture.

In the case of an exchange for Physical Securities under clause (2) above:

(A) the Registrar will deliver notice of such request to the Company and the Trustee, which notice will identify the owner of the beneficial interest to be exchanged, the aggregate principal amount of such beneficial interest and the CUSIP of the relevant Global Security, in each case if and as such information is provided to the Registrar by the Depository;

(B) the Company, in accordance with Section 2.04 of the Base Indenture, will promptly execute, and, upon receipt of a Company Request, the Trustee, in accordance with Section 2.04 of the Base Indenture, will promptly authenticate and deliver to such owner, for the beneficial interest so exchanged by such owner, Physical Securities registered in such owner's name having an aggregate principal amount equal to the aggregate principal amount of such beneficial interest and bearing any legends that such Physical Securities are required to bear under the Indenture; and

(C) the Registrar, in accordance with the Applicable Procedures, will cause the principal amount of such Global Security to be decreased by the aggregate principal amount of the beneficial interest so exchanged. If all of the beneficial interests in a Global Security are so exchanged, such Global Security will be deemed surrendered to the Trustee for cancellation, and the Trustee will cause such Global Security to be cancelled in accordance with the Applicable Procedures.

In the case of an exchange for Physical Securities under clause (3) above:

(A) the Company will deliver notice of such request to the Registrar and the Trustee, which notice will identify each owner of a beneficial interest to be exchanged, the aggregate principal amount of each such beneficial interest and the CUSIP of the relevant Global Security;

(B) the Company, in accordance with Section 2.04 of the Base Indenture, will promptly execute, and, upon receipt of a Company Request, the Trustee, in accordance with Section 2.04 of the Base Indenture, will promptly authenticate and deliver to each such beneficial owner, Physical Securities registered in such beneficial owner's name having an aggregate principal amount equal to the aggregate principal amount of its exchanged beneficial interest and bearing any legends that such Physical Securities are required to bear under the Indenture and any applicable law; and

(C) the Registrar, in accordance with the Applicable Procedures, will cause the principal amount of each relevant Global Security to be decreased by the aggregate principal amount of the beneficial interests so exchanged. If all of the beneficial interests in a Global Security are so exchanged, such Global Security will be deemed surrendered to the Trustee for cancellation, and the Trustee will cause such Global Security to be cancelled in accordance with the Applicable Procedures.

In each of the cases described in clauses (1), (2) and (3) above, the Company may rely on the Depository to provide all names of beneficial owners and their respective principal amounts beneficially owned and may issue Physical Securities registered in the names and amounts so provided by the Depository.

(d) *Physical Securities*. Except to the extent otherwise provided in Section 2.03(a) hereof, Physical Securities may be transferred or exchanged in accordance with Section 2.08 of the Base Indenture.

Section 2.04 *Payments on the Securities.*

(a) *In General*. Each Security shall not bear regular interest and the principal amount of such Security shall not accrete. Special Interest on a Security, if any, will cease to accrue upon the earliest of the Maturity Date, subject to the provisions of Article 3 hereof, any Fundamental Change Purchase Date or Redemption Date for such Security, and subject to the provisions of Article 4 hereof, any Conversion Date for such Security. Special Interest on any Security, if any, will be payable semi-annually in arrears on each Special Interest Payment Date, beginning February 15, 2021, to the Holder of such Security as of the Close of Business on the Special Interest Record Date immediately preceding the applicable Special Interest Payment Date. Special Interest, if any, will be computed on the basis of a 360-day year comprised of twelve 30-day months.

The Securities will mature on the Maturity Date, and on the Maturity Date, each Holder of a then Outstanding Security will be entitled on such date to receive $1,000 in cash for each $1,000 in principal amount of then Outstanding Securities held, together with any accrued and unpaid Special Interest to, but not including, the Maturity Date on such then Outstanding Securities.

Notwithstanding anything to the contrary, if the Maturity Date or any Special Interest Payment Date, Fundamental Change Purchase Date, Redemption Date or any Conversion Date falls, or if any payment, delivery, notice or other action by the Company is otherwise due, on a day that is not a Business Day, then any action to be taken on such date need not be taken on such date, but may be taken on the immediately following Business Day with the same force and effect as if taken on such date, and no additional Special Interest will accrue and no Default shall occur on account of such delay.

(b) *Method of Payment.* The Company will pay the principal of, the Fundamental Change Purchase Price, REIT Redemption Price for, and any cash in lieu of fractional shares of Common Stock upon the conversion of, any Physical Security to the Holder of such Security in cash at the designated office of the Paying Agent in the borough of Manhattan in The City of New York, New York, prior to 10:00 a.m. on the relevant payment or settlement date, as the case may be. The Company will pay any Special Interest on any Physical Security to the Holder of such Security (i) if such Holder holds $2,000,000 or less aggregate principal amount of Securities, by check mailed to such Holder's registered address, and (ii) if such Holder holds more than $2,000,000 aggregate principal amount of Securities, (A) by check mailed to such Holder's registered address or, (B) if such Holder delivers to the Registrar a written request that the Company make such payments by wire transfer to an account of such Holder within the United States, for each Special Interest payment corresponding to each Special Interest Record Date occurring during the period beginning on the date on which such Holder delivered such request and ending on the date, if any, on which such Holder delivers to the Registrar a written instruction to the contrary, by wire transfer of immediately available funds to the account specified by such Holder. The Company will pay the principal of, any Special Interest on, the Fundamental Change Purchase Price, REIT Redemption Price for, and any cash in lieu of fractional shares of Common Stock upon the conversion of, any Global Security to the Depository by wire transfer of immediately available funds on the relevant payment date in accordance with Applicable Procedures.

(c) *Defaulted Payments*. The Company shall pay any Special Interest on the Securities that is payable, but is not punctually paid or duly provided for, on the applicable Special Interest Payment Date, in accordance with Section 2.13 of the Base Indenture.

ARTICLE 3

REPURCHASE OF SECURITIES AT OPTION OF HOLDERS

Section 3.01 *Amendments to the Base Indenture.*

(a) *No Redemption.* Article III of the Base Indenture shall not apply with respect to the Securities.

Section 3.02 *Purchase at Option of Holders upon a Fundamental Change.* (a) If a Fundamental Change occurs, then each Holder shall have the right, at such Holder's option, to require the Company to purchase for cash all of such Holder's Securities, or any portion thereof such that the remaining principal amount of each Security that is not purchased in full equals $1,000 or an integral multiple of $1,000 in excess thereof, on a date (the "**Fundamental Change Purchase Date**") specified by the Company that is not less than 20 calendar days or more than 35 calendar days following the date on which the Company

delivers the Fundamental Change Company Notice, at a purchase price equal to 100% of the principal amount thereof, plus accrued and unpaid Special Interest thereon, if any, to, but excluding, the Fundamental Change Purchase Date (the "**Fundamental Change Purchase Price**"); *provided, however*, that if the Company purchases a Security on a Fundamental Change Purchase Date that is after a Special Interest Record Date and on or prior to the Special Interest Payment Date corresponding to such Special Interest Record Date, the Company shall instead pay such accrued and unpaid Special Interest, if any, on such Security on the Special Interest Payment Date to the Holder of record of such Security as of such Special Interest Record Date.

Purchases of Securities under this Section 3.02 shall be made, at the option of the Holder thereof, upon:

(1) if the Securities to be purchased are Physical Securities, delivery to the Paying Agent by the Holder of a duly completed notice (the "**Fundamental Change Purchase Notice**") in the form set forth in Attachment 2 to the Form of Security attached hereto as Exhibit A and of the Securities, duly endorsed for transfer, on or before the Close of Business on the Business Day immediately preceding the Fundamental Change Purchase Date, subject to extensions to comply with applicable law (the "**Fundamental Change Expiration Time**"); and

(2) if the Securities to be purchased are Global Securities, delivery of the Securities, by book-entry transfer, in compliance with the Applicable Procedures of the Depository and the satisfaction of any other requirements of the Depository in connection with tendering beneficial interests in a Global Security for purchase, by the Fundamental Change Expiration Time.

The Fundamental Change Purchase Notice in respect of any Securities to be purchased shall state:

(1) if certificated, the certificate numbers of such Securities;

(2) the portion of the principal amount of such Securities, which must be such that the principal amount that is not to be purchased of each Security that is not to be purchased in full equals $1,000 or an integral multiple of $1,000 in excess thereof; and

(3) that such Securities are to be purchased by the Company pursuant to the applicable provisions of the Securities and the Indenture.

Notwithstanding anything herein to the contrary, any Holder delivering to the Paying Agent the Fundamental Change Purchase Notice contemplated by this Section 3.02 shall have the right to withdraw, in whole or in part, such Fundamental Change Purchase Notice at any time prior to the Fundamental Change Expiration Time by delivery of a written notice of withdrawal to the Paying Agent in accordance with Section 3.04.

The Paying Agent shall promptly notify the Company of the receipt by it of any Fundamental Change Purchase Notice or written notice of withdrawal thereof.

(b) On or before the 20th calendar day after the occurrence of a Fundamental Change, the Company shall provide to all Holders of the Securities, the Trustee and the Paying Agent (in the case of any Paying Agent other than the Trustee) a notice (the

"**Fundamental Change Company Notice**") of the occurrence of such Fundamental Change and of the purchase right at the option of the Holders arising as a result thereof. Such notice shall be sent by first class mail or, in the case of any Global Securities, in accordance with the procedures of the Depository for providing notices. Simultaneously with providing such Fundamental Change Company Notice, the Company shall publish this information in a newspaper of general circulation in The City of New York or publish the information on the Company's website or through such other public medium as the Company may use at that time.

Each Fundamental Change Company Notice shall specify:

(1) the events causing the Fundamental Change;

(2) the date of the Fundamental Change;

(3) the last date on which a Holder of Securities may exercise the purchase right pursuant to this Article 3;

(4) the Fundamental Change Purchase Price;

(5) the Fundamental Change Purchase Date;

(6) the name and address of the Paying Agent and the Conversion Agent, if applicable;

(7) the applicable Conversion Rate and any adjustments to the applicable Conversion Rate;

(8) that the Securities with respect to which a Fundamental Change Purchase Notice has been delivered by a Holder may be converted only if the Holder withdraws the Fundamental Change Purchase Notice in accordance with the Indenture;

(9) that the Holder shall have the right to withdraw any Securities surrendered for purchase prior to the Fundamental Change Expiration Time; and

(10) the procedures that Holders must follow to require the Company to purchase their Securities.

No failure of the Company to give the foregoing notices and no defect therein shall limit the purchase rights of the Holders of Securities or affect the validity of the proceedings for the purchase of the Securities pursuant to this Section 3.02.

(c) Notwithstanding the foregoing, there shall be no purchase of any Securities pursuant to this Section 3.02 if the principal amount of the Securities has been accelerated, and such acceleration has not been rescinded, on or prior to the Fundamental Change Purchase Date (except in the case of an acceleration resulting from a Default by the Company in the payment of the Fundamental Change Purchase Price with respect to such Securities). The Paying Agent will promptly return to the respective Holders thereof any Physical Securities held by it during the acceleration of the Securities (except in the case of an acceleration resulting from a Default by the Company in the payment of the Fundamental Change Purchase Price with respect to such Securities) and shall deem to be cancelled any instructions for book-entry transfer of the Securities in compliance with the procedures of the Depository, in which case, upon such return or cancellation, as the case may be, the Fundamental Change Purchase Notice with respect thereto shall be deemed to have been withdrawn.

(d) Notwithstanding the other provisions of this Article 3, the Company will not be required to make an offer to purchase the Securities upon a Fundamental Change if a third party makes such an offer in the manner, at the times and otherwise in compliance with the requirements in the Indenture and such third party purchases all Securities properly tendered and not validly withdrawn under its offer.

Section 3.03 *Effect of Fundamental Change Purchase Notice.* Upon receipt by the Paying Agent of a Fundamental Change Purchase Notice specified in Section 3.02, the Holder of the Security in respect of which such Fundamental Change Purchase Notice was given shall (unless such Fundamental Change Purchase Notice is withdrawn in accordance with Section 3.04) thereafter be entitled to receive solely the Fundamental Change Purchase Price in cash with respect to such Security (and any previously accrued and unpaid Special Interest, if any, on such Security). Such Fundamental Change Purchase Price shall be paid to such Holder, subject to receipt of funds by the Paying Agent, on the later of (x) the applicable Fundamental Change Purchase Date (provided the conditions in Section 3.02 have been satisfied) and (y) the time of delivery or book-entry transfer of such Security to the Paying Agent by the Holder thereof in the manner required by Section 3.02, subject in each case to extensions to comply with applicable law.

Section 3.04 *Withdrawal of Fundamental Change Purchase Notice.* A Fundamental Change Purchase Notice may be withdrawn (in whole or in part) by means of a written notice of withdrawal delivered to the Paying Agent in accordance with the Fundamental Change Company Notice at any time prior to the Fundamental Change Expiration Time, specifying:

(1) the principal amount of the Securities with respect to which such notice of withdrawal is being submitted;

(2) if Physical Securities have been issued, the certificate numbers of the withdrawn Securities; and

(3) the principal amount, if any, of each Security that remains subject to the Fundamental Change Purchase Notice, which must be such that the principal amount not to be purchased equals $1,000 or an integral multiple of $1,000 in excess thereof;

provided, *however*, that if the Securities are Global Securities, the notice must comply with Applicable Procedures of the Depository.

The Paying Agent will promptly return to the respective Holders thereof any Physical Securities with respect to which a Fundamental Change Purchase Notice has been withdrawn in compliance with the provisions of this Section 3.04.

Section 3.05 *Deposit of Fundamental Change Purchase Price.* Prior to 10:00 a.m., New York City time, on the Fundamental Change Purchase Date, the Company shall deposit with the Paying Agent (or, if the Company or a Subsidiary or an Affiliate of either of them is acting as the Paying Agent, shall segregate and hold in trust as provided herein) an amount of money (in immediately available funds if deposited on such Business Day) sufficient to pay the Fundamental Change Purchase Price of all the Securities or portions thereof that are to be purchased as of the Fundamental Change Purchase Date. If the Paying Agent holds cash

sufficient to pay the Fundamental Change Purchase Price of the Securities for which a Fundamental Change Purchase Notice has been tendered and not withdrawn in accordance with the Indenture on the Fundamental Change Purchase Date, then as of such Fundamental Change Purchase Date, (a) such Securities will cease to be Outstanding and any Special Interest will cease to accrue thereon (whether or not book-entry transfer of such Securities is made or such Securities have been delivered to the Paying Agent) and (b) all other rights of the Holders in respect thereof will terminate (other than the right to receive the Fundamental Change Purchase Price upon delivery or book-entry transfer of such Securities).

Section 3.06 *Securities Purchased in Whole or in Part.* Any Security that is to be purchased, whether in whole or in part, shall be surrendered at the office of the Paying Agent (with, if the Company or the Trustee so requires in the case of Physical Securities, due endorsement by, or a written instrument of transfer in form satisfactory to the Company and the Trustee duly executed by, the Holder thereof or such Holder's attorney duly authorized in writing) and the Company shall execute and the Trustee shall authenticate and deliver to the Holder of such Security, without service charge, a new Security or Securities, of any authorized denomination as requested by such Holder in aggregate principal amount equal to, and in exchange for, the portion of the principal amount of the Security so surrendered that is not purchased.

Section 3.07 *Covenant To Comply with Applicable Laws upon Purchase of Securities.* In connection with any offer to purchase Securities under Section 3.02, the Company shall, in each case if required by law, (i) comply with Rule 13e-4, Rule 14e-1 and any other tender offer rules under the Exchange Act that may then be applicable, (ii) file a Schedule TO or any other required schedule under the Exchange Act and (iii) otherwise comply with all federal and state securities laws applicable to the Company in connection with such purchase offer, in each case, so as to permit the rights and obligations under Section 3.02 to be exercised in the time and in the manner specified in Section 3.02.

Section 3.08 *Repayment to the Company.* To the extent that the aggregate amount of cash deposited by the Company pursuant to Section 3.05 exceeds the aggregate Fundamental Change Purchase Price of the Securities or portions thereof that the Company is obligated to purchase as of the Fundamental Change Purchase Date, then, following the Fundamental Change Purchase Date, the Paying Agent shall promptly return any such excess to the Company.

ARTICLE 4

CONVERSION

Section 4.01 *Right To Convert.* (a) Upon compliance with the provisions of the Indenture, at any time prior to the Close of Business on the second Scheduled Trading Day immediately preceding the Maturity Date, unless such securities have been redeemed in accordance with Sections 3.02 or 11.01(a), or repurchased by the Company, the Holder of any Securities not previously repurchased or redeemed shall have the right, at such Holder's option, to convert its Securities, or any portion thereof which is a multiple of $1,000, into Common Stock, as provided in Section 4.03, by surrender of such Securities so to be converted in whole or in part, together with any required funds, under the circumstances and in the manner described in this Article 4.

(b) Notwithstanding any other provision of the Securities or the Indenture, no Holder of Securities will be entitled to receive Common Stock following conversion of such

Securities to the extent that receipt of such Common Stock would cause such Holder (either directly or after application of certain constructive ownership rules) to exceed the ownership limits contained in the Company's charter. Any purported delivery of shares of Common Stock upon conversion of Securities shall be void and have no effect to the extent (but only to the extent) that such delivery would result in the converting holder violating the restrictions on ownership and transfer of the Common Stock contained in the Company's charter. Any attempted conversion of Securities that would result in the issuance of shares of Common Stock in violation of these charter restrictions shall be void to the extent of the number of shares of Common Stock that would cause such violation, and the related Securities, or portions, thereof shall be returned to the Holder as promptly as practical. The Company shall not have any further obligation to the Holder with respect to such voided conversion and such Securities shall be treated as if they had not been submitted for conversion.

(c) A Security in respect of which a Holder has delivered a Fundamental Change Purchase Notice exercising such Holder's right to require the Company to purchase such Security pursuant to Section 3.02 may be converted only if such Fundamental Change Purchase Notice is properly withdrawn in accordance with, and within the time periods set forth in, Section 3.04.

(d) If the Company delivers a Redemption Notice, a Holder may convert all or any portion of its Securities called for REIT Redemption on or after the date of such Redemption Notice at any time prior to the Close of Business on the Business Day immediately preceding the Redemption Date.

Section 4.02 *Conversion Procedures.*

(a) Each Security shall be convertible at the office of the Conversion Agent and, if applicable, in accordance with the Applicable Procedures of the Depository.

(b) To exercise the conversion privilege with respect to a beneficial interest in a Global Security, the Holder must complete the appropriate instruction form for conversion pursuant to the Depository's book-entry conversion program, furnish appropriate endorsements and transfer documents if required by the Company or the Conversion Agent, and pay the funds, if any, required by Section 4.02(f) and any taxes or duties if required pursuant to Section 4.02(h), and the Conversion Agent must be informed of the conversion in accordance with the customary practice of the Depository.

To exercise the conversion privilege with respect to any Physical Securities, the Holder of such Physical Securities shall:

(1) complete and manually sign a conversion notice in the form set forth in the Form of Notice of Conversion (the "**Conversion Notice**") or a facsimile of the Conversion Notice;

(2) deliver the Conversion Notice, which is irrevocable, and the Security to the Conversion Agent;

(3) if required, furnish appropriate endorsements and transfer documents,

(4) if required, make any payment required under Section 4.02(f); and

(5) if required, pay all transfer or similar taxes as set forth in Section 4.02(g).

If, upon conversion of a Security, any shares of Common Stock are to be issued to a person other than the Holder of such Security, the related Conversion Notice shall include such other person's name and address.

If a Security is subject to a Fundamental Change Purchase Notice, such Security may not be converted unless such Fundamental Change Purchase Notice is withdrawn in accordance with Section 3.04 hereof prior to the relevant Fundamental Change Expiration Time.

For any Security, the first Business Day on which the Holder of such Security satisfies all of the applicable requirements set forth above with respect to such Security and on which conversion of such Security is not otherwise prohibited under the Indenture shall be the "**Conversion Date**" with respect to such Security.

Each conversion shall be deemed to have been effected as to any such Securities (or portion thereof) surrendered for conversion at the Close of Business on the applicable Conversion Date, and the person in whose name the certificate for any shares of Common Stock delivered upon conversion is registered shall be treated as a stockholder of record as of the Close of Business on such Conversion Date.

(c) *Endorsement*. Any Securities surrendered for conversion shall, unless shares of Common Stock issuable on conversion are to be issued in the same name as the registration of such Securities, be duly endorsed by, or be accompanied by instruments of transfer in form satisfactory to the Company duly executed by, the Holder or its duly authorized attorney.

(d) *Physical Securities*. If any Securities in a denomination greater than $1,000 shall be surrendered for partial conversion, the Company shall execute and the Trustee shall authenticate and deliver to the Holder of the Securities so surrendered, without charge, new Securities in authorized denominations in an aggregate principal amount equal to the unconverted portion of the surrendered Securities.

(e) *Global Securities*. Upon the conversion of a beneficial interest in Global Securities, the Conversion Agent shall make a notation in its records as to the reduction in the principal amount represented thereby. The Company shall notify the Trustee in writing of any conversions of Securities effected through any Conversion Agent other than the Trustee.

(f) *Special Interest Due Upon Conversion*. If a Holder converts a Security after the Close of Business on a Special Interest Record Date but prior to the Open of Business on the Special Interest Payment Date corresponding to such Special Interest Record Date, such Holder must accompany such Security with an amount of cash equal to the amount of any Special Interest that will be payable on such Security on the corresponding Special Interest Payment Date; *provided, however*, that a Holder need not make such payment (1) if the Conversion Date follows the Special Interest Record Date immediately preceding the Maturity Date; (2) if the Company has specified a Redemption Date that occurs following a Special Interest Record Date but occurs on or prior to the corresponding Special Interest Payment Date; (3) if the Company has specified a Fundamental Change Purchase Date that is after a Special Interest Record Date and on or prior to the corresponding Special Interest

Payment Date and the Holder converts its Security after the Close of Business on such Special Interest Record Date and on or prior to the Open of Business on such Special Interest Payment Date; or (4) to the extent of any overdue Special Interest, if any overdue Special Interest exists at the time of conversion with respect to such Security.

(g) [*Reserved*.]

(h) *Taxes Due Upon Conversion.* If a Holder converts a Security, the Company will pay any documentary, stamp or similar issue or transfer tax due on the issue of any shares of the Common Stock upon the conversion, unless the tax is due because the Holder requests that any shares be issued in a name other than the Holder's name, in which case the Holder will pay that tax.

(i) *Cash Payments in Lieu of Fractional Shares.* No fractional shares of Common Stock or scrip certificates representing fractional shares shall be issued upon conversion of Securities. If more than one Security shall be surrendered for conversion at one time by the same Holder, the number of full shares that shall be issuable upon conversion shall be computed on the basis of the aggregate principal amount of the Securities (or specified portions thereof to the extent permitted hereby) so surrendered. If any fractional share of Common Stock would be issuable upon the conversion of any Security or Securities, the Company shall make a payment therefor in cash to the Holder of Securities equal to the product of (i) such fraction of a share and (ii) the Last Reported Sale Price of the Common Stock on the relevant Scheduled Trading Day (or, if the Scheduled Trading Day is not a Trading Day, the next following Trading Day).

Section 4.03 *Settlement Upon Conversion.*

(a) Upon conversion of any Securities, subject to Sections 4.01, 4.02 and this Section 4.03, the Company shall satisfy its obligation upon conversion (the "**Conversion Obligation**") by delivery of the shares (and, if applicable, payment of the cash) described under Section 4.03(b) below.

(b) Upon conversion of Securities, the Company shall deliver, in respect of each $1,000 principal amount of Securities tendered for conversion in accordance with their terms:

(1) a number of shares of Common Stock equal to (a) (i) the aggregate principal amount of Securities to be converted divided by (ii) $1,000, multiplied by (b) the applicable Conversion Rate on the date the converting Holder is treated as a record owner of the Common Stock pursuant to the last paragraph of Section 4.02(b); and

(2) an amount in cash in lieu of any fractional shares of Common Stock as provided in Section 4.02(i).

(c) Delivery of the shares of Common Stock (and, if applicable, payment of the cash) pursuant to Section 4.03(b) shall be made by the Company on or prior to the second Business Day immediately following the Conversion Date to the holder of a Security surrendered for conversion, or such holder's nominee or nominees, and the Company shall deliver to the Conversion Agent or to such holder, or such holder's nominee or nominees, certificates or a book-entry transfer through the Depository for the number of full shares of Common Stock to which such holder shall be entitled as part of such Conversion Obligation. Notwithstanding the foregoing, delivery of the shares of Common Stock (and, if applicable,

payment of the cash) pursuant to Section 4.03(b) with respect to any Conversion Date that occurs on or after the Special Interest Record Date immediately preceding the Maturity Date shall be made by the Company on the Maturity Date.

(d) *Settlement of Accrued Special Interest and Deemed Payment of Principal.* If a Holder converts a Security, the Company will not adjust the Conversion Rate to account for any accrued and unpaid Special Interest, if any, on such Security, and the Company's delivery of shares of Common Stock (and cash in lieu of fractional shares, if any) into which a Security is convertible will be deemed to satisfy and discharge in full the Company's obligation to pay the principal of, and accrued and unpaid Special Interest, if any, on, such Security to, but excluding, the Conversion Date; *provided, however*, that if a Holder converts a Security after a Special Interest Record Date and prior to the Open of Business on the corresponding Special Interest Payment Date, the Company will still be obligated to pay any Special Interest due on such Special Interest Payment Date to the Holder of such Security on such Special Interest Record Date (provided the Holder makes the Special Interest payment upon conversion if so required by Section 4.02(f)).

As a result, except as otherwise provided in the proviso to the immediately preceding sentence, any accrued and unpaid Special Interest with respect to a converted Security will be deemed to be paid in full rather than cancelled, extinguished or forfeited. In no event will a Holder be entitled to receive any dividend or other distribution with respect to any Common Stock issued on conversion of such Holder's Securities if the applicable Conversion Date is after the Special Interest Record Date for such dividend or distribution.

(e) *Notices*. Whenever a Conversion Date occurs with respect to a Security, the Conversion Agent will, as promptly as possible, and in no event later than the Business Day immediately following such Conversion Date, deliver to the Company and the Trustee, if it is not then the Conversion Agent, notice that a Conversion Date has occurred, which notice will state such Conversion Date, the principal amount of Securities converted on such Conversion Date and the names of the Holders that converted Securities on such Conversion Date.

Section 4.04 *Adjustment of Conversion Rate.* The Conversion Rate will be adjusted as described in this Section 4.04, except that the Company shall not make any adjustment to the Conversion Rate if Holders participate (other than in the case of (x) a share split or share combination or (y) a tender or exchange offer), at the same time and upon the same terms as holders of the Common Stock and as a result of holding the Securities, in any of the transactions described below without having to convert their Securities, as if they held a number of shares of Common Stock equal to the applicable Conversion Rate, multiplied by the principal amount (expressed in thousands) of Securities held by such Holder.

(a) If the Company exclusively issues shares of Common Stock as a dividend or distribution on all or substantially all outstanding shares of the Common Stock, or if the Company effects a share split or share combination, the Conversion Rate will be adjusted based on the following formula:

$$CR_1 = CR_0 \times \frac{OS_1}{OS_0}$$

where,

CR_0 = the Conversion Rate in effect immediately prior to the Close of Business on the record date of such dividend or distribution, or immediately prior to the Open of Business on the effective date of such share split or share combination, as applicable;

CR_1 = the Conversion Rate in effect immediately after the Close of Business on such record date or immediately after the Open of Business on such effective date;

OS_0 = the number of shares of Common Stock outstanding immediately prior to the Close of Business on such record date or immediately prior to the Open of Business on such effective date, as applicable, before giving effect to such dividend, distribution, share split or share combination; and

OS_1 = the number of shares of Common Stock outstanding immediately after giving effect to such dividend, distribution, share split or share combination, as applicable.

Any adjustment made pursuant to this Section 4.04(a) shall become effective immediately after the Close of Business on the record date for such dividend or distribution, or immediately after the Open of Business on the effective date for such share split or share combination. If any dividend or distribution of the type described in this Section 4.04(a) is declared but not so paid or made, the Conversion Rate shall be immediately readjusted, effective as of the date the Board of Directors determines not to pay such dividend or distribution to the Conversion Rate that would then be in effect if such dividend or distribution had not been declared.

(b) If the Company issues to all or substantially all holders of the outstanding Common Stock any rights, options or warrants entitling them, for a period of not more than forty-five (45) calendar days after the record date of such issuance, to subscribe for or purchase shares of the Common Stock, at a price per share less than the average of the Last Reported Sale Prices of the Common Stock for the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the date of announcement of such issuance, the Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{OS_0 + X}{OS_0 + Y}$$

where,

CR_0 = the Conversion Rate in effect immediately prior to the Close of Business on the record date for such issuance;

CR_1 = the Conversion Rate in effect immediately after the Close of Business on such record date;

OS_0 = the number of shares of Common Stock outstanding immediately prior to the Close of Business on such record date;

X = the total number of shares of Common Stock issuable pursuant to such rights, options or warrants; and

Y = the number of shares of Common Stock equal to the aggregate price payable to exercise such rights, options or warrants divided by the average of the Last Reported Sale Prices of the Common Stock over the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the date of announcement of the issuance of such rights, options or warrants.

Any increase made under this Section 4.04(b) will be made successively whenever any such rights, options or warrants are issued and shall become effective immediately after the Open of Business on the record date for such issuance. To the extent that such rights, options or warrants are not exercised prior to their expiration or shares of Common Stock are not delivered upon the expiration of such rights, options or warrants, the Conversion Rate shall be readjusted to the Conversion Rate that would then be in effect had the increase with respect to the issuance of such rights, options or warrants been made on the basis of delivery of only the number of shares of Common Stock actually delivered. If such rights, options or warrants are not so issued, or if such rights, options or warrants are not exercised prior to their expiration, the Conversion Rate shall be decreased to be the Conversion Rate that would then be in effect if such record date for such issuance had not occurred.

For purposes of this Section 4.04(b), in determining whether any rights, options or warrants entitle the holders of the Common Stock to subscribe for or purchase shares of the Common Stock at a price per share less than such average of the Last Reported Sale Prices of the Common Stock for the 10 consecutive Trading Day period ending on the Trading Day immediately preceding the date of announcement for such issuance, and in determining the aggregate offering price of such shares of the Common Stock, there shall be taken into account any consideration received by the Company for such rights, options or warrants and any amount payable on exercise or conversion thereof, the value of such consideration, if other than cash, to be determined by the Board of Directors.

(c) If the Company distributes shares of its Capital Stock, evidences of its indebtedness, other assets or property of the Company or rights, options or warrants to acquire its Capital Stock or other securities, to all or substantially all holders of the outstanding Common Stock, excluding:

(1) dividends or distributions, rights options or warrants as to which an adjustment was effected pursuant to Section 4.04(a) hereof or Section 4.04(b) hereof;

(2) dividends or distributions paid exclusively in cash as to which the provisions set forth in Section 4.04(d) shall apply; and

(3) Spin-Offs described in Section 4.04(c);

then the Conversion Rate shall be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{SP_0}{SP_0 - FMV}$$

where,

CR_0 = the Conversion Rate in effect immediately prior to the Close of Business on the record date for such distribution;

CR_1 = the Conversion Rate in effect immediately after the Close of Business on such record date;

SP_0 = the average of the Last Reported Sale Prices of the Common Stock over the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the Ex-Dividend Date for such distribution; and

FMV = the fair market value (as determined by the Board of Directors) of the shares of the Company's Capital Stock, evidences the Company's indebtedness, other assets, or property of the Company or rights, options or warrants to acquire the Company's Capital Stock or other securities distributed with respect to each outstanding share of the Common Stock on the Ex-Dividend Date for such distribution.

provided that if "FMV" (as defined above) is equal to or greater than "SP_0" (as defined above), then in lieu of the foregoing increase, each Holder of a Security shall receive, in respect of each $1,000 principal amount of a Security it holds, at the same time and upon the same terms as holders of the Common Stock, the amount and kind of the Company's Capital Stock, evidences of the Company's indebtedness, other assets or property of the Company or rights, options or warrants to acquire the Company's Capital Stock or other securities that such Holder would have received as if such Holder owned a number of shares of Common Stock equal to the Conversion Rate in effect on the record date for the distribution.

Any increase made under this portion of this Section 4.04(c) will become effective immediately after the Close of Business on the record date for such distribution. If such distribution is not so paid or made, the Conversion Rate shall be decreased to be the Conversion Rate that would then be in effect if such dividend or distribution had not been declared.

With respect to an adjustment pursuant to this Section 4.04(c) where there has been a payment of a dividend or other distribution on the Common Stock of shares of Capital Stock of any class or series, or similar equity interest, of or relating to a Subsidiary of the Company or other business unit of the Company, and such Capital Stock or similar equity interest is listed or quoted (or will be listed or quoted upon the consummation of the distribution) on a United States national securities exchange (a "**Spin-Off**"), the Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{FMV_0 + MP_0}{MP_0}$$

where,

CR_0 = the Conversion Rate in effect immediately prior to the Close of Business on the record date for such Spin-Off;

CR_1 = the Conversion Rate in effect immediately after the Close of Business on the record date for such Spin-Off;

FMV_0 = the average of the Last Reported Sale Prices of the Capital Stock or similar equity interest distributed to holders of outstanding Common Stock applicable to one share of Common Stock over the first ten consecutive Trading Day period after, and including, the Ex-Dividend Date of the Spin-Off (the "**Valuation Period**"); and

MP_0 = the average of the Last Reported Sale Prices of Common Stock over the Valuation Period.

The adjustment to the applicable Conversion Rate under the preceding paragraph of this Section 4.04(c) will be made immediately after the Open of Business on the day after the last Trading Day of the Valuation Period, but will be given effect as of the Open of Business on the record date for the Spin-Off. For purposes of determining the applicable Conversion Rate, in respect of any conversion during the ten Trading Days commencing on the Ex-Dividend Date for any Spin-Off, references within the portion of this Section 4.04(c) related to "Spin-Offs" to ten Trading Days shall be deemed replaced with such lesser number of Trading Days as have elapsed from, and including, the Ex-Dividend Date for such Spin-Off to, and including, the relevant Conversion Date.

For purposes of the second adjustment set forth in this Section 4.04(c), (i) the Last Reported Sale Price of any Capital Stock or similar equity interest shall be calculated in a manner analogous to that used to calculate the Last Reported Sale Price of the Common Stock in the definition of "Last Reported Sale Price" set forth in Section 1.01 hereof, (ii) whether a day is a Trading Day (and whether a day is a Scheduled Trading Day and whether a Market Disruption Event has occurred) for such Capital Stock or similar equity interest shall be determined in a manner analogous to that used to determine whether a day is a Trading Day (or whether a day is a Scheduled Trading Day and whether a Market Disruption Event has occurred) for the Common Stock, and (iii) whether a day is a Trading Day to be included in a Valuation Period will be determined based on whether a day is a Trading Day for both the Common Stock and such Capital Stock or similar equity interest.

Subject to Section 4.04(f), for the purposes of this Section 4.04(c), rights, options or warrants distributed by the Company to all holders of the Common Stock entitling them to subscribe for or purchase shares of the Company's Capital Stock (either initially or under certain circumstances), which rights, options or warrants, until the occurrence of a specified event or events (a "**Trigger Event**"): (1) are deemed to be transferred with such shares of Common Stock; (2) are not exercisable; and (3) are also issued in respect of future issuances of Common Stock, shall be deemed not to have been distributed for purposes of this Section 4.04(c), (and no adjustment to the Conversion Rate under this Section 4.04(c) will be required) until the occurrence of the earliest Trigger Event, whereupon such rights, options or warrants shall be deemed to have been distributed and an appropriate adjustment (if any is required) to the Conversion Rate shall be made under this Section 4.04(c). If any such right, option or warrant, distributed prior to the Issue Date is subject to events, upon the occurrence of which such rights, options or warrants become exercisable to purchase different securities, evidences of indebtedness or other assets, then the date of the occurrence of any and each such event shall be deemed to be the date of distribution and record date of such deemed distribution (in which case the original rights, options or warrants shall be deemed to terminate and expire on such date without exercise by any of the holders). In addition, in the event of any distribution or deemed distribution of rights, options or warrants, or any Trigger Event or other event (of the type described in the preceding sentence) with respect thereto that was counted for purposes of calculating a distribution amount for which an adjustment to

the Conversion Rate under this Section 4.04(c) was made, (1) in the case of any such rights, options or warrants which shall all have been redeemed or purchased without exercise by any holders thereof, upon such final redemption or purchase (x) the Conversion Rate shall be readjusted as if such rights, options or warrants had not been issued and (y) the Conversion Rate shall then again be readjusted to give effect to such distribution, deemed distribution or Trigger Event, as the case may be, as though it were a cash distribution, equal to the per share redemption or purchase price received by holders of Common Stock with respect to such rights, options or warrants (assuming each such holder had retained such rights, options or warrants), made to all holders of Common Stock as of the date of such redemption or purchase, and (2) in the case of such rights, options or warrants which shall have expired or been terminated without exercise by any holders thereof, the Conversion Rate shall be readjusted as if such rights and warrants had not been issued.

For purposes of Section 4.04(a) hereof, Section 4.04(b) hereof and this Section 4.04(c), if any dividend or distribution to which this Section 4.04(c) applies includes one or both of:

(1) a dividend or distribution of shares of Common Stock to which Section 4.04(a) hereof also applies (the "**Clause A Distribution**"); or

(2) a dividend or distribution of rights, options or warrants to which Section 4.04(b) hereof also applies (the "**Clause B Distribution**"),

then (i) such dividend or distribution, other than the Clause A Distribution and the Clause B Distribution, shall be deemed to be a dividend or distribution to which this Section 4.04(c) applies (the "**Clause C Distribution**") and any Conversion Rate adjustment required to be made under this Section 4.04(c) with respect to such Clause C Distribution shall be made, (ii) the Clause B Distribution, if any, shall be deemed to immediately follow the Clause C Distribution and any Conversion Rate adjustment required by Section 4.04(b) hereof with respect thereto shall then be made, except that, if determined by the Company, (A) the "record date" of the Clause B Distribution and the Clause A Distribution, if any, shall be deemed to be the record date of the Clause C Distribution and (B) any shares of Common Stock included in the Clause A Distribution or the Clause B Distribution shall not be deemed to be "outstanding immediately prior to the Open of Business on such record date" within the meaning of Section 4.04(b) hereof, and (iii) the Clause A Distribution, if any, shall be deemed to immediately follow the Clause C Distribution or the Clause B Distribution, as the case may be, except that, if determined by the Company, (A) the "record date" of the Clause A Distribution and the Clause B Distribution, if any, shall be deemed to be the record date of the Clause C Distribution, and (B) any shares of Common Stock included in the Clause A distribution shall not be deemed to be "outstanding immediately prior to the Open of Business on such record date or such effective date" within the meaning of Section 4.04(a) hereof.

(d) If any cash dividend or distribution is made to all or substantially all holders of the outstanding Common Stock to the extent that the aggregate of all such cash dividends or distributions paid in any quarter exceeds the dividends threshold amount (the "**DTA**") for such quarter, the Conversion Rate shall be adjusted based on the following formula:

$$CR_1 = CR_0 \times \frac{SP_0 - DTA}{SP_0 - C}$$

where,

CR_0 = the Conversion Rate in effect immediately prior to the Close of Business on the record date for such dividend or distribution;

CR_1 = the Conversion Rate in effect immediately after the Close of Business on the record date for such dividend or distribution;

SP_0 = the Last Reported Sale Price of the Common Stock on the Trading Day immediately preceding theEx-Dividend Date for such dividend or distribution;

DTA = the dividend threshold amount, which shall initially be $0.34 per quarter*provided, however*, that the DTA with respect to any date shall be reduced by the aggregate per share cash dividends or distributions that were paid to all or substantially all holders of the outstanding Common Stock during the applicable dividend period prior to such payment and *provided further* that if the result of such reduction is a negative number, the DTA shall be deemed to be zero; and

C = the amount in cash per share that the Company distributes to holders of the outstanding Common Stock.

The DTA is subject to adjustment on an inversely proportional basis whenever the Conversion Rate is adjusted, other than adjustments made pursuant to this Section 4.04(d).

If "C" (as defined above) is equal to or greater than "SP_0" (as defined above), in lieu of the foregoing increase, each Holder shall receive, for each $1,000 principal amount of Securities it holds, at the same time and upon the same terms as holders of shares of the outstanding Common Stock, the amount of cash that such Holder would have received if such Holder had owned a number of shares of Common Stock equal to the Conversion Rate on the record date for such cash dividend or distribution. Such increase shall become effective immediately after the Close of Business on the record date for such dividend or distribution. If such dividend or distribution is not so paid, the Conversion Rate shall be decreased to be the Conversion Rate that would then be in effect if such dividend or distribution had not been declared.

(e) If the Company or any of its Subsidiaries make a payment in respect of a tender offer or exchange offer for the Common Stock, to the extent that the cash and value of any other consideration included in the payment per share of the Common Stock exceeds the Last Reported Sale Price of the Common Stock on the Trading Day next succeeding the last date on which tenders or exchanges may be made pursuant to such tender or exchange offer (the "**Offer Expiration Date**"), the Conversion Rate shall be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{AC + (SP_1 \times OS_1)}{OS_0 \times SP_1}$$

where,

CR_0 = the Conversion Rate in effect immediately prior to the Close of Business on the Offer Expiration Date;
CR_1 = the Conversion Rate in effect immediately after the Close of Business on the Offer Expiration Date;

AC = the aggregate value of all cash and any other consideration (as determined by the Board of Directors) paid or payable for shares of Common Stock purchased in such tender offer or exchange offer;

OS_0 = the number of shares of Common Stock outstanding immediately prior to the expiration time of the tender or exchange offer on the Offer Expiration Date (prior to giving effect to the purchase of all shares accepted for purchase or exchange in such tender offer or exchange offer);

OS_1 = the number of shares of Common Stock outstanding immediately after the expiration time of the tender or exchange offer on the Offer Expiration Date (after giving effect to the purchase of all shares accepted for purchase or exchange in such tender or exchange offer); and

SP_1 = the average of the Last Reported Sale Prices of the Common Stock over the 10 consecutive Trading Day period commencing on, and including, the Trading Day next succeeding the Offer Expiration Date.

The adjustment to the applicable Conversion Rate under the preceding paragraph of this Section 4.04(e) will be given effect at the Open of Business on the Trading Day next succeeding the Offer Expiration Date. For purposes of determining the applicable Conversion Rate, in respect of any conversion during the ten Trading Days commencing on the Trading Day next succeeding the Offer Expiration Date, references within this Section 4.04(e) to ten Trading Days shall be deemed replaced with such lesser number of Trading Days as have elapsed from, and including, the Trading Day next succeeding the Offer Expiration Date to, and including, the relevant Conversion Date.

(f) *Poison Pill*. Whenever a Holder converts a Security, to the extent that the Company has a rights plan in effect, the Holder converting such Security will receive, in addition to any shares of Common Stock otherwise received in connection with such conversion, the rights under the rights plan unless, prior to conversion the rights have expired, terminated or been redeemed or unless the rights have separated from the Common Stock, in which case, and only in such case, the Conversion Rate will be adjusted at the time of separation (and not at the time of the issuance of the rights) as if the Company distributed to all holders of the Common Stock, shares of Capital Stock, evidences of indebtedness, assets, property, rights, options or warrants as described in Section 4.04(c) hereof, subject to readjustment in the event of the expiration, termination or redemption of such rights.

(g) *Limitation on Adjustments*. Except as stated in this Section 4.04, the Company will not adjust the Conversion Rate for the issuance of shares of Common Stock or any securities convertible into or exchangeable for shares of Common Stock or the right to purchase shares of the Common Stock or such convertible or exchangeable securities. If, however, the application of the formulas in Sections 4.04(a) through (e) hereof would result in a decrease in the Conversion Rate, then, except to the extent of any readjustment to the Conversion Rate, no adjustment to the Conversion Rate will be made (other than as a result of a reverse share split, share combination or readjustment).

In addition, notwithstanding anything to the contrary herein, the Conversion Rate will not be adjusted:

(1) on account of stock repurchases that are not tender offers referred to in Section 4.04(e) hereof, including structured or derivative transactions, or transactions pursuant to a stock repurchase program approved by the Board of Directors or otherwise;

(2) upon the issuance of any shares of Common Stock pursuant to any present or future plan providing for the reinvestment of dividends or interest payable on the Company's securities and the investment of additional optional amounts in shares of Common Stock under any plan;

(3) upon the issuance of any shares of Common Stock or options or rights to purchase those shares pursuant to any present or future employee, director or consultant benefit plan, program or agreement (including issuances to the personnel of the Company's external manager pursuant to any such plan, program or agreement) of or assumed by the Company or any of its Subsidiaries;

(4) upon the issuance of any shares of Common Stock pursuant to any option, warrant, right or exercisable, exchangeable or convertible security not described in the preceding clause (3) and outstanding as of the date the Securities were first issued;

(5) for a change in the par value of the Common Stock;

(6) for accrued and unpaid Special Interest on the Securities, if any; or

(7) for an event otherwise requiring an adjustment under the Indenture if such event is not consummated.

(h) For purposes of this Section 4.04, the number of shares of Common Stock at any time outstanding shall not include shares held in the treasury of the Company so long as the Company does not pay any dividend or make any distribution on shares of Common Stock held in the treasury of the Company, but shall include shares issuable in respect of scrip certificates issued in lieu of fractions of shares of Common Stock.

(i) *Withholding on Adjustments*. If, in connection with any adjustment to the Conversion Rate as set forth in this Section 4.04 a Holder shall be deemed for U.S. federal tax purposes to have received a distribution, the Company may set off any withholding tax it reasonably believes it is required to collect with respect to any such deemed distribution against cash payments of any Special Interest in accordance with the provisions of Section 2.04 hereof or from cash and Common Stock, if any, otherwise deliverable to a Holder upon a conversion of Securities in accordance with the provisions of Section 4.03 hereof, a repurchase of a Security in accordance with the provisions of Article 3 hereof or a redemption of a Security in accordance with the provisions of Article 11 hereof.

Section 4.05 *Adjustments of Prices and Voluntary Adjustments.*

(a) *Adjustments of Prices*. Whenever any provision of the Indenture requires the Company to calculate the Last Reported Sale Prices or any function thereof over a span of

multiple days, the Company will make appropriate adjustments to each to account for any adjustment to the Conversion Rate that becomes effective, or any event requiring an adjustment to the Conversion Rate where the Effective Date, Record Date or Offer Expiration Date of the event occurs, at any time during the period when such Last Reported Sale Prices or function thereof is to be calculated.

(b) *Voluntary Adjustments*. To the extent permitted by applicable law and the rules of the New York Stock Exchange or any other securities exchange or market on which the Common Stock is then listed, the Company is permitted to increase the Conversion Rate of the Securities by any amount for a period of at least 20 Business Days if the Board of Directors determines that such increase would be in the Company's best interest. The Company may also (but is not required to) increase the Conversion Rate to avoid or diminish income tax to holders of Common Stock or rights to purchase shares of Common Stock in connection with a dividend or distribution of shares (or rights to acquire shares) or similar event.

Section 4.06 *Adjustment to Conversion Rate Upon Conversion in Connection with a Make-Whole Fundamental Change.*

(a) *Increase in the Conversion Rate.* If a Make-Whole Fundamental Change occurs and a Holder elects to convert its Securities in connection with such Make-Whole Fundamental Change, the Company shall, under certain circumstances, increase the Conversion Rate for the Securities so surrendered for conversion by a number of additional shares of Common Stock (the "**Additional Shares**"), as described in this Section 4.06. A conversion of Securities shall be deemed for these purposes to be "in connection with" a Make-Whole Fundamental Change if the relevant Conversion Notice is received by the Conversion Agent during the period from, and including, the Effective Date of the Make-Whole Fundamental Change up to, and including, the Close of Business on the Business Day immediately prior to the related Fundamental Change Purchase Date or, if such Make-Whole Fundamental Change is not a Fundamental Change, the 35th Business Day immediately following the Effective Date for such Make-Whole Fundamental Change.

(b) *Determining the Number of Additional Shares.* The number of Additional Shares, if any, by which the Conversion Rate will be increased for a Holder that converts its Securities in connection with a Make-Whole Fundamental Change shall be determined by reference to the table attached as Schedule A hereto, based on the date on which the Make-Whole Fundamental Change occurs or becomes effective (the "**Effective Date**") and the price (the "**Stock Price**") paid (or deemed paid) per share of the Common Stock in the Make-Whole Fundamental Change. If the holders of the Common Stock receive only cash in a Make-Whole Fundamental Change described in clause (2) of the definition of Fundamental Change, the Stock Price shall be the cash amount paid per share. Otherwise, the Stock Price shall be the average of the Last Reported Sale Prices of the Common Stock over the ten consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the Effective Date of the Make-Whole Fundamental Change.

(c) *Interpolation and Limits*. The exact Stock Prices and Effective Dates may not be set forth in the table in Schedule A, in which case:

(1) If the Stock Price is between two Stock Prices in the table or the Effective Date is between two Effective Dates in the table, the number of Additional Shares shall be determined by a straight-line interpolation between the number of Additional Shares set forth for the higher and lower Stock Prices and the earlier and later Effective Dates, as applicable, based on a 365-day year.

(2) If the Stock Price is greater than $84.00 per share (subject to adjustment in the same manner as the Stock Prices set forth in the column headings of the table in Schedule A pursuant to Section 4.06(d)(4) hereof), the Conversion Rate shall not be increased.

(3) If the Stock Price is less than $37.93 per share (subject to adjustments in the same manner as the Stock Prices set forth in the column headings of the table in Schedule A pursuant to Section 4.06(d)(4) hereof), the Conversion Rate shall not be increased.

Notwithstanding the foregoing, in no event will the Conversion Rate be increased on account of a Make-Whole Fundamental Change to exceed 26.3643 shares of Common Stock per $1,000 principal amount of Securities, subject to adjustments in the same manner as the Conversion Rate is required to be adjusted as set forth in Section 4.04 hereof.

(4) The Stock Prices set forth in the column headings of the table inSchedule A hereto shall be adjusted as of any date on which the Conversion Rate of the Securities is otherwise required to be adjusted. The adjusted Stock Prices shall equal the Stock Prices applicable immediately prior to such adjustment, *multiplied* by a fraction, the numerator of which is the Conversion Rate immediately prior to such adjustment giving rise to the Stock Price adjustment and the denominator of which is the Conversion Rate as so adjusted. The number of Additional Shares set forth in such table shall be adjusted in the same manner and at the same time as the Conversion Rate is required to be adjusted as set forth in Section 4.04.

(d) *Notices*. The Company shall notify the Trustee and the Holders of the Effective Date of any Make Whole Fundamental Change announcing such Effective Date no later than five Business Days after such Effective Date. Such notice shall be sent by first class mail or, in the case of any Global Securities, in accordance with the procedures of the Depository for providing notices. Simultaneously with providing such notice, the Company shall publish this information in a newspaper of general circulation in The City of New York or publish the information on the Company's website or through such other public medium as the Company may use at that time.

Section 4.07 *Effect of Recapitalization, Reclassification, Consolidation, Merger or Sale.*

(a) *Merger Events*. In the case of:

(1) any recapitalization, reclassification or change of the outstanding Common Stock (other than a change in par value, or from par value to no par value, or from no par value to par value, or as a result of a split, subdivision or combination for which an adjustment was made pursuant to Section 4.04(a) hereof);

(2) any consolidation, merger or combination involving the Company;

(3) any sale, lease or other transfer to a third party of the consolidated assets of the Company and its Subsidiaries substantially as an entirety; or

(4) any statutory share exchange;

and, in each case, as a result of which the outstanding Common Stock would be converted into, or exchanged for, stock, other securities, other property or assets (including cash or any combination thereof) (any such event, a "**Merger Event**," any such stock, other securities, other property or assets, "**Reference Property**," and the amount of kind of Reference Property that a holder of one share of Common Stock (i) is entitled to receive in the applicable Merger Event or (ii) if as a result of the applicable Merger Event, each share of Common Stock is converted into the right to receive more than a single type of consideration (determined based in part upon any form of stockholder election), the per-share of Common Stock weighted average of the types and amounts of Reference Property received by the holders of Common Stock that affirmatively make such an election, a "**Unit of Reference Property**") then, at the effective time of such Merger Event, the right to convert each $1,000 principal amount of Securities into a number of shares of the Common Stock equal to the applicable Conversion Rate will, without the consent of the Holders, be changed into a right to convert each $1,000 principal amount of Securities into a number of Units of Reference Property equal to the applicable Conversion Rate and, prior to or at the effective time of such Merger Event, the Company or the successor or purchasing Person, as the case may be, shall execute with the Trustee a supplemental indenture (which shall comply with the TIA as in force at the date of execution of such supplemental indenture) providing for such change in the right to convert each $1,000 principal amount of Securities. With respect to any such Reference Property, the Last Reported Sale Price will, to the extent reasonably possible, be calculated based on the value of a Unit of Reference Property and the definitions of Trading Day and Market Disruption Event shall be determined by reference to the components of a Unit of Reference Property.

If the Merger Event causes the outstanding Common Stock to be converted into, or exchanged for, the right to receive more than a single type of consideration (determined based in part upon any form of stockholder election) as contemplated by the preceding paragraph such that a Unit of Reference Property is comprised of the per-share of Common Stock weighted average of the types and amounts of consideration received by the holders of the Common Stock in the Merger Event that affirmatively make such an election, the Company shall notify Holders of the weighted average as soon as practicable after such determination is made.

The Company shall not become a party to any Merger Event unless its terms are consistent with this Section 4.07. Such supplemental indenture described in the second immediately preceding paragraph shall provide for adjustments which shall be as nearly equivalent to the adjustments provided for in this Article 4 in the judgment of the Board of Directors or the board of directors of the successor Person. If, in the case of any such Merger Event, the Reference Property receivable thereupon by a holder of Common Stock includes shares of stock, securities or other property or assets (including cash or any combination thereof) of a Person other than the successor or purchasing Person, as the case may be, in such Merger Event, then such supplemental indenture shall also be executed by such other Person and shall contain such additional provisions to protect the interests of the Holders of the Securities as the Board of Directors shall reasonably consider necessary.

(b) *Notice of Supplemental Indentures*. The Company shall cause notice of the execution of such supplemental indenture to be mailed to each Holder, at the address of such Holder as it appears on the register of the Securities maintained by the Registrar, within 20 days after execution thereof. Failure to deliver such notice shall not affect the legality or

validity of such supplemental indenture. The above provisions of this Section 4.07 shall similarly apply to successive Merger Events and the provisions of this Section 4.07 and Article IX of the Base Indenture (as modified by Article 8 of this Supplemental Indenture) shall apply to any such successive Merger Events.

Section 4.08 *Stock Issued Upon Conversion.*

(a) *Reservation of Shares.* To the extent necessary to satisfy its obligations under the Indenture, prior to issuing any shares of Common Stock, the Company will reserve out of its authorized but unissued shares of Common Stock a sufficient number of shares of Common Stock to permit the conversion of the Securities.

(b) *Certain other Covenants.* The Company covenants that all shares of Common Stock that may be issued upon conversion of Securities shall be newly issued shares or treasury shares, shall be duly authorized, validly issued, fully paid and non-assessable and shall be free from preemptive rights and free from any tax, lien or charge (other than those created by the Holder or due to a change in registered owner).

(c) *Stock Transfer Agent.* American Stock Transfer & Trust Company is, as of the date of the this Supplemental Indenture, the Stock Transfer Agent for the Common Stock and the Company shall notify the Trustee if the Stock Transfer Agent for the Common Stock is changed. The Company and the Trustee (as Conversion Agent) agree to cooperate with the Stock Transfer Agent for the Common Stock in connection with any conversions of the Securities.

The Company shall list or cause to have quoted any shares of Common Stock to be issued upon conversion of Securities on each national securities exchange or over-the-counter or other domestic market on which the Common Stock is then listed or quoted.

Section 4.09 *Responsibility of Trustee.* The Trustee and any Conversion Agent shall not at any time be under any duty or responsibility to any Holder of Securities to determine or calculate the Conversion Rate (or any adjustments thereto), to determine whether any facts exist which may require any adjustment of the Conversion Rate, or to confirm the accuracy of any such adjustment when made or the appropriateness of the method employed, or herein or in any supplemental indenture provided to be employed, in making the same. The Trustee and any other Conversion Agent shall not be accountable with respect to the validity or value (or the kind or amount) of any shares of Common Stock or of any other securities or property that may at any time be issued or delivered upon the conversion of any Securities; and the Trustee and the Conversion Agent make no representations with respect thereto. Neither the Trustee nor any Conversion Agent shall be responsible for any failure of the Company to issue, transfer or deliver any shares of Common Stock or stock certificates or other securities or property or cash upon the surrender of any Securities for the purpose of conversion or to comply with any of the duties, responsibilities or covenants of the Company contained in this Article 4. The rights, privileges, protections, immunities and benefits given to the Trustee, including without limitation its right to be compensated, reimbursed, and indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, including its capacity as Conversion Agent.

Section 4.10 *Notice to Holders.*

(a) *Notice to Holders Prior to Certain Actions.* The Company shall deliver notices of the events specified below at the times specified below and containing the information specified below unless, in each case, (i) pursuant to the Indenture, the Company

is already required to deliver notice of such event containing at least the information specified below at an earlier time or, (ii) the Company, at the time it is required to deliver a notice, does not have knowledge of all of the information required to be included in such notice, in which case, the Company shall (A) deliver notice at such time containing only the information that it has knowledge of at such time (if it has knowledge of any such information at such time), and (B) promptly upon obtaining knowledge of any such information not already included in a notice delivered by the Company, deliver notice to each Holder containing such information. In each case, the failure by the Company to give such notice, or any defect therein, shall not affect the legality or validity of such event. Any notices sent to Holders shall also be sent to the Trustee.

(b) *Issuances, Distributions, and Dividends and Distributions*. If the Company (A) announces any issuance of any rights, options or warrants that would require an adjustment in the Conversion Rate pursuant to Section 4.04(b) hereof; (B) authorizes any distribution that would require an adjustment in the Conversion Rate pursuant to Section 4.04(c) hereof (including any separation of rights from the Common Stock described in Section 4.04(g) hereof); or (C) announces any dividend or distribution that would require an adjustment in the Conversion Rate pursuant to Section 4.04(d) hereof, then the Company shall deliver to the Holders, as promptly as possible, but in any event at least 15 calendar days prior to the applicable record date, notice describing such issuance, distribution, dividend or distribution, as the case may be, and stating the expected Ex-Dividend Date and record date for such issuance, distribution, dividend or distribution, as the case may be. In addition, the Company shall deliver to the Holders notice if the consideration included in such issuance, distribution, dividend or distribution, or the Ex-Dividend Date or record date of such issuance, distribution, dividend or distribution, as the case may be, changes.

(c) *Voluntary Increases*. If the Company increases the Conversion Rate pursuant to Section 4.05(b), the Company shall deliver notice to the Holders at least 15 calendar days prior to the date on which such increase will become effective, which notice shall state the date on which such increase will become effective and the amount by which the Conversion Rate will be increased.

(d) *Dissolutions, Liquidations and Winding-Ups.* If there is a voluntary or involuntary dissolution, liquidation or winding-up of the Company, the Company shall deliver notice to the Holders at promptly as possible, but in any event at least 15 calendar days prior to the earlier of (i) the date on which such dissolution, liquidation or winding-up, as the case may be, is expected to become effective or occur, and (ii) the date as of which it is expected that holders of Common Stock of record shall be entitled to exchange their Common Stock for securities or other property deliverable upon such dissolution, liquidation or winding-up, as the case may be, which notice shall state the expected effective date and record date for such event, as applicable, and the amount and kind of property that a holder of one share of the Common Stock is expected to be entitled, or may elect, to receive in such event. The Company shall deliver an additional notice to Holders, as promptly as practicable, whenever the expected effective date or record date, as applicable, or the amount and kind of property that a holder of one share of the Common Stock is expect to be entitled to receive in such event, changes.

(e) *Notices After Certain Actions and Events*. Whenever an adjustment to the Conversion Rate becomes effective pursuant to Sections 4.04, 4.05 or 4.06 hereof, the Company will (i) file with the Trustee an Officers' Certificate stating that such adjustment has become effective, the Conversion Rate, and the manner in which the adjustment was

computed and (ii) deliver notice to the Holders stating that such adjustment has become effective and the Conversion Rate or conversion privilege as adjusted. Failure to give any such notice, or any defect therein, shall not affect the validity of any such adjustment.

ARTICLE 5

PARTICULAR COVENANTS OF THE COMPANY

Section 5.01 *Payment of Principal, Special Interest, Fundamental Change Purchase Price and REIT Redemption Price.* This Section 5.01 shall replace Section 4.01 of the Base Indenture in its entirety.

The Company covenants and agrees that it will cause to be paid the principal of (including any of the Fundamental Change Purchase Price or the REIT Redemption Price, if applicable), and accrued and unpaid Special Interest, if any, on each of the Securities at the places, at the respective times and in the manner provided herein and in the Securities.

Section 5.02 *Maintenance of Office or Agency.* The Company will maintain an office of the Paying Agent, an office of the Registrar and an office or agency where Securities may be surrendered for conversion ("**Conversion Agent**") and where notices and demands to or upon the Company in respect of the Securities and the Indenture may be served. The Company will give prompt written notice to the Trustee of the location, and any change in the location, of such office or agency. If at any time the Company shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office or the office or agency of the Trustee.

The Company may also from time to time designate coregistrars one or more other offices or agencies where the Securities may be presented or surrendered for any or all such purposes and may from time to time rescind such designations; *provided* that no such designation or rescission shall in any manner relieve the Company of its obligation to maintain an office or agency for such purposes. The Company will give prompt written notice to the Trustee of any such designation or rescission and of any change in the location of any such other office or agency. The terms "Paying Agent" and "Conversion Agent" include any such additional or other offices or agencies, as applicable.

The Company hereby initially designates the Trustee as the Paying Agent, Registrar, Custodian, Conversion Agent and the Corporate Trust Office, which shall be in the continental United States, shall be considered as one such office or agency of the Company for each of the aforesaid purposes.

With respect to any Global Security, the Corporate Trust Office of the Trustee or any Paying Agent shall be the Place of Payment where such Global Security may be presented or surrendered for payment or conversion or for registration of transfer or exchange, or where successor Securities may be delivered in exchange therefor; *provided*, *however*, that any such payment, conversion, presentation, surrender or delivery effected pursuant to the Applicable Procedures of the Depository for such Global Security shall be deemed to have been effected at the Place of Payment for such Global Security in accordance with the provisions of the Indenture.

Section 5.03 *Appointments to Fill Vacancies in Trustee's Office.* The Company, whenever necessary to avoid or fill a vacancy in the office of Trustee, will appoint, in the manner provided in Section 7.08 of the Base Indenture, a Trustee, so that there shall at all times be a Trustee hereunder.

Section 5.04 *Provisions as to Paying Agent.* (a) If the Company shall appoint a Paying Agent other than the Trustee, the Company shall cause such Paying Agent to execute and deliver to the Trustee an instrument in which such agent shall agree with the Trustee, subject to the provisions of this Section 5.04:

(1) that it will hold all sums held by it as such agent for the payment of the principal of, accrued and unpaid Special Interest, if any, on, and the Fundamental Change Purchase Price, REIT Redemption Price for, the Securities in trust for the benefit of the holders of the Securities;

(2) that it will give the Trustee prompt notice of any failure by the Company to make any payment of the principal of, accrued and unpaid Special Interest, if any, on, or the Fundamental Change Purchase Price, REIT Redemption Price for, the Securities when the same shall be due and payable; and

(3) that at any time during the continuance of an Event of Default, upon request of the Trustee, it will forthwith pay to the Trustee all sums so held in trust.

The Company shall, on or before each due date of the principal of, accrued and unpaid Special Interest, if any, on, and the Fundamental Change Purchase Price, the REIT Redemption Price for, the Securities, deposit with the Paying Agent a sum sufficient to pay such principal, accrued and unpaid Special Interest, the Fundamental Change Purchase Price or the REIT Redemption Price, and (unless such Paying Agent is the Trustee) the Company will promptly notify the Trustee of any failure to take such action, provided that, if such deposit is made on the due date, such deposit must be received by the Paying Agent by 10:00 a.m., New York City time, on such date.

(b) If the Company shall act as its own Paying Agent, it will, on or before each due date of the principal of, accrued and unpaid Special Interest, if any, on, or Fundamental Change Purchase Price, REIT Redemption Price for, the Securities, set aside, segregate and hold in trust for the benefit of the holders of the Securities a sum sufficient to pay such principal, accrued and unpaid Special Interest, if any, Fundamental Change Purchase Price or REIT Redemption Price so becoming due and will promptly notify the Trustee in writing of any failure to take such action and of any failure by the Company to make any payment of the principal of, accrued and unpaid Special Interest on, or Fundamental Change Purchase Price, REIT Redemption Price for, the Securities when the same shall become due and payable.

(c) Anything in this Section 5.04 to the contrary notwithstanding, but subject to Article 7, the Company may, at anytime, for the purpose of obtaining a satisfaction and discharge of the Indenture, or for any other reason, pay or cause to be paid to the Trustee all sums held in trust by the Company or any Paying Agent hereunder as required by this Section 5.04, such sums to be held by the Trustee upon the trusts herein contained and upon such payment by the Company or any Paying Agent to the Trustee, the Company or such Paying Agent shall be released from all further liability with respect to such sums.

Section 5.05 *Reports.* This Section 5.05 will replace Section 4.02 of the Base Indenture in its entirety.

The Company will file with the Trustee, within 15 days after it is required to file the same with the SEC, copies of the quarterly and annual reports and of the information, documents and other reports, if any, that it is required to file with the SEC pursuant to Section 13 or 15(d) of the Exchange Act, and to otherwise comply with Section 314(a) of the TIA. Any such report, information or document that the Company files with the SEC through the EDGAR system (or any successor thereto) will be deemed to be delivered to the Trustee for the purposes of this Section 5.05 at the time of such filing through the EDGAR system (or such successor thereto).

Delivery of any such reports, information and documents to the Trustee shall be for informational purposes only, and the Trustee's receipt of such reports, information and documents shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Company's compliance with any of its covenants hereunder (as to which the Trustee is entitled to rely exclusively on Officers' Certificates).

Section 5.06 *Statements as to Defaults.* The Company shall deliver to the Trustee, as soon as possible, and in any event within thirty days after the Company becomes aware of the occurrence of any Default or Event of Default, an Officers' Certificate setting forth the details of such Default or Event of Default, its status and the action that the Company proposes to take with respect thereto. Such Officers' Certificate shall also comply with any additional requirements set forth in Section 12.05 of the Base Indenture.

Section 5.07 *Special Interest Notice.* If Special Interest is payable by the Company pursuant to Section 6.04 hereof, the Company shall deliver to the Trustee an Officers' Certificate to that effect stating (a) the amount of such Special Interest (in aggregate and per $1,000 principal amount of Securities) and (b) the date on which such Special Interest is payable. Unless and until a Responsible Officer of the Trustee receives at the Corporate Trust Office such a certificate, the Trustee may assume without inquiry that no such Special Interest is payable. If the Company has paid Special Interest directly to the Persons entitled to them, the Company shall deliver to the Trustee an Officers' Certificate setting forth the particulars of such payment.

Section 5.08 *Covenant to Take Certain Actions.* Before taking any action which would cause an adjustment to the Conversion Rate such that the Conversion Price per share of Common Stock issuable upon conversion of the Securities would be less than the par value of the Common Stock, the Company shall take all corporate actions that may, in the opinion of its counsel, be necessary so it may validly and legally issue shares of Common Stock at such adjusted Conversion Rate.

ARTICLE 6

REMEDIES

Section 6.01 *Amendments to the Base Indenture.*

(a) The Holders shall not have the benefit of Article VI of the Base Indenture and, with respect to the Securities, this Article 6 supersedes Article VI of the Base Indenture in its entirety.

(b) The references to Section 6.05 in Section 7.01(c)(i) and (g) of the Base Indenture are, with respect to the Securities, hereby deemed replaced by references to Section 6.06 of this Supplemental Indenture.

(c) The references to Section 6.01(d) and (e) in the third paragraph of Section 7.07 of the Base Indenture are, with respect to the Securities, hereby deemed replaced by references to Section 6.02(h) and (i) of this Supplemental Indenture.

(d) The reference to Section 6.04 in Section 9.02 of the Base Indenture is, with respect to the Securities, hereby deemed replaced by reference to Section 6.05 of this Supplemental Indenture.

(e) The reference to Section 6.08 in Section 9.02 of the Base Indenture is, with respect to the Securities, hereby deemed replaced by a reference to Section 6.08 of this Supplemental Indenture.

Section 6.02 *Events of Default.* Each of the following events (and only the following events) shall be an "**Event of Default**" wherever used with respect to the Securities:

(a) default in any payment of Special Interest on any Security when due and payable, and the default continues for a period of 30 days;

(b) default in the payment of the principal of any Security (including the Fundamental Change Purchase Price or REIT Redemption Price) when due and payable on the Maturity Date, upon required repurchase, upon declaration of acceleration or otherwise;

(c) failure by the Company to comply with its obligations under Article 4 hereof to convert the Securities into shares of Common Stock determined in accordance with Article 4 hereof upon exercise of a Holder's conversion right and that failure continues for three Business Days;

(d) failure by the Company to comply with its obligations under Article 9 hereof;

(e) failure by the Company to issue a notice in accordance with the provisions of Section 3.02(b) hereof or a notice of a Make-Whole Fundamental Change in accordance with the provisions of Section 4.06(d) hereof, in each case when due;

(f) failure by the Company for 60 days after written notice from the Trustee or the Holders of at least 25% in principal amount of the Securities then Outstanding (a copy of which notice, if given by Holders, must also be given to the Trustee) has been received by the Company to comply with any of its other agreements contained in the Securities or the Indenture (other than a covenant or warranty a default in whose performance or whose breach is elsewhere in this Section 6.02 specifically provided for or that is not applicable to the Securities), which notice shall state that it is a "**Notice of Default**" hereunder;

(g) failure by the Company to pay beyond any applicable grace period, or the acceleration of, indebtedness (other than Non-Recourse Indebtedness) of the Company or any of the Company's Subsidiaries in an aggregate principal amount with respect to which the default has occurred is greater than $50,000,000 (or its foreign currency equivalent at the time);

(h) the Company or any Significant Subsidiary of the Company shall commence a voluntary case or other proceeding seeking the liquidation, reorganization or other relief with respect to the Company or such Significant Subsidiary or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of the Company or such Significant Subsidiary of the Company or any substantial part of the Company's or such Significant Subsidiary of the Company's property, or shall consent to any such relief or to the appointment of or taking possession by any such official in an involuntary case or other proceeding commenced against it, or shall make a general assignment for the benefit of creditors, or shall fail generally to pay its debts as they become due; or

(i) an involuntary case or other proceeding shall be commenced against the Company or any Significant Subsidiary of the Company seeking liquidation, reorganization or other relief with respect to the Company or such Significant Subsidiary of the Company or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of the Company or such Significant Subsidiary of the Company or any substantial part of its property, and such involuntary case or other proceeding shall remain undismissed and unstayed for a period of thirty consecutive days.

Section 6.03 *Acceleration; Rescission and Annulment.* If one or more Events of Default shall have occurred and be continuing (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body), then, and in each and every such case (other than an Event of Default specified in Section 6.02(h) or Section 6.02(i)), unless the principal of all of the Securities shall have already become due and payable, either the Trustee or the holders of at least 25% in aggregate principal amount of the Securities then Outstanding, by notice in writing to the Company (and to the Trustee if given by the Holders), may declare 100% of the principal of, and accrued and unpaid Special Interest, if any, on all the Securities to be due and payable immediately. If an Event of Default specified in Section 6.02(h) or Section 6.02(i) occurs and is continuing, the principal of, and accrued and unpaid Special Interest, if any, on all Securities shall be immediately due and payable.

Section 6.04 *Special Interest.*

(a) Notwithstanding any provisions of the Indenture to the contrary, if the Company so elects, the sole remedy for an Event of Default relating to (i) the Company's failure to file with the Trustee pursuant to Section 314(a)(1) of the TIA any documents or reports that it is required to file with the SEC pursuant to Section 13 or 15(d) of the Exchange Act, or (ii) the Company's failure to comply with Section 5.06 hereof (a "**Reporting Event of Default**"), will consist exclusively of the right to receive additional interest on the Securities (the "**Special Interest**") at a rate per year equal to 0.50% per annum of the Outstanding principal amount of the Securities for each day during such 180-day period as long as such Event of Default is continuing (and neither waived nor cured). If the Company so elects, such Special Interest will be payable in the manner and on the dates as set forth in Section 2.04. On the 181st day after such Event of Default (if the Reporting Event of Default is not cured or waived prior to such 181st day), the Securities will be subject to acceleration pursuant to Section 6.03. The provisions of this Section 6.04 will not affect the rights of Holders of Securities in the event of the occurrence of any Event of Default that is not a Reporting Event of Default. In the event the Company does not elect to pay the Special

Interest following an Event of Default in accordance with this Section 6.04 or the Company elects to make such payment but does not pay the Special Interest when due, the Securities will be immediately subject to acceleration as provided in Section 6.03.

(b) In order to elect to pay the Special Interest as the sole remedy during the first 180 days after the occurrence of a Reporting Event of Default, the Company must notify all Holders of Securities, the Trustee and the Paying Agent of such election prior to the beginning of such 180-day period. Upon the Company's failure to timely give such notice, the Securities will be immediately subject to acceleration as provided in Section 6.03.

Section 6.05 *Waiver of Past Defaults.* The Holders of a majority in aggregate principal amount of the Securities then Outstanding, by written notice to the Company and to the Trustee, may waive (including by way of consents obtained in connection with a repurchase of, or tender or exchange offer for, the Securities) all past Defaults or Events of Default with respect to the Securities (other than a Default or an Event of Default resulting from nonpayment of principal or any Special Interest, a failure to deliver consideration due upon conversion or any other provisions that requires the consent of each affected Holder to amend) and rescind any such acceleration with respect to the Securities and its consequences if (i) rescission would not conflict with any judgment or decree of a court of competent jurisdiction and (ii) all existing Events of Default, other than the nonpayment of the principal of, and any Special Interest on, the Securities that have become due solely by such declaration of acceleration have been cured or waived.

Section 6.06 *Control by Majority.* At anytime, the Holders of a majority of the aggregate principal amount of the then Outstanding Securities may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or for exercising any trust or power conferred on the Trustee. However, the Trustee may refuse to follow any direction that conflicts with law or the Indenture or, subject to the Trustee's duties under Article VII of the Base Indenture and the TIA, that the Trustee determines to be unduly prejudicial (it being understood that the Trustee does not have an affirmative duty to ascertain whether or not any such directions are unduly prejudicial) to the rights of a Holder or to the Trustee, or that would potentially involve the Trustee in personal liability unless the Trustee is offered indemnity and/or security satisfactory to it against any loss, liability or expense to the Trustee that may result from the Trustee's instituting such proceeding as the Trustee. Prior to taking any action hereunder, the Trustee will be entitled to indemnification and/or security satisfactory to it against all losses and expenses caused by taking or not taking such action.

Section 6.07 *Limitation on Suits.* Subject to Section 6.08 hereof, no Holder may pursue a remedy with respect to the Indenture or the Securities unless:

(a) such Holder has previously delivered to the Trustee written notice that an Event of Default is continuing;

(b) the Holders of at least 25% of the aggregate principal amount of the then Outstanding Securities request that the Trustee pursue a remedy with respect to such Event of Default;

(c) such Holder or Holders have offered and, if requested, provided to the Trustee indemnity and/or security satisfactory to the Trustee against any loss, liability or other expense of compliance with such written request;

(d) the Trustee has not complied with such request within 60 days after receipt of such written request and offer of security or indemnity; and

(e) during such 60-day period, the Holders of a majority of the aggregate principal amount of the then Outstanding Securities did not deliver to the Trustee a direction inconsistent with such request.

Section 6.08 *Rights of Holders to Receive Payment and to Convert.*Notwithstanding anything to the contrary elsewhere in the Indenture, the right of any Holder to receive payment of the principal of, any Special Interest on, Fundamental Change Purchase Price, REIT Redemption Price for, its Securities, on or after the respective due date, and to convert its Securities and receive payment or delivery of the consideration due with respect to such Securities in accordance with Article 4 hereof, or to bring suit for the enforcement of any such payment or conversion rights, will not be impaired or affected without the consent of such Holder and will not be subject to the requirements of Section 6.07 hereof.

Section 6.09 *Collection of Indebtedness; Suit for Enforcement by Trustee.*If an Event of Default specified in Section 6.02(a), 6.02(b) or 6.02(c) hereof occurs and is continuing, the Trustee is authorized to recover judgment in its own name and as trustee of an express trust against the Company for the whole amount of principal of, any Special Interest on, Fundamental Change Purchase Price, REIT Redemption Price for, and the consideration due upon the conversion of, the Securities, as the case may be, and such further amount as is sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, as well as any other amounts that may be due under Section 7.07 of the Base Indenture.

Section 6.10 *Trustee May Enforce Claims Without Possession of Securities.*All rights of action and claims under the Indenture or the Securities may be prosecuted and enforced by the Trustee without the possession of any of the Securities or the production thereof in any proceeding relating thereto, and any such proceeding instituted by the Trustee shall be brought in its own name as trustee of an express trust, and any recovery of judgment shall, after provision for the payment of the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, be for the ratable benefit of the Holders in respect of which such judgment has been recovered.

Section 6.11 *Trustee May File Proofs of Claim.* The Trustee is authorized to file such proofs of claim and other papers or documents as may be necessary or advisable to have the claims of the Trustee and the Holders allowed in any judicial proceedings relative to the Company, its creditors or its property and, unless prohibited by law or applicable regulations, will be entitled to collect, receive and distribute any money or other property payable or deliverable on any such claims, and any custodian in any such judicial proceeding is hereby authorized by each Holder to make such payments to the Trustee, and, in the event that the Trustee consents to the making of such payments directly to the Holders, to pay to the Trustee any amount due to it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under the Base Indenture (including Section 7.07 of the Base Indenture) and this Supplemental Indenture. To the extent that the payment of any such compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.07 of the Base Indenture out of the estate in any such proceeding, will be denied for any reason, payment of the same will be secured by a lien on, and is paid out of, any and all distributions, dividends, money, securities and other properties that the Holders

may be entitled to receive in such proceeding, whether in liquidation or under any plan of reorganization or arrangement or otherwise. Nothing herein contained will be deemed to authorize the Trustee to authorize or consent to, or to accept or to adopt on behalf of any Holder, any plan of reorganization, arrangement, adjustment or composition affecting the Securities or the rights of any Holder, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

Section 6.12 *Restoration of Rights and Remedies.* If the Trustee or any Holder has instituted any proceeding to enforce any right or remedy under the Indenture and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Trustee or to such Holder, then and in every such case, subject to any determination in such proceeding, the Company, the Trustee and the Holders shall be restored severally and respectively to their former positions hereunder and thereafter all rights and remedies of the Trustee and the Holders shall continue as though no such proceeding had been instituted.

Section 6.13 *Rights and Remedies Cumulative.* Except as otherwise provided with respect to the replacement or payment of mutilated, destroyed, lost or stolen Securities in Section 2.09 of the Base Indenture, no right or remedy herein conferred upon or reserved to the Trustee or to the Holders is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

Section 6.14 *Delay or Omission Not a Waiver.* No delay or omission of the Trustee or of any Holder to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by this Article 6 or by law to the Trustee or to the Holders may be exercised from time to time and as often as may be deemed expedient by the Trustee (subject to the limitations contained in the Indenture) or by the Holders, as the case may be.

Section 6.15 *Priorities.* If the Trustee collects any money pursuant to this Article 6, it will pay out the money in the following order:

FIRST: to the Trustee, its agents and attorneys for amounts due under Section 7.07 of the Base Indenture and this Supplemental Indenture, including payment of all compensation, expenses and liabilities incurred, and all advances made, by the Trustee and the costs and expenses of collection;

SECOND: to the Holders, for any amounts due and unpaid on the principal of, accrued and unpaid Special Interest on, Fundamental Change Purchase Price, REIT Redemption Price for, and any cash due upon conversion of, any Security, without preference or priority of any kind, according to such amounts due and payable on all of the Securities; and

THIRD: the balance, if any, to the Company or to such other party as a court of competent jurisdiction directs.

The Trustee may fix a record date and payment date for any payment to the Holders pursuant to this Section 6.15. If the Trustee so fixes a record date and a payment date, at least 15 days prior to such record date, the Company will deliver to each Holder and the Trustee a written notice, which notice will state such record date, such payment date and the amount of such payment.

Section 6.16 *Undertaking for Costs.* All parties to the Indenture agree, and each Holder, by such Holder's acceptance of a Security, shall be deemed to have agreed, that any court may in its discretion require, in any suit for the enforcement of any right or remedy under the Indenture, or in any suit against the Trustee for any action taken or omitted by it as Trustee, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant; *provided, however*, that the provisions of this Section 6.16 shall not apply to any suit instituted by the Trustee, to any suit instituted by any Holder, or group of Holders, holding in the aggregate more than 10% in aggregate principal amount of the Securities then Outstanding, or to any suit instituted by any Holder for the enforcement of the payment of the principal of, accrued and unpaid Special Interest, if any, on, or Fundamental Change Purchase Price, REIT Redemption Price for, any Security on or after the due date expressed or provided for in the Indenture or to any suit for the enforcement of the right to convert any Security in accordance with the provisions of Article 4 hereof.

Section 6.17 *Waiver of Stay, Extension and Usury Laws.* The Company covenants that, to the extent that it may lawfully do so, it will not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law wherever enacted, now or at any time hereafter in force, that may affect the covenants or the performance of the Indenture; and the Company, to the extent that it may lawfully do so, hereby expressly waives all benefit or advantage of any such law, and covenants that it will not, by resort to any such law, hinder, delay or impede the execution of any power herein granted to the Trustee, but will instead suffer and permit the execution of every such power as though no such law has been enacted.

Section 6.18 *Notices from the Trustee.* Notwithstanding anything to the contrary in the Base Indenture, whenever a Default occurs and is continuing and a Responsible Officer of the Trustee has received written notice of such Default, the Trustee must deliver notice of such Default to the Holders within 90 days after the date on which such Default first occurred. Except in the case of a Default in the payment of the principal of, any Special Interest on, or Fundamental Change Purchase Price, REIT Redemption Price for, any Security or of a Default in the payment or delivery, as the case may be, of the consideration due upon conversion of a Security, the Trustee shall be protected in withholding such notice if and so long as the board of directors, the executive committee or a trust committee of directors and/or Responsible Officers of the Trustee in good faith determine that the withholding of such notice is in the interests of the Holders.

ARTICLE 7

SATISFACTION AND DISCHARGE

Section 7.01 *Inapplicability of Provisions of Base Indenture; Satisfaction and Discharge of the Indenture.* Article VIII of the Base Indenture shall not apply with respect to the Securities. The provisions set forth in this Article 7 shall, with respect to the Securities, supersede in their entirety Article VIII of the Base Indenture.

When (a) the Company shall deliver to the Registrar for cancellation all Securities theretofore authenticated (other than any Securities that have been destroyed, lost or stolen and in lieu of or in substitution for which other Securities shall have been authenticated and delivered) and not theretofore canceled, or (b) all the Securities not theretofore canceled or delivered to the Trustee for cancellation shall have become due and payable (whether on the Maturity Date, on any Fundamental Change Purchase Date or REIT Redemption Price, upon conversion or otherwise) and the Company shall deposit with the Trustee, in trust, or deliver to the Holders, as applicable, an amount of cash and shares of Common Stock, if any, as the case may be (solely to settle amounts due with respect to outstanding conversions), sufficient to pay all amounts due on all of such Securities (other than any Securities that shall have been mutilated, destroyed, lost or stolen and in lieu of or in substitution for which other Securities shall have been authenticated and delivered) not theretofore canceled or delivered to the Trustee for cancellation, including principal and any Special Interest due, accompanied, except in the event the Securities are due and payable solely in cash at the Maturity Date or upon an earlier Fundamental Change Purchase Date or REIT Redemption Price, by a verification report as to the sufficiency of the deposited amount from an independent certified accountant or other financial professional reasonably satisfactory to the Trustee, and if the Company shall also pay or cause to be paid all other sums payable hereunder by the Company, then the Indenture shall cease to be of further effect (except as to (i) rights hereunder of Holders to receive all amounts owing upon the Securities and the other rights, duties and obligations of Holders, as beneficiaries hereof with respect to the amounts, if any, so deposited with the Trustee and (ii) the rights, obligations and immunities of the Trustee hereunder), and the Trustee, on written demand of the Company accompanied by an Officers' Certificate and an Opinion of Counsel and at the cost and expense of the Company, shall execute proper instruments acknowledging satisfaction and discharge of the Indenture; the Company, however, hereby agrees to reimburse the Trustee for any costs or expenses thereafter reasonably and properly incurred by the Trustee, including the fees and expenses of its counsel, and to compensate the Trustee for any services thereafter reasonably and properly rendered by the Trustee in connection with the Indenture or the Securities.

Section 7.02 *Deposited Monies to Be Held in Trust by Trustee.* Subject to Section 7.04 hereof, all monies and shares of Common Stock, if any, deposited with the Trustee pursuant to Section 7.01 hereof shall be held in trust for the sole benefit of the Holders of the Securities, and such monies and shares of Common Stock shall be applied by the Trustee to the payment, either directly or through any Paying Agent (including the Company if acting as its own Paying Agent), to the Holders of the particular Securities for the payment or settlement of which such monies or shares of Common Stock have been deposited with the Trustee, of all sums or amounts due and to become due thereon for principal and Special Interest, if any.

Section 7.03 *Paying Agent to Repay Monies Held.* Upon the satisfaction and discharge of the Indenture, all monies and shares of Common Stock, if any, then held by any Paying Agent (if other than the Trustee) shall, upon written request of the Company, be repaid to it or paid to the Trustee, and thereupon such Paying Agent shall be released from all further liability with respect to such monies and shares of Common Stock.

Section 7.04 *Return of Unclaimed Monies.* Subject to the requirements of applicable law, any monies and shares of Common Stock deposited with or paid to the

Trustee for payment of the principal of or Special Interest, if any, on the Securities and not applied but remaining unclaimed by the Holders of the Securities for two years after the date upon which the principal of or Special Interest, if any, on such Securities, as the case may be, shall have become due and payable, shall be repaid to the Company by the Trustee on written demand, and all liability of the Trustee shall thereupon cease with respect to such monies and shares of Common Stock; and the Holder shall thereafter look only to the Company for any payment or delivery that such Holder may be entitled to collect unless an applicable abandoned property law designates another Person.

Section 7.05 *Reinstatement.* If the Trustee or the Paying Agent is unable to apply any money or shares of Common Stock in accordance with Section 7.02 by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, the Company's obligations under the Indenture and the Securities shall be revived and reinstated as though no deposit had occurred pursuant to Section 7.01 until such time as the Trustee or the Paying Agent is permitted to apply all such money and shares of Common Stock in accordance with Section 7.02; *provided, however*, that if the Company makes any payment of Special Interest on, principal of or payment or delivery in respect of any Security following the reinstatement of its obligations, the Company shall be subrogated to the rights of the Holders of such Securities to receive such payment from the money or shares of Common Stock, if any, held by the Trustee or Paying Agent.

ARTICLE 8

SUPPLEMENTAL INDENTURES

Section 8.01 *Supplemental Indentures Without Consent of Holders.* Section 9.01 of the Base Indenture shall not apply with respect to the Securities, and this Section 8.01 shall replace Section 9.01 of the Base Indenture in its entirety.

Without the consent of any Holder, the Company (when authorized by a Board Resolution) and the Trustee, at any time and from time to time, may enter into one or more indentures supplemental hereto, in form satisfactory to the Trustee, for any of the following purposes:

(a) to conform the terms of the Indenture or the Securities to the description thereof in the Preliminary Prospectus Supplement, as supplemented by the issuer free writing prospectus related to the offering of the Securities filed by the Company with the SEC pursuant to Rule 433 under the Securities Act on August 19, 2020;

(b) to evidence the succession by a Successor Company and to provide for the assumption by a Successor Company of the Company's obligations under the Indenture;

(c) to add guarantees with respect to the Securities;

(d) to secure the Securities;

(e) to issue additional Securities pursuant to Section 2.01(c);

(f) to add to the Company's covenants such further covenants, restrictions or conditions for the benefit of the Holders (or any other holders) or surrender any right or power conferred upon the Company by the Indenture;

(g) to cure any ambiguity, defect or inconsistency in the Indenture or the Securities, including to eliminate any conflict with the TIA, or to make any other change that does not adversely affect the rights of any Holder in any material respect;

(h) to provide for a successor Trustee;

(i) to comply with the Applicable Procedures of the Depository; or

(j) to comply with any requirement of the SEC in connection with the qualification of the Indenture under the TIA.

Section 8.02 *Supplemental Indentures With Consent of Holders.* Section 9.02 of the Base Indenture shall not apply with respect to the Securities, and this Section 8.02 shall replace Section 9.02 of the Base Indenture in its entirety.

With the consent of the Holders of not less than a majority in principal amount of the Outstanding Securities affected by such supplemental indenture, including without limitation, consents obtained in connection with a purchase of, or tender or exchange offer for, Securities and by consent of said Holders delivered to the Company and the Trustee, the Company, when authorized by a Board Resolution, and the Trustee may enter into an indenture or indentures supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of the Indenture or of modifying in any manner the rights of the Holders under the Indenture; *provided, however*, that no such supplemental indenture shall, without the consent of the Holder of each Outstanding Security affected thereby:

(a) reduce the percentage in aggregate principal amount of Securities Outstanding necessary to waive any past Default or Event of Default;

(b) reduce the rate of Special Interest on any Security or change the time for payment of Special Interest on any Security;

(c) reduce the principal of any Security or change the Maturity Date;

(d) change the place or currency of payment on any Security;

(e) make any change that impairs or adversely affects the conversion rights of any Securities;

(f) reduce the Fundamental Change Purchase Price or REIT Redemption Price of any Security or amend or modify in any manner adverse to the rights of the Holders of the Securities the Company's obligation to pay the Fundamental Change Purchase Price or REIT Redemption Price, whether through an amendment or waiver of provisions in the covenants, definitions related thereto or otherwise;

(g) impair the right of any Holder of Securities to receive payment of principal of, and Special Interest, if any, on, its Securities, or the right to receive the consideration due upon conversion of its Securities on or after the due dates therefore or to institute suit for the enforcement of any such payment or delivery, as the case may be, with respect to such Holder's Securities;

(h) modify the ranking provisions of the Indenture in a manner that is adverse to the rights of the Holders of the Securities; or

(i) make any change to the provisions of this Article 8 that requires each Holder's consent or in the waiver provisions in Section 6.05 of this Supplemental Indenture if such change is adverse to the rights of Holders of the Securities.

It shall not be necessary for the consent of Holders under this Section 8.02 to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such consent shall approve the substance thereof. The Company may, but shall not be obligated to, fix a record date for the purpose of determining the Persons entitled to consent to any indenture supplemental hereto. If a record date is fixed, the Holders on such record date, or their duly designated proxies, and only such Persons, shall be entitled to consent to such supplemental indenture, whether or not such Holders remain Holders after such record date; *provided that*, unless such consent shall have become effective by virtue of the requisite percentage having been obtained prior to the date which is 90 days after such record date, any such consent previously given shall automatically and without further action by any Holder be cancelled and of no further effect.

For the avoidance of doubt, the provisions of Article IX of the Base Indenture other than Sections 9.01 and 9.02 shall remain in effect and continue to apply with respect to the Securities.

Section 8.03 *Notice of Amendment or Supplement.* After an amendment or supplement under this Article 8 becomes effective, the Company shall mail to the Holders a notice briefly describing such amendment or supplement. However, the failure to give such notice to all the Holders, or any defect in the notice, shall not impair or affect the validity of the amendment or supplement.

ARTICLE 9

SUCCESSOR COMPANY

Section 9.01 *Consolidation, Merger and Sale of Assets.*

(a) The provisions in Article V of the Base Indenture shall not apply with respect to the Securities, and this Article 9 supersedes the entirety thereof.

(b) In addition, the reference to Article V in Section 4.03 of the Base Indenture is, with respect to the Securities, deemed replaced with a reference to this Article 9.

Section 9.02 *Company May Consolidate, Etc. on Certain Terms.* Subject to the provisions of Section 9.04, the Company shall not amalgamate or consolidate with, merge with or into or convey, transfer or lease its properties and assets substantially as an entirety to another Person, unless:

(a) the Company shall be the surviving Person or the resulting, surviving or transferee Person (the "**Successor Company**"), if not the Company, shall be a corporation organized and existing under the laws of the United States of America, any State thereof or the District of Columbia, and the Successor Company (if not the Company) shall expressly assume, by supplemental indenture, executed and delivered to the Trustee, in form satisfactory to the Trustee, all of the obligations of the Company under the Securities and the Indenture as applicable to the Securities; and

(b) immediately after giving effect to such transaction, no Default or Event of Default shall have occurred and be continuing under the Indenture.

Section 9.03 *Successor Corporation to Be Substituted.* In case of any such amalgamation, consolidation, merger, conveyance, transfer or lease and upon the assumption by the Successor Company, by supplemental indenture, executed and delivered to the Trustee and satisfactory in form to the Trustee, of the due and punctual payment of the principal of (including any Fundamental Change Purchase Price or REIT Redemption Price), accrued and unpaid Special Interest, if any, on all of the Securities, the due and punctual delivery or payment, as the case may be, of any consideration due upon conversion of the Securities and the due and punctual performance of all of the covenants and conditions of the Indenture to be performed by the Company under the Indenture, such Successor Company shall succeed to and be substituted for, and may exercise every right and power of, the Company under the Indenture, with the same effect as if it had been named herein as the party of the first part. Such Successor Company thereupon may cause to be signed, and may issue either in its own name or in the name of the Company any or all of the Securities issuable hereunder which theretofore shall not have been signed by the Company and delivered to the Trustee; and, upon the order of such Successor Company instead of the Company and subject to all the terms, conditions and limitations in the Indenture prescribed, the Trustee shall authenticate and shall deliver, or cause to be authenticated and delivered, any Securities that previously shall have been signed and delivered by the officers of the Company to the Trustee for authentication, and any Securities that such Successor Company thereafter shall cause to be signed and delivered to the Trustee for that purpose. All the Securities so issued shall in all respects have the same legal rank and benefit under the Indenture as the Securities theretofore or thereafter issued in accordance with the terms of the Indenture as though all of such Securities had been issued at the date of the execution hereof. In the event of any such amalgamation, consolidation, merger, conveyance or transfer (but not in the case of a lease), the Person named as the "Company" in the first paragraph of this Supplemental Indenture or any successor that shall thereafter have become such in the manner prescribed in this Article 9 may be dissolved, wound up and liquidated at any time thereafter and, except in the case of a lease, such Person shall be released from its liabilities as obligor and maker of the Securities and from its obligations under the Indenture.

In case of any such amalgamation, consolidation, merger, conveyance, transfer or lease, such changes in phraseology and form (but not in substance) may be made in the Securities thereafter to be issued as may be appropriate.

Section 9.04 *Opinion of Counsel to Be Given to Trustee.* In the case of an such amalgamation, merger, consolidation, conveyance, transfer or lease the Trustee shall receive an Officers' Certificate and an Opinion of Counsel stating that any such amalgamation, consolidation, merger, conveyance, transfer or lease and any such assumption and, if a supplemental indenture is required in connection with such transaction, such supplemental indenture complies with the provisions of this Article 9 and constitutes the legal, valid and binding obligations of the Company (subject to customary exceptions and assumptions).

ARTICLE 10

MEETING OF HOLDERS OF SECURITIES

Section 10.01 *Purposes for Which Meetings May Be Called.*

(a) A meeting of Holders of Securities may be called at any time and from time to time pursuant to this Article 10 to make, give or take any request, demand, authorization, direction, notice, consent, waiver or other action provided by the Indenture to be made, given or taken by Holders of Securities.

Section 10.02 *Call, Notice and Place of Meetings.*

(a) The Trustee may at any time call a meeting of Holders of Securities for any purpose specified in Section 10.01, to be held at such time and at such place as the Trustee shall determine. Notice of every meeting of Holders of Securities, setting forth the time and the place of such meeting and in general terms the action proposed to be taken at such meeting, shall be given, in the manner provided in Section 12.03 of the Base Indenture, not less than 20 nor more than 180 days prior to the date fixed for the meeting.

(b) In case at any time the Company, pursuant to a Board Resolution, or the Holders of at least 25% in principal amount of the outstanding Securities shall have requested the Trustee to call a meeting of the Holders of Securities for any purpose specified in Section 10.01, by written request setting forth in reasonable detail the action proposed to be taken at the meeting, and the Trustee shall not have made the first publication of the notice of such meeting within 20 days after receipt of such request or shall not thereafter proceed to cause the meeting to be held as provided herein, then the Company or the Holders of Securities in the amount above specified, as the case may be, may determine the time and the place for such meeting and may call such meeting for such purposes by giving notice thereof as provided in subsection (a) of this Section 10.02.

Section 10.03 *Persons Entitled to Vote at Meetings*

(a) To be entitled to vote at any meeting of Holders of Securities, a Person shall be

(1) a Holder of one or more outstanding Securities, or

(2) a Person appointed by an instrument in writing as proxy for a Holder or Holders of one or more outstanding Securities by such Holder or Holders. The only Persons who shall be entitled to be present or to speak at any meeting of Holders of Securities shall be the Persons entitled to vote at such meeting and their counsel, any representatives of the Trustee and its counsel and any representatives of the Company and their respective counsel.

Section 10.04 *Quorum; Action.*

(a) The Persons entitled to vote a majority in principal amount of the outstanding Securities shall constitute a quorum for a meeting of Holders of Securities; *provided, however*, that if any action is to be taken at such meeting with respect to a consent or waiver which the Indenture expressly provides may be given by the Holders of not less than a specified percentage in principal amount of the outstanding Securities, the Persons entitled to

vote such specified percentage in principal amount of the outstanding Securities shall constitute a quorum. In the absence of a quorum within 30 minutes after the time appointed for any such meeting, the meeting shall, if convened at the request of Holders of Securities, be dissolved. In any other case the meeting may be adjourned for a period of not less than 10 days as determined by the chairman of the meeting prior to the adjournment of such meeting. In the absence of a quorum at the reconvening of any such adjourned meeting, such adjourned meeting may be further adjourned for a period of not less than 10 days; at the reconvening of any meeting adjourned or further adjourned for lack of a quorum, the Persons entitled to vote 25% in aggregate principal amount of the then outstanding Securities shall constitute a quorum for the taking of any action set forth in the notice of the original meeting. Notice of the reconvening of any adjourned meeting shall be given as provided in Section 10.02(a), except that such notice need be given only once not less than five days prior to the date on which the meeting is scheduled to be reconvened.

(b) Except as limited by the proviso to Section 8.02, any resolution presented to a meeting or adjourned meeting duly reconvened at which a quorum is present as aforesaid may be adopted by the affirmative vote of the Persons entitled to vote a majority in aggregate principal amount of the outstanding Securities; *provided*, *however*, that, *except* as limited by the proviso to Section 8.02, any resolution with respect to any request, demand, authorization, direction, notice, consent, waiver or other action which the Indenture expressly provides may be made, given or taken by the Holders of a specified percentage, which is less than a majority in principal amount of the outstanding Securities may be adopted at a meeting or an adjourned meeting duly reconvened and at which a quorum is present as aforesaid by the affirmative vote of the Holders of such specified percentage in principal amount of the outstanding Securities.

Any resolution passed or decision taken at any meeting of Holders of Securities duly held in accordance with this Section 10.04 shall be binding on all the Holders of Securities, whether or not present or represented at the meeting.

Notwithstanding the foregoing provisions of this Section 10.04, if any action is to be taken at a meeting of Holders of Securities with respect to any request, demand, authorization, direction, notice, consent, waiver or other action that the Indenture expressly provides may be made, given or taken by the Holders of a specified percentage in principal amount of all outstanding Securities affected thereby:

(1) there shall be no minimum quorum requirement for such meeting; and

(2) the principal amount of the outstanding Securities that vote in favor of such request, demand, authorization, direction, notice, consent, waiver or other action shall be taken into account in determining whether such request, demand, authorization, direction, notice, consent, waiver or other action has been made, given or taken under the Indenture.

Section 10.05 *Determination of Voting Rights; Conduct and Adjournment of Meetings.*

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

(b) The Trustee shall, by an instrument in writing appoint a temporary chairman of the meeting, unless the meeting shall have been called by the Company or by Holders of Securities as provided in Section 10.02(b), in which case the Company or the Holders of Securities calling the meeting, as the case may be, shall in like manner appoint a temporary chairman. A permanent chairman and a permanent secretary of the meeting shall be elected by vote of the Persons entitled to vote a majority in principal amount of the outstanding Securities represented at the meeting.

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

(d) Any meeting of Holders of Securities duly called pursuant to Section 10.02 at which a quorum is present may be adjourned from time to time by Persons entitled to vote a majority in principal amount of the outstanding Securities represented at the meeting, and the meeting may be held as so adjourned without further notice.

Section 10.06 *Counting Votes and Recording Action of Meetings.*

The vote upon any resolution submitted to any meeting of Holders of Securities shall be by written ballots on which shall be subscribed the signatures of the Holders of Securities or of their representatives by proxy and the principal amounts and serial numbers of the outstanding Securities held or represented by them. The permanent chairman of the meeting shall appoint two inspectors of votes who shall count all votes cast at the meeting for or against any resolution and who shall make and file with the secretary of the meeting their verified written reports in duplicate of all votes cast at the meeting. A record, at least in duplicate, of the proceedings of each meeting of Holders of Securities shall be prepared by the secretary of the meeting and there shall be attached to said record the original reports of the inspectors of votes on any vote by ballot taken thereat and affidavits by one or more Persons having knowledge of the fact, setting forth a copy of the notice of the meeting and showing that said notice was given as provided in Section 10.02 and, if applicable, Section 10.04. Each copy shall be signed and verified by the affidavits of the permanent chairman and secretary of the meeting and one such copy shall be delivered to the Company and another to the Trustee to be preserved by the Trustee, the latter to have attached thereto the ballots voted at the meeting. Any record so signed and verified shall be conclusive evidence of the matters therein stated.

ARTICLE 11

REDEMPTION

Section 11.01 *Redemption.*

(a) The Company may redeem the Securities (a "**REIT Redemption**") in a principal amount that is an integral multiple of $1,000, for cash, in whole or from time to time in part, at the Company's option, at a redemption price (the "**REIT Redemption Price**")

equal to the sum of (i) 100% of the principal amount of the Securities to be redeemed and (ii) any accrued and unpaid Special Interest thereon to, but excluding, the Redemption Date, to the extent the Board of Directors determines such REIT Redemption is reasonably necessary to preserve the Company's qualification as a real estate investment trust for U.S. federal income tax purposes.

(b) If the Redemption Date falls after a Special Interest Record Date and on or prior to the Special Interest Payment Date to which such Special Interest Record Date relates, the Company will pay, on or before such Special Interest Payment Date, the full amount of accrued and unpaid Special Interest, if any, to the Holder of record on such Special Interest Record Date and the REIT Redemption Price will instead be equal to 100% of the principal amount of the Securities to be redeemed.

Section 11.02 *Notice of Redemption; Selection of Securities.*

(a) If the Company wishes to exercise its right to redeem all or, as the case may be, any part of the Securities pursuant to Section 11.01(a), it shall fix a date for Redemption (each, a "**Redemption Date**"), and it or, at its written request received by the Trustee at least five Business Days prior to the date such notice is to be sent to Holders (unless a shorter period shall be acceptable to the Trustee), the Trustee, in the name of and at the expense of the Company, shall provide notice specifying whether the Company is effecting a REIT Redemption (a "**Redemption Notice**") not less than 15 nor more than 30 calendar days prior to the Redemption Date to each Holder of Securities so to be redeemed as a whole or in part at its last address as the same appears on the Register. The Redemption Date must be a Business Day.

(b) The Redemption Notice, if mailed in the manner herein provided, shall be conclusively presumed to have been duly given, whether or not the Holder receives such notice. In any case, failure to give such Redemption Notice by mail to the Holder of any Security designated for a REIT Redemption, as a whole or in part, or any defect in the Redemption Notice, shall not affect the validity of the proceedings for the redemption of any other Security.

(c) Each Redemption Notice shall specify:

(1) the Redemption Date;

(2) the REIT Redemption Price;

(3) that on the Redemption Date, the REIT Redemption Price will become due and payable upon each Security to be redeemed, and that, unless the Company defaults in the payment of the REIT Redemption Price, Special Interest thereon, if any, shall cease to accrue on and after the Redemption Date;

(4) the place or places where such Securities are to be surrendered for payment of the REIT Redemption Price;

(5) that Holders may surrender their Securities for conversion at any time prior to the Close of Business on the Business Day immediately preceding the Redemption Date;

(6) the procedures a converting Holder must follow to convert its Securities;

(7) the then-current Conversion Rate;

(8) the CUSIP and ISIN or other similar numbers, if any, assigned to such Securities; and

(9) in case any Security is redeemed in part only, the portion of the principal amount thereof to be redeemed and that on and after the Redemption Date, upon surrender of such Security, a new Security in principal amount equal to the unredeemed portion thereof shall be issued.

(d) A Redemption Notice shall be irrevocable.

(e) If fewer than all of the outstanding Securities are to be redeemed, the Securities shall be selected for REIT Redemption (in principal amounts of $1,000 or multiples thereof) in accordance with the applicable procedures of DTC, in the case of Global Securities, and by lot, in the case of Physical Securities.

(f) If a Holder converts a Security a portion of which has been selected for REIT Redemption, the converted portion will be deemed to be from the portion selected for REIT Redemption.

(g) In the event of any REIT Redemption in part, the Company shall not be required to register the transfer of or exchange any Security so selected for REIT Redemption, in whole or in part, except the unredeemed portion of any Security being redeemed in part.

Section 11.03 *Payment of Securities Called for Redemption.*

(a) If any Redemption Notice has been given in respect of the Securities in accordance with Section 11.02, the Securities shall become due and payable on the Redemption Date at the place or places stated in the Redemption Notice and at the REIT Redemption Price. On presentation and surrender of the Securities at the place or places stated in the Redemption Notice, the Securities shall be paid and redeemed by the Company at the REIT Redemption Price.

(b) Prior to the Open of Business on the Redemption Date, the Company shall deposit with the Paying Agent or, if the Company or a Subsidiary of the Company is acting as the Paying Agent, shall segregate and hold in trust as provided in Section 2.06 of the Base Indenture an amount of cash (in immediately available funds if deposited on the Redemption Date), sufficient to pay the REIT Redemption Price of all of the Securities to be redeemed on such Redemption Date. Subject to receipt of funds by the Paying Agent, payment for the Securities to be redeemed shall be made on the Redemption Date for such Securities. The Paying Agent shall, promptly after such payment and upon written demand by the Company, return to the Company any funds in excess of the REIT Redemption Price.

Section 11.04 *Restrictions on Redemption.*

(a) The Company may not redeem any Securities on any date if the principal amount of the Securities has been accelerated in accordance with the terms of the Indenture,

and such acceleration has not been rescinded, on or prior to the Redemption Date (except in the case of an acceleration resulting from a Default by the Company in the payment of the REIT Redemption Price with respect to such Securities).

ARTICLE 12

MISCELLANEOUS

Section 12.01 *Effect on Successors and Assigns.* All agreements of the Company, the Trustee, the Registrar, the Paying Agent and the Conversion Agent in the Indenture and the Securities will bind their respective successors.

Section 12.02 *Governing Law; Jurisdiction; Waiver of Jury Trial.* THE INTERNAL LAWS OF THE STATE OF NEW YORK SHALL GOVERN AND BE USED TO CONSTRUE THE INDENTURE AND THE SECURITIES, INCLUDING WITHOUT LIMITATION, SECTIONS 5-1401 AND 5-1402 OF THE NEW YORK GENERAL OBLIGATIONS LAW AND NEW YORK CIVIL PRACTICE LAWS AND RULES 327(B).

The Company, the Trustee and, by acceptance of the Securities, each Holder agrees that any suit, action or proceeding arising out of or based upon this Supplemental Indenture or the transactions contemplated hereby may be instituted in any State or Federal court in The City of New York, New York, and waives any objection which it may now or hereafter have to the laying of venue of any such proceeding, and irrevocably submits to the nonexclusive jurisdiction of such courts in any suit, action or proceeding.

THE COMPANY, THE TRUSTEE AND EACH HOLDER OF THE SECURITIES BY HIS ACCEPTANCE THEREOF HEREBY WAIVE ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THE INDENTURE OR THE TRANSACTIONS CONTEMPLATED HEREBY.

Section 12.03 *No Security Interest Created.* Nothing in the Indenture or in the Securities, expressed or implied, shall be construed to constitute a security interest under the Uniform Commercial Code or similar legislation, as now or hereafter enacted and in effect, in any jurisdiction.

Section 12.04 *TIA.* If any provision hereof limits, qualifies or conflicts with a provision of the TIA that is required under such act to be a part of and govern the Indenture, the latter provision shall control. If any provision of the Indenture modifies or excludes any provision of the TIA that may be so modified or excluded, the latter provision shall be deemed to apply to the Indenture as so modified or to be excluded, as the case may be.

Section 12.05 *Benefits of Supplemental Indenture.* Nothing in this Supplemental Indenture or in the Securities, expressed or implied, will give to any Person, other than the parties hereto, any Paying Agent, any Conversion Agent, any Registrar or their successors hereunder or the Holders of the Securities, any benefit or any legal or equitable right, remedy or claim under this Supplemental Indenture.

Section 12.06 *Calculations.* Except as otherwise provided in the Indenture, the Company shall be responsible for making all calculations called for under the Securities. These calculations include, but are not limited to, determinations of the Stock Price, the Last Reported Sale Prices of the Common Stock, any accrued Special Interest payable on the Securities and the Conversion Rate (including adjustments thereto). The Company shall make

all these calculations in good faith and, absent manifest error, the Company's calculations shall be final and binding on Holders of Securities. The Company shall provide a schedule of its calculations to each of the Trustee and the Conversion Agent, and each of the Trustee and Conversion Agent is entitled to rely conclusively upon the accuracy of the Company's calculations without independent verification. The Trustee will forward the Company's calculations to any Holder upon the request of that Holder at the sole cost and expense of the Company.

Whenever the Company is required to calculate the Conversion Rate, or any adjustment thereto, the Company will do so to the nearest 1/10,000th of a share of Common Stock.

Section 12.07 *Execution in Counterparts.* This Supplemental Indenture may be executed in any number of counterparts, each of which shall be an original, but such counterparts shall together constitute but one and the same instrument.

Section 12.08 *Notices.* The Company or the Trustee, by notice given to the other in the manner provided in Section 12.03 of the Base Indenture, may designate additional or different addresses for subsequent notices or communications.

Notwithstanding anything to the contrary in Section 12.03 of the Base Indenture, whenever the Company is required to deliver notice to the Holders, the Company will, by the date it is required to deliver such notice to the Holders, deliver a copy of such notice to the Trustee, the Paying Agent, the Registrar and the Conversion Agent. Each notice to the Trustee, the Paying Agent, the Registrar and the Conversion Agent shall be sufficiently given if in writing and mailed, first-class postage prepaid to the address most recently sent by the Trustee, the Paying Agent, the Registrar or the Conversion Agent, as the case may be, to the Company.

Section 12.09 *Ratification of Base Indenture.* The Base Indenture, as supplemented by this Supplemental Indenture, is in all respects ratified and confirmed, and this Supplemental Indenture shall be deemed part of the Base Indenture in the manner and to the extent herein provided. For the avoidance of doubt, each of the Company and each Holder of Securities, by its acceptance of such Securities, acknowledges and agrees that all of the rights, privileges, protections, immunities and benefits afforded to the Trustee under the Base Indenture, including, without limitation, its right to be indemnified, are deemed to be incorporated herein, and shall be enforceable by the Trustee hereunder, in each of its capacities hereunder as if set forth herein in full.

Section 12.10 *The Trustee.* The recitals in this Supplemental Indenture are made by the Company only and not by the Trustee, and all of the provisions contained in the Base Indenture in respect of the rights, privileges, immunities, powers and duties of the Trustee shall be applicable in respect of the Securities and of this Supplemental Indenture as fully and with like effect as set forth in full herein.

Section 12.11 *No Recourse Against Others.* No director, officer, employee, incorporator or stockholder of the Company shall have any liability for any obligations of the Company under the Securities, the Indenture or any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder, by accepting a Security, waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Securities.

Section 12.12 *Use of Electronic Communications.* For the avoidance of doubt, all notices, approvals, consents, requests and any communications hereunder or with respect to the Notes must be in writing (provided that any communication sent to Trustee hereunder must be in the form of a document that is signed manually or by way of a digital signature provided by DocuSign or Adobe (or such other digital signature provider as specified in writing to Trustee by the authorized representative), in English. The Company agrees to assume all risks arising out of the use of using digital signatures and electronic methods to submit communications to Trustee, including without limitation the risk of Trustee acting on unauthorized instructions, and the risk of interception and misuse by third parties.

[*Remainder of the page intentionally left blank*]

IN WITNESS WHEREOF, the parties hereto have caused this First Supplemental Indenture to be duly executed as of the day and year first above written.

HANNON ARMSTRONG SUSTAINABLE INFRASTRUCTURE CAPITAL, INC.

By: /s/ Jeffrey W. Eckel
Name: Jeffrey W. Eckel
Title: President and Chief Executive Officer

U.S. BANK NATIONAL ASSOCIATION, as Trustee

By: /s/ Philip G. Kane, Jr.
Name: Philip G. Kane, Jr.
Title: Vice President

SCHEDULE A

The following table sets forth the number of Additional Shares by which the Conversion Rate shall be increased pursuant to Section 4.06 based on the Stock Price and Effective Date set forth below.

Share Price and Additional Shares

Date	$37.93	$42.00	$45.00	$48.36	$52.00	$55.00	$58.00	$63.00	$67.00	$71.00	$75.00	$79.00	$84.00
August 21, 2020	5.6864	4.1248	3.2342	2.4398	1.7706	1.3378	0.9917	0.5670	0.3337	0.1732	0.0707	0.0154	0.0000
August 15, 2021	5.6864	4.1200	3.1607	2.3189	1.6250	1.1876	0.8471	0.4468	0.2401	0.1086	0.0337	0.0027	0.0000
August 15, 2022	5.6864	3.8012	2.7564	1.8741	1.1873	0.7838	0.4928	0.1914	0.0658	0.0097	0.0000	0.0000	0.0000
August 15, 2023	5.6864	3.1316	1.5443	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000

EXHIBIT A

[FORM OF FACE OF SECURITY]

[*For Global Securities, include the following legend:*

THIS SECURITY IS A GLOBAL SECURITY WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF A DEPOSITARY OR A NOMINEE THEREOF. THIS SECURITY MAY NOT BE EXCHANGED IN WHOLE OR IN PART FOR A SECURITY REGISTERED, AND NO TRANSFER OF THIS SECURITY IN WHOLE OR IN PART MAYBE REGISTERED, IN THE NAME OF ANY PERSON OTHER THAN SUCH DEPOSITARY OR A NOMINEE THEREOF, EXCEPT IN THE LIMITED CIRCUMSTANCES DESCRIBED IN THE INDENTURE.]

No: [●]
CUSIP: 41068X AD2
ISIN: US41068XAD21

Principal Amount $[ ]
[as revised by the Schedule of Increases
and Decreases in the Global Security attached hereto][1]

Hannon Armstrong Sustainable Infrastructure Capital, Inc.
0% Convertible Senior Notes due 2023

Hannon Armstrong Sustainable Infrastructure Capital, Inc., a Maryland corporation, promises to pay to [ ] [include "*Cede & Co.*" for Global Security] or registered assigns, the principal amount of $[ ] on August 15, 2023 (the **"Maturity Date"**).

Special Interest Payment Dates: February 15 and August 15, beginning on February 15, 2021.

Special Interest Record Dates: February 1 and August 1.

Additional provisions of this Security are set forth on the other side of this Security.

1 Include for Global Securities only.

IN WITNESS WHEREOF, HANNON ARMSTRONG SUSTAINABLE INFRASTRUCTURE CAPITAL, INC. has caused this instrument to be duly signed.

HANNON ARMSTRONG SUSTAINABLE
INFRASTRUCTURE CAPITAL, INC.

By: _____
Name:
Title:

Dated: _____

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

U.S. Bank National Association, as Trustee, certifies that this is one of the Securities referred to in the within-mentioned Indenture.

U.S. BANK NATIONAL ASSOCIATION, as Trustee

By: _____
Authorized Signatory

Dated: _____

HANNON ARMSTRONG SUSTAINABLE INFRASTRUCTURE CAPITAL, INC.
0% Convertible Senior Notes due 2023

This Security is one of a duly authorized issue of securities of the Company (herein called the "**Securities**"), issued under a Indenture dated as of August 22, 2017 (herein called the "**Base Indenture**"), and as further supplemented by the Second Supplemental Indenture, dated as of August 21, 2020 (herein called the "**Supplemental Indenture**" and the Base Indenture, as supplemented by the Supplemental Indenture, the "**Indenture**") by and between the Company and U.S. Bank National Association, herein called the "**Trustee**", and reference is hereby made to the Indenture for a statement of the respective rights, limitations of rights, duties and immunities thereunder of the Company, the Trustee and the Holders of the Securities and of the terms upon which the Securities are, and are to be, authenticated and delivered. This Security does not benefit from a sinking fund.

This Security is subject to redemption in accordance with Section 11.01(a) of the Supplemental Indenture.

As provided in and subject to the provisions of the Indenture, upon the occurrence of a Fundamental Change, the Holder of this Security will have the right, at such Holder's option, to require the Company to purchase this Security, or any portion of this Security such that the principal amount of this Security that is not purchased equals $1,000 or an integral multiple of $1,000 in excess thereof, on the Fundamental Change Purchase Date at a price equal to the Fundamental Change Purchase Price for such Fundamental Change Purchase Date.

As provided in and subject to the provisions of the Indenture, the Holder hereof has the right, at any time prior to the Close of Business on the second Scheduled Trading Day immediately preceding the Maturity Date, to convert this Security or a portion of this Security unless earlier repurchased or redeemed by the Company, such that the principal amount of this Security that is not converted equals $1,000 or an integral multiple of $1,000 in excess thereof, into shares of Common Stock in accordance with Article 4 of the Supplemental Indenture.

As provided in and subject to the provisions of the Indenture, the Company will make all payments in respect of the Fundamental Change Purchase Price, the REIT Redemption Price, and the principal amount of, this Security to the Holder that surrenders this Security to the Paying Agent to collect such payments in respect of this Security. The Company will pay cash amounts in money of the United States that at the time of payment is legal tender for payment of public and private debts.

The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Company and the rights of the Holders of the Securities to be effected under the Indenture at any time by the Company and the Trustee with the consent of the Holders of a majority in principal amount of the Securities at the time Outstanding. The Indenture also contains provisions permitting the Holders of specified percentages in principal amount of the Securities at the time Outstanding, on behalf of the Holders of all Securities, to waive compliance by the Company

with certain provisions of the Indenture and certain past Defaults under the Indenture and their consequences. Any such consent or waiver by the Holder of this Security shall be conclusive and binding upon such Holder and upon all future Holders of this Security and of any Security issued upon the registration of transfer hereof or in exchange herefor or in lieu hereof, whether or not notation of such consent or waiver is made upon this Security.

As provided in and subject to the provisions of the Indenture, the Holder of this Security shall not have the right to institute any proceeding with respect to the Indenture, or for the appointment of a receiver or trustee, or for any other remedy thereunder, unless such Holder shall have previously given the Trustee written notice of a continuing Event of Default with respect to the Security, the Holders of not less than 25% in principal amount of the Securities at the time Outstanding shall have made written request to the Trustee to institute proceedings in respect of such Event of Default as Trustee and offered the Trustee indemnity, and the Trustee shall not have received from the Holders of a majority in principal amount of Securities at the time Outstanding a direction inconsistent with such request, and shall have failed to institute any such proceeding, for 60 days after receipt of such notice, request and offer of indemnity. The foregoing shall not apply to any suit instituted by the Holder of this Security for the enforcement of any payment of principal hereof or Special Interest hereon, if any, or amounts due upon conversion on or after the respective due dates expressed herein.

No reference herein to the Indenture and no provision of this Security or of the Indenture shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay or deliver, as the case may be, the principal of (including the Fundamental Change Purchase Price or the REIT Redemption Price, if applicable), any Special Interest on and the consideration due upon conversion of, this Security at the time, place and rate, and in the coin and currency, herein prescribed.

As provided in the Indenture and subject to certain limitations therein set forth, the transfer of this Security is registrable in the Register, upon surrender of this Security for registration of transfer at the office or agency of the Company in any place where the principal of and any Special Interest on this Security are payable, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Company and the Registrar duly executed by, the Holder hereof or its attorney duly authorized in writing, and thereupon one or more new Securities of this series and of like tenor, of authorized denominations and for the same aggregate principal amount, will be issued to the designated transferee or transferees.

The Securities are issuable only in registered form without coupons in denominations of $1,000 and integral multiples of $1,000 in excess thereof. As provided in the Indenture and subject to certain limitations therein set forth, the Securities are exchangeable for a like aggregate principal amount of Securities and of like tenor of a different authorized denomination, as requested by the Holder surrendering the same.

Prior to due presentment of this Security for registration of transfer, the Company, the Trustee and any agent of the Company or Trustee may treat the Person in whose name the Security is registered as the owner hereof for all purposes, whether or not this Security be overdue, and neither the Company, the Trustee nor any such agent shall be affected by notice to the contrary.

No service charge shall be made for any such registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

All defined terms used in this Security that are defined in the Indenture shall have the meanings assigned to them in the Indenture. If any provision of this Security limits, qualifies or conflicts with a provision of the Indenture, such provision of the Indenture shall control.

ABBREVIATIONS

The following abbreviations, when used in the inscription of the face of this Security, shall be construed as though they were written out in full.

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

Additional abbreviations may also be used though not in the above list.

ANNEX A

[Include for Global Security]

SCHEDULE OF INCREASES AND DECREASES OF GLOBAL SECURITY

Initial principal amount of Global Security:

Date	**Amount of Increase in principal amount of Global Security**	**Amount of Decrease in Principal amount of Global Security**	**Principal amount of Global Security after Increase or Decrease**	**Notation by Security Registrar or Custodian**

[FORM OF NOTICE OF CONVERSION]

To: Hannon Armstrong Sustainable Infrastructure Capital, Inc.

The undersigned Holder of this Security hereby irrevocably exercises the option to convert this Security, or a portion hereof (which is such that the principal amount of the portion of this Security that will not be converted equals $1,000 or an integral multiple of $1,000 in excess thereof) below designated shares of Common Stock (and cash in lieu of fractional shares of Common Stock) in accordance with the terms of the Indenture referred to in this Security, and directs that any cash payable and any shares of Common Stock issuable and deliverable upon conversion, together with any Securities representing any unconverted principal amount hereof, be paid and/or issued and/or delivered, as the case may be, to the registered Holder hereof unless a different name is indicated below.

Subject to certain exceptions set forth in the Indenture, if this notice is being delivered on a date after the Close of Business on a Special Interest Record Date and prior to the Open of Business on the Special Interest Payment Date corresponding to such Special Interest Record Date, this notice must be accompanied by payment of an amount equal to the Special Interest payable on such Special Interest Payment Date, if any, on the principal amount of this Security to be converted. If any shares of Common Stock are to be issued in the name of a Person other than the undersigned, the undersigned will pay all transfer taxes payable with respect to such issuance and transfer as set forth in the Indenture.

Principal amount to be converted (in an integral multiple of $1,000, if less than all):

_____

_____

Signature(s)

Signature(s) must be guaranteed by an institution which is a member of one of the following recognized signature Guarantee Programs:

(i) The Securities Transfer Agent Medallion Program (STAMP); (ii) The New York Stock Exchange Medallion Program (MNSP); (iii) The Stock Exchange Medallion Program (SEMP); or (iv) another guarantee program acceptable to the Trustee.

_____

_____

Signature Guarantee

The following information must be provided to complete the conversion of your Securities to Common Stock.

_____
(Name)

_____
(Address)

Please print Name and Address
(including zip code number)
Social Security or other Taxpayer

Identifying Number _____

ATTACHMENT 2

[FORM OF FUNDAMENTAL CHANGE PURCHASE NOTICE]

To: Hannon Armstrong Sustainable Infrastructure Capital, Inc.

The undersigned registered owner of this Security hereby acknowledges receipt of a notice from Hannon Armstrong Sustainable Infrastructure Capital, Inc. (the "**Company**") as to the occurrence of a Fundamental Change with respect to the Company and specifying the Fundamental Change Purchase Date and requests and instructs the Company to pay to the registered holder hereof in accordance with the applicable provisions of the Indenture referred to in this Security (i) the entire principal amount of this Security, or the portion thereof (that is such that the portion not to be purchased has a principal amount equal to $1,000 or an integral multiple of $1,000 in excess thereof) below designated, and (ii) if such Fundamental Change Purchase Date does not occur during the period after a Special Interest Record Date and on or prior to the Special Interest Payment Date corresponding to such Special Interest Record Date, accrued and unpaid Special Interest, if any, thereon to, but excluding, such Fundamental Change Purchase Date.

In the case of certificated Securities, the certificate numbers of the Securities to be purchased are as set forth below:

Dated:_____

Signature(s)

_____

Social Security or Other Taxpayer Identification Number

principal amount to be repaid (if less than all):

$,000

NOTICE: The signature on the Fundamental Change Purchase Notice must correspond with the name as written upon the face of the Security in every particular without alteration or enlargement or any change whatever.

ATTACHMENT 3

[FORM OF ASSIGNMENT AND TRANSFER]

For value received hereby sell(s), assign(s) and transfer(s) unto (Please insert social security or Taxpayer Identification Number of assignee) the within Security, and hereby irrevocably constitutes and appoints to transfer the said Security on the books of the Company, with full power of substitution in the premises.

_____

_____

Signature(s)

Signature(s) must be guaranteed by an institution which is a member of one of the following recognized signature Guarantee Programs:

(i) The Securities Transfer Agent Medallion Program (STAMP); (ii) The New York Stock Exchange Medallion Program (MNSP); (iii) The Stock Exchange Medallion Program (SEMP); or (iv) another guarantee program

Exhibit 5.1

CLIFFORD
CHANCE

CLIFFORD CHANCE US LLP
31 WEST 52ND STREET
NEW YORK, NY 10019-6131
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August 21, 2020

Hannon Armstrong Sustainable Infrastructure Capital Inc.
1906 Towne Centre Blvd
Suite 370
Annapolis, Maryland 21401

Ladies and Gentlemen:

We have acted as counsel to Hannon Armstrong Sustainable Infrastructure Capital Inc. (the "**Company**") in connection with the registration statement on Form S-3 (No. 333-230546) (the "**Registration Statement**") filed by the Company with the United States Securities and Exchange Commission (the "**Commission**") under the Securities Act of 1933, as amended (the "**Securities Act**"). We are furnishing this letter to you in connection with the offer and sale by the Company of $143,750,000 aggregate principal amount of its 0% Convertible Senior Notes due 2023 (the "**Notes**") to the Underwriters (as defined below) (which includes $18,750,000 in aggregate principal amount of Notes purchased by the Underwriters pursuant to the exercise of their option to purchase additional Notes to cover over-allotments) pursuant to an underwriting agreement, dated August 18, 2020 (the "**Underwriting Agreement**"), by and between the Company and Morgan Stanley & Co. LLC, as the representative of the several underwriters named in Schedule A therein (the "**Underwriters**"), and an Indenture, dated as of August 22, 2017, as supplemented by the Second Supplemental Indenture, dated as of August 21, 2020 (together, the "**Indenture**"), each by and between the Company and U.S. Bank National Association, as trustee.

In rendering the opinions expressed below, we have examined and relied upon originals or copies, certified or otherwise identified to our satisfaction, of the Registration Statement, the Indenture, the Notes and certain resolutions of the board of directors of the Company (the "**Board of Directors**") and of a pricing committee of the Board of Directors (the "**Pricing Committee**"), relating to the transactions contemplated by the Underwriting Agreement and other related matters. As to factual matters relevant to the opinions set forth below, we have relied upon certificates of officers of the Company and public officials and representations and warranties of the parties set forth in the Underwriting Agreement.

Based on, and subject to, the foregoing, the qualifications and assumptions set forth herein and such other examination of law as we have deemed necessary, we are of the opinion that (i) following the (a) issuance of the Notes pursuant to the terms of the Underwriting Agreement and (b) receipt by the Company of the consideration for the Notes specified in the resolutions of the Board of Directors and of the Pricing Committee:

1. The Notes will be the valid and binding obligations of the Company, enforceable against the Company in accordance with their terms, except as the enforcement thereof may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws relating to or affecting enforcement of creditors' rights generally, or by general principles of equity (regardless of whether enforcement is considered in a proceeding in equity or at law); and

2. The issuance of the shares of the Company's common stock, par value $0.01 per share, into which the Notes are convertible (the "**Conversion Shares**") upon conversion of the Notes pursuant to the terms of the Notes and the Indenture have been duly authorized by all necessary corporate action

on the part of the Company and, if and when issued and delivered by the Company pursuant to the terms of the Notes and the Indenture upon conversion of the Notes, the Conversion Shares will be legally issued, fully paid and nonassessable.

The opinions set forth in this letter relate only to the laws of the State of New York and the Maryland General Corporation Law, currently in effect, and we express no opinion as to the laws of another jurisdiction and we assume no responsibility for the applicability or effect of the law of any other jurisdiction.

We consent to the filing of this opinion as Exhibit 5.1 to a Current Report on Form8-K that shall be incorporated by reference into the Registration Statement and to the reference to us under the caption “Legal Matters” in the prospectus supplement which is a part of the Registration Statement. In giving this consent, we do not concede that we are within the category of persons whose consent is required under Section 7 of the Securities Act or the rules and regulations of the United States Securities and Exchange Commission promulgated thereunder.

Very truly yours,

/s/ Clifford Chance US LLP

Exhibit 8.1

CLIFFORD
CHANCE

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NEW YORK, NY 10019-6131
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August 21, 2020

Hannon Armstrong Sustainable Infrastructure Capital, Inc.
1906 Towne Centre Blvd., Suite 370
Annapolis, Maryland 21401

Re: REIT Qualification of Hannon Armstrong Sustainable Infrastructure Capital, Inc.

Ladies and Gentlemen:

We have acted as counsel to Hannon Armstrong Sustainable Infrastructure Capital, Inc., a Maryland corporation (the "Company"), in connection with the offer and sale (the "Offer") by the Company of $143,750,000 aggregate principal amount of its 0% Convertible Senior Notes due 2023 (the "Notes") (which includes $18,750,000 in aggregate principal amount of Notes purchased by the Underwriters (as defined below) pursuant to the exercise of their option to purchase additional Notes to cover over-allotments) pursuant to the Company's shelf registration statement on Form S-3 (No. 333-230546) filed on March 27, 2019 (the "Registration Statement"), the related prospectus included therein, dated March 27, 2019 (the "Base Prospectus"), and the prospectus supplement filed on August 18, 2020 (together with any amendments thereto, the "Prospectus Supplement," and together with the Registration Statement, the "Registration Statements") by the Company with the Securities and Exchange Commission (the "SEC") under the Securities Act of 1933, as amended, and pursuant to the underwriting agreement dated August 18, 2020 by and between the Company and Morgan Stanley & Co. LLC, as the representative of the several underwriters named in Schedule A therein (the "Underwriters"). Except as otherwise indicated, capitalized terms used in this opinion letter have the meanings given to them in the Registration Statement.

In rendering the opinions expressed herein, we have examined and, with your permission, relied on the following items:

1. the Articles of Amendment and Restatement of the Company;

2. the bylaws of the Company;

3. a Certificate of Representations, (the "Certificate of Representations") dated as of the date hereof, provided to us by the Company;

4. the Registration Statements;

5. the private letter ruling issued by the Internal Revenue Service (the "IRS") to the Company dated July 30, 2012 and released on June 7, 2013 (the "Ruling"); and

6. such other documents, records and instruments as we have deemed necessary in order to enable us to render the opinions referred to in this letter.

In our examination of the foregoing documents, we have assumed, with your consent, that (i) all documents reviewed by us are original documents, or true and accurate copies of original documents and have not been subsequently amended, (ii) the signatures of each original document are genuine, (iii) all factual representations and statements set forth in such documents are true and correct, (iv) all obligations imposed by any such documents on the parties thereto have been performed or satisfied in accordance with their terms, and (v) the Company at all times will operate in accordance with the method of operation described in its organizational documents, the Registration Statements and the Certificate of Representations. As of the date hereof, we are not aware of any facts inconsistent with the statements in the organizational documents, the Registration Statements or the Certificate of Representations.

For purposes of rendering the opinions stated below, we have assumed, with your consent, the accuracy of the factual representations contained in the Certificate of Representations provided to us by the Company, and that each such representation contained in such Certificate of Representations to the best of the Company's knowledge or belief is accurate and complete without regard to such qualification as to the best of such entity's knowledge or belief. These representations generally relate to the organization and proposed method of operation of the Company.

Based upon, subject to, and limited by the assumptions and qualifications set forth herein, including, without limitation, the discussion in the paragraphs below, we are of the opinion that:

1. Commencing with its taxable year ended December 31, 2013, the Company has been organized and operated in conformity with the requirements for qualification and taxation as a real estate investment trust (a "REIT") under the Internal Revenue Code of 1986, as amended (the "Code"), and its current and proposed method of operation as described in the Registration Statements and as set forth in the Certificate of Representations will enable the Company to continue to meet the requirements for qualification and taxation as a REIT under the Code; and

2. The statements in the Registration Statement under the caption "U.S. Federal Income Tax Considerations," as modified and supplemented by the statements in the Prospectus Supplement under the caption "Additional U.S. Federal Income Tax Considerations," to the extent they purport to summarize or describe matters of law and legal conclusions, are correct in all material respects.

The opinions set forth in this letter are based on relevant provisions of the Code, Treasury Regulations promulgated thereunder, interpretations of the foregoing as expressed in court decisions, legislative history, and existing administrative rulings and practices of the IRS (including its practices and policies in issuing private letter rulings, which are not binding on the IRS except with respect to a taxpayer that receives such a ruling), all as of the date hereof. These provisions and interpretations are subject to change, which may or may not be retroactive in effect, and which may result in modifications of our opinions. Our opinions do not foreclose the possibility of a contrary determination by the IRS or a court of competent jurisdiction, or of a contrary determination by the IRS or the Treasury Department in regulations or rulings issued in the future. In this regard, an opinion of counsel with respect to an issue represents counsel's best professional judgment with respect to the outcome on the merits with respect to such issue, if such issue were to be litigated, but an opinion is not binding on the IRS or the courts and is not a guarantee that the IRS will not assert a contrary position with respect to such issue or that a court will not sustain such a position asserted by the IRS.

In connection with such opinions, we note that a significant portion of the Company's assets consist of financing receivables that are secured by liens on structural improvements installed in buildings, and a significant portion of the Company's taxable income is interest income earned with respect to such financing receivables. On August 30, 2016, the Treasury Department and the IRS issued final regulations defining "real property" for purposes of the REIT asset tests (the "Real Property Regulations"). The Real Property Regulations apply to the Company with respect to its taxable years beginning after December 31, 2016. Among other things, the Real Property Regulations provide that an obligation secured by a structural component of a building or other inherently permanent structure qualifies as a real estate asset for REIT qualification purposes only if such obligation is also secured by a real property interest in the inherently permanent structure served by the structural component. The structural improvements securing the Company's financing receivables generally qualify as "fixtures" under local real property law, as well as under the Uniform Commercial Code (the "UCC"), which governs rights and obligations of parties in secured transactions. Although not controlling for REIT purposes, the general rule in the United States is that once improvements are permanently installed in real properties, such improvements become fixtures and thus take on the character of and are considered to be real property for certain state and local law purposes. In general, in the United States, laws governing fixtures, including the UCC and real property law, afford lenders who have secured their financings with security interests in fixtures with rights that extend not just to the fixtures that secure their financings, but also to the real properties in which such fixtures have been installed. By way of example only, Section 9-604(b) of the UCC, which has been adopted in all but two states in the United States, permits a lender secured by fixtures, upon a default, to enforce its rights under the UCC or under applicable real property laws. Although there is limited authority directly on point, given the nature of, and the extent to which the structural improvements securing the Company's financing receivables are integrated into and serve the related buildings, our opinion is based on our conclusion that the better view is that the nature and scope of the Company's rights in such buildings that inure to the Company as a result of the Company's financing receivables are sufficient to satisfy the requirements of the Real Property Regulations described above. In this regard, it should be noted that the Real Property Regulations do not define what is required for an obligation secured by a lien on a structural component to also be secured by a real property interest in the building served by such structural component. However, the initial proposed version of the Real Property Regulations, which never became effective, included a requirement that the interest in the real property held by a REIT be "equivalent" to the interest in a structural component held by the REIT in order for the structural component to be treated as a real estate asset. This requirement was ultimately not included in the final Real Property Regulations, in part in response to comments that such requirement may negatively affect investment in energy efficient and renewable energy assets. We believe the deletion of this requirement implies that under the final Real Property Regulations, the Company's rights in the building need not be equivalent to the Company's rights in the structural components serving the building. Furthermore, real property law is typically relegated to the states and the specific rights available to any lien or mortgage holder, including the Company's rights as a fixture lien holder described above, may vary between jurisdictions as a result of a range of factors, including the specific local real property law requirements and judicial and regulatory interpretations of such laws, and the competing rights of mortgage and other lenders. Furthermore, the Company applies the analysis described above to certain financing receivables secured by liens on structural improvements installed in buildings located in certain U.S. government installations outside of the United States, based on the Company's view that such installations are subject to U.S. sovereignty and as a result the UCC applies in such installations. While a number of cases have addressed the rights of fixture lien holders generally, there are limited judicial interpretations in only a few jurisdictions that directly address the rights and remedies available to a fixture lien holder in the real property in which the fixtures have been installed. Such rights have been addressed in some cases which support our conclusion and, in factual circumstances distinguishable from the Company's own, in some cases where the courts have found these rights to be more limited. The resolution of these issues in many jurisdictions therefore remains uncertain. As a result of the foregoing, no assurance can be given that the IRS will not challenge our conclusion that the Company's financing receivables meet the requirements of the Real Property Regulations or that, if challenged, such position would be sustained, in which case the Company would be required to pay a significant penalty tax or would fail to qualify as a REIT.

Prior to the issuance of the Real Property Regulations, the IRS issued to the Company the Ruling, which, based on the representations and assumptions contained therein, held that the Company's financing receivables qualify as real estate assets and the income from such financing receivables qualify as income from mortgages on real property for purposes of the REIT requirements. The preamble to the Real Property Regulations provides that, to the extent a private letter ruling issued prior to the issuance of the Real Property Regulations is inconsistent with the Real Property Regulations, the private letter ruling is revoked prospectively from the applicability date of the Real Property Regulations. We do not believe that the Ruling is inconsistent with the Real Property Regulations because we believe the analysis in the Ruling was based on similar principles as the relevant portions of the Real Property Regulations, and accordingly we do not believe that the Real Property Regulations impact the Company's ability to rely on the Ruling. However, no assurance can be given that the IRS could not successfully assert that the Company is not permitted to rely on the Ruling because the Ruling has been revoked by the Real Property Regulations.

The opinions set forth above represent our conclusions based upon the documents, facts, representations and assumptions referred to above. Any material amendments to such documents, changes in any significant facts or inaccuracy of such representations or assumptions could affect the opinions referred to herein. Moreover, the Company's qualification as a REIT depends upon the ability of the Company to meet for each taxable year, through actual annual operating results, requirements under the Code regarding gross income, assets, distributions and diversity of stock ownership. We have not undertaken to review the Company's compliance with these requirements on a continuing basis. Accordingly, no assurance can be given that the actual results of the Company's operations for any single taxable year will satisfy the tests necessary to qualify as or be taxed as a REIT under the Code. In addition, the opinion set forth above does not foreclose the possibility that the Company may have to pay an excise or penalty tax, which could be significant in amount, in order to maintain its REIT qualification. Although we have made such inquiries and performed such investigations as we have deemed necessary to fulfill our professional responsibilities as counsel, we have not undertaken an independent investigation of all of the facts referred to in this letter or the Certificate of Representations.

The opinions set forth in this letter are: (i) limited to those matters expressly covered and no opinion is expressed in respect of any other matter; (ii) as of the date hereof; and (iii) rendered by us at the request of the Company. We hereby consent to the filing of this opinion letter with the SEC as an exhibit to the Registration Statement and to the references therein to us. In giving such consent, we do not thereby admit that we are within the category of persons whose consent is required under Section 7 of the Securities Act of 1933, as amended, or the rules and regulations of the SEC promulgated thereunder.

Very truly yours,

/s/ Clifford Chance US LLP