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): December 4, 2013

RETAIL OPPORTUNITY INVESTMENTS CORP.
(Exact Name of Registrant as Specified in Its Charter)

Maryland	**001-33749**	**26-0500600**
(State or other jurisdiction of incorporation)	**(Commission File Number)**	**(I.R.S. Employer Identification No.)**

RETAIL OPPORTUNITY INVESTMENTS PARTNERSHIP, LP
(Exact Name of Registrant as Specified in Its Charter)

Delaware	**333-189057-01**	**94-2969738**
(State or other jurisdiction of incorporation)	**(Commission File Number)**	**(I.R.S. Employer Identification No.)**

8905 Towne Centre Drive, Suite 108 **San Diego, California** **(Address of Principal Executive Offices)**	**92122** **(Zip Code)**

Registrant's telephone number, including area code: (858) 677-0900

Not applicable
(Former name or former address, if changed since last report)

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

☐ 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))

Item 1.01 Entry into a Material Definitive Agreement.

On December 9, 2013, Retail Opportunity Investments Partnership, LP (the "Issuer") completed a registered underwritten public offering of $250.0 million aggregate principal amount of 5.000% Senior Notes due 2023 (the "Notes"), fully and unconditionally guaranteed by Retail Opportunity Investments Corp. (the "Company"). The Notes were sold pursuant to the Company's and the Issuer's effective shelf registration statement on Form S-3ASR (File Nos. 333-189057 / 333-189057-01) filed on June 3, 2013 and the related prospectus dated June 3, 2013, as supplemented by the prospectus supplement dated December 4, 2013. The Notes are governed by the Indenture, dated as of December 9, 2013 (the "Base Indenture") between the Company, the Issuer and Wells Fargo Bank, National Association, as trustee (the "Trustee"), as supplemented by the first supplemental indenture, dated as of December 9, 2013, between the Company and the Trustee (the "Supplemental Indenture" and, together with the Base Indenture, the "Indenture"). The Notes pay interest semi-annually on June 15 and December 15, commencing on June 15, 2014, at a rate of 5.000% per annum, and mature on December 15, 2023, unless redeemed earlier by the Issuer. The Notes are the Issuer's senior unsecured obligations that rank equally in right of payment with the Issuer's other unsecured indebtedness, and effectively junior to (i) all of the indebtedness and other liabilities, whether secured or unsecured, and any preferred equity of the Issuer's subsidiaries, and (ii) all of the Issuer's indebtedness that is secured by the Issuer's assets, to the extent of the value of the collateral securing such indebtedness outstanding. The Company will fully and unconditionally guarantee the Issuer's obligations under the Notes on a senior unsecured basis, including the due and punctual payment of principal of, and premium, if any, and interest on, the notes, whether at stated maturity, upon acceleration, notice of redemption or otherwise. The guarantee will be a senior unsecured obligation of the Company and will rank equally in right of payment with all other senior unsecured indebtedness of the Company. The Company's guarantee of the Notes will be effectively subordinated in right of payment to all liabilities, whether secured or unsecured, and any preferred equity of its subsidiaries (including the Issuer and any entity the Company accounts for under the equity method of accounting).

Item 8.01 Other Events

In connection with the issuance and sale of the Notes, the Issuer and the Company entered into an Underwriting Agreement, dated December 4, 2013, among the Issuer, the Company, J.P. Morgan Securities LLC, U.S. Bancorp Investments, Inc. and Wells Fargo Securities, LLC and each of the other Underwriters named in Schedule A thereto (collectively, the "Underwriters").

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits.

Exhibit No.	Description
1.1	Underwriting Agreement, dated as of December 4, 2013, among Retail Opportunity Investments Partnership, LP, Retail Opportunity Investments Corp., J.P. Morgan Securities LLC, U.S. Bancorp Investments, Inc. and Wells Fargo Securities, LLC and each of the other Underwriters named in Schedule A thereto.
4.1	Indenture, dated as of December 9, 2013 between Retail Opportunity Investments Partnership, LP, Retail Opportunity Investments Corp. and Wells Fargo Bank, National Association.
4.2	First Supplemental Indenture, dated as of December 9, 2013 between Retail Opportunity Investments Partnership, LP, Retail Opportunity Investments Corp. and Wells Fargo

	Bank, National Association.
5.1	Opinion of Clifford Chance US LLP
12.1	Statement of Computation of Ratio of Fixed Charges and Preferred Dividends to Earnings
23.1	Opinion of Clifford Chance US LLP (contained in Exhibit 5.1 hereto)

SIGNATURES

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

Dated: December 9, 2013

RETAIL OPPORTUNITY INVESTMENTS CORP.

By: /s/ Michael B. Haines
Name: Michael B. Haines
Title: Chief Financial Officer

Dated: December 9, 2013

RETAIL OPPORTUNITY INVESTMENTS PARTNERSHIP, LP

By: RETAIL OPPORTUNITY INVESTMENTS GP, LLC, its general partner

By: /s/ Michael B. Haines
Name: Michael B. Haines
Title: Chief Financial Officer

Exhibit Index

Exhibit No.	Description
1.1	Underwriting Agreement, dated as of December 4, 2013, among Retail Opportunity Investments Partnership, LP, Retail Opportunity Investments Corp., J.P. Morgan Securities LLC, U.S. Bancorp Investments, Inc. and Wells Fargo Securities, LLC and each of the other Underwriters named in Schedule A thereto.
4.1	Indenture, dated as of December 9, 2013 between Retail Opportunity Investments Partnership, LP, Retail Opportunity Investments Corp. and Wells Fargo Bank, National Association.
4.2	First Supplemental Indenture, dated as of December 9, 2013 between Retail Opportunity Investments Partnership, LP, Retail Opportunity Investments Corp. and Wells Fargo Bank, National Association.
5.1	Opinion of Clifford Chance US LLP
12.1	Statement of Computation of Ratio of Fixed Charges and Preferred Dividends to Earnings
23.1	Opinion of Clifford Chance US LLP (contained in Exhibit 5.1 hereto)

Exhibit 1.1

RETAIL OPPORTUNITY INVESTMENTS PARTNERSHIP, LP

(a Delaware limited partnership)

$250,000,000 5.000% Senior Notes due 2023

UNDERWRITING AGREEMENT

Dated: December 4, 2013

RETAIL OPPORTUNITY INVESTMENTS PARTNERSHIP, LP

(a Delaware limited partnership)

$250,000,000 5.000% Senior Notes due 2023

UNDERWRITING AGREEMENT

December 4, 2013

J.P. Morgan Securities LLC
U.S. Bancorp Investments, Inc.
Wells Fargo Securities, LLC
As Representatives of the several Underwriters
c/o J.P. Morgan Securities LLC
383 Madison Avenue
New York, New York 10179

Ladies and Gentlemen:

Retail Opportunity Investments Partnership, LP, a Delaware limited partnership (the "Operating Partnership"), confirms its agreement with J.P. Morgan Securities LLC, U.S. Bancorp Investments, Inc. and Wells Fargo Securities, 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 J.P. Morgan Securities LLC, U.S. Bancorp Investments, Inc. and Wells Fargo Securities, LLC are acting as Representatives (in such capacity, collectively, the "Representative"), with respect to the sale by the Operating Partnership and the purchase by the Underwriters, acting severally and not jointly, of the principal amount of the Operating Partnership's 5.000% Senior Notes due 2023 (the "Notes") set forth opposite their respective names in Schedule A hereto, in an aggregate principal amount for all of the Underwriters equal to $250,000,000. The Notes will be fully and unconditionally guaranteed as to payment of the principal thereof, and premium, if any, and interest thereon (the "Guarantee", and together with the Notes, the "Securities") by Retail Opportunity Investments Corp., a Maryland corporation (the "Company"). The Securities will be issued pursuant to an indenture (the "Base Indenture"), to be dated as of the Closing Time (as defined below), among the Operating Partnership, as issuer, the Company, as guarantor, and Wells Fargo Bank, National Association, as trustee (the "Trustee"), as supplemented by a supplemental indenture, to be dated as of the Closing Time (the "Supplemental Indenture", and together with the Base Indenture, the "Indenture").

The Operating Partnership and the Company have filed with the Securities and Exchange Commission (the "Commission") an "automatic shelf registration statement," as defined under Rule 405 ("Rule 405") of the rules and regulations (the "1933 Act Regulations") of the Commission promulgated under the Securities Act of 1933, as amended (the "1933 Act"), on Form S-3ASR (Nos. 333-189057 and 333-189057-01), including the related base prospectus, covering the registration of offers and sales of, among other securities, debt securities of the Operating Partnership (including the Notes), and guarantees of such debt securities by the Company (including the Guarantee), from time to time in accordance with Rule 415 of the 1933 Act Regulations. Such registration statement, and any post-effective amendment thereto, became effective upon filing with the Commission in accordance with Rule 462(e) of the 1933 Act Regulations ("Rule 462(e)"). Promptly after execution and delivery of this Agreement, the Operating Partnership will prepare and file a final prospectus supplement relating to the Securities in accordance with the provisions of Rule 430B of the 1933 Act Regulations ("Rule 430B") and Rule 424(b) of the 1933 Act Regulations ("Rule 424(b)"). Any information included in such prospectus supplement that was omitted from such registration statement at the time it became effective but that is deemed to be part of

and included in such registration statement pursuant to Rule 430B is referred to herein as "Rule 430B Information." Each base prospectus and prospectus supplement used in connection with the offering of the Securities that omitted Rule 430B Information, including the documents incorporated or deemed incorporated by reference therein pursuant to Item 12 of Form S-3 under the 1933 Act, are referred to herein collectively as a "preliminary prospectus." Such registration statement, at any given time, including any amendments thereto to such time, the exhibits and any schedules thereto at such time, the documents incorporated or deemed incorporated by reference therein pursuant to Item 12 of Form S-3 under the 1933 Act at such time and the documents otherwise deemed to be a part thereof or included therein by the 1933 Act Regulations, is referred to herein collectively as the "Registration Statement"; *provided*, *however*, that "Registration Statement" without reference to a time means the Registration Statement as of the time of the first contract of sale for the Securities, which time shall be considered the "new effective date" of the Registration Statement with respect to the Underwriters and the Securities (within the meaning of Rule 430B(f)(2)). The final base prospectus and the final prospectus supplement, in the form first furnished or made available to the Underwriters for use in connection with the offering of the Securities, including the documents incorporated or deemed incorporated by reference therein pursuant to Item 12 of Form S-3 under the 1933 Act prior to the time of the execution and delivery of this Agreement, are referred to herein collectively as the "Prospectus." For purposes of this Agreement, all references to the Registration Statement, any preliminary prospectus or 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") or its Interactive Data Electronic Applications system ("IDEA").

As used in this Agreement:

"Applicable Time" means 3:45 P.M., New York City time, on December 4, 2013 or such other time as agreed by the Operating Partnership and the Representative.

"General Disclosure Package" means each Issuer General Use Free Writing Prospectus (as defined below) issued prior to the Applicable Time and the most recent preliminary prospectus (including any documents incorporated therein by reference) that is distributed to investors prior to the Applicable Time, 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) relating to the Securities that is (i) required to be filed with the Commission by the Operating Partnership or 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 Securities 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 Operating Partnership'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, as evidenced by its being specified in Schedule B 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" (or other references of like import) in the Registration

Statement, any preliminary prospectus, any Issuer Free Writing Prospectus, the General Disclosure Package or the Prospectus shall be deemed to include all such financial statements and schedules and other information incorporated or deemed incorporated by reference in or otherwise deemed by the 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, any Issuer Free Writing Prospectus, the General Disclosure Package or the Prospectus shall be deemed to include the filing of any document under the Securities Exchange Act of 1934, as amended (the "1934 Act"), and the rules and regulations promulgated thereunder (the "1934 Act Regulations"), incorporated or deemed to be incorporated by reference therein or otherwise deemed by the 1933 Act Regulations to be a part thereof or included therein at or after the execution and delivery of this Agreement.

SECTION 1. Representations and Warranties.

(a) *Representations and Warranties by the Operating Partnership and the Company*. The Operating Partnership and the Company, jointly and severally, represent and warrant to each Underwriter as of the date hereof, the Applicable Time and the Closing Time, and agree with each Underwriter, as follows:

(i) Registration Statement and Prospectuses. The Operating Partnership and the Company meet the requirements for use of the Registration Statement as an automatic shelf registration statement on Form S-3 under the 1933 Act. The Registration Statement became effective under the 1933 Act upon filing with the Commission. The Registration Statement is an "automatic shelf registration statement," as defined in Rule 405, and the Securities have been and remain eligible for registration by the Operating Partnership and the Company, as applicable, on an automatic shelf registration statement. No stop order suspending the effectiveness of the Registration Statement or any post-effective amendment thereto has been issued under the 1933 Act, no notice of objection of the Commission to the use of an automatic registration statement has been received by the Operating Partnership or the Company, no order preventing, suspending or objecting to the use of any preliminary prospectus or the Prospectus has been issued and no proceeding for any of those purposes has been instituted or, to the Company's knowledge, threatened by the Commission. The Operating Partnership and the Company have complied with each request (if any) from the Commission for additional information and there are no outstanding or unresolved comments from the Commission or its staff.

Each of the Registration Statement and any post-effective amendment thereto, at the time of its effectiveness, at each deemed effective date with respect to the Underwriters and the Securities pursuant to Rule 430B(f)(2) and at the Closing Time, complied, complies and will comply in all material respects with the requirements of the 1933 Act, the 1933 Act Regulations and the Trust Indenture Act of 1939, as amended (the "1939 Act"). Each preliminary prospectus, the Prospectus and any amendment or supplement thereto, at the time each was filed with the Commission and at the Closing Time, complied, complies and will comply in all material respects with the requirements of the 1933 Act, the 1933 Act Regulations and the 1939 Act and each preliminary prospectus, the Prospectus and any amendment or supplement thereto delivered to the Underwriters for use in connection with the offering and sale of the Securities was, is and 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.

The documents incorporated or deemed incorporated by reference in the Registration Statement, the General Disclosure Package 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 1934 Act Regulations.

(ii) Accurate Disclosure. Neither the Registration Statement nor any amendment thereto, at the time of its effectiveness, at any deemed effective date with respect to the Underwriters and the Securities pursuant to Rule 430B(f)(2) or at the Closing Time, 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. At the Applicable Time, neither (A) the General Disclosure Package nor (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) or at the Closing Time, 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. 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 were or hereafter are 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, do 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 amendment thereto), the General Disclosure Package, any individual Issuer Limited Use Free Writing Prospectus 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 any of the Representatives expressly for use therein. For purposes of this Agreement, the only information so furnished shall be the information in the third and fourth paragraphs under the heading “Underwriting (Conflicts of Interest)” 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, 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 Securities made prior to the initial filing of the Registration Statement by the Operating Partnership or the Company or any person acting on their 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 Operating Partnership or the Company or any person acting on their behalf (within the meaning, for this clause only, of Rule 163(c) of the 1933 Act Regulations) made any offer relating to the Securities in reliance on the exemption of Rule 163 of the 1933 Act Regulations, and (D) as of the execution and delivery of this Agreement, each of the Operating Partnership and the Company is a "well-known seasoned issuer," as defined in Rule 405.

(v) Not Ineligible Issuer. (A) At the original effectiveness of the Registration Statement, (B) at the earliest time after the original effectiveness of the Registration Statement that the Operating Partnership or the Company or another offering participant made a bona fide offer (within the meaning of Rule 164(h)(2) of the 1933 Act Regulations) of the Securities and (C) as of the execution and delivery of this Agreement (with such time of execution and delivery being used as the determination date for purposes of this clause (C)), neither the Operating Partnership nor the Company was or is an "ineligible issuer," as defined in Rule 405.

(vi) Independent Accountants. The accountants who certified the financial statements and supporting schedules 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 Accounting Oversight Board.

(vii) Financial Statements; Non-GAAP Financial Measures. The financial statements (other than the financial statements of the businesses or properties acquired or proposed to be acquired) 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, in all material respects, the financial position of the Company, the Operating Partnership and their respective consolidated subsidiaries at the dates indicated and the statement of operations, stockholders' equity and cash flows of the Company, the Operating Partnership and their respective 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. Any selected financial data and the summary financial information included or incorporated by reference in the Registration Statement, the General Disclosure Package and the Prospectus present fairly, in all material respects, the information shown therein and have been compiled on a basis consistent with that of the audited financial statements included or incorporated by reference in the Registration Statement, the General Disclosure Package and the Prospectus. The financial statements of the businesses or properties acquired or proposed to be acquired, if any, included or incorporated by reference in the Registration Statement, the General Disclosure Package and the Prospectus present fairly in all material respects the information set forth therein, have been prepared in conformity with GAAP applied on a consistent basis and otherwise have been prepared, in all material respects, in accordance with the applicable financial statement requirements of Rule 3-05 or Rule 3-14 of Regulation S-X with respect to real estate operations acquired or to be acquired. In addition, any pro forma financial statements and the related notes thereto included or incorporated by reference in the Registration Statement, the General Disclosure Package and the Prospectus present fairly the information shown therein, have been prepared in accordance with the Commission's rules and guidelines with respect to pro forma financial statements and have been

properly compiled on the bases described therein, and the assumptions used in the preparation thereof are reasonable and the adjustments used therein are appropriate to give effect to the transactions and circumstances referred to 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 or the 1933 Act Regulations or any document required to be filed with the Commission under the 1934 Act or 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 of the 1934 Act and Item 10 of Regulation S-K of the 1933 Act, to the extent applicable, in all material respects. 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. 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 results of operations, business or business prospects of the Company, the Operating Partnership and their respective 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, the Operating Partnership or any of their respective subsidiaries, other than those in the ordinary course of business, which are material with respect to the Company, the Operating Partnership and their respective subsidiaries considered as one enterprise, and (C) except for regular quarterly dividends on the Company's common stock, $0.0001 par value per share, ("Common Stock") and regular quarterly distributions on the units of partnership interest in the Operating Partnership ("Units"), in each case in amounts per share that are consistent with past practice, there has been no dividend or distribution of any kind declared, paid or made by the Company on any class of its capital stock or any distribution by the Operating Partnership with respect to any of its partnership interests.

(ix) Good Standing of the Company. The Company has been duly organized 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, the Indenture and the Guarantee. 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 result in a Material Adverse Effect.

(x) Good Standing of the Operating Partnership. The Operating Partnership has been duly formed and is validly existing as a limited partnership in good standing under the laws of the State of Delaware and has the partnership power and authority under the Operating Partnership Agreement (as defined below) and the Delaware Revised Uniform Limited Partnership Act 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, the Indenture and the Notes. The Operating Partnership is duly qualified as a foreign partnership 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 result in a Material Adverse Effect. A wholly-owned subsidiary of the Company (the "General Partner") is the sole general partner of the Operating Partnership. The Second Amended and Restated Limited Partnership Agreement, dated September 27, 2013 (the "Operating Partnership Agreement"), has been duly and validly authorized, executed and delivered by the parties thereto and is a valid and binding agreement, enforceable against the Company and the General Partner in accordance with its terms, except as such enforceability may be subject to (i) bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance or transfer or similar laws affecting creditors' rights generally and (ii) general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law), and except as rights to indemnity thereunder may be limited by applicable law.

(xi) Good Standing of Subsidiaries. Each "significant subsidiary" of the Company or the Operating Partnership (as such term is defined in Rule 1-02 of Regulation S-X) (each, a "Subsidiary" and, collectively, the "Subsidiaries") is listed on Schedule C hereto, has been duly organized and is validly existing in good standing under the laws of the jurisdiction of its incorporation or organization, 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 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 of, or other ownership interest in, each such Subsidiary has been duly authorized and validly issued, is fully paid and non-assessable and is owned by the Company or the Operating Partnership, as applicable, directly or through subsidiaries, free and clear of any security interest, mortgage, pledge, lien, encumbrance, claim or equity. None of the outstanding shares of capital stock of, or other ownership interest in, any Subsidiary were issued in violation of the preemptive or similar rights of any securityholder of such Subsidiary. Except for subsidiaries formed since the end of the most recent fiscal year, the only subsidiaries of the Operating Partnership and the Company are (A) the subsidiaries listed on Exhibit 21 to the Company's Annual Report on Form 10-K for the most recently ended fiscal year and (B) certain other subsidiaries which, considered in the aggregate as a single subsidiary, do not constitute a "significant subsidiary" as defined in Rule 1-02 of Regulation S-X.

(xii) Capitalization. The authorized capitalization of the Operating Partnership, if any, is as set forth in the Registration Statement, the General Disclosure Package and the Prospectus in the column entitled "Actual" under the caption "Capitalization" (except for subsequent issuances, if any, pursuant to this Agreement, pursuant to reservations, agreements or employee benefit plans referred to in the Registration Statement, the General Disclosure Package and the Prospectus or pursuant to the exercise of convertible securities or options referred to in the Registration Statement, the General Disclosure Package and the Prospectus).

(xiii) Authorization of this Agreement. This Agreement has been duly authorized, executed and delivered by each of the Company and the Operating Partnership.

(xiv) Authorization and Enforceability of the Indenture. The Indenture has been duly qualified under the 1939 Act and, at the Closing Time, will have been duly authorized, executed and delivered by each of the Operating Partnership and the Company and, assuming due authorization, execution and delivery by the Trustee, will constitute a valid and binding agreement of each of the Operating Partnership and the Company, enforceable against the Operating Partnership and the Company in accordance with its terms, except as the enforcement thereof may be limited by bankruptcy, insolvency, reorganization or other similar laws relating to creditors' rights or by general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

(xv) Authorization and Enforceability of the Notes. The Notes, when issued, will be in the form contemplated by the Indenture, and, at the Closing Time, will have been duly authorized for issuance and sale pursuant to this Agreement and the Indenture and duly executed by the Operating Partnership, and, when authenticated and delivered in the manner provided for in the Indenture and paid for by the Underwriters in accordance with the terms of this Agreement, will constitute valid and binding obligations of the Operating Partnership, enforceable against the Operating Partnership in accordance with their terms, except as the enforcement thereof may be limited by bankruptcy, insolvency, reorganization or other similar laws relating to creditors' rights or by general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law) and will be entitled to the benefits of the Indenture.

(xvi) Authorization and Enforceability of the Guarantee. The Guarantee, when executed, will be in the form contemplated by the Indenture, and, at the Closing Time will have been duly authorized, executed and delivered by the Company and, when the Notes have been authenticated and delivered in the manner provided for in the Indenture and paid for by the Underwriters in accordance with the terms of this Agreement, will constitute the valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, except as the enforcement thereof may be limited by bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium or other similar laws relating to or affecting the rights and remedies of creditors or by general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

(xvii) Description of the Securities and the Indenture. The Securities and the Indenture conform in all material respects to the statements relating thereto contained in the Registration Statement, the General Disclosure Package and the Prospectus.

(xviii) Authorization of Units. All issued and outstanding Units have been duly authorized and are validly issued, fully paid and non-assessable, have been offered and sold or exchanged by the Operating Partnership in compliance with applicable laws and, except as otherwise disclosed in the Registration Statement, the General Disclosure Package and the Prospectus, are owned by the Company either directly or through wholly-owned subsidiaries, or limited partners of the Operating Partnership. All Units owned by the Company are owned free and clear of any perfected security interest or any other security interests, claims, liens or encumbrances.

(xix) 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 Operating Partnership or 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 have been waived.

(xx) Absence of Violations, Defaults and Conflicts. None of the Company, the Operating Partnership or any of their respective subsidiaries is (A) in violation of its charter, bylaws, certificate of limited partnership, partnership agreement or other 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, the Operating Partnership or any of their respective 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, the Operating Partnership or any such subsidiary is subject (collectively, "Agreements and Instruments"), except, in the case of this clause (B), for such defaults that would not result in a Material Adverse Effect or as is described in the Registration Statement, the General Disclosure Package and the Prospectus, or (C) to the knowledge of the Company or the Operating Partnership, in violation of any applicable law, statute, rule, regulation, judgment, order, writ or decree of any government, government instrumentality or court, domestic or foreign, having jurisdiction over the Company, the Operating Partnership or any of their respective subsidiaries or any of their assets, properties or operations (each, a "Governmental Entity"), except, in the case of this clause (C), for such violations that would not result in a Material Adverse Effect or as set forth in or contemplated in the Registration Statement, the General Disclosure Package and the Prospectus. The execution, delivery and performance of this Agreement, the Indenture and the Securities and the consummation of the transactions contemplated herein and in the Registration Statement, the General Disclosure Package and the Prospectus and compliance by the Company and the Operating Partnership with their respective obligations hereunder and thereunder: (i) 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, the Operating Partnership or any of their respective subsidiaries pursuant to the Agreements and Instruments (except, in the case of this clause (i), for such conflicts, breaches, defaults or Repayment Events or liens, charges or encumbrances that would not result in a Material Adverse Effect or as set forth in or contemplated in the Registration Statement, the General Disclosure Package and the Prospectus), (ii) will not result in any violation of the provisions of the charter, bylaws, certificate of limited partnership, partnership agreement or other organizational documents of the Company, the Operating Partnership or any of their respective subsidiaries, or (iii) will not result in a violation of any applicable law, statute, rule, regulation, judgment, order, writ or decree of any Governmental Entity (except, in the case of this clause (iii), for such violations that would not result in a Material Adverse Effect or as set forth in or contemplated in the Registration Statement, the General Disclosure Package and the Prospectus). 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, the Operating Partnership or any of their respective subsidiaries.

(xxi) Absence of Labor Dispute. No labor dispute with the employees of the Company, the Operating Partnership or any of their respective subsidiaries exists or, to the knowledge of the Company or the Operating Partnership, is imminent, which would result in a Material Adverse Effect.

(xxii) Absence of Proceedings. Except as disclosed in the Registration Statement, the General Disclosure Package and the Prospectus, there is no action, suit, proceeding, inquiry or investigation before or brought by any Governmental Entity now pending or, to the knowledge of the Company or the Operating Partnership, threatened, against or affecting the Company, the Operating Partnership or any of their respective subsidiaries which is required to be disclosed in the Registration Statement, the General Disclosure Package or the Prospectus (other than as disclosed therein).

(xxiii) Accuracy of Exhibits. There are no contracts or documents 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.

(xxiv) 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 Operating Partnership or the Company of their respective obligations hereunder or under the Indenture or the Securities, in connection with the offering, issuance or sale of the Securities hereunder or for the consummation of the transactions contemplated by this Agreement, except such as have been already obtained or as may be required under the 1933 Act, the 1933 Act Regulations, the 1934 Act, the 1934 Act Regulations, state securities laws or the rules of the Financial Industry Regulatory Authority, Inc. (“FINRA”).

(xxv) Possession of Licenses and Permits. Except as set forth in the Registration Statement, the Prospectus and the General Disclosure Package, the Company, the Operating Partnership and their respective 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, singly or in the aggregate, result in a Material Adverse Effect. The Company, the Operating Partnership and their respective 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, singly or in the aggregate, result in a Material Adverse Effect. None of the Company, the Operating Partnership or any of their respective 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 result in a Material Adverse Effect.

(xxvi) Title to Property. (A) The Company, the Operating Partnership, their respective subsidiaries and any joint venture in which the Company, the Operating Partnership or any of their respective subsidiaries owns an interest (each, a “Related Entity”), as the case may be, have good and marketable fee title or leasehold interest to the portfolio properties (the “Portfolio Properties”) described in the Registration

Statement, the General Disclosure Package and the Prospectus as being owned or held as a lessee, as the case may be, by them, and good title to all other properties owned by them, in each case, free and clear of all mortgages, pledges, liens, security interests, claims, restrictions or encumbrances of any kind, except (1) as otherwise disclosed in the Registration Statement, the General Disclosure Package and the Prospectus or (2) those which would not have a Material Adverse Effect; (B) each of the leases governing the Portfolio Properties is in full force and effect, with such exceptions as would not result in a Material Adverse Effect, and none of the Company, the Operating Partnership, any of their respective subsidiaries or any Related Entity or, to the knowledge of the Company or the Operating Partnership, any lessee of any of the Portfolio Properties is in default under any of such leases and none of the Company, the Operating Partnership or any of their respective subsidiaries knows of any event which, whether with or without the passage of time or the giving of notice, or both, would constitute a default under any of such leases, except such defaults that would not result in a Material Adverse Effect; and (C) neither the Company nor the Operating Partnership has knowledge of any pending or threatened condemnation, zoning change or other proceeding or action that will in any manner affect the size of, use of, improvements on, construction on, or access to the Portfolio Properties, except in any case where such action or proceeding would not have a Material Adverse Effect.

(xxvii) Title Insurance. Title insurance in favor of the Company, the Operating Partnership, their respective subsidiaries or any Related Entity has been obtained with respect to each Portfolio Property owned by any such entity in an amount at least equal to (A) the cost of acquisition of such Portfolio Property or (B) the cost of construction of such Portfolio Property (measured at the time of such construction), except where the failure to maintain such title insurance would not have a Material Adverse Effect.

(xxviii) Mortgages and Deeds of Trust. The mortgages and deeds of trust encumbering the Portfolio Properties and other assets described in the Registration Statement, the General Disclosure Package and the Prospectus (A) are not convertible (in the absence of foreclosure) into an equity interest in the property or asset described therein or in the Company, the Operating Partnership, any of their respective subsidiaries or any Related Entity, (B) except as set forth in the Registration Statement, the General Disclosure Package and the Prospectus, are not cross-defaulted to any indebtedness other than indebtedness of the Company, the Operating Partnership, any of their respective subsidiaries or any Related Entity and (C) are not cross-collateralized to any property not owned by the Company, the Operating Partnership, any of the Subsidiaries or any Related Entity.

(xxix) REIT Qualification. Commencing with its taxable year ended December 31, 2010, 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 the Company’s present and proposed method of operation as described in the Registration Statement, the General Disclosure Package and the Prospectus will enable it to continue to meet the requirements for qualification and taxation as a REIT under the Code.

(xxx) Tax Treatment of Operating Partnership. Each of the Operating Partnership and any other Subsidiary that is a partnership or a limited liability company has been properly classified either as a partnership or as an entity disregarded as separate from its owner for Federal income tax purposes from its formation or has made an

election together with the Company to be treated as a taxable REIT subsidiary of the Company.

(xxxi) 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) none of the Company, the Operating Partnership or any of their respective subsidiaries is in violation of any 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, the Operating Partnership and their respective subsidiaries have all permits, authorizations and approvals required 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 or the Operating Partnership, 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, the Operating Partnership or any of their respective subsidiaries and (D) there are no events or circumstances that 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, the Operating Partnership or any of their respective subsidiaries relating to Hazardous Materials on, in or under or originating from any Portfolio Property or any Environmental Laws.

(xxxii) Accounting Controls and Disclosure Controls. The Company, the Operating Partnership and their respective subsidiaries maintain 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. 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. The Company, the Operating Partnership and their respective subsidiaries maintain an effective system of disclosure controls and procedures (as defined in Rule 13a-15 and Rule 15d-15 under the 1934 Act

Regulations) that are designed to ensure that 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.

(xxxiii) Compliance with the Sarbanes-Oxley Act. There is and has been no failure on the part of the Company or the Operating Partnership 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, including Section 402 related to loans and Sections 302 and 906 related to certifications.

(xxxiv) Payment of Taxes. Each of the Company, the Operating Partnership and their respective subsidiaries has filed all federal, state and local income and franchise tax returns required to be filed through the date hereof, except in any case in which the failure to so file would not have a Material Adverse Effect, and has paid all taxes due thereon or otherwise due and payable, except for any tax that is currently being contested in good faith and for which adequate reserves have been provided, and no tax deficiency has been determined or threatened in writing to be determined adversely to any of the Company, the Operating Partnership or any such subsidiary which has had a Material Adverse Effect.

(xxxv) Insurance. The Company, the Operating Partnership and their respective subsidiaries carry or are entitled to the benefits of insurance, with financially sound and reputable insurers, in such amounts and covering such risks as is generally maintained by companies of established repute engaged in the same or similar business, and, to the knowledge of the Company and the Operating Partnership, all such insurance is in full force and effect. The Company and the Operating Partnership have no reason to believe that they or any of their respective 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 their respective businesses as now conducted and at a cost that would not result in a Material Adverse Effect. None of the Company, the Operating Partnership or any of their respective subsidiaries has been denied any insurance coverage which it has sought or for which it has applied.

(xxxvi) Investment Company Act. Neither the Company nor the Operating Partnership is required, or upon the issuance and sale of the Securities 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 be required, to register as an "investment company" under the Investment Company Act of 1940, as amended.

(xxxvii) Absence of Manipulation. None of the Company, the Operating Partnership or any affiliate of the Company or the Operating Partnership has taken, nor will the Company, the Operating Partnership or any such affiliate 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 or the Operating Partnership to facilitate the sale or resale of the Securities.

(xxxviii) Foreign Corrupt Practices Act. None of the Company, the Operating Partnership, their respective subsidiaries or, to the knowledge of the Company or the Operating Partnership, any director, officer, agent, employee, affiliate or other person acting on behalf of the Company, the Operating Partnership or any of their respective subsidiaries is aware of or has taken any action, directly or indirectly, that would result in (A) 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, (B) a violation by such persons of the Bribery Act 2010 of the United Kingdom (the "Bribery Act"), (C) the use by such persons of any corporate funds for any unlawful contribution, gift, entertainment or other unlawful expense relating to political activity, (D) the direct or indirect unlawful payment by such persons to any foreign or domestic government official or employee from corporate funds or (E) the making by such persons of a bribe, rebate, payoff, influence payment, kickback or other unlawful payment. The Company and the Operating Partnership and, to their knowledge, their respective affiliates have conducted their businesses in compliance with the FCPA and the Bribery Act and have instituted and maintain policies and procedures designed to ensure, and which are reasonably expected to continue to ensure, continued compliance therewith.

(xxxix) Money Laundering Laws. The operations of the Company, the Operating Partnership and their respective 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 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"). No action, suit or proceeding by or before any Governmental Entity involving the Company, the Operating Partnership or any of their respective subsidiaries with respect to the Money Laundering Laws is pending or, to the knowledge of the Company or the Operating Partnership, threatened.

(xl) Sanctions Laws. None of the Company, the Operating Partnership or any of their respective subsidiaries or, to the knowledge of the Company or the Operating Partnership, any director, officer, agent, employee, affiliate or person acting on behalf of the Company and the Operating Partnership is currently subject to any sanctions administered by the U.S. Government, including, without limitation, the Office of Foreign Assets Control of the U.S. Treasury Department, the United Nations Security Council, the European Union, Her Majesty's Treasury, or other relevant sanctions authority (collectively, "Sanctions"). Neither the Company nor the Operating Partnership will directly or indirectly use the proceeds of the offering and sale of the Securities, or lend, contribute or otherwise make available such proceeds to any of their respective subsidiaries, joint venture partner or other person or entity, (A) for the purpose of financing the activities with any person, or in any country or territory, that, at the time of such funding, is the subject of Sanctions or (B) 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.

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

SECTION 2. Sale and Delivery to Underwriters; Closing.

(a) *Sale of Notes*. On the basis of the representations and warranties herein contained and subject to the terms and conditions herein set forth, the Operating Partnership agrees to sell to each Underwriter, severally and not jointly, and each Underwriter, severally and not jointly, agrees to purchase from the Operating Partnership, at a purchase price of 97.680% of the aggregate principal amount of the Notes, the principal amount of Notes set forth in Schedule A hereto opposite the name of such Underwriter, plus any additional principal amount of Notes which such Underwriter may become obligated to purchase pursuant to the provisions of Section 10 hereof.

(b) *Payment*. Payment of the purchase price for, and delivery of certificates for, the Securities shall be made at the offices of Sidley Austin LLP, 787 Seventh Avenue, New York, NY 10019, or at such other place as shall be agreed upon by the Representative and the Company, at 9:00 A.M. (New York City time) on the third (fourth, 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 Representative and the Operating Partnership (such time and date of payment and delivery being herein called "Closing Time").

Payment shall be made to the Operating Partnership by wire transfer of immediately available funds to a bank account designated by the Operating Partnership against delivery to the Representative for the respective accounts of the Underwriters of certificates for the Securities to be purchased by them

The Notes shall be issued in book-entry only form through the facilities of The Depository Trust Company ("DTC") and shall be represented by one or more global certificates in such denominations and registered in such names as the Representative may request in writing at least one full business day before the Closing Time. The certificates representing the Notes will be made available for examination and packaging by the Representative in The City of New York not later than 10:00 A.M., New York City time, one full business day prior to the Closing Time.

SECTION 3. Covenants of the Operating Partnership and the Company. The Operating Partnership and the Company, jointly and severally, covenant with each Underwriter as follows:

(a) *Compliance with Securities Regulations and Commission Requests*. The Company, subject to Section 3(c), will comply with the requirements of Rule 430B, and, will notify the Representative promptly, and confirm the notice in writing, (i) when any post-effective amendment to the Registration Statement or any new registration statement relating to the Securities 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 during the Prospectus Delivery Period (as defined below), (iii) of any request by the Commission for any amendment to the Registration Statement or any amendment or supplement to the Prospectus 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 thereto or any new registration statement relating to the Securities, or notice of objection to the use of an automatic registration statement pursuant to Rule 401(g)(2), or the issuance of any order preventing, suspending or objecting to the use of any preliminary prospectus or the Prospectus, or of the

suspension of the qualification of the Securities 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 Operating Partnership or the Company becomes the subject of a proceeding under Section 8A of the 1933 Act in connection with the offering and sale of the Securities. The Operating Partnership and the Company will make every reasonable effort to prevent the issuance of any such order, notice or suspension and, if issued, to obtain the lifting thereof at the earliest possible moment.

(b) *Compliance with Filing Requirements*. The Operating Partnership and 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 Operating Partnership and the Company shall pay the required Commission filing fees relating to the Securities within the time required by Rule 456(b)(1)(i) of the 1933 Act Regulations without regard to the proviso therein and otherwise in accordance with Rules 456(b) and 457(r) of the 1933 Act Regulations (including, if applicable, by updating 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)).

(c) *Continued Compliance with Securities Laws*. The Operating Partnership and the Company will comply with the 1933 Act, the 1933 Act Regulations, the 1934 Act, the 1934 Act Regulations and the 1939 Act so as to permit the completion of the distribution of the Securities 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 Securities 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 Securities (the "Prospectus Delivery Period"), 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, the 1933 Act Regulations, the 1934 Act, the 1934 Act Regulations or the 1939 Act, the Company will promptly (A) give the Representative 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 Representative with copies of any such amendment or supplement and (C) file with the Commission any such amendment or supplement; provided that neither the Operating Partnership nor the Company shall file or use any such amendment or supplement to which the Representative or counsel for the Underwriters shall object. The Operating Partnership and the Company have given the Representative notice of any filings made pursuant to the 1934 Act or 1934 Act Regulations within 48 hours prior to the Applicable Time; and the Operating Partnership and the Company will give the Representative notice of its intention to make any

such filing during the Prospectus Delivery Period and will furnish the Representative 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 Representative or counsel for the Underwriters shall reasonably object. The Operating Partnership and the Company will furnish the Underwriters with such number of copies of any such amendment, supplement or document as the Underwriters may reasonably request.

(d) *Delivery of Registration Statements*. The Operating Partnership has furnished or will deliver to the Representative and counsel for the Underwriters, without charge, signed copies 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 signed copies of all consents and certificates of experts, and will also deliver to the Representative, without charge, a conformed copy of the Registration Statement as originally filed and each amendment thereto (without exhibits) for each of the Underwriters. 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.

(e) *Delivery of Prospectuses*. The Operating Partnership has delivered to each Underwriter, without charge, as many copies of each preliminary prospectus as such Underwriter reasonably requested, and the Operating Partnership and the Company hereby consent to the use of such copies for purposes permitted by the 1933 Act. The Operating Partnership will furnish to each Underwriter, without charge, during the Prospectus Delivery Period, 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.

(f) *Blue Sky Qualifications*. The Operating Partnership and the Company will use their best efforts, in cooperation with the Underwriters, to qualify the Securities for offering and sale under the applicable securities laws of such states and other jurisdictions (domestic or foreign) as the Representative may designate and to maintain such qualifications in effect so long as required to complete the distribution of the Securities; provided, however, that neither the Operating Partnership nor the Company shall be obligated to file any general consent to service of process or to qualify as a foreign entity 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.

(g) *Rule 158*. The Operating Partnership and the Company will timely file such reports pursuant to the 1934 Act as are necessary in order to make generally available to their 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.

(h) *Use of Proceeds*. The Operating Partnership and the Company will use the net proceeds received by it from the sale of the Securities in the manner specified in the Registration Statement, the General Disclosure Package and the Prospectus under “Use of Proceeds.”

(i) *Stand-Off Agreement*. Prior to the Closing Time, neither the Operating Partnership nor the Company will, without the prior written consent of the Representative, offer to sell, enter into any agreement to sell, or sell, any United States dollar-denominated debt

securities issued or guaranteed by either the Operating Partnership or the Company having a term of more than one year, other than the Securities.

(j) *Reporting Requirements*. The Operating Partnership and the Company, during the Prospectus Delivery Period, 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.

(k) *Final Term Sheet*. The Operating Partnership and the Company will prepare a final term sheet, in a form approved by the Representative and set forth in Schedule D hereto, and will file such term sheet pursuant to Rule 433(d) within the time required by such rule (the "Final Term Sheet"). The Operating Partnership and the Company acknowledge that the Final Term Sheet is an Issuer Free Writing Prospectus for purposes of this Agreement.

(l) *Issuer Free Writing Prospectuses*. The Operating Partnership and the Company agree that, unless they obtain the prior written consent of the Representative, they will not make any offer relating to the Securities 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 Operating Partnership or the Company with the Commission or retained by the Operating Partnership or the Company under Rule 433; provided that the Representative will be deemed to have consented to the Issuer Free Writing Prospectuses listed on Schedule B 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 Representative. The Operating Partnership and the Company represent that they have treated or agree that they will treat each such free writing prospectus consented to, or deemed consented to, by the Representative as an "issuer free writing prospectus," as defined in Rule 433, and that they have 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 any event shall occur or condition shall exist as a result of which such Issuer Free Writing Prospectus conflicted, conflicts or would conflict with the information contained in the Registration Statement, any preliminary prospectus or the Prospectus or included, includes or would include an untrue statement of a material fact or omitted, omits 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 Operating Partnership and the Company will promptly notify the Representative 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) *REIT Requirements*. The Company will use its best efforts to continue to meet the requirements for qualification as a REIT under the Code for each of its taxable years ending on or after December 31, 2010, for so long as its board of directors deems it in the best interests of the Company to remain so qualified.

(n) *Ineligibility to Use Automatic Shelf Registration Statement*. If at any time when Securities remain unsold by the Underwriters the Operating Partnership or the Company receives from the Commission a notice pursuant to Rule 401(g)(2) or otherwise ceases to be eligible to use the automatic shelf registration statement form, the Operating Partnership and the Company will (i) promptly notify the Underwriters, (ii) promptly file a new registration statement or post-effective amendment on the proper form relating to such Securities, in a form and substance satisfactory to the Underwriters, (iii) use their best efforts to cause such registration statement or post-effective amendment to be declared effective as soon as practicable and (iv) promptly notify the Underwriters of such effectiveness. The Operating Partnership and the Company will take all

other action necessary or appropriate to permit the public offering and sale of the Securities to continue as contemplated in the registration statement that was the subject of the Rule 401(g)(2) notice or for which the Operating Partnership or the Company has otherwise become ineligible. References herein to the "Registration Statement" shall include such new registration statement or post-effective amendment, as the case may be.

SECTION 4. Payment of Expenses.

(a) *Expenses*. The Operating Partnership and the Company, jointly and severally, will pay or cause to be paid all expenses incident to the performance of their 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 certificates for the Securities to the Underwriters, including any transfer taxes and any stamp or other duties payable upon the sale, issuance or delivery of the Securities to the Underwriters, (iv) the fees and disbursements of the Company's counsel, accountants and other advisors, (v) the qualification of the Securities under securities laws in accordance with the provisions of Section 3(f) hereof, including filing fees and the reasonable fees and disbursements of counsel for the Underwriters 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 and its counsel, (vii) the costs and expenses of the Company relating to investor presentations on any "road show" undertaken in connection with the marketing of the Securities, including, without limitation, third party expenses associated with the production of road show slides and graphics, travel and lodging expenses of the representatives and officers of the Company in connection with the road show, (viii) 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 Securities, (ix) all fees and expenses in connection with making the Securities eligible for clearance, settlement and trading through the facilities of DTC and (x) all fees payable in connection with the rating of the Securities by the rating agencies. It is understood, however, that, except as provided in this Section, Section 6 and Section 7 hereof, the Underwriters will pay all of their own costs and expenses, including the fees of their counsel.

(b) *Termination of Agreement*. If this Agreement is terminated by the Representative in accordance with the provisions of Section 5 or Section 9(a)(i) or (iii) hereof, the Operating Partnership and the Company shall reimburse the Underwriters for all of their out of pocket expenses, including the reasonable fees and disbursements of counsel for the Underwriters.

(c) *Allocation of Expenses*. The provisions of this Section shall not affect any agreement that the Operating Partnership and the Company may make for the sharing of such costs and expenses.

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 Operating Partnership and the Company contained herein or in certificates of any officer of the Company or any authorized representative of the Operating Partnership delivered pursuant to the provisions hereof, to the performance by the Operating Partnership and the Company of their respective covenants and other obligations hereunder, and to the following further conditions:

(a) *Effectiveness of Registration Statement, etc.* At the Closing Time, (i) the Registration Statement shall have become effective upon filing in accordance with Rule 462(e) and no stop order suspending the effectiveness of the Registration Statement shall have been issued under the 1933 Act or proceedings therefor initiated or threatened by the Commission, and no notice of objection of the Commission to the use of such form of registration statement or any post-effective amendment thereto pursuant to Rule 401(g)(2) of the 1933 Act Regulations has been received by the Operating Partnership or the Company, (ii) each preliminary prospectus and the Prospectus shall have been filed with the Commission in the manner and within the time period required by Rule 424(b) without reliance on Rule 424(b)(8), and no order preventing or suspending the use of any preliminary prospectus or the Prospectus shall have been issued by the Commission or any other Governmental Entity, (iii) any material required to be filed by the Operating Partnership or the Company pursuant to Rule 433(d) shall have been filed with the Commission within the applicable time periods prescribed for such filings under such Rule 433 and (iv) the Operating Partnership shall have paid the required Commission filing fees relating to the Securities within the time period required by Rule 456(b)(1)(i) of the 1933 Act Regulations without regard to the proviso therein and otherwise in accordance with Rules 456(b) and 457(r) of 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 the Operating Partnership and the Company*. At the Closing Time, the Representative shall have received the favorable opinion, dated the Closing Time, of Clifford Chance US LLP, counsel for the Operating Partnership and the Company, in form and substance satisfactory to counsel for the Underwriters, together with signed or reproduced copies of such letter for each of the other Underwriters to the effect set forth in Exhibit A hereto and to such further effect as counsel to the Underwriters may reasonably request.

(c) *Opinion of Maryland Counsel for the Company*. At the Closing Time, the Representative shall have received the favorable opinion, dated the Closing Time, of Venable LLP, Maryland counsel for the Company, in form and substance satisfactory to counsel for the Underwriters, together with signed or reproduced copies of such letter for each of the other Underwriters to the effect set forth in Exhibit B hereto and to such further effect as counsel to the Underwriters may reasonably request.

(d) *Opinion of Counsel for Underwriters*. At the Closing Time, the Representative shall have received the favorable opinion, dated the Closing Time, of Sidley Austin LLP, counsel for the Underwriters, together with signed or reproduced copies of such letter for each of the other Underwriters with respect to the matters as the Representative may require. In giving such opinion such counsel may rely, as to all matters governed by the laws of jurisdictions other than the law of the State of New York, the General Corporation Law of the State of Delaware and the federal securities laws of the United States, upon the opinions of counsel satisfactory to the Representative. Such counsel may also state that, insofar as such opinion involves factual matters, they have relied, to the extent they deem proper, upon certificates of officers and other representatives of the Company and its subsidiaries and certificates of public officials.

(e) *Officers' Certificate*. At the Closing Time, there shall not have occurred, since the execution and delivery of the Agreement or since the respective dates as of which information is given in the Registration Statement, the General Disclosure Package or the Prospectus, a Material Adverse Effect, and the Representative shall have received a certificate of the Chief Executive Officer or the President of the Company and the Operating Partnership and of the chief financial or chief accounting officer of the Company and the Operating Partnership, dated the

Closing Time, to the effect that (i) there has been no such Material Adverse Effect, (ii) the representations and warranties of the Company and the Operating Partnership set forth in Section 1 of 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 and the Operating Partnership have complied with all agreements and satisfied all conditions on their 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, suspending or objecting to 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 their knowledge, threatened by the Commission.

(f) *Accountant's Comfort Letter*. At the time of the execution of this Agreement, the Representative shall have received from each of Ernst & Young LLP and PKF LLP a letter or letters, dated such date, in form and substance satisfactory to the Representative, 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.

(g) *Bring-down Comfort Letter*. At the Closing Time, the Representative shall have received from each of Ernst & Young LLP and PKF LLP a letter or letters, dated as of the Closing Time, to the effect that they reaffirm the statements made in the letter furnished pursuant to subsection (f) 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.

(h) *No Objection*. 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 Securities.

(i) *Indenture*. The Operating Partnership, the Company and the Trustee shall have entered into the Indenture.

(j) *Notes; Guarantee*. The Operating Partnership shall have duly executed the Notes, and the Company shall have duly executed the Guarantee of the Notes, in each case in the form required pursuant to the Indenture.

(k) *DTC*. Prior to the Closing Time, the Operating Partnership and the Trustee shall have executed and delivered the Letter of Representations to DTC and at the Closing Time, the Securities shall be eligible for clearance, settlement and trading through the facilities of DTC.

(l) *No Downgrade*. Subsequent to the earlier of (A) the Applicable Time and (B) the execution and delivery of this Agreement and prior to the Closing Time, (i) no downgrading in, or withdrawal of, the rating accorded the Securities or any other debt securities issued or guaranteed by the Company, the Operating Partnership or any of their respective subsidiaries by any "nationally recognized statistical rating organization", as such term is defined under Section 3(a)(62) under the 1934 Act, shall have occurred and (ii) no such organization shall have publicly announced that it has under surveillance or review, or has changed its outlook with respect to, its rating of the Securities or of any other debt securities issued or guaranteed by the Company, the Operating Partnership or any of their respective subsidiaries (other than an announcement with positive implications of a possible upgrading).

(m) *Additional Documents*. At the Closing Time, 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 Securities 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 Operating Partnership and the Company in connection with the issuance and sale of the Securities as herein contemplated shall be satisfactory in form and substance to the Representative and counsel for the Underwriters.

(n) *Termination of Agreement*. If any condition specified in this Section shall not have been fulfilled when and as required to be fulfilled, this Agreement may be terminated by the Representative by notice to the Company at any time at or prior to Closing Time 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 Operating Partnership and the Company, jointly and severally, agree 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")), 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 against any losses, claims, damages or liabilities, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon 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 materials or information provided to investors by, or with the approval of, the Company in connection with the marketing of the offering of the Securities ("Marketing Materials"), including any roadshow or investor presentations made to investors by the Operating Partnership and the Company (whether in person or electronically), or the omission or alleged omission in any preliminary prospectus, Issuer Free Writing Prospectus, the General Disclosure Package or the Prospectus (or any amendment or supplement thereto) or in any Marketing Materials 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; and will reimburse such person for any legal or other expenses reasonably incurred in connection with investigating or defending any such action or claim as such expenses are incurred; provided, however, that this indemnity 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, or in any preliminary prospectus, any Issuer Free Writing Prospectus, 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 the Operating Partnership and the Company, Directors and Officers*. Each Underwriter, severally and not jointly, agrees to indemnify and hold harmless the Operating Partnership, the Company, the Company's directors, the Company's officers who signed the Registration Statement, and each person, if any, who controls the Operating Partnership or 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, or in any preliminary prospectus, any Issuer Free Writing Prospectus, the General Disclosure Package 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. In case any such action shall be brought against any indemnified party and it shall notify the indemnifying party of the commencement thereof, the indemnifying party shall be entitled to participate therein and, to the extent that it shall wish, jointly with any other indemnifying party similarly notified, to assume the defense thereof, with counsel reasonably satisfactory to such indemnified party (who shall not, except with the consent of the indemnified party, be counsel to the indemnifying party), and, after notice from the indemnifying party to such indemnified party of its election so to assume the defense thereof, the indemnifying party shall not be liable to such indemnified party under this Section 6 for any legal expenses of other counsel or any other expenses, in each case subsequently incurred by such indemnified party, in connection with the defense thereof other than reasonable out of pocket costs of investigation. No indemnifying party shall, without the written consent of the indemnified party (not to be unreasonably withheld or delayed), effect the settlement or compromise of, or consent to the entry of any judgment with respect to, any pending or threatened action or claim in respect of which indemnification or contribution may be sought hereunder (whether or not the indemnified party is an actual or potential party to such action or claim) unless such settlement, compromise or judgment (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.

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 Operating Partnership and the Company, on the one hand, and the Underwriters, on the other hand, from the offering of the Securities 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 Operating Partnership and 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 Operating Partnership and the Company, on the one hand, and the Underwriters, on the other hand, in connection with the offering of the Securities pursuant to this Agreement shall be deemed to be in the same respective proportions as the total net proceeds from the offering of the Securities pursuant to this Agreement (before deducting expenses) received by Operating Partnership and 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 public offering price of the Securities as set forth on the cover of the Prospectus.

The relative fault of the Operating Partnership and 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 Operating Partnership or 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 Operating Partnership, 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 in connection with investigating or defending any such action or claim.

Notwithstanding the provisions of this Section 7, no Underwriter shall be required to contribute any amount in excess of the underwriting discount received by such Underwriter in connection with the Securities 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 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 Operating Partnership or 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 Operating Partnership and the Company, as the case may be. The Underwriters' respective obligations to contribute pursuant to this Section 7 are several in proportion to the aggregate principal amount of Securities set forth opposite their respective names in Schedule A hereto and not joint.

The provisions of this Section shall not affect any agreement among the Operating Partnership and the Company with respect to contribution.

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 authorized representatives of the Operating Partnership 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, any person controlling the Operating Partnership or the Company and (ii) delivery of and payment for the Securities.

SECTION 9. Termination of Agreement.

(a) *Termination*. The Representative may terminate this Agreement, by notice to the Operating Partnership and the Company, at any time at or prior to the Closing Time (i) if there has been, in the judgment of the Representative, since the time of execution and delivery 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 Representative, impracticable or inadvisable to proceed with the completion of the offering or to enforce contracts for the sale of the Securities, or (iii) if trading in any securities of the Company has been suspended or materially limited by the Commission or the Nasdaq Global Market, or (iv) if trading generally on the New York Stock Exchange, the NYSE Amex Equities or 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 Entity, 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 to purchase the Securities which it or they are obligated to purchase under this Agreement (the "Defaulted Securities"), the Representative 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 Representative shall not have completed such arrangements within such 24 hour period, then:

(i) if the aggregate principal amount of Defaulted Securities does not exceed 10% of the aggregate principal amount of Securities 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 aggregate principal amount of Defaulted Securities exceeds 10% of the aggregate principal amount of Securities to be purchased on such date, this Agreement 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, either the (i) Representative or (ii) the Operating Partnership shall have the right to postpone the Closing Time 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 J.P. Morgan Securities LLC, 383 Madison Avenue, New York, New York 10179, attention: Investment Grade Syndicate Desk–3rd Floor,

facsimile no: (212) 834-6081, U.S. Bancorp Investments, Inc., 214 South Tryon Street, 26th Floor, Charlotte, North Carolina 28202, attention: High Grade Syndicate and Wells Fargo Securities, LLC, 550 South Tryon Street, 5th Floor, Charlotte, North Carolina 28202, attention: Transaction Management, and notices to the Operating Partnership and the Company shall be directed to Retail Opportunity Investments Corp. at 8905 Towne Centre Drive, Suite 108, San Diego, CA 92122, attention of Stuart A. Tanz and Michael Haines.

SECTION 12. No Advisory or Fiduciary Relationship. Each of the Operating Partnership and the Company acknowledges and agrees that (a) the purchase and sale of the Securities pursuant to this Agreement, including the determination of the public offering price of the Securities and any related discounts and commissions, is an arm's-length commercial transaction between Operating Partnership and the Company, on the one hand, and the several Underwriters, on the other hand, (b) in connection with the offering of the Securities 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 Operating Partnership, the Company or any of their respective subsidiaries, or their respective stockholders, unitholders, creditors, employees or any other party, (c) no Underwriter has assumed or will assume an advisory or fiduciary responsibility in favor of the Operating Partnership or the Company with respect to the offering of the Securities or the process leading thereto (irrespective of whether such Underwriter has advised or is currently advising the Operating Partnership, the Company or any of their respective subsidiaries on other matters) and no Underwriter has any obligation to the Operating Partnership or the Company with respect to the offering of the Securities 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 Operating Partnership and the Company, and (e) the Underwriters have not provided any legal, accounting, regulatory or tax advice with respect to the offering of the Securities and the Operating Partnership and the Company have consulted their own business, legal, accounting, regulatory and tax advisors to the extent they deemed appropriate. Any review by the Representative or any Underwriter of the Operating Partnership, the Company, the transactions contemplated hereby or other matters relating to such transactions will be performed solely for the benefit of the Representative or such Underwriter and shall not be on behalf of the Operating Partnership or the Company or any other person.

SECTION 13. Parties. This Agreement shall each inure to the benefit of and be binding upon the Underwriters and the Operating Partnership 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 Operating Partnership and 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 Operating Partnership and 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 Securities from any Underwriter shall be deemed to be a successor by reason merely of such purchase.

SECTION 14. Trial by Jury. Each of the Operating Partnership and 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; Waiver of Immunity. 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.

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

Very truly yours,

RETAIL OPPORTUNITY INVESTMENTS PARTNERSHIP, LP

By: Retail Opportunity Investments GP, LLC, its general partner

By: /s/ Michael B. Haines
Name: Michael B. Haines
Title: Chief Financial Officer

RETAIL OPPORTUNITY INVESTMENTS CORP.

By /s/ Michael B. Haines
Name: Michael B. Haines
Title: Chief Financial Officer

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

J.P. MORGAN SECURITIES LLC
U.S. BANCORP INVESTMENTS, INC.
WELLS FARGO SECURITIES, LLC

By: J.P. MORGAN SECURITIES LLC

By /s/ Robert Bottamedi
Name: Robert Bottamedi
Title: Vice President

By: U.S. BANCORP INVESTMENTS, INC.

By /s/ Charles P. Carpenter
Name: Charles P. Carpenter
Title: Senior VP

By: WELLS FARGO SECURITIES, LLC

By /s/ Carolyn Hurley
Name: Carolyn Hurley
Title: Director

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

SCHEDULE A

Name of Underwriter	Aggregate Principal Amount of Securities
J.P. Morgan Securities LLC	$ 135,000,000
U.S. Bancorp Investments, Inc.	$ 35,000,000
Wells Fargo Securities, LLC	$ 35,000,000
KeyBanc Capital Markets Inc.	$ 10,000,000
Merrill Lynch, Pierce, Fenner & Smith Incorporated	$ 10,000,000
BMO Capital Markets Corp.	$ 5,000,000
PNC Capital Markets LLC	$ 5,000,000
RBC Capital Markets, LLC	$ 5,000,000
RBS Securities Inc.	$ 5,000,000
Regions Securities LLC	$ 5,000,000
Total	$ 250,000,000

SCHEDULE B

Free Writing Prospectuses

1. Final Term Sheet

SCHEDULE C

Significant Subsidiaries

Retail Opportunity Investments GP, LLC
Retail Opportunity Investments Partnership, LP
ROIC Paramount Plaza, LLC
ROIC Santa Ana, LLC
ROIC Washington, LLC
ROIC Oregon, LLC
ROIC California, LLC
ROIC Pinole Vista, LLC

SCHEDULE D

Final Term Sheet

Sch. D-1

Exhibit 4.1

Dated December 9, 2013

RETAIL OPPORTUNITY INVESTMENTS PARTNERSHIP, LP,

AS ISSUER

RETAIL OPPORTUNITY INVESTMENTS CORP.,

AS GUARANTOR

AND

WELLS FARGO BANK, NATIONAL ASSOCIATION,

AS TRUSTEE

INDENTURE

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	(d)	7.01(c)
	(e)	6.13
316	(a) (last sentence)	12.06
	(a)(1)(A)	6.05
	(a)(1)(B)	6.04
	(a)(2)	N.A.
	(b)	6.08
	(c)	12.03
317	(a)(1)	6.09
	(a)(2)	6.10
	(b)	2.06
318	(a)	12.03

N.A. means Not Applicable

INDENTURE, dated as of December 9, 2013 between **RETAIL OPPORTUNITY INVESTMENTS PARTNERSHIP, LP** (the "**Company**"), a Delaware limited partnership having its principal office at 8905 Towne Centre Drive, Suite 108, San Diego, California 92122, **RETAIL OPPORTUNITY INVESTMENTS CORP.** (the "**Guarantor**"), a Maryland corporation having its principal office at 8905 Towne Centre Drive, Suite 108, San Diego, California 92122 and **WELLS FARGO BANK, NATIONAL ASSOCIATION** (the "**Trustee**"), a national banking association organized under the laws of the United States of America which has its designated corporate trust office at 707 Wilshire Blvd, 17th Floor, Los Angeles, California 90017.

Each party agrees as follows for the benefit of each other party and for the equal and ratable benefit of the Holders of the Company's debentures, notes or other evidences of unsecured indebtedness to be issued in one or more series ("**Securities**"):

ARTICLE I

DEFINITIONS AND INCORPORATION BY REFERENCE

Section 1.01. **Definitions**.

"**Board**" means the Board of Directors of the Guarantor, or other body with analogous authority with respect to the Guarantor or any duly authorized Committee of the Board of Directors of the Guarantor or such body.

"**Board Resolution**" means a resolution by the Board of Directors, certified by a Secretary of the Guarantor or an Assistant Secretary of the Guarantor as being duly adopted and in full force and effect.

"**Business Day**" means each Monday, Tuesday, Wednesday, Thursday and Friday which is not a Legal Holiday in the City of New York and the relevant place of payment.

"**Capital Stock**" means (a) in the case of a corporation, common or preferred stock entitled to share in the equity or profits of a corporation; and (b) in the case of a partnership or limited liability company, partnership or membership interests (whether general or limited).

"**Common Stock**" means the common stock, par value $.01 per share, of the Company, as that stock may be reconstituted from time to time.

"**Company**" means the Person named as such in this Indenture until a successor replaces it and after that means the successor.

"**Corporate Trust Office**" means the designated office of the Trustee at which at any particular time its corporate trust business is principally administered (which at the date of this Indenture is at the location set forth in the first paragraph of this Indenture); **provided**, **however**, **that** with respect to payments and transfers, such office shall be Wells Fargo Bank, National Association, MAC N9311-110, 625 Marquette Avenue, Minneapolis, MN 55479.

"**Corporation**" includes corporations, associations, companies and business trusts.

"**Custodian**" has the meaning provided in Section 6.01.

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

"**$**" means the lawful currency of the United States.

"**Event of Default**" has the meaning provided in Section 6.01.

"**Fiscal Year**" means the period commencing on January 1 of a year and ending on the next December 31 or such other period (not to exceed 12 months or 53 weeks) as the Company may from time to time adopt as its fiscal year.

"**Guarantee**" means the full and unconditional guarantee provided by the Guarantor as made applicable to one or more series of Securities pursuant to the terms of Section Thirteen of this Indenture and any establishing Board Resolution, supplemental indenture or Officers' Certificate (**provided that**, with respect to any Series of Securities to which Article Thirteen of this Indenture applies, "Guarantee" shall have the meaning set forth in Section 13.01(2) of this Indenture), and the guarantees endorsed on the certificates evidencing the Securities, or both, as the context shall require.

"**Guarantor**" means Retail Opportunity Investments Corp., a Maryland corporation, and its respective successors and assigns.

"**Holder**" or "**Securityholder**" means a Person in whose name a Security is registered on the Registrar's books.

"**Indenture**" means this Indenture as amended or supplemented from time to time and will include the form and terms of the Securities of each series established as contemplated by Section 2.01.

"**Interest Payment Date**" means the date on which an installment of interest on the Securities is due and payable.

"**Legal Holiday**" has the meaning provided in Section 12.08.

"**Maturity Date**" means the date the principal of Securities is due and payable.

"**Notation of Guarantee**" means a notation executed by the Guarantor and affixed to each Security of any Series to which a Guarantee under this Indenture applies.

"**Officer**" means the Chairman of the Board of Directors, any Vice Chairman of the Board of Directors, the President, the Chief Executive Officer, the Chief Financial Officer, any Vice President, the Treasurer, the Secretary, the Controller or any Assistant Secretary of the Guarantor.

"**Officers' Certificate**" means a certificate signed by two Officers. Each such certificate will comply with Section 314 of the TIA and include the statements described in Section 12.05.

"**Opinion of Counsel**" means a written opinion from legal counsel which is reasonably acceptable to the Trustee. That counsel may be an employee of or counsel to the Company or the Guarantor. Each such opinion will include the statements described in Section 12.05 if and to the extent required by that Section.

"**Paying Agent**" has the meaning provided in Section 2.05.

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

"**Registrar**" has the meaning provided in Section 2.05.

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

"**Securities**" has the meaning provided in the recitals to this Indenture.

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

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

"**State**" means any state of the United States or the District of Columbia.

"**Stated Maturity**" when used with respect to any Security or any installment of principal thereof or interest thereon, means the date specified in such Security as the fixed date on which the principal of such Security or such installment of principal or interest is due and payable.

"**Subsidiary**" means (1) any Person, a majority of the outstanding voting stock of which is owned or controlled, directly or indirectly, at the date of determination by the Company or the Guarantor, as the case may be, and/or one or more other Subsidiaries, and (2) any other Person which is or would be consolidated in the financial statements of the Company or the Guarantor as of the date of determination in accordance with GAAP. For purposes of this definition, "voting stock" means stock, partnership interests, membership interests or other equity interests having voting power to elect or direct the election of, or to appoint or approve the appointment of, at least a majority of the directors, trustees or managing members of, or other persons holding similar positions with, such Person, whether at all times or only so long as no senior class of stock has such voting power by reason of any contingency.

"**Supplemental Indenture**" means an indenture between the Company, the Guarantor and the Trustee which supplements this Indenture.

"**TIA**" means the Trust Indenture Act of 1939, as amended, as in effect on the date of this Indenture, except as provided in Section 9.03.

"**Trustee**" means the Person named as such in this Indenture and, subject to the provisions of Article Seven, any successor to that person.

"**Trust Officer**" means any officer within the corporate trust department of the Trustee, including any vice president, assistant vice president, assistant secretary, assistant treasurer, trust officer or any other officer of the Trustee who customarily performs functions similar to those performed by the Persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred because of such person's knowledge of and familiarity with the particular subject and who shall have direct responsibility for the administration of this Indenture.

"**United States**" means the United States of America.

Section 1.02. **Incorporation by Reference of Trust Indenture Act**. Whenever this Indenture refers to a provision of the TIA, the provision is incorporated by reference in and made a part of this Indenture. In addition, the provisions of Sections 310 to and including 317 of the TIA that impose duties on any person are incorporated by reference in, and form a part of, this Indenture.

The following TIA terms mean the following when used in this Indenture:

"**Commission**" means the SEC;

"**indenture securities**" means the Securities;

"**indenture security holder**" means a Holder;

"**indenture to be qualified**" means this Indenture;

"**indenture trustee**" or "**institutional trustee**" means the Trustee; and

"**obligor**" on the indenture securities means the Company.

All other TIA terms used in this Indenture that are defined in the TIA, defined in the TIA by reference to another statute or defined by SEC rule have the meanings assigned to them.

Section 1.03. **Rules of Construction**. Unless the context otherwise requires:

(1) a term has the meaning assigned to it;

(2) an accounting term not otherwise defined has the meaning assigned to it in accordance with generally accepted accounting principles in the United States;

(3) "or" is not exclusive; and

(4) words in the singular include the plural, and in the plural include the singular.

ARTICLE II

THE SECURITIES

Section 2.01. **Form and Dating**.

(a) The Securities of each series will be substantially in the form established by a Supplemental Indenture relating to the Securities of that series. The Securities may have notations, legends or endorsements required by law, stock exchange rules or usage. The Company will approve the form of the Securities and any notation, legend or endorsement on them. Each Security will be dated the date of its authentication.

(b) The Trustee's certificate of authentication will be substantially in the form of Exhibit A.

Section 2.02. **Amount Unlimited; Issuable in Series**. The aggregate principal amount of the Securities which may be authenticated and delivered under this Indenture is unlimited.

The Securities may be issued in one or more series. Prior to the issuance of Securities of a series, the Company and the Trustee will execute a Supplemental Indenture which will set forth as to the Securities of that series, to the extent applicable:

(1) the title of the Securities;

(2) any limit upon the aggregate principal amount of Securities which may be issued;

(3) the date or dates on which the Securities will mature and the amounts to be paid upon maturity of the Securities;

(4) the rate or rates (which may be fixed or variable) at which the Securities will bear interest, if any, as well as the dates from which interest will accrue, the dates on which interest will be payable, the persons to whom interest will be payable, if other than the registered holders on the record date, and the record date for the interest payable on any payment date;

(5) the currency or currencies in which principal, premium, if any, and interest, if any, will be payable;

(6) the place or places where principal of, premium, if any, and interest, if any, on the Securities will be payable and where Securities which are in registered form can be presented for registration of transfer or exchange;

(7) any provisions regarding the right of the Company to redeem Securities or of holders to require the Company to redeem Securities;

(8) the right, if any, of holders of the Securities to convert them into, or exchange them for, shares of common stock of Retail Opportunity Investments Corp. or other securities, including any provisions intended to prevent dilution as a result of the conversion or exchange rights;

(9) any provisions by which the Company will be required or permitted to make payments to a sinking fund which will be used to redeem Securities or a purchase fund which will be used to purchase Securities;

(10) any provisions regarding defeasance or covenant defeasance regarding the Securities;

(11) any index or formula used to determine the required payments of principal, premium, if any, or interest, if any;

(12) the percentage of the principal amount of the Securities which is payable if maturity of the Securities is accelerated because of a default;

(13) any special or modified events of default or covenants with respect to the Securities;

(14) any security or collateral provisions;

(15) a discussion of certain U.S. federal income tax considerations;

(16) whether the Securities of such Series are entitled to the benefits of a Guarantee pursuant to this Indenture, the terms of such Guarantee, including whether the provisions of Article Thirteen of this Indenture shall apply to such Guarantee, and whether any such Guarantee shall be made on a senior or subordinated basis and, if applicable, the subordination terms of any such Guarantee; and

(17) any other terms of the Securities.

Section 2.03. **Denominations**. Unless otherwise provided in the Supplemental Indenture relating to a series of Securities, the Securities of each series will be issuable in registered form without coupons in denominations of $1,000 and any integral multiple thereof.

Section 2.04. **Execution and Authentication**. Two Officers will sign the Securities of each series for the Company by manual or facsimile signature. The Company's seal will be reproduced on the Securities. If an Officer whose signature is on a Security no longer holds office at the time the Trustee authenticates the Security, the Security will be valid nonetheless.

A Security will not be valid until an authorized signatory of the Trustee manually signs the certificate of authentication on the Security. The signature will be conclusive evidence that the Security has been authenticated under this Indenture.

Section 2.05. **Registrar and Paying Agent**. The Company will maintain an office or agency where Securities of each series may be presented for conversion, registration of transfer or for exchange (the "**Registrar**") and an office or agency where Securities of each series may be presented for payment ("**Paying Agent**"). The Registrar will keep a register of the Securities of each series and of their transfer and exchange. The Company may have one or more co-registrars and one or more additional paying agents. The term "Paying Agent" includes any additional paying agent.

The Company will enter into an appropriate agency agreement with any Registrar, Paying Agent or co-registrar not a party to this Indenture which will incorporate the terms of the TIA. The agreement will implement the provisions of this Indenture that relate to that agent. The Company will notify the Trustee of the name and address of any such agent. If the Company fails to maintain a Registrar or Paying Agent, the Trustee will act as such. The Company or any Subsidiary may act as Paying Agent, Registrar, co-registrar or transfer agent.

The Company initially appoints the Trustee to act as Registrar and Paying Agent in connection with the Securities of each series, except in instances in which the Supplemental Indenture relating to a series of Securities appoints a different Registrar or Paying Agent.

Section 2.06. **Paying Agent to Hold Money in Trust.** Prior to each due date of the principal of, premium, if any, or interest, if any, on any Security, the Company will deposit with the Paying Agent a sum sufficient to pay that principal, premium or interest when due. The Paying Agent will hold in trust for the benefit of the Holders of the Securities of a series,

and if the Paying Agent is not the Trustee, in trust for the benefit of the Trustee, all sums held by the Paying Agent for the payment of principal, premium or interest on the Securities of that series and, in the case of a Paying Agent other than the Trustee, the Paying Agent will give the Trustee notice of any default by the Company in making any such payment. If the Company or a Subsidiary acts as Paying Agent, it will segregate the money held by it as Paying Agent and hold it as a separate trust fund. The Company at any time may require a Paying Agent to pay all money held by it to the Trustee and to account for any funds disbursed by the Paying Agent. Upon complying with this Section, the Paying Agent will have no further liability for the money.

Section 2.07. **Securityholder Lists**. The Trustee will preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of the Holders of the Securities of each series. If the Trustee is not the Registrar, the Company will furnish to the Trustee in writing (a) at least five Business Days before each Interest Payment Date and (b) at such other times as the Trustee may request in writing, all information in the possession or control of the Company or its Paying Agent as to the names and addresses of Holders of the Securities of a series; **provided**, **however, that** if the provisions of (a) and (b) do not provide for the furnishing of such information at stated intervals of not more than six months, at least as frequently as semiannually.

Section 2.08. **Transfer and Exchange**. Unless otherwise provided in the Supplemental Indenture relating to Securities of a series, Securities which are issued in registered form will be transferred only upon the surrender of the Securities for registration of transfer. When a Security is presented to the Registrar or a co-registrar with a request to register a transfer, the Registrar will register the transfer as requested if the requirements of Article Eight of the New York Uniform Commercial Code are met. When Securities are presented to the Registrar or a co-registrar with a request to exchange them for an equal principal amount of Securities of the same series of other denominations, the Registrar will make the exchange as requested if the same requirements are met. To permit registration of transfers and exchanges, the Company will execute and the Trustee will authenticate Securities at the Registrar’s or co-registrar’s request. The Company will not charge a fee for transfers or exchanges.

The Company will not be required to make, and the Registrar need not register, transfers or exchanges of (i) Securities selected for redemption (except, in the case of Securities to be redeemed in part, transfers or exchanges of the portion of the Securities not to be redeemed) or (ii) any Securities of a series for a period of 15 days before the first mailing of a notice of the Securities of that series which are to be redeemed.

Prior to the due presentation for registration or transfer of any Security which was issued in registered form, the Company, the Trustee, the Paying Agent, the Registrar or any co-registrar may deem and treat the person in whose name the Security is registered as the absolute owner of the Security for all purposes, and none of the Company, the Trustee, the Paying Agent, the Registrar or any co-registrar will be affected by notice to the contrary.

Neither the Trustee nor any Agent shall have any responsibility or liability for any actions taken or not taken by the depositary.

Section 2.09. **Replacement Securities**. If a mutilated Security which had been issued in registered form is surrendered to the Registrar or if the Holder presents evidence to the satisfaction of the Company and the Trustee that a Security which had been issued in

registered form has been lost or destroyed, the Company will issue and the Trustee will authenticate a replacement Security of the same series if the requirements of Section 8-405 of the New York Uniform Commercial Code are met and the Holder satisfies any other reasonable requirements of the Trustee. The replacement Security will not be issued until the Holder furnishes an indemnity bond sufficient in the judgment of the Company and the Trustee to protect the Company, the Trustee, the Paying Agent and the Registrar or any co-registrar from any loss which any of them may suffer if the Security is replaced. The Company may charge the Holder for its expenses in replacing a Security.

Every replacement Security will be an obligation of the Company, even if the replaced Security is subsequently found.

Section 2.10. **Outstanding Securities**. The Securities outstanding at any time will be all the Securities authenticated by the Trustee, except those cancelled by it, those delivered to it for cancellation and those described in this Section as not outstanding. A Security does not cease to be outstanding because the Company or its affiliate holds the Security.

If a Security is replaced pursuant to Section 2.09, it ceases to be outstanding unless the Trustee and the Company receive proof satisfactory to them that the replaced Security is held by a protected purchaser (in which case the replaced Security will be treated as outstanding to the extent permitted by Section 8-210 of the New York Uniform Commercial Code).

If the Paying Agent (other than the Company or a Subsidiary) segregates and holds in trust, in accordance with this Indenture, on a redemption date or Maturity Date money sufficient to pay all principal, premium, if any, and interest, if any, payable on that date with respect to the Securities to be redeemed or maturing, as the case may be, then on that date those Securities will cease to be outstanding and interest on them will cease to accrue.

Section 2.11. **Temporary Securities**. Until definitive Securities of a series are ready for delivery, the Company may prepare and the Trustee will authenticate temporary Securities of that series. Temporary Securities will be substantially in the form of definitive Securities but may have variations that the Company considers appropriate for temporary Securities. Without unreasonable delay, the Company will prepare and the Trustee will authenticate definitive Securities and deliver them in exchange for temporary Securities.

Section 2.12. **Cancellation**. The Company at any time may deliver Securities of a series to the Trustee for cancellation and the Trustee will reduce accordingly the aggregate amount of the Securities of that series which are outstanding. The Registrar and the Paying Agent will forward to the Trustee any Securities surrendered to them for registration of transfer, exchange, payment, or conversion. The Trustee and no one else will cancel and dispose of (subject to the record retention requirements of the Exchange Act) all Securities surrendered for registration of transfer, exchange, payment, conversion or cancellation. Subject to Section 2.09, the Company may not issue new Securities of a series to replace Securities of the series it has redeemed, paid, converted or delivered to the Trustee for cancellation.

Section 2.13. **Defaulted Interest**. If the Company defaults in a payment of interest on the Securities of a series, it will pay defaulted interest (plus interest on such defaulted interest to the extent lawful) to the persons who are Holders of the Securities of that series on a subsequent special record date, which date will be at least five Business Days prior to the

payment date. The Company will fix the special record date and payment date, and, at least 15 days before the special record date, the Company will mail to each Holder of Securities of that series a notice that states the special record date, the payment date and the amount of defaulted interest and any interest on that defaulted interest which is to be paid. Notwithstanding the foregoing, the Company may pay defaulted interest in any other lawful manner.

Section 2.14. **CUSIP Numbers**. The Company in issuing the Securities may use "CUSIP" numbers (if then generally in use), and, if so, the Trustee shall use "CUSIP" numbers in notices of redemption as a convenience to Holders; **provided that** the Trustee shall have no liability for any defect in the "CUSIP" numbers as they appear on the any Security, notice or elsewhere, and, **provided further that** any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Securities or as contained in any notice of a redemption and that reliance may be placed only on the other identification numbers printed on the Securities, and any such redemption shall not be affected by any defect in or omission of such numbers. The Company will promptly notify the Trustee in writing of any change in the "CUSIP" numbers.

ARTICLE III

REDEMPTION

Section 3.01. **Company's Option to Redeem**. The Company will have the option to redeem Securities of a series only to the extent, if any, and only on the terms, set forth in the Supplemental Indenture relating to the Securities of that series. If the Company has the option to redeem Securities of a series, unless otherwise provided in the Supplemental Indenture relating to the series, the terms of the redemption will include those set forth in Sections 3.02 through 3.06.

Section 3.02. **Notices to Trustee**. If the Company elects to redeem Securities of a series, it will notify the Trustee of the redemption date and the principal amount and series of Securities to be redeemed. The Company will give each notice provided for in this Section at least 45 days before the redemption date (unless a shorter period shall be agreed to by the Trustee). If fewer than all the Securities of a series are to be redeemed, the record date for determining which Securities of the series are to be redeemed will be selected by the Company, which will give notice of the record date to the Trustee at least 15 days before the record date.

Section 3.03. **Selection of Securities to be Redeemed**. If fewer than all the Securities of a series are to be redeemed at the Company's option, the Trustee will select the Securities of that series to be redeemed by lot or, in its sole discretion, pro-rata or in accordance with the customary procedures of the depositary. The Trustee will make the selection from outstanding Securities of that series not previously called for redemption. The Trustee may select for redemption portions of the principal of Securities that have denominations larger than the minimum denomination in which Securities of the applicable series may be issued. Securities and portions of Securities the Trustee selects will be in amounts equal to the minimum denomination in which Securities of the applicable series may be issued and multiples of that amount. Provisions of this Indenture that apply to Securities called for redemption also apply to portions of Securities called for redemption. The Trustee will notify the Company promptly of the Securities or portions of Securities to be redeemed.

Section 3.04. **Notice of Redemption at the Company's Option**. At least 30 days and not more than 60 days before a date set for redemption at the Company's option, the Company will mail a notice of redemption by first-class mail, or send electronically, to each Holder of Securities to be redeemed in whole or in part.

The notice will identify the principal amount and series of each Security (including the CUSIP and ISIN numbers) to be redeemed and will state:

(1) the redemption date;

(2) the redemption price plus accrued interest, if any;

(3) the name and address of the Paying Agent;

(4) that Securities called for redemption in whole or in part must be surrendered to the Paying Agent to collect the redemption price plus accrued interest, if any;

(5) that, unless the Company defaults in making the redemption payment, interest on Securities (or portions of Securities) called for redemption will cease to accrue on the redemption date and, if applicable, that those Securities (or the portions of then called for redemption) will cease on the redemption date (or such other date as is provided in the Supplemental Indenture relating to the Securities) to be convertible into, or exchangeable for, other securities or assets;

(6) if applicable, the current conversion or exchange price; and

(7) that no representation is made as to the correctness or accuracy of the CUSIP or ISIN numbers, if any, listed in such notice or printed on the Securities.

At the Company's request, pursuant to an Officers' Certificate delivered to the Trustee at least 37 days (unless a shorter period is agreed to by the Trustee) prior to the redemption date, the Trustee will give the notice of redemption in the Company's name and at the Company's expense. In such event, the Company will provide the Trustee with the information required by clauses (1) through (3) and (6).

Section 3.05. **Effect of Notice of Redemption**. Once notice of redemption is sent, Securities, or portions of Securities called for redemption will become due and payable on the redemption date and at the redemption price. Upon surrender to the Paying Agent, those Securities will be paid at the redemption price, plus accrued and unpaid interest to the redemption date. On and after the date fixed for redemption (unless the Company defaults in the payment of the redemption price, together with interest accrued to the redemption date) interest on the Securities, or portions of them, which are redeemed will cease to accrue and any right to convert those Securities into, or exchange them for, other securities or assets will terminate and those Securities will cease to be convertible or exchangeable and Holders will have no rights with respect to such Securities except the right to receive the redemption price. Failure to give notice or any defect in the notice to any Holder will not affect the validity of the notice to any other Holder.

Section 3.06. **Deposit of Redemption Price**. No later than the Business Day prior to the redemption date specified in a notice of redemption, the Company will deposit with the Trustee or one or more Paying Agents (or, if the Company or a Subsidiary is the Paying Agent, segregate and hold in trust) money sufficient to redeem on the redemption date all the

Securities called for redemption on that redemption date at the appropriate redemption price, together with accrued interest to the redemption date, other than Securities or portions of Securities called for redemption which have been delivered by the Company to the Trustee for cancellation or Securities which have been surrendered for conversion or exchange. If any Securities called for redemption are converted or exchanged, any money deposited with the Paying Agent for redemption of those Securities will be paid to the Company upon its request, or, if the money is held in trust by the Company or a Subsidiary as Paying Agent, the money will be discharged from the trust.

Section 3.07. **Holder's Right to Require Redemption**. Holders of Securities of a series will have the right to require the Company to redeem those Securities only to the extent, and only on the terms, set forth in the Supplemental Indenture relating to the Securities of that series. If Holders of Securities of a series have the right to require the Company to redeem those Securities, unless otherwise provided in the Supplemental Indenture relating to the Securities of that series, the terms of the redemption will include those set forth in Section 3.08.

Section 3.08. **Procedure for Requiring Redemption**. If a Holder has the right to require the Company to redeem Securities, to exercise that right, the Holder must deliver the Securities to the Paying Agent, endorsed for transfer and with the form on the reverse side entitled "Option to Require Redemption" completed. Delivery of Securities to the Paying Agent as provided in this Section will constitute an irrevocable election to cause the specified principal amount of Securities to be redeemed. When Securities are delivered to the Paying Agent as provided in this Section, unless the Company fails to make the payments due as a result of the redemption within 20 days after the Securities are delivered to the Paying Agent as provided in this Section interest on the Securities will cease to accrue and, if the Securities are convertible or exchangeable, the Holder's right to convert or exchange the Securities will terminate.

The Company's determination of all questions regarding the validity, eligibility (including time of receipt) and acceptance of any Security for redemption will be final and binding.

Section 3.09. **Securities Redeemed in Part**. Upon surrender of a Security that is redeemed in part, the Company will execute and the Trustee will authenticate and deliver to the Holder (at the Company's expense) a new Security equal of the same series in principal amount equal to the unredeemed portion of the Security which was surrendered.

ARTICLE IV

COVENANTS

Section 4.01. **Payment of Securities**. The Company will promptly pay or cause to be paid the principal of, premium, if any, and interest, if any, on each of the Securities of a series at the places and time and in the manner provided in the Securities and in the Supplemental Indenture relating to the series. An installment of principal, premium or interest will be considered paid on the date it is due if the Trustee or Paying Agent holds on that date in accordance with this Indenture or the applicable Supplemental Indenture money designated for and sufficient to pay the installment then due.

The Company will pay or cause to be paid interest on overdue principal at the rate specified in the Securities; it will also pay interest on overdue installments of interest at the same rate (or such other rate as is provided in the applicable Supplemental Indenture), to the extent lawful.

Section 4.02. **Reporting**. The Company will file with the Trustee within 15 days after filing with the SEC, copies of its annual reports and of the information, documents, and other reports (or copies of such portions of any of the foregoing as the SEC may by rules and regulations prescribe) which the Company is required to file with the SEC pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 (the "**Exchange Act**"). The Company also will comply with the other provisions of TIA Section 314(a). Delivery of such reports, information and documents to the Trustee is for informational purposes only and the Trustee's receipt of such shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Company's compliance with any of its covenants hereunder (as to which the Trustee is entitled to rely exclusively on Officers' Certificates).

Section 4.03. **Corporate Existence**. Subject to Article Five, each of the Company and the Guarantor will do or cause to be done all things necessary to preserve and keep in full force and effect its corporate existence, rights (charter and statutory) and franchises; **provided**, **however**, **that** neither the Company not the guarantor will be required to preserve any such right or franchise if the Board of Directors determines that the preservation of the right or franchise is no longer desirable in the conduct of the business of the Company or the Guarantor and that its loss will not be disadvantageous in any material respect to the Holders of Securities of any series.

Section 4.04. **Compliance Certificate**. The Company and the Guarantor (to the extent that the Guarantor is so required under the TIA) will deliver to the Trustee within 120 days after the end of each fiscal year of the Company an Officers' Certificate, one of the signers of which shall be the principal executive officer, principal financial officer or principal accounting officer of the company, stating that in the course of the performance by the signers of their duties as Officers of the Company they would normally have knowledge of any default by the Company and whether or not the signers know of any default that occurred during the fiscal year. If they do, the certificate will describe the default, its status and what action the Company is taking or proposes to take with respect thereto. The Company also will comply with TIA Section 314(a)(4).

Section 4.05. **Further Instruments and Acts**. Upon request of the Trustee, the Company will execute and deliver such further instruments and do such further acts as may be reasonably necessary or proper to carry out more effectively the purpose of this Indenture.

ARTICLE V

SUCCESSOR PERSONS

Section 5.01. **Company May Consolidate, etc., Only on Certain Terms**. The Company will not consolidate with or merge into any other Person or convey, transfer or lease its properties and assets substantially as an entirety to any person, unless:

(1) the Person formed by the consolidation or into which the Company is merged or the person which acquires by conveyance or transfer, or which leases, the

properties and assets of the Company substantially as an entirety will be a Person organized and existing under the laws of the United States of America, a State of the United States of America or the District of Columbia and expressly assumes, by one or more supplemental indentures, executed and delivered to the Trustee, in form reasonably satisfactory to the Trustee, the due and punctual payment of the principal of, premium, if any, and interest, if any, on all the Securities of each series and the performance of every covenant of this Indenture and of all Supplemental Indentures to be performed or observed by the Company;

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

(3) the Company has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that the consolidation, merger, conveyance, transfer or lease complies with this Article and that all the conditions precedent relating to the transaction set forth in this Section have been fulfilled.

Section 5.02. **Successor Person Substituted**. Upon any event described in Section 5.01, the successor person will succeed to, and be substituted for, and may exercise every right and power of, the Company under this Indenture and all the Supplemental Indentures relating to outstanding series of Securities, and, except in the case of a lease, the predecessor Company will be relieved of all obligations and covenants under this Indenture and each of those Supplemental Indentures.

Section 5.03. **Guarantor May Consolidate on Certain Terms**. Nothing contained in this Indenture or in the Securities shall prevent any consolidation or merger of the Guarantor with or into any other person or persons (whether or not affiliated with the Guarantor), or successive consolidations or mergers in which either the Guarantor will be the continuing entity or the Guarantor or its successor or successors shall be a party or parties, or shall prevent the conveyance, transfer or lease of any properties and assets of the Guarantor substantially as an entirety to any person (whether or not affiliated with the Guarantor); **provided**, **however**, **that** the following conditions are met:

(1) the Guarantor shall be the continuing entity, or the successor entity (if other than the Guarantor) formed by or resulting from any consolidation or merger or which shall have received the conveyance, transfer or lease of assets shall be a Person organized and existing under the laws of the United States of America, a state of the United States of America or the District of Columbia and expressly assumes the obligations of the Guarantor under the Guarantee and the due and punctual performance and observance of all of the covenants and conditions in this Indenture to be performed or observed by the Guarantor;

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

(3) the Company has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that the consolidation, merger, conveyance, transfer or lease complies with this Article and that all the conditions precedent relating to the transaction set forth in this Section have been fulfilled.

Section 5.04. **Guarantor Successor to Be Substituted.**

(1) Upon any consolidation or merger or any sale, conveyance, transfer or lease of all or substantially all of the properties and assets of the Guarantor to any person in accordance with Section 5.03, the successor person formed by such consolidation or into which the Guarantor is merged or to which such sale, conveyance, transfer or lease is made shall succeed to, and be substituted for, and may exercise every right and power of, the Guarantor under this Indenture with the same effect as if such successor person had been named as the Guarantor herein, and thereafter, except in the case of a lease, the predecessor guarantor shall be released from all obligations and covenants under this Indenture; **provided**, **however**, **that** the predecessor Guarantor shall not be relieved from the obligation to guarantee the payment of the principal of and interest on the Securities except in the case of a conveyance, transfer or lease of the properties and assets substantially as an entirety of the Guarantor in a transaction that is subject to, and that complies with the provisions of, Section 5.03 hereof.

(2) In case of any such consolidation, merger, sale, 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.

ARTICLE VI

DEFAULTS AND REMEDIES

Section 6.01. **Events of Default**. An "**Event of Default**" occurs if:

(1) The Company defaults in the payment of interest on any Security of any series when it becomes due and payable and the default continues for a period of 30 days (or such other period, which may be no period) as is specified in the Supplemental Indenture relating to the series;

(2) The Company defaults in the payment of the principal of, or premium, if any, on any Security of any series as and when it becomes due and payable at its stated maturity or upon redemption, acceleration or otherwise and, if provided in the Supplemental Indenture relating to a series, the default continues for a period specified in the Supplemental Indenture;

(3) The Company fails to comply with any of its other covenants or agreements with regard to Securities of a series or this Indenture (other than a covenant or agreement, a default in whose performance or whose breach is dealt with specifically elsewhere in this Section) and that failure continues for a period of 60 days after the date of the notice specified below;

(4) The Company or the Guarantor defaults under any under any bond, debenture, note, mortgage, indenture or instrument with an aggregate principal amount outstanding of at least a certain threshold amount described in a supplemental indenture, which default has resulted in such indebtedness becoming or being declared due and payable prior to the date on which it would otherwise have become due and payable, without such indebtedness having been discharged or such acceleration having been rescinded or annulled within a period of 30 days after written notice to the Company as provided herein;

(5) the Company or the Guarantor pursuant to any Bankruptcy Law applicable to the Company or the Guarantor, as applicable:

(A) commences a voluntary case;

(B) consents to the entry of an order for relief against it in an involuntary case;

(C) consents to the appointment of a Custodian of it or for any substantial part of its property; or

(D) makes a general assignment for the benefit of its creditors; or

(E) a court of competent jurisdiction enters an order or decree under any applicable Bankruptcy Law:

(F) for relief in an involuntary case;

(G) appointing a Custodian of the Company or the Guarantor, as applicable, or for any substantial part of its property; or

(H) ordering its winding up or liquidation;

and the order or decree remains unstayed and in effect for 90 days.

Each of the occurrences described in clauses (1) through (6) will constitute an Event of Default whatever the reason for the occurrence and whether it is voluntary or involuntary or is 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.

The term "**Bankruptcy Law**" means Title 11 of the United States Code or any similar United States Federal or State law for the relief of debtors. The term "**Custodian**" means any receiver, trustee, assignee, liquidator, custodian or similar official under any Bankruptcy Law.

A Default under clause (3) of this Section is not an Event of Default until the Trustee notifies the Company, or the Holders of at least 25% in principal amount of the then outstanding Securities of a series with regard to which the Company has failed to comply with a covenant or agreement notify the Company and the Trustee, of the Default and the Company does not cure the Default within 60 days after the giving of the notice. The notice must specify the Default, demand that it be remedied and state that the notice is a "**Notice of Default**".

A Default under clause (1), (2) or (3) with regard to Securities of a series will not constitute a Default with regard to Securities of any other series except to the extent, if any, provided in the Supplemental Indenture relating to the other series.

The Company will deliver to the Trustee, within 20 days after it occurs, written notice in the form of an Officers' Certificate of any event of which the Company is aware which with the giving of notice and the lapse of time would become an Event of Default under clause (3), its status and what action the Company is taking or proposes to take with respect to it.

Section 6.02. **Acceleration**. If an Event of Default as to the Securities of a series occurs and is continuing, unless the principal of all of the Securities of the series has already become due and payable, the Trustee by notice to the Company, or the Holders of at least 25% in aggregate principal amount of the Securities of the series then outstanding by notice to the Company and the Trustee, may declare the principal of and accrued interest, if any, on all the Securities of the series to be due and payable. Upon such a declaration, that principal and interest will be due and payable immediately. If an Event of Default specified in Section 6.01(5) or (6) occurs, the principal of, premium, if any, and accrued interest, if any, on all the Securities will automatically become and be immediately due and payable without any declaration or other act on the part of the Trustee or any Securityholders. The Holders of a majority in principal amount of the Securities of a series then outstanding, on behalf of the Holders of all the Securities of the series, by written notice to the Trustee may rescind an acceleration and its consequences if all existing Events of Default have been cured or waived except nonpayment of principal, premium, if any, or interest, if any, that has become due solely because of acceleration, and if the rescission would not conflict with any judgment or decree. No such rescission will affect any subsequent default or impair any consequent right.

Section 6.03. **Other Remedies**. If an Event of Default as to a series occurs and is continuing, the Trustee may pursue any available remedy to collect the payment of principal of, premium, if any, and interest, if any, on the Securities of the series or to enforce the performance of any provision under this Indenture or any applicable Supplemental Indenture.

The Trustee may maintain a proceeding even if it does not possess any of the Securities or does not produce any of them in the proceeding. A delay or omission by the Trustee or any Securityholder in exercising any right or remedy accruing upon an Event of Default will not impair the right or remedy or constitute a waiver of or acquiescence in the Event of Default. No remedy is exclusive of any other remedy. All available remedies are cumulative.

Section 6.04. **Waiver of Existing Defaults**. The Holders of a majority in aggregate principal amount of the Securities of a series then outstanding, on behalf of the Holders of all the Securities of that series, by written notice to the Trustee may consent to the waiver of any past Default with regard to Securities of the series and its consequences except (i) a default in the payment of interest or premium, if any, on, or the principal of, Securities of the series, or (ii) a default in respect of a covenant or a provision that under Section 9.02 cannot be modified or amended without the consent of the Holders of all Securities of the series then outstanding. The defaults described in clauses (i) and (ii) in the previous sentence may be waived with the consent of the Holders of all Securities of the series then outstanding. When a Default or Event of Default is waived, it is deemed cured and not continuing, but no waiver will extend to any subsequent or other Default or impair any consequent right.

Section 6.05. **Control by Majority**. The Holders of a majority in principal amount of the Securities of a series then outstanding may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee with regard to the Securities of that series or of exercising any trust or power conferred on the Trustee with regard to the Securities of that series. However, the Trustee may refuse to follow any direction that conflicts with law or this Indenture or, subject to Section 7.01, that the Trustee determines is unduly prejudicial to the rights of other Securityholders or that would involve the Trustee in personal liability; **provided**, **however**, **that** the Trustee may take any other action deemed proper by the Trustee that is not inconsistent with such direction. Prior to taking any action as a result of a direction given under this Section, the Trustee will be

entitled to indemnification satisfactory to it in its sole discretion against all losses and expenses caused by taking or not taking that action.

Section 6.06. **Payments of Securities on Default; Suit Therefor**. The Company covenants that upon the occurrence of an Event of Default described in Section 6.01(1) or (2), then, upon demand of the Trustee, the Company will pay to the Trustee, for the benefit of the holders of the Securities in all series, the whole amount that will then have become due and payable on all such Securities for principal, premium, if any, and interest, with interest on the overdue principal and premium, if any, and (to the extent that payment of such interest is enforceable under applicable law) on the overdue installments of interest at the rate borne by the Securities in all series; and, in addition, such further amount as will be sufficient to cover the costs and expenses of collection, including a reasonable compensation to the Trustee, its agents, attorneys and counsel, and any expenses or liabilities incurred by the Trustee hereunder other than through its negligence or wilful misconduct. Until such demand by the Trustee, the Company may pay the principal of and premium, if any, and interest on the Securities of all series to the registered Holders, whether or not the Securities in that series are overdue.

Section 6.07. **Limitation on Suits**. A Securityholder may not pursue any remedy with respect to this Indenture unless:

(1) the Holder gives to the Trustee written notice stating that an Event of Default as to a series is continuing;

(2) the Holders of at least 25% in principal amount of the Securities of the series then outstanding make a written request to the Trustee to pursue the remedy;

(3) such Holder or Holders offer to the Trustee security or indemnity satisfactory to the Trustee against any loss, liability or expense;

(4) the Trustee does not comply with the request within 60 days after receipt of the request and the offer of security or indemnity, and the Event of Default has not been waived; and

(5) the Trustee has received no contrary direction from the Holders of a majority in principal amount of the Securities of the series then outstanding during such 60-day period.

A Securityholder may not use this Indenture to prejudice the rights of another Holder of the same series of Securities or to obtain a preference or priority over another Holder of the same series of Securities (it being understood that the Trustee does not have an affirmative duty to ascertain whether or not such actions or forbearances are unduly prejudicial to such Holders).

Section 6.08. **Rights of Holders to Receive Payment and to Demand Conversion**. Notwithstanding any other provision of this Indenture, the right of any Holder of a Security of any series to receive payment of principal of, premium, if any, and interest, if any, on the Security (and interest on overdue principal and interest on overdue installments of interest, if any, as provided in Section 4.01), on or after the respective due dates expressed in the Security or, in the case of redemption, on or after the redemption date, or in the case of conversion or exchange, to receive the security issuable upon conversion or exchange or to

institute suit for the enforcement of any such payment, conversion or exchange on or after the applicable due date, redemption date or conversion or exchange date, as the case may be, against the Company, will not be impaired or affected without the consent of the Holder.

Section 6.09. **Collection Suit by Trustee**. If an Event of Default in payment of principal, premium, if any, or interest, if any, specified in clause (1) or (2) of Section 6.01 occurs and is continuing, the Trustee may recover judgment in its own name and as trustee of an express trust against the Company for the whole amount of principal, premium, if any, and interest remaining unpaid (together with interest on that unpaid interest to the extent lawful) and the amounts provided for in Section 7.07.

Section 6.10. **Trustee May File Proofs of Claim**. The Trustee may file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee and the Holders of the Securities of any or all series allowed in any judicial proceedings relative to the Company, its creditors or its property and, unless prohibited by law or applicable regulations, may vote on behalf of the Holders in any election of a trustee in bankruptcy or other person performing similar functions, and any Custodian in any such judicial proceeding is hereby authorized by each Holder to make payments to the Trustee and, if the Trustee consents to the making of such payments directly to the Holders, to pay to the Trustee any amount due it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and its counsel, and any other amounts due the Trustee under Section 7.07.

Section 6.11. **Restoration of Positions**. If a judicial proceeding by the Trustee or a Securityholder to enforce any right or remedy under this Indenture or any Supplemental Indenture is dismissed or decided favorably to the Company, except as otherwise provided in the judicial proceeding, the Company, the Guarantor, the Trustee and the Securityholders will be restored to the positions they would have been in if the judicial proceeding had not been instituted.

Section 6.12. **Priorities**. If the Trustee collects any money pursuant to this Article Six with respect to Securities of a series, subject to Article Eleven, it will pay out the money or property in the following order:

FIRST: to the Trustee and its attorneys and agents for amounts due under Section 7.07;

SECOND: to Securityholders for amounts due and unpaid on the Securities of the series for principal and interest, ratably, without preference or priority of any kind, according to the amounts due and payable on the Securities of the series for principal and interest, respectively; and

THIRD: to the Company or the Guarantor, as applicable.

The Trustee may fix a record date and payment date for any payment to Holders of Securities of a series pursuant to this Section. At least 15 days before the record date, the Company will mail to each Holder of Securities of the series and the Trustee a notice that states the record date, the payment date and the amount to be paid.

Section 6.13. **Undertaking for Costs**. In any suit for the enforcement of any right or remedy under this Indenture or any Supplemental Indenture, or in any suit against the

Trustee for any action taken or omitted by it as Trustee, a court in its discretion may require the filing by any party litigant in the suit of an undertaking to pay the costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees and expenses, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section 6.13 does not apply to a suit by the Trustee, a suit by a Holder pursuant to Section 6.07, or a suit by Holders of in aggregate more than 10% in principal amount of the Securities of a series then outstanding, or to any suit instituted by any Holder for the enforcement of the payment of the principal of, premium, if any, or interest on any Security held by that Holder on or after the due date provided in the Security or to any suit for the enforcement of the right to convert or exchange any Security in accordance with the provisions of a Supplemental Indenture applicable to that Security.

Section 6.14. **Stay, Extension or Usury Laws**. The Company agrees (to the extent that it may lawfully do so) that it will not at any time insist upon, or plead, or in any manner whatsoever claim, and will resist any and all efforts to be compelled to take the benefit or advantage of, any stay or extension law or any usury or other law, wherever enacted, now or at any subsequent time in force, which would prohibit or forgive the Company from paying all or any portion of the principal of, premium, if any, and/or interest on any of the Securities as contemplated in this Indenture or a Supplemental Indenture, or which may affect the covenants or performance of this 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 agrees that it will not hinder, delay or impede the execution of any power granted to the Trustee in this Indenture or any Supplemental Indenture, but (to the extent that it may lawfully do so) will suffer and permit the execution of any such power as though no such law had been enacted.

Section 6.15. **Liability of Stockholders, Officers, Directors and Incorporators**. No stockholder, officer, director or incorporator, as such, past, present or future, of the Company, or any of its successor corporations, will have any personal liability in respect of the Company's obligations under this Indenture or any Securities by reason of his or its status as such stockholder, officer, director or incorporator; **provided**, **however**, **that** nothing in this Indenture or in the Securities will prevent recourse to and enforcement of the liability of any stockholder or subscriber to Capital Stock in respect of shares of Capital Stock which have not been fully paid up.

ARTICLE VII

TRUSTEE

Section 7.01. **Duties of Trustee**.

(a) If an Event of Default has occurred and is continuing, the Trustee will exercise the rights and powers vested in it by this Indenture and any applicable Supplemental Indenture and use the same degree of care and skill in their exercise as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

(b) Except during the continuance of an Event of Default:

(i) the Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Indenture and any Supplemental Indentures and no

implied covenants or obligations will be read into this Indenture or any Supplemental Indenture against the Trustee; and

(ii) the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed in them, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture in the absence of wilful misconduct on the Trustee's part; **provided**, **however**, **that** in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee will examine the certificates and opinions to determine whether or not they substantially conform to the requirements of this Indenture (but need not confirm or investigate the accuracy of mathematical calculations or other facts stated therein).

(c) The Trustee may not be relieved from liability for its own negligent action, its own negligent failure to act, or its own wilful misconduct, except that:

(1) this paragraph does not limit the effect of paragraph (b) of this Section 7.01;

(2) the Trustee will not be liable for any error of judgment made in good faith by a Trust Officer, unless it is proved that the Trustee was negligent in ascertaining the pertinent facts;

(3) the Trustee will not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 6.05; and

(4) the Trustee will not be required to expend or risk its own funds or otherwise incur financial liability in the performance of any of its duties under this Indenture or any Supplemental Indenture or in the exercise of any of its rights or powers, if it has reasonable grounds to believe repayment of the funds or adequate indemnity against the risk or liability is not reasonably assured to it.

(d) Every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee is subject to the provisions of this Section 7.01 and to the provisions of the TIA.

(e) The Trustee may refuse to perform any duty or exercise any right or power unless it receives indemnity satisfactory to it against any loss, liability or expense.

(f) The Trustee will not be liable for interest on any money received by it except as the Trustee may agree in writing with the Company. Money and Government Obligations held in trust by the Trustee need not be segregated from other funds or items except to the extent required by law.

(g) The Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the holders of not less than a majority in principal amount of the Securities at the time outstanding given pursuant to Section 6.05 of this Indenture, relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee under this Indenture or any Supplemental Indenture.

Section 7.02. **Rights of Trustee**.

(a) The Trustee may conclusively rely on any document believed by it to be genuine and to have been signed or presented by the proper person. The Trustee need not investigate any fact or matter stated in the document.

(b) Before the Trustee acts or refrains from acting, it may require an Officers' Certificate or an Opinion of Counsel or both which conforms to Section 12.05. The Trustee will not be liable for any action it takes or omits to take in good faith in reliance on such an Officers' Certificate or Opinion of Counsel.

(c) The Trustee may act through agents or attorneys and will not be responsible for the misconduct or negligence of any agent or attorney appointed with due care.

(d) The Trustee will not be liable for any action it takes or omits to take in good faith which it believes to be authorized or within its rights or powers, except conduct which constitutes wilful misconduct or negligence.

(e) The Trustee may consult with counsel of its selection, and the Trustee will not be liable for any action it takes or omits in reliance on, and in accordance with, the advice of counsel and in good faith.

(f) The Trustee will not be required to investigate any facts or matters stated in any document, but if it decides to investigate any matters or facts, the Trustee or its agents or attorneys will be entitled to examine the books, records and premises of the Company at the expense of the Company, and shall incur no liability or additional liability of any kind by reason of such inquiry or investigation.

(g) The Trustee shall not be deemed to have notice of any Default or Event of Default unless a Trust Officer of the Trustee has actual knowledge thereof or unless written notice of any event which is in fact such a default is received by the Trustee at the Corporate Trust Office of the Trustee, and such notice references the Securities and this Indenture;

(h) The rights, privileges, protections, immunities and benefits given to the Trustee, including, without limitation, its right to be indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, and each agent, custodian and other Person employed to act hereunder;

(i) In no event shall the Trustee be responsible or liable for special, indirect, punitive or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit) irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action;

(j) The Trustee may request that the Company deliver a certificate in substantially the form attached hereto as Exhibit B setting forth the names of individuals and/or titles of officers authorized at such time to take specified actions pursuant to this Indenture; and

(k) The Trustee shall not be required to give any bond or surety in respect of the performance of its powers and duties hereunder.

Section 7.03. **Individual Rights of Trustee**. The Trustee in its individual or any other capacity may become the owner or pledgee of Securities and may otherwise deal with the Company or any of its affiliates with the same rights it would have if it were not Trustee. Any Paying Agent, Registrar, co-registrar or co-paying agent may do the same with like rights. However, the Trustee must comply with Sections 7.10 and 7.11.

Section 7.04. **Trustee's Disclaimer**. The Trustee (i) is not responsible for and makes no representation as to the validity or adequacy of this Indenture, (ii) will not be responsible for and will not make any representation as to the validity or adequacy of any Supplemental Indenture, (iii) will not be accountable for the Company's use of the proceeds from the Securities of any series, and (iv) will not be responsible for any statement of the Company in this Indenture or any Supplemental Indenture, other than the Trustee's certificate of authentication, or in any prospectus used in the sale of any of the Securities, other than statements, if any, provided in writing by the Trustee for use in such a prospectus.

Section 7.05. **Notice of Defaults**. The Trustee will give to the Holders of the Securities of a series notice of any Default with regard to the Securities of that series actually known to a Trust Officer, within 90 days after receipt of such knowledge and in the manner and to the extent provided in TIA Section 313(c), and otherwise as provided in Section 12.03 of this Indenture; **provided**, **however**, **that**, except in the case of a Default in the payment of the principal of, or premium, if any, or interest on any Security, the Trustee will be protected in withholding notice of the Default if and so long as it in good faith determines that the withholding of the notice is in the interests of the Holders of the Securities of the series.

Section 7.06. **Reports by Trustee**. If required by Section 313(a) of the TIA,within 60 days after each May 15 beginning with the May 15 following the date of this Indenture, the Trustee will mail to each Securityholder, at the name and address which appears on the registration books of the Company, and to each Securityholder who has, within the two years preceding the mailing, filed that person's name and address with the Trustee for that purpose and each Securityholder whose name and address have been furnished to the Trustee pursuant to Section 2.07, a brief report dated as of that May 15 which complies with TIA Section 313(a) Reports to Securityholders pursuant to this Section 7.06 shall be transmitted in the manner and to the extent provided in TIA Section 313(c) The Trustee also will comply with TIA Section 313(b).

A copy of each report will at the time of its mailing to Securityholders be filed with each stock exchange on which Securities are listed, if any, and also with the SEC. The Company will promptly notify the Trustee in writing when the Securities of any series are listed on any stock exchange and of any delisting of Securities of any series.

Section 7.07. **Compensation and Indemnity**. The Company will pay to the Trustee from time to time such compensation for its services as mutually agreed to in writing. The Trustee's compensation will not be limited by any law on compensation of a trustee of an express trust. The Company will reimburse the Trustee upon request for all reasonable out-of-pocket expenses incurred or made by it, including costs of collection, in addition to the compensation for its services. Those expenses will include the reasonable compensation and expenses, disbursements and advances of the Trustee's agents, counsel, accountants and experts. The Company will indemnify the Trustee against any and all loss, liability, claims (whether asserted by the Company, a holder or any other person) or expense (including reasonable attorneys' fees and expenses) incurred by it in connection with the acceptance or administration of the trust created by this Indenture or any Supplemental Indenture and the

performance of its duties under this Indenture or any Supplemental Indenture. The Trustee will notify the Company promptly of any claim for which it may seek indemnity. Failure by the Trustee to so notify the Company will not relieve the Company of its obligations under this Section. The Company will defend the claim and the Trustee may have separate counsel and the Company will pay the fees and expenses of such counsel. The Company need not pay for any settlement made without its consent. The Company need not reimburse any expense or indemnify against any loss, expense or liability incurred by the Trustee to the extent it is due to the Trustee's own wilful misconduct or negligence.

To secure the Company's obligation to make payments to the Trustee under this Section 7.07, the Trustee will have a lien prior to the Securities on all money or property held or collected by the Trustee, other than money or property held in trust to pay principal or interest on particular Securities. Those obligations of the Company will survive the satisfaction and discharge of this Indenture and the resignation or removal of the Trustee.

When the Trustee incurs expenses or renders services after an Event of Default specified in clause (5) or (6) of Section 6.01 occurs, the expenses and the compensation for the services of the Trustee are intended to constitute expenses of administration under any Bankruptcy Law.

For purposes of this Section 7.07, "Trustee" will include any predecessor Trustee, but the wilful misconduct, negligence or bad faith of any Trustee will not affect the rights of any other Trustee under this Section 7.07.

Section 7.08. **Replacement of Trustee**. The Trustee may resign at any time by so notifying the Company. The Holders of a majority in aggregate principal amount of the Securities of all series then outstanding may remove the Trustee by so notifying the Trustee and the Company and may appoint a successor Trustee. The Company may remove the Trustee if:

(1) the Trustee fails to comply with Section 7.10;

(2) the Trustee is adjudged bankrupt or insolvent or an order for relief is entered with respect to the Trustee under any bankruptcy law;

(3) a receiver or other public officer takes charge of the Trustee or its property; or

(4) the Trustee becomes incapable of acting.

If the Trustee resigns or is removed or if a vacancy exists in the office of Trustee for any reason, the Company will promptly appoint a successor Trustee. Within one year after the successor Trustee takes office, the Holders of a majority in aggregate principal amount of Securities of all series then outstanding may appoint a successor Trustee to replace the successor Trustee appointed by the Company.

No removal or appointment of a Trustee will be valid if that removal or appointment would conflict with any law applicable to the Company.

A successor Trustee will deliver a written acceptance of its appointment to the retiring Trustee and to the Company. Promptly after that, the retiring Trustee will, subject to the lien provided for in Section 7.07, transfer all property held by it as a Trustee to the successor

Trustee, the resignation or removal of the retiring Trustee will become effective, and the successor Trustee will have all the rights, powers and duties of the Trustee under this Indenture and all Supplemental Indentures. A successor Trustee will mail notice of its succession to each Securityholder.

If a successor Trustee does not take office within 60 days after the retiring Trustee resigns or is removed, the retiring Trustee, the Company or the Holders of a majority in aggregate principal amount of Securities of all series then outstanding may petition any court of competent jurisdiction, at the expense of the Company, for the appointment of a successor Trustee.

If the Trustee fails to comply with Section 7.10, any Securityholder may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

Notwithstanding the replacement of the Trustee pursuant to this Section, the Company's obligations under Section 7.07 will continue for the benefit of the retiring Trustee.

Section 7.09. **Successor Trustee by Merger, Etc.** If the Trustee consolidates with, merges or converts into, or transfers all or substantially all of its corporate trust assets to, another Person, the resulting, surviving or transferee Person will, without any further act, be the successor Trustee.

If at the time a successor by merger, conversion or consolidation to the Trustee succeeds to the trusts created by this Indenture any of the Securities have been authenticated but not delivered, the successor to the Trustee may adopt the certificate of authentication of the predecessor Trustee, and deliver the Securities which were authenticated by the predecessor Trustee; and if at that time any of the Securities have not been authenticated, the successor to the Trustee may authenticate those Securities in its own name as the successor to the Trustee; and in either case the certificates of authentication will have the full force provided in this Indenture for certificates of authentication.

Section 7.10. **Eligibility; Disqualification**. The Trustee will at all times satisfy the requirements of TIA Section 310(a). The Trustee will at all times have (or shall be a member of a bank holding company system whose parent corporation has) a combined capital and surplus of at least $50,000,000 as set forth in its most recently published annual report of condition, which will be deemed for this paragraph to be its combined capital and surplus. The Trustee will comply with TIA Section 310(b).

Section 7.11. **Preferential Collection of Claims**. The Trustee will comply with TIA Section 311(a), excluding any creditor relationship listed in TIA Section 311(b). A Trustee who has resigned or been removed will be subject to TIA Section 311(a) to the extent indicated.

ARTICLE VIII

DISCHARGE OF INDENTURE

Section 8.01. **Termination of the Company's Obligations**. When (i) the Company delivers to the Trustee all outstanding Securities of all series (other than Securities replaced pursuant to Section 2.09) for cancellation or (ii) all outstanding Securities of all series have

become due and payable, or are due and payable within one year or are to be called for redemption within one year, under arrangements satisfactory to the Trustee for giving the notice of redemption, and the Company irrevocably deposits in trust with the Trustee (subject to Article Eleven) money or U.S. Government Obligations sufficient, in the opinion of a firm of independent certified public accountants, to pay the principal, premium, if any, and interest, if any, on the Securities of all series to maturity or redemption, as the case may be, and if, in the case of either (i) or (ii) above the Company also pays or causes to be paid all other sums payable by the Company under this Indenture, then this Indenture will cease to be of further effect.

Notwithstanding the foregoing, the Company's obligations to pay principal, premium, if any, and interest, if any, on the Securities and the Company's obligations in Sections 2.05, 2.06, 2.07, 2.08, 2.09, 7.07, 7.08 and in Article Ten will survive until all the Securities of all series are no longer outstanding. Thereafter, the Company's obligations in Section 7.07 will survive.

Before or after a deposit the Company may make arrangements satisfactory to the Trustee for the redemption of Securities of a series at a future date to the extent the Securities are redeemable in accordance with Article Three and the applicable Supplemental Indenture.

After a deposit pursuant to this Section 8.01 or after all outstanding Securities of all series have been delivered to the Trustee for cancellation, the Trustee upon request from the Company, accompanied by an Officers' Certificate and an Opinion of Counsel which complies with Section 12.05, and at the cost of the Company, will acknowledge in writing the satisfaction and discharge of the Company's obligations under the Securities of all series and this Indenture except for those surviving obligations specified above.

If the Company exercises the satisfaction and discharge provisions in compliance with this Indenture with respect to Securities of a particular Series that are entitled to the benefit of a Guarantee, such Guarantee will terminate with respect to that series of Securities.

In order to have money available on payment dates to pay principal, premium, if any, or interest, if any, on the Securities of a series, the U.S. Government Obligations will be payable as to principal, premium, if any, or interest on or before those payment dates in amounts sufficient to provide the necessary money. U.S. Government Obligations used for this purpose may not be callable at the issuer's option.

"**U.S. Government Obligations**" means:

(1) direct obligations of the United States for the payment of which its full faith and credit is pledged; or

(2) obligations of a person controlled or supervised by and acting as an agency or instrumentality of the United States the payment of which is unconditionally guaranteed as a full faith and credit obligation by the United States.

Section 8.02. **Application of Trust Money**. Subject to Article Eleven and Section 8.03, the Trustee will hold in trust money or U.S. Government Obligations deposited with it pursuant to Section 8.01. It will apply the deposited money and the money from the U.S. Government Obligations through the Paying Agent and in accordance with this Indenture and any applicable Supplemental Indentures to the payment of principal of, premium, if any, and

interest, if any, on the Securities with regard to which the money or U.S. Government Obligations were deposited.

Section 8.03. **Repayment to the Company**. The Trustee and the Paying Agent will promptly pay to the Company upon written request any excess money or securities held by them at any time. The Trustee and the Paying Agent will, subject to applicable escheatment laws, pay to the Company upon written request any money held by them for the payment of principal, premium or interest that remains unclaimed for two years. After such payment, the Holder of any Securities shall thereafter look to the Company for any payment which such Holder may be entitled to collect, and all liability of the Trustee and the Paying Agent with respect to that money will cease.

ARTICLE IX

AMENDMENTS, SUPPLEMENTS AND WAIVERS

Section 9.01. **Without Consent of Holders**. The Company, the Guarantor and the Trustee may amend or supplement this Indenture or the Securities without notice to or consent of any Securityholder:

(1) to cure any ambiguity, defect or inconsistency as evidenced in an Officers' Certificate;

(2) to comply with Article Five;

(3) to establish the form and terms of the Securities of any series as contemplated in Article Two of this Indenture;

(4) to provide for uncertificated Securities in addition to or in place of certificated Securities;

(5) to reflect the release of the Guarantor in accordance with Article Thirteen;

(6) to add guarantors with respect to any or all of the Securities or to secure any or all of the Securities or a Guarantee;

(7) to comply with requirements of the SEC in order to effect or maintain the qualification of this Indenture under the TIA;

(8) to conform to the provisions of the Securities as described in the related prospectus supplement or other offering document related to such Securities as set forth in an officer's certificate; or

(9) to make any change that does not materially adversely affect the rights of any Securityholder.

After an amendment under this Section becomes effective, the Company will mail to the Securityholders a notice briefly describing the amendment. The failure to give such notice to all Securityholders, or any defect in a notice, will not impair or affect the validity of an amendment under this Section.

Section 9.02. **With Consent of Holders**. The Company, the Guarantor and the Trustee may (i) amend or supplement this Indenture or the Securities without notice to any Securityholder but with the written consent of the Holders of a majority in aggregate principal amount of the Securities of all series then outstanding or (ii) supplement this Indenture with regard to a series of Securities, amend or supplement a Supplemental Indenture relating to a series of Securities, or amend the Securities of a series, without notice to any Securityholder but with the written consent of the Holders of a majority in aggregate principal amount of the Securities of that series then outstanding. The Holders of a majority in principal amount of the Securities of all series then outstanding may waive compliance by the Company with any provision of this Indenture or the Securities without notice to any Securityholder. The Holders of a majority in principal amount of the Securities of any series then outstanding may waive compliance with any provision of this Indenture, any Supplemental Indenture or the Securities of that series with regard to the Securities of that series without notice to any Securityholder. However, without the consent of the Holder so affected, no amendment, supplement or waiver, including a waiver pursuant to Section 6.04, may:

(1) extend the fixed maturity of any Security, reduce the rate or extend the time for payment of interest on any Security, reduce the principal amount of any Security or premium, if any, on any Security;

(2) impair or affect the right of a Holder to institute suit for the payment of interest, if any, principal or premium, if any, on the Securities;

(3) change the currency in which the Securities are payable from that specified in the Securities or in a Supplemental Indenture applicable to the Securities;

(4) impair the right, if any, to convert the Securities into, or exchange the Securities for, other securities or assets;

(5) reduce the percentage of Securities required to consent to an amendment, supplement or waiver;

(6) reduce the amount payable upon the redemption of any Security or change the time at which any Security may or will be redeemed;

(7) modify the provisions of any Supplemental Indenture with respect to subordination of the Securities of a series in a manner adverse to the Securityholders;

(8) make any change in Section 6.04 or 6.08 or the fourth sentence of this Section; or

(9) if the Securities of that Series are entitled to the benefit of a Guarantee, release the Guarantor of such Series other than as provided in this Indenture or modify such Guarantee in any manner adverse to the Holders.

It will not be necessary for the consent of the Holders under this Section to approve the particular form of any proposed amendment, supplement or waiver, but it will be sufficient if the consent approves the substance of the amendment, supplement or waiver.

Section 9.03. **Compliance with Trust Indenture Act**. Every amendment or supplement to this Indenture, any Supplemental Indenture or the Securities will comply with the TIA as then in effect.

Section 9.04. **Revocation and Effect of Consents**. A consent to an amendment, supplement or waiver by a Holder of a Security will bind the Holder and every subsequent Holder of a Security or portion of a Security that evidences the same debt as the consenting Holder's Security, even if notation of the consent is not made on any Security. However, any such Holder or subsequent Holder may revoke the consent as to the Holder's Security or portion of a Security. For a revocation to be effective, the Trustee must receive written notice of the revocation before the date the amendment, supplement or waiver becomes effective. After an amendment, supplement or waiver becomes effective in accordance with its terms, it will bind every Holder of every Security of every series to which it applies.

Section 9.05. **Notation on or Exchange of Securities**. If an amendment changes the terms of a series of Securities, the Trustee may require the Holder of a Security of the series to deliver the Holder's Security to the Trustee, who will place an appropriate notation about the amendment, supplement or waiver on the Security and will return it to the Holder. Alternatively, the Company may, in exchange for the Security, issue, and the Trustee will authenticate, a new Security that reflects the amendment, supplement or waiver.

Section 9.06. **Trustee to Sign Amendments, Etc.** The Trustee will sign any amendment, supplement or waiver authorized pursuant to Article Two or this Article Nine if the amendment, supplement or waiver does not adversely affect the rights, liabilities or immunities of the Trustee. If it does adversely affect those rights, liabilities or immunities, the Trustee may but need not sign it. The Company may not sign an amendment or supplement until the amendment or supplement is approved by an appropriate Board Resolution. In executing any Supplemental Indenture permitted by this Article the Trustee shall receive, and shall be fully protected in relying upon, an Officers' Certificate and an Opinion of Counsel stating that the execution of such Supplemental Indenture is authorized or permitted by this Indenture and is the legal, valid and binding obligation of the Company.

ARTICLE X

CONVERSION OR EXCHANGE OF SECURITIES

Section 10.01. **Provisions Relating to Conversion or Exchange of Securities**. Any rights which Holders of Securities of a series will have to convert those Securities into other securities of the Company or to exchange those Securities for securities of other Persons or other assets, including but not limited to the terms of the conversion or exchange and the circumstances, if any, under which those terms will be adjusted to prevent dilution or otherwise, will be set forth in a Supplemental Indenture relating to the series of Securities. In the absence of provisions in a Supplemental Indenture relating to a series of Securities setting forth rights to convert or exchange the Securities of that series into or for other securities or assets, Holders of the Securities of that series will not have any such rights.

ARTICLE XI

SINKING OR PURCHASE FUNDS

Section 11.01. **Provisions Relating to Sinking or Purchase Funds**. Any requirements that the Company make, or rights of the Company to make at its option, payments prior to maturity of the Securities of a series which will be used as a fund with which to redeem or to purchase Securities of that series, including but not limited to provisions regarding the amount of the payments, when the Company will be required, or will have the option, to make the payments and when the payments will be applied, will be set forth in a Supplemental Indenture relating to the series of Securities. In the absence of provisions in a Supplemental Indenture relating to a series of Securities setting forth requirements that the Company make, or rights of the Company to make at its option, payments to be used as a fund with which to redeem or purchase Securities of the series, the Company will not be subject to any such requirements and will not have any such rights. However, unless otherwise specifically provided in a Supplemental Indenture relating to a series of Securities, the Company will at all times have the right to purchase Securities from Holders in market transactions or otherwise.

ARTICLE XII

MISCELLANEOUS

Section 12.01. **Trust Indenture Act Controls**. If any provision of this Indenture or any Supplemental Indenture limits, qualifies or conflicts with the duties imposed by Sections 310 through 317 of the TIA, the imposed duties will control.

Section 12.02. **Supplemental Indentures Contract**. If any provision of a Supplemental Indenture relating to a series of Securities is inconsistent with any provision of this Indenture, the provision of the Supplemental Indenture will control with regard to the Securities of the series to which it relates.

Section 12.03. **Notices**. Any notice or communication under or relating to this Indenture or any Supplemental Indenture will be sufficiently given if in writing (including facsimile and electronic transmission in PDF format) and delivered in person or mailed by first-class mail, certified or registered, overnight delivery return receipt requested, addressed as follows:

if to the Company:	Retail Opportunity Investments Partnership, LP c/o Retail Opportunity Investments Corp. 8905 Towne Centre Drive, Suite 108, San Diego, California 92122 Attention: Chief Financial Officer
if to the Guarantor:	Retail Opportunity Investments Corp. 8905 Towne Centre Drive, Suite 108, San Diego, California 92122 Attention: Chief Financial Officer

if to the Trustee: Wells Fargo Bank, National Association,
707 Wilshire Blvd, 17th Floor
Los Angeles, California 90017

Either the Company, the Guarantor or the Trustee by a notice to the other may designate additional or different addresses for subsequent notices or communications.

Any notice or communication mailed to a Securityholder will be mailed to the Securityholder at the Securityholder's address as it appears on the registration books of the Registrar and will be sufficiently given to the Securityholder if so mailed within the time prescribed.

Failure to mail a notice or communication to a Securityholder or any defect in it will not affect its sufficiency with respect to other Securityholders. If a notice or communication is mailed in the manner provided above, it is duly given, whether or not the addressee receives it.

If by reason of the suspension of regular mail service, or by reason of any other cause, it is impossible to mail any notice as required by this Indenture or any Supplemental Indenture, then any method of notification which is approved by the Trustee will constitute a sufficient mailing of the notice.

The Company may set a record date for purposes of determining the identity of Securityholders entitled to vote or consent to any action by vote or consent authorized or permitted by Sections 6.04 and 6.05. The record date will be the later of 30 days prior to the first solicitation of consents or the date of the most recent list of Holders furnished to the Trustee pursuant to Section 2.07 prior to the solicitation.

Section 12.04. **Communication by Holders with Other Holders**. Securityholders may communicate pursuant to TIA Section 312(b) with other Securityholders with respect to their rights under this Indenture or the Securities. Each of the Company, the Guarantor, the Trustee, the Registrar and anyone else will have the protection of TIA Section 312(c).

Section 12.05. **Certificate and Opinion as to Conditions Precedent**. Upon any request or application by the Company to the Trustee to take any action under this Indenture or any Supplemental Indenture, the Company will furnish to the Trustee:

(1) an Officers' Certificate stating that, in the opinion of the signer, all conditions precedent, if any, provided for in this Indenture or any Supplemental Indenture relating to the proposed action have been complied with;

(2) an Opinion of Counsel stating that, in the opinion of such counsel, all those conditions precedent have been complied with; and

(3) such other opinions and certificates as may be required by applicable provisions of this Indenture or the Supplemental Indenture.

Each certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture or a Supplemental Indenture will include (i) a statement that the person making the certificate or opinion has read the covenant or condition; (ii) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in the certificate or opinion are based; (iii) a statement that,

in the opinion of the person giving the certificate or opinion, that person has made such examination or investigation as is necessary to enable that person to express an informed opinion as to whether or not the covenant or condition has been complied with; and (iv) a statement as to whether or not, in the opinion of that person, the condition or covenant has been complied with. Nothing in this Section 12.05 will be construed as requiring that the Company furnish to the Trustee any evidence of compliance with the conditions and covenants provided for in this Indenture or any Supplemental Indenture other than the evidence specified in this Section 12.05.

Section 12.06. **When Treasury Securities Disregarded**. In determining whether the Holders of the required principal amount of Securities have concurred in any direction, waiver or consent, Securities owned by the Company, or anyone under direct or indirect control or under direct or indirect common control with the Company will be disregarded and deemed not to be outstanding, except that for the purposes of determining whether the Trustee will be protected in relying on any such direction, waiver or consent, only Securities which a Trust Officer of the Trustee actually knows are so owned will be so disregarded. Securities so owned which have been pledged in good faith will not be disregarded if the pledgee establishes to the satisfaction of the Trustee the pledgee's right to act with respect to the Securities and that the pledgee is not the Company or a person directly or indirectly controlling or controlled by, or under common control with, the Company. Nothing in this Section 12.06 will be construed as requiring that the Company furnish to the Trustee any evidence of compliance with the conditions and covenants provided for in the Indenture other than the evidence specified in this Section 12.06.

Section 12.07. **Rules by Trustee, Paying Agent, Registrar**. The Trustee may make reasonable rules for action by or at a meeting of Securityholders. The Paying Agent or Registrar may make reasonable rules for its functions.

Section 12.08. **Legal Holidays**. A "**Legal Holiday**" is a Saturday, a Sunday, or a day on which banking institutions are not required to be open in the State of New York. If a payment date is a Legal Holiday at a place of payment, payment may be made at that place on the next succeeding day that is not a Legal Holiday, and no interest on the sum being paid will accrue for the intervening period.

Section 12.09. **Governing Law and Submission to Jurisdiction; Waiver of Jury Trial**. This Indenture, each Supplemental Indenture and the Securities shall be governed by, and construed in accordance with, the laws of the State of New York, without regard to conflicts of laws principles of such States other than New York General Obligations Law Section 5-1401 and 5-1402. The Company submits to the non-exclusive jurisdiction of the courts of the State of New York sitting in the Borough of Manhattan, City of New York, and of the United States District Court for the Southern District of New York, in any action or proceeding to enforce any of its obligations under this Indenture or any Supplemental Indenture or with regard to the Securities, and agrees not to seek a transfer of any such action or proceeding on the basis of inconvenience of the forum or otherwise (but the Company will not be prevented from removing any such action or proceeding from a state court to the United States District Court for the Southern District of New York). The Company agrees that process in any such action or proceeding may be served upon it by registered mail or in any other manner permitted by the rules of the court in which the action or proceeding is brought.

EACH OF THE COMPANY, THE GUARANTOR, THE HOLDERS AND THE TRUSTEE 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 INDENTURE, THE SECURITIES OR THE TRANSACTION CONTEMPLATED HEREBY.

Section 12.10. **Actions by the Company**. Any action or proceeding brought by the Company or the Guarantor to enforce any right, assert any claim or obtain any relief in connection with this Indenture, any Supplemental Indenture or the Securities will be brought by the Company exclusively in the courts of the State of New York sitting in the Borough of Manhattan, City of New York or in the United States District Court for the Southern District of New York.

Section 12.11. **No Adverse Interpretation of Other Agreements**. Neither this Indenture nor any Supplemental Indenture may be used to interpret another indenture, loan or debt agreement of the Company, the Guarantor or any Subsidiary. No such indenture, loan or debt agreement may be used to interpret this Indenture or any Supplemental Indenture.

Section 12.12. **Successors**. All agreements of the Company and the Guarantor in this Indenture, any Supplemental Indentures and the Securities will bind its successors. All agreements of the Trustee in this Indenture and any Supplemental Indentures will bind its successors.

Section 12.13. **Duplicate Originals**. The parties may sign any number of copies of this Indenture or any Supplemental Indenture. Each signed copy will be an original, but all of them together will represent the same agreement. The exchange of copies of this Indenture or any Supplemental Indenture and of signature pages by facsimile or PDF transmission shall constitute effective execution and delivery of this Indenture or any Supplemental Indenture as to the parties hereto and may be used in lieu of the original Indenture or any Supplemental Indenture for all purposes. Signatures of the parties hereto transmitted by facsimile or PDF shall be deemed to be their original signatures for all purposes.

Section 12.14. **Table of Contents, Headings, etc.** The table of contents, cross-reference sheet and headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only. They are not to be considered a part of this Indenture, and will in no way modify or restrict any of the terms or provisions of this Indenture.

Section 12.15. **No Recourse Against Others**. A director, officer, employee, partner, or stockholder (past or present), as such, of the Company or the Guarantor shall not have any liability for any obligations of the Company under the Securities, a Guarantee or the Indenture or for any claim based on, in respect of or by reason of such obligations or their creation. Each Securityholder by accepting a Security waives and releases all such liability. The waiver and release are part of the consideration for the issue of the Securities.

Section 12.16. **U.S.A. Patriot Act**. The parties hereto acknowledge that in accordance with Section 326 of the U.S.A. Patriot Act, the Trustee, like all financial institutions and in order to help fight the funding of terrorism and money laundering, is required to obtain, verify, and record information that identifies each person or legal entity that establishes a relationship or opens an account with the Trustee. The parties to this Indenture agree that they will provide the Trustee with such information as it may request in order for the Trustee to satisfy the requirements of the U.S.A. Patriot Act.

Section 12.17. **Force Majeure**. In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services; it being understood that the Trustee shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

ARTICLE XIII

GUARANTEE

Section 13.01. **Unconditional Guarantee**.

(1) Notwithstanding any provision of this Article Thirteen to the contrary, the provisions of this Article Thirteen shall be applicable only to, and inure solely to the benefit of, the Securities of any Series designated, pursuant to Section 2.02(15), as entitled to the benefits of a Guarantee identified in such designation and that has executed a Notation of Guarantee with respect to such Series.

(2) For value received, the Guarantor hereby fully, unconditionally and absolutely guarantees (for purpose of any Series of Securities to which this Article Thirteen applies, the "**Guarantee**") to the Holders and to the Trustee on behalf of the Holders the due and punctual payment of the principal of, premium, if any, and interest on each Series of Securities for which the Guarantor has executed a Notation of Guarantee with respect to such Series and all other amounts due and payable under this Indenture and the Securities of such Series by the Company, when and as such principal, premium, if any, and interest and other amounts shall become due and payable, whether at the Stated Maturity or by declaration of acceleration, call for redemption or otherwise, according to the terms of such Securities and this Indenture, subject to the limitations set forth in Section 13.03, if applicable.

(3) Failing payment when due of any amount guaranteed pursuant to a Guarantee, for whatever reason, the Guarantor will be obligated to pay the same immediately. The Guarantor hereby agrees that its obligations hereunder shall be full, unconditional and absolute, irrespective of the validity, regularity or enforceability of the Securities or this Indenture, the absence of any action to enforce the same, any waiver or consent by any Holder of the Securities with respect to any provisions hereof or thereof, the recovery of any judgment against the Company or any action to enforce the same or any other circumstances which might otherwise constitute a legal or equitable discharge or defense of the Guarantor. The Guarantor hereby agrees that in the event of a default in payment of the principal of or interest on the Securities entitled to a Guarantee, whether at the Stated Maturity or by declaration of acceleration, call for redemption or otherwise, legal proceedings may be instituted by the Trustee on behalf of the Holders or, subject to Section 6.07, by the Holders, on the terms and conditions set forth in this Indenture, directly against the Guarantor to enforce such Guarantee without first proceeding against the Company.

(4) The Guarantor hereby (i) waives diligence, presentment, demand of payment, filing of claims with a court in the event of the merger, insolvency or bankruptcy of the Company, and all demands whatsoever and (ii) acknowledges that any agreement, instrument or document evidencing a Guarantee may be transferred and that the benefit of its

obligations hereunder shall extend to each holder of any agreement, instrument or document evidencing a Guarantee without notice to it. The Guarantor further agrees that if at any time all or any part of any payment theretofore applied by any person to any Guarantee is, or must be, rescinded or returned for any reason whatsoever, including without limitation, the insolvency, bankruptcy or reorganization of the Company, such Guarantee shall, to the extent that such payment is or must be rescinded or returned, be deemed to have continued in existence notwithstanding such application, and such Guarantee shall continue to be effective or be reinstated, as the case may be, as though such application had not been made.

(5) The Guarantor shall be subrogated to all rights of the Holders and the Trustee against the Company in respect of any amounts paid by the Guarantor pursuant to the provisions of this Indenture; **provided**, **however**, **that** the Guarantor shall not be entitled to enforce or to receive any payments arising out of, or based upon, such right of subrogation until all of the Securities entitled to a Guarantee and such Guarantee shall have been paid in full or discharged.

Section 13.02. **Execution and Delivery of Notation of Guarantee**. To evidence a Guarantee of a Series of Securities, a Notation of Guarantee, executed by either manual or facsimile signature of an Officer of the Guarantor, shall be affixed on each Security entitled to the benefits of such Guarantee. If any Officer of the Guarantor whose signature is on a Notation of Guarantee no longer holds that office at the time the Trustee authenticates a Security to which such Notation of Guarantee is affixed or at any time thereafter, a Guarantee of such Security shall be valid nevertheless. The delivery of any Security by the Trustee, after the authentication thereof hereunder, shall constitute due delivery of any Guarantee relating to such Security set forth in the Indenture on behalf of the Guarantor.

Section 13.03. **Limitation on the Guarantor's Liability**. The Guarantor by its acceptance hereof and each Holder of a Security entitled to the benefits of any Guarantee hereby confirms that it is the intention of all such parties that the guarantee by the Guarantor pursuant to any such Guarantee not constitute a fraudulent transfer or conveyance for purposes of any Federal or state law. To effectuate the foregoing intention, each Holder of a Security entitled to the benefits of any Guarantee and the Guarantor hereby irrevocably agrees that the obligations of the Guarantor under any Guarantee shall be limited to the maximum amount as will, after giving effect to all other contingent and fixed liabilities of the Guarantor, not result in the obligations of the Guarantor under any Guarantee constituting a fraudulent conveyance or fraudulent transfer under Federal or state law.

Section 13.04. **Release of the Guarantor from Guarantee**.

(1) Notwithstanding any other provisions of this Indenture, a Guarantee may be released upon the terms and subject to the conditions set forth in Section 8.01 and in this Section 13.04. **Provided that** no Default shall have occurred and shall be continuing under this Indenture, a Guarantee pursuant to this Article Thirteen shall be unconditionally released and discharged (i) automatically upon (A) any sale, exchange or transfer, whether by way of merger or otherwise, to any person that is not an Affiliate of the Guarantor, of all of the Guarantor's direct or indirect equity interests in the Company (**provided** such sale, exchange or transfer is not prohibited by this Indenture) or (B) the merger of the Guarantor into the Company or the liquidation and dissolution of the Guarantor (in each case to the extent not prohibited by this Indenture) or (ii) with respect to any Series of Securities, upon the occurrence of any other condition set forth in the Board Resolution, supplemental indenture or Officers' Certificate establishing the terms of such Series.

(2) Upon receipt of a written request of the Company accompanied by an Officers' Certificate and an Opinion of Counsel to the effect that the Guarantor is entitled to such release in accordance with the provisions of this Indenture, the Trustee shall deliver an appropriate instrument evidencing any release of the Guarantor from any Guarantee.

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

RETAIL OPPORTUNITY INVESTMENTS PARTNERSHIP, LP, as Issuer
By: RETAIL OPPORTUNITY INVESTMENTS GP, LLC, its general partner

By: /s/ Michael B. Haines
Name: Michael B. Haines
Title: Chief Financial Officer, Treasurer and Secretary

RETAIL OPPORTUNITY INVESTMENTS CORP., as Guarantor

By: /s/ Michael B. Haines
Name: Michael B. Haines
Title: Chief Financial Officer, Treasurer and Secretary

[Signature Page to Indenture]

WELLS FARGO BANK, NATIONAL ASSOCIATION, as Trustee

By: /s/ Maddy Hall
Name: Maddy Hall
Title: Vice President

[Signature Page to Indenture]

EXHIBIT A

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This is one of the Securities of the series described in the within-mentioned Indenture and Supplemental Indenture.

Wells Fargo Bank, National Association as Trustee

By: /s/ Maddy Hall
Authorized Signatory
Dated: December 9, 2013

[Signature Page to Indenture]

Exhibit 4.2

FIRST SUPPLEMENTAL INDENTURE

DATED AS OF DECEMBER 9, 2013

TO

INDENTURE

DATED AS OF DECEMBER 9, 2013

BY AND AMONG

RETAIL OPPORTUNITY INVESTMENTS PARTNERSHIP, LP, AS ISSUER,

RETAIL OPPORTUNITY INVESTMENTS CORP., AS GUARANTOR

AND

WELLS FARGO BANK, NATIONAL ASSOCIATION, AS TRUSTEE

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FIRST SUPPLEMENTAL INDENTURE

This First Supplemental Indenture, dated as of December 9, 2013 (this "**First Supplemental Indenture**"), by and among Retail Opportunity Investments Partnership, LP, a Delaware limited partnership (the "**Company**"), Retail Opportunity Investments Corp., a Maryland corporation, as guarantor (the "**Guarantor**"), and Wells Fargo Bank, National Association, as trustee (the "**Trustee**"), supplements that certain Indenture, dated as of December 9, 2013, by and among the Company, the Guarantor and the Trustee (the "**Original Indenture**").

RECITALS OF THE COMPANY

WHEREAS, the Company has duly authorized the execution and delivery of the Original Indenture to provide for the issuance from time to time of its debentures, notes or other evidences of unsecured indebtedness (the "**Securities**"), unlimited as to principal amount and which will be guaranteed by the Guarantor, to bear such fixed or variable rates of interest, to mature at such time or times, to be issued in one or more series and to have such other provisions as provided for in the Original Indenture;

WHEREAS, the Original Indenture provides that the Securities of each series shall be substantially in the form established by a Supplemental Indenture relating to the Securities of that series;

WHEREAS, the parties are entering into this First Supplemental Indenture to establish the terms of the Securities created on or after the date of this First Supplemental Indenture (together with the Original Indenture, the "**Indenture**"); and

WHEREAS, the Company has determined to issue and deliver, and the Trustee shall authenticate, a series of Securities designated as the Company's "5.000% Senior Notes due 2023" (hereinafter called the "**Notes**") pursuant to the terms of this First Supplemental Indenture and substantially in the form as herein set forth, with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by the Indenture and this First Supplemental Indenture.

NOW, THEREFORE, THIS FIRST SUPPLEMENTAL INDENTURE WITNESSETH:

For and in consideration of the premises stated herein, the parties hereto hereby agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1 Certain Terms Defined in the Indenture.

For purposes of this First Supplemental Indenture, all capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Original Indenture, as amended and supplemented hereby.

Section 1.2 Definitions.

For all purposes of this First Supplemental Indenture:

"**Acquired Indebtedness**" means Indebtedness of a Person (1) existing at the time such Person is merged or consolidated with or into, or becomes a Consolidated Subsidiary of the Guarantor or the Company, or (2) assumed by the Guarantor, the Company or any of the Consolidated Subsidiaries in connection with the acquisition of assets from such Person. Acquired Indebtedness shall be deemed to be Incurred on the date the acquired Person is merged or consolidated with or into, or becomes a Consolidated Subsidiary or the date of the related acquisition, as the case may be.

"**Comparable Treasury Issue**" means the United States Treasury security or securities selected by an Independent Investment Banker as having an actual or interpolated maturity comparable to the remaining term of the notes that would be utilized, at the time of selection and in accordance with customary financial practice, in pricing new issues of corporate debt securities of comparable maturity to the remaining term of the notes.

"**Comparable Treasury Price**" means, with respect to any redemption date, (1) the average of three Reference Treasury Dealer Quotations for such redemption date, after excluding the highest and lowest of five Reference Treasury Dealer Quotations obtained, or (2) if the Company obtains fewer than five such Reference Treasury Dealer Quotations, the average of all Reference Treasury Dealer Quotations obtained.

"**Consolidated Financial Statements**" means, collectively, the consolidated financial statements and notes to those financial statements of the Guarantor and the Company prepared in accordance with GAAP.

"**Consolidated Income Available for Debt Service**" means, for any period of time, the Consolidated Net Income for such period, plus amounts which have been deducted and minus amounts which have been added for, without duplication:

(1) Interest Expense on Indebtedness;

(2) provision for taxes based on income;

(3) depreciation, amortization and all other non-cash items deducted at arriving at Consolidated Net Income;

(4) provision for gains and losses on sales or other dispositions of properties and other investments;

(5) extraordinary items;

(6) non-recurring items, as determined in good faith by the board of directors of the Guarantor; and

(7) noncontrolling interests.

In each case for such period, the Company will reasonably determine amounts in accordance with GAAP, except to the extent GAAP is not applicable with respect to the determination of non-cash and non-recurring items.

"**Consolidated Net Income**" means, for any period of time, the amount of net income, or loss, for the Guarantor, the Company and the Consolidated Subsidiaries for such period, excluding, without duplication, extraordinary items and the portion of net income, but not losses, for the Guarantor, the Company and the Consolidated Subsidiaries allocable to noncontrolling interests in unconsolidated Persons to the extent that cash dividends or distributions allocable to noncontrolling interests in unconsolidated Persons have not actually been received by the Guarantor, the Company or any of the Consolidated Subsidiaries, all determined in accordance with GAAP.

"**Consolidated Subsidiary**" means each Subsidiary of the Guarantor or the Company that is consolidated in the Company's Consolidated Financial Statements in accordance with GAAP.

"**GAAP**" means generally accepted accounting principles in the United States of America as in effect on the date of any required calculation or determination.

"**Incur**" means, with respect to any Indebtedness or other obligation of the Guarantor, the Company or any of the Consolidated Subsidiaries, to create, assume, guarantee or otherwise become liable in respect of the Indebtedness or other obligation, and "**Incurrence**" and "**Incurred**" have meanings correlative to the foregoing. Indebtedness or other obligation of the Guarantor, the Company or any of the Consolidated Subsidiaries will be deemed to be Incurred by the Guarantor, the Company or such Consolidated Subsidiary whenever the Guarantor, the Company or such Consolidated Subsidiary shall create, assume, guarantee or otherwise become liable in respect thereof. Indebtedness or other obligations of a Consolidated Subsidiary existing prior to the time it became a Consolidated Subsidiary will be deemed to be Incurred upon such Subsidiary becoming a Consolidated Subsidiary. Indebtedness or other obligations of a Person existing prior to a merger or consolidation of such Person with the Guarantor, the Company or any of the Consolidated Subsidiaries in which such Person is the successor to the Guarantor, the Company or such Consolidated Subsidiary will be deemed to be Incurred upon the consummation of such merger or consolidation. Any issuance or transfer of capital stock that results in Indebtedness constituting Intercompany Indebtedness being held by a Person other than the Guarantor, the Company or any Consolidated Subsidiary, or any sale or other transfer of any Indebtedness constituting Intercompany Indebtedness to a Person that is not the Guarantor, the Company or any Consolidated Subsidiary, will be deemed, in each case, to be an Incurrence of

Indebtedness that is not Intercompany Indebtedness at the time of such issuance, transfer or sale, as the case may be.

"**Indebtedness**" means, without duplication, any indebtedness of the Guarantor, the Company or any Consolidated Subsidiary, whether or not contingent, in respect of: (a) borrowed money evidenced by bonds, notes, debentures or similar instruments whether or not such indebtedness is secured by any lien existing on property owned by the Guarantor, the Company or any Consolidated Subsidiary; (b) indebtedness for borrowed money of a Person other than the Guarantor, the Company or any Consolidated Subsidiary which is secured by any lien on property owned by the Guarantor, the Company or any Consolidated Subsidiary, to the extent of the lesser of (i) the amount of indebtedness so secured, and (ii) the fair market value of the property subject to such lien; (c) the reimbursement obligations, contingent or otherwise, in connection with any letters of credit actually issued or amounts representing the balance deferred and unpaid of the purchase price of any property or services, except any such balance that constitutes an accrued expense or trade payable; or (d) any lease of property by the Guarantor, the Company or any Consolidated Subsidiary as lessee which is reflected in the Consolidated Financial Statements as a capitalized lease in accordance with GAAP, to the extent, in the case of indebtedness under (a) through (c) above, that any such items (other than letters of credit) would appear as a liability in the Consolidated Financial Statements in accordance with GAAP. Indebtedness also includes, to the extent not otherwise included, any obligation by the Guarantor, the Company or any Consolidated Subsidiary to be liable for, or to pay, as obligor, guarantor or otherwise (other than for purposes of collection in the ordinary course of business), indebtedness of another Person (other than the Guarantor, the Company or any Consolidated Subsidiary) of the type described in clauses (a)-(d) of this definition.

"**Independent Investment Banker**" means one of the Reference Treasury Dealers appointed by the Company.

"**Intercompany Indebtedness**" means Indebtedness to which the only parties are any of the Guarantor, the Company and any Consolidated Subsidiary; provided, however, that with respect to any such Indebtedness of which the Guarantor or the Company is the borrower, such Indebtedness is subordinate in right of payment to the Securities of any series issued under the Indenture.

"**Interest Expense**" means, for any period of time, the maximum amount payable for interest on, and original issue discount of, Indebtedness, determined in accordance with GAAP.

"**Reference Treasury Dealer**" means: (i) J.P. Morgan Securities LLC, a Primary Treasury Dealer (as defined below) selected by U.S. Bancorp Investments, Inc. and a Primary Treasury Dealer selected by Wells Fargo Securities, LLC (or an affiliate of any of the foregoing that is a Primary Treasury Dealer); provided, however, that if any of the foregoing shall cease to be a primary U.S. Government Obligations dealer in the United States (a "Primary Treasury Dealer"), the Company will substitute therefor another Primary Treasury Dealer; and (ii) two other Primary Treasury Dealers selected by the Company.

"**Reference Treasury Dealer Quotations**" means, with respect to each Reference Treasury Dealer and any redemption date, the average, as determined by the Company, of the bid

and asked prices for the Comparable Treasury Issue (expressed as a percentage of its principal amount) quoted in writing to the Company (and provided to the Trustee) by such Reference Treasury Dealer as of 3:30 p.m., New York City time, on the third New York business day immediately preceding such redemption date.

"**Secured Debt**" means, as of any date, that portion of principal amount of outstanding Indebtedness, excluding Intercompany Indebtedness, of the Guarantor, the Company and the Consolidated Subsidiaries as of that date that is secured by a mortgage, trust deed, deed of trust, deeds to secure Indebtedness, pledge, security interest, assignment for collateral purposes, deposit arrangement, or other security agreement, excluding any right of setoff but including, without limitation, any conditional sale or other title retention agreement, any financing lease having substantially the same economic effect as any of the foregoing, and any other like agreement granting or conveying a security interest.

"**Total Assets**" means, as of any time, the sum of, without duplication, Undepreciated Real Estate Assets and all other assets, excluding accounts receivable and intangibles, of the Guarantor, the Company and the Consolidated Subsidiaries, all determined in accordance with GAAP.

"**Total Unencumbered Assets**" means, as of any time, the sum of, without duplication, those Undepreciated Real Estate Assets which are not subject to a lien securing Indebtedness and all other assets, excluding accounts receivable and intangibles, of the Guarantor, the Company and the Consolidated Subsidiaries not subject to a lien securing Indebtedness, all determined in accordance with GAAP; provided, however, that all investments by the Guarantor, the Company or the Consolidated Subsidiaries in unconsolidated joint ventures, unconsolidated limited partnerships, unconsolidated limited liability companies and other nonconsolidated entities shall be excluded from Total Unencumbered Assets to the extent that such investments would have otherwise been included.

"**Treasury Rate**" means, with respect to any redemption date, the rate per annum equal to the semiannual equivalent yield to maturity (computed as of the third New York business day immediately preceding such redemption date) of the Comparable Treasury Issue, assuming a price for such Comparable Treasury Issue (expressed as a percentage of its principal amount) equal to the Comparable Treasury Price for such redemption date.

"**Undepreciated Real Estate Assets**" means, as of any time, the cost (original cost plus capital improvements) of the real estate assets of the Guarantor, the Company and the Consolidated Subsidiaries on such date, before depreciation and amortization, all determined in accordance with GAAP.

"**Unsecured Debt**" means that portion of the outstanding principal amount of Indebtedness, excluding Intercompany Indebtedness, that is not Secured Debt.

ARTICLE II

CERTAIN COVENANTS

In addition to the covenants set forth in Sections 4.01 through 4.03, inclusive, of the Original Indenture, there are established the following covenants for the benefit of Holders of the Notes and to which such Notes shall be subject:

Section 2.1 Limitation on Indebtedness. Neither the Guarantor nor the Company will Incur, or permit any of the Consolidated Subsidiaries to Incur, any Indebtedness, other than Intercompany Indebtedness and guarantees of Indebtedness Incurred by the Guarantor, the Company or any of the Consolidated Subsidiaries that, in each case, is subordinate in right of payment to the Securities of any series issued under the Indenture, if, immediately after giving effect to the Incurrence of such Indebtedness and the application of the proceeds thereof, the aggregate principal amount of outstanding Indebtedness, excluding Intercompany Indebtedness, would be greater than 60% of the sum of, without duplication:

(1) Total Assets as of the end of the fiscal quarter covered in the Guarantor's annual or quarterly report most recently furnished to Holders of the Securities or filed with the Commission, as the case may be; and

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

Section 2.2 Limitation on Secured Debt. In addition to the limitation set forth in Section 2.1 above, neither the Guarantor nor the Company will Incur, or permit any of the Consolidated Subsidiaries to Incur, any Secured Debt, other than guarantees of Secured Debt Incurred by the Guarantor, the Company or any of the Consolidated Subsidiaries that, in each case, is subordinate in right of payment to the Securities of any series issued under the Indenture, if, immediately after giving effect to the Incurrence of such Secured Debt and the application of the proceeds thereof, the aggregate principal amount of outstanding Secured Debt would be greater than 40% of the sum of, without duplication:

(1) Total Assets as of the end of the fiscal quarter covered in the Guarantor's annual or quarterly report most recently furnished to Holders of the Securities or filed with the Commission, as the case may be; and

(2) the purchase price of any real estate assets or mortgages receivable acquired, and the amount of any securities offering proceeds received (to the extent that such proceeds were not used to acquire real estate assets or mortgages receivable or used to reduce Indebtedness), by the Guarantor, the Company or any of the Consolidated Subsidiaries since the end of the relevant fiscal quarter, including

those proceeds obtained in connection with the incurrence of such additional Secured Debt.

Section 2.3 Maintenance of Unencumbered Assets. The Guarantor and the Company will have at all times Total Unencumbered Assets of not less than 150% of the aggregate principal amount of outstanding Unsecured Debt, determined on a consolidated basis in accordance with GAAP.

Section 2.4 Debt Service Test. In addition to the limitations set forth in Sections 2.1 and 2.2 above, neither the Guarantor nor Company will Incur, or permit any of the Consolidated Subsidiaries to Incur, any Indebtedness, other than Intercompany Indebtedness and guarantees of Indebtedness Incurred by the Guarantor, the Company or any of the Consolidated Subsidiaries that, in each case is subordinate in right of payment to the Notes, if the ratio of Consolidated Income Available for Debt Service to Interest Expense for the period consisting of the four consecutive fiscal quarters most recently ended prior to the date on which the additional Indebtedness is to be incurred shall have been less than 1.5:1 on a pro forma basis after giving effect to the Incurrence of that Indebtedness and the application of the proceeds therefrom, and calculated on the following assumptions:

(1) such Indebtedness and any other Indebtedness Incurred by the Guarantor, the Company and the Consolidated Subsidiaries since the first day of such quarterly period and the application of the proceeds thereof, including to refinance other Indebtedness, had occurred on the first day of such period;

(2) the repayment or retirement of any Indebtedness (other than Indebtedness repaid or retired with the proceeds of any other Indebtedness, which repayment or retirement shall be calculated pursuant to the foregoing clause (1) and not this clause (2)) by the Guarantor, the Company and the Consolidated Subsidiaries since the first day of such four-quarter period had been repaid or retired at the beginning of such period (except that, in making such computation, the amount of Indebtedness under any revolving credit facility shall be computed based upon the average daily balance of such Indebtedness during such period);

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

(4) in the case of any acquisition or disposition of any asset or group of assets or the placement of any assets in service or removal of any assets from service by the Guarantor, the Company or any of the Consolidated Subsidiaries from the first day of such four-quarter period to the date of determination, including, without limitation, by merger, or stock or asset purchase or sale, the acquisition, disposition, placement in service or removal from service had occurred as of the first day of such period with appropriate adjustments to Interest Expense with respect to the acquisition, disposition, placement in service or removal from service being included in that pro forma calculation.

ARTICLE III

EVENTS OF DEFAULT

Section 6.01 of the Original Indenture shall be superseded and replaced with respect to the Notes by the following:

An "**Event of Default**," wherever used with respect to the Securities of any series, shall occur if:

(1) the Company defaults in the payment of interest on any of the Securities of such series when it becomes due and payable and the default continues for a period of 30 days; or

(2) the Company defaults in the payment of the principal of, or premium, if any, on any of the Securities of such series as and when it becomes due and payable at its stated maturity or upon redemption, acceleration or otherwise; or

(3) the Guarantor has outstanding any guarantee of indebtedness of the Company other than the notes, and the Guarantee is not (or is claimed by the Guarantor not to be) in full force and effect with respect to the Securities of such series; or

(4) there is a default in the performance, or breach, of any covenant or warranty of the Company or the Guarantor, as the case may be, in the Indenture or any of the Securities of such series not covered elsewhere in this Section or in the Guarantee of the Guarantor (other than a covenant or warranty added to the Indenture, whether or not by means of a Supplemental Indenture solely for the benefit of Securities of a series other than such series), and continuance of such default or breach (without such default or breach having been waived in accordance of the provisions of the Indenture) for a period of 60 days after there has been given to the Company or the Guarantor, as applicable, by the Trustee or to the Company or the Guarantor, as applicable, and the Trustee by the Holders of at least 25% in aggregate principal amount of the Securities of such series then outstanding a written notice specifying such default or breach and requiring it to be remedied and stating that such notice is a "Notice of Default" hereunder; or

(5) there is a default by the Company, the Guarantor or any of their respective Subsidiaries under any bond, debenture, note, mortgage, indenture or instrument evidencing or securing recourse indebtedness of any such party with an aggregate principal amount outstanding of at least $25,000,000, which default has resulted in such indebtedness becoming or being declared due and payable prior to the date on which it would otherwise have become due and payable, without such indebtedness having been discharged or such acceleration having been rescinded or annulled within a period of 30 days after written notice to the Company as provided in the Indenture; or

(6) the Company or the Guarantor pursuant to any Bankruptcy Law applicable to the Company or the Guarantor, as applicable:

(A) commences a voluntary case;

(B) consents to the entry of an order for relief against it in an involuntary case;

(C) consents to the appointment of a Custodian of it or for any substantial part of its property; or

(D) makes a general assignment for the benefit of its creditors; or

(7) a court of competent jurisdiction enters an order or decree under any applicable Bankruptcy Law:

(A) for relief in an involuntary case;

(B) appointing a Custodian of the Company or the Guarantor, as applicable, or for any substantial part of its property; or

(C) ordering its winding up or liquidation;

and the order or decree remains unstayed and in effect for 90 days.

ARTICLE IV

DEFEASANCE AND COVENANT DEFEASANCE

There is established the following provisions regarding defeasance and covenant defeasance for the benefit of Holders of the Notes, and to which the Notes shall be subject.

Section 4.1 Applicability of Article; Company's Option to Effect Defeasance or Covenant Defeasance. The Company may, at its option, by Board Resolution, at any time, with respect to the Notes elect to defease such Notes then outstanding pursuant to Section 4.2 (if applicable) or Section 4.3 (if applicable) upon compliance with the conditions set forth below in this Article IV.

Section 4.2 Defeasance and Discharge. Upon the Company's exercise of the above option with respect to the Notes, the Company shall be deemed to have been discharged from its obligations with respect to the Notes then outstanding on the date the conditions set forth in Section 4.4 are satisfied (hereinafter, "**defeasance**"). For this purpose, such defeasance means that the Company shall be deemed to have paid and discharged the entire indebtedness represented by such Notes then outstanding, which shall thereafter be deemed to be "outstanding" only for the purposes of Section 4.5 and the other Sections of the Indenture referred to in clauses (A) and (B) below, and to have satisfied all of its other obligations under such Notes and the Indenture insofar as such Notes are concerned (and the Trustee, at the expense of the Company, shall execute proper instruments acknowledging the same), except for the following which shall survive until otherwise terminated or discharged hereunder: (A) the rights of Holders of the Notes then outstanding to receive, solely from the trust fund described in Section 4.4 and as more fully set forth in such Section, payments in respect of the principal of, and premium, if any, and interest, if any, on such Notes when such payments are due, (B) the

Company's obligations with respect to such Notes under Sections 2.05, 2.06, 2.07, 2.08 and 2.09 of the Original Indenture, (C) the rights, powers, trusts, duties and immunities of the Trustee hereunder and (D) this Article. Subject to compliance with this Article IV, the Company may exercise its option under this Section notwithstanding the prior exercise of its option under Section 4.3 with respect to the Notes.

Section 4.3 Covenant Defeasance. Upon the Company's exercise of the above option applicable to this Section with respect to the Notes, the Company shall be released from its obligations under Sections 4.01 to 4.03, inclusive, of the Original Indenture and Sections 2.1 to 2.4, inclusive, of this First Supplemental Indenture on and after the date the conditions set forth in Section 4.4 are satisfied (hereinafter, "**covenant defeasance**"), and such Notes shall thereafter be deemed to be not "outstanding" for the purposes of any direction, waiver, consent or declaration or act of Holders (and the consequences of any thereof) in connection with Sections 4.01 to 4.03, inclusive, of the Original Indenture and Sections 2.1 to 2.4, inclusive, of this First Supplemental Indenture. For this purpose, such covenant defeasance means that, with respect to the Notes, the Company may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such Section or such other covenant, whether directly or indirectly, by reason of any reference elsewhere in the Indenture to any such Section or such other covenant or by reason of reference in any such Section or in any other document and such omission to comply shall not constitute a default or an Event of Default under Section 6.01(4) of the Indenture (as such Section 6.01(4) has been restated in Article III of this First Supplemental Indenture), but, except as specified above, the remainder of the Indenture with regard to the Notes shall be unaffected thereby. In addition, upon the Company's exercise of covenant defeasance under Section 4.3, Section 6.01(5) of the Original Indenture (as such Section 6.01(5) has been restated in Article III of this First Supplemental Indenture) shall not constitute an Event of Default.

Section 4.4 Conditions to Defeasance or Covenant Defeasance. The following shall be the conditions to application of Section 4.2 or Section 4.3 to the Notes:

(a) The Company shall irrevocably have deposited or caused to be deposited with the Trustee (or another trustee satisfying the requirements of Section 7.10 of the Original Indenture who shall agree to comply with the provisions of this Article applicable to it) as trust funds in trust for the purpose of making the following payments, specifically pledged as security for, and dedicated solely to, the benefit of the Holders of the Notes, (1) an amount in United States dollars, or (2) U.S. Government Obligations which through the scheduled payment of principal and interest in respect thereof in accordance with their terms will provide, not later than one day before the due date of any payment of principal of, and premium, if any, and interest, if any, on the Notes money in an amount, or (3) a combination thereof in an amount, sufficient, without consideration of any reinvestment of such principal and interest, in the opinion of a nationally recognized firm of independent public accountants or investment bank expressed in a written certification thereof delivered to the Trustee, to pay and discharge, and which shall be applied by the Trustee (or other qualifying trustee) to pay and discharge, the principal of, and premium, if any, and interest, if any, on the Notes then outstanding on the Stated Maturity of such principal or installment of principal or interest ; provided, that the Trustee shall have been irrevocably instructed to apply such money or the proceeds of such U.S. Government Obligations to said payments with respect to such Securities. Before such a deposit, the Company may give to the

Trustee, in accordance with Section 3.02 of the Original Indenture, a notice of its election to redeem all or any portion of Notes then outstanding at a future date in accordance with the terms of the Notes, which notice shall be irrevocable. Such irrevocable redemption notice, if given, shall be given effect in applying the foregoing.

(b) Such defeasance or covenant defeasance shall not result in a breach or violation of, or constitute a default under, the Indenture or any other material agreement or instrument to which the Company is a party or by which it is bound (and shall not cause the Trustee to have a conflicting interest pursuant to Section 310(b) of the TIA with respect to any Security of the Company).

(c) No Event of Default or event which with notice or lapse of time or both would become an Event of Default with respect to such Securities shall have occurred and be continuing on the date of such deposit or, insofar as Sections 6.01(6) and 6.01(7) of the Original Indenture (as such Sections 6.01(6) and 6.01(7) have been restated in Article III of this First Supplemental Indenture) are concerned, at any time during the period ending on the 91st day after the date of such deposit (it being understood that this condition shall not be deemed satisfied until the expiration of such period).

(d) In the case of an election under Section 4.2, the Company shall have delivered to the Trustee an Opinion of Counsel stating that (i) the Company has received from, or there has been published by, the Internal Revenue Service a ruling, or (ii) since the date of execution of the Indenture, there has been a change in the applicable Federal income tax law, in either case to the effect that, and based thereon such opinion shall confirm that, the Holders of the Notes then outstanding will not recognize income, gain or loss for Federal income tax purposes as a result of such defeasance and will be subject to Federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such defeasance had not occurred.

(e) In the case of an election under Section 4.3, the Company shall have delivered to the Trustee an Opinion of Counsel to the effect that the Holders of such Notes then outstanding will not recognize income, gain or loss for Federal income tax purposes as a result of such covenant defeasance and will be subject to Federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such covenant defeasance had not occurred.

(f) The Company shall have delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent to the defeasance under Section 4.2 or the covenant defeasance under Section 4.3 (as the case may be) have been complied with and an Opinion of Counsel to the effect that either (i) as a result of a deposit pursuant to subsection (a) above and the related exercise of the Company's option under Section 4.2 or Section 4.3 (as the case may be), registration is not required under the Investment Company Act of 1940, as amended, by the Company, with respect to the trust funds representing such deposit or by the Trustee for such trust funds or (ii) all necessary registrations under said Act have been effected.

(g) After the 91st day following the deposit, the trust funds will not be subject to the effect of any applicable bankruptcy, insolvency, reorganization or similar laws affecting creditors' rights generally.

Section 4.5 Deposited Money and Government Obligations to Be Held in Trust; Other Miscellaneous Provisions. All money and U.S. Government Obligations (including the proceeds thereof) deposited with the Trustee (or other qualifying trustee, collectively for purposes of this Section 4.5, the "**Trustee**") pursuant to Section 4.4 in respect of the Notes then outstanding shall be held in trust and applied by the Trustee, in accordance with the provisions of the Notes, and the Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as its own Paying Agent) as the Trustee may determine, to the Holders of the Notes of all sums due and to become due thereon in respect of principal, and premium, if any, and interest, but such money need not be segregated from other funds except to the extent required by law.

The Company shall pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the U.S. Government Obligations deposited pursuant to Section 4.4 or the principal and interest received in respect thereof other than any such tax, fee or other charge which by law is for the account of the Holders of the Notes then outstanding.

Anything in this Article IV to the contrary notwithstanding, the Trustee shall deliver or pay to the Company from time to time upon request of the Company any money or U.S. Government Obligations (or other property and any proceeds therefrom) held by it as provided in Section 4.4 which, in the opinion of a nationally recognized firm of independent public accountants or investment bank expressed in a written certification thereof delivered to the Trustee, are in excess of the amount thereof which would then be required to be deposited to effect a defeasance or covenant defeasance, as applicable, in accordance with this Article IV.

ARTICLE V

FORM AND TERMS OF THE NOTES

This Article V applies solely to the Notes and shall not affect the rights under the Indenture of the Holders of Securities of any other series.

Section 5.1 Form and Dating.

The Notes and the Trustee's certificate of authentication shall be substantially in the form of Exhibit A attached hereto. The Notes shall be executed on behalf of the Company by two Officers of the Company specified in Section 2.04 of the Indenture. The Notes may have notations, legends or endorsements required by law, stock exchange rules or usage. Each Note shall be dated the date of its authentication. The Notes and any beneficial interest in the Notes shall be in minimum denominations of $2,000 and integral multiples of $1,000 in excess thereof.

The terms and notations contained in the Notes shall constitute, and are hereby expressly made, a part of the Indenture as supplemented by this First Supplemental Indenture; and the Company, the Guarantor and the Trustee, by their execution and delivery of this First Supplemental Indenture, expressly agree to such terms and provisions and to be bound thereby;

provided, that, to the extent of any inconsistency between the terms and provisions in the Indenture, as supplemented by this First Supplemental Indenture, and those contained in the Notes, the Indenture, as supplemented by this First Supplemental Indenture, shall govern.

(a) Global Notes. The Notes designated herein shall be issued initially in the form of one or more fully-registered permanent global Securities (each, a "**Global Note**"), which shall be held by the Trustee as custodian for The Depository Trust Company, New York, New York (the "**Depositary**"), and registered in the name of Cede & Co., the Depositary's nominee, duly executed by the Company, authenticated by the Trustee and with the Guarantee endorsed thereon as hereinafter provided. The aggregate principal amount of outstanding Notes represented by a Global Note may from time to time be increased or decreased by adjustments made on the records of the Trustee and the Depositary or its nominee as hereinafter provided.

Unless and until the Global Notes are exchanged in whole or in part for the individual Notes represented thereby pursuant to Section 2.08 of the Indenture, such Global Notes may not be transferred except as a whole by the Depositary to its nominee or by its nominee to the Depositary or another nominee of the Depositary or by the Depositary or any of its nominees to a successor depositary or any nominee of such successor depositary. Upon the occurrence of the events specified in Section 2.08 of the Indenture in relation thereto, the Company shall execute, and the Trustee shall, upon receipt of a request by the Company for authentication, authenticate and deliver, Notes in physical, certificated form registered in such names and in such principal amounts equal to the outstanding aggregate principal amount of the Global Notes in exchange therefor.

(b) Book-Entry Provisions. This Section 5.1(b) shall apply only to the Global Notes deposited with or on behalf of the Depositary.

The Company shall execute and the Trustee shall, in accordance with this Section 5.1(b), authenticate and deliver the Global Notes that shall be registered in the name of the Depositary or the nominee of the Depositary and shall be held by the Trustee as custodian for the Depositary.

Participants of the Depositary shall have no rights either under the Indenture or with respect to any Global Notes. The Depositary or its nominee, as applicable, shall be treated by the Company, the Guarantor, the Trustee and any agent of the Company, the Guarantor or the Trustee as the absolute owner and Holder of such Global Note for all purposes under the Indenture. Notwithstanding the foregoing, nothing herein shall prevent the Company, the Guarantor or the Trustee from giving effect to any written certification, proxy or other authorization furnished by the Depositary or its nominee, as applicable, or impair, as between the Depositary and its participants, the operation of customary practices of such Depositary governing the exercise of the rights of an owner of a beneficial interest in the Global Notes.

(c) Definitive Notes. Notes issued in physical, certificated form, registered in the name of the beneficial owner thereof, shall be substantially in the form of the Note attached hereto as Exhibit A, but without including the text referred to therein as applying only to Global Notes. Except as provided above in subsection (a), owners of beneficial interests in the Global Notes will not be entitled to receive physical delivery of certificated Notes.

(d) Transfer and Exchange of the Notes. The transfer and exchange of beneficial interests in the Global Notes shall be effected through the Depositary, in accordance with the Indenture and the procedures of the Depositary therefor. Beneficial interests in the Global Notes may be transferred to Persons who take delivery thereof in the form of a beneficial interest in the Global Notes.

(e) Paying Agent. The Company appoints the Trustee as its initial agent for the payment of the principal of, and premium, if any, and interest on the Notes, and the Corporate Trust Office of the Trustee in Minneapolis, Minnesota, be and hereby is, designated as the office or agency where the Notes may be presented for payment and where notices to or demands upon the Company in respect of the Notes and this First Supplemental Indenture and the Indenture pursuant to which the Notes are to be issued may be made.

Section 5.2 Certain Terms of the Notes.

The terms of the Notes are established as set forth in this Section, in Section 5.3 and as further established in the form of Note attached hereto as Exhibit A. The terms and notations contained in the Notes shall constitute, and are hereby expressly made, a part of the Indenture as supplemented by this First Supplemental Indenture, and the Company, the Guarantor and the Trustee, by their execution and delivery of this First Supplemental Indenture, expressly agree to such terms and provisions and to be bound thereby.

(a) Title. The Notes shall constitute a series of Securities having the title "5.000% Senior Notes due 2023."

(b) Principal Amount. The aggregate principal amount of the Notes that may be initially authenticated and delivered under the Indenture (except for Notes authenticated and delivered upon registration of, transfer of, or in exchange for, or in lieu of, other Notes pursuant to Sections 2.08, 2.09, 2.11, 3.09 and 9.05 of the Indenture) shall be TWO HUNDRED FIFTY MILLION DOLLARS ($250,000,000). The Company may, from time to time, without notice to, or the consent of, the Holders of the Notes, create and issue additional Securities ("**Additional Securities**") ranking equally and ratably with, and having the same interest rate, maturity and other terms as, the originally issued Notes (other than the issue date and, to the extent applicable, issue price, initial date of interest accrual and initial interest payment date); provided, that such issuance complies with the covenants set forth in the Indenture. Any such Additional Securities will be consolidated, and constitute a single series of Securities, with the originally issued Notes for all purposes under the Indenture; provided, however, that any such Additional Securities that have the same CUSIP, ISIN or other identifying number of any Notes then outstanding must be fungible with such Notes then outstanding for U.S. federal income tax purposes.

(c) Maturity Date. The entire outstanding principal of the Notes shall be payable on December 15, 2023.

(d) Interest Rate. The rate at which the Notes shall bear interest shall be 5.000% per annum, computed on the basis of a 360-day year comprised of twelve 30-day months; the date from which interest shall accrue on the Notes shall be December 9, 2013 or the most recent Interest Payment Date to which interest has been paid or duly provided for; the Interest Payment

Dates for the Notes shall be June 15 and December 15 of each year, beginning on June 15, 2014; the interest so payable, and punctually paid or duly provided for, on any Interest Payment Date will be paid to the Persons in whose names the Notes (or one or more predecessor Notes) is registered at the close of business on the June 1 or December 1 (whether or not a Business Day) immediately preceding the applicable Interest Payment Date.

(e) Currency. The currency of denomination of the Notes is United States dollars. Payment of principal of, and premium, if any, and interest on the Notes will be made in United States dollars.

(f) Sinking Fund Provisions. The Notes will not have any sinking fund provisions.

(g) Guarantee. The Notes shall be fully and unconditionally guaranteed by the Guarantor.

Section 5.3 Optional Redemption.

(a) Applicability of Article Three. The provisions of Article Three of the Indenture, other than Sections 3.07 and 3.08 of the Indenture, shall apply to the Notes, as supplemented by Section 2.3(b) below

(b) Redemption Price. The redemption price for the Notes that are redeemed prior to September 15, 2023 (three months prior to the Stated Maturity) will be equal to the greater of (1) 100% of the principal amount of the Notes to be redeemed and (2) the sum of the present values of the remaining scheduled payments of principal of and interest on the Notes to be redeemed that would be due after the related redemption date but for such redemption, discounted to such redemption date on a semiannual basis (assuming a 360-day year consisting of twelve 30-day months) at the Treasury Rate plus 35 basis points, plus in each case unpaid interest, if any, accrued to, but not including, such redemption date. In addition, at any time on or after September 15, 2023 (three months prior to the Stated Maturity), the Company may, at its option, redeem the Notes, in whole at any time or in part from time to time, at a redemption price equal to 100% of the principal amount of the Notes to be redeemed plus unpaid interest, if any, accrued to, but not including, the applicable redemption date.

ARTICLE VI

GUARANTEE

The provisions of Article Thirteen of the Indenture shall be applicable to the Notes. The Guarantor shall guarantee the Notes on the terms set forth in Article Thirteen of the Indenture.

ARTICLE VII

MISCELLANEOUS

Section 7.1 Relationship with Indenture.

The terms and provisions contained in the Indenture will constitute, and are hereby expressly made, a part of this First Supplemental Indenture. However, to the extent any provision of the Indenture conflicts with the express provisions of this First Supplemental Indenture, the provisions of this First Supplemental Indenture will govern and be controlling.

Section 7.2 Trust Indenture Act Controls.

If any provision of this First Supplemental Indenture limits, qualifies or conflicts with another provision which is required to be included in this First Supplemental Indenture by the TIA, the required provision shall control. If any provision of this First Supplemental Indenture modifies or excludes any provision of the TIA which may be so modified or excluded, the latter provision shall be deemed to apply to this First Supplemental Indenture as so modified or to be excluded, as the case may be.

Section 7.3 Governing Law.

This First Supplemental Indenture shall be governed by, and construed in accordance with, the laws of the State of New York without regard to conflicts of law principles of such State other than New York General Obligations Law Sections 5-1401 and 5-1402.

Section 7.4 Multiple Counterparts.

The parties may sign multiple counterparts of this First Supplemental Indenture. Each signed counterpart shall be deemed an original but all of them together represent one and the same First Supplemental Indenture.

Section 7.5 Severability.

Each provision of this First Supplemental Indenture shall be considered separable and if for any reason any provision which is not essential to the effectuation of the basic purpose of this First Supplemental Indenture shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby and a Holder shall have no claim therefor against any party hereto.

Section 7.6 Ratification.

The Original Indenture, as supplemented and amended by this First Supplemental Indenture, is in all respects ratified and confirmed. The Original Indenture and this First Supplemental Indenture shall be read, taken and construed as one and the same instrument. All provisions included in this First Supplemental Indenture supersede any conflicting provisions included in the Original Indenture unless not permitted by law. The Trustee accepts the trusts created by the Original Indenture, as supplemented by this First Supplemental Indenture, and agrees to perform the same upon the terms and conditions of the Indenture, as supplemented by this First Supplemental Indenture. The recitals and statement contained herein shall be taken as the statements of the Company, and the Trustee assumes no responsibility for their correctness. The Trustee makes no representations as to the validity or sufficiency of this First Supplemental Indenture.

Section 7.7 Headings.

The Section headings in this First Supplemental Indenture are for convenience only and shall not affect the construction thereof.

Section 7.8 Effectiveness.

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

[Remainder of Page Intentionally Left Blank]

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

RETAIL OPPORTUNITY INVESTMENTS PARTNERSHIP, LP, as Issuer

By: Retail Opportunity Investments GP, LLC, its general partner

By: /s/ Michael B. Haines
Name: Michael B. Haines
Title: Chief Financial Officer

RETAIL OPPORTUNITY INVESTMENTS CORP., as Guarantor

By: /s/ Michael B. Haines
Name: Michael B. Haines
Title: Chief Financial Officer

WELLS FARGO BANK, NATIONAL ASSOCIATION, as Trustee

By: /s/ Maddy Hall
Name: Maddy Hall
Title: Vice President

EXHIBIT A

Form of 5.000% Senior Note due 2023

[To be inserted]

Exhibit 5.1

CLIFFORD CHANCE US LLP

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

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

www.cliffordchance.com

Retail Opportunity Investments Corp.
Retail Opportunity Investments Partnership, LP
8905 Towne Centre Drive, Suite 108
San Diego, California 92122

December 9, 2013

Ladies and Gentlemen:

We have acted as counsel to Retail Opportunity Investments Partnership, LP (the "Operating Partnership") and Retail Opportunity Investments Corp. (the "Company") in connection with the registration statement on Form S-3 (Registration Nos. 333-189057, 333-189057-01) (the "Registration Statement"), as filed with the 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 Operating Partnership of $250,000,000 5.000% Senior Notes due December 15, 2023 (the "Notes") pursuant to the Underwriting Agreement dated December 4, 2013 (the "Underwriting Agreement"), among the Operating Partnership and the Company, on the one hand and J.P. Morgan Securities LLC, U.S. Bancorp Investments, Inc. and Wells Fargo Securities, LLC, as representatives of the several underwriters named therein (the "Underwriters"), on the other hand. The Notes have been issued pursuant to the Indenture dated as of December 9, 2013 (the "Base Indenture"), as supplemented by the First Supplemental Indenture to the Indenture, dated as of December 9, 2013 (together with the Base Indenture, the "Indenture") among the Operating Partnership, the Company and Wells Fargo Bank, National Association, as trustee (the "Trustee"). The payment of principal and interest on the Notes will be fully and unconditionally guaranteed by the Company pursuant to the Indenture (the "Guarantee").

In rendering the opinion 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 the Guarantee and certain resolutions of the board of directors of the Company (the "Board of Directors"), acting for itself and its capacity as sole member of Retail Opportunity Investments GP, LLC, the general partner of the Operating Partnership (the "General Partner"), relating to the transactions contemplated by the Underwriting Agreement and the Indenture and other related matters. As to factual matters relevant to the opinion set forth below, we have relied upon certificates of officers of the Company and the Operating Partnership 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:

1. The Notes have been duly authorized by the Operating Partnership, and, when duly executed, issued and authenticated in accordance with the provisions of the Indenture and validly delivered to and paid for by the Underwriters pursuant to the Underwriting Agreement, will constitute legal, valid and binding obligations of the Operating Partnership enforceable against the Operating Partnership in accordance with their terms, subject to applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and similar laws affecting creditors' rights and remedies generally, and subject, as to enforceability, to general principles of equity and, with respect to equitable relief, the discretion of the court before which any proceeding therefor may be brought (regardless of whether enforcement is sought in a proceeding at law or in equity).

2. The Guarantee has been duly authorized by the Company and, assuming the authentication of the Notes by the Trustee in accordance with the provisions of the Indenture and the valid issuance and delivery of the Notes to which the Guarantee is affixed, will constitute a valid and binding agreement of the Company, enforceable against the Company in accordance with its terms, subject to applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and similar laws affecting creditors' rights and remedies generally, and subject, as to enforceability, to general principles of equity and, with respect to equitable relief, the discretion of the court before which any proceeding therefor may be brought (regardless of whether enforcement is sought in a proceeding at law or in equity).

The opinions set forth in this letter relate only to the Federal laws of the United States, the laws of the State of New York, the Delaware Revised Uniform Limited Partnership Act and the Maryland General Corporation Law. 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 Form 8-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 the Securities Act or the rules and regulations of the Commission promulgated thereunder.

Very truly yours,

/s/ Clifford Chance US LLP

Exhibit 12.1

Statement of Computation of Ratio of Fixed Charges and Preferred Dividends to Earnings

Earnings	Nine Months Ended September 30, 2013	Year Ended December 31, 2012	2011	2010
Net income (loss)	$30,736,718	$ 7,892,613	$ 9,656,321	$(400,921)
Less:				
Equity in earnings from unconsolidated joint ventures	(2,389,937)	(1,697,980)	(1,458,249)	(38,013)
Plus:				
Fixed charges	11,038,246	11,430,172	6,328,952	324,126
Distribution of cumulative earnings from unconsolidated joint venture	—	686,017	1,513,090	390,000
Less:				
Interest capitalized	(64,143)	(50,315)	(103,868)	—
Total Earnings	$39,320,884	$18,260,507	$15,936,246	$ 275,192

Fixed Charges	Nine Months Ended September 30, 2013	Year Ended December 31, 2012	2011	2010
Interest expense	$ 9,071,464	$ 9,185,680	$ 4,193,966	$ 103,833
Capitalized interest	64,143	50,315	103,868	—
Amortization of financing costs	1,902,639	2,194,177	2,031,118	220,293
Total Fixed Charges	$11,038,246	$11,430,172	$ 6,328,952	$ 324,126
Ratio of earnings to fixed charges	3.56x	1.60x	2.52x	0.85x
Ratio of earnings to combined fixed charges and preferred dividend	3.56x	1.60x	2.52x	0.85x