

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549
FORM 10-Q

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

For the quarterly period ended March 31, 2024

OR

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

Commission File Number 1-15319

DIVERSIFIED HEALTHCARE TRUST

(Exact Name of Registrant as Specified in Its Charter)

Maryland

04-3445278

(State or Other Jurisdiction of Incorporation or
Organization)

(IRS Employer Identification No.)

Two Newton Place, 255 Washington Street, Suite 300, Newton, MA 02458-1634

(Address of Principal Executive Offices) (Zip Code)

617 - 796 - 8350

(Registrant's Telephone Number, Including Area Code)

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

Title Of Each Class	Trading Symbol(s)	Name Of Each Exchange On Which Registered
Common Shares of Beneficial Interest	DHC	The Nasdaq Stock Market LLC
5.625% Senior Notes due 2042	DHCNI	The Nasdaq Stock Market LLC
6.25% Senior Notes due 2046	DHCNL	The Nasdaq Stock Market LLC

Indicate by check mark whether the registrant: (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes ☒ No ☐

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

Large accelerated filer	☐	Accelerated filer	☒
Non-accelerated filer	☐	Smaller reporting company	☐
Emerging growth company	☐		

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

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ☐ No ☒

Number of registrant's common shares outstanding as of May 1, 2024: 240,393,722

DIVERSIFIED HEALTHCARE TRUST
FORM 10-Q

March 31, 2024

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References in this Quarterly Report on Form 10-Q to the Company, we, us or our include Diversified Healthcare Trust and its consolidated subsidiaries unless otherwise expressly stated or the context indicates otherwise.

PART I. Financial Information
Item 1. Financial Statements.

DIVERSIFIED HEALTHCARE TRUST
CONDENSED CONSOLIDATED BALANCE SHEETS
(dollars in thousands, except share data)
(unaudited)

	March 31, 2024	December 31, 2023
<u>Assets</u>		
Real estate properties:		
Land	\$ 641,481	\$ 652,977
Buildings and improvements	6,129,767	6,165,490
Total real estate properties, gross	6,771,248	6,818,467
Accumulated depreciation	(2,062,327)	(2,020,843)
Total real estate properties, net	4,708,921	4,797,624
Investments in unconsolidated joint ventures	130,299	129,916
Assets of properties held for sale	38,107	9,447
Cash and cash equivalents	207,123	245,939
Restricted cash	1,040	1,022
Equity method investment	15,740	—
Acquired real estate leases and other intangible assets, net	31,723	33,948
Other assets, net	215,084	228,240
Total assets	\$ 5,348,037	\$ 5,446,136
<u>Liabilities and Shareholders' Equity</u>		
Senior secured notes, net	\$ 751,890	\$ 731,211
Senior unsecured notes, net	2,073,757	2,072,618
Secured debt and finance leases, net	12,197	13,020
Liabilities of properties held for sale	218	32
Accrued interest	23,751	22,847
Other liabilities	237,521	269,517
Total liabilities	3,099,334	3,109,245
Commitments and contingencies		
Shareholders' equity:		
Common shares of beneficial interest, \$.01 par value: 300,000,000 shares authorized, 240,393,722 and 240,423,898 shares issued and outstanding, respectively	2,404	2,405
Additional paid in capital	4,618,950	4,618,470
Cumulative net income	1,692,019	1,778,278
Cumulative other comprehensive loss	(4)	—
Cumulative distributions	(4,064,666)	(4,062,262)
Total shareholders' equity	2,248,703	2,336,891
Total liabilities and shareholders' equity	\$ 5,348,037	\$ 5,446,136

The accompanying notes are an integral part of these unaudited condensed consolidated financial statements.

DIVERSIFIED HEALTHCARE TRUST
CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME (LOSS)
(amounts in thousands, except per share data)
(unaudited)

	Three Months Ended March 31,	
	2024	2023
Revenues:		
Rental income	\$ 62,650	\$ 66,438
Residents fees and services	308,126	279,592
Total revenues	370,776	346,030
Expenses:		
Property operating expenses	307,604	286,080
Depreciation and amortization	70,133	64,800
General and administrative	7,568	5,873
Acquisition and certain other transaction related costs	86	93
Impairment of assets	12,142	5,925
Total expenses	397,533	362,771
(Loss) gain on sale of properties	(5,874)	1,233
Gains and losses on equity securities, net	—	8,126
Interest and other income	2,237	4,195
Interest expense (including net amortization of debt discounts, premiums and issuance costs of \$24,863 and \$2,074, respectively)	(57,576)	(47,780)
Loss on modification or early extinguishment of debt	—	(1,075)
Loss before income tax (expense) benefit and equity in net earnings (losses) of investees	(87,970)	(52,042)
Income tax (expense) benefit	(187)	31
Equity in net earnings (losses) of investees	1,898	(647)
Net loss	\$ (86,259)	\$ (52,658)
Other comprehensive loss:		
Equity in unrealized losses of an investee	(4)	—
Other comprehensive loss	(4)	—
Comprehensive loss	\$ (86,263)	\$ (52,658)
Weighted average common shares outstanding (basic and diluted)	239,193	238,589
Per common share amounts (basic and diluted):		
Net loss	\$ (0.36)	\$ (0.22)

The accompanying notes are an integral part of these unaudited condensed consolidated financial statements.

DIVERSIFIED HEALTHCARE TRUST
CONDENSED CONSOLIDATED STATEMENTS OF SHAREHOLDERS' EQUITY
(dollars in thousands)
(unaudited)

	Number of Shares	Common Shares	Additional Paid In Capital	Cumulative Net Income	Cumulative Other Comprehensive Loss	Cumulative Distributions	Total Shareholders' Equity
Balance at December 31, 2023:	240,423,898	\$ 2,405	\$ 4,618,470	\$ 1,778,278	\$ —	\$ (4,062,262)	\$ 2,336,891
Net loss	—	—	—	(86,259)	—	—	(86,259)
Equity in unrealized losses of an investee	—	—	—	—	(4)	—	(4)
Distributions	—	—	—	—	—	(2,404)	(2,404)
Share grants	—	—	558	—	—	—	558
Share repurchases	(30,176)	(1)	(78)	—	—	—	(79)
Balance at March 31, 2024:	<u>240,393,722</u>	<u>\$ 2,404</u>	<u>\$ 4,618,950</u>	<u>\$ 1,692,019</u>	<u>\$ (4)</u>	<u>\$ (4,064,666)</u>	<u>\$ 2,248,703</u>
Balance at December 31, 2022:	239,694,842	\$ 2,397	\$ 4,617,031	\$ 2,071,850	\$ —	\$ (4,052,667)	\$ 2,638,611
Net loss	—	—	—	(52,658)	—	—	(52,658)
Distributions	—	—	—	—	—	(2,397)	(2,397)
Share grants	—	—	270	—	—	—	270
Share repurchases	(5,975)	—	(6)	—	—	—	(6)
Share forfeitures	(6,400)	—	(1)	—	—	—	(1)
Balance at March 31, 2023:	<u>239,682,467</u>	<u>\$ 2,397</u>	<u>\$ 4,617,294</u>	<u>\$ 2,019,192</u>	<u>\$ —</u>	<u>\$ (4,055,064)</u>	<u>\$ 2,583,819</u>

The accompanying notes are an integral part of these unaudited condensed consolidated financial statements.

DIVERSIFIED HEALTHCARE TRUST
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(dollars in thousands)
(unaudited)

	Three Months Ended March 31,	
	2024	2023
Cash flows from operating activities:		
Net loss	\$ (86,259)	\$ (52,658)
Adjustments to reconcile net loss to cash provided by operating activities:		
Depreciation and amortization	70,133	64,800
Net amortization of debt discounts, premiums and issuance costs	24,863	2,074
Straight line rental income	(291)	(2,448)
Amortization of acquired real estate leases and other intangible assets, net	28	(311)
Loss on modification or early extinguishment of debt	—	1,075
Impairment of assets	12,142	5,925
Loss (gain) on sale of properties	5,874	(1,233)
Gains and losses on equity securities, net	—	(8,126)
Other non-cash adjustments, net	(385)	(674)
Unconsolidated joint venture distributions	1,231	1,411
Equity in net (earnings) losses of investees	(1,898)	647
Change in assets and liabilities:		
Deferred leasing costs, net	(669)	(1,954)
Other assets	10,102	15,499
Accrued interest	904	2,540
Other liabilities	(7,173)	(20,525)
Net cash provided by operating activities	<u>28,602</u>	<u>6,042</u>
Cash flows from investing activities:		
Real estate improvements	(46,723)	(60,292)
Proceeds from sale of properties, net	3,343	3,548
Investment in AlerisLife Inc.	(15,459)	—
Net cash used in investing activities	<u>(58,839)</u>	<u>(56,744)</u>
Cash flows from financing activities:		
Repayments of borrowings on credit facility	—	(250,000)
Repayment of other debt	(822)	(538)
Payment of debt issuance costs	(5,257)	(1,990)
Repurchase of common shares	(78)	(6)
Distributions to shareholders	(2,404)	(2,397)
Net cash used in financing activities	<u>(8,561)</u>	<u>(254,931)</u>
Decrease in cash and cash equivalents and restricted cash	(38,798)	(305,633)
Cash and cash equivalents and restricted cash at beginning of period	246,961	688,302
Cash and cash equivalents and restricted cash at end of period	<u>\$ 208,163</u>	<u>\$ 382,669</u>

The accompanying notes are an integral part of these unaudited condensed consolidated financial statements.

DIVERSIFIED HEALTHCARE TRUST
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS (CONTINUED)
(dollars in thousands)
(unaudited)

	Three Months Ended March 31,	
	2024	2023
Supplemental cash flow information:		
Interest paid	\$ 31,809	\$ 43,166
Income taxes paid	\$ —	\$ —
Non-cash investing activities:		
Receivable from AlerisLife Inc. tender offer	\$ —	\$ 14,006
Real estate improvements accrued, not paid	\$ 17,369	\$ 20,195

Supplemental disclosure of cash and cash equivalents and restricted cash:

The following table provides a reconciliation of cash and cash equivalents and restricted cash reported within our condensed consolidated balance sheets to the amount shown in our condensed consolidated statements of cash flows:

	As of March 31,	
	2024	2023
Cash and cash equivalents	\$ 207,123	\$ 380,117
Restricted cash ⁽¹⁾	1,040	2,552
Total cash and cash equivalents and restricted cash shown in our condensed consolidated statements of cash flows	<u>\$ 208,163</u>	<u>\$ 382,669</u>

(1) Restricted cash consists of amounts escrowed for real estate taxes, insurance and capital expenditures at certain of our mortgaged properties.

The accompanying notes are an integral part of these unaudited condensed consolidated financial statements.

DIVERSIFIED HEALTHCARE TRUST
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (UNAUDITED)
(dollar amounts in thousands, except per share data or as otherwise stated)

Note 1. Basis of Presentation

The accompanying condensed consolidated financial statements of Diversified Healthcare Trust and its subsidiaries, or we, us, or our, are unaudited. Certain information and disclosures required by U.S. generally accepted accounting principles, or GAAP, for complete financial statements have been condensed or omitted. We believe the disclosures made are adequate to make the information presented not misleading. However, the accompanying condensed consolidated financial statements should be read in conjunction with the consolidated financial statements and notes contained in our Annual Report on Form 10-K for the year ended December 31, 2023, or our Annual Report.

In the opinion of management, all adjustments (consisting of normal recurring accruals) considered necessary for a fair statement of results for the interim period have been included. All intercompany transactions and balances with or among our consolidated subsidiaries have been eliminated. Operating results for interim periods are not necessarily indicative of the results that may be expected for the full year.

The preparation of these financial statements in conformity with GAAP requires us to make estimates and assumptions that affect reported amounts. Actual results could differ from those estimates. Significant estimates in our condensed consolidated financial statements include purchase price allocations, useful lives of fixed assets and impairments of real estate and intangible assets.

We have been, are currently, and expect in the future to be involved in claims, lawsuits, and regulatory and other governmental audits, investigations and proceedings arising in the ordinary course of our business, some of which may involve material amounts. Also, the defense and resolution of these claims, lawsuits, and regulatory and other governmental audits, investigations and proceedings may require us to incur significant expense. We account for claims and litigation losses in accordance with the Financial Accounting Standards Board, or FASB, Accounting Standards Codification Topic 450, *Contingencies*, or ASC 450. Under ASC 450, loss contingency provisions are recorded for probable and estimable losses at our best estimate of a loss or, when a best estimate cannot be made, at our estimate of the minimum loss. These estimates are often developed prior to knowing the amount of the ultimate loss, require the application of considerable judgment, and are refined as additional information becomes known. Accordingly, we are often initially unable to develop a best estimate of loss and therefore the estimated minimum loss amount, which could be zero, is recorded; and then, as information becomes known, the minimum loss amount is updated, as appropriate. A minimum or best estimate amount may be increased or decreased when events result in a changed expectation.

Note 2. Recent Accounting Pronouncements

On November 27, 2023, the FASB issued Accounting Standards Update, or ASU, No. 2023-07, *Segment Reporting (Topic 280): Improvements to Reportable Segment Disclosures*, or ASU No. 2023-07, which requires public entities to: (i) provide disclosures of significant segment expenses and other segment items if they are regularly provided to the Chief Operating Decision Maker, or the CODM, and included in each reported measure of segment profit or loss; (ii) provide all annual disclosures about a reportable segment's profit or loss and assets currently required by ASC 280, Segment Reporting, or ASC 280, in interim periods; and (iii) disclose the CODM's title and position, as well as an explanation of how the CODM uses the reported measures and other disclosures. Public entities with a single reportable segment must apply all the disclosure requirements of ASU No. 2023-07, as well as all the existing segment disclosures under ASC 280. The amendments in ASU No. 2023-07 are incremental to the requirements in ASC 280 and do not change how a public entity identifies its operating segments, aggregates those operating segments, or applies the quantitative thresholds to determine its reportable segments. ASU No. 2023-07 should be applied retrospectively to all prior periods presented in the financial statements and is effective for fiscal years beginning after December 15, 2023, and interim periods within fiscal years beginning after December 15, 2024. Early adoption is permitted. We are currently evaluating the impact ASU No. 2023-07 will have on our consolidated financial statements and disclosures.

On December 14, 2023, the FASB issued ASU No. 2023-09, *Income Taxes (Topic 740): Improvements to Income Tax Disclosures*, or ASU No. 2023-09, which requires public entities to enhance their annual income tax disclosures by requiring: (i) consistent categories and greater disaggregation of information in the rate reconciliation, and (ii) income taxes paid disaggregated by jurisdiction. ASU No. 2023-09 should be applied prospectively but entities have the option to apply it retrospectively to all prior periods presented in the financial statements. ASU No. 2023-09 is effective for annual periods

DIVERSIFIED HEALTHCARE TRUST
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (UNAUDITED)
(dollar amounts in thousands, except per share data or as otherwise stated)

beginning after December 15, 2024, with early adoption permitted. We are currently evaluating the impact ASU No. 2023-09 will have on our consolidated financial statements and disclosures.

Note 3. Real Estate and Other Investments

As of March 31, 2024, we owned 371 properties located in 36 states and Washington, D.C., including four properties classified as held for sale and two closed senior living communities, and we owned an equity interest in each of two unconsolidated joint ventures that own medical office and life science properties located in five states.

Acquisitions and Dispositions:

We did not acquire any properties during the three months ended March 31, 2024.

During the three months ended March 31, 2024, we sold one property for a sales price of \$3,600, excluding closing costs, as presented in the table below. The sale of this property does not represent a significant disposition and we do not believe this sale represents a strategic shift in our business. As a result, the results of operations for this property are included in continuing operations through the date of sale of such property in our condensed consolidated statements of comprehensive income (loss).

Date of Sale	Location	Type of Property	Number of Properties	Sales Price ⁽¹⁾	Loss on Sale
March 2024	Arizona	Medical Office	1	\$ 3,600	\$ 5,874

(1) Sales price excludes closing costs.

As of March 31, 2024, we had four properties classified as held for sale in our condensed consolidated balance sheet as follows:

Type of Property	Number of Properties	Real Estate Properties, Net
Medical Office and Life Science	3	\$ 34,245
Senior Living	1	1,525
	4	\$ 35,770

As of May 2, 2024, we had two properties under agreements to sell for an aggregate sales price of approximately \$10,375, excluding closing costs. We may not complete the sales of any or all of the properties we currently plan to sell. Also, we may sell some or all of these properties at amounts that are less than currently expected and/or less than the carrying values of such properties and we may incur losses on any such sales as a result.

Impairment:

We regularly evaluate our assets for indicators of impairment. Impairment indicators may include declining tenant or resident occupancy, weak or declining profitability from the property, decreasing tenant cash flows or liquidity, our decision to dispose of an asset before the end of its estimated useful life, and legislative, market or industry changes that could permanently reduce the value of an asset. If indicators of impairment are present, we evaluate the carrying value of the affected assets by comparing it to the expected future undiscounted cash flows to be generated from those assets. The future cash flows are subjective and are based in part on assumptions regarding hold periods, market rents and terminal capitalization rates. If the sum of these expected future cash flows is less than the carrying value, we reduce the net carrying value of the asset to its estimated fair value.

During the three months ended March 31, 2024, we recorded impairment charges of \$12,142 related to two medical office properties that were classified as held for sale as of March 31, 2024.

DIVERSIFIED HEALTHCARE TRUST
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (UNAUDITED)
(dollar amounts in thousands, except per share data or as otherwise stated)

Equity Method Investments in Unconsolidated Joint Ventures:

As of March 31, 2024, we had equity investments in unconsolidated joint ventures as follows:

Joint Venture	DHC Ownership	DHC Carrying Value of Investment at March 31, 2024	Number of Properties	Location	Square Feet
Seaport Innovation LLC	10%	\$ 85,922	1	MA	1,134,479
The LSMD Fund REIT LLC	20%	44,377	10	CA, MA, NY, TX, WA	1,068,763
		\$ 130,299	11		2,203,242

The following table provides a summary of the mortgage debts of these joint ventures:

Joint Venture	Coupon Rate	Maturity Date	Principal Balance at March 31, 2024 ⁽¹⁾
Mortgage Notes Payable (secured by one property in Massachusetts) ^{(2) (3)}	3.53%	11/6/2028	\$ 620,000
Mortgage Notes Payable (secured by nine properties in five states) ⁽⁴⁾	3.46%	2/11/2032	189,800
Mortgage Notes Payable (secured by one property in California) ^{(4) (5)}	6.38%	2/9/2025	266,825
	4.22%		\$ 1,076,625

(1) Amounts are not adjusted for our minority equity interest.

(2) We provide certain guaranties on this debt.

(3) This mortgage loan requires interest only payments until the anticipated repayment date on August 6, 2026, at which time all accrued and unpaid interest along with the principal balance of \$620,000 is expected to be repaid. This mortgage loan matures on November 6, 2028 and any unpaid principal from the anticipated repayment date through the maturity date bears interest at a variable rate of the greater of 6.53% or the then effective U.S. swap rate for the swap terminating on the maturity date plus 5.00%.

(4) The debt securing these properties is non-recourse to us.

(5) This mortgage loan matures on February 9, 2025 and requires interest to be paid at an annual rate of the one month term secured overnight financing rate, or SOFR, plus a premium of 1.90%. This joint venture has also purchased an interest rate cap through February 2025 with a SOFR strike rate equal to 4.48% and an initial premium of \$1,200. The maturity date of this mortgage loan is subject to two remaining one-year extension options.

We account for the unconsolidated joint venture for 10 medical office and life science properties in which we own a 20% equity interest, or the LSMD JV, and the unconsolidated joint venture for a life science property located in Boston, Massachusetts in which we own a 10% equity interest, or the Seaport JV, using the equity method of accounting under the fair value option. During the three months ended March 31, 2024 and 2023, respectively, we recognized a \$1,613 and \$(647) change in the fair value of our investments in our unconsolidated joint ventures. These amounts are included in equity in net earnings (losses) of investees in our condensed consolidated statements of comprehensive income (loss). See Note 6 for further information regarding the valuation of our investment in these joint ventures.

Equity Method Investment in AlerisLife:

As of March 31, 2024, we owned approximately 34.0% of the outstanding common shares of AlerisLife Inc., or AlerisLife. We account for our 34.0% non-controlling interest in AlerisLife using the equity method of accounting.

As of March 31, 2024, our investment in AlerisLife had a carrying value of \$15,740. The cost basis of our investment in AlerisLife exceeded our proportionate share of AlerisLife's total stockholders' equity book value on the date of acquisition of our initial interest in AlerisLife, which was February 16, 2024, by an aggregate of \$29,500. As required under GAAP, we are amortizing this difference to equity in earnings of an investee over 21 years, the weighted average remaining useful life of the real estate assets owned by AlerisLife and the intangible contract asset with us as of the date of acquisition. We recorded amortization of the basis difference of \$174 for the three months ended March 31, 2024. We recognized income of \$111 related to our investment in AlerisLife for the three months ended March 31, 2024. These amounts are included in equity in net earnings (losses) of investees in our condensed consolidated statements of comprehensive income (loss). See Note 11 for further information regarding our investment in AlerisLife.

DIVERSIFIED HEALTHCARE TRUST
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (UNAUDITED)
(dollar amounts in thousands, except per share data or as otherwise stated)

Note 4. Leases

We are a lessor of medical office and life science properties, senior living communities and other healthcare related properties. Our leases provide our tenants with the contractual right to use and economically benefit from all of the premises demised under the leases; therefore, we have determined to evaluate our leases as lease arrangements.

Our leases provide for base rent payments and, in addition, may include variable payments. Rental income from operating leases, including any payments derived by index or market based indices, is recognized on a straight line basis over the lease term when we have determined that the collectability of substantially all of the lease payments is probable. Some of our leases have options to extend or terminate the lease exercisable at the option of our tenants, which are considered when determining the lease term.

We increased rental income to record revenue on a straight line basis by \$291 and \$2,448 for the three months ended March 31, 2024 and 2023, respectively. Rents receivable, excluding receivables related to our properties classified as held for sale, if any, include \$74,704 and \$75,306 of straight line rent receivables at March 31, 2024 and December 31, 2023, respectively, and are included in other assets, net in our condensed consolidated balance sheets.

We do not include in our measurement of our lease receivables certain variable payments, including changes in the index or market based indices after the inception of the lease, certain tenant reimbursements and other income until the specific events that trigger the variable payments have occurred. Such payments totaled \$11,350 and \$11,986 for the three months ended March 31, 2024 and 2023, respectively, of which tenant reimbursements totaled \$11,284 and \$11,924, respectively.

Right of Use Asset and Lease Liability: For leases where we are the lessee, we recognized a right of use asset and a lease liability equal to the present value of the minimum lease payments with rental payments being applied to the lease liability and the right of use asset being amortized over the term of the lease. The values of the right of use assets and related liabilities representing our future obligation under the respective lease arrangements for which we are the lessee were \$22,555 and \$22,937, respectively, as of March 31, 2024, and \$23,366 and \$23,748, respectively, as of December 31, 2023. The right of use assets and related lease liabilities are included within other assets, net and other liabilities, respectively, within our condensed consolidated balance sheets. In addition, we lease equipment at certain of our managed senior living communities. These leases are short term in nature, are cancelable with no fee or do not result in an annual expense in excess of our capitalization policy and, as a result, are not recorded on our condensed consolidated balance sheets.

Note 5. Indebtedness

Our principal debt obligations, excluding any debt obligations of our joint ventures, at March 31, 2024 were: (1) \$2,100,000 outstanding principal amount of senior unsecured notes; (2) \$940,534 outstanding principal amount of senior secured notes; and (3) \$8,669 principal amount of mortgage debt secured by one property. The mortgaged property had a net book value of \$13,466 at March 31, 2024. We also had two properties subject to finance leases that expire in 2026 with lease obligations totaling \$3,528 at March 31, 2024; these two properties had an aggregate net book value of \$22,365 at March 31, 2024.

Until its repayment in full on December 21, 2023, we had a \$450,000 credit facility that was fully drawn. As of December 21, 2023, our former credit facility was paid off in full and the related credit agreement was terminated. The weighted average annual interest rate for borrowings under our former credit facility was 7.6% for the three months ended March 31, 2023. In January 2023, pursuant to the credit agreement, we repaid \$113,627 in outstanding borrowings under our former credit facility and the commitments were reduced to \$586,373. In February 2023, we and our lenders amended the credit agreement to reduce the commitments from \$586,373 to \$450,000 following our repayment of \$136,373 in outstanding borrowings under our former credit facility, and as a result of that reduction in commitments, we recorded a loss on modification or early extinguishment of debt of \$1,075 for the three months ended March 31, 2023.

As of March 31, 2024, all \$940,534 of our senior secured notes due 2026 are fully and unconditionally guaranteed, on a joint, several and senior secured basis, by certain of our subsidiaries that own 95 properties, or the Collateral Guarantors, and on a joint, several and unsecured basis, by all our subsidiaries other than the Collateral Guarantors and certain excluded subsidiaries, and all \$500,000 of our 9.75% senior notes due 2025 and all \$500,000 of our 4.375% senior notes due 2031 were fully and unconditionally guaranteed, on a joint, several and unsecured basis, by all of our subsidiaries, except for certain excluded subsidiaries. The notes and related guarantees (other than our senior secured notes and the guarantees provided by the

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Collateral Guarantors) are effectively subordinated to all of our and the subsidiary guarantors' secured indebtedness, respectively, to the extent of the value of the collateral securing such secured indebtedness, and the notes and related guarantees are structurally subordinated to all indebtedness and other liabilities and any preferred equity of any of our subsidiaries that do not guarantee the notes. Our remaining \$1,100,000 of senior unsecured notes do not have the benefit of any guarantees as of March 31, 2024.

Our senior secured notes due 2026 and the guarantees provided by the Collateral Guarantors are secured by a first priority lien and security interest in each of the collateral properties and 100% of the equity interests in each of the Collateral Guarantors. No cash interest will accrue on these notes prior to maturity. The accreted value of these notes will increase at a rate of 11.25% per annum compounded semiannually on January 15 and July 15 of each year, such that the accreted value will equal the principal amount at maturity. During the three months ended March 31, 2024, we recognized discount accretion of \$20,659 for our senior secured notes due 2026 in interest expense in our condensed consolidated statements of comprehensive income (loss). We have a one-time option to extend the maturity date of these notes by one year, to January 15, 2027, subject to satisfaction of certain conditions and payment of an extension fee. If we exercise this option, interest payments will be due semiannually during the extension period at an initial interest rate of 11.25% with increases of 50 basis points every 90 days these notes remain outstanding.

Note 6. Fair Value of Assets and Liabilities

The following table presents certain of our assets that are measured at fair value at March 31, 2024 and December 31, 2023, categorized by the level of inputs as defined in the fair value hierarchy under GAAP, used in the valuation of each asset.

Description	As of March 31, 2024		As of December 31, 2023	
	Carrying Value		Carrying Value	
Recurring Fair Value Measurements Assets:				
Investment in unconsolidated joint venture (Level 3) ⁽¹⁾	\$	85,922	\$	85,699
Investment in unconsolidated joint venture (Level 3) ⁽²⁾	\$	44,377	\$	44,217
Non-Recurring Fair Value Measurements Assets:				
Real estate properties held for sale (Level 2) ⁽³⁾	\$	19,744	\$	—

- (1) The 10% equity interest we own in the Seaport JV is included in investments in unconsolidated joint ventures in our condensed consolidated balance sheet, and is reported at fair value, which is based on significant unobservable inputs (Level 3 inputs). The significant unobservable inputs used in the fair value analysis are a discount rate of 8.00%, an exit capitalization rate of 6.00%, a holding period of 10 years and market rents. The assumptions made in the fair value analysis are based on the location, type and nature of the property, and current and anticipated market conditions, which are derived from appraisers. See Note 3 for further information regarding this joint venture.
- (2) The 20% equity interest we own in the LSMD JV is included in investments in unconsolidated joint ventures in our condensed consolidated balance sheet, and is reported at fair value, which is based on significant unobservable inputs (Level 3 inputs). The significant unobservable inputs used in the fair value analysis are discount rates of between 6.50% and 8.00%, exit capitalization rates of between 4.75% and 7.00%, holding periods of 10 years and market rents. The assumptions we made in the fair value analysis are based on the location, type and nature of each property, and current and anticipated market conditions, which are derived from appraisers. See Note 3 for further information regarding this joint venture.
- (3) We have assets in our condensed consolidated balance sheets that are measured at fair value on a non-recurring basis. During the three months ended March 31, 2024, we recorded impairment charges of \$12,142 to reduce the carrying value of two medical office properties that are classified as held for sale to their estimated sales price, less estimated costs to sell, of \$19,744 under agreements to sell that we have entered into with third parties. See Note 3 for further information about impairment charges and the properties we have classified as held for sale.

In addition to the assets described in the table above, our financial instruments at March 31, 2024 and December 31, 2023 included cash and cash equivalents, restricted cash, certain other assets, senior unsecured notes, senior secured notes, secured debt and finance leases and certain other unsecured obligations and liabilities. The fair values of these financial instruments approximated their carrying values in our condensed consolidated financial statements as of such dates, except as follows:

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Description	As of March 31, 2024		As of December 31, 2023	
	Carrying Amount ⁽¹⁾	Estimated Fair Value	Carrying Amount ⁽¹⁾	Estimated Fair Value
Senior unsecured notes, 9.750% coupon rate, due 2025	\$ 497,892	\$ 500,350	\$ 497,454	\$ 490,750
Senior secured notes, zero coupon rate, due 2026	751,890	798,419	731,211	771,981
Senior unsecured notes, 4.750% coupon rate, due 2028	495,065	405,400	494,746	384,110
Senior unsecured notes, 4.375% coupon rate, due 2031	494,060	374,350	493,845	375,000
Senior unsecured notes, 5.625% coupon rate, due 2042	343,041	200,480	342,946	211,400
Senior unsecured notes, 6.250% coupon rate, due 2046	243,699	153,600	243,627	154,000
Secured debt and finance leases ⁽²⁾	12,197	11,638	13,020	12,284
	<u>\$ 2,837,844</u>	<u>\$ 2,444,237</u>	<u>\$ 2,816,849</u>	<u>\$ 2,399,525</u>

(1) Includes unamortized net discounts, premiums and debt issuance costs.

(2) We assumed certain of these secured debts in connection with our acquisition of certain properties. We recorded the assumed mortgage notes at estimated fair value on the date of acquisition and we are amortizing the fair value adjustments, if any, to interest expense over the respective terms of the mortgage notes to adjust interest expense to the estimated market interest rates as of the date of acquisition.

We estimated the fair values of our two issuances of senior unsecured notes due 2042 and 2046 based on the closing price on The Nasdaq Stock Market LLC, or Nasdaq, (Level 1 inputs as defined in the fair value hierarchy under GAAP) as of March 31, 2024 and December 31, 2023. We estimated the fair values of our three issuances of senior unsecured notes due 2025, 2028 and 2031 and our issuance of senior secured notes due 2026 using an average of the bid and ask price on Nasdaq on or about March 31, 2024 and December 31, 2023 (Level 2 inputs as defined in the fair value hierarchy under GAAP). We estimated the fair values of our secured debts by using discounted cash flows analyses and currently prevailing market terms as of the measurement date (Level 3 inputs as defined in the fair value hierarchy under GAAP). Because Level 3 inputs are unobservable, our estimated fair values may differ materially from the actual fair values.

Note 7. Shareholders' Equity

Common Share Purchases:

During the three months ended March 31, 2024, we purchased an aggregate of 30,176 of our common shares, valued at a weighted average share price of \$2.58 per common share, from certain former employees of RMR in satisfaction of tax withholding and payment obligations in connection with the vesting of prior awards of our common shares. We withheld and purchased these common shares at their fair market values based upon the trading prices of our common shares at the close of trading on Nasdaq on the applicable purchase dates.

Distributions:

During the three months ended March 31, 2024, we declared and paid quarterly distributions to common shareholders as follows:

Declaration Date	Record Date	Payment Date	Distribution Per Share	Total Distributions
January 11, 2024	January 22, 2024	February 15, 2024	\$ 0.01	\$ 2,404

On April 11, 2024, we declared a quarterly distribution to common shareholders of record on April 22, 2024 of \$0.01 per share, or approximately \$2,404. We expect to pay this distribution on or about May 16, 2024 using cash on hand.

Note 8. Segment Reporting

We operate in, and report financial information for, the following two segments: Medical Office and Life Science Portfolio and senior housing operating portfolio, or SHOP. We aggregate the operating results of our properties in these two reporting segments based on their similar operating and economic characteristics. Our Medical Office and Life Science Portfolio segment primarily consists of medical office properties leased to medical providers and other medical related businesses, as well as life science properties primarily leased to biotech laboratories and other similar tenants. Our SHOP segment consists of managed

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senior living communities that provide short term and long term residential living and, in some instances, care and other services for residents where we pay fees to managers to operate the communities on our behalf.

We also report “non-segment” operations, which consists of triple net leased senior living communities and wellness centers that are leased to third party operators from which we receive rents, which we do not consider to be sufficiently material to constitute a separate reporting segment, and any other income or expenses that are not attributable to a specific reporting segment.

For the Three Months Ended March 31, 2024

	Medical Office and Life Science Portfolio	SHOP	Non-Segment	Consolidated
Revenues:				
Rental income	\$ 54,149	\$ —	\$ 8,501	\$ 62,650
Residents fees and services	—	308,126	—	308,126
Total revenues	54,149	308,126	8,501	370,776
Expenses:				
Property operating expenses	23,897	283,416	291	307,604
Depreciation and amortization	20,740	46,922	2,471	70,133
General and administrative	—	—	7,568	7,568
Acquisition and certain other transaction related costs	—	—	86	86
Impairment of assets	12,142	—	—	12,142
Total expenses	56,779	330,338	10,416	397,533
Loss on sale of properties	(5,874)	—	—	(5,874)
Gains on equity securities, net	—	—	—	—
Interest and other income	—	—	2,237	2,237
Interest expense	(222)	(68)	(57,286)	(57,576)
Loss before income tax expense and equity in net earnings of investees	(8,726)	(22,280)	(56,964)	(87,970)
Income tax expense	—	—	(187)	(187)
Equity in net earnings of investees	1,613	—	285	1,898
Net loss	\$ (7,113)	\$ (22,280)	\$ (56,866)	\$ (86,259)

As of March 31, 2024

	Medical Office and Life Science Portfolio	SHOP	Non-Segment	Consolidated
Total assets	\$ 1,834,609	\$ 3,103,540	\$ 409,888	\$ 5,348,037

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For the Three Months Ended March 31, 2023				
	Medical Office and Life Science Portfolio	SHOP	Non-Segment	Consolidated
Revenues:				
Rental income	\$ 57,022	\$ —	\$ 9,416	\$ 66,438
Residents fees and services	—	279,592	—	279,592
Total revenues	57,022	279,592	9,416	346,030
Expenses:				
Property operating expenses	23,515	262,329	236	286,080
Depreciation and amortization	20,035	42,152	2,613	64,800
General and administrative	—	—	5,873	5,873
Acquisition and certain other transaction related costs	—	—	93	93
Impairment of assets	2,308	3,617	—	5,925
Total expenses	45,858	308,098	8,815	362,771
Gain on sale of properties	—	1,233	—	1,233
Gains on equity securities, net	—	—	8,126	8,126
Interest and other income	—	—	4,195	4,195
Interest expense	(109)	(271)	(47,400)	(47,780)
Loss on modification or early extinguishment of debt	—	—	(1,075)	(1,075)
Income (loss) before income tax benefit and equity in net losses of investees	11,055	(27,544)	(35,553)	(52,042)
Income tax benefit	—	—	31	31
Equity in net losses of investees	(647)	—	—	(647)
Net income (loss)	\$ 10,408	\$ (27,544)	\$ (35,522)	\$ (52,658)

As of December 31, 2023				
	Medical Office and Life Science Portfolio	SHOP	Non-Segment	Consolidated
Total assets	\$ 1,866,422	\$ 3,134,978	\$ 444,736	\$ 5,446,136

Note 9. Senior Living Community Management Agreements

Our managed senior living communities are operated by third parties pursuant to management agreements. Five Star Senior Living, or Five Star, which is an operating division of AlerisLife, manages many of our SHOP communities. Five Star manages these communities for us pursuant to a master management agreement. AlerisLife guarantees the payment and performance of each of its applicable subsidiary's obligations under the applicable management agreements.

In connection with ABP Trust's acquisition of AlerisLife on March 20, 2023, we amended the master management agreement with AlerisLife to eliminate any change of control default or event of default provisions. See Note 11 for further information regarding ABP Trust's acquisition of AlerisLife.

Our Senior Living Communities Managed by Five Star: Five Star managed 119 of our senior living communities as of both March 31, 2024 and 2023. We lease our senior living communities that are managed by Five Star to our taxable REIT subsidiaries, or TRSs.

We incurred management fees payable to Five Star of \$10,407 and \$10,014 for the three months ended March 31, 2024 and 2023, respectively. For the three months ended March 31, 2024 and 2023, \$9,998 and \$9,137, respectively, of the total management fees were expensed to property operating expenses in our condensed consolidated statements of comprehensive income (loss) and \$409 and \$877, respectively, were capitalized in our condensed consolidated balance sheets. The amounts capitalized are being depreciated over the estimated useful lives of the related capital assets.

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We incurred fees of \$10 and \$879 for the three months ended March 31, 2024 and 2023, respectively, with respect to rehabilitation services Five Star provided at our senior living communities that are payable by us. These amounts are included in property operating expenses in our condensed consolidated statements of comprehensive income (loss).

We lease to Five Star space at certain of our senior living communities, which it uses to provide certain outpatient rehabilitation and wellness services.

Our Senior Living Communities Managed by Other Third Party Managers. Several other third party managers managed 111 of our senior living communities as of both March 31, 2024 and 2023. We lease our senior living communities that are managed by these third party managers to our TRSs.

In March 2024, we terminated our management agreement with one of our third party managers which manages certain of our communities located in Wisconsin and Illinois. We have transitioned these communities to another third party manager which we have an existing relationship with. The terms of the management agreement for these communities are generally consistent with the terms of the existing management agreements with our other third party managers. We paid termination and other fees of \$1,106 during the second quarter of 2024, and expect to incur additional costs during 2024, related to the transition of these communities.

We incurred management fees payable to these third party managers of \$5,725 and \$5,238 for the three months ended March 31, 2024 and 2023, respectively. These amounts are included in property operating expenses in our condensed consolidated statements of comprehensive income (loss).

The following table presents residents fees and services revenue from all of our managed senior living communities disaggregated by the type of contract and payer:

Revenue from contracts with customers:	Three Months Ended March 31,	
	2024	2023
Basic housing and support services	\$ 243,655	\$ 222,187
Medicare and Medicaid programs	23,849	21,657
Private pay and other third party payer SNF services	40,622	35,748
Total residents fees and services	<u>\$ 308,126</u>	<u>\$ 279,592</u>

Note 10. Business and Property Management Agreements with RMR

We have no employees. The personnel and various services we require to operate our business are provided to us by RMR. We have two agreements with RMR to provide management services to us: (1) a business management agreement, which relates to our business generally; and (2) a property management agreement, which relates to the property level operations of many of our properties, including our medical office and life science properties, and major renovation or repositioning activities at our senior living communities that we may request RMR to manage from time to time. See Note 11 for further information regarding our relationship, agreements and transactions with RMR.

We recognized net business management fees of \$4,878 and \$3,270 for the three months ended March 31, 2024 and 2023, respectively. The net business management fees we recognized for the three months ended March 31, 2024 include \$849 of estimated incentive fees based on our common share total return, as defined in our business management agreement. Although we recognized estimated incentive fees in accordance with GAAP, the actual amount of annual incentive fees for 2024, if any, will be based on our common share total return as defined in our business management agreement, for the three-year period ending December 31, 2024, and will be payable in January 2025. We did not incur any incentive fee payable for the year ended December 31, 2023. We recognize business management and incentive fees in general and administrative expenses in our condensed consolidated statements of comprehensive income (loss).

We recognized aggregate net property management and construction supervision fees of \$1,904 and \$1,992 for the three months ended March 31, 2024 and 2023, respectively. For the three months ended March 31, 2024 and 2023, \$1,538 and \$1,463, respectively, of the total property management fees were expensed to property operating expenses in our condensed consolidated statements of comprehensive income (loss) and \$366 and \$529, respectively, were capitalized as building

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improvements in our condensed consolidated balance sheets. The amounts capitalized are being depreciated over the estimated useful lives of the related capital assets.

We are generally responsible for all our operating expenses, including certain expenses incurred or arranged by RMR on our behalf. We are generally not responsible for payment of RMR's employment, office or administrative expenses incurred to provide management services to us, except for the employment and related expenses of RMR's employees assigned to work exclusively or partly at our properties, our share of the wages, benefits and other related costs of RMR's centralized accounting personnel, our share of RMR's costs for providing our internal audit function, or as otherwise agreed. Our property level operating expenses are generally incorporated into the rents charged to our tenants, including certain payroll and related costs incurred by RMR. We reimbursed RMR \$3,728 and \$3,533 for these expenses and costs for the three months ended March 31, 2024 and 2023, respectively. These amounts are included in property operating expenses or general and administrative expenses, as applicable, in our condensed consolidated statements of comprehensive income (loss) for these periods.

Management Agreements between our Joint Ventures and RMR. We have two separate joint venture arrangements with third party institutional investors, the Seaport JV and the LSMD JV. RMR provides management services to both of these joint ventures. Our joint ventures are not our consolidated subsidiaries and, as a result, we are not obligated to pay management fees to RMR under our management agreements with RMR for the services it provides regarding the joint ventures.

Note 11. Related Person Transactions

We have relationships and historical and continuing transactions with RMR, RMR Inc., AlerisLife (including Five Star) and others related to them, including other companies to which RMR or its subsidiaries provide management services and some of which have trustees, directors or officers who are also our Trustees or officers. RMR Inc. is the majority owned subsidiary of RMR. The Chair of our Board of Trustees and one of our Managing Trustees, Adam D. Portnoy, is the sole trustee, an officer and the controlling shareholder of ABP Trust, which is the controlling shareholder of RMR Inc., the chair of the board of directors, a managing director and the president and chief executive officer of RMR Inc., an officer and employee of RMR and, until the acquisition of AlerisLife by ABP Trust on March 20, 2023, the chair of the board of directors and a managing director of AlerisLife, and currently the sole director of AlerisLife. Jennifer F. Francis, our other Managing Trustee, our former President and Chief Executive Officer and a former managing director of AlerisLife served as an officer of RMR until December 31, 2023 and will remain an employee of RMR until her retirement on July 1, 2024. Our current President and Chief Executive Officer and our Chief Financial Officer and Treasurer are also employees and officers of RMR. Jennifer B. Clark, our Secretary and former Managing Trustee, also serves as a managing director and the executive vice president, general counsel and secretary of RMR Inc., an officer and employee of RMR, an officer of ABP Trust and secretary of AlerisLife and, until March 20, 2023, a managing director of AlerisLife. Certain of AlerisLife's officers are officers and employees of RMR. Some of our Independent Trustees also serve as independent trustees of other public companies to which RMR or its subsidiaries provide management services. Mr. Portnoy serves as the chair of the board and as a managing trustee of these companies. Other officers of RMR, including Ms. Clark and certain of our officers, serve as managing trustees or officers of certain of these companies. In addition, officers of RMR and RMR Inc. serve as our officers and officers of other companies to which RMR or its subsidiaries provide management services. As of March 31, 2024, ABP Trust and Mr. Portnoy owned 9.8% of our outstanding common shares.

AlerisLife. Until March 20, 2023, we were AlerisLife's largest stockholder, owning approximately 31.9% of AlerisLife's outstanding common shares, and ABP Acquisition LLC, or ABP Acquisition, a subsidiary of ABP Trust, together with ABP Trust, owned approximately 6.1% of AlerisLife's outstanding common shares. Five Star is an operating division of AlerisLife. Five Star manages certain of the senior living communities we own. RMR provides management services to both us and AlerisLife.

On February 2, 2023, AlerisLife entered into an Agreement and Plan of Merger, or the ALR Merger Agreement, with certain subsidiaries of ABP Trust, pursuant to which ABP Trust acquired all of the publicly held outstanding AlerisLife common shares at a price of \$1.31 per share by tender offer.

In connection with the ALR Merger Agreement, on February 2, 2023, we agreed to tender all the AlerisLife common shares that we and our subsidiary then owned, into the tender offer at the tender offer price, subject to the right, but not the obligation, to purchase, on or before December 31, 2023, AlerisLife common shares at the tender offer price, and otherwise pursuant to a stockholders agreement to be entered into at the time of any such purchase. On December 20, 2023, we and ABP Trust extended our right to purchase AlerisLife common shares until March 31, 2024.

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On February 16, 2024, we exercised this purchase right and acquired, together with our applicable TRS, approximately 34.0% of the then outstanding AlerisLife common shares from ABP Trust at the tender offer price, for a total purchase price of \$14,890, and we, our applicable TRS, ABP Trust and AlerisLife entered into a stockholders agreement. Following this acquisition, ABP Trust owns the remaining approximately 66.0% of AlerisLife.

See Note 9 for further information regarding our relationships, agreements and transactions with AlerisLife (including Five Star).

Our Joint Ventures. In connection with our entering into the LSMD JV in January 2022, we paid mortgage escrow amounts and closing costs that were payable by that joint venture. The remaining costs totaled \$6,080 as of March 31, 2024 and are included in other assets, net, in our condensed consolidated balance sheet. RMR provides management services to each of the Seaport JV and the LSMD JV. See Note 10 for further information regarding those management agreements with RMR.

Our Manager; RMR. We have two agreements with RMR to provide management services to us. See Note 10 for further information regarding our management agreements with RMR.

Leases with RMR. We lease office space to RMR in certain of our properties for RMR's property management offices. We recognized rental income from RMR for this leased office space of \$109 and \$61 for the three months ended March 31, 2024 and 2023, respectively.

For further information about these and other such relationships and certain other related person transactions, see our Annual Report.

Note 12. Income Taxes

We have elected to be taxed as a real estate investment trust, or REIT, under the Internal Revenue Code of 1986, as amended, and, as such, are generally not subject to federal and most state income taxation on our operating income provided we distribute our taxable income to our shareholders and meet certain organization and operating requirements. We do, however, lease our managed senior living communities to our wholly owned TRSs that, unlike most of our subsidiaries, file a separate consolidated federal corporate income tax return and are subject to federal and state income taxes. Our consolidated income tax provision includes the income tax provision related to the operations of our TRSs and certain state income taxes we incur despite our taxation as a REIT. Our current income tax expense (or benefit) fluctuates from period to period based primarily on the timing of our income, including gains on the disposition of properties or losses in a particular quarter. For the three months ended March 31, 2024 and 2023, we recognized income tax expense of \$187 and benefit of \$31, respectively.

Note 13. Weighted Average Common Shares

We calculate basic earnings per common share using the two class method. We calculate diluted earnings per share using the more dilutive of the two class method or the treasury stock method. Unvested share awards and other potentially dilutive common shares, together with the related impact on earnings, are considered when calculating diluted earnings per share.

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations.

The following discussion should be read in conjunction with our condensed consolidated financial statements and notes thereto included in this Quarterly Report on Form 10-Q and with our Annual Report.

OVERVIEW

We are a REIT organized under Maryland law that primarily owns medical office and life science properties, senior living communities and other healthcare related properties throughout the United States. As of March 31, 2024, we owned 371 properties located in 36 states and Washington, D.C., including four properties classified as held for sale and two closed senior living communities. At March 31, 2024, the gross book value of our real estate assets at cost plus certain acquisition costs, before depreciation and purchase price allocations and less impairment write downs, was \$7.2 billion.

As of March 31, 2024, we owned an equity interest in each of the Seaport JV and the LSMD JV that own medical office and life science properties located in five states with an aggregate of approximately 2.2 million rentable square feet that were 98% leased with an average (by annualized rental income) remaining lease term of 5.1 years.

We are closely monitoring the impacts of the current economic and market conditions on all aspects of our business, including, but not limited to, high interest rates, prolonged high inflation, labor market challenges, supply chain disruptions, volatility in the public equity and debt markets, geopolitical risks, economic downturns or a possible recession and changes in real estate utilization. We expect to experience continued volatility in labor, insurance and food costs in our SHOP segment.

In response to significant and prolonged increases in inflation, the U.S. Federal Reserve has raised interest rates multiple times since the beginning of 2022. Although the U.S. Federal Reserve has indicated that it may lower interest rates in 2024, we cannot be sure that it will do so, and interest rates may remain at the current high levels or continue to increase. These inflationary pressures in the United States, as well as global geopolitical instability and tensions, have given rise to uncertainty regarding economic downturns or a possible recession and potential disruptions in the financial markets. An economic recession, or continued or intensified disruptions in the financial markets, could adversely affect our financial condition and that of our managers, operators and tenants, could adversely impact the ability or willingness of our managers, operators, tenants or residents to pay amounts owed to us, could impair our ability to effectively deploy our capital or realize our target returns on our investments, may restrict our access to, and would likely increase our cost of, capital, and may cause the values of our properties and of our securities to decline.

We are encouraged by positive trends, including increases in rates and occupancy, in our SHOP segment. Additionally, we expect that favorable supply and demand dynamics in the senior living industry will enable our managers to generate better returns at our communities than we experienced in the years following the COVID-19 pandemic. While certain costs, primarily labor, insurance and food costs, have increased, we expect these cost increases to moderate, which will provide our managers the opportunity to increase rates in excess of increases in costs, resulting in improving returns to us.

For further information and risks relating to these economic uncertainties, including changes related to the COVID-19 pandemic, and their impact on our business and financial condition, see Part I, Item 1, "Business" and Part I, Item 1A, "Risk Factors" in our Annual Report.

PORTFOLIO OVERVIEW

The following tables present an overview of our portfolio (dollars in thousands, except investment per square foot or unit data):

As of March 31, 2024	Number of Properties	Square Feet or Number of Units		Gross Book Value of Real Estate Assets ⁽¹⁾	% of Total Gross Book Value of Real Estate Assets	Investment per Square Foot or Unit ⁽²⁾	Q1 2024 Revenues	% of Q1 2024 Revenues	Q1 2024 NOI ⁽³⁾	% of Q1 2024 NOI
Medical Office and Life Science Portfolio ⁽⁴⁾	102	8,486,969 sq. ft.		\$ 2,263,388	31.4 %	\$ 267	\$ 54,149	14.6 %	\$ 30,252	47.9 %
SHOP	232	25,220 units		4,540,601	63.1 %	\$ 180,040	308,126	83.1 %	24,710	39.1 %
Triple net leased senior living communities	27	2,062 units		202,907	2.8 %	\$ 98,403	5,377	1.5 %	5,335	8.4 %
Wellness centers	10	812,000 sq. ft.		194,416	2.7 %	\$ 239	3,124	0.8 %	2,875	4.6 %
Total	371			\$ 7,201,312	100.0 %		\$ 370,776	100.0 %	\$ 63,172	100.0 %

	Occupancy	
	As of and For the Three Months Ended	
	March 31,	
	2024	2023
Medical Office and Life Science Portfolio ⁽⁵⁾	82.9 %	85.1 %
SHOP	78.9 %	76.9 %
Triple net leased senior living communities	100.0 %	100.0 %
Wellness centers	100.0 %	100.0 %

- (1) Represents gross book value of real estate assets at cost plus certain acquisition costs, before depreciation and purchase price allocations and less impairment write downs, if any.
- (2) Represents gross book value of real estate assets divided by number of rentable square feet or living units, as applicable.
- (3) We calculate our NOI on a consolidated basis and by reportable segment. Our definition of NOI and our reconciliation of net income (loss) to NOI are included below under the heading “Non-GAAP Financial Measures”.
- (4) Our medical office and life science property leases include some triple net leases where, in addition to paying fixed rents, the tenants assume the obligation to operate and maintain the properties at their expense, and some net and modified gross leases where we are responsible for the operation and maintenance of the properties and we charge tenants for some or all of the property operating costs. A portion of our medical office and life science property leases are full-service leases where we receive fixed rent from our tenants and no reimbursement for our property operating costs.
- (5) Medical office and life science property occupancy data is as of March 31, 2024 and 2023 and includes (i) out of service assets undergoing redevelopment, (ii) space which is leased but is not occupied or is being offered for sublease by tenants and (iii) space being fitted out for occupancy.

During the three months ended March 31, 2024, we entered into new and renewal leases in our Medical Office and Life Science Portfolio segment as summarized in the following table (dollars and square feet in thousands, except per square foot amounts):

	Three Months Ended March 31, 2024		
	New Leases	Renewals	Total
Square feet leased during the quarter	25	76	101
Weighted average rental rate change (by rentable square feet)	35.3 %	7.0 %	11.5 %
Weighted average lease term (years)	6.3	2.9	3.6
Total leasing costs and concession commitments ⁽¹⁾	\$ 1,418	\$ 696	\$ 2,114
Total leasing costs and concession commitments per square foot ⁽¹⁾	\$ 56.49	\$ 9.18	\$ 20.95
Total leasing costs and concession commitments per square foot per year ⁽¹⁾	\$ 8.97	\$ 3.16	\$ 5.88

- (1) Includes commitments made for leasing expenditures and concessions, such as tenant improvements, leasing commissions, tenant reimbursements and free rent.

During the three months ended March 31, 2024, we entered into renewal leases at three of our wellness centers totaling 129,600 square feet at rates that were 7.5% higher than prior rents for the same space at a weighted average lease term of five years. We did not incur any leasing costs or concessions commitments for these renewals.

Lease Expiration Schedules

As of March 31, 2024, lease expirations in our Medical Office and Life Science Portfolio segment were as follows (dollars in thousands):

Year	Number of Tenants	Square Feet Leased	Percent of Total	Cumulative Percent of Total	Annualized Rental Income ⁽¹⁾	Percent of Total	Cumulative Percent of Total
2024	57	484,323	6.9 %	6.9 %	\$ 12,366	5.6 %	5.6 %
2025	76	617,857	8.8 %	15.7 %	17,462	8.0 %	13.6 %
2026	57	739,881	10.5 %	26.2 %	23,389	10.7 %	24.3 %
2027	66	981,909	14.0 %	40.2 %	24,605	11.2 %	35.5 %
2028	54	1,161,376	16.5 %	56.7 %	35,975	16.4 %	51.9 %
2029	53	597,467	8.5 %	65.2 %	17,385	7.9 %	59.8 %
2030	25	300,877	4.3 %	69.5 %	7,750	3.5 %	63.3 %
2031	22	917,785	13.0 %	82.5 %	26,771	12.2 %	75.5 %
2032	16	268,698	3.8 %	86.3 %	11,869	5.4 %	80.9 %
2033 and thereafter	44	966,376	13.7 %	100.0 %	41,721	19.1 %	100.0 %
Total	470	7,036,549	100.0 %		\$ 219,293	100.0 %	
Weighted average remaining lease term (in years)		5.0			5.5		

- (1) Annualized rental income is based on rents pursuant to existing leases as of March 31, 2024, including straight line rent adjustments and estimated recurring expense reimbursements for certain net and modified gross leases and excluding lease value amortization at certain of our medical office and life science properties.

As of March 31, 2024, lease expirations at our triple net leased senior living communities leased to third party operators and wellness centers were as follows (dollars in thousands):

Year	Number of Properties	Number of Units or Square Feet	Annualized Rental Income ⁽¹⁾	Percent of Total	Cumulative Percent of Total
2024	—	—	\$ —	— %	— %
2025	—	—	—	— %	— %
2026	—	—	—	— %	— %
2027	4	533 units	4,612	11.8 %	11.8 %
2028	—	—	—	— %	11.8 %
2029	1	155 units	547	1.4 %	13.2 %
2030	5	283 units and 129,500 sq. ft.	5,046	12.9 %	26.1 %
2031	—	—	—	— %	26.1 %
2032	18	876 units	9,836	25.1 %	51.2 %
2033 and thereafter	9	215 units and 682,500 sq. ft.	19,148	48.8 %	100.0 %
Total	37		\$ 39,189	100.0 %	

- (1) Annualized rental income is based on rents pursuant to existing leases as of March 31, 2024. Annualized rental income includes estimated percentage rents and straight line rent adjustments and excludes lease value amortization.

RESULTS OF OPERATIONS (dollars and square feet in thousands, unless otherwise noted)

We operate in, and report financial information for, the following two segments: Medical Office and Life Science Portfolio and SHOP. We aggregate the operating results of our properties in these two reporting segments based on their similar operating and economic characteristics. Our Medical Office and Life Science Portfolio segment primarily consists of medical office properties leased to medical providers and other medical related businesses, as well as life science properties primarily leased to biotech laboratories and other similar tenants. Our SHOP segment consists of managed senior living communities that provide short term and long term residential living and, in some instances, care and other services for residents where we pay fees to managers to operate the communities on our behalf.

We also report “non-segment” operations, which consists of triple net leased senior living communities and wellness centers that are leased to third party operators from which we receive rents, which we do not consider to be sufficiently material to constitute a separate reporting segment, and any other income or expenses that are not attributable to a specific reporting segment.

The following table summarizes the results of operations of each of our segments for the three months ended March 31, 2024 and 2023:

	Three Months Ended March 31,	
	2024	2023
Revenues:		
Medical Office and Life Science Portfolio	\$ 54,149	\$ 57,022
SHOP	308,126	279,592
Non-Segment	8,501	9,416
Total revenues	<u>\$ 370,776</u>	<u>\$ 346,030</u>
Net income (loss):		
Medical Office and Life Science Portfolio	\$ (7,113)	\$ 10,408
SHOP	(22,280)	(27,544)
Non-Segment	(56,866)	(35,522)
Net loss	<u>\$ (86,259)</u>	<u>\$ (52,658)</u>

The following section analyzes and discusses the results of operations of each of our segments for the periods presented.

Three Months Ended March 31, 2024 Compared to Three Months Ended March 31, 2023 (dollars and square feet in thousands, except average monthly rate):

Unless otherwise indicated, references in this section to changes or comparisons of results, income or expenses refer to comparisons of the results for the three months ended March 31, 2024 to the three months ended March 31, 2023. Our definition of net operating income, or NOI, and our reconciliation of net income (loss) to NOI and a description of why we believe NOI is an appropriate supplemental measure are included below under the heading “Non-GAAP Financial Measures.”

	Three Months Ended March 31,			
	2024	2023	\$ Change	% Change
NOI by segment:				
Medical Office and Life Science Portfolio	\$ 30,252	\$ 33,507	\$ (3,255)	(9.7)%
SHOP	24,710	17,263	7,447	43.1 %
Non-Segment	8,210	9,180	(970)	(10.6)%
Total NOI	63,172	59,950	3,222	5.4 %
Depreciation and amortization	70,133	64,800	5,333	8.2 %
General and administrative	7,568	5,873	1,695	28.9 %
Acquisition and certain other transaction related costs	86	93	(7)	(7.5)%
Impairment of assets	12,142	5,925	6,217	104.9 %
(Loss) gain on sale of properties	(5,874)	1,233	(7,107)	nm
Gains and losses on equity securities, net	—	8,126	(8,126)	(100.0)%
Interest and other income	2,237	4,195	(1,958)	(46.7)%
Interest expense	(57,576)	(47,780)	(9,796)	20.5 %
Loss on modification or early extinguishment of debt	—	(1,075)	1,075	(100.0)%
Loss before income tax (expense) benefit and equity in net earnings (losses) of investees	(87,970)	(52,042)	(35,928)	69.0 %
Income tax (expense) benefit	(187)	31	(218)	nm
Equity in net earnings (losses) of investees	1,898	(647)	2,545	nm
Net loss	\$ (86,259)	\$ (52,658)	\$ (33,601)	63.8 %

nm - not meaningful

Medical Office and Life Science Portfolio:

	Comparable Properties ⁽¹⁾		All Properties	
	As of March 31,		As of March 31,	
	2024	2023	2024	2023
Total properties	93	93	102	105
Total square feet	7,651	7,657	8,487	8,809
Occupancy	89.8 %	92.9 %	82.9 %	85.1 %

	Three Months Ended March 31,							
	Comparable ⁽¹⁾ Properties Results				Non-Comparable Properties Results		Consolidated Properties Results	
	2024	2023	\$ Change	% Change	2024	2023	2024	2023
Rental income	\$ 52,344	\$ 53,560	\$ (1,216)	(2.3)%	\$ 1,805	\$ 3,462	\$ 54,149	\$ 57,022
Property operating expenses	(21,771)	(20,671)	1,100	5.3 %	(2,126)	(2,844)	(23,897)	(23,515)
NOI	\$ 30,573	\$ 32,889	\$ (2,316)	(7.0)%	\$ (321)	\$ 618	\$ 30,252	\$ 33,507

(1) Consists of medical office and life science properties that we have owned and which have been in service continuously since January 1, 2023; excludes properties classified as held for sale or out of service undergoing redevelopment, if any, and properties owned by unconsolidated joint ventures in each of which we own an equity interest.

Rental income. Rental income decreased at our comparable properties primarily due to vacancies at certain of our properties, partially offset by increased parking revenue at one of our properties. Rental income also decreased at our non-comparable

properties primarily due to a tenant default at one of our properties, partially offset by an increase in rental income at one of our recently redeveloped properties.

Property operating expenses. Property operating expenses consist of real estate taxes, utility expenses, insurance, management fees, salaries and benefit costs of property level personnel, repairs and maintenance expense, cleaning expense and other direct costs of operating these properties. The increase in property operating expenses at our comparable properties is primarily due to an increase in repairs and maintenance expense, real estate taxes and other direct costs. Property operating expenses decreased at our non-comparable properties primarily due to dispositions since January 1, 2023.

Net operating income. The change in NOI reflects the net changes in rental income and property operating expenses described above.

SHOP:

	Comparable Properties ⁽¹⁾		All Properties	
	As of and For the Three Months Ended March 31,		As of and For the Three Months Ended March 31,	
	2024	2023	2024	2023
Total properties	229	229	232	234
Number of units	25,160	25,160	25,220	25,327
Occupancy	79.0 %	77.1 %	78.9 %	76.9 %
Average monthly rate ⁽²⁾	\$ 5,165	\$ 4,837	\$ 5,165	\$ 4,837

	Three Months Ended March 31,									
	Comparable ⁽¹⁾ Properties Results				Non-Comparable Properties Results		Consolidated Properties Results			
	2024	2023	\$ Change	% Change	2024	2023	2024	2023	\$ Change	% Change
Residents fees and services	\$ 308,111	\$ 279,416	\$ 28,695	10.3 %	\$ 15	\$ 176	\$ 308,126	\$ 279,592	\$ 28,534	10.2 %
Property operating expenses	(282,820)	(261,805)	21,015	8.0 %	(596)	(524)	(283,416)	(262,329)	21,087	8.0 %
NOI	\$ 25,291	\$ 17,611	\$ 7,680	43.6 %	\$ (581)	\$ (348)	\$ 24,710	\$ 17,263	\$ 7,447	43.1 %

(1) Consists of senior living communities that we have owned and which have been in service, reported in the same segment and operated by the same operator continuously since January 1, 2023; excludes communities classified as held for sale, closed or out of service, if any.

(2) Average monthly rate reflects the average monthly residents fees and services per occupied unit for the period presented. The average monthly rate is calculated based on the actual number of days during the period.

Residents fees and services. Residents fees and services are the revenues earned at our managed senior living communities. We recognize these revenues as services are provided and related fees are accrued. Residents fees and services increased at our comparable properties primarily due to increases in occupancy and average monthly rate at our communities.

Property operating expenses. Property operating expenses consist of real estate taxes, utility expenses, insurance, wages and benefit costs of community level personnel, repairs and maintenance expense, management fees, cleaning expense and other direct costs of operating these communities. Property operating expenses increased at our comparable properties primarily due to increases in labor costs, dietary expenses, insurance costs and other direct costs, partially offset by reduced contract labor.

Net operating income. The change in NOI reflects the net changes in residents fees and services and property operating expenses described above.

Non-Segment⁽¹⁾:

	Comparable Properties ⁽²⁾		All Properties	
	As of and For the Three Months Ended March 31,		As of and For the Three Months Ended March 31,	
	2024	2023	2024	2023
Total properties:				
Triple net leased senior living communities	26	26	27	27
Wellness centers	10	10	10	10
Rent coverage:				
Triple net leased senior living communities ⁽³⁾	1.49 x	1.47 x	1.49 x	1.47 x
Wellness centers ⁽³⁾	1.67 x	1.72 x	1.67 x	1.72 x

	Three Months Ended March 31,									
	Comparable ⁽²⁾ Properties Results				Non-Comparable Properties Results		Consolidated Properties Results			
	2024	2023	\$ Change	% Change	2024	2023	2024	2023	\$ Change	% Change
Rental income	\$ 8,360	\$ 9,416	\$ (1,056)	(11.2)%	\$ 141	\$ —	\$ 8,501	\$ 9,416	\$ (915)	(9.7)%
Property operating expenses	(250)	(236)	14	5.9 %	(41)	—	(291)	(236)	55	23.3 %
NOI	\$ 8,110	\$ 9,180	\$ (1,070)	(11.7)%	\$ 100	\$ —	\$ 8,210	\$ 9,180	\$ (970)	(10.6)%

(1) Non-segment operations consists of all of our other operations, including certain senior living communities and wellness centers that are leased to third party operators, which segment we do not consider to be sufficiently material to constitute a separate reporting segment, and any other income or expenses that are not attributable to a specific reporting segment.

(2) Consists of properties that we have owned and which have been reported in the same segment and leased to the same operator continuously since January 1, 2023; excludes properties classified as held for sale, if any.

(3) All tenant operating data presented are based upon the operating results provided by our tenants for the most recent prior period for which tenant operating results are available to us. Rent coverage is calculated using the annualized operating cash flows from our triple net lease tenants' operations of our properties, before subordinated charges, if any, divided by annualized rental income. We have not independently verified tenant operating data. Excludes data for historical periods prior to our ownership of certain properties, as well as data for properties sold or classified as held for sale, if any, or for which there was a transfer of operations during the periods presented. Excludes rent coverage for one of our closed senior living communities, the tenant of which was in default under the applicable lease with us as of March 31, 2024.

Rental income. Rental income decreased at our comparable properties primarily due to a cash settlement and higher cash rents received during the three months ended March 31, 2023 from a tenant previously in default under leases for six of our wellness centers. In January 2023, we agreed to amend the lease for three of these wellness centers and repossess the remaining three wellness centers. The three wellness centers we repossessed were subsequently re-leased to other tenants.

Property operating expenses. Property operating expenses consist of real estate taxes, insurance and other expenses that are not paid directly by our tenants. There was not a significant change in property operating expenses.

Net operating income. The change in NOI reflects the net changes in rental income and property operating expenses described above.

Consolidated:

Depreciation and amortization expense. Depreciation and amortization expense increased primarily due to the purchase of capital improvements at certain of our properties, partially offset by certain depreciable assets becoming fully depreciated and dispositions since January 1, 2023.

General and administrative expense. General and administrative expense consists of fees paid to RMR under our business management agreement, legal and accounting fees, fees and expenses of our Trustees, equity compensation expense and other costs relating to our status as a publicly traded company. General and administrative expense increased primarily due to \$849 of estimated business management incentive fees that we recognized for the three months ended March 31, 2024 as a result of our total shareholder return exceeding the returns for the MSCI U.S. REIT/Health Care REIT Index over the applicable measurement period and an increase in our business management fees of \$759.

Acquisition and certain other transaction related costs. Acquisition and certain other transaction related costs primarily represent costs incurred with acquisitions and non-recurring transactions that we expensed under GAAP.

Impairment of assets. For information about our asset impairment charges, see Note 3 to our condensed consolidated financial statements included in Part I, Item 1 of this Quarterly Report on Form 10-Q and Note 3 to our consolidated financial statements included in Part IV, Item 15 of our Annual Report.

(Loss) gain on sale of properties. For information regarding (loss) gain on sale of properties, see Note 3 to our condensed consolidated financial statements included in Part I, Item 1 of this Quarterly Report on Form 10-Q and Note 3 to our consolidated financial statements included in Part IV, Item 15 of our Annual Report.

Gains and losses on equity securities, net. Gains and losses on equity securities, net, represent the net unrealized losses to adjust our investment in AlerisLife to its fair value. For further information regarding our investment in AlerisLife, see Note 11 to our condensed consolidated financial statements included in Part I, Item 1 of this Quarterly Report on Form 10-Q.

Interest and other income. The decrease in interest and other income is primarily due to lower average invested cash balances, partially offset by increased interest rates on invested cash balances during the three months ended March 31, 2024 compared to the three months ended March 31, 2023.

Interest expense. Interest expense increased primarily due to the issuance of \$940,534 of our senior secured notes due 2026 in December 2023, resulting in discount accretion of \$20,659 in the 2024 period. This increase was partially offset by the repayment and termination of our former credit facility and the redemption of \$250,000 of our senior notes that were scheduled to mature in May 2024. The net proceeds from our \$940,534 senior secured notes due 2026 were used to make these repayments aggregating \$700,000.

Income tax (expense) benefit. Income tax (expense) benefit is the result of operating income we earned in certain jurisdictions where we are subject to state income taxes.

Equity in net earnings (losses) of investees. Equity in net earnings (losses) of investees is the change in the fair value of our investments in our joint ventures and also represents our proportionate share of the earnings of our equity method investment in AlerisLife. For further information regarding our investment in AlerisLife, see Notes 3 and 11 to our condensed consolidated financial statements included in Part I, Item 1 of this Quarterly Report on Form 10-Q.

Non-GAAP Financial Measures (dollars in thousands, except per share amounts)

We present certain "non-GAAP financial measures" within the meaning of applicable rules of the Securities and Exchange Commission, or the SEC, including funds from operations, or FFO, normalized funds from operations, or Normalized FFO, and NOI for the three months ended March 31, 2024 and 2023. These measures do not represent cash generated by operating activities in accordance with GAAP and should not be considered alternatives to net income (loss) as indicators of our operating performance or as measures of our liquidity. These measures should be considered in conjunction with net income (loss) as presented in our condensed consolidated statements of comprehensive income (loss). We consider these non-GAAP measures to be appropriate supplemental measures of operating performance for a REIT, along with net income (loss). We believe these measures provide useful information to investors because by excluding the effects of certain historical amounts, such as depreciation and amortization, they may facilitate a comparison of our operating performance between periods and with other REITs and, in the case of NOI, reflecting only those income and expense items that are generated and incurred at the property level may help both investors and management to understand the operations of our properties.

Funds From Operations and Normalized Funds From Operations

We calculate FFO and Normalized FFO as shown below. FFO is calculated on the basis defined by the National Association of Real Estate Investment Trusts, which is net income (loss), calculated in accordance with GAAP, excluding any gain or loss on sale of properties, equity in net earnings or losses of investees, loss on impairment of real estate assets, gains or losses on equity securities, net, if any, and including adjustments to reflect our proportionate share of FFO of our equity method investees, plus real estate depreciation and amortization of consolidated properties, as well as certain other adjustments currently not applicable to us. In calculating Normalized FFO, we adjust for the items shown below including similar adjustments for our unconsolidated joint ventures, if any, and include business management incentive fees, if any, only in the fourth quarter versus the quarter when they are recognized as an expense in accordance with GAAP due to their quarterly volatility not necessarily being indicative of our core operating performance and the uncertainty as to whether any such business management incentive fees will be payable when all contingencies for determining such fees are known at the end of the calendar year. FFO and Normalized FFO are among the factors considered by our Board of Trustees when determining the amount of distributions to our shareholders. Other factors include, but are not limited to, requirements to maintain our qualification for taxation as a REIT, limitations in the agreements governing our debt, the availability to us of debt and equity capital, our expectation of our future capital requirements and operating performance, and our expected needs for and availability of cash to pay our obligations. Other real estate companies and REITs may calculate FFO and Normalized FFO differently than we do.

Our calculations of FFO and Normalized FFO for the three months ended March 31, 2024 and 2023 and reconciliations of net income (loss), the most directly comparable financial measure under GAAP reported in our condensed consolidated financial statements, to FFO and Normalized FFO appear in the following table. This table also provides a comparison of distributions to shareholders, FFO and Normalized FFO and net income (loss) per share for these periods.

	Three Months Ended March 31,	
	2024	2023
Net loss	\$ (86,259)	\$ (52,658)
Depreciation and amortization	70,133	64,800
Loss (gain) on sale of properties	5,874	(1,233)
Impairment of assets	12,142	5,925
Gains on equity securities, net	—	(8,126)
Equity in net (earnings) losses of investees	(1,898)	647
Share of FFO from unconsolidated joint ventures	2,014	1,999
Adjustments to reflect our share of FFO attributable to an equity method investment	582	(1,586)
FFO	2,588	9,768
Business management incentive fees ⁽¹⁾	849	—
Acquisition and certain other transaction related costs	86	93
Loss on modification or early extinguishment of debt	—	1,075
Adjustments to reflect our share of Normalized FFO attributable to an equity method investment	—	1,576
Normalized FFO	\$ 3,523	\$ 12,512
Weighted average common shares outstanding (basic and diluted)	239,193	238,589
Per common share data (basic and diluted):		
Net loss	\$ (0.36)	\$ (0.22)
FFO	\$ 0.01	\$ 0.04
Normalized FFO	\$ 0.01	\$ 0.05
Distributions declared	\$ 0.01	\$ 0.01

- (1) Incentive fees under our business management agreement are payable after the end of each calendar year, are calculated based on common share total return, as defined, and are included in general and administrative expense in our condensed consolidated statements of comprehensive income (loss). In calculating net income (loss) in accordance with GAAP, we recognize estimated business management incentive fee expense, if any, in the first, second and third quarters. Although we recognize this expense, if any, in the first, second and third quarters for purposes of calculating net income (loss), we do not include these amounts in the calculation of Normalized FFO until the fourth quarter, when the amount of the business management incentive fee expense for the calendar year, if any, is determined.

Property Net Operating Income (NOI)

We calculate NOI as shown below. The calculation of NOI excludes certain components of net income (loss) in order to provide results that are more closely related to our property level results of operations. We define NOI as income from our real estate less our property operating expenses. NOI excludes amortization of capitalized tenant improvement costs and leasing commissions that we record as depreciation and amortization. We use NOI to evaluate individual and company-wide property level performance. Other real estate companies and REITs may calculate NOI differently than we do.

The calculation of NOI by reportable segment is included above in this Item 2. The following table includes the reconciliation of net loss to NOI for the three months ended March 31, 2024 and 2023.

	Three Months Ended March 31,	
	2024	2023
Reconciliation of Net Loss to NOI:		
Net loss	\$ (86,259)	\$ (52,658)
Equity in net (earnings) losses of investees	(1,898)	647
Income tax expense (benefit)	187	(31)
Loss before income tax (expense) benefit and equity in net earnings (losses) of investees	(87,970)	(52,042)
Loss on modification or early extinguishment of debt	—	1,075
Interest expense	57,576	47,780
Interest and other income	(2,237)	(4,195)
Gains on equity securities, net	—	(8,126)
Loss (gain) on sale of properties	5,874	(1,233)
Impairment of assets	12,142	5,925
Acquisition and certain other transaction related costs	86	93
General and administrative	7,568	5,873
Depreciation and amortization	70,133	64,800
Total NOI	<u>\$ 63,172</u>	<u>\$ 59,950</u>
Medical Office and Life Science Portfolio NOI	\$ 30,252	\$ 33,507
SHOP NOI	24,710	17,263
Non-Segment NOI	8,210	9,180
Total NOI	<u>\$ 63,172</u>	<u>\$ 59,950</u>

LIQUIDITY AND CAPITAL RESOURCES

Our principal sources of cash to meet operating and capital expenses, pay our debt service obligations and make distributions to our shareholders are the operating cash flows we generate as rental income from our leased properties, residents fees and services revenues from our managed communities and proceeds from the disposition of certain properties. We believe that these sources of funds will be sufficient to meet our operating and capital expenses, pay our debt service obligations and make distributions to our shareholders for at least the next 12 months. Our future cash flows from operating activities will depend primarily upon:

- our ability to receive rents from our tenants;
- our ability to maintain or increase the occupancy of, and the rates at, our properties;
- our and our managers' abilities to control operating expenses and capital expenses at our properties, including increased operating expenses that we may incur in response to wage and commodity price inflation, limited labor availability and increased insurance costs; and
- our managers' abilities to maintain or increase our returns from our managed senior living communities.

Although the senior living industry has been adversely affected by a slow recovery from the COVID-19 pandemic, as well as economic and market conditions, there have been signs of recovery. While we are encouraged by positive trends, including increases in rates and occupancy in our SHOP segment and favorable supply and demand dynamics in the senior living industry, generally, we cannot be sure that these trends will continue to benefit us and any benefits we do realize may be uneven. While we continue to experience volatility in labor, insurance and food costs in our SHOP segment, we expect increases in these costs to moderate and we continue to work with our senior living operators to manage these costs and to increase rates and occupancy at our communities, which we believe will enable our managers to generate better returns to us.

We also continue to invest capital in our SHOP segment in order to capitalize on these positive trends and increase the probability of higher cash flows to us.

On December 21, 2023, we completed a private offering of \$940.5 million in aggregate principal amount at maturity of senior secured notes due January 2026, with a one-year extension option. The net proceeds from the offering were approximately \$730.4 million after deducting initial purchaser discounts and estimated offering costs. We used a portion of the net proceeds to repay in full the \$450.0 million outstanding under our then secured credit facility and to redeem \$250.0 million of our senior notes that were scheduled to mature in May 2024. As a result of these transactions, we have no significant debt maturities until June 2025 when \$500.0 million of our senior notes will become due, and as of March 31, 2024, we had \$207.1 million of cash and cash equivalents. Additionally, as of March 31, 2024, our ratio of consolidated income available for debt service to debt service is above the 1.5x incurrence requirement under our senior notes, on a pro forma basis. We are able to refinance existing or maturing debt and issue new debt as long as this ratio is at or above 1.5x on a pro forma basis at the time of such refinancing or issuance.

Until its repayment in full and termination on December 21, 2023, we had a \$450.0 million credit facility that was fully drawn.

During the three months ended March 31, 2024, we sold one property for a sales price of \$3.6 million, excluding closing costs. As of May 2, 2024, we had two properties under agreements to sell for an aggregate sales price of approximately \$10.4 million, excluding closing costs. We may not complete the sales of any or all of the properties we currently plan to sell. Also, we may sell some or all of these properties at amounts that are less than currently expected and/or less than the carrying values of such properties and we may incur losses on any such sales as a result.

The following is a summary of our sources and uses of cash flows for the periods presented, as reflected in our condensed consolidated statements of cash flows (dollars in thousands):

	Three Months Ended March 31,	
	2024	2023
Cash and cash equivalents and restricted cash at beginning of period	\$ 246,961	\$ 688,302
Net cash provided by (used in):		
Operating activities	28,602	6,042
Investing activities	(58,839)	(56,744)
Financing activities	(8,561)	(254,931)
Cash and cash equivalents and restricted cash at end of period	\$ 208,163	\$ 382,669

Our Operating Liquidity and Resources

We generally receive minimum rents from tenants at our medical office and life science properties, triple net leased senior living communities and wellness centers monthly, we receive residents fees and services revenues, net of expenses, from our managed senior living communities monthly and we receive percentage rents from tenants at certain of our senior living communities monthly, quarterly or annually.

The change in cash provided by operating activities for the three months ended March 31, 2024 compared to the prior period was primarily due to increased NOI as a result of increased rates and occupancy at the senior living communities in our SHOP segment. Additionally, cash interest payments decreased in the 2024 period compared to the 2023 period primarily due to the repayment and termination of our former credit facility and the redemption of \$250.0 million of senior notes that were scheduled to mature in May 2024.

Our Investing Liquidity and Resources

The change in cash used in investing activities for the three months ended March 31, 2024 compared to the prior period was primarily due to our purchase on February 16, 2024 of approximately 34.0% of the then outstanding AlerisLife common shares from ABP Trust at the tender offer price of \$1.31 per share for a total purchase price, including transaction related costs, of \$15.5 million, partially offset by a decrease in real estate improvements in the 2024 period compared to the 2023 period.

The following is a summary of capital expenditures, development, redevelopment and other activities for the periods presented (dollars in thousands):

	Three Months Ended March 31,	
	2024	2023
Medical Office and Life Science Portfolio capital expenditures:		
Lease related costs ⁽¹⁾	\$ 6,029	\$ 6,748
Building improvements ⁽²⁾	919	856
Recurring capital expenditures - Medical Office and Life Science Portfolio	6,948	7,604
Wellness centers lease related costs ⁽¹⁾	6,923	—
SHOP segment fixed assets and capital improvements	10,091	23,644
Total recurring capital expenditures	<u>\$ 23,962</u>	<u>\$ 31,248</u>
Development, redevelopment and other activities - Medical Office and Life Science Portfolio ⁽³⁾	\$ 713	\$ 1,922
Development, redevelopment and other activities - SHOP segment ⁽³⁾	1,189	16,223
Total development, redevelopment and other activities	<u>\$ 1,902</u>	<u>\$ 18,145</u>

- (1) Lease related costs generally include capital expenditures to improve tenants' space or amounts paid directly to tenants to improve their space and other leasing related costs, such as brokerage commissions and tenant inducements.
- (2) Building improvements generally include capital expenditures to replace obsolete building components that extend the useful life of existing assets or other improvements to increase the marketability of the property.
- (3) Development, redevelopment and other activities generally include capital expenditures that reposition a property or result in new sources of revenue.

We generally plan to continue investing capital in our properties, including redevelopment projects, to better position these properties in their respective markets in order to increase our returns in future years. However, we have deferred, and may continue to defer, our capital expenditures to preserve liquidity.

As of March 31, 2024, we had estimated unspent leasing related obligations at our triple net leased wellness centers and our medical office and life science properties of approximately \$43.2 million, of which we expect to spend approximately \$33.1 million during the next 12 months. We expect to fund these obligations using operating cash flows we generate as rental income from our leased properties, residents fees and services revenues from our managed communities, cash on hand, proceeds from the disposition of certain properties and future financing activities with unencumbered properties.

We are currently in the process of redeveloping certain properties in our Medical Office and Life Science Portfolio and a number of our managed senior living communities, which projects are expected to be completed at various times between 2024 and 2025. We continue to assess opportunities to redevelop other properties in our Medical Office and Life Science Portfolio and SHOP segment. These redevelopment projects may require significant capital expenditures and time to complete, and we have deferred, and may in the future defer, certain redevelopment projects to preserve liquidity.

Due to labor availability constraints and wage and commodity price inflation, the capital investments we plan to make may be delayed or cost more than we expect. For further information regarding our dispositions, see Note 3 to our condensed consolidated financial statements included in Part I, Item 1 of this Quarterly Report on Form 10-Q.

Our Financing Liquidity and Resources

The change in cash used in financing activities for the three months ended March 31, 2024 compared to the prior period was primarily due to higher repayments of borrowings under our former credit facility during the 2023 period.

As of March 31, 2024, we had \$207.1 million of cash and cash equivalents. We typically use cash balances, net proceeds from offerings of securities, debt issuances or dispositions of assets and cash flows from our operations to fund our operations, debt repayments, distributions, acquisitions, investments, capital expenditures and other general business purposes.

Until its repayment in full and termination on December 21, 2023, we had a \$450.0 million credit facility that was fully drawn. At December 21, 2023, our former credit facility required interest to be paid on borrowings at an annual rate of 8.4%, plus a facility fee of \$0.3 million per quarter.

During the three months ended March 31, 2024, we paid quarterly cash distributions to our shareholders totaling approximately \$2.4 million using existing cash balances. On April 11, 2024, we declared a quarterly distribution payable to common shareholders of record on April 22, 2024 in the amount of \$0.01 per share, or approximately \$2.4 million. We expect to pay this distribution on or about May 16, 2024 using cash on hand. For further information regarding the distribution we paid during 2023, see Note 7 to our condensed consolidated financial statements included in Part I, Item 1 of this Quarterly Report on Form 10-Q.

We believe we may have access to certain types of financings, including debt or equity offerings, to fund our operations and repay our debts and other obligations as they become due. Our ability to complete, and the costs associated with, future debt or equity transactions depends primarily upon credit market conditions and our then creditworthiness and our ability to be in compliance with our debt covenants as discussed below. We have no control over market conditions. Our credit and debt ratings depend upon evaluations by credit rating agencies of our business practices and plans, including our ability to maintain our earnings, to stagger our debt maturities and to balance our use of debt and equity capital so that our financial performance and leverage ratios afford us flexibility to withstand any reasonably anticipated adverse changes. Similarly, our ability to raise equity capital in the future will depend primarily upon equity capital market conditions and our ability to conduct our business to maintain and grow our operating cash flows. We intend to conduct our business activities in a manner which will afford us reasonable access to capital for investment and financing activities, but we cannot be sure that we will be able to successfully carry out that intention. A protracted negative impact on the economy or the industries in which our properties and businesses operate, wage and commodity price inflation, high interest rates, increased insurance costs, geopolitical risks or other economic, market or industry conditions, including the delayed recovery of the senior housing industry, economic downturns and a possible recession, may have various negative consequences including a decline in financing availability and increased costs for financing. Further, those conditions could also disrupt capital markets and limit our access to financing from public sources, particularly if the global financial markets experience significant disruptions.

In January 2023, pursuant to the then existing credit agreement, we repaid \$113.6 million in outstanding borrowings under our former credit facility and the commitments were reduced to \$586.4 million. In February 2023, we and our lenders amended the credit agreement to reduce the commitments from \$586.4 million to \$450.0 million following our repayment of \$136.4 million in outstanding borrowings under our former credit facility.

In December 2023, we issued \$940.5 million in aggregate principal amount at maturity of our senior secured notes due 2026 in a private offering, raising net proceeds of \$730.4 million, after deducting initial purchaser discounts and estimated offering costs. These notes are fully and unconditionally guaranteed, on a joint, several and senior secured basis, by the Collateral Guarantors, and on a joint, several and unsecured basis, by all our subsidiaries other than the Collateral Guarantors and certain excluded subsidiaries. These notes and the guarantees provided by the Collateral Guarantors are secured by a first priority lien and security interest in each of the collateral properties and 100% of the equity interests in each of the Collateral Guarantors. No cash interest will accrue on these notes prior to maturity. The accreted value of these notes will increase at a rate of 11.25% per annum compounded semiannually on January 15 and July 15 of each year. We used the net proceeds from this offering to repay in full and terminate our then \$450.0 million secured credit facility and to redeem \$250.0 million of our senior notes which were scheduled to mature in May 2024.

In January 2024, Moody's Investors Service, or Moody's, upgraded our 9.75% senior notes due 2025 and our 4.375% senior notes due 2031 ratings from Ca to Caa3 and our senior unsecured debt rating from C to Ca, and Moody's also assigned a Caa2 rating to our senior secured notes due 2026.

In January 2024, Standard & Poor's Rating Services, or Standard & Poor's, upgraded our 9.75% senior notes due 2025 rating from CCC+ to B, our 4.375% senior notes due 2031 rating from CCC+ to B and our senior unsecured debt rating from CCC- to CCC, and Standard & Poor's also assigned a B rating to our senior secured notes due 2026.

For further information regarding our outstanding debt, see Note 5 to our condensed consolidated financial statements included in Part I, Item 1 of this Quarterly Report on Form 10-Q.

Debt Covenants

Our principal debt obligations at March 31, 2024 were: (1) \$2.1 billion outstanding principal amount of senior unsecured notes; (2) \$940.5 million outstanding principal amount of senior secured notes; and (3) \$8.7 million aggregate principal amount of mortgage notes (excluding discounts, premiums and net debt issuance costs) secured by one property. For further information regarding our indebtedness, see Note 5 to our condensed consolidated financial statements included in Part I, Item 1 of this Quarterly Report on Form 10-Q.

Our senior notes are governed by our senior notes indentures and their supplements. Our senior notes indentures and their supplements provide for acceleration of payment of all amounts outstanding upon the occurrence and continuation of certain events of default. Our senior notes indentures and their supplements also contain covenants that restrict our ability to incur debts, including debts secured by mortgages on our properties, in excess of calculated amounts and require us to maintain various financial ratios. As of March 31, 2024, we believe we were in compliance with all of the covenants under our senior notes indentures and their supplements and our other debt obligations. Although we continue to take steps to enhance our ability to maintain sufficient liquidity, as noted elsewhere in this Quarterly Report on Form 10-Q, a protracted negative impact on the economy or the industries in which our properties and businesses operate resulting from wage or commodity price inflation, high interest rates, geopolitical risks or other economic, market or industry conditions, including the delayed recovery of the senior housing industry, economic downturns or a possible recession, may cause increased pressure on our ability to satisfy financial and other covenants. If our operating results and financial condition are significantly negatively impacted by economic conditions or otherwise, we may fail to satisfy our debt covenants and conditions.

Our senior notes indentures and their supplements do not contain provisions for acceleration which could be triggered by our debt ratings. See "—Our Financing Liquidity and Resources" above for information regarding recent changes to our issuer credit rating and senior debt ratings.

Our senior unsecured notes indentures and their supplements contain cross default provisions to any other debts of more than \$20.0 million (\$50.0 million or more in the case of our senior notes indentures and supplements entered in February 2016, February 2018, June 2020, February 2021 and December 2023).

The loan agreements governing the aggregate \$620.0 million secured debt financing related to the Seaport JV contain customary covenants and provide for acceleration of payment of all amounts due thereunder upon the occurrence and continuation of certain events of default. We no longer include this \$620.0 million of secured debt financing in our condensed consolidated balance sheet following the deconsolidation of the net assets of this joint venture; however, we continue to provide certain guaranties on this debt. The debt secured by the properties included in the LSMD JV in which we own a 20% equity interest is guaranteed by this joint venture and is non-recourse to us.

Supplemental Guarantor Information

On May 28, 2020, we issued \$1.0 billion of our 9.75% senior notes due 2025. We subsequently redeemed \$500.0 million of this debt in June 2022, with \$500.0 million remaining outstanding. On February 3, 2021, we issued \$500.0 million of our 4.375% senior notes due 2031. As of March 31, 2024, all \$500.0 million of our 9.75% senior notes due 2025 and all \$500.0 million of our 4.375% senior notes due 2031 were fully and unconditionally guaranteed, on a joint, several and unsecured basis, by all of our subsidiaries, except for certain excluded subsidiaries. The notes and related guarantees are effectively subordinated to all of our and the subsidiary guarantors' secured indebtedness, respectively, to the extent of the value of the collateral securing such secured indebtedness, and are structurally subordinated to all indebtedness and other liabilities and any preferred equity of any of our subsidiaries that do not guarantee the notes. Our remaining \$1.1 billion of senior unsecured notes do not have the benefit of any guarantees.

A subsidiary guarantor's guarantee of our 9.75% senior notes due 2025 and our 4.375% senior notes due 2031, as applicable, and all other obligations of such subsidiary guarantor under the indenture governing the notes will automatically terminate and such subsidiary guarantor will automatically be released from all of its obligations under such subsidiary guarantee and the indenture under certain circumstances, including on or after the date (a) the notes have an investment grade rating from two rating agencies and one of such investment grade ratings is a mid-BBB investment grade rating and (b) no default or event of default has occurred and is continuing under the indenture. Our non-guarantor subsidiaries are separate and distinct legal entities and have no obligation, contingent or otherwise, to pay any amounts due on our 9.75% senior notes due 2025 or our 4.375% senior notes due 2031 or the respective guarantees, or to make any funds available therefor, whether by dividend, distribution, loan or other payments. The rights of holders of our 9.75% senior notes due 2025 and our 4.375% senior notes due 2031, as applicable, to benefit from any of the assets of our non-guarantor subsidiaries are subject to the prior satisfaction of claims of those subsidiaries' creditors and any preferred equity holders. As a result, our 9.75% senior notes due 2025 and our 4.375% senior notes due 2031 and the respective guarantees are structurally subordinated to all indebtedness, guarantees and other liabilities of our subsidiaries that do not guarantee our 9.75% senior notes due 2025 and our 4.375% senior notes due 2031, including guarantees of other indebtedness of ours, payment obligations under lease agreements, trade payables and preferred equity.

The following tables present summarized financial information for guarantor entities and issuer, on a combined basis after eliminating (i) intercompany transactions and balances among the guarantor entities and (ii) equity in earnings from, and any investments in, any subsidiary that is a non-guarantor (dollars in thousands):

	March 31, 2024	December 31, 2023
Real estate properties, net	\$ 3,633,182	\$ 3,685,280
Other assets, net	465,650	502,590
Total assets	<u>\$ 4,098,832</u>	<u>\$ 4,187,870</u>
Indebtedness, net	\$ 2,825,647	\$ 2,803,829
Other liabilities	214,307	241,742
Total liabilities	<u>\$ 3,039,954</u>	<u>\$ 3,045,571</u>

	Three Months Ended March 31, 2024
Revenues	\$ 324,711
Expenses	365,317
Loss from continuing operations	(95,658)
Net loss	(93,947)

Related Person Transactions

We have relationships and historical and continuing transactions with RMR, RMR Inc., AlerisLife (including Five Star) and others related to them. For further information about these and other such relationships and related person transactions, see Notes 9, 10 and 11 to our condensed consolidated financial statements included in Part I, Item 1 of this Quarterly Report on Form 10-Q, our Annual Report, our definitive Proxy Statement for our 2024 Annual Meeting of Shareholders and our other filings with the SEC. In addition, see the section captioned “Risk Factors” of our Annual Report for a description of risks that may arise as a result of these and other related person transactions and relationships. We may engage in additional transactions with related persons, including businesses to which RMR or its subsidiaries provide management services.

Critical Accounting Estimates

The preparation of financial statements in conformity with GAAP requires us to make estimates and assumptions that affect reported amounts. Actual results could differ from those estimates. Significant estimates in our condensed consolidated financial statements include purchase price allocations, useful lives of fixed assets and impairments of real estate and intangible assets.

A discussion of our critical accounting estimates is included in our Annual Report. There have been no significant changes in our critical accounting estimates since the year ended December 31, 2023.

Impact of Government Reimbursement

For the three months ended March 31, 2024, substantially all of our NOI was generated from properties where a majority of the revenues are derived from our tenants' and residents' private resources, and a small amount of our NOI was generated from properties where a majority of the revenues are derived from Medicare and Medicaid payments. Nonetheless, we own, and our tenants, managers and operators operate, facilities in many states that participate in federal and state healthcare payment programs, including the federal Medicare and state Medicaid programs and other federal and state healthcare payment programs. Also, some of our medical office and life science property tenants participate in federal Medicare and state Medicaid programs and other government healthcare payment programs.

For more information regarding the government healthcare funding and regulation of our business, please see the section captioned “Business—Government Regulation and Reimbursement” in our Annual Report and the section captioned “Management's Discussion and Analysis of Financial Condition and Results of Operations—Impact of Government Reimbursement” in our Annual Report.

Item 3. Quantitative and Qualitative Disclosures About Market Risk.

We are exposed to risks associated with market changes in interest rates. We manage our exposure to this market risk by monitoring available financing alternatives. Other than as described below, we do not currently foresee any significant changes in our exposure to fluctuations in interest rates or in how we manage this exposure in the near future.

We may in the future enter into hedge arrangements or derivative contracts from time to time to mitigate our exposure to changes in interest rates.

Fixed Rate Debt

There have been no material changes to market interest rate risks associated with our fixed rate debt during the three months ended March 31, 2024. For a discussion of market interest rate risks associated with our fixed rate debt, see "Quantitative and Qualitative Disclosures About Market Risk" included in Part II, Item 7A of our 2023 Annual Report.

Floating Rate Debt

At March 31, 2024, we did not have any floating rate debt obligations.

Item 4. Controls and Procedures.

As of the end of the period covered by this Quarterly Report on Form 10-Q, our management carried out an evaluation, under the supervision and with the participation of our President and Chief Executive Officer and our Chief Financial Officer and Treasurer, of the effectiveness of our disclosure controls and procedures pursuant to Rules 13a-15 and 15d-15 under the Securities Exchange Act of 1934, as amended. Based upon that evaluation, our President and Chief Executive Officer and our Chief Financial Officer and Treasurer concluded that our disclosure controls and procedures are effective.

There have been no changes in our internal control over financial reporting during the quarter ended March 31, 2024 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Warning Concerning Forward-Looking Statements

This Quarterly Report on Form 10-Q contains forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995 and other securities laws that are subject to risks and uncertainties. These statements may include words such as “believe”, “expect”, “anticipate”, “intend”, “plan”, “estimate”, “will”, “may” and negatives or derivatives of these or similar expressions. These forward-looking statements include, among others, statements about: our efforts to manage costs and increase occupancy at our SHOP communities; demand for medical office and life science leased space; our future leasing activity; market demand and supply for healthcare services for older adults and senior living communities; expected costs related to the transition of certain senior living communities; our leverage; the sufficiency of our liquidity; our liquidity needs and sources; our capital expenditure plans and commitments; the transition of operations at certain of our senior living communities to new managers; our acquisitions and our pending or potential property dispositions; our redevelopment, repositioning and construction activities and plans; and the amount and timing of future distributions.

Forward-looking statements reflect our current expectations, are based on judgments and assumptions, are inherently uncertain and are subject to risks, uncertainties and other factors, which could cause our actual results, performance or achievements to differ materially from expected future results, performance or achievements expressed or implied in those forward-looking statements. Some of the risks, uncertainties and other factors that may cause our actual results, performance or achievements to differ materially from those expressed or implied by forward-looking statements include, but are not limited to, the following:

- The impact of unfavorable market and commercial real estate industry conditions due to possible reduced demand for healthcare related space and senior living communities, high interest rates, wage and commodity price inflation, limited labor availability, increased insurance costs, supply chain disruptions, volatility in the public equity and debt markets, pandemics, geopolitical instability and tensions, economic downturns or a possible recession or changes in real estate utilization, among other things, on us and our managers and other operators and tenants,
- Our senior living operators' abilities to successfully and profitably operate the communities they manage for us,
- The continuing impact of changing market practices, including those that arose or intensified during the COVID-19 pandemic, or delayed returns to prior market practices on us and our managers and other operators and tenants, such as reduced demand for leased medical office, life science and other space of ours and residencies at senior living communities, increased operating costs and labor availability constraints,
- The financial strength of our managers and other operators and tenants,
- Whether the aging U.S. population and increasing life spans of seniors will increase the demand for senior living communities and other medical and healthcare related properties and healthcare services,
- Whether our tenants will renew or extend their leases or whether we will obtain replacement tenants on terms as favorable to us as our prior leases,
- The likelihood that our tenants and residents will pay rent or be negatively impacted by continuing unfavorable market and commercial real estate industry conditions,
- Our managers' abilities to increase or maintain rates charged to residents of our senior living communities and manage operating costs for those communities,
- Our ability to increase or maintain occupancy at our properties on terms desirable to us,
- Our ability to increase rents when our leases expire or renew,
- Costs we incur and concessions we grant to lease our properties,
- Risk and uncertainties regarding the costs and timing of development, redevelopment and repositioning activities, including as a result of prolonged high inflation, cost overruns, supply chain challenges, labor shortages, construction delays or inability to obtain necessary permits or volatility in the commercial real estate markets,
- Our ability to manage our capital expenditures and other operating costs effectively and to maintain and enhance our properties and their appeal to tenants and residents,

- Our ability to effectively raise and balance our use of debt and equity capital,
- Our ability to comply with the financial covenants under our debt agreements,
- Our ability to make required payments on our debt,
- Our ability to maintain sufficient liquidity and otherwise manage leverage,
- Our credit ratings,
- Our ability to sell properties at prices or returns we target,
- Our ability to sell additional equity interests in, or contribute additional properties to, our existing joint ventures, or enter into additional, real estate joint ventures or to attract co-venturers and benefit from our existing joint ventures or any real estate joint ventures we may enter into,
- Our ability to acquire, develop, redevelop or reposition properties that realize our targeted returns,
- Our ability to pay distributions to our shareholders and to maintain or increase the amount of such distributions,
- The ability of RMR to successfully manage us,
- Competition in the real estate industry, particularly in those markets in which our properties are located,
- Government regulations affecting Medicare and Medicaid reimbursement rates and operational requirements,
- Compliance with, and changes to, federal, state and local laws and regulations, accounting rules, tax laws and similar matters,
- Exposure to litigation and regulatory and government proceedings due to the nature of the senior living and other health and wellness related service businesses,
- Actual and potential conflicts of interest with our related parties, including our Managing Trustees, RMR, ABP Trust, AlerisLife and others affiliated with them,
- Limitations imposed by and our ability to satisfy complex rules to maintain our qualification for taxation as a REIT for U.S. federal income tax purposes,
- Acts of terrorism, outbreaks of pandemics or other public health safety events or conditions, war or other hostilities, global climate change or other manmade or natural disasters beyond our control, and
- Other matters.

These risks, uncertainties and other factors are not exhaustive and should be read in conjunction with other cautionary statements that are included in our periodic filings. The information contained elsewhere in this Quarterly Report on Form 10-Q or in our other filings with the SEC, including under the caption “Risk Factors”, or incorporated herein or therein, identifies other important factors that could cause differences from our forward-looking statements. Our other filings with the SEC are available on the SEC’s website at www.sec.gov.

You should not place undue reliance upon our forward-looking statements.

Except as required by law, we do not intend to update or change any forward-looking statements as a result of new information, future events or otherwise.

Statement Concerning Limited Liability.

The Amended and Restated Declaration of Trust establishing Diversified Healthcare Trust, dated September 20, 1999, as amended and supplemented, as filed with the State Department of Assessments and Taxation of Maryland, provides that no trustee, officer, shareholder, employee or agent of Diversified Healthcare Trust shall be held to any personal liability, jointly or severally, for any obligation of, or claim against, Diversified Healthcare Trust. All persons dealing with Diversified Healthcare Trust in any way shall look only to the assets of Diversified Healthcare Trust for the payment of any sum or the performance of any obligation.

PART II. Other Information

Item 1A. Risk Factors.

There have been no material changes to risk factors from those we previously disclosed in our Annual Report.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds.

Issuer purchases of equity securities. The following table provides information about our purchases of our equity securities during the quarter ended March 31, 2024:

Calendar Month	Number of Shares Purchased ⁽¹⁾	Average Price Paid per Share	Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs	Maximum Approximate Dollar Value of Shares that May Yet Be Purchased Under the Plans or Programs
January 1 - January 31, 2024	5,535	\$ 3.59	—	\$ —
March 1 - March 31, 2024	24,641	2.35	—	—
Total	30,176	\$ 2.58	—	\$ —

(1) These common share withholdings and purchases were made to satisfy tax withholding and payment obligations of certain former employees of RMR in connection with the vesting of prior awards of our common shares. We withheld and purchased these common shares at their fair market values based upon the trading prices of our common shares at the close of trading on Nasdaq on the purchase dates.

Item 6. Exhibits.

Exhibit Number	Description
3.1	Composite Copy of Articles of Amendment and Restatement, dated September 20, 1999, as amended to date. (Incorporated by reference to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2020.)
3.2	Articles Supplementary, dated May 11, 2000. (Incorporated by reference to the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2000.)
3.3	Articles Supplementary, dated June 30, 2017. (Incorporated by reference to the Company's Current Report on Form 8-K filed on June 30, 2017.)
3.4	Articles Supplementary, dated May 19, 2020. (Incorporated by reference to the Company's Current Report on Form 8-K filed on May 20, 2020.)
3.5	Third Amended and Restated Bylaws of the Company, adopted November 1, 2023. (Incorporated by reference to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2023.)
4.1	Form of Common Share Certificate. (Incorporated by reference to the Company's Current Report on Form 8-K filed on January 2, 2020.)
4.2	Indenture, dated as of December 20, 2001, between the Company and U.S. Bank Trust Company, National Association (as successor in interest to U.S. Bank National Association, as successor trustee to State Street Bank and Trust Company). (Incorporated by reference to the Company's Registration Statement on Form S-3, File No. 333-76588.)
4.3	Supplemental Indenture No. 7, dated as of July 20, 2012, between the Company and U.S. Bank Trust Company, National Association (as successor in interest to U.S. Bank National Association), related to 5.625% Senior Notes due 2042, including form thereof. (Incorporated by reference to the Company's Registration Statement on Form 8-A filed on July 20, 2012.)
4.4	Indenture, dated as of February 18, 2016, between the Company and U.S. Bank Trust Company, National Association (as successor in interest to U.S. Bank National Association). (Incorporated by reference to the Company's Current Report on Form 8-K filed on February 18, 2016.)
4.5	First Supplemental Indenture, dated as of February 18, 2016, between the Company and U.S. Bank Trust Company, National Association (as successor in interest to U.S. Bank National Association), related to 6.25% Senior Notes due 2046, including form thereof. (Incorporated by reference to the Company's Current Report on Form 8-K filed on February 18, 2016.)

4.6	Second Supplemental Indenture, dated as of February 12, 2018, between the Company and U.S. Bank Trust Company, National Association (as successor in interest to U.S. Bank National Association), related to 4.75% Senior Notes due 2028, including form thereof. (Incorporated by reference to the Company's Annual Report on Form 10-K for the year ended December 31, 2017.)
4.7	Third Supplemental Indenture, dated as of June 2, 2020, among the Company, certain subsidiaries of the Company named therein as guarantors and U.S. Bank Trust Company, National Association (as successor in interest to U.S. Bank National Association), related to 9.750% Senior Notes due 2025, including form thereof. (Incorporated by reference to the Company's Current Report on Form 8-K filed on June 5, 2020.)
4.8	Supplemental Indenture, dated as of March 5, 2021, among the Company, certain subsidiaries of the Company named therein as guarantors and U.S. Bank Trust Company, National Association (as successor in interest to U.S. Bank National Association), related to 9.750% Senior Notes due 2025. (Incorporated by reference to the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2021.)
4.9	Supplemental Indenture, dated as of September 9, 2022, among the Company, certain subsidiaries of the Company named therein as guarantors and U.S. Bank Trust Company, National Association (as successor in interest to U.S. Bank National Association), related to 9.750% Senior Notes due 2025. (Incorporated by reference to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2022.)
4.10	Supplemental Indenture, dated as of November 22, 2022, among the Company, certain subsidiaries of the Company named therein as guarantors and U.S. Bank Trust Company, National Association (as successor in interest to U.S. Bank National Association), related to 9.750% Senior Notes due 2025. (Incorporated by reference to the Company's Annual Report on Form 10-K for the year ended December 31, 2022.)
4.11	Supplemental Indenture, dated as of March 1, 2024, among the Company, certain subsidiaries of the Company named therein as guarantors and U.S. Bank Trust Company, National Association (as successor in interest to U.S. Bank National Association), related to 9.750% Senior Notes due 2025. (Filed herewith.)
4.12	Fourth Supplemental Indenture, dated as of February 8, 2021, among the Company, certain subsidiaries of the Company named therein as guarantors and U.S. Bank Trust Company, National Association (as successor in interest to U.S. Bank National Association), related to 4.375% Senior Notes due 2031, including form thereof. (Incorporated by reference to the Company's Annual Report on Form 10-K for the year ended December 31, 2020.)
4.13	Supplemental Indenture, dated as of March 5, 2021, among the Company, certain subsidiaries of the Company named therein as guarantors and U.S. Bank Trust Company, National Association (as successor in interest to U.S. Bank National Association), related to 4.375% Senior Notes due 2031. (Incorporated by reference to the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2021.)
4.14	Supplemental Indenture, dated as of September 9, 2022, among the Company, certain subsidiaries of the Company named therein as guarantors and U.S. Bank Trust Company, National Association (as successor in interest to U.S. Bank National Association), related to 4.375% Senior Notes due 2031. (Incorporated by reference to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2022.)
4.15	Supplemental Indenture, dated as of November 22, 2022, among the Company, certain subsidiaries of the Company named therein as guarantors and U.S. Bank Trust Company, National Association (as successor in interest to U.S. Bank National Association), related to 4.375% Senior Notes due 2031. (Incorporated by reference to the Company's Annual Report on Form 10-K for the year ended December 31, 2022.)
4.16	Supplemental Indenture, dated as of March 1, 2024, among the Company, certain subsidiaries of the Company named therein as guarantors and U.S. Bank Trust Company, National Association (as successor in interest to U.S. Bank National Association), related to 4.375% Senior Notes due 2031. (Filed herewith.)
4.17	Indenture, dated as of December 21, 2023, among the Company, certain subsidiaries of the Company named therein as guarantors and U.S. Bank Trust Company, National Association. (Incorporated by reference to the Company's Current Report on Form 8-K filed on December 22, 2023.)
4.18	Registration Rights and Lock-Up Agreement, dated as of June 5, 2015, among the Company, ABP Trust (f/k/a Reit Management & Research Trust) and Adam D. Portnoy. (Incorporated by reference to the Company's Current Report on Form 8-K filed on June 8, 2015.)
10.1	Release of Certain Guarantors, dated as of March 1, 2024, related to 9.750% Senior Notes due 2025, among the Company, certain subsidiaries of the Company named therein and U.S. Bank Trust Company, National Association (as successor in interest to U.S. Bank National Association). (Filed herewith.)
10.2	Release of Certain Guarantors, dated as of March 1, 2024, related to 4.375% Senior Notes due 2031, among the Company, certain subsidiaries of the Company named therein and U.S. Bank Trust Company, National Association (as successor in interest to U.S. Bank National Association). (Filed herewith.)
10.3	Stockholders Agreement, dated as of February 16, 2024, by and among AlerisLife Inc., the Company, DHC Holdings LLC and ABP Trust. (Filed herewith.)
22.1	List of Subsidiary Guarantors. (Incorporated by reference to the Company's Annual Report on Form 10-K for the year ended December 31, 2023.)
31.1	Rule 13a-14(a) Certification. (Filed herewith.)
31.2	Rule 13a-14(a) Certification. (Filed herewith.)

32.1	Section 1350 Certification. (Furnished herewith.)
101.INS	XBRL Instance Document - the instance document does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document.
101.SCH	XBRL Taxonomy Extension Schema Document. (Filed herewith.)
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document. (Filed herewith.)
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document. (Filed herewith.)
101.LAB	XBRL Taxonomy Extension Label Linkbase Document. (Filed herewith.)
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document. (Filed herewith.)
104	Cover Page Interactive Data File. (Formatted as Inline XBRL and contained in Exhibit 101.)

SIGNATURES

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

DIVERSIFIED HEALTHCARE TRUST

By: /s/ Christopher J. Bilotto
Christopher J. Bilotto
President and Chief Executive Officer

Dated: May 6, 2024

By: /s/ Matthew C. Brown
Matthew C. Brown
Chief Financial Officer and Treasurer
(principal financial and accounting officer)

Dated: May 6, 2024

SUPPLEMENTAL INDENTURE

THIS SUPPLEMENTAL INDENTURE (this “*Supplemental Indenture*”), dated as of March 1, 2024, among SNH Durham LLC and SNH Maryland Heights LLC, each a Delaware limited liability company, SNH Granite Gate Inc., a Maryland corporation, SNH Granite Gate Tenant LLC, a Maryland limited liability company, and SNH Medical Office Properties Trust, a Maryland real estate investment trust (together, the “*Additional Subsidiary Guarantors*”), each a subsidiary of Diversified Healthcare Trust, a real estate investment trust organized and existing under the laws of the State of Maryland (the “*Company*”), the Company and U.S. Bank Trust Company, National Association (as successor in interest to U.S. Bank National Association), a national banking organization organized and existing under the laws of the United States (the “*Trustee*”).

WITNESSETH

WHEREAS, the Company (then known as Senior Housing Properties Trust) and the Trustee are parties to an Indenture (the “*Base Indenture*”), dated as of February 18, 2016 (as supplemented by that certain Third Supplemental Indenture (the “*Third Supplemental Indenture*”), dated as of June 2, 2020, among the Company, the Initial Subsidiary Guarantors party thereto and the Trustee, providing for the issuance of the Company’s 9.750% Senior Notes due 2025 (the “*Notes*”), as supplemented by that certain Supplemental Indenture, dated as of March 5, 2021, among the Company, the Subsidiary Guarantors party thereto and the Trustee that certain Supplemental Indenture, dated as of September 9, 2022, among the Company, the Subsidiary Guarantors party thereto and the Trustee and that certain Supplemental Indenture, dated as of November 22, 2022, among the Company, the Subsidiary Guarantors party thereto and the Trustee, and as from time to time hereafter further amended, supplemented or otherwise modified so far as it applies to the Notes, the “*Indenture*”);

WHEREAS, the Indenture provides that under certain circumstances the Additional Subsidiary Guarantors shall execute and deliver to the Trustee a supplemental indenture pursuant to which the Additional Subsidiary Guarantors will fully and unconditionally guarantee the Notes, jointly and severally with all of the other Subsidiary Guarantors, on the terms and conditions set forth herein;

WHEREAS, all acts and requirements necessary to make this Supplemental Indenture the legal, valid and binding obligation of the Company, each Additional Subsidiary Guarantor and the Trustee have been done; and

WHEREAS, pursuant to Section 901 of the Base Indenture, the Trustee is authorized to execute and deliver this Supplemental Indenture.

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Company, the Additional Subsidiary Guarantors and the Trustee mutually covenant and agree as follows:

1. CAPITALIZED TERMS. Capitalized terms used herein without definition shall have the meanings assigned to them in the Indenture.

2. AGREEMENT TO GUARANTEE. Each Additional Subsidiary Guarantor hereby agrees that its obligations to the Holders and the Trustee pursuant to the Subsidiary Guarantee shall be as expressly set forth in Article 6 of the Third Supplemental Indenture and in such other provisions of the Indenture as are applicable to the Subsidiary Guarantors (including, without limitation, Article 3 of the Third Supplemental Indenture), and reference is made to the Indenture for the precise terms of this Supplemental Indenture. The terms of Article 6 of the Third Supplemental Indenture and such other provisions of the Indenture (including, without limitation, Article 3 of the Third Supplemental Indenture) as are applicable to the Subsidiary Guarantors are incorporated herein by reference.

3. THIS SUPPLEMENTAL INDENTURE SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

4. COUNTERPARTS. The parties may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

5. EFFECT OF HEADINGS. The Section headings herein are for convenience only and shall not affect the construction hereof.

6. THE TRUSTEE. The Trustee shall not be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Supplemental Indenture or for or in respect of the recitals contained herein, all of which recitals are made solely by the Additional Subsidiary Guarantors and the Company.

[Remainder of page intentionally left blank.]

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

COMPANY:

DIVERSIFIED HEALTHCARE TRUST

By: /s/ Matthew C. Brown

Name: Matthew C. Brown

Title: Chief Financial Officer and Treasurer

ADDITIONAL SUBSIDIARY GUARANTORS:

SNH DURHAM LLC

SNH GRANITE GATE INC.

SNH GRANITE GATE TENANT LLC

SNH MARYLAND HEIGHTS LLC

SNH MEDICAL OFFICE PROPERTIES TRUST

By: /s/ Matthew C. Brown

Name: Matthew C. Brown

Title: Chief Financial Officer and Treasurer

TRUSTEE:

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, as Trustee

By: /s/ David W. Doucette
Name: David W. Doucette
Title: Vice President

[Signature Page to Supplemental Indenture for 9.750% Senior Notes due 2025 (March 2024)]

SUPPLEMENTAL INDENTURE

THIS SUPPLEMENTAL INDENTURE (this “*Supplemental Indenture*”), dated as of March 1, 2024, among SNH Durham LLC and SNH Maryland Heights LLC, each a Delaware limited liability company, SNH Granite Gate Inc., a Maryland corporation, SNH Granite Gate Tenant LLC, a Maryland limited liability company, and SNH Medical Office Properties Trust, a Maryland real estate investment trust (together, the “*Additional Subsidiary Guarantors*”), each a subsidiary of Diversified Healthcare Trust, a real estate investment trust organized and existing under the laws of the State of Maryland (the “*Company*”), the Company and U.S. Bank Trust Company, National Association (as successor in interest to U.S. Bank National Association), a national banking organization organized and existing under the laws of the United States (the “*Trustee*”).

WITNESSETH

WHEREAS, the Company (then known as Senior Housing Properties Trust) and the Trustee are parties to an Indenture (the “*Base Indenture*”), dated as of February 18, 2016 (as supplemented by that certain Fourth Supplemental Indenture (the “*Fourth Supplemental Indenture*”), dated as of February 8, 2021, among the Company, the Initial Subsidiary Guarantors party thereto and the Trustee, providing for the issuance of the Company’s 4.375% Senior Notes due 2031 (the “*Notes*”), as supplemented by that certain Supplemental Indenture, dated as of March 5, 2021, among the Company, the Subsidiary Guarantors party thereto and the Trustee that certain Supplemental Indenture, dated as of September 9, 2022, among the Company, the Subsidiary Guarantors party thereto and the Trustee and that certain Supplemental Indenture, dated as of November 22, 2022, among the Company, the Subsidiary Guarantors party thereto and the Trustee, and as from time to time hereafter further amended, supplemented or otherwise modified so far as it applies to the Notes, the “*Indenture*”);

WHEREAS, the Indenture provides that under certain circumstances the Additional Subsidiary Guarantors shall execute and deliver to the Trustee a supplemental indenture pursuant to which the Additional Subsidiary Guarantors will fully and unconditionally guarantee the Notes, jointly and severally with all of the other Subsidiary Guarantors, on the terms and conditions set forth herein;

WHEREAS, all acts and requirements necessary to make this Supplemental Indenture the legal, valid and binding obligation of the Company, each Additional Subsidiary Guarantor and the Trustee have been done; and

WHEREAS, pursuant to Section 901 of the Base Indenture, the Trustee is authorized to execute and deliver this Supplemental Indenture.

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Company, the Additional Subsidiary Guarantors and the Trustee mutually covenant and agree as follows:

1. CAPITALIZED TERMS. Capitalized terms used herein without definition shall have the meanings assigned to them in the Indenture.
2. AGREEMENT TO GUARANTEE. Each Additional Subsidiary Guarantor hereby agrees that its obligations to the Holders and the Trustee pursuant to the Subsidiary Guarantee shall be as expressly set forth in Article 6 of the Fourth Supplemental Indenture and in such other provisions of the Indenture as are applicable to the Subsidiary Guarantors (including, without limitation, Article 3 of the Fourth Supplemental Indenture), and reference is made to the Indenture for the precise terms of this Supplemental Indenture. The terms of Article 6 of the Fourth Supplemental Indenture and such other provisions of the Indenture (including, without limitation, Article 3 of the Fourth Supplemental Indenture) as are applicable to the Subsidiary Guarantors are incorporated herein by reference.
3. THIS SUPPLEMENTAL INDENTURE SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.
4. COUNTERPARTS. The parties may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.
5. EFFECT OF HEADINGS. The Section headings herein are for convenience only and shall not affect the construction hereof.

6. THE TRUSTEE. The Trustee shall not be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Supplemental Indenture or for or in respect of the recitals contained herein, all of which recitals are made solely by the Additional Subsidiary Guarantors and the Company.

[Remainder of page intentionally left blank.]

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

COMPANY:

DIVERSIFIED HEALTHCARE TRUST

By: /s/ Matthew C. Brown

Name: Matthew C. Brown

Title: Chief Financial Officer and Treasurer

ADDITIONAL SUBSIDIARY GUARANTORS:

SNH DURHAM LLC

SNH GRANITE GATE INC.

SNH GRANITE GATE TENANT LLC

SNH MARYLAND HEIGHTS LLC

SNH MEDICAL OFFICE PROPERTIES TRUST

By: /s/ Matthew C. Brown

Name: Matthew C. Brown

Title: Chief Financial Officer and Treasurer

TRUSTEE:

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, as Trustee

By: /s/ David W. Doucette
Name: David W. Doucette
Title: Vice President

[Signature Page to Supplemental Indenture for 4.375% Senior Notes due 2031 (March 2024)]

RELEASE OF CERTAIN GUARANTORS

Reference is made to that certain Third Supplemental Indenture, dated as of June 2, 2020, as supplemented by that certain Supplemental Indenture, dated as of March 5, 2021, that certain Supplemental Indenture, dated as of September 9, 2022, and that certain Supplemental Indenture, dated as of November 22, 2022 (the “Third Supplemental Indenture”), among Diversified Healthcare Trust (formerly known as Senior Housing Properties Trust), a Maryland real estate investment trust, U.S. Bank Trust Company, National Association (as successor in interest to U.S. Bank National Association), as Trustee (the “Trustee”), SNH GP Valencia LLC, a Delaware limited liability company (the “Released Guarantor”) and certain other Subsidiaries of the Company, as Guarantors, to the Indenture, dated as of February 18, 2016 (the “Indenture”), between the Company and the Trustee, relating to the Company’s 9.750% Senior Notes due 2025 (the “Notes”). The terms defined in the Third Supplemental Indenture are used herein as therein defined, unless otherwise defined herein.

Pursuant to Section 6 of the Third Supplemental Indenture, the undersigned, as Trustee, hereby confirms the release and discharge of the Released Guarantor from any and all obligations and liabilities under the Subsidiary Guarantee, and further hereby confirms the termination and release of the Released Guarantor of all other obligations under the Third Supplemental Indenture, the Indenture or the Notes, each as of December 21, 2023.

Dated as of March 1, 2024.

U.S. Bank Trust Company, National Association, as Trustee

By: /s/ David W. Doucette

Name: David W. Doucette

Title: Vice President

RELEASE OF CERTAIN GUARANTORS

Reference is made to that certain Fourth Supplemental Indenture, dated as of February 8, 2021, as supplemented by that certain Supplemental Indenture, dated as of March 5, 2021, that certain Supplemental Indenture, dated as of September 9, 2022, and that certain Supplemental Indenture, dated as of November 22, 2022 (the “Fourth Supplemental Indenture”), among Diversified Healthcare Trust (formerly known as Senior Housing Properties Trust), a Maryland real estate investment trust, U.S. Bank Trust Company, National Association (as successor in interest to U.S. Bank National Association), as Trustee (the “Trustee”), SNH GP Valencia LLC, a Delaware limited liability company (the “Released Guarantor”) and certain other Subsidiaries of the Company, as Guarantors, to the Indenture, dated as of February 18, 2016 (the “Indenture”), between the Company and the Trustee, relating to the Company’s 4.375% Senior Notes due 2031 (the “Notes”). The terms defined in the Fourth Supplemental Indenture are used herein as therein defined, unless otherwise defined herein.

Pursuant to Section 6 of the Fourth Supplemental Indenture, the undersigned, as Trustee, hereby confirms the release and discharge of the Released Guarantor from any and all obligations and liabilities under the Subsidiary Guarantee, and further hereby confirms the termination and release of the Released Guarantor of all other obligations under the Fourth Supplemental Indenture, the Indenture or the Notes, each as of December 21, 2023.

Dated as of March 1, 2024.

U.S. Bank Trust Company, National Association, as Trustee

By: /s/ David W. Doucette

Name: David W. Doucette

Title: Vice President

STOCKHOLDERS AGREEMENT

by and among

ALERISLIFE INC.
a Maryland corporation,

DIVERSIFIED HEALTHCARE TRUST
a Maryland real estate investment trust,

DHC HOLDINGS LLC
a Maryland limited liability company,

and

ABP TRUST
a Maryland statutory trust

dated as of

February 16, 2024

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EXHIBITS

- Exhibit A – Notice Addresses
 - Exhibit B – Form of Joinder Agreement
-

STOCKHOLDERS AGREEMENT

This Stockholders Agreement (this “**Agreement**”), dated as of February 16, 2024, is entered into by and among AlerisLife Inc., a Maryland corporation (the “**Company**”), Diversified Healthcare Trust, a Maryland real estate investment trust (“**DHC**”), DHC Holdings LLC, a Maryland limited liability company and a subsidiary of DHC (“**DHC TRS**”), ABP Trust, a Maryland statutory trust (“**ABP**” or the “**Initial Stockholder**”) and the Permitted Transferees of the Initial Stockholder, DHC and DHC TRS who after the date hereof acquire Company Shares (such Persons, collectively with the Initial Stockholder, DHC and DHC TRS, the “**Stockholders**”).

RECITALS

WHEREAS, pursuant to that certain Stock Purchase Agreement by and among the Initial Stockholder, DHC and DHC TRS, dated as of February 16, 2024, DHC and DHC TRS acquired 2,674,484 and 8,691,790 shares of common stock, par value \$0.01 per share, of the Company (“**Company Common Stock**”), respectively, from ABP;

WHEREAS, prior to DHC’s and DHC TRS’s acquisition of Company Common Stock, all of the outstanding shares of the Company Common Stock were owned by the Initial Stockholder; and

WHEREAS, the Stockholders and the Company deem it in their best interests to set forth in this Agreement their respective rights and obligations in connection with certain matters related to the ownership, governance and operation of the Company;

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, agree as follows:

ARTICLE I DEFINITIONS

Capitalized terms used in this Agreement and not otherwise defined shall have the meanings set forth in this Article I.

“**AAA**” has the meaning set forth in Section 8.13(a).

“**ABP Put Valuation Firm**” has the meaning set forth in Section 3.07(d)(i).

“**Additional Company Shares**” has the meaning set forth in Section 4.03(a).

“**Adverse Regulatory Event**” has the meaning set forth in Section 4.04(a).

“**Affiliate**” means with respect to any Person, any other Person who, directly or indirectly (including through one or more intermediaries), controls, is controlled by, or is under common control with, such Person. For purposes of this definition, “control,” when used with respect to any specified Person, shall mean the power, direct or indirect, to direct or cause the direction of the management and policies of such Person, whether through ownership of voting securities or partnership or other ownership interests, by contract or otherwise; and the terms “controlling” and “controlled” shall have correlative meanings.

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

“**Appellate Rules**” has the meaning set forth in Section 8.13(g).

“**Applicable Law**” means all applicable provisions of (a) constitutions, treaties, statutes, laws (including the common law), rules, regulations, decrees, ordinances, codes, proclamations, declarations or orders of any Governmental

Authority, (b) any consents or approvals of any Governmental Authority and (c) any orders, decisions, advisory or interpretative opinions, injunctions, judgments, awards, decrees of, or agreements with, any Governmental Authority.

“**Award**” has the meaning set forth in Section 8.13(e).

“**Base Price**” means \$1.31 per Company Share; provided that such amount shall be proportionately adjusted as a result of any reclassification, stock split (including reverse stock split), stock dividend or stock distribution, recapitalization, merger, combination, exchange of shares, subdivision or other similar transaction in the Company Shares.

“**Business Day**” means any day other than Saturday, Sunday, or any other day on which banking institutions in The Commonwealth of Massachusetts are authorized by Applicable Law or executive action to close.

“**Bylaws**” means the bylaws of the Company as amended, modified, supplemented or restated from time to time in accordance with Applicable Law or the Charter.

“**Charter**” means the articles of incorporation of the Company as amended, modified, supplemented or restated from time to time in accordance with Applicable Law.

“**Chosen Courts**” has the meaning set forth in Section 8.12.

“**Code**” means the Internal Revenue Code of 1986, as amended, and the rules and regulations promulgated thereunder.

“**Company**” has the meaning set forth in the preamble.

“**Company Change of Control**” means any transaction or series of related transactions (as a result of a tender offer, merger, consolidation or otherwise) that results in, or that is in connection with, (a) any Third Party Purchaser or “group” (within the meaning of Section 13(d)(3) of the Exchange Act) of Third Party Purchasers acquiring beneficial ownership, directly or indirectly, of a majority of the then issued and outstanding voting Company Shares or (b) the sale, lease, exchange, conveyance, transfer or other disposition (for cash, equity, securities or other consideration) of all or substantially all of the property and assets of the Company and its Subsidiaries (if any) on a consolidated basis (including any liquidation, dissolution or winding up of the affairs of the Company, or any other distribution made in connection therewith), to any Third Party Purchaser or “group” (within the meaning of Section 13(d)(3) of the Exchange Act) of Third Party Purchasers.

“**Company Common Stock**” has the meaning set forth in the recitals.

“**Company Shares**” means the Company Common Stock, preferred stock and all other capital stock of the Company, whether voting or nonvoting, and any securities issued in respect thereof, or in substitution therefor, in connection with any stock split, dividend or combination, or any reclassification, recapitalization, merger, consolidation, exchange or similar reorganization.

“**Determined Repurchase Price**” has the meaning set forth in Section 3.06(d)(iii).

“**Determined Put Price**” has the meaning set forth in Section 3.07(d)(iii).

“**Determined ROFO Price**” has the meaning set forth in Section 3.02(f)(iii).

“**DHC**” has the meaning set forth in the preamble.

“**DHC Change of Control**” means any transaction or series of related transactions (as a result of a tender offer, merger, consolidation or otherwise) that results in, or that is in connection with, (a) any Person or “group” (within the meaning of Section 13(d)(3) of the Exchange Act) of Persons acquiring beneficial ownership, directly or indirectly, of a majority of the then issued and outstanding voting shares of beneficial interest of DHC, (b) the sale, lease, exchange,

conveyance, transfer or other disposition (for cash, equity, securities or other consideration) of all or substantially all of the property and assets of DHC and its Subsidiaries (if any) on a consolidated basis (including any liquidation, dissolution or winding up of the affairs of DHC, or any other distribution made in connection therewith), to any Person or “group” (within the meaning of Section 13(d)(3) of the Exchange Act) of Persons or (c) the following individuals cease for any reason to constitute a majority of the number of DHC trustees then serving on the DHC board of trustees: individuals who, on the date of this Agreement, constitute all of the members of the DHC board of trustees and any new DHC trustee (other than a DHC trustee whose initial election or appointment to office is in connection with an actual or threatened election contest, including, but not limited to, a consent solicitation, relating to the election of DHC trustees) whose appointment or election by the DHC board of trustees or nomination for election by DHC’s shareholders was approved or recommended by a vote of at least two-thirds (2/3) of the DHC trustees then in office who either were DHC trustees on the date of this Agreement or whose appointment, election or nomination for election was previously so approved or recommended.

“**DHC Offer Notice**” has the meaning set forth in [Section 3.02\(b\)](#).

“**DHC Parties**” means DHC, DHC TRS and their Permitted Transferees who acquire Company Shares.

“**DHC ROFO Price**” has the meaning set forth in [Section 3.02\(c\)](#).

“**DHC Valuation Firm**” has the meaning set forth in [Section 3.06\(d\)\(i\)](#).

“**Director**” means each director of the Company.

“**Disputes**” has the meaning set forth in [Section 8.13\(a\)](#).

“**Drag-along Notice**” has the meaning set forth in [Section 3.03\(b\)](#).

“**Drag-along Participating Stockholders**” has the meaning set forth in [Section 3.03\(a\)](#).

“**Drag-along Sale**” has the meaning set forth in [Section 3.03\(a\)](#).

“**Drag-along Stockholder**” has the meaning set forth in [Section 3.03\(a\)](#).

“**Dragging Stockholders**” has the meaning set forth in [Section 3.03\(a\)](#).

“**Electing Put Party**” has the meaning set forth in [Section 3.07\(a\)](#).

“**Electing DHC Parties**” has the meaning set forth in [Section 3.02\(a\)](#).

“**Exchange Act**” means the Securities Exchange Act of 1934, as amended, or any successor federal statute, and the rules and regulations thereunder, which shall be in effect at the time.

“**Excluded Shares**” means any: (a) Company Shares issued or sold in connection with (i) a grant to any existing or prospective consultants, employees, officers or Directors pursuant to any stock option, employee stock purchase or similar equity-based plans or other compensation agreement maintained by the Company and approved by the Directors or (ii) the exercise or conversion of options to purchase Company Shares, or Company Shares issued to any existing or prospective consultants, employees, officers or Directors pursuant to any stock option, employee stock purchase or similar equity-based plans or any other compensation agreement; provided, however, that after giving effect to any grant pursuant to this clause (a), the aggregate amount of Company Shares issued, on a fully diluted basis, pursuant to this clause (a) shall not be more than fifteen percent (15%) of the outstanding Company Shares (by vote or value) on a fully diluted basis at the time of the issuance of such Company Shares; and (b) Company Shares or any equity of a Subsidiary of the Company issued or sold in connection with (i) any bona fide acquisition from a Third Party Purchaser on arms’ length terms of such Third Party Purchaser’s stock, assets, properties or business (whether by merger, acquisition of equity securities, acquisition of assets or otherwise) approved by the Directors; (ii) a Public Offering; (iii) a bona fide leasing or debt financing arrangements with a

Third Party Purchaser; or (iv) a bona fide strategic alliance or transaction with any Third Party Purchaser on arms' length terms at the time the Company Shares were issued or the right or option to acquire such Company Shares were granted.

"Exercising Pre-emptive Stockholder" has the meaning set forth in Section 4.03(d).

"Final Price" has the meaning set forth in Section 3.07(e).

"Fiscal Year" means for financial accounting purposes, the fiscal year employed from time to time by the Company.

"GAAP" means United States generally accepted accounting principles in effect from time to time.

"Governmental Authority" means any federal, state, local or foreign government or political subdivision thereof, or any agency or instrumentality of such government or political subdivision, or any self-regulated organization or other non-governmental regulatory authority or quasi-governmental authority (to the extent that the rules, regulations or orders of such organization or authority have the force of Applicable Law), or any arbitrator, court or tribunal of competent jurisdiction.

"Immediate Family Member" means Adam Portnoy, Diane Portnoy or any lineal descendant of Adam Portnoy or Diane Portnoy (including descendants by adoption), the spouse of any lineal descendant of Adam Portnoy or Diane Portnoy, the estate of any such Person, or a trust for the principal benefit of one or more such Persons (including a trust the principal beneficiary of which is another trust for the principal benefit of one or more such Persons).

"Information" has the meaning set forth in Section 4.02(a).

"Initial ROFO Exercise Period" has the meaning set forth in Section 3.02(d).

"Initial Stockholder" has the meaning set forth in the preamble.

"Initial Stockholder Parties" means the Initial Stockholder and its Permitted Transferees who acquire Company Shares.

"Issuance Notice" has the meaning set forth in Section 4.03(b).

"Joinder Agreement" means the joinder agreement in the form and substance of **Exhibit B** attached hereto.

"Joint Valuation Firm" means a mutually acceptable Third Party Valuation Firm.

"Management Agreement" means that certain Amended and Restated Master Management Agreement, dated as of June 9, 2021, among the Company and certain of its subsidiaries, and DHC and certain of its subsidiaries, as amended from time to time.

"Non-Exercising Pre-emptive Stockholder" has the meaning set forth in Section 4.03(d).

"Offered Shares" has the meaning set forth in Section 3.02(c).

"Organizational Documents" means the Charter, Bylaws and any written agreement between or among any Stockholders.

"Over-allotment Exercise Period" has the meaning set forth in Section 4.03(d).

"Over-allotment Notice" has the meaning set forth in Section 4.03(d).

"Permitted Transfer" means any of the following:

(a) the Transfer of any Company Shares by a Stockholder to one or more of its Permitted Transferees; or

(b) a pledge of any Company Shares by any DHC Party that creates a security interest in the pledged Company Shares pursuant to a bona fide loan or indebtedness transaction, in each case, with a third party lender that makes the loan in the ordinary course of its business, so long as a DHC Party continues to exercise exclusive voting control over the pledged Company Shares; provided, however, that a foreclosure on the pledged Company Shares or other action that would result in a Transfer of the pledged Company Shares to the pledgee shall not be a “Permitted Transfer” within the meaning of this paragraph (b) of this definition unless the pledgee is a Permitted Transferee.

“**Permitted Transferee**” means any of the following:

(a) with respect to the DHC Parties:

(i) any Affiliate of DHC, which is controlled, directly or indirectly, by DHC; provided, however, that such Affiliate shall only remain a Permitted Transferee for as long as such entity is controlled, directly or indirectly, by DHC;

(ii) any other Stockholder; or

(iii) any entity to which The RMR Group LLC or its Subsidiaries provide management services at the time of the Permitted Transfer; and

(b) with respect to the Initial Stockholder, any Immediate Family Member.

“**Person**” means an individual, corporation, partnership, joint venture, limited liability company, Governmental Authority, unincorporated organization, trust, association or other entity.

“**Pre-emptive Acceptance Notice**” has the meaning set forth in Section 4.03(c).

“**Pre-emptive Exercise Period**” has the meaning set forth in Section 4.03(c).

“**Pre-emptive Purchaser**” has the meaning set forth in Section 4.03(b).

“**Pre-emptive Stockholder**” has the meaning set forth in Section 4.03(a).

“**Proceeding**” means any suit, action, proceeding, arbitration, mediation, audit, hearing, inquiry or, to the knowledge of the Person in question, investigation (in each case, whether civil, criminal, administrative, investigative, formal or informal) commenced, brought, conducted or heard by or before, or otherwise involving, any Governmental Authority.

“**Proposed Transferee**” has the meaning set forth in Section 3.04(a).

“**Public Offering**” means the sale of Company Common Stock by the Company to the public pursuant to a registration statement (other than a pursuant to a registration statement on Form S-4 or Form S-8 or any successor form) declared effective under the Securities Act.

“**Put Alternative Value**” has the meaning set forth in Section 3.07(c).

“**Put Alternative Value Notice**” has the meaning set forth in Section 3.07(c).

“**Put Event**” means a breach by the Company or any Initial Stockholder Party of Section 4.04(b) has occurred.

“**Put Exercise Period**” has the meaning set forth in Section 3.07(c).

“**Put Notice**” has the meaning set forth in Section 3.07(a).

“**Put Price**” has the meaning set forth in [Section 3.07\(a\)](#).

“**Put Right**” has the meaning set forth in [Section 3.07\(a\)](#).

“**Put Shares**” has the meaning set forth in [Section 3.07\(a\)](#).

“**REIT**” means a Person that is an entity intending in good faith to qualify as a real estate investment trust under the Code.

“**REIT Party**” means each of (i) DHC together with its Subsidiaries and (ii) any Permitted Transferee of a DHC Party that is, or is a Subsidiary of, a REIT, together with all Subsidiaries of the applicable REIT.

“**Related Party Agreement**” means any agreement, arrangement or understanding between the Company and its Subsidiaries, on the one hand, and any Stockholder or any Affiliate of a Stockholder (other than DHC or its Subsidiaries) or any Director, officer or employee of the Company, on the other hand, as such agreement may be amended, modified, supplemented or restated in accordance with the terms of this Agreement.

“**Related Party Transaction**” means any transaction between the Company and any Stockholder or any Affiliate of a Stockholder (other than DHC or its Subsidiaries) or any Director, officer or employee of the Company.

“**Repurchase Acceptance Notice**” has the meaning set forth in [Section 3.06\(b\)](#).

“**Repurchase Alternative Value**” has the meaning set forth in [Section 3.06\(b\)](#).

“**Repurchase Alternative Value Notice**” has the meaning set forth in [Section 3.06\(b\)](#).

“**Repurchase Exercise Period**” has the meaning set forth in [Section 3.06\(b\)](#).

“**Repurchase Notice**” has the meaning set forth in [Section 3.06\(a\)](#).

“**Repurchase Shares**” has the meaning set forth in [Section 3.06\(a\)](#).

“**Repurchase Price**” has the meaning set forth in [Section 3.06\(a\)](#).

“**Repurchase Right**” has the meaning set forth in [Section 3.06\(a\)](#).

“**Repurchase Withdrawal Period**” has the meaning set forth in [Section 3.06\(d\)\(iv\)](#).

“**ROFO Acceptance Notice**” has the meaning set forth in [Section 3.02\(d\)](#).

“**ROFO Alternative Value**” has the meaning set forth in [Section 3.02\(d\)](#).

“**ROFO Alternative Value Notice**” has the meaning set forth in [Section 3.02\(d\)](#).

“**ROFO Process**” has the meaning set forth in [Section 3.06\(g\)](#).

“**Rules**” has the meaning set forth in [Section 8.13\(a\)](#).

“**Sale Notice**” has the meaning set forth in [Section 3.04\(b\)](#).

“**Second ROFO Exercise Period**” has the meaning set forth in [Section 3.02\(f\)\(iv\)](#).

“**Securities Act**” means the Securities Act of 1933, as amended, or any successor federal statute, and the rules and regulations thereunder, which shall be in effect at the time.

“**Selling Stockholder**” has the meaning set forth in Section 3.04(a).

“**Subsidiary**” means with respect to any Person, any other Person of which a majority of the outstanding equity interests having the power to vote for directors or managers, or comparable Persons charged with governance authority, are owned, directly or indirectly, by the first Person.

“**Stockholders**” has the meaning set forth in the preamble.

“**Tag-along Notice**” has the meaning set forth in Section 3.04(c).

“**Tag-along Participating Stockholders**” has the meaning set forth in Section 3.04(a).

“**Tag-along Period**” has the meaning set forth in Section 3.04(c).

“**Tag-along Sale**” has the meaning set forth in Section 3.04(a).

“**Tag-along Stockholder**” has the meaning set forth in Section 3.04(a).

“**Termination Event**” means either of the following:

(a) the termination by DHC, at once, or from time to time, of the Management Agreement with respect to Communities (as defined in the Management Agreement) representing, in the aggregate, sixty percent (60%) or more of the Portfolio Gross Revenues (as defined in the Management Agreement) for the last full calendar year preceding DHC’s first exercise of any termination rights under the Management Agreement; or

(b) the occurrence of a DHC Change of Control.

“**Third Party Purchaser**” means any Person who, immediately prior to the contemplated transaction with respect to the Company, (a) does not directly or indirectly own or have the right to acquire any outstanding Company Shares or (b) is not a Person who is or would qualify as a Permitted Transferee of any Person who directly or indirectly owns or has the right to acquire any Company Shares.

“**Third Party Valuation Firm**” means any independent investment bank or valuation firm with a national, established reputation for the valuation of securities.

“**Transfer**” means to, directly or indirectly, sell, transfer, assign, pledge, encumber, hypothecate or similarly dispose of, either voluntarily or involuntarily, or to enter into any contract, option or other arrangement or understanding with respect to the sale, transfer, assignment, pledge, encumbrance, hypothecation or similar disposition of, any Company Shares owned by a Person or any interest (including a beneficial interest) in any Company Shares owned by a Person; provided, however, that a transfer that occurs by operation of law pursuant to a merger, acquisition, consolidation or other business combination transaction that results in a DHC Change of Control shall not be deemed to be a Transfer for purposes of Section 3.02 or Section 3.04.

“**Waived ROFO Transfer Period**” has the meaning set forth in Section 3.02(h).

“**Waived Repurchase Transfer Period**” has the meaning set forth in Section 3.06(f).

“**Withdrawal Period**” has the meaning set forth in Section 3.02(f)(iv).

ARTICLE II
MANAGEMENT AND OPERATION OF THE COMPANY

Section 2.01 Voting Arrangements. In addition to any vote or consent of the Directors or Stockholders required by Applicable Law, without the approval of DHC, the Company shall not, and shall not enter into any commitment to, and shall not permit any of its Subsidiaries to, or enter into any commitment to:

(a) amend, modify or waive any provision of the Charter or Bylaws or the governing documents of such Subsidiary or enter into, amend, modify or waive any provision of any written agreement among the Company and any of its stockholders or such Subsidiary and any of its equityholders (other than this Agreement which can only be amended pursuant to Section 8.10), in each case, in a manner (i) disproportionately adverse to the DHC Parties as compared to all other stockholders of the Company holding the same class of Company Shares as the DHC Parties or (ii) materially adverse to the DHC Parties (it being understood the amendment, modification, or waiver of any provision of the Charter or Bylaws or any such governing documents or the entering into, or amendment, modification or waiver of any provision of, any such agreements to permit the authorization and effect the issuance of Company Shares with preferences or priorities over the Company Common Stock shall not be deemed adverse to the DHC Parties in their capacity as holders of Company Common Stock; provided, that any amendment, modification, or waiver of any provision of the Charter or Bylaws or the governing documents of a Subsidiary or the entering into, or amendment, modification or waiver of any provision of, any agreements among the Company and any of its stockholders or a Subsidiary and any of its equityholders that would cause the Company to be in breach of, or be otherwise unable to comply with its obligations under, this Agreement shall be deemed materially adverse to the DHC Parties); or

(b) subject to Section 2.02, enter into, amend in any material respect, waive or terminate any Related Party Agreement or Related Party Transaction other than on terms that are on an arm's length basis and no less favorable to the Company or the relevant Subsidiary than could be obtained from an unaffiliated third party.

Section 2.02 Related Party Redemptions. The Company shall give DHC prior notice of any redemption of any Company Shares or any equity interests of any Subsidiary from the Initial Stockholder or any Immediate Family Member, which notice shall specify the proposed redemption price and any other material terms related to such proposed redemption, as well as evidence reasonably satisfactory to DHC of the current valuation of the Company Shares or equity interests proposed to be redeemed.

ARTICLE III
TRANSFER OF INTERESTS

Section 3.01 General Restrictions on Transfer.

(a) Except for Permitted Transfers or in accordance with the procedures described in Section 3.02, Section 3.03, Section 3.04, Section 3.06 or Section 3.07, each Stockholder agrees that it will not, directly or indirectly, voluntarily or involuntarily Transfer any of its Company Shares. Any Company Shares transferred to a Third Party Purchaser pursuant to Section 3.02, Section 3.03, Section 3.04, Section 3.06 or Section 3.07 shall cease to be subject to this Agreement.

(b) In addition to any legends required by Applicable Law and any legends set forth in the Organizational Documents, any certificate representing the Company Shares held by a Stockholder shall bear a legend substantially in the following form:

"THE SECURITIES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO A STOCKHOLDERS AGREEMENT (A COPY OF WHICH IS ON FILE WITH THE COMPANY). NO TRANSFER, SALE, ASSIGNMENT, PLEDGE, HYPOTHECATION OR OTHER DISPOSITION OF THE SECURITIES REPRESENTED BY THIS CERTIFICATE MAY BE MADE EXCEPT IN ACCORDANCE WITH THE PROVISIONS OF SUCH AGREEMENT AND (A) PURSUANT TO A REGISTRATION STATEMENT EFFECTIVE UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR (B) PURSUANT TO AN EXEMPTION FROM REGISTRATION THEREUNDER. THE HOLDER OF THIS CERTIFICATE,

BY ACCEPTANCE OF THIS CERTIFICATE, AGREES TO BE BOUND BY ALL OF THE PROVISIONS OF SUCH STOCKHOLDERS AGREEMENT.”

(c) Each Stockholder shall give notice to the Company and the other Stockholders prior to any proposed Transfer (whether or not a Permitted Transfer) of any of its Company Shares. In connection with the consummation of any Transfer by a Stockholder of any of its Company Shares (including by operation of law) to a Permitted Transferee, such Permitted Transferee shall be required to execute and deliver to the Company and each other Stockholder, a Joinder Agreement; it being understood that such Permitted Transferee shall automatically be deemed to be a party to, and shall be bound by, all of the terms and conditions of this Agreement, whether or not such Permitted Transferee has executed and delivered a Joinder Agreement.

(d) Notwithstanding any other provision of this Agreement, but subject to Section 4.04(b), each Stockholder agrees that it will not, directly or indirectly, Transfer any of its Company Shares (i) if it would cause a violation of the Securities Act or other applicable federal or state securities laws (it being understood that, upon request by the Company, there must be delivered to the Company an opinion of counsel in form and substance satisfactory to the Company to the effect that such Transfer may be effected without registration under the Securities Act), (ii) if it would cause the Company or any of its Subsidiaries to be required to register as an investment company under the Investment Company Act of 1940, as amended or (iii) if it would cause the assets of the Company or any of its Subsidiaries to be deemed plan assets as defined under the Employee Retirement Income Security Act of 1974 or its accompanying regulations or result in any “prohibited transaction” thereunder involving the Company.

(e) Any Transfer or attempted Transfer of any Company Shares in violation of this Agreement shall be null and void, no such Transfer shall be recorded on the Company’s books and the purported transferee in any such Transfer shall not be treated (and the purported transferor shall continue be treated) as the owner of the Company Shares for all purposes of this Agreement.

Section 3.02 Right of First Offer.

(a) Subject to Section 3.06(g), one or more DHC Parties (the “**Electing DHC Parties**”) may Transfer all or any portion of their Company Shares to a Third Party Purchaser; provided, however, that any such Transfer must be in compliance with this Section 3.02; and, provided further, that the DHC Parties may only initiate a Transfer pursuant to this Section 3.02 once in any calendar year.

(b) Prior to Transferring any Company Shares to any Third Party Purchaser, the Electing DHC Parties shall provide ABP with notice (a “**DHC Offer Notice**”) of their desire to Transfer some or all of their Company Shares to a Third Party.

(c) The DHC Offer Notice shall specify the number of Company Shares that the Electing DHC Parties desire to Transfer (such Company Shares, the “**Offered Shares**”) and shall include a valuation (without any reduction for minority interests) of the Offered Shares from a Third Party Valuation Firm (the “**DHC ROFO Price**”), together with reasonable supporting information. Upon request of the Electing DHC Parties, the Company and ABP shall provide the Third Party Valuation Firm appointed by the Electing DHC Parties to determine the DHC ROFO Price with such information related to the Offered Shares, the Company and ABP as such Third Party Valuation Firm may reasonably request in connection with its determination. Except as provided in Section 3.06(g), the Electing DHC Parties shall bear the costs of such Third Party Valuation Firm.

(d) Upon receipt of the DHC Offer Notice, ABP shall have ten (10) Business Days (the “**Initial ROFO Exercise Period**”) to elect, by delivering notice to the Electing DHC Parties, that ABP will (i) purchase all, but not less than all, of the Offered Shares at the DHC ROFO Price (a “**ROFO Acceptance Notice**”) or (ii) provide the Electing DHC Parties with a valuation of the Offered Shares (without any reduction for minority interests) from an alternative Third Party Valuation Firm (a “**ROFO Alternative Value**”), together with reasonable supporting information, within forty-five (45) days after the end of the Initial ROFO Exercise Period (such notice, a “**ROFO Alternative Value Notice**”). Any ROFO Acceptance Notice shall be binding upon delivery and irrevocable by ABP.

(e) If ABP delivers a ROFO Acceptance Notice during the Initial ROFO Exercise Period, the Electing DHC Parties shall sell, and ABP shall purchase, all, but not less than all, of the Offered Shares at the DHC ROFO Price. If ABP does not deliver a ROFO Acceptance Notice or a ROFO Alternative Value Notice during the Initial ROFO Exercise Period, or if it delivers a ROFO Alternative Value Notice but does not thereafter provide the ROFO Alternative Value when and as required by Section 3.02(f)(i), then ABP shall be deemed to have waived its rights to purchase the Offered Shares under this Section 3.02 with respect to such DHC Offer Notice.

(f) If ABP provides a ROFO Alternative Value Notice during the Initial ROFO Exercise Period, the following provisions shall apply:

(i) the ROFO Alternative Value Notice shall specify the Third Party Valuation Firm selected by ABP to provide the ROFO Alternative Value, which Third Party Valuation Firm shall be required to deliver to the Electing DHC Parties and ABP within forty-five (45) days after the end of the Initial ROFO Exercise Period its determination of the ROFO Alternative Value, together with reasonable supporting information. ABP shall bear the costs of the Third Party Valuation Firm appointed by it.

(ii) If the ROFO Alternative Value is at least ninety percent (90%) and not more than one hundred and ten percent (110%) of the DHC ROFO Price, then ABP shall have the right, to be exercised within three (3) Business Days of the date of the delivery of the ROFO Alternative Value, to again send a ROFO Acceptance Notice and if ABP sends a ROFO Acceptance Notice, ABP shall purchase, and the Electing DHC Parties shall sell, all, but not less than all, of the Offered Shares to ABP at the average of the DHC ROFO Price and the ROFO Alternative Value.

(iii) If the ROFO Alternative Value is greater than one hundred and ten percent (110%) of the DHC ROFO Price or less than ninety percent (90%) of the DHC ROFO Price, then ABP and the Electing DHC Parties shall jointly appoint a Joint Valuation Firm to determine the value of the Offered Shares, which shall be instructed to provide the Electing DHC Parties and ABP with its determination of the value of the Offered Shares (without any reduction for minority interests) (the “**Determined ROFO Price**”), together with reasonable supporting information, within thirty (30) days of its appointment. The Joint Valuation Firm shall be provided with the prior valuations of the Offered Shares obtained by the Electing DHC Parties and ABP, but shall not be obligated to base its determination on such valuations. ABP shall also provide the Joint Valuation Firm such additional information related to the Offered Shares and ABP as the Joint Valuation Firm may reasonably request in connection with its determination. Except as provided in Section 3.06(g), the cost of the Joint Valuation Firm will be borne fifty percent (50%) by the Electing DHC Parties and fifty percent (50%) by ABP or as they may otherwise agree. The Joint Valuation Firm shall act as an expert and not an arbitrator and the decision of the Joint Valuation Firm as to the Determined ROFO Price, absent manifest error, shall be final and non-appealable.

(iv) If the Determined ROFO Price is greater than one hundred and ten percent (110%) of the DHC ROFO Price or less than ninety percent (90%) of the DHC ROFO Price, the Electing DHC Parties shall have ten (10) days following delivery of the Determined ROFO Price (the “**Withdrawal Period**”) to provide ABP with notice of their withdrawal of the DHC Offer Notice, in which event, the Electing DHC Parties shall not be permitted to sell the Offered Shares to a Third Party Purchaser without sending a new DHC Offer Notice in accordance with, and otherwise complying with, this Section 3.02. If the DHC Parties do not send notice of their withdrawal of the DHC Offer Notice during the Withdrawal Period, then ABP shall have ten (10) days following the end of the Withdrawal Period (the “**Second ROFO Exercise Period**”) to again deliver a ROFO Acceptance Notice to the Electing DHC Parties and in such event the Electing DHC Parties shall sell, and ABP shall purchase all, but not less than all, of the Offered Shares at the Determined ROFO Price. If ABP does not deliver a ROFO Acceptance Notice during the Second ROFO Exercise Period, it shall be deemed to have waived its rights to purchase the Offered Shares under this Section 3.02 with respect to such DHC Offer Notice.

(g) The closing of the purchase and sale of the Offered Shares to ABP pursuant to this Section 3.02 shall occur on a date that is not later than seventy-five (75) days after the date on which ABP delivers a ROFO Acceptance Notice pursuant to this Section 3.02, or as otherwise agreed in writing by the Electing DHC Parties and ABP. At the closing of the purchase and sale of the Offered Shares to ABP pursuant to this Section 3.02, ABP shall deliver to the Electing DHC Parties the purchase price for the Offered Shares as determined pursuant to this Section 3.02 by wire transfer of immediately available funds and the Electing DHC Parties shall deliver to ABP the certificate(s) representing the Offered Shares, if any,

(or an affidavit of loss with respect to such certificate(s)) accompanied by stock powers and all necessary stock transfer taxes paid and stamps affixed, if necessary.

(h) If ABP does not deliver a ROFO Acceptance Notice or a ROFO Alternative Value Notice during the Initial ROFO Exercise Period or a ROFO Acceptance Notice during the Second ROFO Exercise Period, or has otherwise waived or been deemed to have waived its rights to purchase the Offered Shares, the Electing DHC Parties may, during the one hundred and twenty (120) day period immediately following the later of the expiration of the Initial ROFO Exercise Period or the Second ROFO Exercise Period, as applicable (the “**Waived ROFO Transfer Period**”), Transfer all of the Offered Shares to a Third Party Purchaser at a price not less than ninety-eight percent (98%) of the lesser of the DHC ROFO Price, the average of the DHC ROFO Price and the ROFO Alternative Value or the Determined ROFO Price. If the Electing DHC Parties do not Transfer the Offered Shares within the Waived ROFO Transfer Period, the Electing DHC Parties may not Transfer the Offered Shares unless the Electing DHC Parties send a new DHC Offer Notice in accordance with, and otherwise comply with, this Section 3.02.

(i) Each Stockholder shall take all actions as may be reasonably necessary to consummate the Transfer contemplated by this Section 3.02, including entering into agreements and delivering certificates and instruments and consents as may be deemed necessary or appropriate.

(j) During the Waived ROFO Transfer Period, neither the Company nor any Initial Stockholder Party shall engage in any marketing for sale or sale of the Company or any of its Subsidiaries (whether by merger, consolidation or sale of all or substantially all of the assets of the Company or its Subsidiaries) or any Company Shares (including by way of issuance of Company Shares, but other than the Offered Shares on behalf of the Electing DHC Parties) and the Company and ABP shall provide the Electing DHC Parties with reasonable assistance and cooperation at the Electing DHC Parties’ expense in connection with their marketing and sale of their Offered Shares.

(k) ABP’s rights under this Section 3.02 to acquire the Offered Shares may be assigned in whole or in part to the Company or any other Stockholder.

Section 3.03 Drag-along Rights.

(a) **Drag-along Rights.** For so long as the Initial Stockholder Parties own, or hold voting control over, in aggregate at least a majority of the issued and outstanding Company Shares on a fully diluted basis, if such Stockholders (the “**Dragging Stockholders**”) receive a bona fide offer from a Third Party Purchaser to consummate, in one transaction or a series of related transactions, a Company Change of Control (a “**Drag-along Sale**”), and if the Dragging Stockholders have delivered a copy of such bona fide offer from such Third Party Purchaser to the Company and each DHC Party and each other Stockholder, then the Dragging Stockholders shall have the right to require that each DHC Party and other Stockholder (each, a “**Drag-along Stockholder**” and the Drag-along Stockholders, the Dragging Stockholders, and any other stockholders of the Company participating in the Drag-along Sale, the “**Drag-along Participating Stockholders**”) participate in such Transfer in the manner set forth in this Section 3.03. Notwithstanding anything to the contrary in this Agreement, but subject to Section 4.04(b), each Dragging Stockholder and each Drag-along Stockholder shall vote in favor of the Transfer and take all actions to approve such transaction and to waive any dissenters, appraisal or other similar rights.

(b) **Exercise.** The Dragging Stockholders shall exercise their rights pursuant to this Section 3.03 by delivering a notice (the “**Drag-along Notice**”) to each Drag-along Stockholder no later than thirty (30) days prior to the closing date of such Drag-along Sale. The Drag-along Notice shall set forth:

- (i) the total number of Company Shares to be sold in the Drag-along Sale to the Third Party Purchaser if the Drag-along Sale is structured as a Transfer of Company Shares and the percentage of the outstanding Company Shares represented by such Company Shares;
- (ii) the identity of the Third Party Purchaser;
- (iii) the proposed date and time of the closing, if known, of the Drag-along Sale;

(iv) the per Company Share purchase price and the other material terms and conditions of the Transfer, including a description of any non-cash consideration in sufficient detail to permit the valuation thereof; and

(v) a copy of any form of agreement proposed to be executed in connection therewith.

(c) **Amount of Company Shares Transferred.** If the Drag-along Sale is structured as a Transfer of Company Shares, then, subject to Section 3.03(d) and Section 3.05, each Drag-along Participating Stockholder shall Transfer the amount of Company Shares equal to the product of (i) the total amount of Company Shares to be sold to the Third Party Purchaser as stated in the Drag-along Notice, and (ii) a fraction (1) the numerator of which is equal to the amount of Company Shares then held by such Drag-along Participating Stockholder, and (2) the denominator of which is equal to the amount of Company Shares then held in aggregate by the Drag-along Participating Stockholders.

(d) **Consideration; Representations.** Subject to the provisions of this Section 3.03(d) and Section 3.05, the consideration to be received by each Drag-along Participating Stockholder in the Drag-along Sale shall be the same form and amount of consideration per Company Share (or, if Third Party Purchaser gives any Drag-along Participating Stockholder an option as to the form and amount of consideration to be received, the same option shall be given to each Drag-along Participating Stockholder) and the terms and conditions of such Transfer shall be the same for all Drag-along Participating Stockholders; provided, however, and notwithstanding anything in this Agreement to the contrary, in no event shall any DHC Party be required to accept any consideration having a minimum value less than the Base Price. Additionally, and notwithstanding anything in this Agreement to the contrary, in no event shall any Drag-along Stockholder be required to: (i) accept any consideration in a Drag-along Sale other than cash or freely marketable publicly traded securities; (ii) enter into any non-compete, non-solicitation or similar agreements in connection with such Drag-along Sale; or (iii) make any representations, warranties or indemnities other than with respect to such Drag-along Stockholder's ownership of its Company Shares and its power and right to enter into and consummate such Drag-along Sale; provided, however, that each Drag-along Stockholder may be required to participate in any indemnities with respect to representations related to the Company made to the Third Party Purchaser on a pro rata basis with the other Drag-along Participating Stockholders based on the aggregate consideration received by such Drag-along Participating Stockholder (except with respect to representations and warranties or covenants or indemnities as to any specific Drag-along Participating Stockholder for which only such Drag-along Participating Stockholder shall be responsible), so long as the aggregate indemnification obligations and liability for fraud or intentional misrepresentation on the part of the Company of any Drag-along Stockholder in connection with such Drag-along Sale do not exceed the actual amount of proceeds received by such Drag-along Stockholder in such Drag-along Sale and in no event shall any Drag-along Participating Stockholder be liable to a Third Party Purchaser for any fraud or intentional misrepresentation on the part of any other Drag-along Participating Stockholder.

(e) **Expenses.** The fees and expenses of each Dragging Stockholder incurred in connection with a Drag-along Sale and for the benefit of all Drag-along Participating Stockholders (it being understood that costs incurred by or on behalf of a Dragging Stockholder for its sole benefit will not be considered to be for the benefit of all Drag-along Participating Stockholders), to the extent not paid or reimbursed by the Company or the Third Party Purchaser, shall be shared on a pro rata basis by each Drag-along Participating Stockholder based on the aggregate consideration received by such Drag-along Participating Stockholder in the Drag-along Sale; provided, that no Drag-along Stockholder shall be obligated to make or reimburse any out-of-pocket expenditure prior to the consummation of the Drag-along Sale.

(f) **Cooperation.** Each Stockholder shall take all actions as may be reasonably necessary to consummate the Drag-along Sale, including entering into agreements and delivering certificates, assignments and instruments, in each case, consistent with the agreements being entered into and the certificates, as applicable, being delivered by each Dragging Stockholder and the terms of this Section 3.03.

(g) **Timing of Closing.** The Dragging Stockholders shall have one hundred and eighty (180) days following the date of the Drag-along Notice in which to consummate the Drag-along Sale, on the terms set forth in the Drag-along Notice and the terms of this Section 3.03 (which one hundred and eighty (180) day period may be extended for a reasonable time not to exceed an additional ninety (90) days to the extent reasonably necessary to obtain any required approvals or consents). If at the end of such period the Dragging Stockholders have not completed the Drag-along Sale, then the Dragging Stockholders may not thereafter effect a Transfer of Company Shares pursuant to this Section 3.03 without again sending a new Drag-along Notice and complying with the provisions of this Section 3.03.

Section 3.04 Tag-along Rights.

(a) **Tag-along Rights.** If at any time one or more Initial Stockholder Parties (the “**Selling Stockholders**”) propose to Transfer any of their Company Shares to a Third Party Purchaser (the “**Proposed Transferee**”), and if such Selling Stockholders cannot or have not elected to exercise the rights of Dragging Stockholders set forth in Section 3.03 in connection with such Transfer (a “**Tag-along Sale**”), then each DHC Party and each other Stockholder (each, a “**Tag-along Stockholder**” and the Selling Stockholders, the Tag-along Stockholders and any other stockholders of the Company participating in such Tag-along Sale, collectively, the “**Tag-along Participating Stockholders**”) shall be permitted to participate in such Tag-along Sale with respect to the Company Shares owned by such Tag-along Stockholder on the terms and conditions set forth in this Section 3.04.

(b) **Notice.** The Selling Stockholders shall deliver to the Company and each Tag-along Stockholder a notice (a “**Sale Notice**”) of the proposed Tag-along Sale no later than twenty (20) Business Days prior to the closing date of such Tag-along Sale. The Sale Notice shall set forth:

- (i) the total number of Company Shares the Proposed Transferee has offered to acquire and the percentage of the outstanding Company Shares represented by such Company Shares;
- (ii) the number of Company Shares that the Selling Stockholders propose to Transfer in the Tag-along Sale and the percentage of the outstanding Company Shares owned by the Selling Stockholders represented by such Company Shares;
- (iii) the identity of the Proposed Transferee;
- (iv) the proposed date and time of the closing, if known, of the Tag-along Sale;
- (v) the per Company Share purchase price and the other material terms and conditions of the Transfer, including a description of any non-cash consideration in sufficient detail to permit the valuation thereof; and
- (vi) a copy of any form of agreement proposed to be executed in connection therewith.

(c) **Exercise.** Each Tag-along Stockholder shall exercise its right to participate in a Tag-along Sale by delivering to the Selling Stockholders a notice (a “**Tag-along Notice**”) stating its election to do so and specifying the number of its Company Shares it desires to Transfer in such Tag-along Sale (up to the maximum number it is permitted to Transfer pursuant to this Section 3.04) no later than twenty (20) days after receipt of the Sale Notice (the “**Tag-along Period**”). The election by a Tag-along Stockholder set forth in its Tag-along Notice shall be irrevocable except as provided in this Section 3.04(c), and such Tag-along Stockholder shall be bound and obligated, and entitled, to Transfer such Company Shares in the proposed Tag-along Sale on and subject to the terms and conditions set forth in this Section 3.04. Each Tag-along Stockholder shall have the right to Transfer in a Tag-along Sale up to the same percentage of its Company Shares as the percentage of the Company Shares held by the Selling Stockholders being Transferred in such Tag-along Sale. For the avoidance of doubt, if the aggregate number of Company Shares that the Tag-along Participating Stockholders have elected to Transfer in the Tag-along Sale exceeds the number of Company Shares that the Proposed Transferee is willing to acquire, then the number of Company Shares that each Tag-along Participating Stockholder will Transfer in the Tag-along Sale shall be proportionately reduced until the aggregate number of Company Shares that the Tag-along Participating Stockholders will Transfer in such Tag-along Sale equals the number of Company Shares that the Proposed Transferee is willing to acquire; provided, that in no event will the number of Company Shares that the Tag-along Stockholder is permitted to sell in the Tag-along Sale be reduced to less than the same percentage of such Tag-along Stockholder’s Company Shares as the percentage of the Company Shares held by the Selling Stockholders being Transferred in such Tag-along Sale. Notwithstanding the foregoing, if the terms of, or agreements for, a Tag-along Sale materially change from those provided in the Sale Notice or if the percentage of the Company Shares owned by the Selling Stockholders to be Transferred in the Tag-along Sale shall change from the percentage set forth in the Sale Notice, the Selling Stockholders shall deliver to each Tag-along Stockholder (whether or not such Tag-along Stockholder has previously sent a timely Tag-along Notice) an updated Sale Notice reflecting such changes and each Tag-along Stockholder shall have the right, exercisable within ten (10) Business Days, to elect to participate in, change its participation in or withdraw its participation in such Tag-along Sale.

(d) **Transfer.** A Tag-along Stockholder who does not deliver a timely Tag-along Notice in compliance with Section 3.04(c) shall be deemed to have waived its rights to participate in such Transfer and the Selling Stockholders shall (subject to the rights of any other Tag-along Stockholders who have provided a timely Tag-along Notice) thereafter be free to Transfer to the Proposed Transferee its Company Shares at a per Company Share price that is not greater than one hundred and two percent (102%) of the per Company Share price set forth in the Sale Notice and on other terms and conditions which are not materially more favorable in the aggregate to the Selling Stockholders than those set forth in the Sale Notice without any further obligation to the non-accepting Tag-along Stockholders.

(e) **Consideration; Representations.** Subject to the provisions of this Section 3.04(e) and Section 3.05, the consideration to be received by a Tag-along Stockholder in the Tag-along Sale shall be the same form and amount of consideration per Company Share to be received by the Selling Stockholders (or, if the Selling Stockholders are given an option as to the form and amount of consideration to be received, the same option shall be given to each Tag-along Stockholder) and the terms and conditions of such Transfer shall be the same as those upon which each Selling Stockholder Transfers its Company Shares. Each Tag-along Stockholder shall make or provide the same representations, warranties, covenants, indemnities and agreements as each Selling Stockholder makes or provides in connection with the Tag-along Sale (except that in the case of representations, warranties, covenants, indemnities and agreements pertaining specifically to the Selling Stockholders or any other Tag-along Participating Stockholder, a Tag-along Stockholder shall only make the comparable representations, warranties, covenants, indemnities and agreements pertaining specifically to itself); provided, that (i) the Selling Stockholders shall use commercially reasonable efforts to cause all representations, warranties, covenants and indemnities to be made by each Tag-along Participating Stockholder to be several and not joint obligations of the Tag-along Participating Stockholders and (ii) unless otherwise agreed by each Tag-along Stockholder, any indemnification obligation in respect of breaches of representations, warranties and covenants (other than those that pertain to an individual Tag-along Participating Stockholder, which shall be the sole obligation of such Tag-along Participating Stockholder) shall be borne on a pro rata basis by each Tag-along Participating Stockholder based on the aggregate consideration received by such Tag-along Participating Stockholder in such Tag-along Sale; provided, that in no event shall (x) the amount of the indemnification obligation and liability for fraud or intentional misrepresentation on the part of the Company of a Tag-along Stockholder exceed the aggregate proceeds received by such Tag-along Stockholder in such Tag-along Sale; (y) any Tag-along Stockholder be required to enter into any non-compete, non-solicitation or similar agreements in connection with such Tag-along Sale and (z) in no event shall any Tag-along Stockholder be liable for any fraud or intentional misrepresentation by any other stockholder of the Company.

(f) **Expenses.** The fees and expenses of the Selling Stockholders incurred in connection with a Tag-along Sale and for the benefit of all Tag-along Participating Stockholders (it being understood that costs incurred by or on behalf of the Selling Stockholders for their sole benefit will not be considered to be for the benefit of all Tag-along Participating Stockholders), to the extent not paid or reimbursed by the Company or the Proposed Transferee, shall be shared by each Tag-along Participating Stockholder on a *pro rata* basis, based on the aggregate consideration received by such Tag-along Participating Stockholder; provided, that no Tag-along Stockholder shall be obligated to make or reimburse any out-of-pocket expenditure prior to the consummation of the Tag-along Sale.

(g) **Cooperation.** Each Tag-along Stockholder shall take all actions as may be reasonably necessary to consummate the Tag-along Sale, including entering into agreements and delivering certificates, assignments, and instruments, in each case consistent with the agreements being entered into and the certificates, as applicable, being delivered by the Selling Stockholders and the terms of this Section 3.04.

(h) **Timing of Closing.** The Selling Stockholders shall have ninety (90) days following the expiration of the Tag-along Period in which to consummate such Tag-along Sale to the Proposed Transferee, on and subject to the terms and conditions set forth in the Sale Notice and this Section 3.04 (which ninety (90) day period may be extended for a reasonable time not to exceed an additional ninety (90) days to the extent reasonably necessary to obtain any required approvals and consents). If at the end of such period the Selling Stockholders have not completed such Transfer, then the Selling Stockholders may not thereafter effect a Transfer of Company Shares subject to this Section 3.04 without again fully complying with the provisions of this Section 3.04.

Section 3.05 Multiple Classes of Shares. If at any time the Company has more than one class of Company Shares which may impact the application of the provisions of Section 3.03 or Section 3.04 in connection with a Drag-along

Sale or a Tag-along Sale, respectively, including in connection with the consideration to be paid by the Third Party Purchaser for any class of Company Shares, the Directors and the Drag-along Participating Stockholders and Tag-along Participating Stockholders shall use reasonable best efforts to cooperate to apply Section 3.03 or Section 3.04, as applicable, in good faith in a reasonable and equitable manner in consideration of the capital structure of the Company, in order to carry out the intent of such provisions; provided, that there shall be no minority or other similar discount for less than a controlling interest or for nonvoting Company Shares, and no premium for voting Company Shares or a controlling interest, in the Company.

Section 3.06 Repurchase Rights.

(a) Subject to Section 3.06(g), following a Termination Event, ABP shall have the right (a “**Repurchase Right**”), exercised by notice (the “**Repurchase Notice**”) given to the DHC Parties any time prior to the one year anniversary of such Termination Event, to purchase all, but not less than all, of the Company Shares then owned by the DHC Parties (the “**Repurchase Shares**”). The Repurchase Notice shall include a valuation (without any reduction for minority interests) of the Repurchase Shares as of the date of the Termination Event from a Third Party Valuation Firm (the “**Repurchase Price**”), together with reasonable supporting information.

(b) Upon receipt of the Repurchase Notice, the DHC Parties shall have ten (10) Business Days (the “**Repurchase Exercise Period**”), to elect, by delivering notice to ABP, that the DHC Parties will (i) sell the Repurchase Shares at the Repurchase Price (the “**Repurchase Acceptance Notice**”) or (ii) provide ABP with a valuation of the Repurchase Shares (without any reduction for minority interests) as of the date of the Termination Event from an alternate Third Party Valuation Firm (a “**Repurchase Alternative Value**”), together with reasonable supporting information, within thirty (30) days after the end of the Repurchase Exercise Period (such notice, a “**Repurchase Alternative Value Notice**”).

(c) If the DHC Parties provide a Repurchase Acceptance Notice during the Repurchase Exercise Period, the DHC Parties shall sell, and ABP shall purchase, all, but not less than all, of the Repurchase Shares at the Repurchase Price. If the DHC Parties fail to provide a Repurchase Acceptance Notice or a Repurchase Alternative Value Notice during the Repurchase Exercise Period, or if they deliver a Repurchase Alternative Value Notice but do not thereafter provide the Repurchase Alternative Value when and as required by Section 3.06(d)(i), then they will be deemed to have delivered a Repurchase Acceptance Notice.

(d) If the DHC Parties provide a Repurchase Alternative Value Notice during the Repurchase Exercise Period, the following provisions will apply:

(i) The Repurchase Alternative Value Notice shall specify the Third Party Valuation Firm (the “**DHC Valuation Firm**”) selected by the DHC Parties to provide the Repurchase Alternative Value, which Third Party Valuation Firm shall be required to deliver to the DHC Parties and ABP within thirty (30) days after the end of the Repurchase Exercise Period its determination of the Repurchase Alternative Value, together with reasonable supporting information. ABP shall provide the DHC Valuation Firm such additional information related to the Repurchase Shares and ABP as the DHC Valuation Firm may reasonably request in connection with its determination. The DHC Parties shall bear the costs of the DHC Valuation Firm.

(ii) If the Repurchase Alternative Value is at least ninety percent (90%) and not more than one hundred and ten percent (110%) of the Repurchase Price, then, subject to Section 3.06(a), the DHC Parties shall be deemed to have delivered a Repurchase Acceptance Notice and the DHC Parties shall sell, and ABP shall purchase, all, but not less than all, of the Repurchase Shares at the average of the Repurchase Price and the Repurchase Alternative Value.

(iii) If the Repurchase Alternative Value is less than ninety percent (90%) or greater than one hundred and ten percent (110%) of the Repurchase Price, then ABP and the DHC Parties shall jointly appoint a Joint Valuation Firm to determine the value of the Repurchase Shares, which shall be instructed to provide the DHC Parties and ABP with its determination of the value of the Repurchase Shares (without any reduction for minority interests) as of the date of the Termination Event (the “**Determined Repurchase Price**”), together with reasonable supporting information, within thirty (30) days of its appointment. The Joint Valuation Firm shall be provided with the prior valuations of the Repurchase Shares obtained by the DHC Parties and ABP, but shall not be obligated to base its determination on such valuations. ABP shall also provide the Joint Valuation Firm such additional information related to the Repurchase Shares and ABP as the Joint

Valuation Firm may reasonably request in connection with its determination. The cost of the Joint Valuation Firm will be borne fifty percent (50%) by the DHC Parties and fifty percent (50%) by ABP or as they may otherwise agree. The Joint Valuation Firm shall act as an expert and not an arbitrator and the decision of the Joint Valuation Firm as to the Determined Repurchase Price, absent manifest error, shall be final and non-appealable. Upon delivery of the Determined Repurchase Price, ABP shall purchase, and the DHC Parties shall sell, all, but not less than all, of the Repurchase Shares at the Determined Repurchase Price, subject to Section 3.06(d)(iv).

(iv) If the Determined Repurchase Price is more than one hundred and ten percent (110%) of the Repurchase Price, ABP shall have ten (10) days following delivery of the Determined Repurchase Price (the “**Repurchase Withdrawal Period**”) to withdraw the Repurchase Notice by notice given to the DHC Parties; provided, that ABP shall reimburse the Electing DHC Parties for the costs of the DHC Valuation Firm and Joint Valuation Firm incurred by them in connection with any ROFO Process that was terminated as provided in Section 3.06(g)(iii). If ABP does not withdraw the Repurchase Notice in such ten (10) day period, then ABP shall purchase, and the DHC Parties shall sell, all, but not less than all, of the Repurchase Shares at the Determined Repurchase Price.

(v) Notwithstanding the foregoing, in no event shall any DHC Party be required to accept a Repurchase Price having a minimum value less than the Base Price.

(e) The closing of the purchase and sale of the Repurchase Shares pursuant to this Section 3.06 shall occur on a date that is not later than ninety (90) days after the purchase price for the Repurchase Shares has been finally determined pursuant to this Section 3.06 or as otherwise agreed in writing by the DHC Parties and ABP. At the closing of the purchase and sale of the Repurchase Shares to ABP pursuant to this Section 3.06, ABP shall deliver to the DHC Parties the purchase price for the Repurchase Shares as determined pursuant to this Section 3.06 by wire transfer of immediately available funds and the DHC Parties shall deliver to ABP the certificate(s) representing the Repurchase Shares, if any, (or an affidavit of loss with respect to such certificates) accompanied by stock powers and all necessary stock transfer taxes paid and stamps affixed, if necessary.

(f) If ABP withdraws the Repurchase Notice in accordance with Section 3.06(d)(iv), the DHC Parties may during the one hundred and twenty (120) day period immediately following the date that they receive the notice from ABP that it is withdrawing the Repurchase Notice (the “**Waived Repurchase Transfer Period**”), Transfer all of the Repurchase Shares to any Third Party Purchaser at a price not less than ninety eight percent (98%) of the lesser of the Repurchase Price, the average of the Repurchase Price and the Repurchase Alternative Value or the Determined Repurchase Price and the provisions of Section 3.02(i) and Section 3.02(j), shall apply *mutatis mutandis* during the Waived Repurchase Transfer Period.

(g) Notwithstanding anything in this Agreement to the contrary, but subject to Section 4.04(b), (i) ABP may not exercise the Repurchase Right at any time during the pendency of a Drag-along Sale, a Tag-along Sale or a transaction which is reasonably likely to result in a Company Change of Control; (ii) if a Termination Event has occurred, the DHC Parties may not thereafter send an DHC Offer Notice until a date that is not less than ninety (90) days following the date of the Termination Event or after such ninety (90) day period if ABP has then delivered a Repurchase Notice pursuant to this Section 3.06 unless and until such Repurchase Notice is withdrawn pursuant to Section 3.06(d)(iv); (iii) if as of the date a Termination Event occurs, the process with respect to an outstanding DHC Offer Notice is then pending pursuant to Section 3.02 (a “**ROFO Process**”), then (A) the ROFO Process shall be suspended for ninety (90) days following the Termination Event, and terminated if ABP sends a Repurchase Notice within such ninety (90) day period; (B) if ABP fails to send a Repurchase Notice in such ninety (90) day period, then as of the ninety-first (91st) day following the Termination Event, at the Electing DHC Parties’ option, the ROFO Process shall resume with any applicable time periods extended to reflect such suspension; and (C) if ABP sends a Repurchase Notice within such ninety (90) period following the Termination Event and thereafter withdraws the Repurchase Notice in accordance with Section 3.06(d)(iv), the DHC Parties shall have the right following such withdrawal to send another DHC Offer Notice to ABP even if the DHC Parties have previously sent an DHC Offer Notice in that calendar year; and (iv) if a ROFO Process is reinstated pursuant to clause (iii) of this Section 3.06(g) or the DHC Parties send an DHC Offer Notice permitted by clause (ii) of this Section 3.06(g), ABP shall not thereafter have the right to send a Repurchase Notice unless and until the applicable ROFO Process has been completed in accordance with Section 3.02 and the Repurchase Right will only be exercisable with respect to the remaining Company Shares owned by the DHC Parties after the ROFO Process has been completed. For the avoidance of doubt, nothing in this Section 3.06 limits the

right of the DHC Parties to Transfer any or all of their Repurchase Shares at any time pursuant to Section 3.03 or Section 3.04 or otherwise in compliance with this Agreement.

- (h) ABP may assign the Repurchase Right in whole or in part to the Company or any other Stockholder.

Section 3.07 Put Rights.

(a) At any time that a Put Event then exists, each REIT Party shall have the right (a “**Put Right**”) exercised by notice to ABP (the “**Put Notice**”) to require ABP to purchase from such REIT Party (the “**Electing Put Party**”), such number of the Company Shares owned by such REIT Party as is necessary to cause the Company Shares owned by such REIT Party to not exceed the Company Shares that such REIT Party may own pursuant to the limit in Section 4.04(b) (such number of Company Shares to be purchased, the “**Put Shares**”). The purchase price per Put Share shall initially be the Base Price (the “**Put Price**”).

(b) Upon receipt of the Put Notice, ABP shall within three (3) Business Days purchase all of the Put Shares at the Put Price, subject to the remaining provisions of this Section 3.07.

(c) Without limiting the obligation of ABP to purchase the Put Shares pursuant to Section 3.07(b), the Electing Put Party shall have ten (10) Business Days following the delivery of the Put Notice (the “**Put Exercise Period**”), to elect, by delivering notice to ABP, that ABP provide the Electing Put Party with a valuation of the Put Shares (without any reduction for minority interests) as of the date of the Put Notice from a Third Party Valuation Firm (a “**Put Alternative Value**”), together with reasonable supporting information, within thirty (30) days after the end of the Put Exercise Period (such notice, a “**Put Alternative Value Notice**”).

- (d) If ABP provides a Put Alternative Value Notice during the Put Exercise Period, the following provisions will apply:

(i) The Put Alternative Value Notice shall specify the Third Party Valuation Firm (the “**Alternative Put Valuation Firm**”) selected by ABP to provide the Put Alternative Value, which Alternative Put Valuation Firm shall be required to deliver to the Electing Put Party and ABP within thirty (30) days after the end of the Put Exercise Period its determination of the Put Alternative Value, together with reasonable supporting information. The Company and ABP shall provide the Alternative ABP Valuation Firm such additional information related to the Put Shares, the Company and ABP as the Alternative Put Valuation Firm may reasonably request in connection with its determination. ABP shall bear the costs of the Alternative Put Valuation Firm.

(ii) If the Put Alternative Value is less than the Base Price or not more than one hundred and ten percent (110%) of the Put Price, then the purchase price for the Put Shares shall be the Put Price.

(iii) If the Put Alternative Value is greater than one hundred and ten percent (110%) of the Put Price, then ABP and the Electing Put Party shall jointly appoint a Joint Valuation Firm to determine the value of the Put Shares, which shall be instructed to provide the Electing Put Party and ABP with its determination of the value of the Put Shares (without any reduction for minority interests) as of the date of the Put Notice (the “**Determined Put Price**”), together with reasonable supporting information, within thirty (30) days of its appointment. The Joint Valuation Firm shall be provided with the prior valuation of the Put Shares obtained by ABP, but shall not be obligated to base its determination on such valuation. The Company and ABP shall also provide the Joint Valuation Firm such additional information related to the Put Shares, the Company and ABP as the Joint Valuation Firm may reasonably request in connection with its determination. The cost of the Joint Valuation Firm will be borne fifty percent (50%) by the Electing Put Party and fifty percent (50%) by ABP or as they may otherwise agree. The Joint Valuation Firm shall act as an expert and not an arbitrator and the decision of the Joint Valuation Firm as to the Determined Put Price, absent manifest error, shall be final and non-appealable. Upon delivery of the Determined Put Price, the purchase price for the Put Shares shall be adjusted to the Determined Put Price, but shall in no event be lower than the Put Price.

(e) If the final purchase price determined for the Put Shares pursuant to this Section 3.07 (the “**Final Price**”) is greater than the Put Price, ABP shall promptly, and in any event within ten (10) Business Days, pay to the Electing Put Party the difference between the Put Price and the Final Price by wire transfer of immediately available funds.

(f) At the closing of the purchase and sale of the Put Shares pursuant to this Section 3.07, ABP shall deliver to the Electing Put Party the purchase price for the Put Shares as determined pursuant to this Section 3.07 by wire transfer of immediately available funds and the Electing Put Party shall deliver to ABP the certificate(s) representing the Put Shares, if any, (or an affidavit of loss with respect to such certificates) accompanied by stock powers and all necessary stock transfer taxes paid and stamps affixed, if necessary.

(g) For the avoidance of doubt, the rights of the REIT Parties under this Section 3.07 are in addition to any other rights or remedies of the REIT Parties at equity or under Applicable Law as a result of the occurrence of a Put Event.

(h) ABP may assign its right (but not its obligation) to purchase the Put Shares, in whole or in part, to the Company or any other Stockholder.

ARTICLE IV

OTHER ACTIVITIES; RELATED PARTY TRANSACTIONS; CONFIDENTIALITY; PRE-EMPTIVE RIGHTS; REIT COMPLIANCE

Section 4.01 Other Business Activities. Each Stockholder may engage independently or with others in other business ventures of every nature and description including the ownership, operation, management, syndication and development of a business which is competitive with the Company or any of its Subsidiaries or their respective businesses, and neither the Stockholders nor the Company or its Subsidiaries shall have any rights in and to such independent ventures or the income or profits derived therefrom.

Section 4.02 Confidentiality.

(a) **Confidentiality.** Each DHC Party shall use commercially reasonable efforts to keep confidential any information (including any budgets, business plans and analyses) concerning the Company or its Subsidiaries, including their assets, business, operations, financial condition or prospects (“**Information**”) received by it solely in its capacity as a Stockholder; provided, that nothing herein shall prevent such DHC Party from disclosing such Information: (i) upon the order of any court or administrative agency or the request or demand of any regulatory agency or authority having jurisdiction over such Stockholder; (ii) to the extent compelled by legal process or required or requested pursuant to subpoena, interrogatories or other discovery requests; (iii) as may be appropriate or required under Applicable Law, including the rules and regulations of the U.S. Securities and Exchange Commission, The Nasdaq Stock Market LLC or the Financial Industry Regulatory Authority Inc.; (iv) subject to the provisions of this Section 4.02, to those Persons who have a need to know such Information in connection with the conduct of such DHC Party’s business, including its officers, trustees, directors, attorneys, accountants, and other representatives and agents; (v) in connection with any Proceeding based upon or in connection with the subject matter of this Agreement or the transactions contemplated hereby; (vi) to any other Stockholder; or (vii) to any potential Third Party Purchaser in connection with a proposed Transfer of Company Shares by such DHC Party as long as such Third Party Purchaser agrees to be bound by the provisions of this Section 4.02 as if an DHC Party; provided, that in the case of clauses (i) or (ii) of this Section 4.02 such DHC Party provides prior notice to the Company of the proposed disclosure as far in advance of such disclosure as practicable and uses reasonable efforts to insure that any Information so disclosed is accorded confidential treatment to the extent requested by the Company at the Company’s expense.

(b) **Exceptions.** The restrictions of Section 4.02(a) shall not apply to Information that: (i) is or becomes generally available to the public other than as a result of a disclosure by an DHC Party in violation of this Agreement; (ii) is or becomes available to an DHC Party on a nonconfidential basis prior to its disclosure to the receiving Person; (iii) is or has been independently developed or conceived by an DHC Party without use of any Information; or (iv) becomes available to the receiving Person on a nonconfidential basis from a source other than an DHC Party; provided, that such source is not known by the receiving Person to be bound by a confidentiality agreement with the Company or such Subsidiary.

Section 4.03 Certain Pre-emptive Rights for Additional Equity.

(a) **Issuance of Additional Company Shares.** The Company hereby grants to each Stockholder (each, a “**Pre-emptive Stockholder**”) the right to purchase a pro rata portion of any Company Shares (other than Excluded Shares) proposed to be issued or sold after the date hereof by the Company to any Person (“**Additional Company Shares**”). The Company shall not permit any Subsidiary to not be a wholly-owned Subsidiary of the Company, except as a result of the issuance or sale by such Subsidiary of Excluded Shares.

(b) **Additional Issuance Notices.** If the Company desires to issue Additional Company Shares, the Company shall give notice (an “**Issuance Notice**”) of the proposed issuance or sale to each Pre-emptive Stockholder within seven (7) days following any meeting of the Directors at which any such issuance or sale is approved. The Issuance Notice shall be accompanied by a written offer to purchase such Additional Company Shares from each prospective purchaser of such Additional Company Shares (each, a “**Pre-emptive Purchaser**”) and shall set forth the material terms and conditions of the proposed issuance or sale, including:

- (i) The identity of each Pre-emptive Purchaser, if known, and the aggregate amount and a description of the Additional Company Shares proposed to be issued and the percentage of the Company Shares that such issuance would represent;
 - (ii) the proposed issuance date, which subject to Section 4.03(g), shall be at least thirty (30) days from the date of the Issuance Notice;
 - (iii) the proposed purchase price per Company Share of the Additional Company Shares and the form of such purchase price if other than cash;
- and
- (iv) if the consideration to be paid by any Pre-emptive Purchaser includes non-cash consideration, the Directors’ good faith determination of the fair market value thereof.

The Issuance Notice shall also be accompanied by a statement of the Company Shares ownership of each stockholder of the Company and a calculation in reasonable detail as to each Pre-emptive Stockholder’s pro rata share of the Additional Company Shares.

(c) **Exercise of Pre-emptive Rights.** Each Pre-emptive Stockholder shall for a period of twenty (20) days following the receipt of an Issuance Notice (the “**Pre-emptive Exercise Period**”) have the right to elect irrevocably to purchase all or any portion of its pro rata share of the Additional Company Shares, at the purchase price set forth in the Issuance Notice, by delivering notice to the Company (a “**Pre-emptive Acceptance Notice**”) specifying the number of Additional Company Shares it desires to purchase. The delivery of a Pre-emptive Acceptance Notice by a Pre-emptive Stockholder shall be a binding and irrevocable subscription by such Pre-emptive Stockholder for the number of Additional Company Shares described in its Pre-emptive Acceptance Notice in accordance with the terms of this Section 4.03. The failure of a Pre-emptive Stockholder to deliver an Acceptance Notice by the end of the Pre-emptive Exercise Period shall constitute a waiver of its rights under this Section 4.03 with respect to the purchase of such Additional Company Shares, but shall not affect its rights with respect to any future issuances or sales of Additional Company Shares.

(d) **Over-allotment.** No later than seven (7) days following the expiration of the Pre-emptive Exercise Period, the Company shall notify each Pre-emptive Stockholder in writing of the number of Additional Company Shares that each Pre-emptive Stockholder has agreed to purchase (including, for the avoidance of doubt, where such number is zero) (the “**Over-allotment Notice**”). Each Pre-emptive Stockholder exercising its rights to purchase its pro rata share of the Additional Company Shares in full (an “**Exercising Pre-emptive Stockholder**”) shall have a right of over-allotment such that if any other Pre-emptive Stockholder has failed to exercise its right under this Section 4.03, or any other stockholder of the Company having pre-emptive rights to purchase Company Shares in such transaction has failed, to purchase its pro rata share of the Additional Company Shares in full (each, a “**Non-Exercising Pre-emptive Stockholder**”), such Exercising Pre-emptive Stockholder may purchase its pro rata share (computed on the basis of the Exercising Pre-emptive Stockholders and other stockholders of the Company who choose to purchase in the over-allotment in proportion to their *pro rata* share of the Additional Company Shares, and otherwise so that one hundred percent (100%) of the over-allotment may be subscribed for

and purchased by the Exercising Pre-emptive Stockholders and such other stockholders) of such Non-Exercising Pre-emptive Stockholders' unsubscribed for allotment, by giving notice to the Company within ten (10) Business Days of receipt of the Over-allotment Notice (the "**Over-allotment Exercise Period**").

(e) **Sale of Additional Shares.** Any Additional Company Shares not subscribed for by a Pre-emptive Stockholder pursuant to Section 4.03(c) and Section 4.03(d) may be sold by the Company following the expiration of the Pre-emptive Exercise Period and, if applicable, the Over-allotment Exercise Period, to the Pre-emptive Purchasers on terms no less favorable to the Company than those set forth in the Issuance Notice and, for the avoidance of doubt, at a price at least equal to or higher than the purchase price described in the Issuance Notice; provided, such sale is completed no later than sixty (60) days following the expiration of the Pre-emptive Exercise Period and, if applicable, the Over-allotment Exercise Period (subject to the extension of such sixty (60) day period for a reasonable time not to exceed an additional sixty (60) days to the extent reasonably necessary to obtain any third party approvals). If the Company has not sold all of the remaining Additional Company Shares to the Pre-emptive Purchasers by such date, the Company shall not thereafter issue or sell any such Additional Company Shares without first again offering such Additional Company Shares to the Pre-emptive Stockholders in accordance with the procedures set forth in this Section 4.03 and no Pre-emptive Stockholder shall be obligated to complete the purchase of the Additional Company Shares that it subscribed for pursuant to Section 4.03(c) and Section 4.03(d).

(f) **Additional Company Shares Sale Closing.** Except as provided in Section 4.03(g), the closing of any purchase by any Pre-emptive Stockholder shall be consummated substantially contemporaneously with the consummation of the sale to the Pre-emptive Purchasers. The Company shall deliver the Additional Company Shares to be purchased by a Pre-emptive Stockholder in accordance with this Section 4.03 free and clear of any liens (other than those arising hereunder and those attributable to the actions of the purchasers thereof), and the Company shall represent and warrant to such Pre-emptive Stockholder that such Additional Company Shares shall be, upon issuance thereof to such Pre-emptive Stockholder and after payment therefor, duly authorized, validly issued, fully paid and non-assessable. The Company, in the discretion of its Directors, may deliver to each purchasing Pre-emptive Stockholder certificates evidencing the Additional Company Shares. Each purchasing Pre-emptive Stockholder shall deliver to the Company the purchase price for the Additional Company Shares purchased by it by wire transfer of immediately available funds. Each party to the purchase and sale of Additional Company Shares pursuant to this Section 4.03 shall take all such other actions as may be reasonably necessary to consummate the purchase and sale including, without limitation, entering into such additional agreements as may be necessary or appropriate. Notwithstanding anything to the contrary contained in this Agreement, the Directors in their discretion may at any time prior to the closing of the issuance and sale of any Additional Company Shares, upon five (5) Business Days' notice to the Pre-emptive Stockholders, cancel the issuance and sale of such Additional Company Shares in their entirety, in which event the Company shall not thereafter issue any Additional Company Shares without first again offering such Additional Company Shares to the Pre-emptive Stockholders in accordance with the procedures set forth in this Section 4.03.

(g) **Delay.** Notwithstanding anything to the contrary set forth in this Section 4.03, if approved by the Directors, the Company may, in lieu of concurrently offering any Additional Company Shares to all Stockholders, initially offer, sell and issue Additional Company Shares to only certain Stockholders so long as promptly, but in any event, within five (5) Business Days thereafter, the Company provides an Issue Notice (which Issue Notice shall include the material details of the prior issuance of Additional Company Shares pursuant to this Section 4.03) to each Pre-emptive Stockholder and complies with the provisions of this Section 4.03(g) with respect to all Pre-emptive Stockholders by offering to such Pre-emptive Stockholders their share of such Additional Company Shares (as otherwise determined pursuant to Section 4.03(a) prior to any sales and issuances permitted by this Section 4.03(g)); provided, that (i) prior to the Company complying with the provisions of this Section 4.03(g), no Additional Company Shares issued pursuant to this Section 4.03(g) shall be entitled to vote on any matter presented to the stockholders of the Company and the Company shall not declare or pay any dividends or other distributions with respect to the Additional Company Shares issued to the Stockholders pursuant to this Section 4.03(g) and (ii) in no event shall any Pre-emptive Stockholder be required to acquire any Additional Company Shares from any other Stockholder in connection with its exercise of its rights under this Section 4.03.

Section 4.04 REIT Compliance.

(a) **Adverse Regulatory Event.** In the event of an Adverse Regulatory Event arising from or in connection with this Agreement or a REIT Party's ownership of Company Shares, the Company and the Stockholders shall work together in good faith to eliminate the impact of such Adverse Regulatory Event, including entering into such amendments to this Agreement as may be necessary or appropriate or to permit such REIT Party to effect the Transfer of its Company Shares. For purposes of this Agreement, the term "**Adverse Regulatory Event**" means any time that an Applicable Law imposes upon a REIT Party (or could impose upon a REIT Party in its reasonable opinion) any material threat to such REIT Party's or any of its Affiliates' status as a "real estate investment trust" under the Code.

(b) **Ownership of Company Shares.** Notwithstanding anything in this Agreement to the contrary, neither the Company nor any Stockholder shall have any authority to take, and none shall take, any action which shall cause any REIT Party to own (directly, indirectly, or constructively) at any time more than thirty-four percent (34%) in aggregate of the vote or value of the then outstanding Company Shares (as determined under each of Sections 856(d)(3) (inclusive of Section 856(d)(5)), 856(d)(9)(F), and 856(l)(2) of the Code).

ARTICLE V **FINANCIAL INFORMATION; ACCESS RIGHTS**

Section 5.01 Financial Information. In addition to, and without limiting any rights that the DHC Parties may have with respect to the inspection of the books and records of the Company under Applicable Law, the Company shall furnish to each DHC Party, the following information:

(a) as soon as available, and in any event within forty-five (45) days following the end of each Fiscal Year, the audited consolidated balance sheet of the Company and its Subsidiaries as at the end of each such Fiscal Year and the audited consolidated statements of income, cash flows and changes in stockholders' equity of the Company and its Subsidiaries for such Fiscal Year, accompanied by the certification of independent certified public accountants of recognized national standing selected by the Directors, to the effect that, except as set forth therein, such financial statements have been prepared in accordance with GAAP, applied on a basis consistent with prior years and fairly present in all material respects the consolidated financial condition of the Company and its Subsidiaries as of the dates thereof and the results of its operations and changes in its cash flows and stockholders' equity for the periods covered thereby;

(b) as soon as available, and in any event within thirty (30) days following the end of each fiscal quarter, the unaudited consolidated balance sheet of the Company and its Subsidiaries at the end of such quarter and the unaudited consolidated statements of income, cash flows and changes in stockholders' equity of the Company and its Subsidiaries for such quarter, all in reasonable detail and all prepared in accordance with GAAP, consistently applied and certified by the Company's Chief Financial Officer;

(c) draft financial statements related to the Fiscal Year and each fiscal quarter shall be provided within thirty (30) days and twenty (20) days, respectively, following the end of the period in question; and

(d) to the extent the Company or any of its Subsidiaries is required by Applicable Law or pursuant to the terms of any outstanding indebtedness of the Company to prepare such reports, any annual reports, quarterly reports and other periodic reports actually prepared by the Company or Subsidiary promptly following filing or submission thereof.

Section 5.02 Access Rights.

(a) The Company shall: (i) afford to the DHC Parties and their officers, trustees, directors, employees, attorneys, accountants and other representatives and agents, during normal business hours and upon reasonable notice, reasonable access to its officers, employees, auditors, and books and records; and (ii) afford such DHC Parties and other Persons the opportunity to consult with its officers and senior management from time to time regarding the Company's affairs, finances and accounts as the DHC Parties, or such other Persons on behalf of the DHC Parties, may reasonably

request upon reasonable notice, including presenting to such DHC Parties and such other Persons customary management presentations regarding the Company's affairs, finances, accounts and related matters at the request of DHC.

(b) The rights set forth in Section 5.02(a) above shall not and are not intended to limit any rights which the DHC Parties may have to inspect or audit the books and records of the Company, or to inspect its properties or discuss its affairs, finances and accounts, under Applicable Law or any other agreement to which DHC or any of its Affiliates on the one hand, and the Company or any of its Affiliates on the other hand, are a party.

(c) Notwithstanding anything to the contrary herein, the information and access rights provided to the DHC Parties shall be expressly subject to the confidentiality and use restrictions set forth in Section 4.02.

ARTICLE VI

REPRESENTATIONS AND WARRANTIES

Section 6.01 Representations and Warranties. Each Stockholder and the Company, severally and not jointly, represent and warrant to each other party that:

(a) It has full power and authority to execute and deliver this Agreement, to perform its obligations hereunder and to consummate the transactions contemplated hereby. The execution and delivery of this Agreement and the other agreements and documents contemplated hereby, the performance of its obligations hereunder and thereunder and the consummation of the transactions contemplated hereby and thereby have been duly authorized by all requisite action of such Stockholder or the Company, as applicable. It has duly executed and delivered this Agreement.

(b) This Agreement constitutes the legal, valid and binding obligation of such party enforceable against such party in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general equitable principles (whether enforcement is sought by proceedings in equity or at law). The execution, delivery and performance of this Agreement, and the consummation of the transactions contemplated hereby, require no action by or in respect of, or filing with, any Governmental Authority.

(c) The Company and the Initial Stockholder represent and warrant that the execution, delivery and performance by each of them of this Agreement and the consummation of the transactions contemplated hereby do not (i) conflict with or result in any violation or breach of any provision of the Organizational Documents or the governing documents of any of the Company's Subsidiaries or of the Initial Stockholder, (ii) conflict with or result in any violation or breach of any provision of any Applicable Law applicable to them, or (iii) require any consent or other action by any Person under any provision of any material agreement or other instrument to which any of them is a party or is otherwise bound other than those which have been obtained, except, with respect to the foregoing clauses (ii) and (iii), where such conflict, violation, default or failure to obtain consent would not reasonably be expected to have a material adverse effect on the Company or its Subsidiaries, taken as a whole.

(d) DHC, on behalf of itself and DHC TRS, represents and warrants that the execution, delivery and performance by it and DHC TRS of this Agreement and the consummation of the transactions contemplated hereby do not (i) conflict with or result in any violation or breach of any provision of their governing documents, (ii) conflict with or result in any violation or breach of any provision of any Applicable Law applicable to them, or (iii) require any consent or other action by any Person under any provision of any material agreement or other instrument to which such party is a party or is otherwise bound other than those which have been obtained, except, with respect to the foregoing clauses (ii) and (iii), where such conflict, violation, default or failure to obtain consent would not reasonably be expected to have a material adverse effect on DHC or its Subsidiaries, taken as a whole.

(e) Except for this Agreement and the Organizational Documents, such party has not entered into or agreed to be bound by any other agreements or arrangements of any kind with any party with respect to the Company Shares, including agreements or arrangements with respect to the acquisition or disposition of the Company Shares or any interest therein or the

voting of the Company Shares (whether or not such agreements and arrangements are with the Company or any other stockholder of the Company).

ARTICLE VII

TERM AND TERMINATION

Section 7.01 Termination. This Agreement shall terminate upon the earliest of:

- (a) the consummation of a Public Offering resulting in a market value of the Company Common Stock held by public stockholders who are otherwise Third Party Purchasers of at least twenty million (\$20,000,000) dollars;
- (b) the consummation of a Company Change of Control;
- (c) the date on which the DHC Parties no longer hold any Company Shares;
- (d) the dissolution, liquidation, or winding up of the Company; or
- (e) upon the unanimous written consent of all DHC Parties and the Company.

Section 7.02 Effect of Termination.

- (a) The termination of this Agreement shall terminate all further rights and obligations of the Stockholders under this Agreement, except that such termination shall not affect:
 - (i) the existence of the Company;
 - (ii) the obligation of any party to pay any amounts arising on or prior to the date of termination, or as a result of or in connection with such termination;
 - (iii) the rights which any Stockholder may have by operation of Applicable Law as a stockholder of the Company; or
 - (iv) provisions of this Agreement which by their terms are intended or are stated to survive termination of this Agreement.
- (b) The following provisions shall survive the termination of this Agreement:
 - (i) Section 4.02, Section 7.02 and Article VIII; and
 - (ii) Section 3.07 and Section 4.04, but only so long as a REIT Party owns Company Shares; provided, that the obligations of an Initial Stockholder Party under such Sections shall terminate at such time as such Initial Stockholder Party neither owns or controls any Company Shares.

ARTICLE VIII

MISCELLANEOUS

Section 8.01 Expenses. Except as otherwise expressly provided herein, all costs and expenses, including fees and disbursements of counsel, financial advisors and accountants, incurred in connection with this Agreement or the transactions and matters contemplated by this Agreement shall be paid by the party incurring such costs and expenses.

Section 8.02 Release of Liability; Waiver of Fiduciary Duties. Subject to Section 7.02, if any Stockholder shall Transfer all of the Company Shares held by such Stockholder in compliance with the provisions of this Agreement without retaining any interest therein, then such Stockholder shall cease to be a party to this Agreement in its capacity as a Stockholder and shall be relieved and have no further liability arising hereunder in its capacity as a Stockholder for events

occurring from and after the date of such Transfer. To the maximum extent permitted by Applicable Law, each Stockholder and its successors and assigns and, as applicable, its shareholders, stockholders, beneficial interest owners, members, partners, trustees, directors, officers, employees and agents, waives any and all fiduciary duties any Stockholder may now or in the future have to any other Stockholder, in each case in its capacity as a stockholder of the Company, in connection with this Agreement or the transactions and matters contemplated by this Agreement.

Section 8.03 Notices. All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given (a) when delivered by hand (with written confirmation of receipt), (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested), (c) on the date sent by email of a PDF document (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next Business Day if sent after normal business hours of the recipient or (d) when received if mailed by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective parties at the addresses set forth on Exhibit A hereto (or at such other address in the United States for a party as shall be specified in a notice given in accordance with this Section 8.03).

Section 8.04 Interpretation. For purposes of this Agreement, (a) the words “include,” “includes” and “including” shall be deemed to be followed by the words “without limitation”; (b) the word “or” is not exclusive; and (c) the words “herein,” “hereof,” “hereby,” “hereto” and “hereunder” refer to this Agreement as a whole. The definitions given for any defined terms in this Agreement shall apply equally to both the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. Unless the context otherwise requires, references herein: (i) to Articles, Sections and Exhibits mean the Articles and Sections of, and the Exhibits attached to, this Agreement; (ii) to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof; and (iii) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted.

Section 8.05 Headings. The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

Section 8.06 Severability. If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

Section 8.07 Entire Agreement. This Agreement and the Organizational Documents constitute the sole and entire agreement of the parties with respect to the subject matter contained herein and therein, and supersede all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter. In the event of any inconsistency or conflict between this Agreement and the Organizational Documents, the Stockholders and the Company shall, to the extent permitted by Applicable Law, amend, consent to or waive provisions of each such Organizational Document to comply with the terms of this Agreement.

Section 8.08 Assignment; Successors. Except as expressly set forth in this Agreement, this Agreement and the rights, interests and obligations of the parties hereunder may not be assigned, transferred or delegated. This Agreement and the rights, interests and obligations of a party hereunder may be assigned, transferred or delegated by a party to a Person who succeeds to all or substantially all the assets of such party, which successor or Person agrees in a writing delivered to the other parties hereto to be subject to and bound by all interests and obligations set forth in this Agreement. This Agreement shall bind and inure to the benefit of and be enforceable by the parties and their respective successors and permitted assigns, including Permitted Transferees who acquire Company Shares in accordance with the terms of this Agreement.

Section 8.09 No Third Party Beneficiaries. This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and, except as expressly set forth in this Agreement, nothing herein is

intended to or shall confer upon any other Person any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

Section 8.10 Amendment and Modification; Waiver. This Agreement may only be amended, modified or supplemented by an agreement in writing signed by each party hereto. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. No waiver by any party shall operate or be construed as a waiver in respect of any failure, breach or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

Section 8.11 Governing Law. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Maryland without giving effect to any choice or conflict of law provision or rule (whether of the State of Maryland or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the State of Maryland.

Section 8.12 Venue. Each party hereto agrees that it shall bring any Proceeding in respect of any claim arising out of or related to this Agreement or the transactions contemplated hereby exclusively in the courts of the State of Maryland and the Federal courts of the United States, in each case, located in the City of Baltimore (the “**Chosen Courts**”). Solely in connection with claims arising under this Agreement or the transactions contemplated hereby, each party hereto irrevocably and unconditionally (i) submits to the exclusive jurisdiction of the Chosen Courts, (ii) agrees not to commence any such Proceeding except in such courts, (iii) waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any such Proceeding in the Chosen Courts, (iv) waives, to the fullest extent permitted by Applicable Law, the defense of an inconvenient forum to the maintenance of such Proceeding and (v) agrees that service of process upon such party in any such Proceeding shall be effective if notice is given in accordance with Section 8.03. Nothing in this Agreement will affect the right of any party to serve process in any other manner permitted by Applicable Law. A final judgment in any such Proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by Applicable Law. EACH PARTY HERETO IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT. Notwithstanding anything herein to the contrary, if a demand for arbitration of a Dispute is made pursuant to Section 8.13, this Section 8.12 shall not pre-empt resolution of the Dispute pursuant to Section 8.13.

Section 8.13 Dispute Resolution.

(a) **Disputes.** Any disputes, claims or controversies arising out of or relating to this Agreement, the Organizational Documents or the transactions contemplated hereby, including any disputes, claims or controversies brought by or on behalf of a party hereto, a direct or indirect parent of a party, or any holder of equity interests (which, for purposes of this Section 8.13, shall mean any holder of record or any beneficial owner of equity interests, or any former holder of record or beneficial owner of equity interests) of a party, either on its own behalf, on behalf of a party or on behalf of any series or class of equity interests of a party or holders of any equity interests of a party against a party or any of their respective trustees, directors, members, officers, managers (including The RMR Group LLC or its parent and their respective successor), agents or employees, including any disputes, claims or controversies relating to the meaning, interpretation, effect, validity, performance, application or enforcement of this Agreement, including the agreements set forth in this Section 8.13, or the governing documents of a party (all of which are referred to as “**Disputes**”), or relating in any way to such a Dispute or Disputes shall, on the demand of any party to such Dispute or Disputes, be resolved through binding and final arbitration in accordance with the Commercial Arbitration Rules (the “**Rules**”) of the American Arbitration Association (the “**AAA**”) then in effect, except as those Rules may be modified in this Section 8.13. For the avoidance of doubt, and not as a limitation, Disputes are intended to include derivative actions against the trustees, directors, officers or managers of a party and class actions by a holder of equity interests against those Persons and a party. For the avoidance of doubt, a Dispute shall include a Dispute made derivatively on behalf of one party against another party.

(b) **Selection of Arbitrators.** There shall be three (3) arbitrators. If there are only two (2) parties to the Dispute, each party shall select one (1) arbitrator within fifteen (15) days after receipt by respondent of a copy of a demand for arbitration. Such arbitrators may be affiliated or interested persons of such parties. If there are more than two (2) parties to the Dispute, all claimants, on the one hand, and all respondents, on the other hand, shall each select, by the vote of a majority of the claimants or the respondents, as the case may be, one (1) arbitrator within fifteen (15) days after receipt of a demand for arbitration. Such arbitrators may be affiliated or interested persons of the claimants or the respondents, as the case may be. If either a claimant (or all claimants) or a respondent (or all respondents) fail(s) to timely select an arbitrator, then the party (or parties) who has selected an arbitrator may request the AAA to provide a list of three (3) proposed arbitrators in accordance with the Rules (each of whom shall be neutral, impartial and unaffiliated with any party) and the party (or parties) that failed to timely appoint an arbitrator shall have ten (10) days from the date the AAA provides such list to select one (1) of the three (3) arbitrators proposed by the AAA. If the party (or parties) fail(s) to select the second (2nd) arbitrator by that time, the party (or parties) who have appointed the first (1st) arbitrator shall then have ten (10) days to select one (1) of the three (3) arbitrators proposed by the AAA to be the second (2nd) arbitrator; and, if they should fail to select the second (2nd) arbitrator by such time, the AAA shall select, within fifteen (15) days thereafter, one (1) of the three (3) arbitrators it had proposed as the second (2nd) arbitrator. The two (2) arbitrators so appointed shall jointly appoint the third (3rd) and presiding arbitrator (who shall be neutral, impartial and unaffiliated with any party) within fifteen (15) days of the appointment of the second (2nd) arbitrator. If the third (3rd) arbitrator has not been appointed within the time limit specified herein, then the AAA shall provide a list of proposed arbitrators in accordance with the Rules, and the arbitrator shall be appointed by the AAA in accordance with a listing, striking and ranking procedure, with each party having a limited number of strikes, excluding strikes for cause.

(c) **Location of Arbitration.** Any arbitration hearings shall be held in Boston, Massachusetts, unless otherwise agreed by the parties, but the seat of arbitration shall be Maryland.

(d) **Scope of Discovery.** There shall be only limited documentary discovery of documents directly related to the issues in dispute, as may be ordered by the arbitrators. For the avoidance of doubt, it is intended that there shall be no depositions and no other discovery other than limited documentary discovery as described in the preceding sentence.

(e) **Arbitration Award.** In rendering an award or decision (an “Award”), the arbitrators shall be required to follow the laws of the State of Maryland, without regard to principles of conflicts of law. Any arbitration proceedings or Award rendered hereunder, and the validity, effect and interpretation of the agreements set forth in this Section 8.13 shall be governed by the Federal Arbitration Act, 9 U.S.C. § 1 et seq. An Award shall be in writing and may, but shall not be required to, briefly state the findings of fact and conclusions of law on which it is based. Any monetary Award shall be made and payable in U.S. dollars free of any tax, deduction or offset. Subject to Section 8.13(f), each party against which an Award assesses a monetary obligation shall pay that obligation on or before the thirtieth (30th) day following the date of such Award or such other date as such Award may provide.

(f) **Costs.** Except to the extent expressly provided by this Agreement or as otherwise agreed by the parties thereto, to the maximum extent permitted by Applicable Law of the State of Maryland, each party involved in a Dispute shall bear its own costs and expenses (including attorneys’ fees), and the arbitrators shall not render an Award that would include shifting of any such costs or expenses (including attorneys’ fees) or, in a derivative case or class action, award any portion of a party’s Award to the claimant or the claimant’s attorneys. Each party (or, if there are more than two (2) parties to the Dispute, all claimants, on the one hand, and all respondents, on the other hand, respectively) shall bear the costs and expenses of its (or their) selected arbitrator and the parties (or, if there are more than two (2) parties to the Dispute, all claimants, on the one hand, and all respondents, on the other hand) shall equally bear the costs and expenses of the third (3rd) appointed arbitrator.

(g) **Appeals.** Notwithstanding any language to the contrary in this Agreement, any Award, including, but not limited to, any interim Award, may be appealed pursuant to the AAA’s Optional Appellate Arbitration Rules (“**Appellate Rules**”). An Award shall not be considered final until after the time for filing the notice of appeal pursuant to the Appellate Rules has expired. Appeals must be initiated within thirty (30) days of receipt of an Award by filing a notice of appeal with any AAA office. Following the appeal process, the decision rendered by the appeal tribunal may be entered in any court having jurisdiction thereof. For the avoidance of doubt, and despite any contrary provision of the Appellate Rules, Section

8.13(g) shall apply to any appeal pursuant to this Section 8.13 and the appeal tribunal shall not render an Award that would include shifting of any costs or expenses (including attorneys' fees) of any party.

(h) **Final Judgment.** Following the expiration of the time for filing the notice of appeal, or the conclusion of the appeal process set forth in Section 8.13(g), an Award shall be final and binding upon the parties thereto and shall be the sole and exclusive remedy between those parties relating to the Dispute, including any claims, counterclaims, issues or accounting presented to the arbitrators. Judgment upon an Award may be entered in any court having jurisdiction. To the fullest extent permitted by law, no application or appeal to any court of competent jurisdiction may be made in connection with any question of law arising in the course of arbitration or with respect to any Award made, except for actions relating to enforcement of the agreements set forth in this Section 8.13 or any arbitral award issued hereunder and except for actions seeking interim or other provisional relief in aid of arbitration proceedings in any court of competent jurisdiction.

(i) **Intended Beneficiaries.** This Section 8.13 is intended to benefit and be enforceable by the parties hereto and their respective shareholders, stockholders, members, beneficial interest owners, direct and indirect parents, trustees, directors, officers, managers (including The RMR Group LLC or its parent and their respective successor), members, agents or employees and their respective successors and assigns and shall be binding on the parties, and such Persons and be in addition to, and not in substitution for, any other rights to indemnification or contribution that such Persons may have by contract or otherwise.

Section 8.14 Further Assurances. In connection with this Agreement and the transactions contemplated hereby, each Stockholder, the Company and each transferee of Company Shares agrees, at the request of the Company or any Stockholder, to execute and deliver such additional documents, instruments, conveyances and assurances and to take such further actions as may be required to carry out the provisions hereof and give effect to the transactions contemplated hereby.

Section 8.15 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, email or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

Section 8.16 No Liability. NO TRUSTEE, OFFICER, DIRECTOR, SHAREHOLDER, MEMBER, EMPLOYEE OR AGENT OF ANY PARTY SHALL BE HELD TO ANY PERSONAL LIABILITY, JOINTLY OR SEVERALLY, FOR ANY OBLIGATION OF, OR CLAIM AGAINST, SUCH PARTY. ALL PERSONS DEALING WITH SUCH PARTY IN ANY WAY, SHALL LOOK ONLY TO THE ASSETS OF SUCH PARTY FOR THE PAYMENT OF ANY SUM OR THE PERFORMANCE OF ANY OBLIGATION.

[Signature page follows]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above by, as applicable, their respective officers thereunto duly authorized.

THE COMPANY:

AlerisLife Inc.

By: /s/ Jeffrey C. Leer
Jeffrey C. Leer
President and Chief Executive Officer

DHC:

Diversified Healthcare Trust

By: /s/ Matthew C. Brown
Matthew C. Brown
Chief Financial Officer and Treasurer

DHC TRS:

DHC Holdings LLC

By: /s/ Matthew C. Brown
Matthew C. Brown
Chief Financial Officer and Treasurer

THE INITIAL STOCKHOLDER:

ABP Trust

By: /s/ Matthew P. Jordan
Matthew P. Jordan
Treasurer

[Signature Page to AlerisLife Inc. Stockholders Agreement]

Exhibit A

NOTICE ADDRESSES

If to the Company:

Two Newton Place
255 Washington Street, Suite 230
Newton, Massachusetts 02458
Attention: President and Chief Executive Officer and
Secretary
Email: jleer@5ssl.com
jclark@rmrgroup.com

If to any DHC Party:

Two Newton Place
255 Washington Street, Suite 300
Newton, Massachusetts 02458-1632
Attention: Chief Financial Officer and Treasurer and Secretary
Email: mbrown@rmrgroup.com
jclark@rmrgroup.com

If to any ABP Party:

Two Newton Place
255 Washington Street, Suite 300
Newton, Massachusetts 02458-1632
Attention: Treasurer and Secretary
Email: mjordan@rmrgroup.com
jclark@rmrgroup.com

Exhibit B

FORM OF JOINDER AGREEMENT

This JOINDER AGREEMENT (the “**Joinder Agreement**”), dated as of _____, is entered into by _____, [a _____ organized under the laws of _____] / [an individual residing at _____] (the “**New Stockholder**”). All capitalized terms not defined in this Joinder Agreement shall have the meaning ascribed to such terms in that certain Stockholders Agreement dated as of February 16, 2024 by and among the individuals and entities named and listed therein as “**Stockholders**” and AlerisLife Inc., a Maryland corporation (the “**Company**”), as it may be amended from time to time (the “**Stockholders Agreement**”).

WHEREAS, the New Stockholder desires to acquire Company Shares [in a Transfer from [_____]] and in connection therewith become a party to the Stockholders Agreement; and

WHEREAS, the New Stockholder shall become a party to the Stockholders Agreement, and in furtherance of the foregoing, the New Stockholder shall execute and deliver this Joinder Agreement to the Company and each Stockholder.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the New Stockholder hereby agrees as follows:

1. *Agreement to be Bound.* The New Stockholder hereby agrees that, upon execution of this Joinder Agreement, the New Stockholder shall become a party to the Stockholders Agreement as [an DHC Party / Initial Stockholder Party], and shall be fully bound by, subject to, and have all of the benefits and burdens of all of the covenants, terms and conditions of the Stockholders Agreement as [an DHC Party / Initial Stockholder Party] thereunder.
2. *Successors and Assigns.* This Joinder Agreement shall bind and inure to the benefit of and be enforceable by the Company and each Stockholder, and their respective permitted successors, heirs and assigns.
3. *Counterparts.* This Joinder Agreement may be executed in separate counterparts each of which shall be an original and all of which taken together shall constitute one and the same agreement.
4. *Notices.* All notices, demands or other communications to the New Stockholder shall be directed to the respective United States address set forth next to the New Stockholder’s name on the signature page hereto.
5. *Governing Law.* This Joinder Agreement shall be governed by and construed in accordance with the law (other than the law governing conflict of law questions) of the State of Maryland.
6. *Descriptive Headings.* The descriptive headings of this Joinder Agreement are for convenience of reference only and do not constitute a part of this Joinder Agreement.

IN WITNESS WHEREOF, the New Stockholder has executed this Joinder Agreement as of the date first above written.

[_____]

[By: _____]
[Name]
[Title]

Address:

Accepted and agreed to:

THE COMPANY:

AlerisLife Inc.

By: _____
Name:
Title:

CERTIFICATION PURSUANT TO EXCHANGE ACT RULES 13a-14(a) AND 15d-14(a)

I, Christopher J. Bilotto, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Diversified Healthcare Trust;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 6, 2024

/s/ Christopher J. Bilotto
Christopher J. Bilotto
President and Chief Executive Officer

CERTIFICATION PURSUANT TO EXCHANGE ACT RULES 13a-14(a) AND 15d-14(a)

I, Matthew C. Brown, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Diversified Healthcare Trust;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 6, 2024

/s/ Matthew C. Brown

Matthew C. Brown

Chief Financial Officer and Treasurer

CERTIFICATION PURSUANT TO 18 U.S.C. SEC. 1350

In connection with the filing by Diversified Healthcare Trust (the “Company”) of the Quarterly Report on Form 10-Q for the period ended March 31, 2024 (the “Report”), each of the undersigned hereby certifies, to the best of his knowledge:

1. The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ Christopher J. Bilotto

Christopher J. Bilotto

President and Chief Executive Officer

/s/ Matthew C. Brown

Matthew C. Brown

Chief Financial Officer and Treasurer

Date: May 6, 2024