**Opinion Letter**

**Borrower and SPE Equity Owner**

(Revised 10-4-2022)

**[LETTERHEAD OF COUNSEL]**

**[OPINION MUST BE DATED AS OF THE DATE OF THE LOAN DOCUMENTS]**

**[INSERT NAME AND ADDRESS OF LENDER**]

Re: Mortgage loan to be made by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“**Lender**”) to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“**Borrower**”)

Ladies and Gentlemen:

We have acted as counsel to Borrower, a [corporation] [limited liability company] [limited partnership] [general partnership] [trust] organized in the State or Commonwealth of **[STATE]** (“**State of Borrower’s Organization**”) **[IF AN SPE EQUITY OWNERS IS APPLICABLE:** and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“**SPE Equity Owner**”), a [corporation][limited liability company] organized in the State or Commonwealth of **[STATE]** (“**State of SPE Equity Owner’s Organization**”)] **[IF BORROWER IS A GENERAL PARTNERSHIP:** and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a [corporation][limited liability company][limited partnership] organized in the State or Commonwealth of **[STATE]** and \_\_\_\_\_\_\_\_\_\_\_\_\_\_, a [corporation][limited liability company][limited partnership] organized in the State or Commonwealth of **[STATE]** (each a “**General Partner**” and collectively, the “**General Partners**”)] in connection with a mortgage loan in the original principal amount of $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“**Loan**”) to be made by Lender. The Loan will be secured by a [Multifamily Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing] [Multifamily Deed of Trust, Assignment of Rents and Security Agreement] [Multifamily Mortgage, Assignment of Rents and Security Agreement] [Multifamily Deed to Secure Debt, Assignment of Rents and Security Agreement] (“**Security Instrument**”) encumbering real property owned by Borrower located at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **[INSERT CITY/STATE]** (“**Property**”).

# BACKGROUND

## **Documents Reviewed**.

In our capacity as counsel to Borrower [and] [SPE Equity Owner] [and General Partners], we have prepared or examined the following documents, all dated as of the date of this opinion letter, 20\_\_\_, except where otherwise noted:

(a) Multifamily Note (“**Note**”) in the amount of the Loan, executed by Borrower and payable to the order of Lender

(b) Security Instrument

(c) Multifamily Loan and Security Agreement

(d) UCC Financing Statement (“**Financing Statement**”) naming Borrower, as debtor, and Lender, as secured party

(\_) [Cross-Collateralization Agreement - Master]

(\_) All other documents executed by Borrower and Lender, or executed by Borrower and delivered to Lender, in connection with the closing of the Loan

The documents listed above are referred to below collectively as the “**Loan Documents**”.

**[ADD IF APPLICABLE]**

We have also examined the following documents:

(\_) [Tenancy in Common Agreement]

(\_) [**IF BORROWER OR SPE EQUITY OWNER IS A SINGLE MEMBER DELAWARE LIMITED LIABILITY COMPANY, ADD:** Certificate of Formation of Borrower]

(\_) [**IF BORROWER OR SPE EQUITY OWNER IS A SINGLE MEMBER DELAWARE LIMITED LIABILITY COMPANY, ADD:** The Operating Agreement]

**Scope of Review**.

In rendering this opinion letter we have also examined all certificates of public officials, **[CHOOSE ONE:** corporate **OR** partnership **OR** limited liability company **OR** trust**]** documents and records and other certificates and instruments that we deem necessary for the purposes of the opinions expressed in this opinion letter. As to various questions of fact material to our opinions, we have relied upon certificates and written statements of **[CHOOSE ONE:** officers **OR** partners **OR** members **OR** beneficiaries **OR** trustees] of Borrower.

**Reliance Without Investigation**.

We understand that with respect to title matters, you will be relying on the title insurance policy issued to you by the title insurance company. We have not made any investigation of and do not express an opinion as to, any matters of title to any property (whether real, personal or mixed). We also do not express any opinion as to the adequacy of the description of the property contained in the Financing Statement.

**Assumptions**.

In preparing this opinion letter:

(i) We have assumed the legal competency of all individual signers of documents.

(ii) We have assumed that all signatures of parties other than Borrower [and SPE Equity Owner] [**ADD IF BORROWER IS A GENERAL PARTNERSHIP**: and General Partners**]** are genuine.

(iii) We have assumed the due authorization, execution and delivery of all documents by all parties to the Loan other than Borrower [and SPE Equity Owner] **[ADD IF BORROWER IS A GENERAL PARTNERSHIP**: and General Partners**]**.

(iv) In those cases where we have examined copies of documents, we have assumed that those copies are complete and accurate. We have also assumed that all public records are accurate and complete.

(v) With respect to Borrower’s [and SPE Equity Owner’s] **[ADD IF BORROWER IS A GENERAL PARTNERSHIP**: and each General Partner’s**]** good standing, we have relied on **[COMPLETE WITH CORRECT NAME OF CERTIFICATE IN PROPERTY JURSIDICTION:** Certificate of Good Standing**]** from the Secretary of State of State of Borrower’s Organization [and State of SPE Equity Owner’s Organization] [**ADD IF BORROWER IS A GENERAL PARTNERSHIP**: and State of each General Partner’s Organization**]**. **[CHOOSE ONE:** A copy of that certificate is attached to this opinion letter. **OR** Copies of those certificates are attached to this opinion letter.**]**

**[ADD THE FOLLOWING PARAGRAPH IF BORROWER, SPE EQUITY OWNER, OR GENERAL PARTNER OF A GENERAL PARTNERSHIP BORROWER IS ORGANIZED IN A STATE OTHER THAN THE PROPERTY JURISDICTION]**

(vi) With respect to Borrower’s [and SPE Equity Owner’s] [**ADD IF BORROWER IS A GENERAL PARTNERSHIP**: and each General Partner’s**]** qualification to conduct business, we have relied on a[n] **[COMPLETE WITH CORRECT NAME OF CERTIFICATE IN PROPERTY JURSIDICTION:** Authorization to do Business**]** from the Secretary of State of State of Property Jurisdiction. **[CHOOSE ONE:** A copy of that certificate is attached to this opinion letter. **OR** Copies of those certificates are attached to this opinion letter.**]**

(vii) We have assumed that Borrower holds the requisite title and rights to the Property.

(viii) We have assumed that there has not been any mutual mistake of fact or misunderstanding, fraud, duress or undue influence.

(ix) We have assumed that the conduct of the parties to the Loan complies with any requirement of good faith, fair dealing and conscionability.

(x) We have assumed that the Loan Documents accurately reflect the complete understanding of the parties with respect to the transactions contemplated by and the rights and obligations of the parties under the Loan Documents and there are no agreements or understandings among the parties, written or oral, and there is no usage of trade or course of prior dealing among the parties that would, in either case, define, supplement, or qualify the terms of the Loan Documents.

(xi) We have assumed that the Security Instrument and Financing Statement have been or will be duly recorded and/or filed and indexed in all places necessary (if and to the extent necessary) to create the encumbrance and lien as provided in those documents, and that all applicable recording/filing fees have been or will be paid.

**Opining Jurisdiction**.

We express no opinion with respect to the effect of any law other than the law of the State or Commonwealth of **[STATE]** (“**Property Jurisdiction**”) **[ADD AS APPLICABLE FOR ENTITIES ORGANIZED IN A STATE OTHER THAN THE PROPERTY JURISDICTION:** , the State of Borrower’s Organization, the State of SPE Equity Owner’s Organization, the State of each General Partner’s Organization**]** **[IF A DELAWARE SINGLE MEMBER LLC OPINION IS REQUIRED, ADD:** , applicable Delaware law,**]** and the federal law of the United States.

**OPINIONS**

**[DO NOT RENUMBER OPINIONS; IF ANY OPINION IS INAPPLICABLE TO THIS LOAN, OMIT THE TEXT AND REPLACE WITH “Reserved.”**]

Based on the foregoing and upon such investigation as we have deemed necessary, and subject to the qualifications and exceptions contained in this opinion letter, we are of the opinion that:

**[from counsel for State of Organization]**

1. Borrower is a **[CHOOSE ONE:** corporation (a) duly incorporated, (b) validly existing, and (c) in good standing **OR** limited partnership (a) duly formed, (b) validly existing, and (c) in good standing **OR** limited liability company (a) duly organized, (b) validly existing, and (c) in good standing **OR** general partnership (a) duly formed, (b) validly existing, and (c) in good standing**]** under the laws of the State of Borrower’s Organization

**[INCLUDE OPINION #2 IF BORROWER’S STATE OF ORGANIZATION IS NOT THE SAME AS THE PROPERTY JURISDICTION; IF N/A, OPINION #2 SHOULD BE REPLACED WITH “Reserved.”]**

**[from counsel for Property Jurisdiction]**

2. Borrower is duly qualified to do business as a foreign **[CHOOSE ONE:** limited partnership **OR** limited liability company **OR** general partnership**]** under the laws of the Property Jurisdiction].

**[from counsel for State of Organization]**

3. Borrower has the **[CHOOSE ONE:** corporate **OR** partnership **OR** limited liability company**]** power and authority (a) to own, lease, and operate the Property and (b) to execute, deliver, and perform Borrower’s obligations under the Loan Documents.

**[INCLUDE OPINIONS #4 AND #5 IF SPE EQUITY OWNER APPLIES; IF N/A, OPINIONS #4 AND #5 SHOULD BE REPLACED WITH “Reserved.”]**

**[from counsel for State of Organization]**

4. SPE Equity Owner is a **[CHOOSE ONE:** corporation (a) duly organized, (b) validly existing, and (c) in good standing **OR** limited liability company (a) duly organized, (b) validly existing, and (c) in good standing**]** under the laws of the State of SPE Equity Owner’s Organization and has all requisite **[CHOOSE ONE:** corporate **OR** limited liability company**]** power to own and operate its property and conduct its business.

**[from counsel for Property Jurisdiction]**

5. **[INCLUDE IF QUALIFICATION TO DO BUSINESS IS REQUIRED BY THE PROPERTY JURSIDICTION:** SPE Equity Owner is qualified to do business in the Property Jurisdiction.**]**

**[INCLUDE OPINIONS #6 AND #7 IF BORROWER IS A GENERAL PARTNERSHIP; IF N/A, OPINIONS #6 AND #7 SHOULD BE REPLACED WITH “Reserved.”]**

**[from counsel for State of Organization]**

6. Each General Partner is a **[CHOOSE ONE:** corporation (a) duly organized, (b) validly existing, and (c) in good standing **OR** limited liability company (a) duly organized, (b) validly existing, and (c) in good standing **OR** limited partnership (a) duly organized, (b) validly existing, and (c) in good standing**]** under the laws of the State of each General Partner’s Organization and has all requisite **[CHOOSE ONE:** corporate **OR** limited liability company **OR** partnership**]** power to own and operate its property and conduct its business.

**[from counsel for Property Jurisdiction]**

7. Each General Partner is qualified to do business in the Property Jurisdiction.

**[from counsel for State of Organization]**

8. (a) The execution and delivery of the Loan Documents by Borrower and the performance of Borrower’s obligations under the Loan Documents have been duly authorized by all requisite action of Borrower.

**[from counsel for State of Organization or Property Jurisdiction]**

(b) The Loan Documents have been duly executed and delivered by Borrower.

**[INCLUDE OPINION #9 IF BORROWER IS NOT A SINGLE MEMBER LLC; IF BORROWER IS A SINGLE MEMBER LLC, OPINION #9 SHOULD BE REPLACED WITH “Reserved.”]**

**[from counsel for State of Organization]**

9. **[CHOOSE ONE:** The sole managing member(s) of Borrower is (are) \_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“**Managing Member**”) **OR** The sole general partner(s) of Borrower is (are) \_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“**General Partner**”) **OR** General Partners are the sole partners of Borrower**]**, **[CHOOSE ONE:** which has **OR** all of which acting together have **OR** each of which acting individually has**]** the full power and authority to bind Borrower in any and all matters relating to its business activities, including the power to enter into the Loan on behalf of Borrower and to execute and deliver all documents and instruments required in connection therewith.

**[INCLUDE OPINION #10 IF BORROWER IS NEITHER A SINGLE MEMBER LLC NOR A GENERAL PARTNERSHIP; IF BORROWER IS ONE OF THOSE TWO TYPES OF ENTITIES, OPINION #10 SHOULD BE REPLACED WITH “Reserved.”]**

**[from counsel for State of Organization]**

10. All required consents and approvals, if any, of the **[CHOOSE ONE:** limited partners **OR** non-managing members**]** of Borrower have been obtained to permit the **[CHOOSE ONE:** General Partner **OR** Managing Member**]**, on behalf of Borrower, to execute and deliver the Loan Documents and any other document or instrument required to close the Loan and to mortgage the Property and accept the Loan.

**[INCLUDE OPINION #11 IF BORROWER IS A TRUST (MODIFY AS NECESSARY TO REFLECT THE PROPER TRUST STRUCTURE). IF BORROWER IS NOT A TRUST, OPINION #11 SHOULD BE REPLACED WITH “Reserved.”]**

**[from counsel for Property Jurisdiction]**

11.(a) Borrower can sue and be sued in the Property Jurisdiction without the necessity of joining any of the beneficiaries of Borrower, including a suit on the Note or a foreclosure proceeding arising under the Security Instrument.

**[from counsel for Situs of Trust]**

(b) **[CHOOSE ONE:** Borrower is an irrevocable trust which has a term longer than the term of the Loan and the term of the irrevocable trust is not affected by the terms of any of the beneficiaries’ interests. **OR** Borrower is a revocable trust; however, Borrower’s obligations under the Note will survive the death of the grantor of the trust.**]**

**[IF THE LOAN IS A SUPPLEMENTAL LOAN, THEN REPLACE OPINION #12 WITH “Reserved.”]**

**[from counsel for Property Jurisdiction]**

12. The Loan Documents are the legal, valid and binding obligations of Borrower, enforceable against Borrower in accordance with their respective terms, except as may be limited by (i) bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the rights of creditors generally, and (ii) general principles of equity (regardless of whether considered in a proceeding in equity or at law). Our opinion as to enforceability of the Loan Documents is also subject to the qualification that certain provisions contained in the Loan Documents may not be enforceable, but (subject to the limitations set forth in (i) and (ii)) such unenforceability will not render the Loan Documents invalid as a whole or substantially interfere with Lender ’s practical realization of the principal benefits and/or security provided by the Loan Documents, except for the economic consequences resulting from any delay imposed by, or any procedure required by, the applicable laws.

13. The execution and delivery by Borrower **[ADD IF BORROWER IS A GENERAL PARTNERSHIP**: and each General Partner**]** of the Loan Documents do not, and the payment by Borrower of the indebtedness evidenced by the Note will not:

**[from counsel for State of Organization]**

(a) Conflict with or violate any provision of the **[CHOOSE ONE:** Articles of Incorporation **OR** Partnership Agreement **OR** Operating Agreement**]** of Borrower **[ADD IF BORROWER IS A GENERAL PARTNERSHIP**: and each General Partner**]**.

**[from counsel for State of Organization and Property Jurisdiction]**

(b) Conflict with or violate any law, rule, regulation or ordinance applicable to Borrower **[ADD IF BORROWER IS A GENERAL PARTNERSHIP**: or any General Partner**]**.

**[from counsel for State of Organization or Property Jurisdiction]**

14. To our Actual Knowledge (as defined below), the execution and delivery by Borrower **[ADD IF BORROWER IS A GENERAL PARTNERSHIP**: and each General Partner**]** of the Loan Documents do not, and the payment by Borrower of the indebtedness evidenced by the Note will not:

(a) conflict with or violate or result in a breach of any of the provisions of, or constitute a default under, or, except with respect to the Property, result in the creation or imposition of a lien, charge or encumbrance upon any of the properties or assets of Borrower **[ADD IF BORROWER IS A GENERAL PARTNERSHIP**: and each General Partner**]** pursuant to, any agreement or instrument to which Borrower **[ADD IF BORROWER IS A GENERAL PARTNERSHIP**: or any General Partner**]** is a party or by which any of its properties is bound, or

(b) conflict with or violate any judgment, order, writ, injunction or decree binding on Borrower **[ADD IF BORROWER IS A GENERAL PARTNERSHIP**: or any General Partner**]**.

**[from counsel for State of Organization and Property Jurisdiction]**

15. We have no Actual Knowledge of any material pending or threatened lawsuits, claims or criminal proceedings against Borrower **[**or SPE Equity Owner**]** **[ADD IF BORROWER IS A GENERAL PARTNERSHIP**: or any General Partner**]** or specifically applicable to the Property.

**[from counsel for Property Jurisdiction]**

16. The Loan, as made, will not violate any applicable usury laws of the Property Jurisdiction, or other applicable laws of the Property Jurisdiction regulating the interest rate and the interest, fees and other charges that may be charged and/or collected with respect to the Loan.

**[from counsel for Property Jurisdiction]**

17. (a) The Security Instrument is in proper form for recording and, without the need for the filing of a financing statement with the **[Insert County were Property is Located:** \_\_\_\_\_\_\_\_\_\_\_\_\_**]** County Clerk, will perfect Lender’s security interest in all real property and fixtures described in the Security Instrument.

(b) The assignment of leases and rents in the Security Instrument creates a valid collateral assignment of, or a valid lien or security interest in, certain rights under and to such leases and rents.

**[from counsel for Property Jurisdiction]**

18. The Uniform Commercial Code as adopted in the Property Jurisdiction states that the Uniform Commercial Code as adopted in the State of Borrower’s Organization governs the method of perfection of the secured party’s security interest in personal property that can be perfected pursuant to the Uniform Commercial Code as in effect in the State of Borrower’s Organization, except as to possessory security interests, negotiable documents, instruments, money, chattel, paper, fixtures, goods covered by certificates of title, deposit accounts, investment property and letters of credit.

19. **[from counsel for Property Jurisdiction]**

(a) The Loan Documents create a valid security interest in the personal property described in the Financing Statement.

**[from counsel for State of Organization]**

(b) The Financing Statement is in appropriate form for filing with the Secretary of State of State of Borrower’s Organization.

**[from counsel for State of Organization]**

(c) Upon the filing of the Financing Statement with the State of Borrower’s Organization Secretary of State and the payment of all applicable filing fees, the security interest of Lender in the rights of Borrower in the personal property described in the Financing Statement will be perfected under the State of Borrower’s Organization Uniform Commercial Code to the extent such a security interest can be perfected by the filing of financing statements under the State of Borrower’s Organization Uniform Commercial Code.

**[INCLUDE OPINION #20 FOR TENANCY IN COMMON LOANS; INSERT EACH CO-TENANT BORROWER’S NAME IN THE DEFINITION OF BORROWER IN THE FIRST PARAGRAPH OF THIS OPINION LETTER OR PROVIDE SEPARATE OPINIONS FOR EACH CO-TENANT BORROWER. FOR ALL OTHER TYPES OF LOANS, OPINION #20 SHOULD BE REPLACED WITH “Reserved.”]**

**[from counsel for Property Jurisdiction]**

20. We are of the opinion that a court sitting in the Property Jurisdiction, if properly presented with the facts of the case, would honor the waiver of right of partition contained in the Co-Tenancy Agreement.

**[INCLUDE OPINIONS #21-24 IF BORROWER OR SPE EQUITY OWNER IS A SINGLE MEMBER DELAWARE LIMITED LIABILITY COMPANY (MODIFY AS NECESSARY TO REFLECT THE PROPER ORGANIZATIONAL STRUCTURE) AND THE COMMITMENT DOES NOT PERMIT BORROWER TO BE A SINGLE ASSET ENTITY. IF (1) NEITHER BORROWER NOR SPE EQUITY OWNER IS A SINGLE MEMBER DELAWARE LIMITED LIABILITY COMPANY OR (2) THE COMMITMENT PERMITS BORROWER TO BE A SINGLE ASSET ENTITIY, OPINIONS #21-24 SHOULD BE REPLACED WITH “Reserved.” NOTE: NOTWITHSTANDING THE PRECEDING SENTENCE, OPINIONS #21-24 WILL NOT BE REQUIRED FOR ANY LOAN THAT IS $20,000,000 OR LESS]**

**[from counsel for State of Organization]**

21. The **[COMPLETE WITH CORRECT DESCRIPTION:** Operating Agreement**]** of Borrower dated as of \_\_\_\_\_\_\_\_\_\_\_ (“**Operating Agreement**”) constitutes a legal, valid and binding agreement of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“**Member**”), and is enforceable against the Member in accordance with its terms.

**[from counsel for State of Organization]**

22. While under the Delaware Limited Liability Company Act (“**LLC Act**”), on application to a court of competent jurisdiction, a judgment creditor of the Member may be able to charge the Member’s share of any profits and losses of Borrower and the Member’s right to receive distributions of Borrower’s assets (“**Member’s Interest**”), to the extent so charged, the judgment creditor has only the right to receive any distribution or distributions to which the Member would otherwise have been entitled in respect of such Member’s Interest. Under the LLC Act, no creditor of the Member has any right to obtain possession of, or otherwise exercise legal or equitable remedies with respect to, Borrower’s property. Thus, under the LLC Act, a judgment creditor of the Member may not satisfy its claims against the Member by asserting a claim against the assets of Borrower.

**[from counsel for State of Organization]**

23. Under the LLC Act, Borrower is a separate legal entity and the existence of Borrower as a separate legal entity will continue until the cancellation of the Certificate of Formation of Borrower.

**[from counsel for State of Organization]**

24. Under the LLC Act and the Operating Agreement, the death, dissolution, bankruptcy, insolvency or incapacity of the Member will not cause Borrower to be dissolved or its affairs to be wound up.

**[INCLUDE OPINIONS #25 AND #26 IF BORROWER OR SPE EQUITY OWNER IS A SINGLE MEMBER DELAWARE LIMITED LIABILITY COMPANY (MODIFY AS NECESSARY TO REFLECT THE PROPER ORGANIZATIONAL STRUCTURE) AND THE COMMITMENT INCLUDES A REQUIREMENT FOR AN INDEPENDENT DIRECTOR. IF THE COMMITMENT DOES NOT REQUIRE AN INDEPENDENT DIRECTOR, OPINIONS #25 AND #26 SHOULD BE REPLACED WITH “Reserved.”]**

**[from counsel for State of Organization]**

25. A Delaware Court applying Delaware law would conclude that (i) in order for a person to file a voluntary bankruptcy petition on behalf of Borrower, the prior unanimous consent of the Member and the Board of Directors (including the Independent Director), as provided in Section \_\_\_ of the Operating Agreement, is required and (ii) such provision contained in Section \_\_\_\_ of the Operating Agreement that requires the prior unanimous consent of the Member and the Board of Directors (including the Independent Director) in order for a person to file a voluntary bankruptcy petition of behalf of Borrower, constitutes a legal, valid and binding agreement of the Member, and is enforceable against the Member in accordance with its terms.

**[from counsel for State of Organization]**

26. A federal bankruptcy court would hold that Delaware law, and not federal law, governs the determination of what persons or entities have authority to file a voluntary bankruptcy petition on behalf of Borrower.

**[INCLUDE OPINIONS #27 AND #28 FOR ANY LOAN USING THE MULTIFAMILY LOAN AND SECURITY AGREEMENT – SENIORS HOUSING OR IF OTHERWISE REQUIRED BY THE COMMITMENT/ERLA, OTHERWISE OPINIONS #27 AND #28 SHOULD BE REPLACED WITH “Reserved.”]**

27. All Facility Licenses (as that term is defined in the Loan Agreement) are described on Exhibit [A] to this opinion and such Facility Licenses are in full force and effect. [NOTE TO OPINION DRAFTER: Exhibit A must state the exact names of each Facility License, the parties to each Facility License and the expiration date.]

28. A Certificate of Need application and approval [is] [is not] required for the use and operation of the Property for its Intended Use.

# QUALIFICATIONS

Notwithstanding any provision in this opinion letter to the contrary, each of the opinions and confirmations set forth in this opinion letter is subject to the following additional qualifications:

## **Exclusions**.

No opinions should be implied beyond those expressly stated in this opinion letter. Without limiting the generality of the preceding sentence, unless explicitly addressed in this opinion letter, the opinions and confirmations set forth in this opinion letter do not address and we specifically express no opinion with respect to any of the following legal issues:

### (i) securities laws and regulations administered by the Securities and Exchange Commission, state “Blue Sky” laws and regulations, and laws and regulations relating to commodity (and other) futures and indices and other similar instruments;

### Federal Reserve Board margin regulations;

### pension and employee benefit laws and regulations (*e.g.*, ERISA);

### antitrust and unfair competition laws and regulations;

### laws and regulations concerning filing and notice requirements (*e.g.*, Hart-Scott-Rodino and Exon-Florio), other than requirements applicable to charter-related documents such as a certificate of merger;

### compliance with fiduciary duty requirements;

### environmental laws and regulations;

### zoning, housing codes, land use, condominium, cooperative, subdivision and other development laws and regulations;

### tax laws and regulations;

### patent, copyright and trademark, state trademark, and other Federal and state intellectual property laws and regulations;

### racketeering laws and regulations (*e.g.*, RICO);

### health and safety laws and regulations (*e.g.*, OSHA);

### labor laws and regulations;

### laws, regulations and policies concerning (A) national and local emergency, (B) possible judicial deference to acts of sovereign states, and (C) criminal and civil forfeiture laws;

### bulk transfer law;

### law concerning access by the disabled and building codes;

### title to any property, the characterization of any property as real property, personal property or fixtures, or the accuracy or sufficiency of any description of collateral or other property; and

### rank or priority of any lien or security interest.

### parking regulations.

### dog licensing requirements.

## **Limitations**.

## 

## Each of the opinions and confirmations set forth in this opinion letter is subject to the effect of generally applicable rules of law that:

## limit or affect the enforcement of provisions of a contract that purport to require waiver of the obligations of good faith, fair dealing, diligence, and reasonableness;

## provide that forum selection clauses in contracts are not necessarily binding on the court(s) in the forum selected;

## limit the availability of a remedy under certain circumstances where another remedy has been elected;

## limit the right of a creditor to use force or cause a breach of the peace in enforcing rights;

## relate to the sale or disposition of collateral or the requirements of a commercially reasonable sale, including statutory cure provisions and rights of reinstatement and limitations on deficiency judgments;

## limit the enforceability of provisions releasing, exculpating, or exempting a party from, or requiring indemnification of a party for, liability for its own action or inaction, to the extent the action or inaction involves gross negligence, recklessness, willful misconduct, or unlawful conduct;

## may, where less than all of a contract may be unenforceable, limit the enforceability of the balance of the contract to circumstances in which the unenforceable portion is not an essential part of the agreed exchange;

## govern and afford judicial discretion regarding the determination of damages and entitlement to attorneys’ fees and other costs;

## may, in the absence of a waiver or consent, discharge a guarantor to the extent that (A) action by a creditor impairs the value of collateral securing guaranteed debt to the detriment of Guarantor, or (B) guaranteed debt is materially modified;

## may permit a party who has materially failed to render or offer performance required by the contract to cure that failure unless (A) permitting a cure would unreasonably hinder the aggrieved party from making substitute arrangements for performance, or (B) it was important in the circumstances to the aggrieved party that performance occur by the date stated in the contract;

## limit or affect the enforceability of a waiver of a right of redemption;

## impose limitations on attorneys’ or trustees’ fees;

1. limit or affect the enforceability of provisions that purport to establish evidentiary standards;
2. limit or affect the enforceability of provisions that provide for payment of increased interest rates upon delinquency in payment or upon any other default; or payment of liquidated damages or prepayment premiums to the extent such payments are deemed to be penalties or forfeitures; and
3. limit or affect the enforceability of provisions that purport to select any state’s law (other than that of the Property Jurisdiction) as the governing law for the Loan Documents.

## **Knowledge**.

## 

## As used in this opinion letter, “**Actual Knowledge**” means, without investigation, analysis, or review of court or other public records or our files or inquiry of persons, with respect to the undersigned law firm (“**Opinion Giver**”), the conscious awareness of facts or other information by the Primary Lawyer or Primary Lawyer Group. “**Primary Lawyer**” means the lawyer in the Opinion Giver’s organization who signs this opinion letter; any lawyer in the Opinion Giver’s organization who has active involvement in negotiating the Loan, preparing the Loan Documents or preparing this opinion letter; and solely as to information relevant to a particular opinion issue or confirmation regarding a particular factual matter (*e.g.*, pending or threatened legal proceedings), any lawyer in the Opinion Giver’s organization who is primarily responsible for providing the response concerning that particular opinion issue or confirmation. “**Primary Lawyer Group**” means all of the Primary Lawyers when there is more than one.

**Effective Date; No Obligation to Update.**

This opinion letter is rendered as of its date, and we express no opinion as to circumstances or events which may occur subsequent to such date. Further, we undertake no, and hereby disclaim any, obligation to advise you of any changes in, or any new developments which might affect, any matters or opinions set forth in this opinion letter.

**USE**

This opinion letter is furnished to you solely for your benefit, the benefit of subsequent holders of the Note, and any statistical rating agency that provides a rating on securities backed in part by the Loan, all of which we understand may receive copies of this opinion letter. This opinion letter may not be used, quoted from or relied upon by any other person without our prior written consent; however, you or a subsequent holder of the Note may deliver copies of this opinion letter to (a) independent auditors, accountants, attorneys and other professionals acting on behalf of you or a subsequent holder of the Note, (b) governmental agencies having regulatory authority over you or a subsequent holder of the Note, (c) designated persons pursuant to an order or legal process of any court or governmental agency, and (d) prospective purchasers of the Note.

Sincerely,

[Name of Firm]