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**U.S. SECURITIES AND EXCHANGE COMMISSION**  
Washington, D.C. 20549

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**Post-Effective Amendment No. 1**  
**to**  
**FORM 10**

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**GENERAL FORM FOR REGISTRATION OF SECURITIES  
PURSUANT TO SECTION 12(b) OR 12(g)  
OF THE SECURITIES EXCHANGE ACT OF 1934**

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**Starwood Credit Real Estate Income Trust**

(Exact name of registrant as specified in charter)

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**Maryland**  
(State or other jurisdiction of  
incorporation or registration)

**93-6487687**  
(I.R.S. Employer  
Identification No.)

**2340 Collins Avenue**  
**Miami Beach, FL**  
(Address of principal executive offices)

**33139**  
(Zip Code)

**305-695-5500**  
(Registrant's telephone number, including area code)

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*with copies to:*

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**Securities to be registered pursuant to Section 12(b) of the Act:**  
**None**

**Securities to be registered pursuant to Section 12(g) of the Act:**  
**Class T common shares of beneficial interest, par value \$0.01 per share**  
**Class S common shares of beneficial interest, par value \$0.01 per share**  
**Class D common shares of beneficial interest, par value \$0.01 per share**  
**Class I common shares of beneficial interest, par value \$0.01 per share**  
(Title of class)

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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 definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," or "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 accounting standards provided pursuant to Section 13(a) of the Exchange Act.

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## EXPLANATORY NOTE

Starwood Credit Real Estate Income Trust is filing this Registration Statement on Form 10 (the “**Registration Statement**”) with the Securities and Exchange Commission (the “**SEC**”) under the Securities Exchange Act of 1934, as amended (the “**Exchange Act**”), to register under Section 12(g) of the Exchange Act and comply with applicable requirements thereunder.

We have filed this Registration Statement with the SEC under the Exchange Act on a voluntary basis to provide current information to holders of our common shares.

When used in this Registration Statement, the following terms shall have the meanings set forth below, except where the context suggests otherwise:

- “**we**,” “**us**,” “**our**” and the “**Company**” refer to Starwood Credit Real Estate Income Trust, a Maryland statutory trust, and its subsidiaries unless the context specifically requires otherwise;
- “**Advisor**” refers to Starwood Credit Advisors, L.L.C., a Delaware limited liability company, and an indirect, wholly-owned subsidiary of Starwood Holdings;
- “**common shares**” refers to our common shares of beneficial interest, par value \$0.01 per share, currently classified as Class T shares, Class S shares, Class D shares, Class I shares and Class E shares;
- “**Dealer Manager**” refers to Starwood Capital, L.L.C., a Delaware limited liability company;
- “**Other Starwood Accounts**” means investment funds, REITs, vehicles, accounts, products and/or other similar arrangements sponsored, advised and/or managed by Starwood Capital, whether currently in existence or subsequently established (in each case, including any related successor funds, alternative vehicles, separately managed accounts, supplemental capital vehicles, surge funds, over-flow funds, co-investment vehicles and other entities formed in connection with Starwood Capital side-by-side or additional general partner investments with respect thereto);
- “**Starwood Capital**” refers to Starwood Holdings, together with any entity that is controlled by, controls or is under common control with Starwood Holdings, and any of their respective predecessor entities; and
- “**Starwood Holdings**” refers to Starwood Capital Group Holdings L.P.

The Company is an emerging growth company as defined in the Jumpstart Our Business Startups Act of 2012 (the “**JOBS Act**”).

This Registration Statement does not constitute an offer of securities of the Company or any other Starwood Capital entity. Once this Registration Statement has been deemed effective, we will be subject to the requirements of Section 13(a) of the Exchange Act, including the rules and regulations promulgated thereunder, which will require us, among other things, to file annual reports on Form 10-K, quarterly reports on Form 10-Q, and current reports on Form 8-K, and we will be required to comply with all other obligations of the Exchange Act applicable to issuers filing registration statements pursuant to Section 12(g) of the Exchange Act. Additionally, we will be subject to the proxy rules in Section 14 of the Exchange Act and the Company, trustees, executive officers, and principal shareholders will be subject to the reporting requirements of Sections 13 and 16 of the Exchange Act.

## SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

Some of the statements in this Registration Statement constitute forward-looking statements because they relate to future events or our future performance or financial condition. The forward-looking statements contained in this Registration Statement may include statements as to:

- our future operating results;
- our business prospects and the prospects of the assets in which we may invest;
- the impact of the investments that we expect to make;
- our ability to raise sufficient capital to execute our investment and lending strategies;
- our ability to source adequate investment and lending opportunities to efficiently deploy capital;
- our current and expected financing arrangements;
- the effect of global and national economic and market conditions generally upon our operating results, including, but not limited to, changes with respect to inflation, interest rate changes and supply chain disruptions, and changes in government rules, regulations and fiscal policies;
- the adequacy of our cash resources, financing sources and working capital;
- the timing and amount of cash flows, distributions and dividends, if any, from our investments;
- our contractual arrangements and relationships with third parties;
- actual and potential conflicts of interest with the Advisor or any of its affiliates;
- the dependence of our future success on the general economy and its effect on the assets in which we may invest;
- our use of financial leverage;
- the ability of the Advisor to locate suitable investments for us and to monitor and administer our investments;
- the ability of the Advisor or its affiliates to attract and retain highly talented professionals;
- our ability to structure investments in a tax-efficient manner and the effect of changes to tax legislation and our tax position; and
- the tax status of the assets in which we may invest.

In addition, words such as “anticipate,” “believe,” “expect” and “intend” indicate a forward-looking statement, although not all forward-looking statements include these words. The forward-looking statements contained in this Registration Statement involve risks and uncertainties. Our actual results could differ materially from those implied or expressed in the forward-looking statements for any reason, including the factors set forth in “*Item 1A. Risk Factors*” and elsewhere in this Registration Statement. Other factors that could cause actual results to differ materially include:

- changes in the economy, particularly those affecting the real estate industry;
- risks associated with possible disruption in our operations or the economy generally due to terrorism, war and military conflicts, natural disasters, epidemics or other events having a broad impact on the economy;
- adverse conditions in the areas where our investments or the properties underlying such investments are located and local real estate conditions;
- our portfolio may be concentrated in certain industries and geographies, and, as a consequence, our aggregate return may be substantially affected by adverse economic or business conditions affecting that particular type of asset or geography;

- limitations on our business and our ability to satisfy requirements to maintain our exclusion from registration under the Investment Company Act of 1940, as amended (the “**Investment Company Act**”), or to maintain our qualification as a real estate investment trust (a “**REIT**”) for U.S. federal income tax purposes;
- since there is no public trading market for our common shares, repurchase of common shares by us will likely be the only way to dispose of your shares. Our share repurchase plan provides shareholders with the opportunity to request that we repurchase their shares on a quarterly basis, but we are not obligated to repurchase any shares and may choose to repurchase only some, or even none, of the shares that have been requested to be repurchased in any particular calendar quarter in our discretion. In addition, repurchases will be subject to available liquidity and other significant restrictions. Further, our board of trustees may make exceptions to, modify and suspend our share repurchase plan if, in its reasonable judgement, it deems such action to be in our best interest. As a result, our common shares should be considered as having only limited liquidity and at times may be illiquid;
- distributions are not guaranteed and may be funded from sources other than cash flow from operations, including, without limitation, borrowings, offering proceeds, the sale of our assets, and repayments of our real estate debt investments, and we have no limits on the amounts we may fund from such sources;
- the purchase and repurchase prices for our common shares are generally based on our prior month’s net asset value (“**NAV**”) and are not based on any public trading market; and
- future changes in laws or regulations and conditions in our operating areas.

Although we believe that the assumptions on which these forward-looking statements are based are reasonable, any of those assumptions could prove to be inaccurate, and as a result, the forward-looking statements based on those assumptions also could be inaccurate. In light of these and other uncertainties, the inclusion of a projection or forward-looking statement in this Registration Statement should not be regarded as a representation by us that our plans and objectives will be achieved. These forward-looking statements apply only as of the date of this Registration Statement. Moreover, we assume no duty and do not undertake to update the forward-looking statements.

## **SUMMARY RISK FACTORS**

The following is only a summary of the principal risks that may adversely affect our business, financial condition and results of operations and cash flows. The following should be read in conjunction with the complete discussion of risk factors we face, which are set forth below under “*Item 1A. Risk Factors.*”

Some of the more significant risks relating to our business, our private offering and investment in our common shares include:

### **Risks Related to Our Organizational Structure**

- We have no operating history and there is no assurance that we will be able to successfully achieve our investment objectives.
- We are dependent on Starwood Capital and its affiliates, including the Advisor, and their key personnel who provide services to us through the Advisory Agreement (as defined below), and we may not find a suitable replacement for the Advisor if the Advisory Agreement is terminated, or for these key personnel if they leave Starwood Capital or otherwise become unavailable to us.
- The Advisor manages our portfolio pursuant to very broad investment guidelines and generally is not required to seek the approval of our board of trustees for each investment, financing or asset allocation decision made by it, which may result in our making riskier investments and, in turn, may materially adversely affect our results of operations and financial condition.

- There is no public trading market for our common shares; therefore, your ability to dispose of your common shares will likely be limited to repurchase by us. If you do sell your common shares to us, you may receive less than the price you paid.
- Your ability to have your common shares repurchased through our share repurchase plan is limited. We may choose to repurchase fewer common shares than have been requested to be repurchased, or none at all, in our discretion at any time, and the amount of common shares we may repurchase is subject to caps. Further, our board of trustees may make exceptions to, modify or suspend our share repurchase plan if it deems such action to be in our best interest.
- We may pay distributions from sources other than our cash flow from operations, including, without limitation, borrowings, offering net proceeds and the sale of or repayments under our investments, and we have no limits on the amounts we may fund from such sources.
- Valuations of our investments may reflect estimates of fair value and may not necessarily correspond to realizable value, which could adversely affect the value of your investment.
- Our shareholders generally have limited voting rights.

### **Risks Related to Our Investments**

- Our loans and other investments expose us to risks associated with debt-oriented real estate investments generally.
- The lack of liquidity in our investments may adversely affect our business.
- Prepayment rates may adversely affect the value of our investment portfolio.
- The mortgage loans in which we may invest and the mortgage loans underlying the mortgage securities in which we may invest are subject to delinquency, foreclosure and loss, which could result in losses to us.
- Interest rate fluctuations could reduce our ability to generate income on our investments and may cause losses.
- If the Advisor overestimates the yields or incorrectly prices the risks of our investments, we may experience losses.
- Real estate valuation is inherently subjective and uncertain.
- Difficult conditions in the mortgage and commercial real estate (“**CRE**”) markets may cause us to experience market losses related to our holdings.
- We operate in a highly competitive market for investment opportunities and competition may limit our ability to originate and/or acquire desirable investments in our target assets and could also affect the pricing of these assets.
- The B Notes that we originate or acquire are subject to additional risks related to the privately negotiated structure and terms of the transaction, which may result in losses to us.
- Mezzanine loans involve greater risks of loss than senior loans secured by income-producing properties.
- The commercial mortgage-backed securities (“**CMBS**”) in which we invest is subject to the risks of the mortgage securities market as a whole and risks of the securitization process.
- We may sponsor, and purchase the more junior securities of, collateralized loan obligations (“**CLOs**”) and such instruments involve significant risks, including that these securities receive distributions from the CLO only if the CLO generates enough income to first pay all the investors holding senior tranches and all CLO expenses.

### **Risks Related to Debt Financing**

- We may incur significant leverage.
- We may use repurchase agreements to finance our investments, which may expose us to risks that could result in losses, including due to cross-defaults and cross-collateralization under warehouse repurchase and credit facilities.
- Changes in interest rates may affect our cost of capital and net investment income.
- We may not be able to access financing sources on attractive terms which could adversely affect our ability to execute our business plan.

### **Risks Related to our Relationship with the Advisor and the Dealer Manager**

- We depend on the Advisor to select our investments and otherwise conduct our business, and any material adverse change in its financial condition or our relationship with the Advisor could have a material adverse effect on our business and ability to achieve our investment objectives.
- We do not own the “Starwood” name, but we may use it as part of our corporate name pursuant to the Advisory Agreement. Use of the name by other parties or the termination of our trademark license agreement may harm our business.

### **Risks Related to Conflicts of Interest**

- Various potential and actual conflicts of interest will arise, and these conflicts may not be identified or resolved in a manner favorable to us.
- The Advisor faces a conflict of interest because the fees it receives for services performed are based in part on our NAV, which the Advisor is ultimately responsible for determining.
- The Management Fee (as defined below) and Performance Fee (as defined below) may not create proper incentives or may induce the Advisor and its affiliates to make certain investments, including speculative investments that increase the risk of our portfolio.
- Certain Other Starwood Accounts have similar or overlapping investment objectives and guidelines, and we will not be allocated certain opportunities and may be allocated only opportunities with lower relative returns.

### **Risks Related to our REIT Status and Certain Other Tax Items**

- Our failure to qualify as a REIT in any taxable year would subject us to U.S. federal income tax and applicable state and local taxes, which would reduce the amount of cash available for distribution to our shareholders.
- Failure to make required distributions would subject us to tax, which would reduce the cash available for distribution to our shareholders.
- Complying with REIT requirements may cause us to forego otherwise attractive investment opportunities or financing or hedging strategies.
- Qualifying as a REIT involves highly technical and complex provisions of the Internal Revenue Code of 1986, as amended (the “Code”).
- Our board of trustees is authorized to revoke our REIT election without shareholder approval, which may cause adverse consequences to our shareholders.

## ITEM 1 BUSINESS

### *(a) General Development of Business*

We are a Maryland statutory trust formed on June 28, 2023. We are externally managed by our investment advisor, Starwood Credit Advisors, L.L.C., an indirect, wholly-owned subsidiary of Starwood Holdings. Starwood Capital is a private investment firm with a primary focus on global real estate. Since its inception in 1991, Starwood Capital has raised over \$75 billion of capital and currently has over \$115 billion of assets under management.

Our investment strategy is focused primarily on originating, acquiring, financing and managing a portfolio of primarily CRE debt investments, focused on senior secured, floating-rate CRE loans diversified across both geography and asset class. Our CRE loans are expected to be primarily secured by properties in United States, European and Australian markets and include multifamily, industrial and select other CRE asset classes, such as student housing, self-storage, life science and data center assets.

We are conducting a continuous, blind pool private offering of our common shares in reliance on an exemption from the registration requirements of the Securities Act of 1933, as amended (the “**Securities Act**”) to investors that are (i) accredited investors (as defined in Regulation D under the Securities Act) and (ii) in the case of common shares sold outside the United States, to persons that are not “U.S. persons” (as defined in Regulation S under the Securities Act).

### *(b) [Reserved]*

### *(c) Description of Business*

## **The Company**

We are structured as a non-listed, perpetual-life REIT, and therefore our securities are not listed on a national securities exchange and, as of the date of this Registration Statement, there is no plan to list our securities on a national securities exchange. We are organized as a holding company and conduct our business primarily through our various subsidiaries. We intend to elect and qualify to be taxed as a REIT under the Code, for U.S. federal income tax purposes and generally will not be subject to U.S. federal income taxes on our taxable income to the extent we annually distribute all of our REIT taxable income to shareholders and maintain our qualification as a REIT. Our principal office is located at 2340 Collins Avenue, Miami Beach, Florida, 33139 and our telephone number is (305) 695-5500.

## **Starwood Capital**

Starwood Capital is a private investment firm with a primary focus on global real estate. Since its inception in 1991, Starwood Capital has raised over \$75 billion of capital and currently has over \$115 billion of assets under management. Over the past 31 years, Starwood Capital has invested in excess of \$240 billion of assets, including properties within every major real estate asset class.

Since founding Starwood Capital during the depths of the savings & loan crisis in the early 1990’s with the purchase of non-performing loans and real estate assets from the Resolution Trust Corp., Chairman and Chief Executive Officer Barry Sternlicht has overseen Starwood Capital’s growth into a diversified investment company that, including its portfolio companies and affiliates, today encompasses approximately 5,000 employees. Starwood Capital maintains offices in Miami (Headquarters), Arlington, Atlanta, Chicago, Dallas, Greenwich, Los Angeles, New York, San Francisco and Washington, D.C. and has affiliated offices in Amsterdam, Hong Kong, London, Luxembourg, Sydney and Tokyo.

Starwood Capital’s hallmark is to invest dynamically, moving between geographies, asset classes and positions in the capital stack as Starwood Capital perceives risk/return dynamics to be evolving. To execute this strategy, Starwood Capital has built up geographic and asset-class expertise in Starwood Capital’s targeted markets.



Throughout its history, Starwood Capital has created several market-leading platforms to enhance operational efficiencies and maximize the value of its investments. These platforms include:

- One of the world’s largest public hotel companies—Starwood Hotels & Resorts (formerly NYSE: HOT; since merged with Marriott International, Inc.).
- Two of the biggest commercial mortgage finance companies in the United States—Starwood Property Trust, Inc. (NYSE: STWD) (“**Starwood Property Trust**”) and iStar, Inc. (formerly, NYSE: STAR; since merged with Safehold Inc.).
- One of the largest perpetual, non-listed NAV REITs—Starwood Real Estate Income Trust, Inc. (SREIT), which invests primarily in stabilized, income-oriented commercial real estate.
- One of the largest collections of multifamily apartments in the United States and an in-house multifamily property management company—Highmark Residential.
- One of the largest portfolios of select-service hotels in the United States.
- One of the United Kingdom’s leading hotel operators—Principal Hotel Company.
- An innovative hotel management company—SH Hotels & Resorts—that is growing its 1 Hotels, Baccarat Hotels and Treehouse Hotels brands.
- One of the largest homebuilders in the United States—TRI Pointe Homes, Inc. (NYSE: TPH).
- One of the leading providers of residential sites to the U.S. homebuilding industry—Starwood Land Ventures.
- One of the largest publicly traded owners and operators of single-family rental homes in the United States—Starwood Waypoint Homes (formerly NYSE: SFR; since merged with Invitation Homes).

In its pursuit of the most compelling opportunities globally, Starwood Capital has invested in more than 30 countries, ranging from the Americas to Europe to Asia. Highlighting Starwood Capital’s international commitment and ability to shift geographies to capitalize on market dislocations, Starwood Capital made the strategic decision in 2011 to enhance its longstanding presence in Europe.

Reflecting on the success of its investment activities, Starwood Capital and its professionals have received numerous industry accolades over the years, including:

### **Global**

- PERE Inaugural Lifetime Achievement Award (Barry Sternlicht; 2016)
- Commercial Property Executive: Executive of the Year (Barry Sternlicht; 2020)
- PERE Industry Figure of the Year (Barry Sternlicht; 2021, 2015, 2010, 2009)
- PERE Firm of the Year (2021, 2017)
- Private Equity Wire: Best Fundraising Firm—Real Estate (2021)
- PERE Capital Raise of the Year (2021, 2017, 2014)
- PERE Residential Investor of the Year (2021)
- PERE Hotels & Leisure Investor of the Year (2022, 2018)

### **North America**

- PERE Firm of the Year (2021, 2018, 2017, 2015)

- Private Equity Wire: U.S. Award for Best Real Estate Manager (fund size above \$1 billion; 2020)
- PERE Industry Figure of the Year (Christopher Graham; 2021, 2017, 2015)
- PERE Deal of the Year (2021, 2017, 2015)
- PERE Hotels & Leisure Investor of the Year (2022)
- PERE Office Investor of the Year (2020, 2019)

## **Europe**

- PERE Firm of the Year (2021, 2015, 2013)
- PERE Debt Firm of the Year (2022)
- REC Europe European High Yield Lender of the Year (2019)
- PERE Deal of the Year (2021, 2018)
- REC Europe Development Financing Deal of the Year (2022)
- PERE Alternatives Investor of the Year (2021)
- PERE Office Investor of the Year (2021)
- PERE Residential Investor of the Year (2019)
- PERE U.K. Firm of the Year (2021)
- PERE Nordics Firm of the Year (2019, 2018)
- PERE German Firm of the Year (2018)

PERE and other publications listed above are leading publications or organizations for the world's private and public real estate markets. Self-nominations are permissible and winners are chosen online, which may enable a firm or individual to vote for themselves.

## **Investment Objectives**

Our investment objectives are to invest primarily in debt on high quality assets that will enable us to:

- provide current income in the form of regular, stable cash distributions to achieve an attractive distribution yield;
- preserve and protect invested capital, by focusing on high quality real assets with current cash-flow and/or limited business plan risk;
- reduce downside risk through conservative loan-to-value ratios against high quality real assets with meaningful borrower equity or implied equity; and
- provide an investment alternative for shareholders seeking to allocate a portion of their long-term investment portfolios to CRE debt with lower volatility than publicly traded securities and compelling risk-adjusted returns compared to fixed income alternatives.

We cannot assure you that we will achieve our investment objectives. See "*Item 1A. Risk Factors.*"

## **Investment Strategy**

Our investment strategy is to originate, acquire, finance and manage a portfolio of primarily CRE debt investments, focused on senior secured, floating-rate CRE loans diversified across both geography and asset

class. Our CRE loans are expected to be primarily secured by properties located in U.S., European and Australian markets and include multifamily, industrial and select other CRE asset classes, such as student housing, self-storage, life science and data center assets.

To a lesser extent, we may invest in (1) other real asset lending strategies, including infrastructure loans, and (2) other real-estate related debt and equity securities, including CMBS and CLOs. We believe our real estate-related debt and equity securities will help maintain liquidity to satisfy any share repurchases we choose to make in any particular calendar quarter and manage cash before investing subscription proceeds into investments while also seeking attractive current income.

We will seek to focus on senior secured floating rate investments, secured by high quality real assets to generate current cash flow. We seek to identify attractive risk-reward investments by financing high quality real assets with substantial borrower equity and partner with well-known sponsors with real assets in primarily gateway and select secondary markets. We expect to create synergies with Starwood Capital's existing debt capabilities by leveraging its significant scale and existing relationships to source high quality lending opportunities.

Our structure as a perpetual-life REIT allows us to originate, acquire, finance and manage our investment portfolio in an active and flexible manner. We believe the structure is advantageous to shareholders, as we are not limited by a pre-determined operational period and the need to liquidate assets, potentially in an unfavorable market, to satisfy a liquidity event at the end of that period.

## **Target Assets**

### ***CRE Debt Investments***

Our target assets will include, but not be limited to, the following types of CRE debt investments:

- *Mortgage Loans:* We may originate or acquire mortgage loans secured by a first lien on commercial real estate (usually in an amount up to 75% of the underlying value of the collateral), with maturity dates generally ranging from three to five years. In some cases, we may originate and fund a first mortgage loan with the intention of selling the senior tranche (the "**A Note**"), and retaining the subordinated tranche (the "**B Note**") or mezzanine loan tranche. We may receive origination fees, extension fees, modification or similar fees in connection with our whole mortgage loans.
- *B Notes:* We may originate or acquire B Notes in negotiated transactions with the originators and in the secondary market. A B Note is typically a privately negotiated loan that is secured by a first mortgage on a single large commercial property or group of related properties and subordinated to an A Note secured by the same first mortgage on the same property or group. The subordination of a B Note typically is evidenced by an inter-creditor agreement with the holder of the related A Note. B Notes are subject to more credit risk with respect to the underlying mortgage collateral than the corresponding A Note. We may receive origination fees, extension fees, modification or similar fees in connection with our B Note investments.
- *Mezzanine Loans:* We may originate or acquire mezzanine loans, which are loans made to property owners that are secured by pledges of the borrower's ownership interests in the property and/or the property owner. Mezzanine loans are subordinate to mortgage loans secured by mortgage liens on the property but are senior to the borrower's equity in the property. Upon default, the mezzanine lender can foreclose on the ownership interests pledged under the loan and thereby succeed to ownership of the property, subject to the mortgage lien on the property. We may receive origination fees, extension fees, modification or similar fees in connection with our mezzanine loans.
- *CLOs and CMBS:* CLOs are securities that are collateralized by a pool of debt obligations. CMBS are securities that are collateralized by, or evidence ownership interests in, a mortgage loan secured by a

single commercial property, or a partial or entire pool of mortgage loans secured by commercial properties. We may invest in investment grade CLOs and/or CMBS (rated BBB- or Baa3 or higher), sub-investment grade CLOs and/or CMBS and/or unrated CLOs and/or CMBS.

In general, we intend to invest in CLOs and/or CMBS that will yield attractive current interest income. The yields on CLOs and/or CMBS depend on the timely payment of interest on and principal of the underlying mortgage loans, and defaults by the borrowers under such loans may ultimately result in deficiencies and defaults on the CLOs and/or CMBS. In the event of a default by the issuer of the CLOs and/or CMBS, the trustee for the benefit of the holders of CLOs and/or CMBS has recourse only to the underlying pool of mortgage loans and, if an underlying mortgage loan is in default, to the property securing such loan. After the trustee has exercised all of the rights of a lender under a defaulted mortgage loan and the related mortgaged property has been liquidated, no further remedy will be available. However, holders of senior classes of CLOs and/or CMBS will be protected to a certain degree by the structural features of the securitization transaction within which such CLOs and/or CMBS were issued, such as the subordination of the junior classes of the CMBS.

We intend to acquire CMBS from private originators of, or investors in, mortgage loans, including savings and loan associations, mortgage bankers, commercial banks, finance companies, investment banks and other entities.

### ***Infrastructure and Other Real Asset Lending Investments***

We may invest in infrastructure and other real asset lending investments, including senior secured project finance loans and senior secured project finance investment securities secured by power generation facilities and midstream and downstream oil and gas assets.

### ***Cash, Cash Equivalents and Other Short-Term Investments***

We intend to hold cash, cash equivalents and other short-term investments. These types of investments may include the following, to the extent consistent with our intended qualification as a REIT:

- Money market instruments, cash and other cash equivalents (such as high-quality short-term debt instruments, including commercial paper, certificates of deposit, bankers' acceptances, repurchase agreements, interest-bearing time deposits and credit rated corporate debt securities);
- U.S. government or government agency securities; and
- Credit-rated corporate debt or asset-backed securities of U.S. or foreign entities, or credit-rated debt securities of foreign governments or multi-national organizations.

### ***Other Investments***

The allocation of our capital among our target assets will depend on prevailing market conditions at the time we invest and may change over time in response to prevailing market conditions, including with respect to interest rates and general economic and credit market conditions. We may, but do not presently intend to, make investments other than as described above. At all times, we intend to make investments in such a manner consistent with maintaining our qualification as a REIT under the Code and maintaining our exclusion from registration under the Investment Company Act. Such other assets may include, among other things, other real estate-related debt investments, such as loans to REITs and real estate operating companies ("REOCs") and corporate bonds of REITs and REOCs; loans to providers of real estate net lease financing; other real estate-related financial assets and investments, including preferred stock and convertible debt securities of REITs and REOCs, credit default swaps and other derivative securities; CDOs; real property investments; and non-real estate-related debt investments.

## Loan Terms

In seeking to achieve our investment objectives, we will generally target the following qualifications and terms when originating, structuring, acquiring and evaluating our target assets. Actual loan terms will be subject to the prevailing market standards at the time the loan is extended, and the terms listed in this section may not ultimately be obtained:

- *Sponsor Qualifications:* We will seek to identify borrowers with strong sponsorships that we believe have solid credit histories, a demonstrated loan repayment history and access to capital.
- *Loan Amounts:* We will generally seek to lend up to 75% of the collateral value for individual credit assets.
- *Interest Rate:* Credit assets targeted by us generally will be subject to floating interest rates, which the Advisor believes will generally allow shareholders to benefit from a rising interest rate environment while simultaneously providing a hedge against inflation. Floating interest rate loans will generally be structured with interest rate floors, and borrowers will typically be required to purchase interest rate caps. Fixed rate financing may also be utilized in certain circumstances.
- *Term:* Credit assets targeted by us generally will be short-term, typically with an initial term of up to three years with up to two one-year extension options. Credit asset maturities will generally align with other property-level financing, if any, and will consider business plan execution and exit timing for each transaction.
- *Downside Protection:* We will seek terms that incorporate one or more structural elements designed to preserve and protect investor capital, which may include reserves, cash flow sweeps/lockboxes, holdbacks/earn-outs, non-recourse carve-outs, and sponsor guarantees, among other elements.
- *Collateral:* The Credit assets targeted by us will be senior secured investments backed by high-quality CRE properties that are (1) predominantly “core” and “core-plus” risk profiles, (2) typically located in gateway and select secondary markets that we believe to be liquid, and (3) in property-type sectors in which we have high conviction, as described in more detail below.
- *Fees:* Market conditions permitting, we will seek to structure fees related to commitment (or origination), extension, modification and exit that will be payable by the borrowers.

## Risk Profile

We primarily intend to target loans on CRE and other assets with profiles that the Advisor believes demonstrate a core (lower risk) or core-plus (moderate risk) profile.

- *Core:* Lower risk investment style (otherwise known as investment grade) secured by properties with stable cash flows without significant near-term lease expirations or material renovations needed.
- *Core-Plus:* Moderate risk profile such as (1) senior loans secured by transitioning properties requiring leasing and/or moderate renovations, (2) senior secured loans with modest leverage (typically 60% to 75% loan-to-value ratio) or (3) subordinate debt investments.

## Market Opportunity

Commercial real estate is a capital-intensive business that relies heavily on debt capital to develop, acquire, maintain and refinance commercial properties. Ongoing availability of mortgage debt financing is basic to the success of CRE owners and the CRE industry at large. As a result of the recent stress in the global banking system, there is a diminished supply of CRE debt financing available from sources that have traditionally been major providers of such funding. Furthermore, the substantial elevation of interest rates experienced over the past two years and a decline in the loan-to-value ratios prevailing in the market present an opportunity for prudent, experienced mortgage lenders with access to capital to generate attractive risk-adjusted returns while competing

against a diminished competitor set. We believe our relationship with Starwood Capital will allow us to capitalize on these opportunities through its expertise and capabilities valuing real estate collateral and evaluating market trends to help us identify value and generate such attractive risk-adjusted returns.

### **Potential Competitive Strengths**

Our primary potential competitive strength is our affiliation with Starwood Capital and its executive team, led by its founder and Chief Executive Officer, Barry Sternlicht, who serves as our Executive Chairperson. Starwood Capital is generally regarded as one of the most successful investors in commercial real estate in the world. We believe that Starwood Capital's strong presence across the United States and Europe enables us to source and manage investments through the Advisor to achieve superior risk-adjusted returns. We believe our ability to execute our investment strategy is supported by Starwood Capital's distinctive competitive strengths, including:

*Established Real Estate Asset Finance Platform.* Starwood Capital's established real estate asset finance platform has a multi-decade track record as a real estate lender, creating several public finance platforms, with proven financial results. The Starwood Capital lending platform encompasses approximately 350 dedicated employees with expertise and deep relationships and capitalizes on its global footprint, multi-disciplinary capabilities, key relationships with high quality borrowers and broad access to best-in-class financing sources. Starwood Capital affiliates currently serve as the external manager for Starwood Property Trust, which is one of the largest publicly-traded commercial mortgage REITs in the United States. As of June 30, 2023, Starwood Property Trust had over \$28 billion of assets under management across multiple finance verticals, including commercial lending, residential lending, infrastructure lending, and CMBS investing and origination.

*Seasoned, Stable Management Team.* Starwood Capital's senior lending team members have worked together for an average of 13 years and possess an average of 31 years of experience in the industry – across all real asset classes and stages of the investment cycle. The key leaders for the business bring a wealth of diverse and complementary skills to their roles. We directly benefit from the expertise of several members of Starwood Capital's senior team who serve as our trustees and executive officers and as members of the Advisor's Investment Committee.

*Deep Hands-On Real Estate Experience.* Over the last 31 years, Starwood Capital has acquired over \$240 billion of assets across virtually every major asset class. Starwood Capital possesses a granular understanding of credit risk underlying real assets and can evaluate each transaction from both a lender's and equity investor's perspective. Starwood Capital's extensive knowledge and relationships in real estate and capital markets from over 31 years of investing enhances the team's judgment throughout the underwriting process.

*Fully Integrated Lending Organization.* Starwood Capital has dozens of employees in the United States and abroad that are fully dedicated to its lending activities, with the ability to leverage Starwood Capital's approximately 350-person lending organization. Starwood Capital's integrated lending organization includes distinct originations, underwriting, portfolio management, legal and capital markets groups.

*One-Stop Shop for Complex Transactions.* With access to multiple sources of financing, and an experienced team of real estate and capital markets professionals, Starwood Capital has the expertise to structure and underwrite customized solutions for potential borrowers.

*In-Depth Loan Servicing Knowledge.* STWD owns LNR Partners, the world's largest and highest rated special servicer with \$102 billion of named servicing and over \$87 billion of loan resolutions since inception. LNR Partners' comprehensive expertise as a servicer provides market intelligence, as well as underwriting and due diligence support for Starwood Capital's debt investment activities.

*Capital Markets Expertise.* Starwood Capital believes that its capital markets expertise is a core competency that sets it apart from more traditional real estate investors. Starwood Capital's team constantly evaluates real



estate in relation to the respective capital markets' valuations to take advantage of pricing inefficiencies. Specifically, when the public markets are willing to pay more for assets or platforms than could be generated from longer-term holds or individual asset sales, Starwood Capital has the knowledge and capability to act on this arbitrage. Starwood Capital's expert team and global network of lending relationships have allowed it to obtain attractive terms for investors. Starwood Capital's CRE lending capital markets team has securitized over \$29.1 billion of loans and sold over \$8.5 billion of senior loan interests since 2009. Starwood Capital's in-house capital markets team has closed transactions totaling over \$165 billion since January 2010 with over 180 lenders.

*Investment Agility.* A hallmark of Starwood Capital is its ability to pursue a wide variety of investment opportunities as they emerge, moving from asset class to asset class, shifting geographies from the United States to select international markets and changing positions in the capital stack as its investment professionals perceive risk/return dynamics to be evolving. Starwood Capital's reputation, sophistication, highly experienced team, speed, access to capital and ability to execute provide it with a competitive sourcing advantage. We believe that Starwood Capital's ability to conduct detailed due diligence in a timely and efficient manner affords the Advisor, through its relationship with Starwood Capital, an edge in closing time-sensitive investments on our behalf, which typically are some of the most compelling opportunities.

*Alignment of Interest with Shareholders.* Starwood Capital has agreed, from time to time, to purchase from the Company an aggregate amount of not less than \$150 million in Class E shares, at a price per share equal to the Company's most recently determined NAV of its Class E shares, or if an NAV has yet to be calculated, then \$20.00 (the "**Initial Capitalization**"). Further, Starwood Capital has agreed to hold all of the Class E shares it receives in connection with the Initial Capitalization until, (i) with respect to the Class E shares issued in respect of the initial \$125 million of its commitment, the earlier of (a) the first date that our NAV reaches \$1 billion and (b) the second anniversary of the initial closing of our private offering, (ii) with respect to the Class E shares issued in respect of Starwood Capital's commitment in excess of \$125 million, but not greater than \$150 million, at least the second anniversary of the initial closing of our private offering and (iii) with respect to any remaining Class E shares (representing purchases exceeding \$150 million), at any time following the initial closing of our private offering.

### **Starwood Capital's Investment Approach**

We, through our affiliation with the Advisor and Starwood Capital, seek to deliver consistent returns while placing a premium on preserving capital. Starwood Capital's team performs a comprehensive risk/return analysis on each potential transaction and is guided by common sense, discipline and the recognition that intellectual humility is the foundation of successful investing.

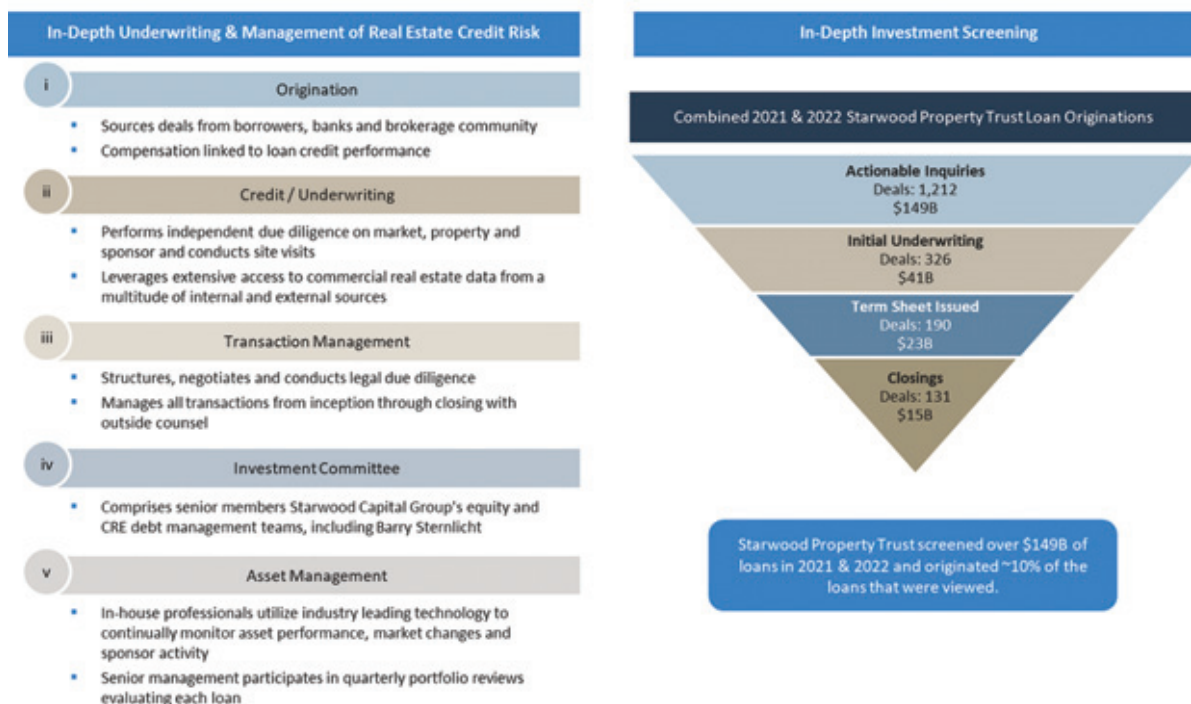
Our investment process will include sourcing and screening of investment opportunities, assessing investment suitability, conducting interest rate and prepayment analysis, evaluating cash flow and collateral performance, and reviewing legal structure, servicer and originator information and investment structuring, as appropriate, to seek an attractive return commensurate with the risk we are bearing. Upon identification of an investment opportunity, the investment will be screened and monitored by the Advisor to determine its impact on maintaining our REIT qualification and our exemption from registration under the Investment Company Act. We will seek to make debt investments in sectors where the Advisor has strong core competencies and where we believe market risk and expected performance can be reasonably quantified.

The Advisor evaluates each one of our debt investment opportunities based on its expected risk-adjusted return relative to the returns available from other, comparable investments. In addition, we evaluate new opportunities based on their relative expected returns compared to comparable positions held in our portfolio. The terms of any leverage available to us for use in funding a debt investment are also taken into consideration, as are any risks posed by illiquidity or correlations with other securities in the portfolio. The Advisor also develops a macro outlook with respect to each target asset class by examining factors in the broader economy such as GDP, interest rates, unemployment rates and availability of credit, among other things. The Advisor also

analyzes fundamental trends in the relevant target asset class sector to adjust/maintain its outlook for that particular target asset class. The Advisor conducts extensive diligence with respect to each target asset class by, among other things, examining and monitoring the capabilities and financial wherewithal of the parties responsible for the origination, administration and servicing of relevant target assets.

### Identification of Investments

The existing debt platform affiliated with the Advisor and Starwood Capital employs a rigorous, multi-cylinder approach to its origination, underwriting, closing and asset management activities resulting in a highly selective investment portfolio that has been analyzed and approved by the most senior members of Starwood Capital.



### Borrowing Policies

We intend to use financial leverage to provide additional funds to support our investment activities. After we have raised substantial proceeds in our continuous private offering and acquired a diversified portfolio of investments (the “**Ramp-Up Period**”), our target leverage ratio will be 60% to 75%. Our leverage ratio is measured by dividing (i) the aggregate principal amount of our outstanding indebtedness (including both entity-level and investment-level debt), by (ii) the gross asset value of our investments (measured using the greater of fair market value and cost). For purposes of calculating our leverage, we exclude any senior portions of investments that are sold to, or held by, third party lenders to achieve “structural leverage,” where we retain a mezzanine or other subordinate investment that is unencumbered and not otherwise pledged as collateral for borrowed money.

During the Ramp-Up Period and/or times of increased investment and capital market activity, we may employ greater leverage to quickly build a broader portfolio of assets. We may leverage our portfolio by assuming or incurring secured or unsecured investment-level or entity-level debt. We may in the future procure financing from the Advisor or its affiliates; provided, that any such financing will be approved by a majority of our



trustees, including a majority of our independent trustees, not otherwise interested in the transaction as fair, competitive and commercially reasonable and no less favorable to us than comparable loans between unaffiliated parties under the same circumstances. We may decide to reserve borrowing capacity under any future lines of credit to be used to fund repurchases of our shares in the event that repurchase requests exceed our operating cash flows and net proceeds from our continuous private offering, to fund debt investments or for any other corporate purpose.

Our actual leverage level will be affected by a number of factors, some of which are outside our control. Significant inflows of proceeds from the sale of our common shares generally will cause our leverage as a percentage of our net assets to decrease, at least temporarily. Significant outflows of equity as a result of repurchases of our common shares generally will cause our leverage as a percentage of our net assets to increase, at least temporarily. Our leverage as a percentage of our net assets will also increase or decrease with decreases or increases, respectively, in the net asset value of our portfolio. If we borrow under a line of credit to fund repurchases of our common shares or for other purposes, our leverage would increase and may exceed our target leverage. In such cases, our leverage may remain at the higher level until we receive additional net proceeds from our continuous private offering or sell some of our assets to repay outstanding indebtedness.

There is, however, no limit on the amount we may borrow with respect to any individual investment. During the Ramp-Up Period, our leverage ratio may exceed our target. We may also exceed our target leverage ratio at other times, particularly during a market downturn or in connection with a large acquisition. Our board of trustees will periodically review our aggregate borrowings. In connection with such review, our board of trustees may determine to modify our target leverage ratio in light of then-current economic conditions, relative costs of debt and equity capital, fair values of our investments, general conditions in the market for debt and equity securities, growth and investment opportunities or other factors.

## **Financing Arrangements**

We expect to incur indebtedness through the financing arrangements described below.

### ***Structural Leverage***

We may elect to reduce our position in the whole loans through co-origination or A Note sales, which will eliminate our exposure or liability associated with the senior tranche of the loan, as described below:

- *Co-Origination:* We may co-originate a whole loan in conjunction with a senior lender and simultaneously close on the junior tranche. This structure allows for matched-term and generally non-recourse financing of the portfolio, without cross-collateralization.
- *A Note Sales:* We may split a whole loan into two pieces (senior tranche / junior tranche) and sell the senior tranche to a third-party. This structure allows for matched-term and generally non-recourse financing, without cross-collateralization.

### ***Direct Leverage***

We may elect to borrow against our credit assets through the kinds of arrangements described below:

#### ***Loan Facilities***

- *Warehouse Facility:* We may use warehouse facilities, such as repurchase agreements, to finance our credit assets. Defining characteristics of such warehouse facilities generally include: non-matched term, credit-based margin calls, partial recourse and cross collateralization with other credit assets on the same loan facility.

- *Asset Specific Financing (Debt-on-Debt)*: We may use asset specific financing to finance pre-identified credit assets. Defining characteristics of such financings generally include: matched term, no margin call rights, partial to no recourse and no cross collateralization with other credit assets.

### *Securitization*

We may choose to contribute all or a subset of the credit assets in the portfolio to an asset-backed securitized offering, such as a commercial real estate collateralized loan obligation, CMBS or some other structured finance vehicle. Defining characteristics generally include: matched term, no margin call rights, no recourse, and cross collateralization with other credit assets on the same securitization.

### **Temporary Strategies**

During the Ramp-Up Period or during periods in which the Advisor determines that economic or market conditions are unfavorable to investors and a defensive strategy would benefit us, we may temporarily depart from our investment strategy. During these periods, subject to compliance with the Investment Company Act, we may expand or change its investment strategy and target assets, including by investing all or any portion of its assets in U.S. government securities, including bills, notes and bonds differing as to maturity and rates of interest that are either issued or guaranteed by the U.S. Treasury or by U.S. government agencies or instrumentalities; non-U.S. government securities that have received the highest investment grade credit rating; certificates of deposit issued against funds deposited in a bank or a savings and loan association; commercial paper; bankers' acceptances; fixed time deposits; shares of money market funds; credit-linked notes; repurchase agreements with respect to any of the foregoing; or any other fixed income securities that the Advisor considers consistent with this temporary strategy. During these periods, we may also determine to pay down certain of our borrowings and have indebtedness below our target leverage ratio or we may borrow more to provide for additional liquidity causing us to exceed our target leverage ratio. It is impossible to predict when, or for how long, the Advisor will use these alternative strategies. Such strategies may not be successful.

### **Starwood Capital's Track Record**

*The information presented in this section presents the historical experience of certain real estate debt investment programs sponsored by Starwood Capital and its affiliates (excluding separately managed accounts, co-investment entities, and other vehicles for which Starwood Capital does not have investment acquisition discretion, unless otherwise noted) that included investment objectives that were materially similar to ours.*

*By purchasing shares in this offering, you will not acquire any ownership interest in any prior real estate programs to which the information in this section relates and you should not assume that you will experience returns, if any, comparable to those experienced by the investors in the prior programs discussed.*

### **Capital Raising**

Starwood Capital operates investment programs that invest primarily in real property and programs that invest primarily in real estate-related debt. During the ten-year period ended December 31, 2022, Starwood Capital sponsored ten real estate programs that were in their investment or operational phases, consisting of (1) six private programs that, depending on the program, invest primarily in a mix of real property assets and real estate-related debt, (2) Starwood Property Trust, a NYSE-listed REIT, (3) Starwood Waypoint Homes (f/k/a Colony Starwood Homes), a NYSE-listed REIT focused on single-family homes, following its spin-off from Starwood Property Trust in 2014, (4) Starwood European Real Estate Finance Limited, a London Stock Exchange-listed company ("SEREFL"), and (5) Starwood Real Estate Income Trust, Inc., a non-traded REIT. Subsequent to December 31, 2022, Starwood Capital sponsored two additional programs, Starwood Real Estate Debt Strategies U.S., L.P. ("SREDS") and Starwood European Real Estate Debt Finance II LP ("SEREDF II"). We refer to these twelve real estate programs as "the prior programs." In the aggregate, during this period

Starwood Capital raised approximately \$25 billion from approximately 1,600 investors from its six private prior programs. Additionally, during this period Starwood Property Trust, Starwood European Real Estate Finance Limited and Starwood Real Estate Income Trust, Inc. raised approximately \$4 billion, £0.4 billion, and \$13 billion from investors, respectively. During this period, Starwood Waypoint Homes did not raise any capital from investors while Starwood Capital had investment acquisition discretion in connection with the fund (which was from January 2014 to January 2016). Excluded from the prior programs are the following programs with which Starwood Capital or certain of its personnel were affiliated during the ten-year period ended December 31, 2022: (1) TriPoint Group, Inc., a company engaged in the design, construction and sale of single-family homes; and (2) separately managed accounts, co-investment entities and other vehicles for which Starwood Capital does not have investment acquisition discretion, unless otherwise noted.

### *Investment Objectives*

We consider a program to have investment objectives that are similar to ours if the program seeks to provide current income in the form of regular, stable cash distributions to achieve an attractive distribution yield and preserve and protect invested capital by investing primarily in real estate-related debt. Starwood Property Trust, SEREFL, Starwood European Real Estate Debt Finance I LP (“**SEREDF I**”), SEREDF II and SREDS are the only prior programs with investment objectives that are similar to ours; however, SEREDF I, SEREDF II and SREDS are distinct in that SEREDF I and SEREDF II pursue primarily real estate-related debt located outside of the United States and SREDS does not generally target loans secured by core or core-plus real estate.

### *Starwood Property Trust*

Starwood Property Trust is a NYSE-listed REIT that launched in August 2009 with an initial market capitalization of \$950 million. Starwood Property Trust pursues an investment strategy focused primarily on originating, acquiring, financing and managing mortgage loans and other real estate investments in the United States, Europe and Australia. Since inception, Starwood Property Trust has raised total capital of approximately \$6.7 billion. Starwood Property Trust is the only prior program with investment objectives materially similar to ours.

### *SEREFL*

SEREFL is a London Stock Exchange listed company that launched in November 2012 and raised total capital of approximately £419 million from inception until mid-2019. SEREFL pursued an investment strategy focused on origination and acquisition of real estate debt investments in the form of performing loans in the United Kingdom and the wider European Union. Since inception, SEREFL had made £1.5 billion of loan commitments to borrowers as of September 30, 2023. SEREFL commenced a voluntary orderly realization via compulsory share redemptions at the beginning of 2023 and had a net asset value of £373 million as at 30 September 2023.

### *SEREDF I and II*

SEREDF I launched in 2021 and had its final closing in 2021. SEREDF I generally targeted performing debt investments related to properties in Europe.

SEREDF II launched in 2022 and has closed a number of investors but remains in its fundraising period. SEREDF II generally targets performing debt investments related to properties in Europe.

## SREDS

SREDS launched in 2023 and is currently in its fundraising period. SREDS focuses primarily on originating, acquiring, financing, and managing commercial mortgage and mezzanine loans, subordinated mortgage loans, high-yield mortgages, participations, preferred equity investments, CMBS and CLOs in the United States; however, SREDS does not generally target loans secured by core or core-plus real estate.

### *Experience in Raising and Investing Funds*

The following table provides a summary of the experience of Starwood Capital as a sponsor in raising and investing funds with investment objectives that are materially similar to ours and that have closed within the last three years or are open-ended. SREDS has not completed its initial fundraising. Starwood Capital has no other real estate programs with investment objectives that are materially similar to ours that have closed within the last three years or are open-ended.

(\$ in thousands)	Starwood Property Trust <sup>(1)</sup>	SEREFL <sup>(2)</sup>	SEREDF I and SEREDF II <sup>(3)</sup>
Dollar amount offered . . . . .	\$6,700,000	£419,480	£738,000
Dollar amount raised . . . . .	\$6,700,000	£419,480	£738,000
Length of offering (in months) . . . . .	N/A	N/A	(5)
Months to invest 90% of amount available for investment (measured from beginning of offering) <sup>(4)</sup> . . . . .	N/A	N/A	N/A

- (1) Starwood Property Trust is a publicly-listed REIT on the New York Stock Exchange that offers shares from time-to-time in private or public offerings. Dollar amount offered and dollar amount raised represents the par value of common stock plus additional paid-in capital as of December 31, 2022 and adds back stockholder equity relating to a subsidiary spin-off in 2014. On August 17, 2009, Starwood Property Trust raised \$893,912 in its initial public offering.
- (2) SEREFL is a London Stock Exchange listed company that is currently in a voluntary orderly realization. The functional currency of the company is Pounds Sterling (GBP) and the amounts listed reflect the share capital raised (less issuance costs) in GBP. On December 17, 2012, Starwood European Real Estate Finance Limited raised £228,500 (before issuance costs) in its initial public offering and a further £190,980 between 2013 and 2019.
- (3) Represents aggregate amounts offered and raised by SEREDF I and SEREDF II (to date). SEREDF I launched in 2021 and had its final closing in 2021. SEREDF II launched in 2022 and remains in its fundraising period.
- (4) Starwood Property Trust is a publicly-listed company and, therefore, disclosure is not meaningful.
- (5) SEREDF I included a fundraising period from March 2021 through December 2021. SEREDF II launched in 2022 and remains in its fundraising period.

### *Operating Results of Certain Prior Programs*

The following tables summarize the operating results of Starwood Property Trust and SEREFL, Starwood Capital's two prior programs with investment objectives similar to ours and that have had offerings close during the five years ended December 31, 2022 or are open-ended. SEREDF I is still in its investment phase, and SEREDF II and SREDS had not yet commenced substantial operations as of December 31, 2022.

*Operating Results of Starwood Property Trust*

The following table summarizes the operating results of Starwood Property Trust, which has investment objectives that are similar to ours.

(\$ in thousands)	Starwood Property Trust				
	Year Ended (Unaudited)				
	2018	2019	2020	2021	2022
<b>Summary of Operating Results</b>					
Total revenues . . . . .	\$ 1,109,280	\$ 1,196,419	\$ 1,136,155	\$ 1,170,088	\$ 1,464,716
Interest expense . . . . .	(408,188)	(508,729)	(419,763)	(445,087)	(797,121)
Other costs and expenses . . . . .	(569,444)	(521,095)	(544,645)	(543,970)	(475,830)
Income before other income and income taxes . . . . .	<b>131,648</b>	<b>166,595</b>	<b>171,747</b>	<b>181,031</b>	<b>191,765</b>
Other income . . . . .	294,879	383,572	214,531	320,064	805,773
Income tax provision . . . . .	(15,330)	(13,232)	(20,197)	(8,669)	61,523
Loss from discontinued operations, net of tax . . . . .	—	—	—	—	—
Net income . . . . .	<b>411,197</b>	<b>536,935</b>	<b>366,081</b>	<b>492,426</b>	<b>1,059,061</b>
Net income attributable to non-controlling interests . . . . .	(25,367)	(27,271)	(34,392)	(44,687)	(187,586)
Net income attributable to Starwood Property Trust, Inc. . . . .	<u>385,830</u>	<u>509,664</u>	<u>331,689</u>	<u>447,739</u>	<u>871,475</u>
<b>Summary Statements of Cash Flows</b>					
Net cash flows provided by operating activities . . . . .	585,470	(13,199)	1,045,548	(989,975)	213,741
Net cash flows used in investing activities . . . . .	(2,520,809)	(775,868)	(911,805)	(4,281,654)	(2,950,306)
Net cash flows provided by (used in) financing activities . . . . .	2,004,724	876,721	13,283	4,873,103	2,797,879
<b>Amount and Source of Cash</b>					
<b>Distributions</b>					
Cash distributions paid to common stockholders . . . . .	509,966	538,424	546,885	553,930	591,457
<b>Summary Balance Sheet</b>					
Total assets . . . . .	68,262,453	78,042,336	80,873,509	83,850,397	79,043,129
Total liabilities . . . . .	63,362,264	72,905,322	76,010,933	77,201,590	71,844,422

(1) Dollars invested includes par value of common stock plus additional paid-in capital, less treasury stock.

### *Operating Results of SEREFL*

The following table summarizes the operating results of SEREFL, which has investment objectives that are similar to ours. SEREFL is currently liquidating.

<b>(£ in thousands)</b>	<b>SEREFL</b>				
	<b>Year Ended (Unaudited)</b>				
	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>
<b>Summary of Operating Results</b>					
Total revenues	£ 32,412	£ 34,151	£ 36,144	£ 25,339	£ 36,403
Total expenses	(6,182)	(6,247)	(6,003)	(6,376)	(7,157)
Net income	<b>26,230</b>	<b>27,904</b>	<b>30,141</b>	<b>18,963</b>	<b>29,246</b>
<b>Summary Statements of Cash Flows</b>					
Net cash flows provided by (used in) operating activities	(11,539)	35,592	7,165	38,558	20,453
Net cash flows used in investing activities	21	1	—	—	—
Net cash flows used in financing activities	27,727	(25,917)	(41,103)	(36,428)	(25,958)
<b>Amount and Source of Cash Distributions</b>					
Cash distributions paid to common stockholders	(24,376)	(25,618)	(26,825)	(23,512)	(22,291)
<b>Summary Balance Sheet</b>					
Total assets	464,820	457,951	446,534	430,956	436,770
Total liabilities	79,826	31,396	19,836	9,400	20,622

### *Material Adverse Developments*

Starwood Capital has invested in real estate and real estate-related debt over 30 years through various economic cycles, including the global financial crisis. Adverse business developments in prior programs were generally the result of broader economic distress (e.g., the global financial crisis, periods of increased volatility). A specific instance of such temporary adverse developments is discussed below.

Starwood Capital is the sponsor of other investment programs that include certain limitations on share repurchases, which have in the past been, and may in the future be, exceeded, resulting in such program's repurchase of shares on a pro rata basis. For example, Starwood Real Estate Income Trust, Inc., a nontraded equity REIT sponsored by Starwood Capital, has adopted a share repurchase plan that provides that the total amount of shares that it will repurchase is limited, in any calendar month, to shares whose aggregate value (based on the repurchase price per share on the date of the repurchase) is no more than 2% of its aggregate NAV as of the last day of the previous calendar month and, in any calendar quarter, to shares whose aggregate value is no more than 5% of its aggregate NAV as of the last day of the previous calendar quarter. If the full amount of all shares of its common stock requested to be repurchased in any given month are not repurchased, funds are allocated pro rata based on the total number of shares of common stock being repurchased without regard to class and subject to the volume limitation. Starwood Real Estate Income Trust, Inc. began pro rating redemption requests in November 2022. Investors who started requesting their shares be repurchased in November 2022, when redemption requests were first prorated, would have received more than 99% of their money back in the nine months ended July 2023. In such case, Starwood Real Estate Income Trust, Inc. accepted redemption requests from each investor up to the repurchase limitations included in its share repurchase plan, which limitations are consistent with the limitations set forth in the SEC's no-action letters regarding non-traded REIT repurchase program terms.



## Operating and Regulatory Structure

### *Investment Company Act Considerations*

We are not registered, and do not intend to register as an investment company under the Investment Company Act. Under the Investment Company Act, in relevant part, a company is an “investment company” if:

- under Section 3(a)(1)(A), it is, or holds itself out as being, engaged primarily, or proposes to engage primarily, in the business of investing, reinvesting or trading in securities; or
- under Section 3(a)(1)(C), it is engaged, or proposes to engage in, the business of investing, reinvesting, owning, holding or trading in securities and owns, or proposes to acquire, “investment securities” having a value exceeding 40% of the value of its total assets (exclusive of U.S. government securities and cash items) on an unconsolidated basis (the “40% test”). The term “investment securities” generally includes all securities except U.S. government securities and securities of majority-owned subsidiaries that are not themselves investment companies and are not relying on the exemption from the definition of investment company under Section 3(c)(1) or Section 3(c)(7) of the Investment Company Act.

With respect to Section 3(a)(1)(A), we do not intend to engage primarily or hold our self out as being engaged primarily in the business of investing, reinvesting or trading in securities. Rather, we will be a holding company primarily engaged in the non-investment company businesses of our subsidiaries. With respect to Section 3(a)(1)(C), on an unconsolidated basis we expect that more than 60% of our assets, exclusive of cash and U.S. government securities, will consist of ownership interests in wholly owned subsidiaries that are not themselves investment companies and are not relying on the exceptions from the definition of investment company under Section 3(c)(1) or Section 3(c)(7) of the Investment Company Act and, thus, we do not expect that more than 40% of our assets, exclusive of cash and U.S. government securities, will be “investment securities,” as that term is used under the Investment Company Act.

If, however, on an unconsolidated basis the value of our investment securities, which may include subsidiaries that must rely on Section 3(c)(1) or Section 3(c)(7), exceeds 40% of the value of our total assets, exclusive of cash and U.S. government securities, then we may seek to rely on Section 3(c)(6) of the Investment Company Act, which excepts from the definition of investment company any company primarily engaged, directly or through majority-owned subsidiaries, in one or more of the businesses described in paragraphs (3), (4) and (5) of Section 3(c), or in one or more such businesses (from which not less than 25% of such company’s gross income during its last fiscal year was derived) together with an additional business or businesses other than investing, reinvesting, owning, holding or trading in securities. In this scenario where the value of our investment securities exceeds 40% of the total value of our assets, exclusive of cash and government securities, we believe we will have become “primarily engaged,” directly or through wholly owned and majority-owned subsidiaries, in the business of purchasing or otherwise acquiring mortgages and other interests in real estate, as described in Section 3(c)(5)(C).

We expect that many our subsidiaries will be able to rely on Section 3(c)(5)(C) of the Investment Company Act as an exception from the definition of an investment company. Section 3(c)(5)(C) is available for entities “primarily engaged in the business of purchasing or otherwise acquiring mortgages and other liens on and interests in real estate.” This exception generally requires that, for purposes of Section 3(c)(5)(C), at least 55% of a portfolio must be comprised of “Qualifying Interests” and at least 80% of its portfolio must be comprised of Qualifying Interests and “Real Estate-related Interests” (and no more than 20% comprised of non-qualifying or non-real estate-related assets). These criteria therefore limit what assets these subsidiaries may buy and sell.

Qualifying Interests for the purpose of Section 3(c)(5)(C) include mortgage loans and other assets, such as certain mezzanine loans and B Notes and other interests in real estate as interpreted by the SEC staff in various no-action letters. We also may invest in transitional loans or mortgage loan participations that also meet the parameters of Section 3(c)(5)(C) based on no-action letters issued by the SEC staff and other SEC interpretive

guidance. These restrictions will, however, limit our ability to invest in mortgage-backed securities that represent less than the entire ownership in a pool of mortgage loans, debt and equity tranches of securitizations and certain asset-backed securities and real estate companies or in non-real estate-related assets.

We intend to treat first mortgage loans as Qualifying Interests, as long as such loans are “fully secured” by real estate at the time we acquire the loan. Mortgage loans that are junior to a mortgage owned by another lender, or second mortgages, will also be treated as Qualifying Interests if the real property fully secures the second mortgage.

We intend to treat participation interests in whole mortgage loans as Qualifying Interests only if the interest is a participation in a mortgage loan, such as a B Note, that meets certain criteria. Consistent with SEC staff guidance, a B Note will be treated as a qualifying real estate asset only if: (1) we have a participation interest in a mortgage loan that is fully secured by real property; (2) we have the right to receive our proportionate share of the interest and the principal payments made on the loan by the borrower, and our returns on the loan are based on such payments; (3) we invest only after performing the same type of due diligence and credit underwriting procedures that we would perform if we were underwriting the underlying mortgage loan; (4) we have approval rights in connection with any material decisions pertaining to the administration and servicing of the loan and with respect to any material modification to the loan agreements; and (5) in the event that the loan becomes non-performing, we have effective control over the remedies relating to the enforcement of the mortgage loan, including ultimate control of the foreclosure process, by having the right to: (a) appoint the special servicer to manage the resolution of the loan; (b) advise, direct or approve the actions of the special servicer; (c) terminate the special servicer at any time with or without cause; (d) cure the default so that the mortgage loan is no longer non-performing; and (e) purchase the senior participation at par plus accrued interest, thereby acquiring the entire mortgage loan.

We intend to treat most types of CMBS, non-qualifying subordinated financing, and any debt or equity securities issued by companies primarily engaged in real estate businesses and securities issued by pass-through entities of which substantially all of the assets consist of qualifying assets and/or real estate-related assets as Real Estate-related Interests.

Although we intend to monitor our portfolio periodically and prior to each investment acquisition and disposition, there can be no guarantee that we will successfully maintain our assets at the necessary levels. To the extent that the SEC staff provides more specific guidance regarding any of the matters bearing upon such exclusions, we may be required to adjust our strategy accordingly. Any additional guidance from the SEC staff could provide additional flexibility to us, or it could further inhibit our ability to pursue the strategies we have chosen.

### ***Operating Structure and REIT Considerations***

A non-listed REIT is a REIT whose shares are not listed for trading on a stock exchange or other securities market. We use the term “perpetual-life REIT” to describe an investment vehicle of indefinite duration, whose shares are intended to be sold by the REIT monthly on a continuous basis at a price generally equal to the REIT’s prior month’s NAV per share. In our perpetual-life structure, the investor may request that we repurchase their shares on a quarterly basis, but we are not obligated to repurchase any shares and may choose to repurchase only some, or even none, of the shares that have been requested to be repurchased in any particular calendar quarter in our discretion. While we may consider a liquidity event at any time in the future, we are not obligated by our Declaration of Trust or otherwise to effect a liquidity event at any time.

We intend to elect and qualify to be taxed as a REIT under the Code commencing with our taxable year ended December 31, 2023. We believe that we have been organized and have operated and will continue to operate in such a manner as to qualify for taxation as a REIT under the applicable provisions of the Code so long

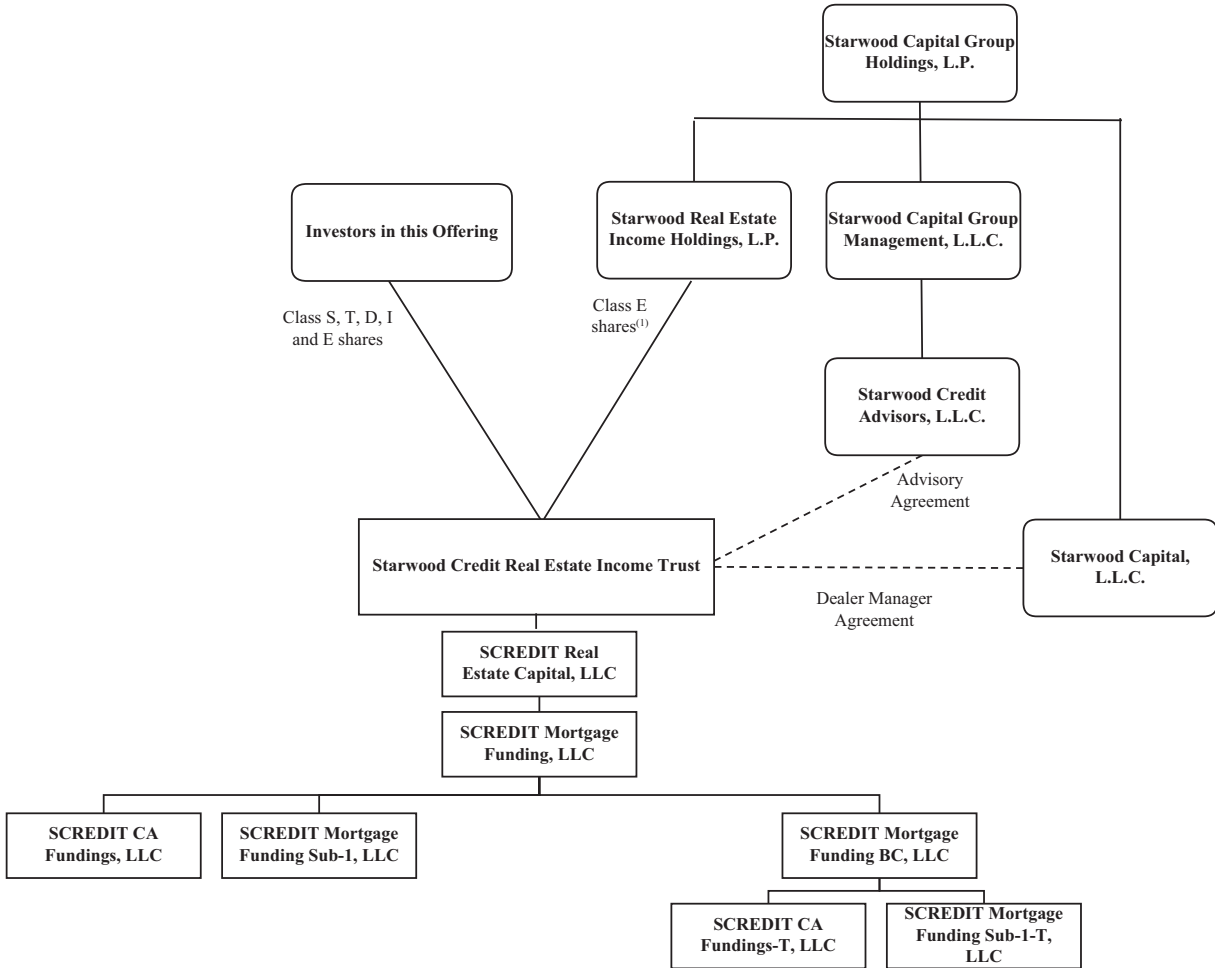


as our board of trustees determines that REIT qualification remains in our best interest. In general, a REIT is a company that:

- combines the capital of many investors to acquire or provide financing for real estate assets;
- offers the benefits of a real estate portfolio under professional management;
- satisfies the various requirements of the Code, including tests concerning, among other things, the real estate qualification of sources of its income, the composition and values of its assets, the diversity of ownership of its shares and a requirement to annually distribute to shareholders at least 90% of its REIT taxable income (determined without regard to the dividends-paid deduction and excluding net capital gain); and
- is generally not subject to U.S. federal income taxes on its REIT taxable income that it distributes annually to its shareholders, which substantially eliminates the “double taxation” (i.e., taxation at both the corporate and shareholder levels) that generally results from investments in a C corporation.

In order to comply with REIT requirements, we may need to forego otherwise attractive opportunities and limit our expansion opportunities and limit the manner in which we conduct our operations. See “*Item 1A. Risk Factors—Risks Related to Taxation.*”

The following chart shows our current ownership structure and our relationship with Starwood Capital, the Advisor, the Dealer Manager and certain of their respective affiliates as of the date of this Registration Statement.



(1) Starwood Real Estate Income Holdings, L.P., a wholly-owned subsidiary of Starwood Holdings (“**Starwood Real Estate Income**”), has agreed to purchase an aggregate amount of not less than \$150 million in our Class E shares. We were capitalized through the purchase by Starwood Real Estate Income of 50 common shares for an aggregate purchase price of \$1,000 on July 14, 2023.

**Our Board of Trustees**

We operate under the direction of our board of trustees. Our board of trustees is currently comprised of one trustee, John P. McCarthy. However, upon the initial closing of our private offering, our board of trustees will be comprised of five (5) trustees, two of whom will be affiliated with the Advisor and three of whom will be independent of the Advisor and its affiliates (the “**independent trustees**”). Our independent trustees are responsible for reviewing and approving transactions with affiliates of Starwood Capital, our valuation guidelines and the renewal of the advisory agreement with the Advisor (the “**Advisory Agreement**”). See “*Item 5 Trustees and Executive Officers—Biographical Information*” for further information regarding the members of our board of trustees.

For so long as Starwood Capital or its affiliate acts as investment advisor to us, Starwood Capital has the right to designate two (2) trustees for election to our board of trustees. Our board of trustees must also consult

with Starwood Capital in connection with filling any vacancies created by the removal, resignation, retirement or death of any trustee (other than in connection with a removal by shareholders in accordance with our Declaration of Trust).

Our board of trustees has an audit committee, which is comprised of three trustees, all of whom are independent trustees. The primary function of the audit committee is to serve as an independent and objective party to assist our board of trustees in selecting, engaging and discharging our independent accountants, reviewing the plans, scope and results of the audit engagement with our independent accountants, approving professional services provided by our independent accountants (including compensation therefore), reviewing the independence of our independent accountants and reviewing the adequacy of our internal controls over financial reporting.

### **Advisory Agreement**

*The description below of the Advisory Agreement, which we expect to enter into in connection with the initial closing of our private offering, is only a summary and is not necessarily complete. The description set forth below is qualified in its entirety by reference to the Advisory Agreement, a form of which is filed as an exhibit to this Registration Statement.*

Our board of trustees at all times has oversight responsibility for governance, financial controls, compliance and disclosure with respect to the Company. Pursuant to the Advisory Agreement, our board of trustees delegated to the Advisor the authority to source, evaluate and monitor our investment opportunities and make decisions related to the origination, acquisition, management, financing and disposition of our assets, in accordance with our investment objectives, guidelines, policies and limitations, subject to oversight by our board of trustees. We believe that the Advisor currently has sufficient staff and resources so as to be capable of fulfilling the duties set forth in the Advisory Agreement.

### *Services*

Pursuant to the terms of the Advisory Agreement, the Advisor is responsible for, among other things:

- managing the Company's assets in accordance with its investment objective, policies and restrictions;
- determining the composition of the Company's portfolio, the nature and timing of the changes to the Company's portfolios and the manner of implementing such changes;
- making investment decisions for the Company and monitoring the Company's investments;
- engaging and supervising, on the Company's behalf, agents and service providers to assist in making and managing the Company's investments;
- determining valuations of the Company's assets;
- performing due diligence on prospective portfolio investments;
- recommending the appropriate level of leverage and debt financing;
- exercising voting rights in respect of portfolio securities and other investments for the Company; and
- providing the Company with such other investment advisory and related services as the Company may, from time to time, reasonably require for the investment of capital.

Pursuant to the Advisory Agreement, the Advisor may delegate any of the services for which it is responsible for to a third-party service provider. In the event the Advisor chooses to engage a third-party service provider, the Advisor will remain responsible for the performance of such services and we generally will pay fees to the third-party service providers for such services.

The Advisor's services under the Advisory Agreement are not exclusive, and it is free to furnish similar services to other entities, and it intends to do so, so long as its services to us are not impaired. For the avoidance

of doubt, the management, policies and operations of the Company shall be the ultimate responsibility of the Advisor acting pursuant to and in accordance with the Declaration of Trust.

See “—*Advisory Agreement*” and for a discussion of Trust Expenses, see “*Item 2 Financial Information—Management’s Discussion and Analysis of Financial Condition and Results of Operations—Expenses—Management Fee*” below for further information.

#### *Term and Termination*

Unless terminated earlier as described below, the Advisory Agreement will remain in effect for an initial period of two years from the date it first becomes effective, subject to an unlimited number of successive two-year renewals if approved by a majority of our board of trustees and a majority of the independent trustees.

Without payment of penalty, the Advisory Agreement may be terminated immediately by the Company (1) for “cause,” (2) upon the bankruptcy of the Advisor or (3) upon a breach of a material provision of the Advisory Agreement by the Advisor and such breach continues for a period of 30 days after written notice thereof specifying such breach and requesting that the same be remedied in such 30-day period (or 45 days after written notice of such breach if the Advisor takes steps to cure such breach within 30 days of the written notice). “Cause” is defined as fraud, criminal conduct, willful misconduct or willful or negligent breach of fiduciary duty by the Advisor in connection with performing its duties under the Advisory Agreement. In addition, the Advisor may terminate the Advisory Agreement immediately upon a change of control of the Company, which will not be deemed to occur as a result of any widely distributed offering of our common shares.

In the event the Advisory Agreement is terminated, the Advisor will be entitled to receive its prorated Management Fee and Performance Fee through the date of termination. In addition, upon the termination or expiration of the Advisory Agreement, the Advisor will cooperate with us and take all reasonable steps requested to assist our board of trustees in making an orderly transition of the advisory function.

#### *Compensation and Expense Reimbursement*

##### ***Management Fee***

As compensation for its services provided pursuant to the Advisory Agreement, we will pay the Advisor a management fee (the “**Management Fee**”) of 1.25% of NAV per annum for the outstanding Class T shares, Class S shares, Class D shares, and Class I shares, payable monthly in arrears. For the avoidance of doubt, we will not pay the Advisor the Management Fee with respect to the Class E shares, and as a result, it is a class-specific expense. In calculating the Management Fee, we will use our NAV before giving effect to accruals for the Management Fee, Performance Fee, shareholder servicing fees or distributions payable on our common shares.

The Advisor has agreed to waive its management fee for the first three months following the initial closing of our private offering.

The Management Fee may be paid, at the Advisor’s election, in cash, Class I shares or Class E shares, or any combination thereof.

To the extent that the Advisor elects to receive any portion of the Management Fee in Class I shares or Class E shares, we may repurchase such Class I shares or Class E shares from the Advisor at a later date. Our Class I shares or Class E shares obtained by the Advisor will not be subject to our share repurchase plan, including the repurchase limits and any Early Repurchase Deduction (as defined below).

### **Performance Fee**

The Advisor may be entitled to a performance fee (the “**Performance Fee**”), which is accrued monthly and payable quarterly (or part thereof that the Advisory Agreement is in effect) in arrears. Commencing with the calendar quarter representing the fourth full calendar quarter completed since the date of the initial closing of our private offering, the Performance Fee will be an amount, not less than zero, equal to (i) 12.5% of our cumulative Core Earnings (as defined below) for the immediately preceding four calendar quarters (each such period, a “**4-Quarter Performance Measurement Period**”), subject to a hurdle rate, expressed as an annual rate of return on average adjusted capital, equal to 5.0% (the “**Annual Hurdle Rate**”), minus (ii) the sum of any performance fees paid to the Advisor with respect to the first three calendar quarters in the applicable 4-Quarter Performance Measurement Period. As a result, the Advisor does not earn a Performance Fee for any calendar quarter until our Core Earnings for the applicable 4-Quarter Performance Measurement Period exceed the Annual Hurdle Rate. For purposes of the Performance Fee, “adjusted capital” means cumulative net proceeds generated from sales of our Class T shares, Class S shares, Class D shares and Class I shares (including proceeds from our distribution reinvestment plan) reduced for distributions from non-liquidating dispositions of our investments paid to Class T, Class S, Class D and Class I shareholders and amounts paid to Class T, Class S, Class D and Class I shareholders for share repurchases pursuant to our share repurchase plan.

For each of the three full calendar quarters preceding the initial 4-Quarter Performance Measurement Period, the Performance Fee will be an amount, not less than zero, equal to (i) 12.5% of our cumulative Core Earnings for all of the full calendar quarter periods completed since the initial closing of our private offering (each such period, a “**Partial-Year Performance Measurement Period**”), subject to the Applicable Hurdle Rate (as defined below), which is calculated by multiplying 5% by a fraction consisting of (x) a numerator equal to the number of full calendar quarter periods included in the Partial-Year Performance Measurement Period, and (y) a denominator equal to 4, minus (ii) the sum of any Performance Fees paid to the Advisor with respect to the prior Partial-Year Performance Measurement Periods. The table below presents the Applicable Hurdle Rates for use in performance fee calculations for the three Partial-Year Performance Measurement Periods as well as for 4-Quarter Performance Measurement Periods.

<b>Full Quarter(s) Since Initial Closing Date</b>	<b>Cumulative Core Earnings Performance Measurement Period</b>	<b>Applicable Hurdle Rate</b>
<b>1</b>	<b>First full calendar quarter</b>	<b>1.25%</b>
<b>2</b>	<b>First 2 full calendar quarters</b>	<b>2.50%</b>
<b>3</b>	<b>First 3 full calendar quarters</b>	<b>3.75%</b>
<b>4</b>	<b>Initial 4-Quarter Performance Measurement Period</b>	<b>5.00%</b>

In the event that the period from the date of the initial closing of our private offering through the first calendar quarter end date following such date is shorter than a full calendar quarter (such period, the “**Initial Partial-Quarter Performance Measurement Period**”), the Performance Fee for the Initial Partial-Quarter Performance Measurement Period will be an amount, not less than zero, equal to (i) 12.5% of our Core Earnings for the Initial Partial-Quarter Performance Measurement Period, subject to the Applicable Hurdle Rate, which is calculated by multiplying 5% by a fraction consisting of (x) a numerator equal to the number of calendar days included in the Initial Partial-Quarter Performance Measurement Period, and (y) a denominator equal to 365. For the sake of clarity, neither the Core Earnings for, nor the number of calendar days included in, the Initial Partial-Quarter Performance Period, will be factored into the computation of performance fees for subsequent Partial-Year Performance Measurement Periods or 4-Quarter Performance Measurement Periods. The table below presents the computation of the Applicable Hurdle Rate for a hypothetical 70-day Initial Partial-Quarter Performance Measurement Period for use in performance fee calculations for an Initial Partial-Quarter Performance Period of that length.

<u>Cumulative Core Earnings Initial Partial-Quarter Performance Measurement Period</u>	<u>Number of Days Since Initial Closing Date</u>	<u>Number of Days in Measurement Period as % of Full Calendar Year</u>	<u>Annual Hurdle Rate</u>	<u>Applicable Hurdle Rate</u>
		(A) = 70 Days / 365 Days	(B)	(A) x (B)
<b>From Initial Closing Date Through End of Most Recent Calendar Quarter End Date Thereafter . . . . .</b>	<b>70</b>	<b>0.1918</b>	<b>5.00%</b>	<b>0.96%</b>

Once our Core Earnings exceed the Applicable Hurdle Rate, the Advisor is entitled to a “catch-up” fee equal to the amount of Core Earnings in excess of the Applicable Hurdle Rate, until our Core Earnings for the applicable performance measurement period exceed a percentage of average adjusted capital equal to the Applicable Hurdle Rate divided by 0.875 (or 1 minus 0.125) for the applicable performance measurement period. Thereafter, the Advisor is entitled to receive 12.5% of our Core Earnings. “Applicable Hurdle Rate” means (i) the Annual Hurdle Rate with respect to a 4-Quarter Performance Period or (ii) the Annual Hurdle Rate as adjusted above with respect to a Partial-Year Performance Measurement Period and the Initial Partial-Quarter Measurement Period, as applicable.

For purposes of calculating the Performance Fee, “Core Earnings” means: for the applicable performance measurement period, the net income (loss) attributable to shareholders of Class T shares, Class S shares, Class D shares, and Class I shares, computed in accordance with U.S. generally accepted accounting principles (“U.S. GAAP”), including realized gains (losses) not otherwise included in U.S. GAAP net income (loss) and excluding (i) non-cash equity compensation expense, (ii) the Performance Fee, (iii) depreciation and amortization, (iv) any unrealized gains or losses or other non-cash items that are included in net income for the applicable reporting period, regardless of whether such items are included in other comprehensive income or loss, or in net income, (v) one-time events pursuant to changes in U.S. GAAP, and (vi) certain non-cash adjustments and certain material non-cash income or expense items, in each case after discussions between the Advisor and our independent trustees and approved by a majority of our independent trustees.

The Performance Fee may be paid, at the Advisor’s election, in cash, Class I shares or Class E shares, or any combination thereof. For the avoidance of doubt, we will not pay the Advisor a Performance Fee on Class E shares, and as a result, it is a class-specific expense.

To the extent that the Advisor elects to receive any portion of its Performance Fee in Class I shares or Class E shares, we may repurchase such Class I shares or Class E shares from the Advisor at a later date. Our Class I shares or Class E shares obtained by the Advisor will not be subject to our share repurchase plan, including the repurchase limits and any Early Repurchase Deduction.

For the avoidance of doubt, the payment of any Performance Fee will be consistent with the requirements set forth in Rule 205-3 under the Investment Advisers Act of 1940, as amended, including that the Company will be a “qualified client” as defined in Rule 205-3.

***Organization and Offering Expense Reimbursement***

The Advisor has agreed to advance all of the Company’s organization and offering expenses on its behalf (including legal, accounting, printing, mailing, subscription processing and filing fees and expenses, reasonable bona fide due diligence expenses of participating broker-dealers supported by detailed and itemized invoices, costs in connection with preparing sales materials, design and website expenses, fees and expenses of our escrow agent and transfer agent, and expense reimbursements for actual costs incurred by employees of the Dealer Manager in the performance of wholesaling activities, but excluding upfront selling commissions, dealer manager fees and the shareholder servicing fee) through the first anniversary of the initial closing of our private offering. The Company will reimburse the Advisor for all such advanced expenses ratably over the 60 months following the first anniversary of the initial closing of our private offering. Such reimbursement may be paid, at the Advisor’s election, in cash, Class I shares or Class E shares, or any combination thereof. If the Advisor elects to receive any portion of such reimbursement in our common shares, we may repurchase such common shares

from the Advisor at a later date. Such shares that the Advisor receives in lieu of cash will not be subject to our share repurchase plan, including the repurchase limits or any Early Repurchase Deduction. Wholesaling compensation expenses of persons associated with the Dealer Manager will be paid by the Advisor without reimbursement from us.

After the first anniversary of the initial closing of our private offering, we will reimburse the Advisor for any organization and offering expenses that it incurs on our behalf as and when incurred.

#### ***Acquisition Expense Reimbursement***

We will reimburse the Advisor for out-of-pocket expenses in connection with the selection, evaluation, structuring, acquisition, origination, and financing of investments, whether or not such investments are acquired or originated.

#### ***Operating Expense Reimbursement***

In addition to the organization and offering expense and acquisition expense reimbursements described above, we will reimburse the Advisor and its affiliates for out-of-pocket costs and expenses it incurs in connection with the services it provides to us, including, but not limited to, (1) the actual cost of goods and services used by us, whether payable to an affiliate or a non-affiliated person, including fees paid to administrators, consultants, attorneys, technology providers and other service providers, and brokerage fees paid in connection with the purchase and sale of investments and securities, (2) expenses of managing and operating our investments, whether payable to an affiliate or a non-affiliated person and (3) expenses related to personnel of the Advisor or its affiliates performing services for us other than those who provide investment advisory services or serve as our executive officers; provided, that the Advisor may be reimbursed for legal services performed by our Secretary that are outside the scope of such role.

The Advisor has agreed to advance certain of the Company's operating expenses on its behalf through the first anniversary of the initial closing of our private offering. We will reimburse the Advisor for such advanced expenses ratably over the 60 months following the first anniversary of the initial closing of our private offering. Operating expenses incurred after the first anniversary of the initial closing of our private offering are paid by the Company as incurred.

#### ***Fees from Other Services of the Advisor***

We may retain certain of the Advisor's affiliates, from time to time, for services relating to our investments or our operations, which may include capital markets services, restructuring services, valuation services, underwriting and diligence services, and special servicing, as well as services related to mortgage servicing, group purchasing, healthcare, consulting/ brokerage, capital markets/credit origination, loan servicing and asset management, property, title and other types of insurance, management consulting and other similar operational and investment matters. Any fees paid to the Advisor's affiliates for any such services will not reduce the Management Fee.

#### **Sponsor Initial Capitalization and Repurchase Terms**

Through the Initial Capitalization, Starwood Capital has agreed, from time to time, to purchase from the Company an aggregate amount of not less than \$150 million in Class E shares, at a price per share equal to the Company's most recently determined NAV of its Class E shares, or if an NAV has yet to be calculated, then \$20.00.

Starwood Capital has agreed to hold all of the Class E shares it receives in connection with the Initial Capitalization until, (i) with respect to the Class E shares issued in respect of the initial \$125 million of its



commitment, the date that is the earlier of (a) the first date that our NAV reaches \$1 billion and (b) the second anniversary of the initial closing of our private offering, (ii) with respect to the Class E shares issued in respect of Starwood Capital's commitment in excess of \$125 million, but not greater than \$150 million, the date that is the second anniversary of the initial closing of our private offering and (iii) with respect to any remaining Class E shares (representing purchases exceeding \$150 million), at any time following the initial closing of our private offering (such dates referred to in (i) - (iii), collectively, the "**Applicable Liquidity Date**"). Following the Applicable Liquidity Date, Starwood Capital may, from time to time, request to have such Class E shares repurchased by us at a price per share equal to the most recently determined NAV per Class E share as of the repurchase date (each, a "**Starwood Repurchase**"). The Class E shares issued in the Initial Capitalization are not eligible for repurchase pursuant to our share repurchase plan and are not therefore subject to the quarterly limitation or the Early Repurchase Deduction.

Notwithstanding the foregoing, for so long as Starwood Capital or its affiliate acts as the Advisor, we will not effect any Starwood Repurchase in any quarter that the full amount of all common shares requested to be repurchased by shareholders other than Starwood Capital and its affiliates under the share repurchase plan are not repurchased or the share repurchase plan has been suspended. We may fund any Starwood Repurchase from sources other than cash flow from operations, including, without limitation, borrowings, offering net proceeds, the sale of assets, and return of capital, and we have no limits on the amounts we may fund from such sources.

### **Allocation of Investment Opportunities**

Certain inherent conflicts of interest arise from the fact that Starwood Capital and its affiliates, including the Advisor (pursuant to the Advisory Agreement), will provide investment management and other services both to us and to other persons or entities, whether or not the investment objectives or guidelines of any such other persons or entities are similar to ours, including, without limitation, the sponsoring, closing and managing of Other Starwood Accounts.

We believe our investment objectives, guidelines and strategy are generally distinct from Other Starwood Accounts. Accordingly, Starwood Capital believes there has been to date, and expect there to continue to be, sufficient investment opportunities for us within our investment guidelines because of the scale of the CRE debt market. There is, however, overlap of our investment opportunities with certain established Other Starwood Accounts and may be similar overlap with future Other Starwood Accounts. This overlap may from time to time create conflicts of interest, which the Advisor and its affiliates will seek to manage in a fair and reasonable manner in their sole discretion in accordance with Starwood Capital's prevailing policies and procedures.

With respect to Other Starwood Accounts with investment objectives or guidelines that overlap with ours but do not have priority over us, investment opportunities are allocated among us and one or more Other Starwood Accounts in accordance with Starwood Capital's prevailing policies and procedures on a basis that the Advisor and its affiliates believe to be fair and reasonable in their sole discretion, which may be on an alternating or co-invest basis subject to the following considerations: (i) any applicable investment objectives of ours and such Other Starwood Accounts (which, for us, includes our primary objective of providing current income in the form of regular, stable cash distributions to achieve an attractive distribution yield); (ii) the sourcing of the transaction; (iii) the size and nature of the investment; (iv) the relative amounts of capital available for investment by us and such Other Starwood Accounts; (v) the sector, geography/location, expected return profile, expected distribution rates, anticipated cash flows, expected stability or volatility of cash flows, leverage profile, risk profile, and other features of the applicable investment opportunity and its impact on portfolio concentration and diversification (which, for us, will primarily be what we believe are lower risk loans against stabilized or core and core-plus real estate, or properties that require modest refurbishment or repositioning); (vi) avoiding allocation that could result in de minimis or odd-lot investments; (vii) any structural and operational differences between us and such Other Starwood Accounts and any applicable investment limitations (including, without limitation, exposure limits, hedging limits and diversification considerations) of us and such Other Starwood Accounts, investment limitations, parameters or contractual provisions of ours and such Other Starwood



Accounts; (viii) the eligibility of us and such Other Starwood Accounts to make such investment under applicable laws; (ix) any other applicable tax, accounting, legal, regulatory compliance or operational considerations deemed relevant by the Advisor and its affiliates (including, without limitation, maintaining our qualification as a REIT and our status as a non-investment company exempt from the Investment Company Act) (e.g., joint venture investments between us and an Other Starwood Account must be on the same terms and satisfy the restrictions of all participants, such as lowest leverage targeted by any participant); and (x) any other requirements contained in the corporate governance documents of us and such Other Starwood Accounts and any other considerations deemed relevant by the Advisor, Starwood Capital and their affiliates in good faith. Our board of trustees (including our independent trustees) has the duty to ensure that the allocation methodology described above is applied fairly to us.

One Other Starwood Account, SEREDF II, generally targets performing debt investments related to properties in Europe and, to the extent an investment opportunity arises that satisfies both our and SEREDF II's investment guidelines, Starwood Capital has agreed to allocate no less than 33% of such European debt opportunity to SEREDF II. The remainder of each opportunity not allocated to SEREDF II will be allocated among us and Other Starwood Accounts in accordance with the investment allocation policy described above in such manner and proportion as Starwood Capital may determine in each case in its sole discretion. The pre-determined allocation to SEREDF II (and any successor funds with the same or similar investment guidelines) may result in less of an investment opportunity being made available to us.

One Other Starwood Account, SREDS, focuses primarily on originating, acquiring, financing, and managing commercial mortgage and mezzanine loans, subordinated mortgage loans, high-yield mortgages, participations, preferred equity investments, CMBS and CLOs in the United States; however, SREDS does not generally target loans secured by core or core-plus real estate. While we believe our investment criteria to be generally distinct from SREDS, to the extent an investment opportunity arises during the commitment period of SREDS that satisfies both our and SREDS' investment guidelines, SREDS (and select Other Starwood Accounts with similar investment criteria investing alongside SREDS) will have priority with respect to such investment opportunity, which may result in less investment opportunities being made available to us.

Other than (i) the priority granted to SEREDF II with respect to debt investment opportunities related to European real estate debt and (ii) the priority granted to SREDS with respect to real estate debt and debt-like equity investments that satisfies SREDS' and our investment criteria during the SREDS commitment period, no Other Starwood Accounts have priority over us with respect to investment opportunities. However, Starwood Capital may in the future grant priority to additional Other Starwood Accounts.

While the Advisor will seek to manage potential conflicts of interest in a fair and reasonable manner as required pursuant to the Advisory Agreement, the portfolio strategies employed by the Advisor, Starwood Capital or their affiliates in managing the Other Starwood Accounts could conflict with the strategies employed by the Advisor in managing our business and may adversely affect the marketability, exit strategy, prices and availability of the properties, securities and instruments in which we invest. The Advisor, Starwood Capital or their affiliates may also give advice to the Other Starwood Accounts that may differ from advice given to us even though their investment objectives or guidelines may be the same or similar to ours.

For additional information, see *"Item 7 Certain Relationships And Related Transactions, And Trustee Independence—Potential Conflicts of Interest—Allocation of Investment Opportunities."*

## **Term**

The Company has been established, and is expected to continue, for an indefinite period of time. As part of the Company's indefinite term structure, investors may request the repurchase of their common shares on a quarterly basis (as further discussed below). See "*—Share Repurchase Plan*" below for more information regarding repurchases.

## **Governmental Regulations**

Our operations are subject, in certain instances, to supervision and regulation by U.S. and other governmental authorities, and may be subject to various laws and judicial and administrative decisions imposing various requirements and restrictions, which, among other things: (i) regulate credit-granting activities; (ii) establish maximum interest rates, finance charges and other charges; (iii) require disclosures to customers; (iv) govern secured transactions; and (v) set collection, foreclosure, repossession and claims-handling procedures and other trade practices. We are also required to comply with certain provisions of the Equal Credit Opportunity Act that are applicable to commercial loans. We intend to conduct our business so that neither we nor any of our subsidiaries are required to register as an investment company under the Investment Company Act.

In our judgment, existing statutes and regulations have not had a material adverse effect on our business. In recent years, legislators in the United States and in other countries have said that greater regulation of financial services firms is needed, particularly in areas such as risk management, leverage, and disclosure. While we expect that additional new regulations in these areas will be adopted and existing ones may change in the future, it is not possible at this time to forecast the exact nature of any future legislation, regulations, judicial decisions, orders or interpretations, nor their impact upon our future business, financial condition, or results of operations or prospects.

## **Competition**

We face competition from various entities for investment opportunities, including other REITs, pension funds, insurance companies, investment funds and companies, partnerships and developers. In addition to third-party competitors, Other Starwood Accounts with investment strategies that overlap with ours may be allocated investment opportunities, which the Advisor and its affiliates will seek to manage in a fair and reasonable manner in their sole discretion in accordance with Starwood Capital's prevailing policies and procedures.

In the face of this competition, we have access to the Advisor's professionals and their industry expertise and relationships, which we believe provide us with a competitive advantage and help us source, evaluate and compete for potential investments. We believe these relationships will enable us to compete more effectively for attractive investment opportunities. However, we may not be able to achieve our business goals or expectations due to the competitive risks that we face.

## **Emerging Growth Company**

We will be and we will remain an "emerging growth company" as defined in the JOBS Act until the earlier of (a) the last day of the fiscal year (i) following the fifth anniversary of the date of an initial public offering pursuant to an effective registration statement under the Securities Act, (ii) in which we have total annual gross revenue of at least \$1.235 billion, or (iii) in which we are deemed to be a large accelerated filer, which means the market value of our shares that is held by non-affiliates exceeds \$700 million as of the date of our most recently completed second fiscal quarter, and (b) the date on which we have issued more than \$1.0 billion in non-convertible debt during the prior three-year period. For so long as we remain an "emerging growth company" we may take advantage of certain exemptions from various reporting requirements that are applicable to other public companies that are not "emerging growth companies" including, but not limited to, not being required to comply with the auditor attestation requirements of Section 404 of the Sarbanes-Oxley Act of 2002 ("**Sarbanes-Oxley Act**"). Also, because we are not a large accelerated filer or an accelerated filer under Section 12b-2 of the Exchange Act, and will not be for so long as our common shares are not traded on a securities exchange, we will not be subject to auditor attestation requirements of Section 404(b) of the Sarbanes-Oxley Act even once we are no longer an emerging growth company. We cannot predict if investors will find our shares less attractive because we may rely on some or all of these exemptions.

## Distribution Reinvestment Plan

We expect to adopt a distribution reinvestment plan whereby shareholders (other than clients of certain participating broker-dealers that do not permit automatic enrollment) will have their cash distributions automatically reinvested in additional shares unless they elect to receive their distributions in cash. For shareholders that participate in our distribution reinvestment plan, the cash distributions attributable to the class of common shares that such shareholders own will be automatically invested in additional shares of the same class. The purchase price for common shares purchased under our distribution reinvestment plan will be equal to the transaction price for such shares at the time the distribution is payable. Shareholders will not pay any upfront selling commission, dealer manager fees, or other similar placement fees when purchasing shares under our distribution reinvestment plan; however, all outstanding Class T shares, Class S shares and Class D shares, including those purchased under our distribution reinvestment plan, will be subject to ongoing servicing fees. Participants may terminate their participation in the distribution reinvestment plan with ten business days' prior written notice to us. See "*Description of Registrant's Securities to be Registered—Distribution Reinvestment Plan*" for more information regarding the reinvestment of distributions investors may receive from us.

## Share Repurchase Plan

While shareholders may request on a quarterly basis that we repurchase all or any portion of their shares pursuant to our share repurchase plan, we are not obligated to repurchase any shares and may choose to repurchase only some, or even none, of the shares that have been requested to be repurchased in any particular calendar quarter in our discretion. In addition, our ability to fulfill repurchase requests is subject to a number of limitations. As a result, share repurchases may not be available each calendar quarter. Under our share repurchase plan, to the extent we choose to repurchase shares in any particular calendar quarter, we will only repurchase shares following the close of business as of the last calendar day of that calendar quarter (each such date, a "**Repurchase Date**"). Repurchases will be made at the transaction price in effect on the Repurchase Date, except that shares that have not been outstanding for at least one year will be repurchased at 95% of the transaction price (an "**Early Repurchase Deduction**"). The one-year holding period is measured from the first calendar day of the month in which the shares were issued to the subscription closing date immediately following the prospective repurchase date. The Early Repurchase Deduction may only be waived in the case of repurchase requests arising from the death or qualified disability of the holder and in other limited circumstances. To have your shares repurchased, your repurchase request and required documentation must be received in good order by 4:00 p.m. (Eastern Time) on the second to last business day of the applicable calendar quarter. In the unlikely case that the repurchase price for the applicable calendar quarter is not made available by the tenth business day prior to the last business day of such quarter (or is changed after such date), then no repurchase requests will be accepted for such calendar quarter and shareholders who wish to have their shares repurchased the following calendar quarter must resubmit their repurchase requests. Settlements of share repurchases will be generally made within three business days of the Repurchase Date using the prior month's transaction price. The Early Repurchase Deduction will not apply to shares acquired through our distribution reinvestment plan. An investor may withdraw its repurchase request by notifying the transfer agent before 4:00 p.m. (Eastern Time) on the last business day of the applicable calendar quarter. Certain broker-dealers require that their clients process repurchases through their broker-dealer, which may impact the time necessary to process such repurchase request, impose more restrictive deadlines than described in our share repurchase plan, impact the timing of a shareholder receiving repurchase proceeds and require different paperwork or process than described in our share repurchase plan. Investors should contact their broker-dealer first if they want to request the repurchase of their shares. We expect to begin the share repurchase plan, if at all, in the first full calendar quarter following the initial closing of our private offering.

The aggregate NAV of total repurchases of Class T shares, Class S shares, Class D shares, Class E shares and Class I shares (including repurchases at certain non-U.S. investor access funds primarily created to hold our shares) under our share repurchase plan is limited to no more than 5% of our aggregate NAV per calendar quarter (measured using the aggregate NAV as of the end of the immediately preceding month). Shares issued to the Advisor pursuant to the Advisory Agreement are not subject to these repurchase limitations.

In the event that we determine to repurchase some but not all of the shares submitted for repurchase during any calendar quarter under our share repurchase plan, shares repurchased at the end of the calendar quarter will be repurchased on a pro rata basis. All unsatisfied repurchase requests must be resubmitted after the start of the next calendar quarter, or upon the recommencement of the share repurchase plan, as applicable.

We expect our board of trustees to designate the following persons as “Key Persons” under our share repurchase plan: Barry Sternlicht, Jeffrey Dishner, Ellis Rinaldi, Dennis Schuh and any individual that replaces such persons. Our share repurchase plan provides that if two or more such Key Persons are no longer actively involved in the business and activities of Starwood Capital, or are otherwise unable or unwilling to exercise the authority and discharge those day-to-day management responsibilities with respect to Starwood Capital as are currently exercised and discharged by such Key Person(s) (such inactivity, inability or unwillingness, “**Inactivity**”), and Starwood Capital has not appointed one or more replacements who will fulfill substantially all of the duties of one of such Key Persons within 90 days from the date such Inactivity began (meaning, for the sake of clarity, that one Key Person’s responsibilities may remain unfilled for longer than 90 days) (a “**Key Person Triggering Event**”), then the Early Repurchase Deduction is waived with respect to shares that have been purchased in the 12 months preceding the expiration of five business days after the disclosure by the Company of the occurrence of such Key Person Triggering Event (“**Disclosure Date**”) as set forth herein. If the Disclosure Date is (x) at least one (1) business day prior to the date upon which the transaction price is made available during a quarter-ending month, the Early Repurchase Deduction shall be waived through the first Repurchase Date or (y) on or following the date upon which the transaction price is made available during a quarter-ending month, the Early Repurchase Deduction shall be waived through the next two (2) Repurchase Dates. The waiver of the Early Repurchase Deduction set forth in this paragraph will not apply to shares acquired through our distribution reinvestment plan.

Under our share repurchase plan, our board of trustees may amend, suspend or terminate our share repurchase plan at any time if it deems such action to be in our best interest. As a result, share repurchases may not be available each calendar quarter.

We may fund repurchase requests from sources other than cash flow from operations, including, without limitation, the sale of or repayment under our assets, borrowings or offering proceeds, and we have no limits on the amounts we may pay from such sources. Should repurchase requests, in our judgment, place an undue burden on our liquidity, adversely affect our operations or risk having an adverse impact on the Company as a whole, or should we otherwise determine that investing our liquid assets in real estate or other investments rather than repurchasing our shares is in the best interests of the Company as a whole, then we may choose to repurchase fewer shares than have been requested to be repurchased, or none at all. Further, our board of trustees may make exceptions to, modify or suspend our share repurchase plan if it deems in its reasonable judgment such action to be in our best interest.

### **Human Capital**

We do not currently have any employees and do not expect to have any employees. Services necessary for our business are provided by individuals who are employees of the Advisor or its affiliates pursuant to the terms of the Advisory Agreement and Declaration of Trust. See “*Item 1 Business—Advisory Agreement.*”

### **Our Private Offering**

Subscriptions to purchase our common shares may be made on an ongoing basis, but investors may only purchase our common shares pursuant to accepted subscription orders as of the first business day of each month (based on the prior month’s transaction price), and to be accepted, a subscription request must be received in good order at least five business days prior to the first business day of the month (unless waived by the Dealer Manager). A subscription order may be canceled at any time before the time it has been accepted.

The purchase price per share of each class will be equal to the then-current transaction price, which will generally be our prior month's NAV per share for such class as of the last calendar day of such month, plus applicable upfront selling commissions and dealer manager fees. We may offer common shares at a price that we believe reflects the NAV per share of such shares more appropriately than the prior month's NAV per share, including by updating a previously available offering price, in cases where we believe there has been a material change (positive or negative) to our NAV per share since the end of the prior month. In contrast to securities traded on an exchange or over-the-counter, where the price often fluctuates as a result of, among other things, the supply and demand of securities in the trading market, our NAV will be calculated once monthly using our valuation methodology, and the price at which we sell new shares and repurchase outstanding shares will not change depending on the level of demand by investors or the volume of requests for repurchases. See "*—Net Asset Value Calculation and Valuation*" for more information about the calculation of NAV per share.

On each business day, our transfer agent will collect purchase orders. Notwithstanding the submission of an initial purchase order, we can reject purchase orders for any reason. Investors may only purchase our common shares pursuant to accepted subscription orders as of the first business day of each month (based on the prior month's transaction price), and to be accepted, a subscription request must be made with a completed and executed subscription agreement in good order and payment of the full purchase price of our common shares being subscribed at least five business days prior to the first business day of the month. If a purchase order is received less than five business days prior to the first business day of the month, unless waived by the Dealer Manager, the purchase order will be executed in the next month's closing at the transaction price applicable to that month. As a result of this process, and unless the subscription order is cancelled prior to its acceptance, the price per share at which a subscriber's order is executed may be different than the price per share for the month in which they submitted their purchase order.

Generally, within 15 calendar days after the last calendar day of each month, we will determine our NAV per share for each share class as of the last calendar day of the prior month, which will generally be the transaction price for the then-current month for such share class. However, in certain circumstances, the transaction price will not be made available until a later time.

## **Reporting Obligations**

We will file our annual reports containing audited financial statements, quarterly reports, and such other periodic reports as we determine to be appropriate or as may be required by law. We are filing this Registration Statement with the SEC under the Exchange Act to register under Section 12(g) of the Exchange Act and comply with applicable requirements thereunder.

We intend to make available on our website, when available, our annual reports on Form 10-K, quarterly reports on Form 10-Q and our current reports on Form 8-K. The SEC also maintains a website ([www.sec.gov](http://www.sec.gov)) that contains such information. Our website will contain additional information about our business, but the contents of the website are not incorporated by reference in or otherwise a part of this Registration Statement.

## **Certain U.S. Tax Considerations**

***The discussion of tax matters set forth in this Registration Statement was not intended to be used, and cannot be used by any prospective investor, for the purpose of avoiding penalties that may be imposed. Each prospective investor should seek advice based on its particular circumstances from an independent tax advisor.***

The following summary describes certain material U.S. federal income tax considerations relating to the ownership of our common shares as of the date hereof by U.S. holders and non-U.S. holders (each as defined below). Except where noted, this summary deals only with shares held as a capital asset and does not deal with special situations, such as those of dealers in securities or currencies, financial institutions, regulated investment companies, tax-exempt entities (except as described in "*—Taxation of Tax-Exempt Holders of Our Shares*")



below), insurance companies, persons holding shares as a part of a hedging, integrated, conversion or constructive sale transaction or a straddle, traders in securities that elect to use a mark-to-market method of accounting for their securities holdings, persons liable for alternative minimum tax, persons who are “foreign governments” within the meaning of Section 892 of the Code, investors in pass-through entities or U.S. holders of shares whose “functional currency” is not the U.S. dollar. The effects of other U.S. federal tax laws, such as estate and gift tax laws, and any applicable state, local or foreign tax laws are not discussed herein. In addition, this summary does not address all U.S. federal income tax consequences relevant to a holder’s particular circumstances, including the net investment income tax. Furthermore, the discussion below is based upon the provisions of the Code and regulations, rulings and judicial decisions thereunder as of the date hereof, and such authorities may be repealed, revoked or modified, possibly with retroactive effect, so as to result in U.S. federal income tax consequences different from those discussed below. No ruling on the U.S. federal, state, or local tax considerations relevant to our operation or to the purchase, ownership or disposition of our shares has been requested from the U.S. Internal Revenue Service (the “IRS”) or other tax authority. The IRS may assert, or a court may sustain, a position contrary to any of the tax consequences described below. The summary is also based upon the assumption that we and our subsidiaries and affiliated entities will operate in accordance with our and their applicable organizational documents.

The U.S. federal income tax treatment of holders of our shares depends in some instances on determinations of fact and interpretations of complex provisions of U.S. federal income tax law for which no clear precedent or authority may be available. In addition, the tax consequences to any particular shareholder of holding our shares will depend on the shareholder’s particular tax circumstances.

**EACH PROSPECTIVE INVESTOR IS URGED TO CONSULT ITS OWN TAX ADVISOR WITH RESPECT TO THE FEDERAL, STATE, LOCAL AND FOREIGN INCOME TAX CONSEQUENCES OF THE PURCHASE, OWNERSHIP AND DISPOSITION OF INTERESTS IN THE COMPANY.**

#### ***Our Taxation as a REIT***

We intend to elect and qualify to be taxed as a REIT under the Code commencing with our taxable year ending December 31, 2023. Furthermore, we intend to operate in such a manner as to qualify for taxation as a REIT under the applicable provisions of the Code so long as our board of trustees determines that REIT qualification remains in our best interest.

The sections of the Code and the corresponding regulations that govern the U.S. federal income tax treatment of a REIT and its shareholders are highly technical and complex. The following discussion is qualified in its entirety by the applicable Code provisions, rules and regulations promulgated thereunder, and administrative interpretations thereof.

#### ***REITs in General***

As indicated above, our qualification and taxation as a REIT depends upon our ability to meet, on a continuing basis, various qualification requirements imposed upon REITs by the Code. The material qualification requirements are summarized below under “—*Requirements for Qualification as a REIT.*” While we intend to operate so that we qualify as a REIT, the IRS may challenge our qualification, or we may not be able to operate in accordance with the REIT requirements in the future. See “—*Failure to Qualify.*”

Provided that we qualify as a REIT, generally we will be entitled to a deduction for dividends that we pay and therefore will not be subject to U.S. federal corporate income tax on our REIT taxable income that is currently distributed to our shareholders. This treatment substantially eliminates the “double taxation” at the corporate and shareholder levels that generally results from an investment in a C corporation (i.e., a corporation generally subject to U.S. federal corporate income tax). Double taxation means taxation once at the corporate level when income is earned and once again at the shareholder level when the income is distributed. In general,

the income that we generate, to the extent declared as a dividend and subsequently paid to our shareholders, is taxed only at the shareholder level.

If we qualify as a REIT, we will nonetheless be subject to U.S. federal tax in the following circumstances:

- We will pay U.S. federal income tax on our taxable income, including net capital gain, that we do not distribute to shareholders during, or within a specified time after, the calendar year in which the income is earned.
- If we have net income from “prohibited transactions,” which are, in general, sales or other dispositions of property held primarily for sale to customers in the ordinary course of business, other than foreclosure property, such income will be subject to a 100% tax.
- If we elect to treat property that we acquire in connection with a foreclosure of a mortgage loan or from certain leasehold terminations as “foreclosure property,” we may thereby avoid (a) the 100% tax on gain from a resale of that property (if the sale would otherwise constitute a prohibited transaction) and (b) the inclusion of any income from such property not qualifying for purposes of the REIT gross income tests discussed below, but the income from the sale or operation of the property may be subject to U.S. federal corporate income tax.
- If due to reasonable cause and not willful neglect we fail to satisfy either the 75% Gross Income Test or the 95% Gross Income Test discussed below, but nonetheless maintain our qualification as a REIT because other requirements are met, we will be subject to a 100% tax on the greater of the amount by which we fail the 75% Gross Income Test or the 95% Gross Income Test, multiplied in either case by a fraction intended to reflect our profitability.
- If (i) we fail to satisfy the asset tests (other than a de minimis failure of the 5% Value Test, 10% Vote Test or 10% Value Test, as described below under “—*Asset Tests*”) due to reasonable cause and not to willful neglect, (ii) we dispose of the assets or otherwise comply with such asset tests within six months after the last day of the quarter in which we identify such failure and (iii) we file a schedule with the IRS describing the assets that caused such failure, we will pay a tax equal to the greater of \$50,000 or the net income from the nonqualifying assets during the period in which we failed to satisfy such asset tests multiplied by the highest U.S. federal corporate income tax rate.
- If we fail to satisfy one or more requirements for REIT qualification, other than the gross income tests and the asset tests, and the failure was due to reasonable cause and not to willful neglect, we will be required to pay a penalty of \$50,000 for each such failure.
- We may be required to pay monetary penalties to the IRS in certain circumstances, including if we fail to meet recordkeeping requirements intended to monitor our compliance with rules relating to the composition of a REIT’s shareholders, as described below in “—*Requirements for Qualification as a REIT.*”
  - If we fail to distribute during each calendar year at least the sum of:
    - 85% of our ordinary income for such calendar year;
    - 95% of our capital gain net income for such calendar year; and
    - any undistributed taxable income from prior taxable years, we will pay a 4% nondeductible excise tax on the excess of the required distribution over the amount we actually distributed, plus any retained amounts on which income tax has been paid at the corporate level.
- We may elect to retain and pay income tax on our net long-term capital gain. In that case, a U.S. holder would include its proportionate share of our undistributed long-term capital gain (to the extent we make a timely designation of such gain to the shareholder) in its income, and would receive a credit or a refund for its proportionate share of the tax we paid.
- We will be subject to a 100% excise tax on amounts received by us from a taxable REIT subsidiary (a “TRS”) (or on certain expenses deducted by a TRS) if certain arrangements between us and a TRS of ours, as further described below, are not comparable to similar arrangements among unrelated parties.

- If we acquire any assets from a non-REIT C corporation in a carry-over basis transaction, we could be liable for specified tax liabilities inherited from that non-REIT C corporation with respect to that corporation's "built-in gain" in its assets. Built-in gain is the amount by which an asset's fair market value exceeds its adjusted tax basis at the time we acquire the asset. Applicable Treasury regulations, however, allow us to avoid the recognition of gain and the imposition of corporate-level tax with respect to a built-in gain asset acquired in a carry-over basis transaction from a non-REIT C corporation unless and until we dispose of that built-in gain asset during the 5-year period following its acquisition, at which time we would recognize, and would be subject to tax at the regular U.S. federal corporate income tax rate on, the built-in gain.
- We will generally be subject to tax on the portion of any "excess inclusion income" derived from an investment in residual interests in real estate mortgage investment conduits ("REMICs") that is allocable to any of our shareholders that are "disqualified organizations." Similar rules will apply if we own an equity interest in a taxable mortgage pool. To the extent that we own a REMIC residual interest or a taxable mortgage pool through a TRS, we will not be subject to this tax, but the TRS would be taxable on the excess inclusion income. For a discussion of "excess inclusion income," see "*—Taxable Mortgage Pools.*"

In addition, notwithstanding our status as a REIT, we may also have to pay certain state and local income taxes, because not all states and localities treat REITs in the same manner that they are treated for U.S. federal income tax purposes. Moreover, as further described below, any domestic TRS in which we own an interest will be subject to U.S. federal corporate income tax on its net income.

*Requirements for Qualification as a REIT.* The Code defines a REIT as a corporation, trust or association:

- (1) that is managed by one or more trustees or directors;
- (2) the beneficial ownership of which is evidenced by transferable shares, or by transferable certificates of beneficial interest;
- (3) that would be taxable as a domestic corporation, but for its election to be subject to tax as a REIT;
- (4) that is neither a financial institution nor an insurance company subject to certain provisions of the Code;
- (5) the beneficial ownership of which is held by 100 or more persons;
- (6) of which not more than 50% in value of the outstanding shares are owned, directly or indirectly, by five or fewer individuals (as defined in the Code to include certain entities) after applying certain attribution rules;
- (7) that makes an election to be a REIT for the current taxable year or has made such an election for a previous taxable year, which has not been terminated or revoked; and
- (8) that meets other tests described below regarding the nature of its income and assets.

Conditions (1) through (4), inclusive, must be met during the entire taxable year. Condition (5) must be met during at least 335 days of a taxable year of 12 months, or during a proportionate part of a taxable year of less than 12 months. Condition (6) must be met during the last half of each taxable year, but neither conditions (5) nor (6) apply to the first taxable year for which an election to be taxed as a REIT is made. We believe that we will maintain sufficient diversity of ownership to allow us to satisfy conditions (5) and (6) above. In addition, our Declaration of Trust contains restrictions regarding the ownership and transfer of our shares that are intended to assist us in continuing to satisfy the share ownership requirements described in (5) and (6) above. The provisions of our Declaration of Trust restricting the ownership and transfer of our shares are described in "Description of Registrant's Securities to be Registered—Restrictions on Ownership and Transfer." These restrictions, however,



may not ensure that we will be able to satisfy these share ownership requirements. If we fail to satisfy these share ownership requirements, we will fail to qualify as a REIT.

If we comply with regulatory rules pursuant to which we are required to send annual letters to holders of our shares requesting information regarding the actual ownership of our shares (as discussed below), and we do not know, or exercising reasonable diligence would not have known, whether we failed to meet requirement (6) above, we will be treated as having met the requirement.

To monitor compliance with the share ownership requirements, we generally are required to maintain records regarding the actual ownership of our shares. To do so, we must demand written statements each year from the record holders of significant percentages of our shares pursuant to which the record holders must disclose the actual owners of the shares (i.e., the persons required to include our dividends in their gross income). We must maintain a list of those persons failing or refusing to comply with this demand as part of our records. We could be subject to monetary penalties if we fail to comply with these record-keeping requirements. If you fail or refuse to comply with the demands, you will be required by Treasury regulations to submit a statement with your tax return disclosing your actual ownership of our shares and other information. In addition, we must satisfy all relevant filing and other administrative requirements established by the IRS to maintain REIT status, use a calendar year for U.S. federal income tax purposes, and comply with the record keeping requirements of the Code and regulations promulgated thereunder.

*Ownership of Partnership Interests.* In the case of a REIT that is a partner in an entity that is treated as a partnership for U.S. federal income tax purposes, Treasury regulations provide that the REIT is deemed to own its proportionate share of the partnership's assets and to earn its proportionate share of the partnership's gross income based on its pro rata share of capital interests in the partnership for purposes of the asset and gross income tests applicable to REITs, as described below. However, solely for purposes of the 10% Value Test described below (see "*—Asset Tests*"), the determination of a REIT's interest in a partnership's assets will be based on the REIT's proportionate interest in any securities issued by the partnership, excluding for these purposes certain excluded securities as described in the Code. In addition, the assets and gross income of the partnership generally are deemed to retain the same character in the hands of the REIT. Thus, our proportionate share of the assets and items of income of partnerships in which we own an equity interest is treated as assets and items of income of our company for purposes of applying the REIT requirements described below. Consequently, to the extent that we directly or indirectly hold a preferred or other equity interest in a partnership, the partnership's assets and operations may affect our ability to qualify as a REIT, even though we may have no control or only limited influence over the partnership.

*Disregarded Subsidiaries.* If a REIT owns a corporate subsidiary that is a "qualified REIT subsidiary," the separate existence of that subsidiary is disregarded for U.S. federal income tax purposes. Generally, a qualified REIT subsidiary is a corporation, other than a TRS, all of the stock of which is owned directly or indirectly by the REIT. Other entities that are wholly-owned by us, including single member limited liability companies that have not elected to be taxed as corporations for U.S. federal income tax purposes, are also generally disregarded as separate entities for U.S. federal income tax purposes, including for purposes of the REIT income and asset tests. All assets, liabilities and items of income, deduction and credit of qualified REIT subsidiaries and disregarded subsidiaries will be treated as assets, liabilities and items of income, deduction and credit of the REIT itself. A qualified REIT subsidiary of ours is not subject to U.S. federal corporate income taxation, although it may be subject to state and local taxation in some states.

In the event that a qualified REIT subsidiary or a disregarded subsidiary ceases to be wholly owned by us (for example, if any equity interest in the subsidiary is acquired by a person other than us or another disregarded subsidiary of us), the subsidiary's separate existence would no longer be disregarded for U.S. federal income tax purposes. Instead, it would have multiple owners and would be treated as either a partnership or a taxable corporation. Such an event could, depending on the circumstances, adversely affect our ability to satisfy the various asset and gross income tests applicable to REITs, including the requirement that REITs generally may

not own, directly or indirectly, more than 10% of the value or voting power of the outstanding securities of another corporation. See “—*Asset Tests*” and “—*Gross Income Tests*.”

***Taxable REIT Subsidiaries.*** A TRS is an entity that is taxable as a corporation in which we directly or indirectly own stock and that elects with us to be treated as a TRS. The separate existence of a TRS is not ignored for U.S. federal income tax purposes. Accordingly, a domestic TRS generally is subject to U.S. federal corporate income tax on its earnings, which may reduce the cash flow that we and our subsidiaries generate in the aggregate, and may reduce our ability to make distributions to our shareholders. In addition, if a TRS owns, directly or indirectly, securities representing 35% or more of the vote or value of a subsidiary corporation, that subsidiary will also be treated as a TRS. We generally may not own more than 10%, as measured by voting power or value, of the securities of a corporation that is not a qualified REIT subsidiary unless we and such corporation elect to treat such corporation as a TRS. Overall, no more than 20% of the value of a REIT’s assets may consist of stock or securities of one or more TRSs.

Income earned by a TRS is not attributable to the REIT. Rather, the stock issued by a TRS to us is an asset in our hands, and we treat dividends paid to us from such TRS, if any, as income. This income can affect our income and asset tests calculations, as described below. As a result, income that might not be qualifying income for purposes of the income tests applicable to REITs could be earned by a TRS without affecting our status as a REIT. For example, we may use TRSs to perform services or conduct activities that give rise to certain categories of income such as management fees, or to conduct activities that, if conducted by us directly, would be treated in our hands as prohibited transactions.

Several provisions of the Code regarding the arrangements between a REIT and its TRSs ensure that a TRS will be subject to an appropriate level of U.S. federal income taxation. For example, a TRS is limited in its ability to deduct interest payments made to affiliated REITs. In addition, we would be obligated to pay a 100% penalty tax on some payments that we receive from, or on certain expenses deducted by, a TRS if the IRS were to assert successfully that the economic arrangements between us and a TRS are not comparable to similar arrangements between unrelated parties.

Deductions are disallowed for business interest expense (even if paid to third parties) in excess of the sum of a taxpayer’s business interest income and 30% of the adjusted taxable income of the business, which is its taxable income computed without regard to business interest income or expense, net operating losses or the pass-through income deduction. Such limitations may also impact the amount of U.S. federal income tax paid by any of our TRSs.

### ***Taxable Mortgage Pools***

An entity, or a portion of an entity, is classified as a taxable mortgage pool under the Code if:

- (i) substantially all of its assets consist of debt obligations or interests in debt obligations, and more than 50% of such debt obligations or interests in debt obligations are real estate mortgage loans or interests in real estate mortgage loans as of specified testing dates;
- (ii) the entity has issued debt obligations that have two or more maturities; and
- (iii) the payments required to be made by the entity on the debt obligations described in clause (ii) above “bear a relationship” to the payments to be received by the entity on the debt obligations or interests in debt obligations described in clause (i) above.

Under the Treasury regulations, if less than 80% of the assets of an entity (or a portion of an entity) consist of debt obligations (or interests therein), these debt obligations (or interests therein) are considered not to comprise “substantially all” of its assets, and therefore the entity would not be treated as a taxable mortgage pool.

A taxable mortgage pool generally is treated as a corporation for U.S. federal income tax purposes. However, special rules apply to a REIT, a portion of a REIT, or a qualified REIT subsidiary that is a taxable

mortgage pool. If a REIT owns directly, or indirectly through one or more qualified REIT subsidiaries or other entities that are disregarded as a separate entity for U.S. federal income tax purposes, 100% of the equity interests in the taxable mortgage pool, the taxable mortgage pool will be a qualified REIT subsidiary and, therefore, disregarded as an entity separate from the REIT for U.S. federal income tax purposes and would not generally affect the tax qualification of the REIT.

If a REIT is a taxable mortgage pool, or if a REIT owns all of the equity interests in a taxable mortgage pool (in which case the taxable mortgage pool would be treated as a qualified REIT subsidiary), then a portion of the REIT's income may be treated as excess inclusion income and a portion of the distributions the REIT makes to its shareholders may be considered to be excess inclusion income. A shareholder's share of excess inclusion income (a) could not be offset by any losses otherwise available to the shareholder, (b) in the case of a shareholder that is a REIT, a regulated investment company (a "RIC") or a common trust fund or other pass through entity, would be considered excess inclusion income of such entity, (c) would be subject to tax as unrelated business taxable income in the hands of most tax-exempt shareholders, (d) would result in the application of U.S. federal income tax withholding at the maximum rate (30%), without reduction for any otherwise applicable income tax treaty, to the extent allocable to non-U.S. holders, and (e) would be taxable (at the highest corporate tax rates) to the REIT, rather than its shareholders, to the extent allocable to the REIT's stock held in record name by disqualified organizations (generally, tax-exempt entities not subject to unrelated business income tax, including governmental organizations). Nominees or other broker-dealers who hold the REIT's stock on behalf of disqualified organizations would be subject to this tax on the portion of the REIT's excess inclusion income allocable to the REIT's stock held on behalf of disqualified organizations. A REIT's excess inclusion income will be allocated among its shareholders in proportion of its dividends paid. The manner in which excess inclusion income would be allocated among shares of different classes of stock is not clear under the current law. Tax-exempt investors, RIC or REIT investors, non-U.S. investors and taxpayers with net operating losses should consult with their tax advisors with respect to excess inclusion income.

### *Gross Income Tests*

To qualify as a REIT, we must satisfy two gross income requirements, each of which is applied on an annual basis. First, at least 75% of our gross income, excluding gross income from prohibited transactions and certain hedging and foreign currency transactions, for each taxable year generally must be derived directly or indirectly from:

- rents from real property;
- interest on debt secured by mortgages on real property or on interests in real property;
- dividends or other distributions on, and gain from the sale of, stock in other REITs;
- gain from the sale of real property or mortgage loans;
- abatements and refunds of taxes on real property;
- income and gain derived from foreclosure property (as described below);
- amounts (other than amounts the determination of which depends in whole or in part on the income or profits of any person) received or accrued as consideration for entering into agreements (i) to make loans secured by mortgages on real property or on interests in real property or (ii) to purchase or lease real property (including interests in real property and interests in mortgages on real property); and
- interest or dividend income from investments in stock or debt instruments attributable to the temporary investment of new capital during the one-year period following our receipt of new capital that we raise through equity offerings or public offerings of debt obligations with at least a five-year term (the "**75% Gross Income Test**").

Second, at least 95% of our gross income, excluding gross income from prohibited transactions and certain hedging transactions, for each taxable year must be derived from sources that qualify for purposes of the 75%

Gross Income Test, and from (i) dividends, (ii) interest and (iii) gain from the sale or disposition of stock or securities, which need not have any relation to real property (the “**95% Gross Income Test**”).

If we fail to satisfy the 75% Gross Income Test or the 95% Gross Income Test (or both) for any taxable year, we may nevertheless qualify as a REIT for that year if we are entitled to relief under the Code. These relief provisions generally will be available if our failure to meet the tests is due to reasonable cause and not due to willful neglect, and we attach a schedule of the sources of our income to our U.S. federal income tax return. It is not possible, however, to state whether in all circumstances we would be entitled to the benefit of these relief provisions. For example, if we fail to satisfy the gross income tests because nonqualifying income that we intentionally recognize exceeds the limits on nonqualifying income, the IRS could conclude that the failure to satisfy the tests was not due to reasonable cause. If these relief provisions are inapplicable to a particular set of circumstances, we will fail to qualify as a REIT. Even if these relief provisions apply, a penalty tax would be imposed based on the amount of nonqualifying income. See “—REITs in General.”

Gross income from our sale of property that we hold primarily for sale to customers in the ordinary course of business is excluded from both the numerator and the denominator in both gross income tests. In addition, certain foreign currency gains will be excluded from gross income for purposes of the gross income tests. We will monitor the amount of our nonqualifying income, and we will manage our portfolio to comply at all times with the gross income tests. The following paragraphs discuss some of the specific applications of the gross income tests to us.

*Dividends.* We may directly or indirectly receive distributions from TRSs or other corporations that are not REITs or qualified REIT subsidiaries. These distributions generally are treated as dividend income to the extent of earnings and profits of the distributing corporation. Our dividend income from stock in any corporation (other than any REIT), including any TRS, will be qualifying income for purposes of the 95% Gross Income Test, but not the 75% Gross Income Test. Dividends that we receive from any REITs in which we own stock and our gain on the sale of the stock in those REITs will be qualifying income for purposes of both gross income tests. However, if a REIT in which we own stock fails to qualify as a REIT in any year, our income from such REIT would be qualifying income for purposes of the 95% Gross Income Test, but not the 75% Gross Income Test.

*Interest.* The term “interest,” as defined for purposes of both gross income tests, generally excludes any amount that is based in whole or in part on the income or profits of any person; however, it generally includes the following: (i) an amount that is received or accrued based on a fixed percentage or percentages of receipts or sales, and (ii) an amount that is based on the income or profits of a debtor, as long as the debtor derives substantially all of its income from the real property securing the debt by leasing substantially all of its interest in the property, and only to the extent that the amounts received by the debtor would be qualifying “rents from real property” if received directly by a REIT.

Interest on debt secured by mortgages on real property or on interests in real property (including, for this purpose, prepayment penalties, loan assumption fees and late payment charges that are not compensation for services) generally is qualifying income for purposes of the 75% Gross Income Test. However, if the highest principal amount of a loan outstanding during a taxable year exceeds the fair market value of the real property securing the loan as of the date we agreed to originate or acquire the loan, a portion of the interest income from such loan will not be qualifying income for purposes of the 75% Gross Income Test but will be qualifying income for purposes of the 95% Gross Income Test. The portion of the interest income that will not be qualifying income for purposes of the 75% Gross Income Test will be equal to the portion of the principal amount of the loan that is not secured by real property—that is, the amount by which the loan exceeds the value of the real estate that is security for the loan.

We expect that the CMBS in which we invest generally will be treated either as interests in a grantor trust or as interests in a REMIC for U.S. federal income tax purposes and that all interest income from such CMBS will be qualifying income for the 95% gross income test. In the case of CMBS treated as interests in grantor trusts, we

would be treated as owning an undivided beneficial ownership interest in the mortgage loans held by the grantor trust. The interest on such mortgage loans would be qualifying income for purposes of the 75% gross income test to the extent that the obligation is secured by real property, as discussed above. In the case of CMBS treated as interests in a REMIC, income derived from REMIC interests will generally be treated as qualifying income for purposes of the 75% and 95% gross income tests. If less than 95% of the assets of the REMIC are real estate assets, however, then only a proportionate part of our interest in the REMIC and income derived from the interest will qualify for purposes of the 75% gross income test. In addition, some REMIC securitizations include imbedded interest swap or cap contracts or other derivative instruments that potentially could produce nonqualifying income for the holder of the related REMIC securities.

Also among the assets we may hold are mezzanine loans, i.e. subordinated loans secured by equity interests in a pass-through entity that directly or indirectly owns real property, rather than a direct mortgage on the real property. Revenue Procedure 2003-65 provides a safe harbor pursuant to which a mezzanine loan, if it meets each of the requirements contained in the Revenue Procedure, will be treated by the IRS as a real estate asset for purposes of the asset tests (described below), and interest derived from it will be treated as qualifying mortgage interest for purposes of the 75% gross income test (described above). Although the Revenue Procedure provides a safe harbor on which taxpayers may rely, it does not prescribe rules of substantive tax law. The mezzanine loans that we acquire may not meet all of the requirements for reliance on this safe harbor. Hence, the IRS may challenge the qualification of such assets as real estate assets for purposes of the asset tests (described below) or the interest generated by these loans as qualifying income under the 75% gross income test (described above). To the extent we make corporate mezzanine loans, such loans will not qualify as real estate assets and interest income with respect to such loans will not be qualifying income for the 75% gross income test (described above).

We believe that substantially all of our income from our mortgage-related securities generally will be qualifying income for purposes of the gross income tests. However, to the extent that we own non-REMIC collateralized mortgage obligations (“CMOs”) or other debt instruments secured by mortgage loans (rather than by real property), or secured by non-real estate assets, or debt securities that are not secured by mortgages on real property or interests in real property (including CLOs), the interest income received with respect to such securities generally will be qualifying income for purposes of the 95% gross income test, but not the 75% gross income test.

*Hedging Transactions.* We and our subsidiaries may enter into hedging transactions with respect to one or more of our assets or liabilities. Hedging transactions could take a variety of forms, including interest rate swap agreements, interest rate cap agreements, options, futures contracts, forward rate agreements or similar financial instruments. Except to the extent provided by Treasury regulations, any income from a hedging transaction we enter into (i) in the normal course of our business primarily to manage risk of interest rate or price changes or currency fluctuations with respect to borrowings made or to be made, or ordinary obligations incurred or to be incurred, to acquire or carry real estate assets, which is clearly identified as a hedge along with the risk that it hedges within prescribed time periods specified in Treasury regulations, (ii) primarily to manage risk of currency fluctuations with respect to any item of income or gain that would be qualifying income under the 75% or 95% gross income tests which is clearly identified as a hedge along with the risk that it hedges within prescribed time periods, or (iii) in connection with the effective termination of certain hedging transactions described above will be excluded from gross income for purposes of both the 75% or 95% gross income tests. To the extent that we enter into other types of hedging transactions, the income from those transactions is likely to be treated as nonqualifying income for purposes of both of the 75% and 95% gross income tests. Moreover, to the extent that a position in a hedging transaction has positive value at any particular point in time, it may be treated as an asset that does not qualify for purposes of the asset tests described below. We intend to structure any hedging transactions in a manner that does not jeopardize our qualification as a REIT. Our hedging activities may give rise to income or assets that do not qualify for purposes of the REIT tests and may adversely affect our ability to satisfy the REIT qualification requirements.



We may conduct some or all of our hedging activities through a TRS or other corporate entity, the income of which may be subject to U.S. federal income tax, rather than by participating in the arrangements directly or through pass-through subsidiaries.

*Fee Income.* Any fee income that we earn will generally not be qualifying income for purposes of either gross income test. Any fees earned by a TRS will not be included for purposes of the gross income tests.

*Rents from Real Property.* To the extent that we own any real property (or interests therein), rents we receive will qualify as “rents from real property” in satisfying the gross income requirements for a REIT described above only if several conditions described below are met. These conditions relate to the identity of the tenant, the computation of the rent payable, and the nature of the property leased and any services provided in connection with the property. First, the amount of rent must not be based in whole or in part on the income or profits of any person. However, an amount received or accrued generally will not be excluded from rents from real property solely by reason of being based on a fixed percentage or percentages of receipts or sales. Second, rents we receive from a “related party tenant” will not qualify as rents from real property in satisfying the gross income tests unless the tenant is a TRS, at least 90% of the property is leased to unrelated tenants, the rent paid by the TRS is substantially comparable to the rent paid by the unrelated tenants for comparable space and the rent is not attributable to an increase in rent due to a modification of a lease with a “controlled taxable REIT subsidiary” (i.e., a TRS in which we own directly or indirectly more than 50% of the voting power or value of the stock). A tenant is a related party tenant if the REIT, or an actual or constructive owner of 10% or more of the REIT, actually or constructively owns 10% or more of the tenant. Whether rents paid by a TRS are substantially comparable to rents paid by other tenants is determined at the time the lease with the TRS is entered into, extended, or modified, if such modification increases the rents due under such lease. Third, if rent attributable to personal property leased in connection with a lease of real property is greater than 15% of the total rent received under the lease, then the portion of rent attributable to the personal property will not qualify as rents from real property. Finally, for rents to qualify as “rents from real property” for purposes of the gross income tests, we are only allowed to provide services that are both usually or “customarily rendered” in connection with the rental of real property and not otherwise considered “rendered to the occupant” of the property. Examples of these permitted services include the provision of light, heat, or other utilities, trash removal and general maintenance of common areas. We may, however, render services to our tenants through an “independent contractor” who is adequately compensated and from whom we do not derive revenue if certain requirements are satisfied. We may also own an interest in a TRS which provides non-customary services to tenants without tainting our rental income from the related properties.

Even if a REIT furnishes or renders services that are non-customary with respect to a property, if the greater of (i) the amounts received or accrued, directly or indirectly, or deemed received by the REIT with respect to such services, or (ii) 150% of our direct cost in furnishing or rendering the services during a taxable year is not more than 1% of all amounts received or accrued, directly or indirectly, by the REIT with respect to the property during the same taxable year, then only the amounts with respect to such non-customary services are not treated as rent for purposes of the REIT gross income tests.

We intend to cause any services that are not usually or “customarily rendered,” or that are for the benefit of a particular tenant in connection with the rental of real property, to be provided through a TRS or through an “independent contractor” who is adequately compensated and from which we do not derive revenue, and which meets certain other requirements. However, the IRS may not concur with our determination as to whether a particular service is usual or customary, or otherwise in this regard.

*Prohibited Transactions Tax.* A REIT will incur a 100% tax on the net income derived from any sale or other disposition of property, other than foreclosure property, that the REIT holds primarily for sale to customers in the ordinary course of a trade or business. Whether a REIT holds an asset primarily for sale to customers in the ordinary course of a trade or business depends, however, on the facts and circumstances in effect from time to time, including those related to a particular asset. While we intend to conduct our operations so that no asset that



we own (or are treated as owning) will be treated as, or as having been, held for sale to customers, and that a sale of any such asset will not be treated as having been in the ordinary course of our business, we cannot assure you that we will comply with certain safe harbor provisions or that we will avoid owning property that may be characterized as property that we hold primarily for sale to customers in the ordinary course of a trade or business. The 100% tax will not apply to gains from the sale of property that is held through a TRS or other taxable corporation, although such income will be subject to tax in the hands of such corporation at regular corporate income tax rates. We intend to structure our activities to avoid prohibited transaction characterization.

*Foreclosure Property.* Foreclosure property is any real property, including interests in real property, and any personal property incident to such real property:

- that is acquired by a REIT as the result of the REIT having bid in such property at foreclosure, or having otherwise reduced such property to ownership or possession by agreement or process of law, after there was a default or default was imminent on a lease of such property or on indebtedness that such property secured;
- for which the related loan was acquired by the REIT at a time when the default was not imminent or anticipated; and
- for which the REIT makes a proper election to treat the property as foreclosure property.

However, a REIT will not be considered to have foreclosed on a property where the REIT takes control of the property as a mortgagee-in-possession and cannot receive any profit or sustain any loss except as a creditor of the mortgagor.

Property generally ceases to be foreclosure property at the end of the third taxable year following the taxable year in which the REIT acquired the property, or longer if an extension is granted by the Secretary of the Treasury. This grace period terminates and foreclosure property ceases to be foreclosure property on the first day:

- on which a lease is entered into for the property that, by its terms, will give rise to income that does not qualify for purposes of the 75% Gross Income Test, or any amount is received or accrued, directly or indirectly, pursuant to a lease entered into on or after such day that will give rise to income that does not qualify for purposes of the 75% Gross Income Test;
- on which any construction takes place on the property, other than completion of a building or any other improvement, if more than 10% of the construction was completed before default became imminent; or
- which is more than 90 days after the day on which the REIT acquired the property and the property is used in a trade or business that is conducted by the REIT, other than through an independent contractor from whom the REIT itself does not derive or receive any income.

We will be subject to tax at the highest U.S. federal corporate income tax rate on any income from foreclosure property, including gain from the disposition of the foreclosure property, other than income that otherwise would be qualifying income for purposes of the 75% Gross Income Test, less expenses directly connected with the production of that income. However, net income from foreclosure property, including gain from the sale of foreclosure property held for sale in the ordinary course of a trade or business, will qualify for purposes of the 75% and 95% gross income tests. Any gain from the sale of property for which a foreclosure property election has been made will not be subject to the 100% tax on gains from prohibited transactions described above, even if the property would otherwise constitute inventory or dealer property.

*Phantom Income.* Due to the nature of the assets in which we will invest, we may be required to recognize taxable income from certain assets in advance of our receipt of cash flow from or proceeds from disposition of such assets, and may be required to report taxable income that exceeds the economic income ultimately realized on such assets.

We may acquire debt instruments in the secondary market for less than their face amount. The amount of such discount generally will be treated as “market discount” for U.S. federal income tax purposes. Accrued market discount is reported as income when, and to the extent that, any payment of principal of the debt instrument is made, unless we elect to include accrued market discount in income as it accrues. Principal payments on certain debt instruments may be made monthly, and consequently accrued market discount may have to be included in income each month as if the debt instrument were assured of ultimately being collected in full. If we collect less on the debt instrument than our purchase price plus the market discount we had previously reported as income, we may not be able to benefit from any offsetting loss deductions.

The terms of the debt instruments that we hold may be modified under certain circumstances. These modifications may be considered “significant modifications” for U.S. federal income tax purposes that give rise to a deemed debt-for-debt exchange upon which we may recognize taxable income or gain without a corresponding receipt of cash.

Some of the debt securities that we acquire may have been issued with original issue discount. In general, we will be required to accrue non-de minimis original issue discount based on the constant yield to maturity of such debt securities, and to treat it as taxable income in accordance with applicable U.S. federal income tax rules even though such yield may exceed cash payments, if any, received on such debt instrument.

In addition, in the event that any debt instruments or debt securities acquired by us are delinquent as to mandatory principal and interest payments, or in the event payments with respect to a particular debt instrument are not made when due, we may nonetheless be required to continue to recognize the unpaid interest as taxable income. Similarly, we may be required to accrue interest income with respect to subordinated mortgage-backed securities at the stated rate regardless of whether corresponding cash payments are received.

Finally, we may be required under the terms of indebtedness that we incur to use cash received from interest payments to make principal payments on that indebtedness, with the effect of recognizing income but not having a corresponding amount of cash available for distribution to our shareholders.

As a result of each of these potential timing differences between income recognition or expense deduction and cash receipts or disbursements, there is a risk that we may have taxable income in excess of cash available for distribution. In that event, we may need to borrow funds or take other action to satisfy the REIT distribution requirements for the taxable year in which this “phantom income” is recognized. See “—*Annual Distribution Requirements Applicable to REITs.*”

### ***Asset Tests***

At the close of each quarter of our taxable year, we must satisfy the following tests relating to the nature of our assets:

- At least 75% of the value of our total assets must be represented by the following:
  - interests in real property, including leaseholds and options to acquire real property and leaseholds;
  - interests in mortgages on real property;
  - stock in other REITs and debt instruments issued by publicly offered REITs;
  - cash and cash items (including certain receivables);
  - government securities;
  - investments in stock or debt instruments attributable to the temporary investment of new capital during the one-year period following our receipt of new capital that we raise through equity offerings or public offerings of debt obligations with at least a five-year term; and

- regular or residual interests in a REMIC. However, if less than 95% of the assets of a REMIC consists of assets that are qualifying real estate-related assets under U.S. federal income tax laws, determined as if we held such assets directly, we will be treated as holding directly our proportionate share of the assets of such REMIC (the “**75% Asset Test**”).
- Not more than 25% of our total assets may be represented by securities, other than those in the 75% asset class described above.
- Except for securities in TRSs and the securities in the 75% asset class described in the first bullet point above, the value of any one issuer’s securities owned by us may not exceed 5% of the value of our total assets (the “**5% Value Test**”).
- Except for securities in TRSs and the securities in the 75% asset class described in the first bullet point above, we may not own more than 10% of any one issuer’s outstanding voting securities (the “**10% Vote Test**”).
- Except for securities of TRSs and the securities in the 75% asset class described in the first bullet point above, we may not own more than 10% of the total value of the outstanding securities of any one issuer, other than securities that qualify for the “straight debt” exception or other exceptions discussed below (the “**10% Value Test**”).
- Not more than 20% of the value of our total assets may be represented by the securities of one or more TRSs.
- Not more than 25% of the value of our total assets may be represented by nonqualified publicly offered REIT debt instruments.

Notwithstanding the general rule, as noted above, that for purposes of the REIT income and asset tests we are treated as owning our proportionate share of the underlying assets of a subsidiary partnership if we hold indebtedness issued by a partnership, the indebtedness will be subject to, and may cause a violation of, the asset tests unless the indebtedness is a qualifying mortgage asset or other conditions are met. Similarly, although stock of another REIT is a qualifying asset for purposes of the REIT asset tests, any non-mortgage debt that is issued by another REIT may not so qualify (although such debt will not be treated as “securities” for purposes of the 10% Value Test, as explained below).

Securities, for purposes of the asset tests, may include debt we hold from other issuers. However, debt we hold in an issuer that does not qualify for purposes of the 75% Asset Test will not be taken into account for purposes of the 10% Value Test if the debt securities meet the straight debt safe harbor. Subject to certain exceptions, debt will meet the “straight debt” safe harbor if the debt is a written unconditional promise to pay on demand or on a specified date a sum certain in money, the debt is not convertible, directly or indirectly, into stock, and the interest rate and the interest payment dates of the debt are not contingent on the profits of any person, the borrower’s discretion or similar factors. In the case of an issuer that is a corporation or a partnership, securities that otherwise would be considered straight debt will not be so considered if we, and any of our “controlled taxable REIT subsidiaries” as defined in the Code, hold any securities of the corporate or partnership issuer that (a) are not straight debt or other excluded securities (prior to the application of this rule), and (b) have an aggregate value greater than 1% of the issuer’s outstanding securities (including, in the case of a partnership issuer, our interest as a partner in the partnership).

In addition to straight debt, the Code provides that certain other securities will not violate the 10% Value Test. Such securities include (i) any loan made to an individual or an estate, (ii) certain rental agreements pursuant to which one or more payments are to be made in subsequent years (other than agreements between a REIT and certain persons related to the REIT under attribution rules), (iii) any obligation to pay rents from real property, (iv) securities issued by governmental entities that are not dependent in whole or in part on the profits of (or payments made by) a non-governmental entity, (v) any security (including debt securities) issued by another REIT and (vi) any debt instrument issued by a partnership if the partnership’s income is of such a nature

that the partnership would satisfy the 75% Gross Income Test described above under “—*Gross Income Tests.*” In applying the 10% Value Test, a debt security issued by a partnership (other than straight debt or any other excluded security) is not taken into account to the extent, if any, of the REIT’s proportionate interest as a partner in that partnership.

Any stock that we hold or acquire in other REITs will be a qualifying asset for purposes of the 75% Asset Test. However, if a REIT in which we own stock fails to qualify as a REIT in any year, the stock in such REIT will not be a qualifying asset for purposes of the 75% Asset Test. Instead, we would be subject to the second, third, fourth, and fifth asset tests described above with respect to our investment in such a disqualified REIT. We will also be subject to those asset tests with respect to our investments in any non-REIT C corporations for which we do not make a TRS election.

We may hold certain mezzanine loans that do not qualify for the safe harbor in Revenue Procedure 2003-65 discussed above pursuant to which certain loans secured by a first priority security interest in equity interests in a pass-through entity that directly or indirectly own real property will be treated as qualifying assets for purposes of the 75% real estate asset test and therefore not be subject to the 10% Vote Test or 10% Value Test. In addition, such mezzanine loans may not qualify as “straight debt” securities or for one of the other exclusions from the definition of “securities” for purposes of the 10% Value Test. We intend to make any such investments in such a manner as not to fail the asset tests described above, but we may not be successful in this regard.

We may hold certain participation interests, including B Notes, in mortgage loans and mezzanine loans originated by other lenders. B Notes are interests in underlying loans created by virtue of participations or similar agreements to which the originators of the loans are parties, along with one or more participants. The borrower on the underlying loan is typically not a party to the participation agreement. The performance of this investment depends upon the performance of the underlying loan, and if the underlying borrower defaults, the participant typically has no recourse against the originator of the loan. The originator often retains a senior position in the underlying loan and grants junior participations which absorb losses first in the event of a default by the borrower. We generally expect to treat our participation interests in mortgage loans and mezzanine loans that qualify for safe harbor under Revenue Procedure 2003-65 as qualifying real estate assets for purposes of the asset tests and interest that we derive from such investments as qualifying mortgage interest for purposes of the 75% gross income test discussed above. The appropriate treatment of participation interests for U.S. federal income tax purposes is not entirely certain, however, and the IRS may challenge our treatment of our participation interests. In the event of a determination that such participation interests do not qualify as real estate assets, or that the income that we derive from such participation interests does not qualify as mortgage interest for purposes of the REIT asset and income tests, we could be subject to a penalty tax, or could fail to qualify as a REIT.

We expect that the assets and mortgage-related securities that we own generally will be qualifying assets for purposes of the 75% Asset Test. However, to the extent that we own non-REMIC CMOs or other debt instruments secured by mortgage loans (rather than by real property) or secured by non-real estate assets, or debt securities issued by C corporations that are not secured by mortgages on real property, those securities will not be qualifying assets for purposes of the 75% Asset Test.

In addition, we may enter into repurchase agreements under which we will nominally sell certain of our assets to a counterparty and simultaneously enter into an agreement to repurchase the sold assets. We believe that we will be treated for U.S. federal income tax purposes as the owner of the assets that are the subject of any such repurchase agreement and the repurchase agreement will be treated as a secured lending transaction notwithstanding that we may transfer record ownership of the assets to the counterparty during the term of the agreement. It is possible, however, that the IRS could assert that we did not own the assets during the term of the repurchase agreement, in which case we could fail to qualify as a REIT.

We will monitor the status of our assets for purposes of the various asset tests and will seek to manage our portfolio to comply at all times with such tests. However, we may not be successful in this effort. Independent

appraisals may not have been obtained to support our conclusions as to the value of our total assets or the value of any particular security or securities. Moreover, the values of some assets may not be susceptible to a precise determination, and values are subject to change in the future. Furthermore, the proper classification of an instrument as debt or equity for U.S. federal income tax purposes may be uncertain in some circumstances, which could affect the application of the REIT asset requirements. Accordingly, the IRS may contend that our interests in our subsidiaries or in the securities of other issuers cause a violation of the REIT asset tests.

However, certain relief provisions are available to allow REITs to satisfy the asset requirements or to maintain REIT qualification notwithstanding certain violations of the asset and other requirements. For example, if we failed to satisfy the asset tests at the end of a calendar quarter, such a failure would not cause us to lose our REIT qualification if (i) we satisfied the asset tests at the close of the preceding calendar quarter and (ii) the discrepancy between the value of our assets and the asset requirements was not wholly or partly caused by an acquisition of nonqualifying assets, but instead arose from changes in the relative market values of our assets. If the condition described in (ii) were not satisfied, we could nevertheless avoid disqualification by eliminating any discrepancy within 30 days after the close of the calendar quarter in which it arose or by making use of the relief provisions described above.

In the case of de minimis violations of the 10% Vote Test, 10% Value Test or the 5% Value Test, a REIT may maintain its qualification despite a violation of such requirements if (i) the value of the assets causing the violation does not exceed the lesser of 1% of the REIT's total assets and \$10,000,000 and (ii) the REIT either disposes of the assets causing the failure within six months after the last day of the quarter in which it identifies the failure, or the relevant tests are otherwise satisfied within that time frame.

Even if we did not qualify for the foregoing relief provisions, a REIT which fails one or more of the asset requirements for a particular tax quarter may nevertheless maintain its REIT qualification if (i) the REIT provides the IRS with a description of each asset causing the failure, (ii) the failure is due to reasonable cause and not willful neglect, (iii) the REIT pays a tax equal to the greater of (a) \$50,000 per failure and (b) the product of the net income generated by the assets that caused the failure multiplied by the corporate tax rate and (iv) the REIT either disposes of the assets causing the failure within six months after the last day of the quarter in which it identifies the failure, or otherwise satisfies the relevant asset tests within that time frame.

#### ***Annual Distribution Requirements Applicable to REITs***

To qualify for taxation as a REIT, we generally must distribute dividends (other than capital gain dividends) to our shareholders in an amount at least equal to:

- the sum of (i) 90% of our REIT taxable income, computed without regard to the dividends paid deduction and our net capital gain and (ii) 90% of our net income after tax, if any, from foreclosure property; minus
- the excess of the sum of specified items of non-cash income (including original issue discount on our mortgage loans) over 5% of our REIT taxable income, computed without regard to the dividends paid deduction and our net capital gain.

Distributions generally must be made during the taxable year to which they relate. Distributions may be made in the following year in two circumstances. First, if we declare a dividend in October, November or December of any year with a record date in one of these months and pay the dividend on or before January 31 of the following year, we will be treated as having paid the dividend on December 31 of the year in which the dividend was declared. Second, distributions may be made in the following year if the dividends are declared before we timely file our tax return for the year and if made before the first regular dividend payment made after such declaration; these distributions are taxable to our shareholders in the year in which paid, even though the distributions relate to our prior taxable year for purposes of the 90% distribution requirement. To the extent that we do not distribute all of our net capital gain or we distribute at least 90%, but less than 100% of our REIT

taxable income, as adjusted, we will be subject to tax on the undistributed amount at regular U.S. federal corporate income tax rates.

To the extent that in the future we may have available net operating losses carried forward from prior tax years, such losses may reduce the amount of distributions that we must make in order to comply with the REIT distribution requirements. Such losses, however, will generally not affect the tax treatment to our shareholders of any distributions that are actually made.

If we fail to distribute during a calendar year (or, in the case of distributions with declaration and record dates falling in the last three months of the calendar year, by the end of January following such calendar year) at least the sum of (i) 85% of our ordinary income for such year, (ii) 95% of our capital gain net income for such year and (iii) any undistributed taxable income from prior years, we will be subject to a 4% excise tax on the excess of such required distribution over the sum of (x) the amounts actually distributed (taking into account excess distributions from prior years) and (y) the amounts of income retained on which we have paid corporate income tax.

Although several types of non-cash income are excluded in determining the annual distribution requirement, we will incur corporate income tax and the 4% nondeductible excise tax with respect to those non-cash income items if we do not distribute those items on a current basis. As a result of the foregoing, we may not have sufficient cash to distribute all of our taxable income and thereby avoid corporate income tax and the excise tax imposed on certain undistributed income. In such a situation, we may need to borrow funds or issue additional shares.

We may elect to retain rather than distribute all or a portion of our net capital gains and pay the tax on the gains. In that case, we may elect to have our shareholders include their proportionate share of the undistributed net capital gains in income as long-term capital gains and receive a credit for their share of the tax paid by us. Our shareholders would then increase the adjusted basis of their shares by the difference between (i) the amounts of capital gain dividends that we designated and that they include in their taxable income, and (ii) the tax that we paid on their behalf with respect to that income. For purposes of the 4% excise tax described above, any retained amounts for which we elect this treatment would be treated as having been distributed.

We intend to make timely distributions sufficient to satisfy the distribution requirements. However, it is possible that, from time to time, we may not have sufficient cash or other liquid assets to meet the distribution requirements, in which case it may be necessary to borrow funds or make non-cash distributions (including, for example, distributions of our own shares) in order to satisfy the distribution requirements.

If our taxable income for a particular year is subsequently determined to have been understated, under some circumstances we may be able to rectify a failure to meet the distribution requirement for a year by paying deficiency dividends to shareholders in a later year, which may be included in our deduction for dividends paid for the earlier year. Thus, we may be able to avoid being taxed on amounts distributed as deficiency dividends. However, we will be required to pay interest based upon the amount of any deduction taken for deficiency dividends.

### ***Penalty Tax***

Any redetermined rents, redetermined deductions, excess interest or redetermined TRS service income we generate will be subject to a 100% penalty tax. In general, redetermined rents are rents from real property that are overstated as a result of any services furnished to any of our tenants by a TRS, and redetermined deductions and excess interest represent any amounts that are deducted by a TRS for amounts paid to us that are in excess of the amounts that would have been deducted based on arm's-length negotiations. Rents that we receive will not constitute redetermined rents if they qualify for certain safe harbor provisions contained in the Code. Redetermined TRS service income is income earned by a TRS that is attributable to services provided to us, or



on our behalf to any of our tenants, that is less than the amounts that would have been charged based upon arms' length negotiations.

### ***Record Keeping Requirements***

We are required to comply with applicable record keeping requirements. Failure to comply could result in monetary fines. For example, we must request on an annual basis information from our shareholders designed to disclose the actual ownership of our outstanding shares.

### ***Failure to Qualify***

If we fail to satisfy one or more requirements of REIT qualification, other than the income tests or asset requirements, then we may still retain REIT qualification if the failure is due to reasonable cause and not willful neglect, and we pay a penalty of \$50,000 for each failure.

If we fail to qualify for taxation as a REIT in any taxable year and the relief provisions do not apply, we will be subject to tax on our taxable income as a corporation. This would significantly reduce both our cash available for distribution to our shareholders and our earnings. If we fail to qualify as a REIT, we will not be required to make any distributions to shareholders and any distributions that are made will not be deductible by us. Moreover, all distributions to shareholders would be taxable as dividends to the extent of our current and accumulated earnings and profits, whether or not attributable to capital gains of ours. Furthermore, subject to certain limitations in the Code, corporate distributees may be eligible for the dividends received deduction with respect to those distributions, and individual, trust and estate distributees may be eligible for reduced U.S. federal income tax rates on such dividends. Unless we are entitled to relief under specific statutory provisions, we also will be disqualified from taxation as a REIT for the four taxable years following the year during which qualification was lost.

### ***Tax Aspects of any Subsidiary Partnerships***

*General.* We may hold certain investments indirectly through subsidiary partnerships and limited liability companies which are treated as partnerships or disregarded entities for U.S. federal income tax purposes. In general, entities that are treated as partnerships or disregarded entities for U.S. federal income tax purposes are "pass-through" entities which are not required to pay U.S. federal income tax. Rather, partners or members of such entities are allocated their shares of the items of income, gain, loss, deduction and credit of the partnership or limited liability company, and are potentially required to pay tax on this income, without regard to whether they receive a distribution from the partnership or limited liability company. A partner in such entities that is a REIT will include in its income its share of these partnership and limited liability company items for purposes of the various gross income tests, the computation of its REIT taxable income, and the REIT distribution requirements. Pursuant to these rules, for purposes of the asset tests, we will include our pro rata share of assets held by any subsidiary partnerships and limited liability companies, based on its capital interest in each such entity.

*Entity Classification.* Our interests in subsidiary partnerships and limited liability companies involve special tax considerations, including the possibility that the IRS might challenge the status of these entities as partnerships (or disregarded entities), as opposed to associations taxable as corporations for U.S. federal income tax purposes. For example, an entity that would otherwise be classified as a partnership for U.S. federal income tax purposes may nonetheless be taxable as a corporation if it is a "publicly traded partnership" (subject to certain exceptions). A partnership or limited liability company would be treated as a publicly traded partnership if its interests are traded on an established securities market or are readily tradable on a secondary market or a substantial equivalent thereof, within the meaning of applicable Treasury regulations. If a subsidiary partnership or limited liability company were treated as an association rather than as a partnership, it would be taxable as a corporation and would be required to pay an entity-level tax on its income. In this situation, the character of our

assets and items of gross income would change and could prevent us from qualifying as a REIT. See “—*Failure to Qualify*” for a discussion of the effects of our failure to meet the REIT asset and income tests. In addition, a change in the tax status of a subsidiary partnership or limited liability company might be treated as a taxable event. If so, we might incur a tax liability without any related cash distributions. We do not anticipate that any subsidiary partnership or limited liability company of ours will be treated as a publicly traded partnership which is taxable as a corporation.

U.S. federal income tax audits of partnerships, such as subsidiary partnerships or limited liability companies treated as partnerships for U.S. federal income tax purposes are conducted at the entity level, but unless such an entity qualifies for and affirmatively elects an alternative procedure, any adjustments to the amount of tax due (including interest and penalties) will be payable by the entity itself. Under an alternative procedure, if elected, a partnership would issue information returns to persons who were partners in the audited year, who would then be required to take such adjustments into account in calculating their own tax liability, and the partnership would not be liable for the adjustments. If any of our subsidiary partnerships or limited liability companies is able to and in fact elects the alternative procedure for a given adjustment, the amount of taxes for which such persons will be liable will be increased by any applicable penalties and a special interest charge. Any such entities may not make such an election for any given adjustment.

### ***Taxation of U.S. Holders of Our Shares***

*U.S. Holder.* As used in the remainder of this discussion, the term “U.S. holder” means a beneficial owner of our shares that is for U.S. federal income tax purposes:

- a citizen or resident of the United States;
- a corporation (or an entity treated as a corporation for U.S. federal income tax purposes) created or organized in or under the laws of the United States, any State thereof or the District of Columbia;
- an estate the income of which is subject to U.S. federal income taxation regardless of its source; or
- a trust if it (i) is subject to the primary supervision of a court within the United States and one or more U.S. persons have the authority to control all substantial decisions of the trust or (ii) has a valid election in effect under applicable Treasury regulations to be treated as a U.S. person.

If a partnership (or an entity or arrangement treated as a partnership for U.S. federal income tax purposes) holds our shares, the tax treatment of a partner will generally depend upon the status of the partner and the activities of the partnership. If you are a partner of a partnership holding shares, you should consult your advisors. A “non-U.S. holder” is a beneficial owner of our shares that is neither a U.S. holder nor a partnership (or an entity or arrangement treated as a partnership for U.S. federal income tax purposes).

*Distributions Generally.* As long as we qualify as a REIT, distributions made by us to our taxable U.S. holders out of our current or accumulated earnings and profits that are not designated as capital gain dividends or “qualified dividend income” will be taken into account by them as ordinary income taxable at ordinary income tax rates and will not qualify for the reduced capital gains rates that currently generally apply to distributions by non-REIT C corporations to certain non-corporate U.S. holders. In determining the extent to which a distribution constitutes a dividend for tax purposes, our earnings and profits will be allocated first to distributions with respect to our preferred shares, if any, and then to our common shares. Corporate shareholders will not be eligible for the dividends received deduction with respect to these distributions. Under the current tax law, U.S. holders that are individuals, trusts and estates generally may deduct 20% of “qualified REIT dividends” (i.e., REIT dividends other than capital gain dividends and portions of REIT dividends designated as qualified dividend income eligible for capital gain tax rates). The overall deduction is limited to 20% of the sum of the taxpayer’s taxable income (less net capital gain) and certain cooperative dividends, subject to further limitations based on taxable income. The deduction, if allowed in full, equates to a maximum effective U.S. federal income

tax rate on ordinary REIT dividends of 29.6%. Without further legislation, the deduction would sunset after 2025.

Distributions in excess of both current and accumulated earnings and profits will not be taxable to a U.S. holder to the extent that the distributions do not exceed the adjusted basis of the holder's shares. Rather, such distributions will reduce the adjusted basis of the shares. To the extent that distributions exceed the adjusted basis of a U.S. holder's shares, the U.S. holder generally must include such distributions in income as long-term capital gain if the shares have been held for more than one year, or short-term capital gain if the shares have been held for one year or less.

Distributions will generally be taxable, if at all, in the year of the distribution. However, if we declare a dividend in October, November or December of any year with a record date in one of these months and pay the dividend on or before January 31 of the following year, we will be treated as having paid the dividend, and the shareholder will be treated as having received the dividend, on December 31 of the year in which the dividend was declared.

We will be treated as having sufficient earnings and profits to treat as a dividend any distribution we pay up to the amount required to be distributed in order to avoid imposition of the 4% excise tax discussed above. Moreover, any "deficiency dividend" will be treated as an ordinary or capital gain dividend, as the case may be, regardless of our earnings and profits. As a result, U.S. holders may be required to treat certain distributions that would otherwise result in a tax-free return of capital as taxable dividends.

*Capital Gain Dividends.* We may elect to designate distributions of our net capital gain as "capital gain dividends" to the extent that such distributions do not exceed our actual net capital gain for the taxable year. Capital gain dividends are taxed to U.S. holders of our shares as gain from the sale or exchange of a capital asset held for more than one year. This tax treatment applies regardless of the period during which the shareholders have held their shares. If we designate any portion of a dividend as a capital gain dividend, the amount that will be taxable to the shareholder as capital gain will be indicated to U.S. holders on IRS Form 1099-DIV. Corporate shareholders, however, may be required to treat up to 20% of capital gain dividends as ordinary income. Capital gain dividends are not eligible for the dividends received deduction for corporations.

Instead of paying capital gain dividends, we may elect to require shareholders to include our undistributed net capital gains in their income. If we make such an election, U.S. holders (i) will include in their income as long-term capital gains their proportionate share of such undistributed capital gains and (ii) will be deemed to have paid their proportionate share of the tax paid by us on such undistributed capital gains and thereby receive a credit or refund to the extent that the tax paid by us exceeds the U.S. holder's tax liability on the undistributed capital gain. A U.S. holder of our shares will increase the basis in its shares by the difference between the amount of capital gain included in its income and the amount of tax it is deemed to have paid. A U.S. holder that is a corporation will appropriately adjust its earnings and profits for the retained capital gain in accordance with Treasury regulations to be prescribed by the IRS. Our earnings and profits will be adjusted appropriately.

We must classify portions of our designated capital gain dividend into the following categories:

- a 20% gain distribution, which would be taxable to non-corporate U.S. holders of our shares at a federal rate of up to 20%; or
- an unrecaptured Section 1250 gain distribution, which would be taxable to non-corporate U.S. holders of our shares at a maximum rate of 25%.

We must determine the maximum amounts that we may designate as 20% and 25% capital gain dividends by performing the computation required by the Code as if the REIT were an individual whose ordinary income were subject to a marginal tax rate of at least 28%. The IRS currently requires that distributions made to different classes of shares be comprised proportionately of dividends of a particular type.

*Passive Activity Loss and Investment Interest Limitation.* Distributions that we make and gains arising from the disposition of our shares by a U.S. holder will not be treated as passive activity income, and therefore U.S. holders will not be able to apply any “passive activity losses” against such income. Dividends paid by us, to the extent they do not constitute a return of capital, will generally be treated as investment income for purposes of the investment income limitation on the deduction of the investment interest.

*Qualified Dividend Income.* Distributions that are treated as dividends may be taxed at capital gains rates, rather than ordinary income rates, if they are distributed to an individual, trust or estate, are properly designated by us as qualified dividend income and certain other requirements are satisfied. Dividends are eligible to be designated by us as qualified dividend income up to an amount equal to the sum of the qualified dividend income received by us during the year of the distribution from other C corporations such as TRSs, our “undistributed” REIT taxable income from the immediately preceding year, and any income attributable to the sale of a built-in gain asset from the immediately preceding year (reduced by any U.S. federal income taxes that we paid with respect to such REIT taxable income and built-in gain).

Dividends that we receive will be treated as qualified dividend income to us if certain criteria are met. The dividends must be received from a domestic corporation (other than a REIT or a regulated investment company) or a qualifying foreign corporation. A foreign corporation generally will be a qualifying foreign corporation if it is incorporated in a possession of the United States, the corporation is eligible for benefits of an income tax treaty with the United States which the Secretary of Treasury determines is satisfactory, or the shares on which the dividend is paid is readily tradable on an established securities market in the United States. However, if a foreign corporation is a foreign personal holding company, a foreign investment company or a passive foreign investment company, then it will not be treated as a qualifying foreign corporation, and the dividends we receive from such an entity would not constitute qualified dividend income.

Furthermore, certain exceptions and special rules apply to determine whether dividends may be treated as qualified dividend income to us. These rules include certain holding requirements that we would have to satisfy with respect to the shares on which the dividend is paid, and special rules with regard to dividends received from regulated investment companies and other REITs.

In addition, even if we designate certain dividends as qualified dividend income to our shareholders, the shareholder will have to meet certain other requirements for the dividend to qualify for taxation at capital gains rates. For example, the shareholder will only be eligible to treat the dividend as qualifying dividend income if the shareholder is taxed at individual rates and meets certain holding requirements. In general, in order to treat a particular dividend as qualified dividend income, a shareholder will be required to hold our shares for more than 60 days during the 121-day period beginning on the date which is 60 days before the date on which the share becomes ex-dividend.

*Other Tax Considerations.* To the extent that we have available net operating losses and capital losses carried forward from prior tax years, such losses may reduce the amount of distributions that we must make in order to comply with the REIT distribution requirements. Such losses, however, are not passed through to shareholders and do not offset income of shareholders from other sources, nor would such losses affect the character of any distributions that we make, which are generally subject to tax in the hands of shareholders to the extent that we have current or accumulated earnings and profits.

Although not expected, if excess inclusion income from a taxable mortgage pool or REMIC residual interest is allocated to a U.S. shareholder, that income will be taxable in the hands of the U.S. shareholder and would not be offset by any net operating losses of the U.S. shareholder that would otherwise be available. See “—*Taxable Mortgage Pools*” above. As required by IRS guidance, we intend to notify our U.S. shareholders if a portion of a dividend paid by us is attributable to excess inclusion income.

*Sales of Our Shares.* Upon any taxable sale or other disposition of our shares (except pursuant to a repurchase by us, as described below), a U.S. holder of our shares will recognize gain or loss for U.S. federal income tax purposes in an amount equal to the difference between:

- the amount of cash and the fair market value of any property received on such disposition; and
- the U.S. holder's adjusted basis in such shares for tax purposes.

Gain or loss will be capital gain or loss if the shares have been held by the U.S. holder as a capital asset. The applicable tax rate will depend on the holder's holding period in the asset (generally, if an asset has been held for more than one year, it will produce long-term capital gain) and the holder's tax bracket.

In general, any loss upon a sale or exchange of our shares by a U.S. holder who has held such shares for six months or less (after applying certain holding period rules) will be treated as a long-term capital loss, but only to the extent of distributions from us received by such U.S. holder that are required to be treated by such U.S. holder as long-term capital gains.

*Repurchases of Our Shares.* A repurchase of our shares will be treated as a distribution in exchange for the repurchased shares and taxed in the same manner as any other taxable sale or other disposition of our shares discussed above, provided that the repurchase satisfies one of the tests enabling the repurchase to be treated as a sale or exchange. A repurchase will generally be treated as a sale or exchange if it (i) results in a complete termination of the holder's interest in our shares, (ii) results in a substantially disproportionate redemption with respect to the holder, or (iii) is not essentially equivalent to a dividend with respect to the holder. In determining whether any of these tests has been met, shares actually owned, as well as shares considered to be owned by the holder by reason of certain constructive ownership rules set forth in Section 318 of the Code, generally must be taken into account. The sale of shares pursuant to a repurchase generally will result in a "substantially disproportionate" redemption with respect to a holder if the percentage of our then outstanding voting shares owned by the holder immediately after the sale is less than 80% of the percentage of our voting shares owned by the holder determined immediately before the sale. The sale of shares pursuant to a repurchase generally will be treated as not "essentially equivalent to a dividend" with respect to a holder if the reduction in the holder's proportionate interest in our shares as a result of our repurchase constitutes a "meaningful reduction" of such holder's interest.

A repurchase that does not qualify as an exchange under such tests will constitute a dividend equivalent repurchase that is treated as a taxable distribution and taxed in the same manner as regular distributions, as described above under "*Distributions Generally.*" In addition, although guidance is sparse, the IRS could take the position that a holder who does not participate in any repurchase treated as a dividend should be treated as receiving a constructive distribution of our shares taxable as a dividend in the amount of their increased percentage ownership of our shares as a result of the repurchase, even though the holder did not actually receive cash or other property as a result of the repurchase.

#### ***Taxation of Non-U.S. Holders of Our Shares***

*The rules governing the U.S. federal income taxation of non-U.S. holders are complex. This section is only a summary of such rules.*

**We urge non-U.S. holders to consult their own tax advisors to determine the impact of federal, state, local and foreign income tax laws on ownership and disposition of the shares, including any reporting requirements.**

*Distributions.* Distributions by us to a non-U.S. holder on our shares that are neither attributable to gain from sales or exchanges by us of "U.S. real property interests" nor designated by us as capital gains dividends will be treated as dividends of ordinary income to the extent that they are made out of our current or accumulated earnings and profits. These distributions generally will be subject to U.S. federal withholding tax on a gross basis at a rate of 30%, or a lower rate as may be specified under an applicable income tax treaty, unless the dividends



are treated as effectively connected with the conduct by the non-U.S. holder of a trade or business within the United States. Under some treaties, however, lower rates generally applicable to dividends do not apply to dividends from REITs. Further, if we engage in transactions that result in a portion of our dividends being considered excess inclusion income, reduced treaty rates are not available to the extent the income allocated to the non-U.S. holder is excess inclusion income. Dividends that are effectively connected with the non-U.S. holder's conduct of a trade or business within the United States (and, if required by an applicable income tax treaty, are attributable to a U.S. permanent establishment) will be subject to tax on a net basis, that is, after allowance for deductions, at graduated rates, in the same manner as U.S. holders are taxed with respect to these dividends, and are generally not subject to withholding. Applicable certification and disclosure requirements must be satisfied to be exempt from withholding under the effectively connected income exception. Any dividends received by a corporate non-U.S. holder that is engaged in a trade or business within the United States may also be subject to an additional branch profits tax at a 30% rate, or lower applicable treaty rate.

A non-U.S. holder of our shares who wishes to claim the benefit of an applicable treaty rate and avoid backup withholding, as discussed below, for our ordinary dividends will be required (i) to complete the applicable IRS Form W-8 and certify under penalty of perjury that such holder is not a U.S. person as defined under the Code and is eligible for treaty benefits or (ii) if our shares are held through certain foreign intermediaries, to satisfy the relevant certification requirements of applicable Treasury regulations. Special certification and other requirements apply to certain non-U.S. holders that are pass-through entities rather than corporations or individuals.

A non-U.S. holder of our shares eligible for a reduced rate of U.S. withholding tax pursuant to an income tax treaty may obtain a refund of any excess amounts withheld by timely filing an appropriate claim for refund with the IRS.

Distributions that are neither attributable to gain from sales or exchanges of "U.S. real property interests" nor designated as capital gains dividends and that are in excess of our current or accumulated earnings and profits that do not exceed the adjusted basis of the non-U.S. holder in its shares will reduce the non-U.S. holder's adjusted basis in its shares and will not be subject to U.S. federal income tax. Distributions that are neither attributable to gain from sales or exchanges of "U.S. real property interests" nor designated as capital gains dividends and that are in excess of current and accumulated earnings and profits that do exceed the adjusted basis of the non-U.S. holder in its shares will be treated as gain from the sale of its shares, the tax treatment of which is described below under "*Sales of Our Shares*." Because we generally cannot determine at the time we make a distribution whether or not the distribution will exceed our current and accumulated earnings and profits, we normally will withhold tax on the entire amount of any distribution at the same rate as we would withhold on a dividend.

We would be required to withhold at least 15% of any distribution to a non-U.S. holder in excess of our current and accumulated earnings and profits if our shares constitute a U.S. real property interest with respect to such non-U.S. holder, as described below under "*Sales of Our Shares*." This withholding would apply even if a lower treaty rate otherwise applies or the non-U.S. holder is not liable for tax on the receipt of that distribution. However, a non-U.S. holder may seek a refund of these amounts from the IRS if the non-U.S. holder's U.S. tax liability with respect to the distribution is less than the amount withheld.

Distributions to a non-U.S. holder that are designated by us at the time of the distribution as capital gain dividends, other than those arising from the disposition of a U.S. real property interest, generally should not be subject to U.S. federal income taxation unless:

- The investment in the shares is effectively connected with the non-U.S. holder's conduct of a trade or business in the United States (and, if required by an applicable income tax treaty, is attributable to a U.S. permanent establishment of the non-U.S. holder), in which case the non-U.S. holder will generally be subject to the same treatment as U.S. holders with respect to any gain, except that a holder that is a foreign corporation also may be subject to the 30% branch profits tax, as discussed above; or



- The non-U.S. holder is an individual who is present in the United States for 183 days or more during the taxable year of the distribution and has a “tax home” in the United States, in which case the individual will be subject to a 30% tax on the individual’s capital gains.

Under the Foreign Investment in Real Property Tax Act of 1980 (“**FIRPTA**”), distributions to a non-U.S. holder that are attributable to gain from sales or exchanges by us of U.S. real property interests (for example, in the event we acquire such interests as the result of a foreclosure and subsequently dispose of such interests), whether or not designated as capital gain dividends, will cause the non-U.S. holder to be treated as recognizing gain that is income effectively connected with the conduct of a trade or business in the United States. Non-U.S. holders will be taxed on this gain at the same rates applicable to U.S. holders, subject to a special alternative minimum tax in the case of nonresident alien individuals. Also, this gain may be subject to a 30% (or lower applicable treaty rate) branch profits tax in the hands of a non-U.S. holder that is a corporation. A distribution is not attributable to a U.S. real property interest if we held an interest in the underlying asset solely as a creditor.

We will be required to withhold and remit to the IRS the highest rate of U.S. federal income tax applicable to each non-U.S. holder, based on the status of such holder, of any distributions to non-U.S. holders that are designated as capital gain dividends, or, if greater, the highest rate of U.S. federal income tax applicable to each non-U.S. holder, based on the status of such holder, of a distribution that could have been designated as a capital gain dividend, whether or not attributable to sales of U.S. real property interests. Distributions can be designated as capital gain dividends to the extent of our net capital gain for the taxable year of the distribution. The amount withheld, which for individual non-U.S. holders may exceed the actual tax liability, is creditable against the non-U.S. holder’s U.S. federal income tax liability.

However, the above withholding tax will not apply to any capital gain dividend with respect to (i) any class of our shares which is “regularly traded” on an established securities market located in the United States if the non-U.S. holder did not own more than 10% of such class of shares at any time during the one-year period ending on the date of such dividend or (ii) a “qualified shareholder” or a “qualified foreign pension fund.” Instead, any capital gain dividend will be treated as a distribution subject to the rules discussed above under “—*Distributions.*” Also, the branch profits tax would not apply to such a distribution. However, it is not anticipated that our shares will be “regularly traded” on an established securities market.

Although the law is not clear on the matter, it appears that amounts we designate as undistributed capital gains in respect of the shares held by U.S. holders generally should be treated with respect to non-U.S. holders in the same manner as actual distributions by us of capital gain dividends. Under that approach, the non-U.S. holders would be able to offset as a credit against their U.S. federal income tax liability resulting therefrom their proportionate share of the tax paid by us on the undistributed capital gains, and to receive from the IRS a refund to the extent that their proportionate share of this tax paid by us were to exceed their actual U.S. federal income tax liability. If we were to designate a portion of our net capital gain as undistributed capital gain, a non-U.S. holder is urged to consult its tax advisor regarding the taxation of such undistributed capital gain.

*Sales of Our Shares.* Subject to the discussion below under “—*Repurchases of Our Shares,*” gain recognized by a non-U.S. holder upon the sale or exchange of our shares generally would not be subject to U.S. taxation unless:

- the investment in our shares is effectively connected with the non-U.S. holder’s conduct of a trade or business in the United States (and, if required by an applicable income tax treaty, is attributable to a U.S. permanent establishment of the non-U.S. holder), in which case the non-U.S. holder will be subject to the same treatment as domestic holders with respect to any gain;
- the non-U.S. holder is a nonresident alien individual who is present in the United States for 183 days or more during the taxable year and has a tax home in the United States, in which case the nonresident alien individual will be subject to a 30% tax on the individual’s net capital gains for the taxable year; or

- the non-U.S. holder is not a qualified shareholder or a qualified foreign pension fund and our shares constitute U.S. real property interests within the meaning of FIRPTA, as described below.

Our shares will not generally constitute a U.S. real property interest within the meaning of FIRPTA as long as (i) we are not a “United States real property holding corporation” during a specified testing period and certain procedural requirements are satisfied or (ii) we are a domestically-controlled REIT. A “United States real property holding corporation” is a U.S. corporation that at any time during the applicable testing period owned U.S. real property interests that exceeded in value 50% of the value of the corporation’s U.S. real property interests, interests in real property located outside the United States and other assets used in the corporation’s trade or business. We do not expect that 50% or more of our assets will consist of U.S. real property interests. Even if our shares otherwise would be a U.S. real property interest under the foregoing test, our shares will not constitute a U.S. real property interest if we are a domestically-controlled REIT. We will be a domestically-controlled REIT if, at all times during a specified testing period, less than 50% in value of our shares is held directly or indirectly by non-U.S. holders. No assurance can be given, however, that we are or will be a domestically-controlled REIT.

Proposed Treasury regulations issued on December 29, 2022 (the “**Proposed Regulations**”) would modify the existing Treasury regulations relating to the determination of whether we are a domestically-controlled REIT by providing a look-through rule for our shareholders that are non-publicly traded partnerships, REITs, regulated investment companies or domestic “C” corporations owned 25% or more directly or indirectly by foreign persons (“**foreign owned domestic corporations**”) and by treating “qualified foreign pension funds” as foreign persons for this purpose. Although the Proposed Regulations are intended to be effective after they are finalized, the preamble to the Proposed Regulations state that the IRS may challenge contrary positions that are taken before the Proposed Regulations are finalized. Moreover, the Proposed Regulations would apply to determine whether a REIT was domestically controlled for the entire five-year testing period prior to any disposition of our shares, rather than applying only to the portion of the testing period beginning after the Proposed Regulations are finalized. The Proposed Regulations relating to foreign owned domestic corporations are inconsistent with prior tax guidance. We cannot predict if or when or in what form the Proposed Regulations will be finalized or what our composition of investors that are treated as domestic under these final regulations will be at the time of enactment. Please consult your tax advisor.

Even if we were not a domestically-controlled REIT, a sale of shares by a non-U.S. holder would nevertheless not be subject to taxation under FIRPTA as a sale of a U.S. real property interest if:

- our shares were “regularly traded” on an established securities market within the meaning of applicable Treasury regulations; and
- the non-U.S. holder did not actually, or constructively under specified attribution rules under the Code, own more than 10% of our shares at any time during the shorter of the five-year period preceding the disposition or the holder’s holding period.

However, it is not anticipated that our shares will be “regularly traded” on an established securities market. If gain on the sale or exchange of our shares were subject to taxation under FIRPTA, the non-U.S. holder would be subject to regular U.S. federal income tax with respect to any gain in the same manner as a taxable U.S. holder, subject to any applicable alternative minimum tax and special alternative minimum tax in the case of nonresident alien individuals. In such a case, under FIRPTA the purchaser of shares may be required to withhold 15% of the purchase price and remit this amount to the IRS.

*Qualified Shareholders.* Subject to the exception discussed below, a qualified shareholder who holds our shares directly or indirectly (through one or more partnerships) will not be subject to FIRPTA withholding on distributions by us or dispositions of our shares. While a qualified shareholder will not be subject to FIRPTA withholding on distributions by us or dispositions of our shares, certain investors of a qualified shareholder (i.e., non-U.S. persons who hold interests in the qualified shareholder (other than interests solely as a creditor), and hold more than 10% of our shares (whether or not by reason of the investor’s ownership in the qualified shareholder)) may be subject to FIRPTA withholding.

A qualified shareholder is a non-U.S. person that (i) either is eligible for the benefits of a comprehensive income tax treaty which includes an exchange of information program and whose principal class of interests is listed and regularly traded on one or more recognized stock exchanges (as defined in such comprehensive income tax treaty), or is a foreign partnership that is created or organized under foreign law as a limited partnership in a jurisdiction that has an agreement for the exchange of information with respect to taxes with the United States and has a class of limited partnership units representing greater than 50% of the value of all the partnership units that is regularly traded on the New York Stock Exchange (“NYSE”) or NASDAQ markets, (ii) is a “qualified collective investment vehicle” (within the meaning of Section 897(k)(3)(B) of the Code), and (iii) maintains records on the identity of each person who, at any time during the non-U.S. person’s taxable year, is the direct owner of 5% or more of the class of interests or units (as applicable) described in (i), above.

*Qualified Foreign Pension Funds.* Any distribution to a qualified foreign pension fund or qualified controlled entity (or a foreign partnership that is entirely owned by a qualified foreign pension fund or qualified controlled entity) who holds our shares will not be subject to FIRPTA withholding on distributions by us or dispositions of our shares.

A qualified foreign pension fund is any trust, corporation, or other organization or arrangement (i) which is created or organized under the law of a country other than the United States, (ii) which is established (a) by such country (or one or more political subdivisions thereof) to provide retirement or pension benefits to participants or beneficiaries that are current or former employees (including self-employed individuals) or persons designated by such employees, as a result of services rendered by such employees to their employers or (b) by one or more employers to provide retirement or pension benefits to participants or beneficiaries that are current or former employees (including self-employed individuals) or persons designated by such employees in consideration for services rendered by such employees to such employers, (iii) which does not have a single participant or beneficiary with a right to more than 5% of its assets or income, (iv) which is subject to government regulation and with respect to which annual information reporting about its beneficiaries is provided, or is otherwise available, to the relevant tax authorities in the country in which it is established or operates, and (v) with respect to which, under the laws of the country in which it is established or operates, (a) contributions to such trust, corporation, organization or arrangement that would otherwise be subject to tax under such laws are deductible or excluded from the gross income of such entity or arrangement or taxed at a reduced rate, or (b) taxation of any investment income of such trust, corporation, organization or arrangement is deferred or such income is excluded from the gross income of such entity or arrangement or is taxed at a reduced rate. A qualified controlled entity is any trust or corporation organized under the laws of a foreign country, all of the interests of which (other than an interest solely as a creditor) are held directly by one or more qualified foreign pension funds or indirectly by one or more qualified foreign pension funds through one or more qualified controlled entities or partnerships.

**We urge non-U.S. holders to consult their own tax advisors to determine their eligibility for exemption from FIRPTA withholding and their qualification as a qualified shareholder, a qualified foreign pension fund, a qualified controlled entity or a foreign partnership that is entirely owned by a qualified foreign pension fund or qualified controlled entity.**

*Repurchases of Our Shares.* A repurchase of our shares that is not treated as a sale or exchange will be taxed in the same manner as regular distributions under the rules described above. See “—Taxation of U.S. Holders of Our Shares—Repurchases of Our Shares” for a discussion of when a redemption will be treated as a sale or exchange and related matters.

A repurchase of our shares generally will be subject to tax under FIRPTA to the extent the distribution in the repurchase is attributable to gains from our dispositions of U.S. real property interests. To the extent the distribution is not attributable to gains from our dispositions of U.S. real property interests, the excess of the amount of money received in the repurchase over the non-U.S. holder’s basis in the repurchased shares will be treated in the manner described above under “—Sales of Our Shares.” The IRS has released an official notice stating that repurchase payments may be attributable to gains from dispositions of U.S. real property interests

(except when the 10% publicly traded exception would apply), but has not provided any guidance to determine when and what portion of a repurchase payment is a distribution that is attributable to gains from our dispositions of U.S. real property interests. Due to the uncertainty, we may withhold at the highest rate of U.S. federal income tax applicable to each non-U.S. holder, based on the status of such holder, from all or a portion of repurchase payments to non-U.S. holders other than qualified shareholders or qualified foreign pension funds. To the extent the amount of tax we withhold exceeds the amount of a non-U.S. holder's U.S. federal income tax liability, the non-U.S. holder may file a U.S. federal income tax return and claim a refund.

*U.S. Federal Income Tax Returns.* If a non-U.S. holder is subject to taxation under FIRPTA on proceeds from the sale of our shares or on distributions we make, the non-U.S. holder will be required to file a U.S. federal income tax return.

**Prospective non-U.S. holders are urged to consult their tax advisors to determine the impact of U.S. federal, state, local and foreign income tax laws on their acquisition, ownership and disposition of our shares, including any reporting requirements.**

#### *Taxation of Tax-Exempt Holders of Our Shares*

Provided that a tax-exempt holder has not held its shares as “debt-financed property” within the meaning of the Code and our shares of beneficial interest are not being used in an unrelated trade or business, dividend income from us generally will not be unrelated business taxable income (“UBTI”) to a tax-exempt holder. Similarly, income from the sale of our shares will not constitute UBTI unless the tax-exempt holder has held its shares as debt-financed property within the meaning of the Code or has used the shares in a trade or business.

Although not expected, to the extent that we are (or part of us, or a disregarded subsidiary of ours, is) a taxable mortgage pool, or we hold residual interests in a REMIC, the portion of the dividends paid to a U.S. tax-exempt holder that is allocable to excess inclusion income will be treated as UBTI. If, however, excess inclusion income is allocable to some categories of U.S. tax-exempt holders that are not subject to UBTI, we might be subject to corporate level tax on such income, and, in that case, may reduce the amount of distributions to those holders whose ownership gave rise to the tax. See “—*Taxable Mortgage Pools*” above. As required by IRS guidance, we intend to notify our shareholders if a portion of a dividend paid by us is attributable to excess inclusion income.

Further, for a tax-exempt holder that is a social club, voluntary employee benefit association, supplemental unemployment benefit trust or qualified group legal services plan exempt from U.S. federal income taxation under Sections 501(c)(7), (c)(9), (c)(17) and (c)(20) of the Code, respectively, or a single parent title-holding corporation exempt under Section 501(c)(2) the income of which is payable to any of the aforementioned tax-exempt organizations, income from an investment in our shares will constitute UBTI unless the organization properly sets aside or reserves such amounts for purposes specified in the Code. These tax-exempt holders should consult their own tax advisors concerning these “set aside” and reserve requirements.

Notwithstanding the above, however, a portion of the dividends paid by a “pension-held REIT” are treated as UBTI as to any trust which is described in Section 401(a) of the Code, is tax-exempt under Section 501(a) of the Code, and holds more than 10%, by value, of the interests in the REIT. Tax-exempt pension funds that are described in Section 401(a) of the Code are referred to below as “pension trusts.”

A REIT is a “pension-held REIT” if it meets the following two tests:

- it would not have qualified as a REIT but for Section 856(h)(3) of the Code, which provides that stock owned by pension trusts will be treated, for purposes of determining whether the REIT is closely held, as owned by the beneficiaries of the trust rather than by the trust itself; and

- either (i) at least one pension trust holds more than 25% of the value of the interests in the REIT, or (ii) a group of pension trusts each individually holding more than 10% of the value of the REIT's stock, collectively owns more than 50% of the value of the REIT's stock.

The percentage of any REIT dividend from a "pension-held REIT" that is treated as UBTI is equal to the ratio of the UBTI earned by the REIT, treating the REIT as if it were a pension trust and therefore subject to tax on UBTI, to the total gross income of the REIT. An exception applies where the percentage is less than 5% for any year, in which case none of the dividends would be treated as UBTI. The provisions requiring pension trusts to treat a portion of REIT distributions as UBTI will not apply if the REIT is not a "pension-held REIT" (for example, if the REIT is able to satisfy the "not closely held requirement" without relying on the "look through" exception with respect to pension trusts). Because of our Declaration of Trust's restrictions on the number of our shares that a person may own, we do not anticipate that we will become a "pension-held REIT."

**Prospective tax-exempt holders are urged to consult their tax advisors regarding the impact of U.S. federal, state, local and foreign income tax laws on their acquisition, ownership and disposition of our shares, including any reporting requirements.**

#### ***Distribution Reinvestment Plan***

Holders who participate in the distribution reinvestment plan will recognize taxable income in the amount they would have received had they elected not to participate, even though they receive no cash. These deemed distributions will be treated as actual distributions from us to the participating holders and will retain the character and U.S. federal income tax effects applicable to all distributions. Shares received under the plan will have a holding period beginning with the day after purchase, and a U.S. federal income tax basis equal to their cost, which is the gross amount of the deemed distribution.

#### ***Backup Withholding Tax and Information Reporting***

*U.S. Holders of Common Shares.* In general, information-reporting requirements will apply to payments of dividends and proceeds of the sale of our shares held by U.S. holders, unless such U.S. holder is an exempt recipient. A backup withholding tax may apply to such payments if such U.S. holder fails to provide a taxpayer identification number or certification of other exempt status or fails to report in full dividend or interest income. In addition, we may be required to withhold a portion of capital gain distributions to any U.S. holders who fail to certify their U.S. status to us. Any amounts withheld under the backup withholding rules will be allowed as a credit against your U.S. federal income tax liability, provided that the required information is timely furnished to the IRS.

Brokers that are required to report the gross proceeds from a sale of our shares on IRS Form 1099-B will also be required to report the customer's adjusted basis in the shares sold and whether any gain or loss with respect to such shares is long-term or short-term. In some cases, there may be alternative methods of determining the basis in the shares sold, in which case your broker will apply a default method of its choosing if you do not indicate which method you choose to have applied. U.S. holders should consult their own tax advisors regarding these reporting requirements and their election options.

*Non-U.S. Holders of Our Shares.* We must report annually to the IRS and to each non-U.S. holder the amount of dividends paid to such holder and the tax withheld with respect to such dividends, regardless of whether withholding was required. Copies of the information returns reporting such dividends and withholding may also be made available to the tax authorities in the country in which the non-U.S. holder resides under the provisions of an applicable income tax treaty.

A non-U.S. holder will be subject to backup withholding for dividends paid to such holder unless such holder certifies under penalty of perjury that it is a non-U.S. holder (and the payor does not have actual knowledge or reason to know that such holder is a "United States person" as defined under the Code), or such holder otherwise establishes an exemption.



Information reporting and, depending on the circumstances, backup withholding will apply to the proceeds of a sale of our shares within the United States or conducted through certain U.S.-related financial intermediaries, unless the beneficial owner certifies under penalty of perjury that it is a non-U.S. holder (and the payor does not have actual knowledge or reason to know that the beneficial owner is a “United States person” as defined under the Code), or such owner otherwise establishes an exemption.

Any amounts withheld under the backup withholding rules may be allowed as a refund or a credit against a non-U.S. holder’s U.S. federal income tax liability provided the required information is timely furnished to the IRS.

#### ***Legislative or Other Actions Affecting REITs***

The present U.S. federal income tax treatment of REITs may be modified, possibly with retroactive effect, by legislative, judicial or administrative action at any time. The REIT rules are constantly under review by persons involved in the legislative process and by the IRS and the Treasury, which may result in statutory changes as well as revisions to regulations and interpretations. Changes to the U.S. federal tax laws and interpretations thereof could adversely affect an investment in our shares.

#### ***Tax Shelter Reporting***

If a shareholder recognizes a loss with respect to our shares of \$2 million or more for an individual shareholder or \$10 million or more for a corporate shareholder, the shareholder must file a disclosure statement with the IRS on Form 8886. Direct shareholders of portfolio securities are in many cases exempt from this reporting requirement, but shareholders of a REIT currently are not excepted. The fact that a loss is reportable under these regulations does not affect the legal determination of whether the taxpayer’s treatment of the loss is proper. Shareholders should consult their tax advisors to determine the applicability of these regulations in light of their individual circumstances.

#### ***Additional Withholding Requirements***

Under Sections 1471 through 1474 of the Code (such Sections commonly referred to as “FATCA”), a 30% U.S. federal withholding tax may apply to any ordinary dividends and other distributions that we pay to (i) a “foreign financial institution” (as specifically defined in the Code and whether such foreign financial institution is the beneficial owner or an intermediary) which does not provide sufficient documentation, typically on IRS Form W-8BEN-E, evidencing either (x) an exemption from FATCA, or (y) its compliance (or deemed compliance) with FATCA (which may alternatively be in the form of compliance with an intergovernmental agreement with the United States) in a manner that avoids withholding, or (ii) a “non-financial foreign entity” (as specifically defined in the Code and whether such non-financial foreign entity is the beneficial owner or an intermediary) which does not provide sufficient documentation, typically on IRS Form W-8BEN-E, evidencing either (x) an exemption from FATCA, or (y) adequate information regarding certain substantial U.S. beneficial owners of such entity (if any). If a dividend payment is both subject to withholding under FATCA and subject to withholding tax discussed above, the withholding under FATCA may be credited against, and therefore reduce, such other withholding tax. While withholding under FATCA would also have applied to payments of gross proceeds from the sale or other taxable disposition of the notes, proposed U.S. Treasury regulations (upon which taxpayers may rely until final regulations are issued) eliminate FATCA withholding on payments of gross proceeds entirely. Non-U.S. holders should consult their tax advisors to determine the applicability of this legislation in light of their individual circumstances.

#### ***Certain ERISA Considerations***

The following is a summary of certain considerations associated with an investment in the Company by any (i) “employee benefit plan” (within the meaning of Section 3(3) of the Employee Retirement Income Security



Act of 1974, as amended (“ERISA”)) that are subject to Title I of ERISA, (ii) “plan” described in Section 4975 of the Code that is subject to Section 4975 of the Code (including, without limitation, an individual retirement account (an “IRA”) and a “Keogh” plan), (iii) plan, fund, account or other arrangement that is subject to the provisions of any other federal, state, local, non-U.S. or other laws or regulations that are similar to the fiduciary responsibility or prohibited transaction provisions of Title I of ERISA or Section 4975 of the Code (collectively, “Similar Laws”), and (iv) entity whose underlying assets are considered to include the assets of any of the foregoing described in clauses (i), (ii) and (iii) (each of the foregoing described in clauses (i), (ii), (iii) and (iv) referred to herein as a “Plan”).

#### *General Fiduciary Matters*

ERISA and the Code impose certain duties on persons who are fiduciaries of a Plan which is a Benefit Plan Investor (as defined below) and prohibit certain transactions involving the assets of a Benefit Plan Investor and its fiduciaries or other interested parties. Under ERISA and the Code, any person who exercises any discretionary authority or control over the administration of a Benefit Plan Investor or the management or disposition of the assets of a Benefit Plan Investor, or who renders investment advice for a fee or other compensation to a Benefit Plan Investor, is generally considered to be a fiduciary of the Benefit Plan Investor.

In considering an investment in the Company of a portion of the assets of any Plan, each prospective investor that is, or is acting on behalf of, a Plan must independently determine that our common shares are an appropriate investment for the Plan, taking into account the Plan’s obligations under the applicable provisions of ERISA, the Code and any applicable Similar Laws, and the facts and circumstances of such investing Plan, including for example: (1) whether the investment is in accordance with the documents and instruments governing the Plan; (2) whether the investment satisfies the fiduciary requirements associated with the Plan; (3) whether the investment will generate unrelated business taxable income to the Plan; (4) whether there is sufficient liquidity for an investment in our common shares for the Plan; (5) the need to value the assets of the Plan annually or more frequently; and (6) whether the investment would constitute a non-exempt prohibited transaction under Title I of ERISA or Section the Code, or a similar violation under applicable Similar Laws.

#### *Prohibited Transaction Issues*

Section 406 of ERISA and Section 4975 of the Code prohibit Benefit Plan Investors from engaging in specified transactions involving plan assets with persons or entities who are “parties in interest,” within the meaning of ERISA, or “disqualified persons” within the meaning of Section 4975 of the Code, unless an exemption is available. A party in interest or disqualified person who engaged in a non-exempt prohibited transaction may be subject to excise taxes and other penalties and liabilities under ERISA and the Code. In addition, the fiduciary of the Benefit Plan Investor that engaged in such a non-exempt prohibited transaction may be subject to penalties and liabilities under ERISA and the Code. The fiduciary of a Benefit Plan Investor that proposes to purchase or hold any common shares should consider, among other things, whether such purchase and holding may involve the sale or exchange of any property between a Benefit Plan Investor and a party in interest or disqualified person, or the transfer to, or use by or for the benefit of, a party in interest or disqualified person, of any assets of the Benefit Plan Investor. Depending on the satisfaction of certain conditions which may include the identity of the fiduciary of the Benefit Plan Investor making the decision to acquire or hold common shares on behalf of the Benefit Plan Investor, Prohibited Transaction Class Exemption (“PTCE”) 91-38 (relating to investments by bank collective investment funds), PTCE 84-14 (relating to transactions effected by a “qualified professional asset manager”), PTCE 95-60 (relating to investments by an insurance company general account), PTCE 96-23 (relating to transactions directed by an in-house asset manager) or PTCE 90-1 (relating to investments by insurance company pooled separate accounts) could provide an exemption from the prohibited transaction provisions of Section 406 ERISA and Section 4975 of the Code. It should be noted that these exemptions do not provide relief from the self-dealing prohibitions of Section 406 of ERISA or Section 4975 of the Code. It should be further noted that even if the conditions specific to one or more of these exemptions are satisfied, the scope of relief provided by these exemptions may not necessarily cover all acts involving the

common shares that might be construed as prohibited transactions. Each of the above-noted exemptions contains conditions and limitations on its application. Fiduciaries of Benefit Plan Investors considering acquiring common shares in reliance on these or any other exemption should carefully review the exemption in consultation with its legal advisors to assure it is applicable. There can be no assurance that any of the foregoing exemptions or any other class, administrative or statutory exemption will be available with respect to any particular transaction involving the common shares.

#### *Plan Assets*

An additional issue concerns the extent to which the Company or all or a portion of the assets if the Company could itself be treated as subject to the fiduciary responsibility and prohibited transaction provisions of Title I of ERISA and Section 4975 of the Code. ERISA and the regulations promulgated thereunder by the United States Department of Labor (the “**DOL**”), as modified by Section 3(42) of ERISA (the “**Plan Asset Regulations**”) concerns the definition of what constitutes the assets of a Benefit Plan Investor for purposes of the fiduciary responsibility and prohibited transaction provisions of Title I of ERISA and the prohibited transaction provisions of Section 4975 of the Code. Under ERISA and the Plan Asset Regulations, generally when a Benefit Plan Investor acquires an “equity interest” in an entity that is neither a “publicly-offered security” (within the meaning of the Plan Asset Regulations) nor a security issued by an investment company registered under the Investment Company Act, the Benefit Plan Investor’s assets include both the equity interest and an undivided interest in each of the underlying assets of the entity, unless it is established either that less than 25% of the total value of each class of equity interest in the entity is held by Benefit Plan Investors within the meaning of the Plan Asset Regulations (the “**25% Test**”) or that the entity is an “operating company” as defined in the Plan Asset Regulations. The Plan Asset Regulations defines an “equity interest” as any interest in an entity other than an instrument that is treated as indebtedness under applicable local law and which has no substantial equity features. For purposes of the 25% Test, the assets of an entity will not be treated as “plan assets” if, immediately after the most recent acquisition of any equity interest in the entity, less than 25% of the total value of each class of equity interest in the entity is held by Benefit Plan Investors, excluding equity interests held by persons (other than benefit plan investors) with discretionary authority or control over the assets of the entity or who provide investment advice for a fee (direct or indirect) with respect to such assets, and any affiliates thereof. The term “benefit plan investors” (“**Benefit Plan Investors**”) is generally defined to include “employee benefit plans” within the meaning of Section 3(3) of ERISA that are subject to Title I of ERISA, “plans” within the meaning of, and subject to, Section 4975 of the Code (including “Keogh” plans and IRAs), as well as entities whose underlying assets include the assets of any of such employee benefit plan or plan by reason of such an employee benefit plan’s or plan’s investment in such entity (e.g., an entity of which 25% or more of the total value of any class of equity interests is held by Benefit Plan Investors and which does not satisfy another exception under ERISA).

Under the Plan Asset Regulations, a “publicly-offered security” is a security that is (a) “freely transferable,” (b) part of a class of securities that is “widely held,” and (c) (i) sold to the plan as part of an offering of securities to the public pursuant to an effective registration statement under the Securities Act, and the class of securities to which such security is a part is registered under the Exchange Act within 120 days after the end of the fiscal year of the issuer during which the offering of such securities to the public has occurred, or (ii) is part of a class of securities that is registered under Section 12 of the Exchange Act.

The definition of an “operating company” in the Plan Asset Regulations includes, among other things, a “venture capital operating company” (a “**VCOC**”). Generally, in order to qualify as a VCOC, an entity must demonstrate on its “initial valuation date” (as defined in the Plan Asset Regulations) and annually thereafter that at least 50% of its assets, valued at cost (other than short-term investments pending long-term commitment or distribution to investors) are invested in operating companies (other than VCOCs) (i.e., operating entities that (i) are primarily engaged directly, or through a majority owned subsidiary or subsidiaries, in the production or sale of a product or service other than the investment of capital or (ii) qualify as “real estate operating companies” as defined in the Plan Asset Regulations) in which such entity has direct contractual management

rights. In addition, to qualify as a VCOC an entity must, in the ordinary course of its business, actually exercise such management rights with respect to at least one of the operating companies in which it invests. Similarly, the definition of an “operating company” under the Plan Asset Regulations includes a “real estate operating company” (a “REOC”). Generally in order to qualify as REOC an entity must demonstrate on its initial valuation date and annually thereafter that at least 50% of its assets valued at cost (other than short term investments pending long term commitment or distribution to investors) are invested in real estate which is managed or developed and with respect to which such entity has the right to substantially participate directly in the management or development activities. In addition, to qualify as a REOC an entity must in the ordinary course of its business actually be engaged directly in such real estate management or development activities. The Plan Asset Regulations do not provide specific guidance regarding what rights will qualify as management rights, and the DOL has consistently taken the position that such determination can only be made in light of the surrounding facts and circumstances of each particular case, substantially limiting the degree to which it can be determined with certainty whether particular rights will satisfy this requirement.

We will not be an investment company under the Investment Company Act. Accordingly, to the extent the Company does not qualify as an “operating company” we intend to rely on the “publicly offered security” exception or another exception under ERISA, such as the 25% Test, however no assurance can be given that this will be the case. Accordingly, Starwood Capital will have the power to take certain actions to avoid having the assets of the Company characterized as “plan assets,” including, without limitation, placing restrictions on Share purchases and participation in the distribution reinvestment plan, and requiring a shareholder to dispose of all or part of its shares.

If the assets of the Company were deemed to be “plan assets” within the meaning of ERISA and the Plan Asset Regulations, this would result, among other things, in (i) the application of the prudence and other fiduciary responsibility standards of ERISA to investments made by the Company, and (ii) the possibility that certain transactions in which the Company might seek to engage could constitute “prohibited transactions” under ERISA and the Code. If a prohibited transaction occurs for which no exemption is available, the Advisor and/or any other fiduciary that has engaged in the prohibited transaction could be required to (i) restore to the Benefit Plan Investor any profit realized on the transaction and (ii) reimburse the Benefit Plan Investor for any losses suffered by the Benefit Plan Investor as a result of the investment. In addition, each disqualified person (within the meaning of Section 4975 of the Code) involved could be subject to an excise tax equal to 15% of the amount involved in the prohibited transaction for each year the transaction continues and, unless the transaction is corrected within statutorily required periods, to an additional tax of 100%. Fiduciaries of a Benefit Plan Investor who decide to invest in the Company could, under certain circumstances, be liable for prohibited transactions or other violations as a result of their investment in the Company or as co-fiduciaries for actions taken by or on behalf of the Company or the Advisor. With respect to an IRA that invests in the Company, the occurrence of a prohibited transaction involving the individual who established the IRA, or his or her beneficiaries, would cause the IRA to lose its tax-exempt status.

In this respect (a) we may require any person proposing to acquire common shares to furnish such information as may be necessary to determine whether such person is either (i) a Benefit Plan Investor or (ii) a person who has discretionary authority or control with respect to the assets of the Company or that provides investment advice for a fee (direct or indirect) with respect to such assets, or an affiliate of such a person and (b) we will have the power to (i) exclude any shareholder or prospective shareholder from purchasing common shares and (ii) prohibit any redemption of common shares, and all common shares of the Company shall be subject to such terms and conditions.

### *Representation*

By acceptance of any common shares, each shareholder will be deemed to have represented and warranted that either (i) no portion of the assets used by such shareholder to acquire or hold our common shares constitutes assets of any Plan or (ii) the purchase and holding of our common shares by such shareholder will not constitute

a non-exempt prohibited transaction under ERISA or Section 4975 of the Code, or similar violation under any applicable Similar Laws.

The sale of common shares to a Plan is in no respect a representation by us or any other person associated with our private offering of our common shares that such an investment meets all relevant legal requirements with respect to investments by Plans generally or any particular Plan, or that such an investment is appropriate for Plans generally or any particular Plan.

***Independent Fiduciaries with Financial Expertise.*** This Registration Statement does not constitute an undertaking to provide impartial investment advice and it is not our intention to act in a fiduciary capacity with respect to any Plan. Starwood Capital, the Advisor, the Dealer Manager, and their respective affiliates (the “**Relevant Entities**”) have a financial interest in investors’ investment in shares on account of the fees and other compensation they expect to receive (as the case may be) from the Company and their other relationships with the Company as contemplated in this Registration Statement. Any such fees and compensation do not constitute fees or compensation rendered for the provision of investment advice to any Plan. Each Plan will be deemed to represent and warrant that it is advised by a fiduciary that is (a) independent of the Relevant Entities; (b) capable of evaluating investment risks independently, both in general and with respect to particular transactions and investment strategies contemplated in this Registration Statement; and (c) a fiduciary (under ERISA, Section 4975 of the Code or applicable Similar Law, as applicable) with respect to the Plan’s investment in the common shares, who is responsible for exercising independent judgment in evaluating the Plan’s investment in the common shares and any related transactions.

***Reporting of Indirect Compensation.*** Under ERISA’s general reporting and disclosure rules, certain Benefit Plan Investors are required to file annual reports (Form 5500) with the Department of Labor regarding their assets, liabilities and expenses. To facilitate a plan administrator’s compliance with these requirements it is noted that the descriptions contained in this Registration Statement of fees and compensation, including the Management Fee and the Performance Fee payable to the Advisor, are intended to satisfy the disclosure requirements for “eligible indirect compensation” for which the alternative reporting option on Schedule C of Form 5500 may be available.

#### *Governmental Plans and Non-U.S. Plans*

Certain Plans, such as governmental plans and non-U.S. plans, may not be subject to ERISA or Section 4975 of the Code, but may be subject to provisions of Similar Laws which may restrict the type of investments such a Plan may make or otherwise have an impact on such a Plan’s ability to invest the Company. Accordingly, each Plan, including governmental and foreign plans, considering an investment in the shares should consult with their legal advisors regarding their proposed investment in the shares.

**The foregoing discussion of ERISA, the Code and Similar Law issues should not be construed as legal advice. Fiduciaries of Plans should consult their own legal advisors with respect to issues arising under ERISA, the Code and applicable Similar Laws make their own independent decision regarding an investment in the Company.**

**The foregoing discussion is general in nature and is not intended to be all-inclusive. Each Plan fiduciary should consult with its legal advisor concerning the considerations discussed above before making an investment in the Company. As indicated above, Similar Laws governing the investment and management of the assets of Plans that are not subject to Title I of ERISA or Section 4975 of the Code, such as governmental plans and non-U.S. plans, may contain fiduciary responsibility and prohibited transaction requirements similar to those under ERISA and Section 4975 of the Code. Accordingly, Plans, in consultation with their legal advisors, should consider the impact of their respective laws and regulations on an investment in the Company and the considerations discussed above, if applicable.**

## ITEM 1A. RISK FACTORS

### Risks Related to Our Organizational Structure

*We have no operating history and there is no assurance that we will be able to successfully achieve our investment objectives.*

We are a newly formed entity with no operating history and may not be able to achieve our investment objectives. As of the date of this Registration Statement, we have not originated or acquired any loans or other real estate debt investments and do not have any operations or financing from sources other than from the Advisor or its affiliates. We cannot assure you that the past experiences of the Advisor or its affiliates will be sufficient to allow us to successfully achieve our investment objectives. As a result, an investment in our common shares may entail more risk than an investment in a REIT with a substantial operating history.

*We are dependent on Starwood Capital and its affiliates, including the Advisor, and their key personnel who provide services to us through the Advisory Agreement, and we may not find a suitable replacement for the Advisor if the Advisory Agreement is terminated, or for these key personnel if they leave Starwood Capital or otherwise become unavailable to us.*

We have no employees and are completely reliant on the Advisor. Some of our officers are executive officers of Starwood Capital. The Advisor has significant discretion as to the implementation of our investment and operating policies and strategies. Accordingly, we believe that our success depends to a significant extent upon the efforts, experience, diligence, skill and network of business contacts of the officers and key personnel of the Advisor. The officers and key personnel of the Advisor evaluate, negotiate, originate and monitor our investments; therefore, our success depends on their continued service. The departure of any of the officers or key personnel of the Advisor could have a material adverse effect on our performance.

The Advisor is not obligated to dedicate any specific personnel exclusively to us. In addition, none of our officers or the officers of the Advisor are obligated to dedicate any specific portion of their time to our business. Some of our officers have significant responsibilities for Other Starwood Accounts. Although these individuals will be able to allocate an adequate amount of their time to the management of our business, they may not always be able to devote significant time to the management of our business. Further, when there are turbulent conditions or distress in the real estate credit markets or more generally the CRE market, the attention of the Advisor's personnel and our executive officers and the resources of Starwood Capital will also be required by Other Starwood Accounts. In such situations, we may not receive the level of support and assistance that we may receive if we were internally managed.

In addition, we offer no assurance that Starwood Credit Advisors, L.L.C. will remain the Advisor or that we will continue to have access to Starwood Capital's officers and key personnel. In particular, the loss of the services of Mr. Barry S. Sternlicht, Starwood Capital's founder, could adversely affect our performance. If the Advisory Agreement is terminated and no suitable replacement is found, we may not be able to execute our business plan.

Finally, there is no guarantee (i) that the Advisor will succeed in implementing our investment objectives or strategy or in identifying investments that are in accordance with Starwood Capital's investment philosophy or (ii) that historical trends of prior programs sponsored by Starwood Capital will continue during the life of our operations.



***The Advisor manages our portfolio pursuant to very broad investment guidelines and generally is not required to seek the approval of our board of trustees for each investment, financing or asset allocation decision made by it, which may result in our making riskier investments and, in turn, may materially adversely affect our results of operations and financial condition.***

Our board of trustees is expected to approve very broad investment guidelines that delegate to the Advisor the authority to execute and implement our investment strategy on our behalf, so long as such investments are consistent with the investment guidelines and our Declaration of Trust. The Advisor will implement on our behalf the strategies and discretionary approaches it believes from time to time may be best suited to prevailing market conditions in furtherance of that purpose, subject to the limitations under our investment guidelines and our Declaration of Trust. There can be no assurance that the Advisor will be successful in implementing any particular strategy or discretionary approach to our investment activities. Our board of trustees will review our investment guidelines and investment portfolio periodically. The prior approval of our board of trustees or a committee of independent trustees will be required only as set forth in our Declaration of Trust (including for transactions with the Advisor and its affiliates) or for the acquisition or disposition of assets that are not in accordance with our investment guidelines. In addition, in conducting periodic reviews, our trustees will rely primarily on information provided to them by the Advisor. Furthermore, transactions entered into on our behalf by the Advisor may be costly, difficult or impossible to unwind when they are subsequently reviewed by our board of trustees.

***There is no public trading market for our common shares; therefore, your ability to dispose of your common shares will likely be limited to repurchase by us. If you do sell your common shares to us, you may receive less than the price you paid.***

There is no current public trading market for our common shares, and we do not expect that such a market will ever develop in the future. Therefore, repurchase of common shares by us will likely be the only way for you to dispose of your common shares. We will repurchase common shares at a price equal to the transaction price of the class of common shares being repurchased on the date of repurchase (which will generally be equal to our prior month's NAV per share) and not based on the price at which you initially purchased your common shares. Subject to limited exceptions, common shares repurchased within one year of the date of issuance will be repurchased at 95% of the transaction price. As a result, you may receive less than the price you paid for your common shares when you sell them to us pursuant to our share repurchase plan. See "Item 1 Business—Share Repurchase Plan."

***Your ability to have your common shares repurchased through our share repurchase plan is limited. We may choose to repurchase fewer common shares than have been requested to be repurchased, or none at all, in our discretion at any time, and the amount of common shares we may repurchase is subject to caps. Further, our board of trustees may make exceptions to, modify or suspend our share repurchase plan if it deems such action to be in our best interest.***

We may choose to repurchase fewer common shares than have been requested in any particular calendar quarter to be repurchased under our share repurchase plan, or none at all, in our discretion at any time. We may repurchase fewer common shares than have been requested to be repurchased due to, among other reasons, in our board of trustees discretion, lack of readily available funds because of adverse market conditions beyond our control, the need to maintain liquidity for our operations or because we have determined that investing in additional assets is a better use of our capital than repurchasing our common shares. In addition, the aggregate NAV of total repurchases (including repurchases at certain non-U.S. investor access funds primarily created to hold our common shares but excluding any Early Repurchase Deduction applicable to the repurchased common shares) is limited, in any calendar quarter, to common shares whose aggregate value is no more than 5% of our aggregate NAV (measured using the aggregate NAV as of the end of the immediately preceding month). Starwood Capital is the sponsor of other investment programs that include similar limitations on share repurchases, which have in the past been, and may in the future be, exceeded, resulting in such program's repurchase of shares on a pro rata basis. For example, in accordance with the terms of its share repurchase plan, Starwood Real Estate Income Trust, Inc., a non-traded equity REIT sponsored by Starwood Capital, began pro rating redemption requests in November 2022.



Investors who started requesting their shares be repurchased in November 2022, when redemption requests were first prorated, would have received more than 99% of their money back in the nine months ended July 2023. In such case, Starwood Real Estate Income Trust, Inc. accepted redemption requests from each investor up to the repurchase limitations included in its share repurchase plan, which limitations are consistent with the limitations set forth in the SEC’s no-action letters regarding non-traded REIT repurchase program terms. Further, our board of trustees may make exceptions to, modify or suspend our share repurchase plan if in its reasonable determination it deems such action to be in our best interest. Our board of trustees cannot terminate our share repurchase plan absent a liquidity event that results in our shareholders receiving cash or securities listed on a national securities exchange or where otherwise required by law. If we do not repurchase the full amount of all common shares requested to be repurchased in any given calendar quarter, funds will be allocated pro rata based on the total number of common shares being repurchased without regard to class after we have repurchased all common shares for which repurchase has been requested due to death, disability or divorce and other limited exceptions. All unsatisfied repurchase requests must be resubmitted after the start of the next calendar quarter, or upon the recommencement of the share repurchase plan, as applicable.

The vast majority of our assets will consist of investments that cannot generally be readily liquidated without impacting our ability to realize full value upon their disposition. Therefore, we may not always have a sufficient amount of cash to immediately satisfy repurchase requests. Should repurchase requests, in as determined by our board of trustees judgment, place an undue burden on our liquidity, adversely affect our operations or risk having an adverse impact on the Company as a whole, or should we otherwise determine that investing our liquid assets in CRE debt or other illiquid investments rather than repurchasing our common shares is in the best interests of the Company as a whole, then we may choose to repurchase fewer common shares than have been requested to be repurchased, or none at all. As a result, your ability to have your common shares repurchased by us may be limited and at times you may not be able to liquidate your investment. See “*Item 1 Business—Share Repurchase Plan.*”

***Economic events that may cause our shareholders to request that we repurchase their common shares may materially adversely affect our cash flow and our results of operations and financial condition.***

Economic events affecting the U.S. economy, such as the general negative performance of the CRE markets (including as a result of inflation or higher interest rates), actual or perceived instability in the U.S. banking system, disruptions in the labor market (including labor shortages and unemployment), stock market volatility (including volatility as a result of geopolitical events and military conflicts, such as the recent outbreak of hostilities between Israel and Hamas and between Ukraine and Russia) and increasing inflation, could cause our shareholders to seek repurchase of their common shares pursuant to our share repurchase plan at a time when such events are adversely affecting the performance of our assets. Even if we decide to satisfy all resulting repurchase requests, our cash flow could be materially adversely affected. In addition, if we determine to sell assets to satisfy repurchase requests, we may not be able to realize the return on such assets that we may have been able to achieve had we sold at a more favorable time, and our results of operations and financial condition, including, without limitation, breadth and diversification of our portfolio, could be materially adversely affected.

***We face risks associated with the deployment of our capital.***

In light of the nature of our continuous private offering in relation to our investment strategy and the need to be able to deploy potentially large amounts of capital quickly to capitalize on potential investment opportunities, we may have difficulty identifying, originating and/or purchasing suitable CRE debt and other investments on attractive terms, and there could be a delay between the time we receive net proceeds from the sale of our common shares and the time we invest such net proceeds. We may also from time to time hold cash pending deployment into investments or have less than our targeted leverage, which cash or shortfall in targeted leverage may at times be significant, particularly at times when we are receiving high amounts of offering net proceeds, during the Ramp-Up Period and/or times when there are few attractive investment opportunities. Such cash may be held in an account that may be invested in money market accounts or other similar temporary investments, each of which are subject to the management fees payable to the Advisor.

In the event we are unable to find suitable investments, such cash may be maintained for longer periods, which would be dilutive to overall investment returns. This could cause a substantial delay in the time it takes for a shareholder's investment to realize its full potential return and could adversely affect our ability to pay regular distributions of cash flow from operations. It is not anticipated that the temporary investment of such cash into money market accounts or other similar temporary investments pending deployment into investments will generate significant interest, and investors should understand that such low interest payments on the temporarily invested cash may materially adversely affect overall returns. In the event we fail to timely invest the net proceeds from sales of our common shares or do not deploy sufficient capital to meet our targeted leverage, our results of operations and financial condition may be materially adversely affected.

***The amount and source of distributions, if any, we may make to our shareholders is uncertain, and we may be unable to generate sufficient cash flows from our operations to make distributions to our shareholders at any time in the future.***

We have not established a minimum distribution payment level, and our ability to make distributions to our shareholders may be materially adversely affected by a number of factors, including, but not limited to, the risk factors described in this Registration Statement. Because we currently have no investments and have not identified any investments to acquire with the net proceeds of our continuous private offering, we may not generate sufficient income to make distributions to our shareholders. Our board of trustees (or a committee of our board of trustees) will make determinations regarding distributions based upon, among other factors, our financial performance, debt service obligations, debt covenants, REIT qualification and tax requirements and capital expenditure requirements. Among the factors that could impair our ability to make distributions to our shareholders are:

- the limited size of our portfolio during the Ramp-Up Period;
- our inability to invest the net proceeds from sales of our common shares on a timely basis in income-producing investments;
- our inability to realize attractive risk-adjusted returns on our investments;
- high levels of expenses or reduced revenues that reduce our cash flow or non-cash earnings; and
- defaults in our investment portfolio or decreases in the value of our investments.

As a result, we may not be able to make distributions to our shareholders at any time in the future, and the level of any distributions, if any, we do make to our shareholders is unknown, may not increase or even be maintained over time, any of which could materially and adversely affect the value of your investment.

***We may pay distributions from sources other than our cash flow from operations, including, without limitation, borrowings, offering net proceeds and the sale of or repayments under our investments, and we have no limits on the amounts we may fund from such sources.***

We may not generate sufficient cash flow from operations to fully fund distributions to shareholders, particularly during the Ramp-Up Period. Therefore, particularly during the Ramp-Up Period, we may fund distributions to our shareholders from sources other than cash flow from operations, including, without limitation, borrowings, offering net proceeds (including from sales of our common shares to Starwood Capital or its affiliates) and the sale of or repayments under our investments. The extent to which we fund distributions from sources other than cash flow from operations will depend on various factors, including, but not limited to, the level of participation in our distribution reinvestment plan, the extent to which the Advisor elects to receive its Management Fee or Performance Fee in our common shares (in lieu of cash), how quickly we invest the proceeds from this and any future offering and the performance of our CRE debt portfolio and other assets. Funding distributions from borrowings, offering net proceeds (including from sales of our common shares to Starwood Capital or its affiliates) and the sale of or repayments under our investments will result in us having less funds available to originate or acquire CRE loans or other assets. As a result, the return you realize on your

investment may be reduced. Doing so may also negatively impact our ability to generate cash flows. Likewise, funding distributions from the sale of additional common shares (or other securities convertible into our common shares) will dilute your interest in us on a percentage basis and may impact the value of your investment especially if we sell these securities at prices less than the price you paid for your common shares. We may be required to continue to fund distributions from a combination of some of these sources if our investments fail to perform, if expenses are greater than our revenues or due to numerous other factors. We cannot predict when, if ever, distribution payments sourced from borrowings and from offering net proceeds may occur, and an extended period of such payments would likely be unsustainable. We have not established a limit on the amount of our distributions that may be funded from any of these sources.

To the extent we borrow funds to pay distributions, we would incur borrowing costs (including interest) and these borrowings would require a future repayment. The use of these sources for distributions and the ultimate repayment of any liabilities incurred could adversely impact our ability to pay distributions in future periods, decrease our NAV, decrease the amount of cash we have available for operations and new investments and materially adversely impact the value of your investment.

We may also defer operating expenses or pay expenses (including Management Fees or Performance Fees payable to the Advisor) with our common shares to preserve cash flow for the payment of distributions. The ultimate repayment of these deferred expenses could materially adversely affect our operations and reduce the future return on your investment. We may repurchase common shares from the Advisor shortly after issuing such common shares as compensation or reimbursement for certain expenses. The payment of expenses in our common shares will dilute your ownership interest in us. There is no guarantee any of our operating expenses will be deferred and the Advisor is under no obligation to receive fees or distributions in our common shares and may elect to receive such amounts in cash.

***Payments to the Advisor in the form of common shares, which the Advisor may elect to receive in lieu of cash in respect of Management Fees or Performance Fees or certain expense reimbursements, will dilute future cash available for distribution to our shareholders.***

The Advisor may elect to receive our common shares in lieu of cash in respect of Management Fees or Performance Fees or certain expense reimbursements. The amount of common shares issued to the Advisor may be significant, particularly during periods in which the value of our investment portfolio appreciates, resulting in higher Performance Fees. Repurchases of our common shares paid to the Advisor as a Management Fee or Performance Fee or expense reimbursements are not subject to our share repurchase plan, including the quarterly volume limitation and the Early Repurchase Deduction), and, therefore, any such repurchases may receive priority over other repurchase requests of our common shares subject to our share repurchase plan for any period.

***Purchases and repurchases of our common shares will not be made based on the current NAV per share as of the date of the purchase or repurchase.***

Generally, our offering price per common share and the price at which we make repurchases of our common shares will equal the NAV per share of the applicable class as of the last calendar day of the prior month, plus, in the case of our offering price, applicable upfront selling commissions and dealer manager fees. The NAV per share, if calculated as of the date on which you make your subscription request or repurchase request, may be significantly different than the transaction price you pay or the repurchase price you receive. Certain of our investments or liabilities may be subject to high levels of volatility from time to time and could change in value significantly between the end of the prior month as of which our NAV is determined and the date that you acquire or repurchase our common shares; however, the prior month's NAV per share will generally continue to be used as the transaction price per share and repurchase price per share. In exceptional circumstances, we may, in our sole discretion, but are not obligated to, offer and repurchase common shares at a different price that we believe reflects the NAV per share more appropriately than the prior month's NAV per share, including by updating a previously disclosed transaction price, in cases where we believe there has been a material change

(positive or negative) to our NAV per share since the end of the prior month and we believe an updated price is appropriate. In such exceptional cases, the transaction price and the repurchase price will not equal our NAV per share as of any time.

***Valuations of our investments may reflect estimates of fair value and may not necessarily correspond to realizable value, which could adversely affect the value of your investment.***

Newly originated or acquired loan investments will initially be valued at par in the month that they are closed, which is expected to represent fair value at that time. For each month after the initial month in which a loan investment is closed, the Advisor will value each such loan at fair market value, subject to the review and confirmation of reasonableness by the Independent Valuation Advisor (as defined below). In the event we pursue ownership interest in the underlying collateral on a defaulted loan, then the asset will become real estate owned (“REO”) and such REO properties will initially be valued at fair value less closing costs, at the time of acquisition. Thereafter, the REO properties will be valued by the Advisor, subject to the review and confirmation of the reasonableness by the Independent Valuation Advisor. Our publicly traded real-estate related assets that are not restricted as to salability or transferability will generally be valued by the Advisor monthly on the basis of publicly available market quotations or at fair value determined in accordance with U.S. GAAP. Our investments in privately placed debt instruments and securities of real estate-related operating businesses (other than joint ventures), such as real estate development or management companies, will initially be valued by the Advisor at the acquisition price and thereafter will be revalued monthly at fair value, subject to the review and confirmation of reasonableness by the Independent Valuation Advisor. We will also report our derivative assets and liabilities at fair value based on price quotes from at least one independent pricing service. Our liquid non-real estate-related assets, including credit rated government debt securities, corporate debt securities, cash and cash equivalents, will be valued monthly by the Advisor based on market quotations or at fair value determined in accordance with U.S. GAAP.

Within the parameters of our valuation guidelines, the valuation methodologies used to value our investments in real estate debt and real estate-related securities will involve subjective judgments and projections and may not be accurate. Valuation methodologies will also involve assumptions and opinions about future events, which may or may not turn out to be correct. Ultimate realization of the value of an asset depends to a great extent on economic, market and other conditions beyond our control and the control of the Advisor and the Independent Valuation Advisor. Further, valuations do not necessarily represent the price at which an asset would sell, since market prices of assets can only be determined by negotiation between a willing buyer and seller. As such, the estimated fair value of an asset may not reflect the price at which the asset could be sold in the market, and the difference between the estimated fair value and the ultimate sales price could be material. In addition, accurate valuations are more difficult with respect to illiquid assets and/or during times of low transaction volume because there are fewer market transactions that can be considered in the context of the valuation analysis. However, there will be no retroactive adjustment in the valuation of such assets, the offering price of our common shares, the price we paid to repurchase our common shares or NAV-based fees we paid to the Advisor and the Dealer Manager to the extent such valuations prove to not accurately reflect the realizable value of our assets. Because the price you will pay for our common shares in our continuous private offering, and the price at which your shares may be repurchased by us pursuant to our share repurchase plan are generally based on our prior month’s NAV per share, you may pay more than realizable value or receive less than realizable value for your investment.

***Our NAV per share may change materially if the values of our investments materially change, if the actual operating results for a particular month differ from what we originally budgeted for that month or if there are fluctuations in interest rates.***

Our investments are valued on a monthly basis in accordance with our valuation guidelines. As such, when these new valuations are reflected in our NAV calculation, there may be a sudden change in our NAV per share for each class of our common shares. These changes in an investment’s value may be as a result of investment-specific events or as a result of more general changes to real estate values resulting from local, nation or global

economic changes. In addition, actual operating results for a given month may differ from what we originally budgeted for that month, which may cause a sudden increase or decrease in the NAV per share amounts. We accrue estimated income and expenses on a daily basis based on our budgets. As soon as practicable after the end of each month, we adjust the income and expenses we estimated for that month to reflect the income and expenses actually earned and incurred. In addition, because we are focused on senior floating-rate mortgage loans, interest rate fluctuations may also cause a sudden increase or decrease in our NAV per share. We do not retroactively adjust the NAV per share of each class.

***The NAV per share that we publish may not necessarily reflect changes in our NAV that are not immediately quantifiable.***

From time to time, we may experience events with respect to our investments that may have a material impact on our NAV. For example, it may be difficult to reflect fully and accurately rapidly changing market conditions or material events that may impact the value of our investments or to obtain quickly complete information regarding such events. The NAV per share of each class of our common shares may not reflect such extraordinary events to the extent that their financial impact is not immediately quantifiable. As a result, the NAV per share of each class, as determined monthly, after the announcement of a material event may differ significantly from our actual NAV per share for such class until such time as the financial impact is quantified and our NAV is appropriately adjusted in a subsequent month and in accordance with our valuation guidelines. The resulting potential disparity in our NAV may inure to the benefit of shareholders whose common shares are repurchased or new shareholders, depending on whether our published NAV per share for such class is overstated or understated.

***NAV calculations are not governed by governmental or independent securities, financial or accounting rules or standards.***

The methods for calculating our NAV, including the components used in calculating our NAV, is not prescribed by rules of the SEC or any other regulatory agency. Further, there are no accounting rules or standards that prescribe which components should be used in calculating NAV, and our NAV is not audited by our independent registered public accounting firm. We calculate and publish NAV solely for purposes of establishing the price at which we sell and repurchase our common shares and to calculate certain fees and distributions payable to the Advisor and the Dealer Manager, and you should not view our NAV as a measure of our historical or future financial condition or performance. The components and methodology used in calculating our NAV may differ from those used by other companies now or in the future.

In addition, calculations of our NAV, to the extent that they incorporate valuations of our assets and liabilities, are not prepared in accordance with U.S. GAAP. These valuations may differ from liquidation values that could be realized in the event that we were forced to sell assets.

Additionally, errors may occur in calculating our NAV, which could impact the price at which we sell and repurchase our common shares and the amount of the Advisor's Management Fee. The Advisor has implemented certain policies and procedures to address such errors in NAV calculations. If such errors were to occur, the Advisor, depending on the circumstances surrounding each error and the extent of any impact the error has on the price at which our common shares were sold or repurchased or on the amount of the Advisor's Management Fee, may determine in its sole discretion to take certain corrective actions in response to such errors, including, subject to the Advisor's policies and procedures, making adjustments to prior NAV calculations. You should carefully review the disclosure of our valuation policies and how NAV will be calculated under "Net Asset Value Calculation and Valuation Guidelines."

***Our shareholders generally have limited voting rights.***

As permitted by Maryland law, our Declaration of Trust provides limited voting rights to our shareholders. Under our Declaration of Trust, subject to certain exceptions, shareholders generally are only entitled to vote at a



duly held meeting at which a quorum is present on (1) amendments to our Declaration of Trust that would materially and adversely affect the contract rights of outstanding shares subject to certain exceptions provided in our Declaration of Trust, (2) a merger, consolidation, conversion (other than a Conversion Event), statutory share exchange or transfer of all or substantially all of our assets as provided in our Declaration of Trust, (3) removal of a trustee for cause and the election of a successor trustee to the extent provided in our Declaration of Trust, (4) the dissolution of the Company to the extent specifically provided by the terms of any class or series of common shares or preferred shares as set forth in our Declaration of Trust, (5) in the event that there are no trustees, the election of trustees and (6) such other matters that our board of trustees have submitted to our shareholders for approval or ratification.

The affirmative vote of a plurality of the votes cast in the election of a trustee is generally required to elect any trustee, and the affirmative vote of a majority of the votes cast at a meeting of shareholders duly called and at which a quorum is present is generally sufficient to approve any other matter that may properly come before the shareholders at such meeting (other than the removal of a trustee, which requires the affirmative vote of shareholders entitled to cast at least two-thirds of all the votes entitled to be cast generally in the election of trustees).

All other matters are subject to the discretion of our board of trustees. Thus, except as set forth above or in any class or series of our shares and subject to the restrictions on transfer and ownership of our shares contained in our Declaration of Trust, holders of common shares do not have the right to vote on any matter.

***Our Declaration of Trust does not provide for the annual election of trustees by our shareholders, and contains provisions that could make removal of our trustees difficult, which could make it difficult for our shareholders to effect changes to our management.***

Our Declaration of Trust provides that shareholders are only entitled to elect trustees upon the removal of a trustee by shareholders (unless the trustee so removed was designated by Starwood Capital pursuant to the Declaration of Trust) or in the event there are no trustees. A trustee may be removed by our shareholders only for “cause” (as defined in our Declaration of Trust), and then only upon the affirmative vote of shareholders entitled to cast at least two-thirds of all the votes entitled to be cast generally in the election of trustees in accordance with our Declaration of Trust).

Our Declaration of Trust provides that any vacancy on our board of trustees (other than vacancies resulting from shareholder removal of a trustee for cause or vacancies among the independent trustees) may be filled only by a vote of a majority of the remaining trustees, even if the remaining trustees do not constitute a quorum. Independent trustee vacancies shall be filled by a majority of the remaining independent trustees, except where removed for cause by the shareholders. For so long as Starwood Capital or its affiliate acts as investment advisor to us, Starwood Capital has the right to designate two (2) trustees for election to our board of trustees. Our board of trustees must also consult with Starwood Capital in connection with filling any vacancies created by the removal, resignation, retirement or death of any trustee (other than in connection with a removal of a trustee for cause by shareholders in accordance with our Declaration of Trust). If the vacancy resulting from shareholder removal of a trustee for cause was a trustee designated by Starwood Capital, Starwood Capital has the exclusive right to designate a successor trustee for election to our board of trustees.

These requirements make it more difficult to change our management by removing and replacing trustees and may prevent a change in our control.

***Our Declaration of Trust permits our board of trustees to authorize us to issue preferred shares on terms that may be senior to the rights of the holders of our current common shares or discourage a third party from acquiring us.***

Our board of trustees is permitted, subject to certain restrictions set forth in our Declaration of Trust, to authorize the issuance of preferred shares without shareholder approval. Further, our board of trustees may



classify or reclassify any unissued common shares or preferred shares from time to time into one or more classes or series by setting or changing the number, par value, designations, preferences, conversion or other rights, voting powers, restrictions, limitations as to dividends or other distributions, qualifications or terms or conditions of redemption of any new class or series of common shares or preferred shares. Thus, our board of trustees could authorize us to issue preferred shares with terms and conditions that could be senior to the rights of the holders of our common shares or have the effect of delaying, deferring or preventing a change in control of us, including an extraordinary transaction such as a merger, tender offer or sale of all or substantially all of our assets, that might provide a premium price for holders of our common shares.

***Your interest in us will be diluted if we issue additional shares.***

Holders of our common shares will not have preemptive rights to any shares we issue in the future. Our Declaration of Trust authorizes us to issue an unlimited number of common shares of beneficial interest, par value \$0.01 per share, including an unlimited number of shares classified as Class T shares, an unlimited number of shares classified as Class S shares, an unlimited number of shares classified as Class D shares, an unlimited number of shares classified as Class I shares, and an unlimited number of shares classified as Class E shares, and an unlimited number of shares classified as preferred shares of beneficial interest, par value \$0.01 per share. Our board of trustees may elect, without shareholder approval, to, among other things, (1) sell additional common shares in our private offering or any future offering; (2) issue common shares upon the exercise of the options we may grant to our independent trustees or future employees; (3) issue common shares to the Advisor, or its successor or assign, in payment of an outstanding obligation to pay fees for services rendered to us or for the Management Fee or Performance Fee or expense reimbursements; or (4) issue equity incentive compensation to certain employees of affiliated service providers or to third parties as satisfaction of obligations under incentive compensation arrangements. To the extent we issue additional common shares in the future, your percentage ownership interest in us will be diluted. Because of these and other reasons, our shareholders may experience substantial dilution in their percentage ownership of our common shares.

***Maryland law and our Declaration of Trust limit our rights and the rights of our shareholders to recover claims against Covered Persons, which could reduce your and our recovery against them if they cause us to incur losses.***

Maryland law provides that a trustee will not have any liability as a trustee so long as he or she performs his or her duties in accordance with the applicable standard of conduct. In addition, our Declaration of Trust limits the personal liability of our trustees and officers for monetary damages to the maximum extent permitted by Maryland law. Maryland law and our Declaration of Trust provide that we shall indemnify each trustee, each officer, the Advisor, Starwood Holdings and each equityholder, member, manager, director, officer, employee or agent of any trustee or our board of trustees (each a “**Covered Person**”), including any individual or entity who, while serving as the Covered Person and, at our request, serves or has served any other enterprise in any management or agency capacity, against any claim or liability to which the Covered Person may become subject by reason of such status, except for liability for the Covered Person’s gross negligence or intentional misconduct. In addition, the Company shall, without requiring a preliminary determination of the ultimate entitlement to indemnification, pay or reimburse, in advance of final disposition of a proceeding, reasonable expenses incurred by a present or former Covered Person or shareholder made a party to or witness in a proceeding by reason of such status. The Company is not required to indemnify or advance funds to any person entitled to indemnification under our Declaration of Trust (x) with respect to any action initiated or brought voluntarily by such indemnified person (and not by way of defense) unless (I) approved or authorized by our board of trustees or (II) incurred to establish or enforce such person’s right to indemnification under the Declaration of Trust, or (y) in connection with any claim with respect to which such person is found to be liable to the Company. As a result, you and we may have more limited rights against Covered Persons than might otherwise exist under common law, which could reduce your and our recovery from these persons if they act in a manner that causes us to incur losses.

***We will not be required to comply with certain reporting requirements, including those relating to auditor’s attestation reports on the effectiveness of our system of internal control over financial reporting, accounting standards and disclosure about our executive compensation, that apply to other public companies.***

The JOBS Act contains provisions that, among other things, relax certain reporting requirements for emerging growth companies, including certain requirements relating to accounting standards and compensation disclosure. We are classified as an emerging growth company. For as long as we are an emerging growth company, which may be up to five full fiscal years, unlike other public companies, we will not be required to (1) provide an auditor’s attestation report on the effectiveness of our system of internal control over financial reporting pursuant to Section 404 of the Sarbanes-Oxley Act, (2) comply with any new or revised financial accounting standards applicable to public companies until such standards are also applicable to private companies under Section 102(b)(1) of the JOBS Act, (3) comply with any new requirements adopted by the Public Company Accounting Oversight Board (“PCAOB”) requiring mandatory audit firm rotation or a supplement to the auditor’s report in which the auditor would be required to provide additional information about the audit and the financial statements of the issuer, (4) comply with any new audit rules adopted by the PCAOB after April 5, 2012 unless the SEC determines otherwise, (5) provide certain disclosure regarding executive compensation required of larger public companies or (6) hold shareholder advisory votes on executive compensation.

Once we are no longer an emerging growth company, so long as our common shares are not traded on a securities exchange, we will be deemed to be a “non-accelerated filer” under the Exchange Act, and as a non-accelerated filer, we will be exempt from compliance with the auditor attestation requirements of Section 404 of the Sarbanes-Oxley Act. In addition, so long as we are externally managed by the Advisor and we do not directly compensate our executive officers, or reimburse the Advisor or its affiliates for salaries, bonuses, benefits and severance payments for persons who also serve as one of our executive officers or as an executive officer of the Advisor, we do not have any executive compensation, making the exemptions listed in (5) and (6) above generally inapplicable.

We cannot predict if investors will find our common shares less attractive because we choose to rely on any of the exemptions discussed above.

As noted above, under the JOBS Act, emerging growth companies can delay adopting new or revised accounting standards that have different effective dates for public and private companies until such time as those standards apply to private companies. We have elected to opt out of this transition period, and will therefore comply with new or revised accounting standards on the applicable dates on which the adoption of these standards is required for non-emerging growth companies. This election is irrevocable.

***Your investment return may be reduced if we are required to register as an investment company under the Investment Company Act.***

We intend to conduct our operations so that neither we nor our subsidiaries are investment companies under the Investment Company Act. However, there can be no assurance that we and our subsidiaries will be able to successfully avoid registering as an investment company. See “*Item 1 Business—Operating and Regulatory Structure—Investment Company Act Considerations.*”

A change in the value of any of our assets could negatively affect our ability to maintain our exemption from regulation under the Investment Company Act. To maintain compliance with the applicable exemption under the Investment Company Act, we may be unable to sell assets we would otherwise want to sell and may need to sell assets we would otherwise wish to retain. In addition, we may have to acquire additional assets that we might not otherwise have acquired or may have to forego opportunities to acquire assets that we would otherwise want to acquire and would be important to our investment strategy.

If we were required to register as an investment company but failed to do so, we would become subject to substantial regulation with respect to our capital structure (including our ability to use borrowings), management,

operations, transactions with affiliated persons (as defined in the Investment Company Act) and portfolio composition, including disclosure requirements and restrictions with respect to diversification and industry concentration, and other matters. Compliance with the Investment Company Act would, accordingly, limit our ability to make certain investments and require us to significantly restructure our business plan, which could materially adversely affect our NAV and our ability to pay distributions to our shareholders.

***We depend on the Advisor to develop appropriate systems and procedures to control operational risk.***

Operational risks arising from mistakes made in the confirmation or settlement of transactions, from transactions not being properly booked, evaluated or accounted for or other similar disruption in our operations may cause us to suffer financial losses, the disruption of our business, liability to third parties, regulatory intervention or damage to our reputation. We depend on the Advisor and its affiliates to develop the appropriate systems and procedures to control operational risk. We rely heavily on the Advisor's financial, accounting and other data processing systems. The ability of our systems to accommodate transactions could also constrain our ability to properly manage our portfolio. Generally, the Advisor will not be liable for losses incurred due to the occurrence of any such errors. The personnel of the Advisor are engaged in other business activities, which could distract them, divert their time and attention such that they could no longer dedicate a significant portion of their time to our businesses or otherwise slow our rate of investment. Any failure to manage our business and our future growth effectively could have a material adverse effect on our business, financial condition, results of operations and cash flows.

***Operational risks, including the risk of cyberattacks, may disrupt our businesses, result in losses or limit our growth.***

We rely heavily on our and Starwood Capital's financial, accounting, treasury, communications and other data processing systems. Such systems may fail to operate properly or become disabled as a result of tampering or a breach of the network security systems or otherwise. In addition, such systems are from time to time subject to cyberattacks, which may continue to increase in sophistication and frequency in the future. Attacks on Starwood Capital and its affiliates and their portfolio companies' and service providers' systems could involve, and in some instances, have in the past involved attempted attacks that are intended to obtain unauthorized access to our proprietary information or personal identifying information of our shareholders, destroy data or disable, degrade or sabotage our systems, through the introduction of computer viruses or other malicious code.

Cyber security incidents and cyber-attacks have been occurring globally at a more frequent and severe level and will likely continue to increase in frequency in the future. Our information and technology systems as well as those of Starwood Capital, its portfolio entities and other related parties, such as service providers, may be vulnerable to damage or interruptions from cyber security breaches, computer viruses, network failures, computer and telecommunication failures, infiltration by unauthorized persons and other security breaches, usage errors by their respective professionals or service providers, power, communications or other service outages and catastrophic events such as fires, tornadoes, floods, hurricanes and earthquakes. Cyberattacks and other security threats could originate from a wide variety of sources, including cyber criminals, nation state hackers, hacktivists and other outside parties. There has been an increase in the frequency and sophistication of the cyber and security threats Starwood Capital faces, with attacks ranging from those common to businesses generally to those that are more advanced and persistent, which may target Starwood Capital because Starwood Capital holds a significant amount of confidential and sensitive information about its investors, its portfolio companies and potential investments. As a result, Starwood Capital may face a heightened risk of a security breach or disruption with respect to this information. If successful, these types of attacks on Starwood Capital's network or other systems could have a material adverse effect on our business and results of operations, due to, among other things, the loss of investor or proprietary data, interruptions or delays in the operation of our business and damage to our reputation. There can be no assurance that measures Starwood Capital takes to ensure the integrity of its systems will provide protection, especially because cyberattack techniques used change frequently or are not recognized until successful.

If unauthorized parties gain access to such information and technology systems, they may be able to steal, publish, delete or modify private and sensitive information including nonpublic personal information related to shareholders (and their beneficial owners) and material nonpublic information. Although Starwood Capital has implemented, and its portfolio entities and service providers may implement various measures to manage risks relating to these types of events, such systems could prove to be inadequate and, if compromised, could become inoperable for extended periods of time, cease to function properly or fail to adequately secure private information. Starwood Capital does not control cyber security plans and systems put in place by third party service providers, and such third party service providers may have limited indemnification obligations to Starwood Capital, its portfolio entities and us, each of which could be negatively impacted as a result. Breaches such as those involving covertly introduced malware, impersonation of authorized users and industrial or other espionage may not be identified even with sophisticated prevention and detection systems, potentially resulting in further harm and preventing them from being addressed appropriately. The failure of these systems or of disaster recovery plans for any reason could cause significant interruptions in Starwood Capital's, its affiliates', their portfolio entities' or our operations and result in a failure to maintain the security, confidentiality or privacy of sensitive data, including personal information relating to shareholders, material nonpublic information and the intellectual property and trade secrets and other sensitive information in the possession of Starwood Capital and portfolio entities. We, Starwood Capital or a portfolio entity could be required to make a significant investment to remedy the effects of any such failures, harm to their reputations, legal claims that they and their respective affiliates may be subjected to, regulatory action or enforcement arising out of applicable privacy and other laws, adverse publicity and other events that may affect their business and financial performance.

In addition, Starwood Capital operates in businesses that are highly dependent on information systems and technology. The costs related to cyber or other security threats or disruptions may not be fully insured or indemnified by other means. In addition, cybersecurity has become a top priority for regulators around the world. Many jurisdictions in which Starwood Capital operates have laws and regulations relating to data privacy, cybersecurity and protection of personal information, including the General Data Protection Regulation in the European Union and the California Consumer Privacy Act in the State of California. Some jurisdictions have also enacted laws requiring companies to notify individuals of data security breaches involving certain types of personal data. Breaches in security could potentially jeopardize Starwood Capital, its employees' or our investors' or counterparties' confidential and other information processed and stored in, and transmitted through Starwood Capital's computer systems and networks, or otherwise cause interruptions or malfunctions in its, its employees', our investors', our counterparties' or third parties' operations, which could result in significant losses, increased costs, disruption of Starwood Capital's business, liability to our investors and other counterparties, regulatory intervention or reputational damage.

If Starwood Capital fails to comply with the relevant laws and regulations, it could result in regulatory investigations and penalties, which could lead to negative publicity and may cause our investors or Starwood Capital fund investors and clients to lose confidence in the effectiveness of our or Starwood Capital's security measures.

Finally, we depend on Starwood Capital's headquarters in Miami Beach, Florida and its offices in Greenwich, Connecticut, as well as its other offices around the world, for the continued operation of our business. A disaster or a disruption in the infrastructure that supports our business, including a disruption involving electronic communications or other services used by us or third parties with whom we conduct business, or directly affecting our headquarters, could have a material adverse impact on our ability to continue to operate our business without interruption. Starwood Capital's disaster recovery programs may not be sufficient to mitigate the harm that may result from such a disaster or disruption. In addition, insurance and other safeguards might only partially reimburse us for our losses, if at all.

***Uncertainty with respect to the financial stability of the United States and several countries in the EU could have a significant adverse effect on our business, financial condition and results of operations.***

Our investment strategy depends on the CRE industry generally, which in turn depends on broad economic conditions in the United States, Europe, China and elsewhere. Recently, concerns over global economic conditions, energy and commodity prices, geopolitical issues and military conflicts, inflation, Federal Reserve short term rate decisions, actual or perceived instability in the U.S. banking system, foreign exchange rates, the availability and cost of credit, the sovereign debt crisis, the Chinese economy, the U.S. mortgage market and a potentially weakening real estate market in the United States have contributed to increased economic uncertainty and diminished expectations for the global economy. These factors, combined with volatile prices of oil and the potential for declining business and consumer confidence, may precipitate an economic slowdown, as well as cause extreme volatility in security prices. Global economic and political headwinds, along with global market instability and the risk of maturing debt that may have difficulties being refinanced, may continue to cause periodic volatility in the CRE market for some time. Adverse conditions in the CRE industry negatively impact our returns by, among other factors, the tightening of the credit markets, decline in the value of underlying real estate assets, and continuing credit and liquidity concerns, among other potential risks.

### **Risks Related to Our Investments**

***Our loans and other investments expose us to risks associated with debt-oriented real estate investments generally.***

We seek to invest primarily in debt instruments relating to CRE assets. As such, we are subject to, among other things, risk of defaults by borrowers in paying debt service on outstanding indebtedness and to other impairments of our loans and investments. Any deterioration of real estate fundamentals generally, and in North America, Europe and Australia in particular, could negatively impact our performance by making it more difficult for borrowers of our mortgage loans, or borrower entities, to satisfy their debt payment obligations, increasing the default risk applicable to borrower entities, and/or making it more difficult for us to generate attractive risk-adjusted returns. Changes in general economic conditions will affect the creditworthiness of borrower entities and/or the value of underlying real estate collateral relating to our investments and may include economic and/or market fluctuations, changes in environmental, zoning and other laws, casualty or condemnation losses, regulatory limitations on rents, decreases in property values, changes in the appeal of properties to tenants, changes in supply and demand of real estate products, fluctuations in real estate fundamentals, the financial resources of borrower entities, energy supply shortages, various uninsured or uninsurable risks, natural disasters, pandemics or outbreaks of contagious disease, political events, terrorism and acts of war, outbreak of wars and military conflicts, changes in government regulations, changes in monetary policy, changes in real property tax rates and/or tax credits, changes in operating expenses, changes in interest rates, changes in inflation rates, changes in the availability of debt financing and/or mortgage funds which may render the sale or refinancing of properties difficult or impracticable, increased mortgage defaults, increases in borrowing rates, changes in consumer spending, negative developments in the economy and/or adverse changes in real estate values generally and other factors that are beyond our control. This risk may be magnified in the case of the more recent conflicts between Israel and Hamas, and the ongoing conflict between Russia and Ukraine, due to the significant sanctions and other restrictive actions taken against Russia by the U.S. and other countries, as well as the cessation of all business in Russia by many global companies. In addition, recent concerns about the real estate market, rising interest rates, inflation, energy costs and geopolitical issues have contributed to increased volatility and diminished expectations for the economy and markets going forward.

We cannot predict the degree to which economic conditions generally, and the conditions for real estate debt investing in particular, will improve or decline. Any declines in the performance of the U.S. and global economies or in the real estate debt markets could have a material adverse effect on our business, financial condition, and results of operations.



***The lack of liquidity in our investments may adversely affect our business.***

The lack of liquidity of our investments in CRE debt and other illiquid investments, other than certain of our investments in CMBS, may make it difficult for us to sell such investments if the need or desire arises. Many of the securities we purchase are not registered under the relevant securities laws, resulting in a prohibition against their transfer, sale, pledge or their disposition, except in a transaction that is exempt from the registration requirements of, or otherwise in accordance with, those laws. In addition, certain investments such as B Notes, mezzanine loans and bridge and other loans are also particularly illiquid investments due to their short life, their potential unsuitability for securitization and/or the greater difficulty of recovery in the event of a borrower default. In addition, certain of our investments may become less liquid after our investment as a result of periods of delinquencies or defaults or turbulent market conditions, including due to current market conditions and exacerbated market volatility, which may make it more difficult for us to dispose of such assets at advantageous times or in a timely manner. As a result, many of our current investments are, and our future investments will be, illiquid and if we are required to liquidate all or a portion of our portfolio quickly, we may realize significantly less than the value at which we have previously recorded our investments. Further, we may face other restrictions on our ability to liquidate an investment in a business entity to the extent that we or our Manager has or could be attributed with material non-public information regarding such business entity. As a result, our ability to vary our portfolio in response to changes in economic and other conditions may be relatively limited, which could adversely affect our results of operations and financial condition.

***Prepayment rates may adversely affect the value of our investment portfolio.***

We are subject to the risk that the issuer of a security or borrower under a loan may exercise its option to prepay principal earlier than scheduled, forcing us to reinvest the proceeds from such prepayment in lower yielding securities or loans, which may result in a decline in our return. Debt investments frequently have call features that allow the issuer to redeem the security at dates prior to its stated maturity at a specified price (typically greater than par) only if certain prescribed conditions are met. An issuer may choose to redeem a debt security if, for example, the issuer can refinance the debt at a lower cost due to declining interest rates or an improvement in the credit standing of the issuer. Any such prepayments of our securities or loans could adversely impact our results of operations and financial condition.

***Difficulty in redeploying the proceeds from repayments of our loans and investments may cause our financial performance and returns to investors to suffer.***

As our loans and investments are repaid, we will have to redeploy the proceeds we receive into new loans and investments. It is possible that we will fail to identify reinvestment options that would provide returns or a risk profile that is comparable to the asset that was repaid. If we fail to redeploy the proceeds we receive from repayment of a loan in equivalent or better alternatives, our financial performance and returns to investors could suffer.

***The mortgage loans in which we may invest and the mortgage loans underlying the mortgage securities in which we may invest are subject to delinquency, foreclosure and loss, which could result in losses to us.***

CRE loans are secured by commercial properties and are subject to risks of delinquency and foreclosure. The ability of a borrower to repay a loan secured by an income-producing property typically is dependent primarily upon the successful operation of such property rather than upon the existence of independent income or assets of the borrower. If the net operating income of the property is reduced, the borrower's ability to repay the loan may be impaired. Net operating income of an income-producing property can be affected by, among other things: tenant mix and tenant bankruptcies, success of tenant businesses, property management decisions, including with respect to capital improvement, particularly in older building structures, property location and condition, competition from comparable types of properties offering the same or similar services, changes in laws that increase operating expenses or limit rents that may be charged, changes in interest rates, foreign exchange rates, and in the state of the credit and securitization markets and the debt and equity capital markets, including diminished availability or lack of debt financing for commercial real estate, any need to address environmental contamination at the property, the occurrence of any uninsured casualty at the property, changes



in national, regional or local economic conditions or specific industry segments, declines in regional or local real estate values, declines in regional or local rental or occupancy rates, increases in real estate tax rates, tax credits and other operating expenses, changes in governmental rules, regulations and fiscal policies, including environmental legislation, natural disasters, terrorism, social unrest and civil disturbances, and adverse changes in zoning laws.

In the event of any default under a mortgage loan held directly by us, we will bear a risk of loss of principal to the extent of any deficiency between the value of the collateral and the principal and accrued interest of the mortgage loan, which could have a material adverse effect on our cash flow from operations and limit amounts available for distribution to our shareholders. In the event of the bankruptcy of a mortgage loan borrower, the mortgage loan to such borrower will be deemed to be secured only to the extent of the value of the underlying collateral at the time of bankruptcy (as determined by the bankruptcy court), and the lien securing the mortgage loan will be subject to the avoidance powers of the bankruptcy trustee or debtor-in-possession to the extent the lien is unenforceable under state law. Foreclosure of a mortgage loan can be an expensive and lengthy process, which could have a substantial negative effect on our anticipated return on the foreclosed mortgage loan.

In addition, we are exposed to the risk of judicial proceedings with our borrowers and entities we invest in, including bankruptcy or other litigation, as a strategy to avoid foreclosure or enforcement of other rights by us as a lender or investor. In the event that any of the properties or entities underlying or collateralizing our loans or investments experiences or continues to experience any of the other foregoing events or occurrences, the value of, and return on, such investments could be reduced, which would adversely affect our results of operations and financial condition.

***We may need to foreclose on certain of the loans we originate or acquire, which could result in losses that harm our results of operations and financial condition.***

We may find it necessary or desirable to foreclose on certain of the loans we originate or acquire, and the foreclosure process may be lengthy and expensive. If we foreclose on an asset, we may take title to the property securing that asset, and if we do not or cannot sell the property, we would then come to own and operate it as “real estate owned.” Owning and operating real property involves risks that are different (and in many ways more significant) than the risks faced in owning an asset secured by that property. The costs associated with operating and redeveloping a property, including any operating shortfalls and significant capital expenditures, could materially and adversely affect our results of operations, financial conditions and liquidity. In addition, we may end up owning a property that we would not otherwise have decided to acquire directly at the price of our original investment or at all, and the liquidation proceeds upon sale of the underlying real estate may not be sufficient to recover our cost basis in the loan, resulting in a loss to us.

Whether or not we have participated in the negotiation of the terms of any such loans, we cannot assure you as to the adequacy of the protection of the terms of the applicable loan, including the validity or enforceability of the loan and the maintenance of the anticipated priority and perfection of the applicable security interests. Furthermore, claims may be asserted by lenders or borrowers that might interfere with enforcement of our rights. Borrowers may resist foreclosure actions by asserting numerous claims, counterclaims and defenses against us, including, without limitation, lender liability claims and defenses, even when the assertions may have no basis in fact, in an effort to prolong the foreclosure action and seek to force the lender into a modification of the loan or a favorable buy-out of the borrower’s position in the loan. Foreclosure actions in some U.S. states can take several years or more to litigate and may also be time consuming and expensive to complete in other U.S. states and foreign jurisdictions in which we do business. At any time prior to or during the foreclosure proceedings, the borrower may file for bankruptcy, which would have the effect of staying the foreclosure actions and further delaying the foreclosure process, and could potentially result in a reduction or discharge of a borrower’s debt. Foreclosure may create a negative public perception of the related property, resulting in a diminution of its value. Even if we are successful in foreclosing on a loan, the liquidation proceeds upon sale of the underlying real estate

may not be sufficient to recover our cost basis in the loan, resulting in a loss to us. Furthermore, any costs or delays involved in the foreclosure of the loan or a liquidation of the underlying property will further reduce the net sale proceeds and, therefore, increase any such losses to us.

***Delays in liquidating defaulted CRE debt investments could reduce our investment returns.***

The occurrence of a default on a CRE debt investment could result in our taking title to collateral. However, we may not be able to take title to and sell the collateral securing the loan quickly. Taking title to collateral can be an expensive and lengthy process that could have a negative effect on the return on our investment. Borrowers often resist when lenders, such as us, seek to take title to collateral by asserting numerous claims, counterclaims and defenses, including but not limited to lender liability claims, in an effort to prolong the foreclosure action. In some states, taking title to collateral can take several years or more to resolve. At any time during a foreclosure proceeding, for instance, the borrower may file for bankruptcy, which would have the effect of staying the foreclosure action and further delaying the foreclosure process. The resulting time delay could reduce the value of our investment in the defaulted loans. Furthermore, an action to take title to collateral securing a loan is regulated by state statutes and regulations and is subject to the delays and expenses associated with lawsuits if the borrower raises defenses, counterclaims or files for bankruptcy. In the event of default by a borrower, these restrictions, among other things, may impede our ability to take title to and sell the collateral securing the loan or to obtain proceeds sufficient to repay all amounts due to us on the loan. In addition, we may be forced to operate any collateral for which we take title for a substantial period of time, which could be a distraction for the Advisor and may require us to pay significant costs associated with such collateral. We may not recover any of our investment even if we take title to collateral.

***Interest rate fluctuations could reduce our ability to generate income on our investments and may cause losses.***

Changes in interest rates will affect our net interest income, which is the difference between the interest income we earn on our interest-earning investments and the interest expense we incur in financing these investments. Changes in the level of interest rates also may affect our ability to originate and acquire assets, the value of our assets and our ability to realize gains from the disposition of assets. Changes in interest rates may also affect borrower default rates. In a period of rising interest rates, our interest expense could increase, while the interest we earn on our fixed-rate debt investments would not change, adversely affecting our profitability. Our operating results depend in large part on differences between the income from our assets, net of credit losses, and our financing costs. We anticipate that for any period during which our assets are not match-funded, the income from such assets will respond more slowly to interest rate fluctuations than the cost of our borrowings. Consequently, changes in interest rates may significantly influence our net income. Interest rate fluctuations resulting in our interest expense exceeding interest income would result in operating losses for us.

***The due diligence process that the Advisor undertakes in regard to investment opportunities may not reveal all facts that may be relevant in connection with an investment and if the Advisor incorrectly evaluates the risks of our investments we may experience losses.***

Before making investments for us, the Advisor conducts due diligence that it deems reasonable and appropriate based on the facts and circumstances relevant to each potential investment. When conducting due diligence, the Advisor may be required to evaluate important and complex issues, including but not limited to those related to business, financial, tax, accounting, environmental, social and governance (“ESG”), legal, and regulatory and macroeconomic trends. With respect to ESG, the nature and scope of the Advisor’s diligence will vary based on the investment, but may include a review of, among other things: energy management, air and water pollution, land contamination, diversity, human rights, employee health and safety, accounting standards and bribery and corruption. Outside consultants, legal advisors, accountants and investment banks may be involved in the due diligence process in varying degrees depending on the type of potential investment. Selecting and evaluating material ESG factors is subjective by nature, and there is no guarantee that the criteria utilized or

judgment exercised by the Advisor or a third-party ESG specialist (if any) will reflect the beliefs, values, internal policies or preferred practices of any particular investor or align with the beliefs or values or preferred practices of other asset managers or with market trends. The materiality of sustainability risks and impacts on an individual potential investment or portfolio as a whole are dependent on many factors, including the relevant industry, country, asset class and investment style. The Advisor's loss estimates may not prove accurate, as actual results may vary from estimates. If the Advisor underestimates the asset-level losses relative to the price we pay for a particular investment, we may experience losses with respect to such investment.

Moreover, investment analyses and decisions by the Advisor may frequently be required to be undertaken on an expedited basis to take advantage of investment opportunities. In such cases, the information available to the Advisor at the time of making an investment decision may be limited, and they may not have access to detailed information regarding such investment. Further, some matters covered by the Advisor's diligence, such as ESG, are continuously evolving and the Advisor may not accurately or fully anticipate such evolution. For instance, the Advisor's ESG framework does not represent a universally recognized standard for assessing ESG considerations as there are different frameworks and methodologies being implemented by other asset managers, in addition to numerous international initiatives on the subject. There has also been recent regulatory focus on the marketing of socially conscious investment strategies and the methodology used to evaluate ESG, which has resulted in fines and penalties related to insufficient assessment processes around the marketing of investments marketed as ESG. Therefore, it may be the case that the Advisor may not possess complete knowledge of all circumstances that may adversely affect such investment.

***The properties underlying our investments may be subject to unknown liabilities, including liabilities resulting from environmental hazards, that could affect the value of these properties and as a result, our investments.***

Collateral properties underlying our investments may be subject to unknown or unquantifiable liabilities that may adversely affect the value of our investments. Such defects or deficiencies may include title defects, title disputes, liens, servitudes or other encumbrances on the mortgaged properties. The discovery of such unknown defects, deficiencies and liabilities could affect the ability of our borrowers to make payments to us or could affect our ability to foreclose and sell the underlying properties, which could adversely affect our results of operations and financial condition.

Furthermore, to the extent we foreclose on properties with respect to which we have extended loans, we may be subject to environmental liabilities arising from such foreclosed properties. Under various U.S. federal, state and local laws, an owner or operator of real property may become liable for the costs of removal of certain hazardous substances released on its property. These laws often impose liability without regard to whether the owner or operator knew of, or was responsible for, the release of such hazardous substances. In addition, we could be subject to similar liabilities in applicable foreign jurisdictions.

If we foreclose on any properties underlying our investments, the presence of hazardous substances on a property may adversely affect our ability to sell the property and we may incur substantial remediation costs, therefore the discovery of material environmental liabilities attached to such properties could adversely affect our results of operations and financial condition.

***If the Advisor overestimates the yields or incorrectly prices the risks of our investments, we may experience losses.***

The Advisor values our potential investments based on yields and risks, taking into account estimated future losses on the mortgage loans and the underlying collateral included in the securitization's pools, and the estimated impact of these losses on expected future cash flows and returns. The Advisor's loss estimates may not prove accurate, as actual results may vary from estimates. In the event that the Advisor underestimates the asset level losses relative to the price we pay for a particular investment, we may experience losses with respect to such investment.

***Inflation risks may have an adverse impact on our returns.***

Inflation and rapid fluctuations in inflation rates have had in the past, and may in the future have, negative effects on the economies and financial markets, which may in turn affect the markets in which we invest. For example, wages and prices of inputs increase during periods of inflation, which can negatively impact returns on investments. Governmental efforts to curb inflation often have negative effects on the level of economic activity. Depending on the inflation assumptions relating to the cash flows anticipated from the assets underlying our investments, as well as the manner in which asset revenue is determined with respect to such asset, returns from assets may vary as a result of changes in the rate of inflation. There can be no assurance that inflation will not become a serious problem in the future and have an adverse impact on our returns.

***Real estate valuation is inherently subjective and uncertain.***

The valuation of real estate and therefore the valuation of any underlying security relating to loans made by us is inherently subjective due to, among other factors, the individual nature of each property, its location, the expected future rental revenues from that particular property and the valuation methodology adopted. As a result, the valuations of the real estate assets against which we make loans are subject to a degree of uncertainty and are made on the basis of assumptions and methodologies that may not prove to be accurate, particularly in periods of volatility, low transaction flow or restricted debt availability in the commercial or residential real estate markets.

***Loans on properties in transition will involve a greater risk of loss than conventional mortgage loans.***

We may invest in transitional loans to borrowers who are typically seeking relatively short-term capital to be used in an acquisition or rehabilitation of a property. The typical borrower in a transitional loan has usually identified an undervalued asset that has been under-managed and/or is located in a recovering market. If the market in which the asset is located fails to improve according to the borrower's projections, or if the borrower fails to improve the quality of the asset's management and/or the value of the asset, the borrower may not receive a sufficient return on the asset to satisfy the transitional loan, and we bear the risk that we may not recover all or a portion of our investment.

In addition, borrowers usually use the proceeds of a conventional mortgage to repay a transitional loan. Transitional loans therefore are subject to the risk of a borrower's inability to obtain permanent financing to repay the transitional loan and to the broader availability of conventional mortgages at amenable rates. In the event of any default under transitional loans that may be held by us, we bear the risk of loss of principal and non-payment of interest and fees to the extent of any deficiency between the value of the mortgage collateral and the principal amount and unpaid interest of the transitional loan. To the extent we suffer such losses with respect to these transitional loans, it could adversely affect our results of operations and financial condition.

***Risks of cost overruns and noncompletion of renovations of properties in transition may result in significant losses.***

The renovation, refurbishment or expansion of a property by a borrower involves risks of cost overruns and noncompletion. Estimates of the costs of improvements to bring an acquired property up to standards established for the market position intended for that property may prove inaccurate. Other risks may include rehabilitation costs exceeding original estimates, possibly making a project uneconomical, environmental risks, delays in legal and other approvals (e.g., for condominiums) and rehabilitation and subsequent leasing of the property not being completed on schedule. If such renovation is not completed in a timely manner, or if it costs more than expected, the borrower may experience a prolonged reduction of net operating income and may not be able to make payments on our investment on a timely basis or at all, which could result in significant losses.

***Investment ratings that we may use are relative and subjective.***

In general, the ratings of nationally recognized rating organizations represent the opinions of these agencies as to the credit quality of securities that they rate. These ratings may be used by us as initial criteria for the

selection of investments. Such ratings, however, are relative and subjective; they are not absolute standards of quality and do not evaluate the market value risk of the securities. It is also possible that a rating agency might not change its rating of a particular issue on a timely basis to reflect subsequent events.

***Investments in non-conforming and non-investment grade rated loans or securities involve increased risk of loss.***

We may originate and/or acquire investments that do not conform to conventional loan standards applied by traditional lenders and either are not rated or rated as non-investment grade by the rating agencies. The non-investment grade credit ratings for these assets typically result from the overall leverage of the loans, the lack of a strong operating history for the properties underlying the loans, the borrowers' credit history, the properties' underlying cash flow or other factors. As a result, these investments have a higher risk of default and loss than investment grade rated assets. Any loss we incur may be significant and may reduce distributions to our shareholders and adversely affect the value of our common shares. There are no limits on the percentage of unrated or non-investment grade rated assets we may hold in our investment portfolio.

***Any credit ratings assigned to our investments are subject to ongoing evaluations and revisions and we cannot assure you that those ratings will not be downgraded.***

Some of our investments may be rated by Moody's Investors Service, Inc., Fitch Ratings, Inc., S&P Global Ratings, DBRS, Inc. or Kroll Bond Rating Agency, Inc. Any credit ratings on our investments are subject to ongoing evaluation by credit rating agencies, and we cannot assure you that any such ratings will not be changed or withdrawn by a rating agency in the future if, in its judgment, circumstances warrant. If rating agencies assign a lower-than-expected rating or reduce or withdraw, or indicate that they may reduce or withdraw, their ratings of our investments in the future, the value of these investments could significantly decline, which would adversely affect the value of our investment portfolio and could result in losses upon disposition or the failure of borrowers to satisfy their debt service obligations to us.

***Our investments may be concentrated and are subject to risk of default.***

While we seek to diversify our portfolio of investments, we are not required to observe specific diversification criteria, except as may be set forth in the investment guidelines adopted by our board of trustees. Therefore, our investments in our target assets may at times be concentrated in certain property types that are subject to higher risk of foreclosure or secured by properties concentrated in a limited number of geographic locations. To the extent that our portfolio is concentrated in any one region or type of asset, downturns relating generally to such region or type of asset may result in defaults on a number of our investments within a short time period, which may reduce our net income and the value of our common shares and accordingly reduce our ability to make distributions to our shareholders.

***Difficult conditions in the mortgage and CRE markets may cause us to experience market losses related to our holdings.***

Our results of operations are materially affected by conditions in the real estate markets, the financial markets and the economy generally. Concerns about the real estate market, inflation, energy costs, geopolitical issues and the availability and cost of credit, have contributed to increased volatility and diminished expectations for the economy and markets going forward. Deterioration in the real estate market may cause us to experience losses related to our assets and to sell assets at a loss. Declines in the market values of our investments may adversely affect our results of operations and credit availability, which may reduce earnings and, in turn, cash available for distribution to our shareholders.



***We operate in a highly competitive market for investment opportunities and competition may limit our ability to originate and/or acquire desirable investments in our target assets and could also affect the pricing of these assets.***

We operate in a highly competitive market for lending and investment opportunities. Our profitability depends, in large part, on our ability to originate and/or acquire our target assets at attractive prices. In originating or acquiring our target assets, we compete with a variety of institutional investors, including other REITs, commercial and investment banks, specialty finance companies, public and private funds, commercial finance and insurance companies and other financial institutions. Many of our competitors are substantially larger and have considerably greater financial, technical, marketing and other resources than we do. Several other REITs have recently raised significant amounts of capital, and may have investment objectives that overlap with ours, which may create additional competition for investment opportunities. Some competitors may have a lower cost of funds and access to funding sources that may not be available to us, such as funding from the U.S. government, if we are not eligible to participate in programs established by the U.S. government. Many of our competitors are not subject to the operating constraints associated with REIT tax compliance or maintenance of an exception from the definition of an investment company under the Investment Company Act. In addition, some of our competitors may have higher risk tolerances or different risk assessments, which could allow them to consider a wider variety of investments and establish more relationships than us. Furthermore, competition for originations of and investments in our target assets may lead to decreasing yields, which may further limit our ability to generate desired returns. We cannot assure you that the competitive pressures we face will not have a material adverse effect on our business, financial condition and results of operations. Also, as a result of this competition, desirable investments in our target assets may be limited in the future and we may not be able to take advantage of attractive investment opportunities from time to time, as we can provide no assurance that we will be able to identify and make investments that are consistent with our investment objectives.

***If we are unable to successfully integrate new assets or businesses and manage our growth, our results of operations and financial condition may suffer.***

We may significantly increase the size and/or change the mix of our portfolio of assets. We may be unable to successfully and efficiently integrate newly-acquired or originated assets into our existing portfolio or otherwise effectively manage our assets or our growth effectively. In addition, increases in our portfolio of assets and/or changes in the mix of our assets may place significant demands on our Advisor's administrative, operational, asset management, financial and other resources. Any failure to manage increases in size effectively could adversely affect our results of operations and financial condition.

***The B Notes that we originate or acquire are subject to additional risks related to the privately negotiated structure and terms of the transaction, which may result in losses to us.***

We may originate or acquire B Notes. A B Note is a mortgage loan typically (i) secured by a first mortgage on a single large commercial property or group of related properties and (ii) subordinated to an A Note secured by the same first mortgage on the same collateral. As a result, if a borrower defaults, there may not be sufficient funds remaining for a B Note holder after payment to the A Note holder. However, because each transaction is privately negotiated, B Notes can vary in their structural characteristics and risks. For example, the rights of holders of B Notes to control the process following a borrower default may vary from transaction to transaction. Further, B Notes typically are secured by a single property and so reflect the risks associated with significant concentration. Significant losses related to our B Notes would result in operating losses for us and may limit our ability to make distributions to our shareholders.

***Mezzanine loans involve greater risks of loss than senior loans secured by income-producing properties.***

We may invest in mezzanine loans, which sometimes take the form of subordinated loans secured by second mortgages on the underlying property or more commonly take the form of loans secured by a pledge of the



ownership interests of either the entity owning the property or a pledge of the ownership interests of the entity that owns the interest in the entity owning the property. These types of assets involve a higher degree of risk than long-term senior mortgage lending secured by income-producing real property because the loan may become unsecured as a result of foreclosure by the senior lender. In the event of a bankruptcy of the entity providing the pledge of its ownership interests as security, we may not have full recourse to the assets of such entity, or the assets of the entity may not be sufficient to satisfy our mezzanine loan. If a borrower defaults on our mezzanine loan or debt senior to our loan, or in the event of a borrower bankruptcy, our mezzanine loan will be satisfied only after the senior debt. As a result, we may not recover some or all of our investment. In addition, mezzanine loans may have higher loan-to-value ratios than conventional mortgage loans, resulting in less equity in the property and increasing the risk of loss of principal. Significant losses related to our mezzanine loans would result in operating losses for us and may limit our ability to make distributions to our shareholders.

***The replacement of LIBOR by SOFR or other alternative benchmark rate(s) may disrupt the overall financial markets.***

In July 2017, the Financial Conduct Authority of the U.K. (the “FCA”) announced its intention to cease sustaining London Interbank Offering Rate (“LIBOR”) by the end of 2021. The ICE Benchmark Administration, which is supervised by the FCA, ended publication of the one-week and two-month USD LIBOR tenors on December 31, 2021, and the remaining USD LIBOR tenors (overnight, one-month, three-month, six-month and 12-month) ended immediately following their publication on June 30, 2023.

There is currently no certainty regarding the future utilization of LIBOR or of any particular replacement rate. The U.S. Federal Reserve, in conjunction with the Alternative Reference Rates Committee, a steering committee comprised of large U.S. financial institutions, has formally recommended Secured Overnight Financing Rate (“SOFR”), an index calculated by short-term repurchase agreements, backed by Treasury securities, as its preferred alternative rate for LIBOR. At this time, it is not possible to predict how markets will respond to SOFR or other alternative reference rates, and the overall financial markets may be disrupted as a result of the phase-out of LIBOR.

The effect of the establishment of alternative reference rates cannot be predicted at this time, and the transition away from LIBOR and other current reference rates to alternative reference rates is complex and could have a material adverse effect on our business, financial condition and results of operations. Factors such as the pace of the transition to replacement rates, the specific terms and parameters for and market acceptance of any alternative reference rate, prices of and the liquidity of trading markets for products based on alternative reference rates, and our ability to transition and develop appropriate systems and analytics for one or more alternative reference rates could also have a material adverse effect on our business, financial condition and results of operations.

***Some of our portfolio investments are recorded at fair value and, as a result, there is uncertainty as to the value of these investments.***

Some of our portfolio investments are in the form of positions or securities that are not publicly traded. The fair value of securities and other investments that are not publicly traded may not be readily determinable. In accordance with our valuation guidelines, some of our portfolio investments for which no secondary market exists will be valued based on, among other factors, consideration of unobservable inputs. Because such valuations are subjective, the fair value of certain of our assets may fluctuate over short periods of time and our determinations of fair value may differ materially from the values that would have been used if a ready market for these securities existed. The value of our common shares could be adversely affected if our determinations regarding the fair value of these investments were materially higher than the values that we ultimately realize upon their disposal.

***We may experience a decline in the fair value of our assets.***

A decline in the fair value of our assets would require us to recognize an unrealized loss against earnings for those assets that are recorded at fair value through earnings, or may trigger an impairment, credit loss or other charge against earnings under applicable U.S. GAAP for those assets that are not recorded at fair value through earnings if we expect that the carrying value of those assets will not be recoverable. Subsequent disposition or sale of such assets could further affect our future losses or gains depending on the actual proceeds received.

***Investments outside the U.S. that are denominated in foreign currencies subject us to foreign currency risks and to the uncertainty of foreign laws and markets, which may adversely affect our distributions and our REIT status.***

Our investments outside the U.S. denominated in foreign currencies subject us to foreign currency risk due to potential fluctuations in exchange rates between foreign currencies and the U.S. dollar. As a result, changes in exchange rates of any such foreign currency to U.S. dollars may affect our income and distributions and may also affect the book value of our assets and the amount of shareholders' equity. In addition, these investments subject us to risks of multiple and conflicting tax laws and regulations, and other laws and regulations that may make foreclosure and the exercise of other remedies in the case of default more difficult or costly compared to U.S. assets, and political and economic instability abroad, any of which factors could adversely affect our receipt of returns on and distributions from these investments.

Changes in foreign currency exchange rates used to value a REIT's foreign assets may be considered changes in the value of the REIT's assets. These changes may adversely affect our status as a REIT. Further, bank accounts in foreign currency which are not considered cash or cash equivalents may adversely affect our status as a REIT.

***We are subject to the risks of investing in project finance investments, many of which are outside our control, and that may negatively impact our business and financial results.***

We are subject to the risks of investing in project finance investments. Infrastructure loans are subject to the risk of default, foreclosure and loss, and the risk of loss may be greater than similar risks associated with loans made on other types of assets. The loan structure for project finance relies primarily on the underlying project's cash flows for repayment, with the project's assets, rights and interests, together with the equity in the project company, typically pledged as collateral. Accordingly, the ability of the project company to repay a project finance loan is dependent upon the successful development, construction and/or operation of such project rather than upon the existence of independent income or assets of the project company. Moreover, the loans are typically non-recourse or limited recourse to the project sponsor, and the project company, as a special purpose entity, typically has no assets other than the project. Accordingly, if the project's cash flows are reduced or are otherwise less than projected, the project company may be unable to repay the loan. In connection with any infrastructure lending, the Advisor will make certain estimates regarding project cash flows during the underwriting of the investment. These estimates may not prove accurate, as actual results may vary from estimates. A project's cash flows can be adversely affected by, among other things:

- if the project involves new construction;
- cost overruns;
- delays in completion;
- availability of land, building materials, energy, raw materials and transportation;
- availability of work force, management personnel and reliable contractors;
- natural disasters (fire, drought, flood, earthquake, pandemics, including the COVID-19 pandemic);
- global climate change, war, civil unrest and strikes affecting contractors, suppliers or markets;

- shortfalls in expected capacity, output or efficiency;
- the terms of the power purchase or other offtake agreements used in the project;
- the creditworthiness of the project company and the project sponsor;
- competition;
- volatility in commodity prices;
- technology deployed, and the failure or degradation of equipment;
- inflation and fluctuations in exchange rates or interest rates;
- operation and maintenance costs;
- unforeseen capital expenditures;
- sufficiency of gas and electric transmission capabilities;
- licensing and permit requirements;
- increased environmental or other applicable regulations;
- increased regulatory scrutiny and enforcement; and
- changes in national, international, regional, state or local policies, economic conditions, laws and regulations.

In the event of any default under a project finance loan, we bear the risk of loss of principal to the extent of any deficiency between the value of the collateral, if any, and the principal and accrued interest of the loan, which could have a material adverse effect on our business, financial condition and results of operations. In the event of the bankruptcy of a project company, our investment will be deemed to be subject to the avoidance powers of the bankruptcy trustee or debtor-in-possession and our contractual rights may be unenforceable under state or other applicable law. Foreclosure proceedings against a project can be an expensive and lengthy process, which could have a substantial negative effect on our anticipated return on the foreclosed investment.

***We may have difficulty meeting our obligations on the unfunded commitments of the infrastructure loans, which could have a material adverse effect on us.***

Under certain circumstances, we may find it difficult to meet our remaining funding obligations respect to infrastructure loans from our ordinary operations. In such situations, in order to meet our then-existing funding obligations, we may be required to: (i) sell assets in adverse market conditions; (ii) borrow on unfavorable terms; or (iii) fund the infrastructure loans with amounts that would otherwise be invested in future acquisitions, capital expenditures or repayment of debt. These alternatives could increase our costs or reduce our equity. Thus, compliance with the funding obligations with respect to the infrastructure loans may hinder our ability to grow, which could have a material adverse effect on our business, financial condition and results of operations. In the event that we are unable to meet our funding obligations with respect to one or more infrastructure loans, we would be in breach of such loan(s), which could damage our reputation and could result in a lawsuit being brought by the project company or others, which could result in substantial costs and divert our attention and resources.

***The power and oil and gas industries are subject to extensive regulation, which could adversely impact the business and financial performance of the projects to which our infrastructure loans relate.***

The projects to which our infrastructure loans relate, which we expect will be focused in the power industry and oil and gas industry, are subject to significant and extensive federal, international, state and local governmental regulation, including how facilities are constructed, maintained and operated, environmental and

safety controls, and the prices they may charge for the products and services they provide. Various governmental authorities have the power to enforce compliance with these regulations and the permits issued under them, and violators are subject to administrative, civil and criminal penalties, including civil fines, injunctions or both. Stricter laws, regulations or enforcement policies could be enacted in the future that likely would increase compliance costs, which could adversely affect the business and financial performance of the projects. The operations of our borrowers may often rely on governmental licenses, concessions, leases or contracts that are highly complex and may result in disputes over interpretation or enforceability. Such borrowers may also be affected by rate regulations, which could change over time. Any adverse outcome on such regulatory matters could affect the relevant borrower's ability to make payments of principal and interest on loans owed to the us, and could impair the value of our collateral in the event of a foreclosure. Any of the foregoing could result in a default on one or more of our investments, which could have a material adverse effect on our business, financial condition and results of operations.

***We generally are not able to control the operational of the borrowers underlying our infrastructure loans.***

Certain assets securing an infrastructure loan will be dependent on efficient operation and maintenance to produce income to the relevant borrowers and to maintain value of the underlying collateral. The failure of the relevant borrowers to properly maintain such assets could affect such borrowers' ability to make payments of principal and interest on loans owed to us, and could impair the value of our collateral in the event of a foreclosure. Where possible and appropriate under market circumstances, the covenants in the financing documentation relating to the infrastructure loans generally restrict certain actions that may be taken by the borrowers (including restrictions on making equity distributions and incurring additional indebtedness), to mitigate the risk, but there can be no assurance that such covenants can be obtained or that the relevant borrowers would comply with the same. As a result, we are subject to the risk that the relevant borrower may make business decisions with which we disagree or that the relevant borrower may take risks or otherwise act in ways that do not serve our interests.

***Operation of a project underlying an infrastructure loan involves significant risks and hazards that may impair the project company's ability to repay the loan, resulting in its default, which could have a material adverse effect on our business and financial results.***

The ongoing operation of a project underlying any of our infrastructure loans involves risks that include, among other things, the breakdown or failure of equipment or processes or performance below expected levels of output or efficiency due to wear and tear, latent defect, design error or operator error or other events outside of our control, including force majeure events. In addition to natural risks such as earthquakes, floods, droughts, lightning, wildfires, hurricanes, wind, global climate change and pandemics, including the COVID-19 pandemic, other hazards, such as fire, explosion, structural collapse and machinery failure, acts of terrorism or related acts of war, hostile cyber intrusions or other catastrophic events are inherent risks in the operation of a project. These and other hazards can cause significant personal injury or loss of life, severe damage to and destruction of property, plant and equipment and contamination of, or damage to, the environment and suspension of operations. Operation of a project also involves risks that the operator will be unable to transport its product to its customers in an efficient manner due to a lack of transmission capacity. Unplanned outages of a project, including extensions of scheduled outages due to mechanical failures or other problems, occur from time to time. Unplanned outages typically increase operation and maintenance expenses and may reduce revenues. These such events may not be insurable by us or by the applicable borrowers, on reasonable term or at all. To the extent there is insurance, warranties from vendors and obligations of contractors to meet certain performance levels, the proceeds of such insurance, warranties or performance guarantees may not cover the lost revenues, increased expenses or liquidated damages payments should the project experience equipment breakdown or non-performance by contractors or vendors. A project's inability to operate its assets efficiently, manage capital expenditures and costs and generate earnings and cash flow could have a material adverse effect on the project company's ability to repay the loan, which could result in its default. A default on one or more of the

infrastructure loans could have a material adverse effect on our business, financial condition and results of operations

***Loans to companies engaged in energy or power exploration and production may be exposed to production risk and to commodity price risk.***

Certain assets securing one or more loans in our portfolio may be related to energy or power generation or transmission. Such assets may be subject to energy commodity risks including price, volumetric and spread risk. While the Advisor will make efforts to manage these risks, the revenue from which our loans are expected to be repaid will be generated from a combination of (i) sales of commodities under contracts pursuant to which third parties – rather than our borrowers – bear most of the risk of commodity price fluctuation and (ii) sales of commodities in the open commodity markets at then-prevailing prices. To the extent production of the applicable commodity is lower than forecasted, there is non-performance by (or a bankruptcy or insolvency of) the counterparty under a commodity contract, or the spot market price for the commodities decreases, the borrowers' revenues, and ability to repay our loan, may be negatively affected.

***Our investments in CMBS are generally subject to losses.***

Our investments in CMBS are subject to losses. In general, losses on a mortgaged property securing a mortgage loan included in a securitization will be borne first by the equity holder of the property, then by a cash reserve fund or letter of credit, if any, then by the holder of a mezzanine loan or B Note, if any, then by the "first loss" subordinated security holder (generally, the "B-Piece" buyer) and then by the holder of a higher-rated security. In the event of default and the exhaustion of any equity support, reserve fund, letter of credit, mezzanine loans or B Notes, and any classes of securities junior to those in which we invest, we will not be able to recover all of our investment in the securities we purchase. In addition, if the underlying mortgage portfolio has been overvalued by the originator, or if the values subsequently decline and, as a result, less collateral is available to satisfy interest and principal payments due on the related CMBS, there would be an increased risk of loss. The prices of lower credit quality securities are generally less sensitive to interest rate changes than more highly rated investments, but more sensitive to adverse economic downturns or individual issuer developments.

***We may not control the special servicing of the mortgage loans included in the CMBS in which we invest, and, in such cases, the special servicer may take actions that could adversely affect our interests.***

With respect to each series of CMBS in which we invest, overall control over the special servicing of the related underlying mortgage loans may be held by a directing certificate-holder, which is appointed by the holders of the most subordinate class of CMBS in such series. We may acquire classes of existing series of CMBS where we will not have the right to appoint the directing certificate-holder. In connection with the servicing of the specially serviced mortgage loans, the related special servicer may, at the direction of the directing certificate-holder, take actions that could adversely affect our interests.

***With respect to certain mortgage loans included in our CMBS investments, the properties that secure the mortgage loans backing the securitized pool may also secure one or more related mortgage loans that are not in the CMBS, which may conflict with our interests.***

Certain mortgage loans included in our CMBS investments may be part of a loan combination or split loan structure that includes one or more additional mortgaged loans (senior, subordinate or pari passu and not included in the CMBS investments) that are secured by the same mortgage instrument(s) encumbering the same mortgaged property or properties, as applicable, as is the subject mortgage loan. Pursuant to one or more co-lender or similar agreements, a holder, or a group of holders, of a mortgage loan in a subject loan combination may be granted various rights and powers that affect the mortgage loan in that loan combination, including: (i) cure rights; (ii) a purchase option; (iii) the right to advise, direct or consult with the applicable servicer regarding various servicing matters affecting that loan combination; or (iv) the right to replace the directing certificate-holder (without cause).

***Dislocations, illiquidity and volatility in the market for commercial real estate as well as the broader financial markets could adversely affect the performance and value of commercial mortgage loans, the demand for CMBS and the value of CMBS investments.***

Any significant dislocations, illiquidity or volatility in the real estate and securitization markets, including the market for CMBS, as well as global financial markets and the economy generally, could adversely affect our business and financial results. We cannot assure you that dislocations in the commercial mortgage loan market will not occur in the future.

Challenging economic conditions affect the financial strength of many commercial, multifamily and other tenants and result in increased rent delinquencies and decreased occupancy. Economic challenges may lead to decreased occupancy, decreased rents or other declines in income from, or the value of, commercial, multifamily and manufactured housing community real estate.

Declining commercial real estate values, coupled with tighter underwriting standards for commercial real estate loans, may prevent commercial borrowers from refinancing their mortgages, which results in increased delinquencies and defaults on commercial, multifamily and other mortgage loans. Declines in commercial real estate values also result in reduced borrower equity, further hindering borrowers' ability to refinance in an environment of increasingly restrictive lending standards and giving them less incentive to cure delinquencies and avoid foreclosure. The lack of refinancing opportunities has impacted and could impact in the future, in particular, mortgage loans that do not fully amortize and on which there is a substantial balloon payment due at maturity, because borrowers generally expect to refinance these types of loans on or prior to their maturity date. Finally, declining commercial real estate values and the associated increases in loan-to-value ratios would result in lower recoveries on foreclosure and an increase in losses above those that would have been realized had commercial property values remained the same or increased. Continuing defaults, delinquencies and losses would further decrease property values, thereby resulting in additional defaults by commercial mortgage borrowers, further credit constraints and further declines in property values.

***The CMBS in which we invest is subject to the risks of the mortgage securities market as a whole and risks of the securitization process.***

The value of CMBS may change due to shifts in the market's perception of issuers and regulatory or tax changes adversely affecting the mortgage securities market as a whole. CMBS is also subject to several risks created through the securitization process. Subordinate tranches of CMBS is paid interest only to the extent that there are funds available to make payments. To the extent the collateral pool includes delinquent loans, there is a risk that the interest payment on subordinate CMBS will not be fully paid. Subordinate CMBS is also subject to greater credit risk than those CMBS that is more highly rated.

***We are subject to the risks relating to increases in prepayment rates of debt underlying CMBS.***

CMBS are indirectly subject to the risks associated with prepayments (including both voluntary prepayments by the borrowers and liquidations due to defaults and foreclosures) on mortgage loans.

In general, "premium" securities (securities whose market values exceed their principal or par amounts) are adversely affected by faster than anticipated prepayments, and "discount" securities (securities whose principal or par amounts exceed their market values) are adversely affected by slower than anticipated prepayments. Since many CMBS will be discount securities when interest rates are high, and will be premium securities when interest rates are low, these CMBS may be adversely affected by changes in prepayments in any interest rate environment.

The adverse effects of prepayments may impact investments in at least two ways. First, particular investments may experience outright losses, as in the case of interest-only securities in an environment of faster



actual or anticipated prepayments. Second, particular investments may under-perform relative to hedges that may have been constructed for these investments, resulting in a loss to us. In particular, prepayments (at par) may limit the potential upside of many CMBS to their principal or par amounts, whereas their corresponding hedges often have the potential for unlimited loss. In addition, in the case of “premium” securities, prepayments at par may result in losses.

***We may sponsor, and purchase the more junior securities of, CLOs and such instruments involve significant risks, including that these securities receive distributions from the CLO only if the CLO generates enough income to first pay all the investors holding senior tranches and all CLO expenses.***

We may sponsor, and purchase the junior securities of, CLOs. In CLOs, investors purchase specific tranches, or slices, of debt instruments that are secured or backed by a pool of loans. The CLO debt classes have a specific seniority structure and priority of payments. The most junior securities along with the preferred shares of a CLO are generally retained by the sponsor of the CLO and are usually entitled to all of the income generated by the pool of loans after the payment of debt service on all the more senior classes of debt and the payment of all expenses. Defaults on the pool of loans therefore first affect the most junior tranches. The subordinate tranches of CLO debt may also experience a lower recovery and greater risk of loss, including risk of deferral or non-payment of interest than more senior tranches of the CLO debt because they bear the bulk of defaults from the loans held in the CLO and serve to protect the other, more senior tranches from default in all but the most severe circumstances. Despite the protection provided by the subordinate tranches, even more senior CLO tranches can experience substantial losses due to actual defaults, increased sensitivity to defaults due to collateral default and disappearance of protecting tranches, decline in market value due to market anticipation of defaults and aversion to CLO securities as a class. Further, the transaction documents relating to the issuance of CLO securities may impose eligibility criteria on the assets of the CLO, restrict the ability of the CLO’s sponsor to trade investments and impose certain portfolio-wide asset quality requirements. Finally, the credit risk retention rules of the SEC impose a retention requirement of 5% of the issued debt classes by the sponsor of the CLO. These criteria, restrictions and requirements may limit the ability of the CLO’s sponsor (or collateral manager) to maximize returns on the CLO securities.

In addition, CLOs are not actively traded and are relatively illiquid investments and volatility in CLO trading markets may cause the value of these investments to decline. The market value of CLO securities may be affected by, among other things, changes in the market value of the underlying loans held by the CLO, changes in the distributions on the underlying loans, defaults and recoveries on the underlying loans, capital gains and losses on the underlying losses (or foreclosure assets), prepayments on the underlying loans and the availability, prices and interest rate of underlying loans. Furthermore, the leveraged nature of each subordinated tranche may magnify the adverse impact on such class of changes in the value of the loans, changes in the distributions on the loans, defaults and recoveries on the loans, capital gains and losses on the loans (or foreclosure assets), prepayment on loans and availability, price and interest rates of the loans.

Our CLOs include certain interest coverage tests, overcollateralization coverage tests or other tests that, if not met, may result in a change in the priority of distributions, which may result in the reduction or elimination of distributions to the subordinate debt and equity tranches until the tests have been met or certain senior classes of securities have been paid in full. For example, even if no loan in the pool experiences a default, an appraisal reduction of a loan in the pool may cause the pool of loans in the applicable CLO not to meet certain of these test. Accordingly, if such tests are not satisfied, we, as holders of the subordinate debt and equity interests in the applicable CLO, may experience a significant reduction in our cash flow from those interests.

Moreover, the reinvestment and replenishment period in one or more of our CLOs may be nearing the end of its term. Once the reinvestment and replenishment period has ended any repayments of a loan in the applicable CLO will require us to pay down the most senior debt in such CLO resulting in an increase in our cost of funds.

Furthermore, if any CLO that we sponsor or in which we hold interests fails to meet certain tests relevant to the most senior debt issued and outstanding by the CLO issuer, an event of default may occur under that CLO. If

that occurs, (i) if we were serving as manager of such CLO, our ability to manage the CLO may be terminated and (ii) our ability to attempt to cure any defaults in such CLO may be limited, which would increase the likelihood of a reduction or elimination of cash flow and returns to us in such CLO for an indefinite time.

***Joint venture investments could be adversely affected by our lack of sole decision-making authority, our reliance on joint venture partners' financial condition and liquidity and disputes between us and our joint venture partners.***

We may make investments through joint ventures. Such joint venture investments may involve risks not otherwise present when we make investments without partners, including the following:

- we may not have exclusive control over the investment or the joint venture, which may prevent us from taking actions that are in our best interest and could create the potential risk of creating impasses on decisions, such as with respect to acquisitions or dispositions;
- joint venture agreements often restrict the transfer of a partner's interest or may otherwise restrict our ability to sell the interest when we desire and/or on advantageous terms;
- joint venture agreements may contain buy-sell provisions pursuant to which one partner may initiate procedures requiring the other partner to choose between buying the other partner's interest or selling its interest to that partner;
- a partner may, at any time, have economic or business interests or goals that are, or that may become, inconsistent with our business interests or goals;
- a partner may be in a position to take action contrary to our instructions, requests, policies or objectives, including our policy with respect to maintaining our qualification as a REIT and our exemption from registration under the Investment Company Act;
- a partner may fail to fund its share of required capital contributions or may become bankrupt, which may mean that we and any other remaining partners generally would remain liable for the joint venture's liabilities;
- our relationships with our partners are contractual in nature and may be terminated or dissolved under the terms of the applicable joint venture agreements and, in such event, we may not continue to own or operate the interests or investments underlying such relationship or may need to purchase such interests or investments at a premium to the market price to continue ownership;
- disputes between us and a partner may result in litigation or arbitration that could increase our expenses and prevent our Manager and our officers and trustees from focusing their time and efforts on our business and could result in subjecting the investments owned by the joint venture to additional risk; or
- we may, in certain circumstances, be liable for the actions of a partner, and the activities of a partner could adversely affect our ability to qualify as a REIT or maintain our exclusion from registration under the Investment Company Act, even though we do not control the joint venture.

Any of the above may subject us to liabilities in excess of those contemplated and adversely affect the value of our joint venture investments.

### **Risks Related to Debt Financing**

***We may incur significant leverage.***

Our investments will involve significant amounts of indebtedness. Debt service requirements may deplete cash flows and relatively small changes in the overall value of investments will have a magnified impact on us. If an investment were unable to generate sufficient cash flow to meet principal and interest payments on its indebtedness, the value of our investment in such investment would be significantly reduced or even eliminated.

The amount of debt financing may restrict the amount of funds available for distribution to investors. In addition, the terms of any debt financing may contain covenants that, among other things, might restrict our operations or activities or our investments.

***We may use repurchase agreements to finance our investments, which may expose us to risks that could result in losses, including due to cross-defaults and cross-collateralization under warehouse repurchase and credit facilities.***

We may finance our acquisition and origination of mortgage loans, mezzanine loans and other portfolio assets under warehouse repurchase and credit facilities with various lenders. Such repurchase and credit facilities will be entered into by special purpose vehicles directly or indirectly owned and controlled by us (or us and one or more Other Starwood Accounts). Although each transaction under our repurchase agreements has its own specific terms, such as identification of the assets subject to the transaction, sale price, repurchase price and rate, our financing subsidiaries remain exposed to the credit risk of each asset because they must purchase the asset from the applicable counterparty on a specified date. In addition, repurchase agreements involve the risk that the counterparty may liquidate the assets underlying the repurchase agreements following the occurrence of an event of default under the applicable repurchase agreement by us. Furthermore, the counterparty may require us to provide additional margin in the form of cash or other forms of collateral under the terms of the applicable repurchase agreement. In addition, the interest costs and other fees associated with repurchase agreement transactions may adversely affect our results of operations and financial condition, and, in some cases, we may be worse off than if we had not used such instruments.

We also expect to provide guaranties to the lenders under which we expect to guarantee amounts of the balance outstanding from time to time under such repurchase and credit facilities by the special purpose vehicle sellers or borrowers. We expect to also be liable under such guaranties for customary “bad-boy” events. Other Starwood Accounts are expected to receive the benefit of such guaranties, although as such funds, vehicles or accounts are not expected to agree to participate in guarantee arrangements in negotiating to participate in a transaction, such funds, vehicles or accounts are not expected to bear a commensurate percentage of potential liability under such guaranties. The repurchase and credit facilities will include customary cross-default provisions pursuant to which the occurrence of an event of default under any such facility (including breach of a financial covenant applicable to us under a guaranty) will trigger an event of default under all of the repurchase and credit facilities and allow the lenders to accelerate payment of all obligations due under such facilities. In addition, all loans and assets subject to repurchase transactions or pledged under an individual repurchase or credit facility will be cross-collateralized as security for such facility. Thus, the poor performance or non-performance of an individual loan or asset included as collateral for a repurchase or credit facility could result in us losing our interests in all loans and assets in the collateral pool for such facility.

**For our borrowed money, the potential for gain or loss on amounts invested in us will be magnified and may increase the risk of investing in us.**

We use borrowings, also known as leverage, to finance the acquisition of a portion of our investments with credit facilities and other borrowings. The use of leverage increases the volatility of investments by magnifying the potential for gain or loss on invested equity capital. If we use leverage to partially finance our investments, through borrowing from banks and other lenders, you will experience increased risks of investing in our common shares. If the value of our assets increases, leverage would cause the net asset value attributable to each of the classes of our common shares to increase more sharply than it would have had we not leveraged. Conversely, if the value of our assets decreases, leverage would cause net asset value to decline more sharply than it otherwise would have had we not leveraged. Similarly, any increase in our income in excess of interest payable on the borrowed funds would cause our net income to increase more than it would without the leverage, while any decrease in our income would cause net income to decline more sharply than it would have had we not borrowed. Such a decline could negatively affect our ability to make common share distribution payments. Leverage is generally considered a speculative investment technique. Our ability to execute our strategy using leverage

depends on various conditions in the financing markets that are beyond our control, including liquidity and credit spreads. In addition, the decision to utilize leverage will increase our assets and, as a result, will increase the amount of advisory fees payable to the Advisor.

***Changes in interest rates may affect our cost of capital and net investment income.***

Since we use debt to finance a portion of our investments, our net investment income depends, in part, upon the difference between the rate at which we borrow funds and the rate at which we invest those funds. As a result, we can offer no assurance that a significant change in market interest rates will not have a material adverse effect on our net investment income. In periods of rising interest rates when we have debt outstanding, our cost of funds will increase, which could reduce our net investment income. We expect that our long-term fixed-rate investments will be financed primarily with equity and long-term debt. We may use interest rate risk management techniques in an effort to limit our exposure to interest rate fluctuations. These techniques may include various interest rate hedging activities. These activities may limit our ability to participate in the benefits of lower interest rates with respect to the hedged portfolio. Adverse developments resulting from changes in interest rates or hedging transactions could have a material adverse effect on our business, financial condition and results of operations.

A rise in the general level of interest rates can be expected to lead to higher interest rates applicable to our debt investments. Accordingly, an increase in interest rates would make it easier for us to meet or exceed the Performance Fee hurdle rate which is used for purposes of calculating the Performance Fees payable to the Advisor and may result in a substantial increase of the amount of such Performance Fees.

***We may not be able to access financing sources on attractive terms which could adversely affect our ability to execute our business plan.***

We require significant outside capital to fund and grow our business. Our business may be adversely affected by disruptions in the debt and equity capital markets and institutional lending market, including the lack of access to capital or prohibitively high costs of obtaining or replacing capital. A primary source of liquidity for companies in the real estate industry has been the debt and equity capital markets. Access to the capital markets and other sources of liquidity was severely disrupted during the relatively recent global credit crisis and, despite some recent improvements, the markets could suffer another severe downturn and another liquidity crisis could emerge. Based on the current conditions, we do not know whether any sources of capital, other than those currently utilized by us, will be available to us in the future on terms that are acceptable to us. If we cannot obtain sufficient debt and equity capital on acceptable terms, our business and our ability to operate could be severely impacted.

***We may not successfully align the maturities of our liabilities with the maturities on our assets, which could harm our operating results and financial condition.***

Our general financing strategy is focused on the use of “match-funded” structures. This means that we seek to align the maturities of our liabilities with the maturities on our assets in order to manage the risks of being forced to refinance our liabilities prior to the maturities of our assets. In addition, we plan to match interest rates on our assets with like-kind borrowings, so fixed-rate investments are financed with fixed-rate borrowings and floating-rate assets are financed with floating-rate borrowings, directly or indirectly through the use of interest rate swaps, caps and other financial instruments or through a combination of these strategies. We may fail to appropriately employ match-funded structures on favorable terms, or at all. We may also determine not to pursue a fully match-funded strategy with respect to a portion of our financings for a variety of reasons. If we fail to appropriately employ match-funded strategies or determine not to pursue such a strategy, our exposure to interest rate volatility and exposure to matching liabilities prior to the maturity of the corresponding asset may increase substantially which could harm our operating results, liquidity and financial condition.

***We may utilize non-recourse securitizations to finance our investments, which may expose us to risks that could result in losses.***

We may utilize non-recourse securitizations of certain of our investments to generate cash for funding new investments and for other purposes. Such financing generally involves creating a special purpose vehicle, contributing a pool of our investments to the entity, and selling interests in the entity on a non-recourse basis to purchasers (whom we would expect to be willing to accept a lower interest rate to invest in investment-grade loan pools). We would expect to retain all or a portion of the equity and potentially other tranches in the securitized pool of portfolio investments. Prior to any such financings, we may use other financing facilities to finance the acquisition of investments until a sufficient quantity of investments had been accumulated, at which time we would refinance these facilities through a securitization, such as a CLO. The inability to consummate securitizations to finance our investments could require us to seek other forms of less attractive financing, which could adversely affect our performance and our ability to grow our business. Moreover, conditions in the capital markets, including volatility and disruption in the capital and credit markets, may not permit a securitization at any particular time or may make the issuance of any such securitization less attractive to us even when we do have sufficient eligible assets. We may also suffer losses if the value of the mortgage loans we acquire declines prior to securitization. In addition, we may suffer a loss due to the incurrence of transaction costs related to executing these transactions. To the extent that we incur a loss executing or participating in future securitizations for the reasons described above or for other reasons, it could materially and adversely impact our business and financial condition. The inability to securitize our portfolio may hurt our performance and our ability to grow our business.

***Restrictive covenants relating to our operations may have adverse effects on us.***

A credit facility lender may impose restrictions on us that would affect our ability to incur additional debt, originate loans, reduce liquidity below certain levels, make distributions to our shareholders and impact our flexibility to determine our operating policies and investment strategies. For example, our loan agreements may contain negative covenants that limit, among other things, our ability to distribute more than a certain amount of our net cash flow to our shareholders, dispose of or refinance loans and enter into transactions with affiliates. In addition, our loan agreements may contain negative covenants that limit leverage beyond certain amounts contrary to our leverage ratio goals. If we fail to meet or satisfy any of these covenants, we would be in default under such agreements, and a lender could elect to declare outstanding amounts due and payable, terminate its commitment, require the posting of additional collateral and/or enforce its interests against existing collateral.

#### **Risks Related to our Relationship with the Advisor and the Dealer Manager**

***We depend on the Advisor to select our investments and otherwise conduct our business, and any material adverse change in its financial condition or our relationship with the Advisor could have a material adverse effect on our business and ability to achieve our investment objectives.***

Our success is dependent upon our relationship with, and the performance of, the Advisor in the acquisition and management of our real estate portfolio and our corporate operations. The Advisor may suffer or become distracted by adverse financial or operational problems in connection with Starwood Capital's business and activities unrelated to us and over which we have no control. Should the Advisor fail to allocate sufficient resources to perform its responsibilities to us for any reason, we may be unable to achieve our investment objectives or to pay distributions to our shareholders.

***The termination or replacement of the Advisor could trigger a repayment event under the terms of any future indebtedness.***

The termination or replacement of the Advisor may trigger repayment of outstanding amounts under any future indebtedness. If a repayment event occurs with respect to any such indebtedness, our results of operations and financial condition may be adversely affected.



***The Advisor's inability to retain the services of key real estate professionals, including Mr. Sternlicht who serves on the Advisor's Investment Committee, could hurt our performance.***

Our success depends to a significant degree upon the contributions of certain key real estate professionals employed by the Advisor, including Mr. Sternlicht who serves on the Advisor's Investment Committee, each of whom would be difficult to replace. There is ever increasing competition among alternative asset firms, financial institutions, private equity firms, investment advisors, investment managers, real estate investment companies, REITs and other industry participants for hiring and retaining qualified investment professionals and there can be no assurance that such professionals will continue to be associated with us or the Advisor, particularly in light of our perpetual-life nature, or that replacements will perform well. Neither we nor the Advisor have employment agreements with these individuals and they may not remain associated with us. If any of these persons were to cease their association with us, our operating results could suffer. Our future success depends, in large part, upon the Advisor's ability to attract and retain highly skilled managerial, operational and marketing professionals. If the Advisor loses or is unable to obtain the services of highly skilled professionals, our ability to implement our investment strategies could be delayed or hindered.

***We do not own the "Starwood" name, but we may use it as part of our corporate name pursuant to the Advisory Agreement. Use of the name by other parties or the termination of our trademark license agreement may harm our business.***

The Advisor has permitted us a fully paid-up, royalty-free, non-exclusive, non-transferable license to use the name "Starwood Credit Real Estate Income Trust." Accordingly, we have a right to use this name for so long as the Advisor (or another affiliate of the license-holder of the Starwood name (the "Licensor")) serves as our advisor (or another advisory entity) and the Advisor remains an affiliate of the Licensor. The Licensor and its affiliates, such as Starwood Capital, will retain the right to continue using the "Starwood" name. We will further be unable to preclude the Licensor from licensing or transferring the ownership of the "Starwood" name to third parties, some of whom may compete with us. Consequently, we will be unable to prevent any damage to goodwill that may occur as a result of the activities of the Licensor, Starwood Capital or others. We may also be required to, among other things, change our name. Any of these events could disrupt our recognition in the market place, damage any goodwill we may have generated and otherwise harm our business.

#### **Risks Related to Conflicts of Interest**

***Various potential and actual conflicts of interest will arise, and these conflicts may not be identified or resolved in a manner favorable to us.***

Various potential and actual conflicts of interest will arise as a result of our overall investment activities and the overall investment activities of Starwood Capital, the Dealer Manager, the Advisor and their affiliates. The following risk factors enumerate certain but not all potential conflicts of interest that should be carefully evaluated before making an investment in us. Starwood Capital and Starwood Capital personnel may in the future engage in further activities that may result in additional conflicts of interest not addressed below. If any matter arises that we and our affiliates (including the Advisor) determine in our good faith judgment constitutes an actual conflict of interest, we and our affiliates (including the Advisor) may take such action as we determine in good faith may be necessary or appropriate to ameliorate the conflict. Transactions between us and Starwood Capital or its affiliates will require approval by our board of trustees, including a majority of our independent trustees in accordance with our Declaration of Trust. There can be no assurance that our board of trustees or Starwood Capital will identify or resolve all conflicts of interest in a manner that is favorable to us.

***The Advisor faces a conflict of interest because the fees it receives for services performed are based in part on our NAV, which the Advisor is ultimately responsible for determining.***

The Advisor is paid the Management Fee for its services that are based on the value of our portfolio of investments as determined in connection with our determination of NAV, which is calculated by the Advisor in



accordance with our valuation guidelines. The calculation of our NAV includes certain subjective judgments with respect to estimating, for example, our accrued expenses, net portfolio income and liabilities, and therefore, our NAV may not correspond to realizable value upon a sale of those assets. The Advisor may benefit by us retaining ownership of our assets at times when our shareholders may be better served by the sale or disposition of our assets in order to avoid a reduction in our NAV. If our NAV is calculated in a way that is not reflective of our actual NAV, then the then-current transaction price of common shares on a given date may not accurately reflect the value of our portfolio, and common shares may be worth less than the then-current transaction price.

***The Management Fee and Performance Fee may not create proper incentives or may induce the Advisor and its affiliates to make certain investments, including speculative investments that increase the risk of our portfolio.***

We will pay the Advisor the Management Fee regardless of the performance of our portfolio. The Advisor's entitlement to the Management Fee, which is not based upon performance metrics or goals, might reduce its incentive to devote its time and effort to seeking investments that provide attractive risk-adjusted returns for our portfolio. We may be required to pay the Advisor the Management Fee in a particular period despite experiencing a net loss or a decline in the value of our portfolio during that period.

The Performance Fee may create an incentive for the Advisor to make riskier or more speculative investments on our behalf than it would otherwise make in the absence of such performance-based compensation.

Because the Management Fee is based on our NAV, the Advisor may also be motivated to accelerate acquisitions in order to increase NAV or, similarly, delay or curtail repurchases to maintain a higher NAV, which would, in each case, increase amounts payable to the Advisor.

***Starwood Capital personnel work on other projects and conflicts may arise in the allocation of personnel between us and other projects.***

The Advisor and its affiliates will devote such time as shall be necessary to conduct our business affairs in an appropriate manner. However, a core group of professionals will devote substantially all of their business time not only to our activities but also to the activities of several other investment vehicles and any successor funds thereto (and their respective investments) and their related entities (which may include separate accounts, dedicated managed accounts and investment funds formed for specific geographical areas or investments). Consequently, conflicts are expected to arise in the allocation of personnel, and we may not receive the level of support and assistance that we otherwise might receive if we were internally managed. The Advisor and its affiliates are not restricted from entering into other investment advisory relationships or from engaging in other business activities.

***Starwood Capital is subject to a number of conflicts of interest, regulatory oversight and legal and contractual restrictions due to its multiple business lines, which may reduce the synergies that we expect to draw on or otherwise reduce the opportunities available to us.***

Starwood Capital and its affiliates are involved in a number of other businesses and activities, which may result in conflicts of interest or other obligations that are disadvantageous to us. Specified policies and procedures implemented by Starwood Capital to mitigate potential conflicts of interest and address certain regulatory requirements and contractual restrictions will from time to time reduce the synergies across Starwood Capital's various businesses that we expect to draw on for purposes of pursuing attractive investment opportunities. Because Starwood Capital has many different asset management businesses, including a capital markets group, it is subject to a number of actual and potential conflicts of interest, greater regulatory oversight and subject to more legal and contractual restrictions than that to which it would otherwise be subject if it had just one line of business. In addressing these conflicts and regulatory, legal and contractual requirements across its various businesses, Starwood has implemented certain policies and procedures (e.g., information walls) that

reduce the positive synergies that we expect to utilize for purposes of finding attractive investments. For example, Starwood Capital will from time to time come into possession of material, non-public information with respect to companies in which its private equity business may be considering making an investment or companies that are clients of Starwood Capital. As a consequence, that information, which could be of benefit to us, might become restricted to those respective businesses and otherwise be unavailable to us. In addition, to the extent that Starwood Capital is in possession of material, non-public information or is otherwise restricted from trading in certain securities, we and the Advisor, as part of Starwood Capital, generally also are deemed to be in possession of such information or otherwise restricted. This could reduce the investment opportunities available to us, prevent us from exiting an investment or otherwise limit our investment flexibility. Additionally, the terms of confidentiality or other agreements with or related to companies in which any Starwood Capital fund has or has considered making an investment or which is otherwise a client of Starwood Capital will from time to time restrict or otherwise limit our ability to make investments in or otherwise engage in businesses or activities competitive with such companies. Starwood Capital may enter into one or more strategic relationships, in certain regions or with respect to certain types of investments that, although intended to provide greater opportunities for us, may require us to share such opportunities or otherwise limit the amount of an opportunity we can otherwise take.

Starwood Capital and its affiliates engage in a broad spectrum of activities, including a broad range of activities relating to investments in the real estate industry, and have invested or committed billions of dollars in capital through various investment funds, managed accounts and other vehicles affiliated with Starwood Capital. In the ordinary course of their business activities, Starwood Capital and its affiliates may engage in activities where the interests of certain divisions of Starwood Capital and its affiliates, including the Advisor, or the interests of their clients may conflict with the interests of our shareholders. Certain of these divisions and entities affiliated with the Advisor have or may have an investment strategy similar to ours and therefore may engage in competing activities with us. In particular, various Starwood Capital opportunistic and substantially stabilized real estate funds and other investment vehicles seek to invest in a broad range of real estate investments.

***Starwood engages various advisors and operating partners who may co-invest alongside us, and there can be no assurance that such advisors and operating partners will continue to serve in such roles.***

Starwood Capital engages and retains strategic advisors, consultants, senior advisors, executive advisors and other similar professionals who are not employees or affiliates of Starwood Capital and who may, from time to time, receive payments from, or allocations with respect to, portfolio entities (as well as from Starwood Capital or us). In such circumstances, such payments from, or allocations with respect to, us and our underlying assets will not, even if they have the effect of reducing any retainers or minimum amounts otherwise payable by Starwood Capital, be deemed paid to or received by Starwood Capital. These strategic advisors, senior advisors, consultants, executive advisors or other professionals may have the right or may be offered the ability to co-invest alongside us, including in those investments in which they are involved, or otherwise participate in equity plans for management of any such portfolio entity, which may have the effect of reducing the amount invested by us in any property. Additionally, and notwithstanding the foregoing, these senior advisors, consultants and other professionals as well as current and former chief executive officers of Starwood Capital portfolio entities, may be (or have the preferred right to be) investors in various Starwood Capital portfolio entities or Other Starwood Accounts. The nature of the relationship with each of the strategic advisors, consultants, executive advisors and other professionals and the amount of time devoted or required to be devoted by them varies considerably. In certain cases, they provide the Dealer Manager and the Advisor with industry-specific insights and feedback on investment themes, assist in transaction due diligence, make introductions to and provide reference checks on management teams. In other cases, they may take on more extensive roles and serve as executives or trustees on the boards of various entities or contribute to the origination of new investment opportunities. In certain instances, Starwood Capital may have formal arrangements with these senior advisors, executive advisors, consultants, management teams for operating platforms or other professionals (which may or may not be terminable upon notice by any party), and in other cases the relationships may be more informal. They may be compensated (including pursuant to retainers and expense reimbursement) from Starwood Capital,

us or portfolio properties or otherwise uncompensated unless and until an engagement with a portfolio property develops. In certain cases, they have certain attributes of Starwood Capital “employees” (e.g., they may have dedicated offices at Starwood Capital, have a Starwood Capital email address, participate in general meetings and events for Starwood Capital personnel, work on Starwood Capital matters as their primary or sole business activity) even though they are not considered Starwood Capital employees, affiliates or personnel for purposes of the Dealer Manager Agreement or Advisory Agreement. There can be no assurance that any of the senior advisors, consultants and other professionals will continue to serve in such roles or continue their arrangements with Starwood Capital, us and any portfolio properties.

***We may purchase assets from or sell assets to the Advisor and its affiliates, and such transactions may cause conflicts of interest.***

We may purchase assets from or sell assets to the Advisor and its affiliates or their respective related parties. These transactions involve conflicts of interest, as Starwood Capital may receive fees and other benefits, directly or indirectly, from or otherwise have interests in both parties to the transaction. The purchases and sales referred to in this paragraph are subject to the approval of a majority of trustees (including a majority of our independent trustees) not otherwise interested in the transaction in accordance with our Declaration of Trust.

***Certain Other Starwood Accounts have similar or overlapping investment objectives and guidelines, and we will not be allocated certain opportunities and may be allocated only opportunities with lower relative returns.***

Through Other Starwood Accounts, Starwood Capital currently invests and plans to continue to invest third-party capital in a wide variety of investment opportunities in the United States and globally. There will be overlap of CRE debt and other investment opportunities with certain Other Starwood Accounts that are actively investing and similar overlap with future Other Starwood Accounts. See “—Starwood Capital may raise or manage Other Starwood Accounts which could result in the reallocation of Starwood Capital personnel and the direction of potential investments to such Other Starwood Accounts” below. This overlap will from time to time create conflicts of interest. Additionally, in certain circumstances investment opportunities suitable for us will not be presented to us and there will be one or more investment opportunities where our participation is restricted.

With respect to Other Starwood Accounts with investment objectives or guidelines that overlap with ours but that do not have priority over us, investment opportunities are allocated among us and one or more Other Starwood Accounts in accordance with Starwood Capital’s prevailing policies and procedures on a basis that the Advisor and its affiliates believe to be fair and reasonable in their sole discretion, which may be on an alternating or co-invest basis. In addition, certain Other Starwood Accounts, such as SEREDF II and SREDS, have a partial or full priority with respect to certain investment opportunities that may overlap ours. For additional information, see “*Item 7 Certain Relationships And Related Transactions, And Trustee Independence—Potential Conflicts of Interest—Allocation of Investment Opportunities.*”

While the Advisor will seek to manage potential conflicts of interest in a fair and reasonable manner as required the Advisory Agreement, the portfolio strategies employed by the Advisor, Starwood Capital or their affiliates in managing the Other Starwood Accounts could conflict with the strategies employed by the Advisor in managing our business and may adversely affect the marketability, exit strategy, prices and availability of the properties, securities and instruments in which we invest. The Advisor, Starwood Capital or their affiliates may also give advice to the Other Starwood Accounts that may differ from advice given to us even though their investment objectives or guidelines may be the same or similar to ours.

The amount of performance-based compensation charged and management fees paid by us may be less than or exceed the amount of performance-based compensation charged or management fees paid by Other Starwood Accounts. Such variation may create an incentive for Starwood Capital to allocate a greater percentage of an investment opportunity to us or such Other Starwood Accounts, as the case may be.

***Under certain circumstances, the Advisor may determine not to pursue some or all of an investment opportunity within our investment objectives and guidelines, including without limitation, as a result of our prior investments, business or other reasons applicable to us, Other Starwood Accounts, Starwood Capital or its affiliates.***

Under certain circumstances, the Advisor may determine not to pursue some or all of an investment opportunity within our investment objectives and guidelines, including without limitation, as a result of business, reputational or other reasons applicable to us, Other Starwood Accounts, Starwood Capital or its affiliates. In addition, the Advisor may determine that we should not pursue some or all of an investment opportunity, including, by way of example and without limitation, because we have already invested sufficient capital in the investment, sector, industry, geographic region or markets in question, as determined by the Advisor, or the investment is not appropriate for us for other reasons as determined by the Advisor. In any such case Starwood Capital could, thereafter, offer such opportunity to other parties, including Other Starwood Accounts, portfolio entities, joint venture partners, related parties or third parties. Any such Other Starwood Accounts may be advised by a different Starwood Capital business group with a different investment committee, which could determine an investment opportunity to be more attractive than the Advisor believes to be the case. In any event, there can be no assurance that the Advisor's assessment will prove correct or that the performance of any investments actually pursued by us will be comparable to any investment opportunities that are not pursued by us. Starwood Capital, including its personnel, may receive compensation from any such party that makes the investment, including an allocation of carried interest or referral fees, and any such compensation could be greater than amounts paid by us to the Advisor. In some cases, Starwood Capital earns greater fees when Other Starwood Accounts participate alongside or instead of us in an investment.

The Advisor makes good faith determinations for allocation decisions based on expectations that may prove inaccurate. Information unavailable to the Advisor, or circumstances not foreseen by the Advisor at the time of allocation, may cause an investment opportunity to yield a different return than expected. There is no assurance that any conflicts arising out of the foregoing will be resolved in our favor. Starwood Capital is entitled to amend its policies and procedures at any time without prior notice or our consent.

To the extent we acquire investments through joint ventures with Other Starwood Accounts, such investments will be allocated as described above, and we may be allocated interests in such joint ventures that are smaller than the interests of the Other Starwood Accounts. Generally, we expect the level of control we have with respect to any joint venture will correspond to our economic interest in such joint venture. We will not participate in joint ventures in which we do not have or share control to the extent that we believe such participation would potentially threaten our status as a non-investment company exempt from the Investment Company Act. This may prevent us from receiving an allocation with respect to certain investment opportunities that are suitable for both us and one or more Other Starwood Accounts.

Starwood Capital may have an opportunity to acquire a portfolio or pool of assets, securities and instruments that it determines in its sole discretion should be divided and allocated among us and Other Starwood Accounts. Such allocations generally would be based on its assessment of the expected returns and risk profile of the portfolio and the assets therein. For example, some of the assets in a pool may have an opportunistic return profile not appropriate for us. Also, a pool may contain both debt and equity instruments that Starwood Capital determines should be allocated to different funds. In all of these situations, the combined purchase price paid to a seller would be allocated among the multiple assets, securities and instruments in the pool and therefore among Other Starwood Accounts and us acquiring any of the assets, securities and instruments. Similarly, there will likely be circumstances in which we and Other Starwood Accounts will sell assets in a single or related transactions to a buyer. In some cases a counterparty will require an allocation of value in the purchase or sale contract, though Starwood Capital could determine such allocation of value is not accurate and should not be relied upon. Unless an appraisal is required by our Declaration of Trust, Starwood Capital will generally rely upon internal analysis to determine the ultimate allocation of value, though it could also obtain third party valuation reports. Regardless of the methodology for allocating value, Starwood Capital will have conflicting duties to us and Other Starwood Accounts when they buy or sell assets together in a portfolio, including as a

result of different financial incentives Starwood Capital has with respect to different vehicles, most clearly when the fees and compensation, including performance-based compensation, earned from the different vehicles differ. There can be no assurance that our investment will not be valued or allocated a purchase price that is higher or lower than it might otherwise have been allocated if such investment were acquired or sold independently rather than as a component of a portfolio shared with Other Starwood Accounts.

***Our Declaration of Trust renounces our interest or expectancy with respect to business opportunities and competitive activities.***

Our Declaration of Trust provides that, to the maximum extent permitted from time to time by Maryland law, (a) none of our trustees, officers or agents who is also an officer, employee or agent of Starwood Holdings or any of its affiliates is required to present, communicate or offer any business opportunity to us or any of our subsidiaries and (b) any such person shall have the right to hold and exploit any business opportunities or to direct, recommend, offer, sell, assign or otherwise transfer such business opportunity to any person or entity other than us and our subsidiaries. In addition, our Declaration of Trust provides that we renounce our interest or expectancy in, or in being offered an opportunity to participate in, any such business opportunity to the maximum extent permitted from time to time by Maryland law.

Our Declaration of Trust also provides that any Covered Person may have business interests and engage in business activities similar, in addition to or in competition with those of or relating to us.

***We may co-invest with Starwood Capital affiliates in CRE debt or other investments and such investments may be in different parts of the capital structure of an issuer and may otherwise involve conflicts of interest. When we hold investments in which Other Starwood Accounts have a different principal investment, conflicts of interest may arise between us and Other Starwood Accounts, and the Advisor may take actions that are adverse to us.***

We may co-invest with Other Starwood Accounts in investments that are suitable for both us and such Other Starwood Accounts. We and the Other Starwood Accounts may make or hold investments at different levels of an issuer's capital structure, which may include us making one or more investments directly or indirectly relating to portfolio entities of Other Starwood Accounts and vice versa. To the extent we hold interests that are different (including with respect to their relative seniority) than those held by such Other Starwood Accounts, the Advisor and its affiliates may be presented with decisions when our interests and the interests of the Other Starwood Accounts are in conflict. In order to mitigate any such conflicts of interest, we may recuse ourselves from participating in any decisions relating or with respect to such securities held by such Other Starwood Accounts (notwithstanding that if such Other Starwood Accounts maintain voting rights with respect to the securities they hold) or, if we do not recuse ourselves, Starwood Capital may be required to take action where it will have conflicting loyalties between its duties to us and to such Other Starwood Accounts, which may adversely impact us.

Other Starwood Accounts may also participate in a separate tranche of a financing with respect to an issuer/borrower in which we have an interest or otherwise in different classes of such issuer's securities. In connection with negotiating loans and bank financings in respect of our real estate-related transactions, from time to time Starwood Capital will obtain the right to participate on its own behalf in a portion of the financings with respect to such transactions. If an Other Starwood Account has a mezzanine debt investment with respect to the same issuer to whom we have made a mortgage loan, Starwood Capital may have conflicting loyalties between its duties to us and to other affiliates. Such investments may inherently give rise to conflicts of interest or perceived conflicts of interest between or among the various classes of securities that may be held by such entities. To the extent we hold an equity interest or an interest in a loan or debt security that is different (including with respect to their relative seniority) than those held by such Other Starwood Accounts, the Advisor and its affiliates may have limited or no rights with respect to decisions when our interests and the interests of the Other Starwood Accounts are in conflict, and Starwood Capital may have conflicting loyalties between its duties to us and to



other affiliates. In that regard, actions may be taken for the Other Starwood Accounts that are adverse to us. There can be no assurance that any such conflict will be resolved in our favor and Starwood Capital may be required to take action where it will have conflicting loyalties between its duties to us and to Other Starwood Accounts, which may adversely impact us.

In addition, conflicts may arise in determining the amount of an investment, if any, to be allocated among potential investors and the respective terms thereof. There can be no assurance that the return on our investment will be equivalent to or better than the returns obtained by the other affiliates participating in the transaction. In addition, it is possible that in a bankruptcy proceeding our interest may be subordinated or otherwise adversely affected by virtue of such Other Starwood Accounts' involvement and actions relating to its investment.

***Starwood Capital may raise or manage Other Starwood Accounts which could result in the reallocation of Starwood Capital personnel and the direction of potential investments to such Other Starwood Accounts.***

Starwood Capital reserves the right to raise and/or manage Other Starwood Accounts, including opportunistic and stabilized and substantially stabilized real estate funds or separate accounts, dedicated managed accounts, investments suitable for lower risk, lower return funds or higher risk, higher return funds, real estate debt obligation and trading investment vehicles, real estate funds primarily making investments in a single sector of the real estate investment space (e.g., office, industrial, retail or multifamily) or making non-controlling investments in public and private debt and equity securities or investment funds that may have the same or similar investment objectives or guidelines as us, investment funds formed for specific geographical areas or investments, including those raised by us and one or more managed accounts (or other similar arrangements structured through an entity) for the benefit of one or more specific investors (or related group of investors) which, in each case, may have investment objectives or guidelines that overlap with ours. See “—Certain Other Starwood Accounts have similar or overlapping investment objectives and guidelines, and we will not be allocated certain opportunities and may be allocated only opportunities with lower relative returns.” In particular, we expect that there will be overlap of real estate debt and real estate-related debt and equity securities investment opportunities with certain Other Starwood Accounts that are actively investing and similar overlap with future Other Starwood Accounts. The closing of an Other Starwood Account could result in the reallocation of Starwood Capital personnel, including reallocation of existing real estate professionals, to such Other Starwood Account. In addition, potential investments that may be suitable for us may be directed toward such Other Starwood Account.

***Starwood Capital's potential involvement in financing a third party's purchase of assets from us could lead to potential or actual conflicts of interest.***

We may from time to time dispose of all or a portion of an investment by way of a third-party purchaser's bid where Starwood Capital or one or more Other Starwood Accounts is providing financing as part of such bid or acquisition of the investment or underlying assets thereof. This may include the circumstance where Starwood Capital or one or more Other Starwood Accounts is making commitments to provide financing at or prior to the time such third-party purchaser commits to purchase such investments or assets from us. Such involvement of Starwood Capital or one or more Other Starwood Accounts as such a provider of debt financing in connection with the potential acquisition of portfolio investments by third parties from us may give rise to potential or actual conflicts of interest.

***Certain principals and employees may be involved in and have a greater financial interest in the performance of other Starwood Capital funds or accounts, and such activities may create conflicts of interest in making investment decisions on our behalf.***

Certain of the principals and employees of the Advisor and the Dealer Manager may be subject to a variety of conflicts of interest relating to their responsibilities to us and the management of our portfolio. Such individuals may serve in an advisory capacity to other managed accounts or investment vehicles, as members of



an investment or advisory committee or a board of trustees (or similar such capacity) for one or more investment funds, corporations, foundations or other organizations. Such positions may create a conflict between the services and advice provided to such entities and the responsibilities owed to us. The other managed accounts and investment funds in which such individuals may become involved may have investment objectives that overlap with ours. Furthermore, certain principals and employees of the Advisor may have a greater financial interest in the performance of such other funds or accounts than our performance. Such involvement may create conflicts of interest in making investments on our behalf and such other funds and accounts. Such principals and employees will seek to limit any such conflicts in a manner that is in accordance with their fiduciary duties to us and such organizations.

***The Advisor may face conflicts of interests in choosing our service providers and certain service providers may provide services to the Dealer Manager, the Advisor or Starwood Capital on more favorable terms than those payable by us.***

Certain advisors and other service providers or their affiliates (including accountants, administrators, lenders, bankers, brokers, attorneys, consultants, title agents and investment or commercial banking firms) that provide goods or services to us, Starwood Capital or certain entities in which we have an investment may also provide goods or services to or have business, personal, financial or other relationships with Starwood Capital and its other businesses. Such advisors and service providers may be investors in us, affiliates of the Dealer Manager or the Advisor, sources of investment opportunities or co-investors or commercial counterparties or entities in which Starwood Capital or Other Starwood Accounts have an investment, and payments by us may indirectly benefit Starwood Capital or such Other Starwood Accounts. Additionally, certain employees of the Advisor may have family members or relatives employed by such advisors and service providers. The Advisor or its affiliates may also provide administrative services to us. These relationships may influence us, Starwood Capital and the Advisor in deciding whether to select or recommend such a service provider to perform services for us or a portfolio property (the cost of which will generally be borne directly or indirectly by us or such portfolio property, as applicable).

It is expected that certain Starwood Capital affiliates will also provide other services in respect of our investments from time to time, including, but not limited to administrative corporate services. Employees of these affiliates may also act as our executive officers and may also receive performance-based compensation in respect of our investments. The fees and expenses of such Starwood Capital-affiliated service providers (and, if applicable, their employees) are borne by our investments and there is no related offset to the Management Fee we pay to the Advisor. While Starwood Capital believes that any such affiliated service providers, when engaged, generally provide (or will provide) services at rates equal to or better than those provided by third parties (even in jurisdictions where insurance rates are statutorily determined), there is an inherent conflict of interest that may incentivize Starwood Capital to engage its affiliated service provider over a third party.

Notwithstanding the foregoing, transactions relating to our real estate debt and real estate-related debt and equity securities that require the use of a service provider generally is allocated to service providers on the basis of best execution, the evaluation of which includes, among other considerations, such service provider's provision of certain investment-related services and research that the Advisor believes to be of benefit to us. Service providers or their affiliates often charge different rates or have different arrangements for different types of services. With respect to service providers, for example, the fee for a given type of work may vary depending on the complexity of the matter as well as the expertise required and demands placed on the service provider. Therefore, to the extent the types of services used by us are different from those used by Starwood Capital and its affiliates, the Advisor or its affiliates may pay different amounts or rates than those paid by us. However, the Advisor and its affiliates have a longstanding practice of not entering into any arrangements with service providers that could provide for lower rates or discounts than those available to us, or other Starwood Capital investment vehicles for the same services.

***The personnel of the Dealer Manager and the Advisor may trade in securities for their own accounts, subject to restrictions applicable to Starwood Capital personnel.***

The officers, trustees, members, managers and employees of the Dealer Manager and the Advisor may trade in securities for their own accounts, subject to restrictions and reporting requirements as may be required by law and Starwood Capital policies, or otherwise determined from time to time by the Dealer Manager or the Advisor. Such personal securities transactions and investments could, in certain circumstances, result in conflicts of interest, including to the extent they relate to (i) a company in which we hold or acquire an interest (either directly through a privately negotiated investment or indirectly through the purchase of securities or other traded instruments related thereto) and (ii) entities that have interests which are adverse to ours or pursue similar investment opportunities as us.

***We expect to have a diverse shareholder group and the interests of our shareholders may conflict with one another and may conflict with the interests of investors in other vehicles that we co-invest with.***

Our shareholders may have conflicting investment, tax and other interests with respect to their investments in us and with respect to the interests of investors in other investment vehicles managed or advised by the Advisor or its affiliates that may participate in the same investments as us. The conflicting interests of individual shareholders with respect to other shareholders and relative to investors in other investment vehicles and investors relate to, among other things, the nature, structuring financing, tax profile and timing of disposition of investments. The Advisor may as a result have conflicts in making these decisions, which may be more beneficial for one or more (but not all) shareholders than for other shareholders. In addition, we may make investments that may have a negative impact on related investments made by the shareholders in separate transactions. In selecting and structuring investments appropriate for us, the Advisor considers our investment and tax objectives (including our qualification as a REIT) and those of our shareholders (and those of investors in other investment vehicles managed or advised by the Advisor or its affiliate) as a whole, not the investment, tax or other objectives of any shareholders individually.

#### **Risks Related to our REIT Status and Certain Other Tax Items**

***Our failure to qualify as a REIT in any taxable year would subject us to U.S. federal income tax and applicable state and local taxes, which would reduce the amount of cash available for distribution to our shareholders.***

We intend to elect and qualify to be taxed as a REIT under the Code commencing with our taxable year ending December 31, 2023. We do not intend to request a ruling from the IRS that we qualify to be taxed as a REIT. The U.S. federal income tax laws governing REITs are complex. Judicial and administrative interpretations of the U.S. federal income tax laws governing REIT qualification are limited. To qualify as a REIT, we must meet, on an ongoing basis, various tests regarding the nature of our assets and our income, the ownership of our outstanding shares, and the amount of our distributions. New legislation, court decisions or administrative guidance, in each case possibly with retroactive effect, may make it more difficult or impossible for us to qualify as a REIT. Thus, while we intend to operate so that we will qualify as a REIT, given the highly complex nature of the rules governing REITs, the ongoing importance of factual determinations, and the possibility of future changes in our circumstances, no assurance can be given that we will so qualify for any particular year. These considerations also might restrict the types of assets that we can acquire in the future.

If we fail to qualify as a REIT in any taxable year, and we do not qualify for certain statutory relief provisions, we would be required to pay U.S. federal income tax and applicable state and local income tax on our taxable income at regular corporate income tax rates, and distributions to our shareholders would not be deductible by us in determining our taxable income. In such a case, we might need to borrow money or sell assets in order to pay our taxes. Our payment of income tax would decrease the amount of our income available for distribution to our shareholders. Furthermore, if we fail to maintain our qualification as a REIT, we no longer would be required to distribute substantially all of our REIT taxable income to our shareholders. In addition,

unless we were eligible for certain statutory relief provisions, we could not re-elect to be taxed as a REIT until the fifth calendar year following the year in which we failed to qualify.

***Qualifying as a REIT involves highly technical and complex provisions of the Code.***

Qualification as a REIT involves the application of highly technical and complex Code provisions and the Treasury regulations promulgated thereunder for which only limited judicial and administrative authorities exist. Even a technical or inadvertent violation could jeopardize our REIT qualification. Our qualification as a REIT will depend on our satisfaction of certain asset, income, organizational, distribution, shareholder ownership and other requirements on a continuing basis. In addition, our ability to satisfy the requirements to qualify as a REIT may depend in part on the actions of third parties over which we have no control or only limited influence, including in cases where we own an equity interest in an entity that is classified as a partnership for U.S. federal income tax purposes. Furthermore, new tax legislation, administrative guidance or court decisions, in each instance potentially with retroactive effect, could make it more difficult or impossible for us to qualify as a REIT.

***Our board of trustees is authorized to revoke our REIT election without shareholder approval, which may cause adverse consequences to our shareholders.***

Our Declaration of Trust authorizes our board of trustees to revoke or otherwise terminate our REIT election, without the approval of our shareholders, if it determines that it is no longer in our best interests to qualify as a REIT. Our board of trustees has duties to us and our shareholders and could only cause such changes in our tax treatment if it determines in good faith that such changes are in our best interests. In this event, we would become subject to U.S. federal income tax on our taxable income and we would no longer be required to distribute most of our net income to our shareholders, which may cause a reduction in the total return to our shareholders.

***Ordinary dividends paid by REITs generally do not qualify for the reduced tax rates applicable to “qualified dividend income.”***

Dividends paid by C corporations to domestic shareholders that are individuals, trusts and estates currently are generally taxed at a maximum federal income tax rate of 20% as qualified dividend income. Dividends payable by REITs, however, are generally not eligible for the reduced rates applicable to qualified dividend income, except to the extent designated as capital gain dividends or qualified dividend income. The more favorable rates currently applicable to regular corporate dividends could cause investors who are individuals, trusts and estates to perceive investments in REITs to be relatively less attractive than investments in shares of non-REIT corporations that pay dividends, even taking into account the deduction of up to 20% of qualified REIT dividends received by non-corporate U.S. shareholders in taxable years beginning before January 1, 2026.

***Failure to make required distributions would subject us to tax, which would reduce the cash available for distribution to our shareholders.***

To qualify as a REIT, we must distribute to our shareholders each year dividends equal to at least 90% of our REIT taxable income (which is computed without regard to the dividends-paid deduction, excludes net capital gain and does not necessarily equal net income as calculated in accordance with U.S. GAAP). To the extent that we satisfy the 90% distribution requirement, but distribute less than 100% of our taxable income, we will be subject to U.S. federal corporate income tax on our undistributed income (including net capital gain). In addition, we will incur a 4% nondeductible excise tax on the amount, if any, by which our distributions in any calendar year are less than minimum amounts specified under U.S. federal income tax laws. We intend to make distributions to our shareholders in a manner that will satisfy the REIT 90% distribution requirement and avoid corporate income tax and the 4% nondeductible excise tax.

Our taxable income may substantially exceed our net income as determined based on U.S. GAAP or differences in timing between the recognition of taxable income and the actual receipt of cash may occur. For

example, we may be required to accrue income on mortgage loans, mortgage-backed securities and other types of debt securities or interests in debt securities before we receive any payments of interest or principal on such assets. We may also acquire distressed debt investments that are subsequently modified by agreement with the borrower either directly or indirectly. As a result of amendments to a debt investment, we may be required to recognize taxable income to the extent that the principal amount of the modified debt exceeds our cost of purchasing it prior to the amendments. We may be required under the terms of the indebtedness that we incur, whether to private lenders or pursuant to government programs, to use cash received from interest payments to make principal payments on that indebtedness, with the effect that we will recognize income but will not have a corresponding amount of cash available for distribution to our shareholders. We generally will be required to take certain amounts into income no later than the time they are reflected on certain financial statements. We may generate less cash flow than taxable income in a particular year and find it difficult or impossible to meet the REIT distribution requirement in certain circumstances.

In such circumstances, we may be required to: (i) sell assets in adverse market conditions, (ii) borrow on unfavorable terms, (iii) distribute amounts that would otherwise be applied to make investments or repay debt or (iv) make a taxable distribution of our shares as part of a distribution in which shareholders may elect to receive shares or (subject to a limit measured as a percentage of the total distribution) cash, in order to comply with the REIT distribution requirement. Thus, compliance with the REIT distribution requirement may hinder our ability to grow, which could adversely affect the value of our common shares. We may be required to use cash reserves, incur debt, or liquidate non-cash assets at rates or at times that we regard as unfavorable to satisfy the distribution requirement and to avoid corporate income tax and the 4% nondeductible excise tax in that year.

***The ownership limits that apply to REITs, as prescribed by the Code and by our Declaration of Trust, may restrict our business combination opportunities.***

In order for us to qualify as a REIT, not more than 50% in value of our outstanding shares may be owned, directly or indirectly, by five or fewer individuals (as defined in the Code to include certain entities) at any time during the last half of each taxable year after the first year for which we elect to qualify be taxed as a REIT. Additionally, at least 100 persons must beneficially own our shares during at least 335 days of a taxable year (other than the first taxable year for which we elect to be taxed as a REIT). Our Declaration of Trust, with certain exceptions, authorizes our board of trustees to take such actions as are necessary or appropriate to preserve our qualification as a REIT. Our Declaration of Trust also provides that, unless exempted by our board of trustees prospectively or retroactively, no person may own more than 9.9% by value or number of shares, whichever is more restrictive, of our outstanding common shares or 9.9% in value or number of shares, whichever is more restrictive, of the outstanding shares of all classes and series. Our board of trustees may, in its sole discretion, subject to such conditions as it may determine and the receipt of certain representations and undertakings, prospectively or retroactively, waive the ownership limits or establish a different limit on ownership, or excepted holder limit, for a particular shareholder if the shareholder's ownership in excess of the ownership limits would not result in our being "closely held" under Section 856(h) of the Code or otherwise failing to qualify as a REIT. These ownership limits could delay or prevent a transaction or a change in control of our Company that might involve a premium price for our common shares or otherwise be in the best interest of our shareholders.

***Even if we qualify as a REIT, we may face tax liabilities that reduce our cash flow.***

Even if we qualify as a REIT, we may be subject to certain U.S. federal, state and local taxes on our income and assets, including taxes on any undistributed income, tax on income from some activities conducted as a result of a foreclosure, and state or local income, franchise, property and transfer taxes. See "*Item 1 Business—Certain U.S. Tax Considerations.*" In addition, any domestic TRSs we own will be subject to U.S. federal, state and local corporate taxes. In order to meet the REIT qualification requirements, or to avoid the imposition of a 100% tax that applies to certain gains derived by a REIT from sales of inventory or property held primarily for sale to customers in the ordinary course of business, we may hold some of our assets through taxable subsidiary corporations, including domestic TRSs. Any taxes paid by such subsidiary corporations would decrease the cash available for distribution to our shareholders.

***Complying with REIT requirements may cause us to forego otherwise attractive investment opportunities or financing or hedging strategies.***

Any income from a hedging transaction we enter into (1) in the normal course of our business primarily to manage risk of interest rate or price changes or currency fluctuations with respect to borrowings made or to be made, or ordinary obligations incurred or to be incurred, to acquire or carry real estate assets, which is clearly identified as specified in the Treasury regulations before the close of the day on which it was acquired, originated, or entered into, including gain from the sale or disposition of such a transaction, (2) primarily to manage risk of currency fluctuations with respect to any item of income or gain that would be qualifying income under the 75% or 95% gross income tests, or (3) to hedge existing hedging transactions after all or part of the hedged indebtedness or property has been disposed of, which is clearly identified as such before the close of the day on which it was acquired, originated, or entered into, will not constitute gross income for purposes of the 75% or 95% gross income tests. Our annual gross income from non-qualifying hedges, together with any other income not generated from qualifying real estate assets, cannot exceed 25% of our gross income (excluding for this purpose, gross income from qualified hedges). In addition, our aggregate gross income from non-qualifying hedges, fees, and certain other non-qualifying sources cannot exceed 5% of our annual gross income (excluding for this purpose, gross income from qualified hedges). As a result, we might have to limit our use of advantageous hedging techniques or implement those hedges through a TRS. This could increase the cost of our hedging activities or expose us to greater risks associated with changes in interest rates than we would otherwise not want to bear. We may even be required to altogether forego investments we might otherwise make. Thus, compliance with the REIT requirements may hinder our investment performance.

***Complying with REIT requirements may force us to liquidate or restructure otherwise attractive investments.***

To qualify as a REIT, we generally must ensure that at the end of each calendar quarter at least 75% of the value of our total assets consists of cash, cash items, government securities and qualified real estate assets, including certain mortgage loans and mortgage-backed securities, as well as shares of another REIT. The remainder of our investment in securities (other than government securities, qualified real estate assets or securities of a TRS of ours generally cannot include more than 10% of the outstanding voting securities of any one issuer or more than 10% of the total value of the outstanding securities of any one issuer. The 10% value asset test does not apply to “straight debt” securities. Debt will generally be treated as “straight debt” for these purposes if the debt is a written unconditional promise to pay on demand or on a specified date a certain sum of money, the debt is not convertible, directly or indirectly, into stock, and the interest rate and the interest payment dates of the debt are not contingent on the profits, the borrower’s discretion, or similar factors. In addition, in general, no more than 5% of the value of our assets (other than government securities, qualified real estate assets or securities of a TRS of ours) can consist of the securities of any one issuer, no more than 20% of the value of our total securities can be represented by stock and securities of one or more TRSs, and no more than 25% of the value of our total assets can be represented by “nonqualified publicly offered REIT debt instruments.” If we fail to comply with these requirements at the end of any quarter, we must correct the failure within 30 days after the end of such calendar quarter or qualify for certain statutory relief provisions to avoid losing our REIT qualification and suffering adverse tax consequences. As a result, we may be required to liquidate from our portfolio otherwise attractive investments. These actions could have the effect of reducing our income and amounts available for distribution to our shareholders.

***We may choose to pay dividends in the form of our own shares, in which case our shareholders may be required to pay income taxes in excess of the cash dividends received.***

We may distribute taxable dividends that are payable in cash or our shares. Shareholders (that are not otherwise exempt from U.S. federal income tax) receiving such dividends will be required to include the full amount of the dividend as ordinary income to the extent of our current and accumulated earnings and profits for U.S. federal income tax purposes. As a result, a U.S. shareholder may be required to pay income taxes with respect to such dividends in excess of the cash dividends received. If a U.S. shareholder sells the stock it receives as a dividend in order to pay this tax, the sales proceeds may be less than the amount included in income with



respect to the dividend, depending on the NAV per share of our common shares at the time of the sale. In addition, in such case, a U.S. shareholder could have a capital loss with respect to the shares sold that could not be used to offset such dividend income.

Furthermore, with respect to certain non-U.S. shareholders, we may be required to withhold U.S. federal income tax with respect to such dividends, including in respect of all or a portion of such dividend that is payable in shares.

***Characterization of any repurchase agreements we enter into to finance our portfolio assets as sales for tax purposes rather than as secured lending transactions would adversely affect our ability to qualify as a REIT.***

We may enter into repurchase agreements with a variety of counterparties to achieve our desired amount of leverage for the assets in which we intend to invest. When we enter into a repurchase agreement, we generally sell assets to our counterparty to the agreement and receive cash from the counterparty. The counterparty is obligated to resell the assets back to us at the end of the term of the transaction. We believe that for U.S. federal income tax purposes we will be treated as the owner of the assets that are the subject of repurchase agreements and that the repurchase agreements will be treated as secured lending transactions notwithstanding that such agreements may transfer record ownership of the assets to the counterparty during the term of the agreement. It is possible, however, that the IRS could successfully assert that we did not own these assets during the term of the repurchase agreements, in which case we could fail to qualify as a REIT.

***The failure of a mezzanine loan to qualify as a real estate asset would adversely affect our ability to qualify as a REIT.***

We may acquire mezzanine loans, which are loans secured by equity interests in a partnership or limited liability company that directly or indirectly owns real property. In Revenue Procedure 2003-65, the IRS provided a safe harbor pursuant to which a mezzanine loan, if it meets each of the requirements contained in the Revenue Procedure, will be treated by the IRS as a real estate asset for purposes of the asset tests, and interest derived from the mezzanine loan will be treated as qualifying mortgage interest for purposes of the 75% gross income test. Although the Revenue Procedure provides a safe harbor on which taxpayers may rely, it does not prescribe rules of substantive tax law. We may acquire mezzanine loans that may not meet all of the requirements for reliance on this safe harbor. In the event we own a mezzanine loan that does not meet the safe harbor, the IRS could challenge such loan's treatment as a real estate asset for purposes of the asset and income tests, and if such a challenge were sustained, we could fail to qualify as a REIT.

***We may be required to report taxable income for certain investments in excess of the economic income we ultimately realize from them.***

We may acquire interests in debt instruments in the secondary market for less than their face amount. The discount at which such interests in debt instruments are acquired may reflect doubts about the ultimate collectability of the underlying loans rather than current market interest rates. The amount of such discount will nevertheless generally be treated as "market discount" for U.S. federal income tax purposes. Accrued market discount is reported as income when, and to the extent that, any payment of principal of the debt instrument is made. Payments on certain debt instruments may be made monthly, and consequently accrued market discount may have to be included in income each month as if the debt instrument were assured of ultimately being collected in full. If we collect less on the debt instrument than our purchase price plus the market discount we had previously reported as income, we may not be able to benefit from any offsetting loss deductions in a subsequent taxable year.

Similarly, some of the securities that we acquire may have been issued with original issue discount. We will be required to report such original issue discount based on a constant yield method and will be taxed based on the



assumption that all future projected payments due on such securities will be made. If such securities turn out not to be fully collectible, an offsetting loss deduction will become available only in the later year that uncollectability is provable.

Finally, in the event that any debt instruments or other securities acquired by us are delinquent as to mandatory principal and interest payments, or in the event payments with respect to a particular debt instrument are not made when due, we may nonetheless be required to continue to recognize the unpaid interest as taxable income as it accrues, despite doubt as to its ultimate collectability. Similarly, we may be required to accrue interest income with respect to subordinate mortgage-backed securities at their stated rate regardless of whether corresponding cash payments are received or are ultimately collectible. In each case, while we would in general ultimately have an offsetting loss deduction available to us when such interest was determined to be uncollectible, the utility of that deduction could depend on our having taxable income in that later year or thereafter.

Due to each of these potential timing differences between income recognition or expense deduction and the related cash receipts or disbursements, there is a significant risk that we may have substantial taxable income in excess of cash available for distribution. In that event, we may need to borrow funds or take other actions to satisfy the REIT distribution requirements.

***Certain financing activities may subject us to U.S. federal income tax and could have negative tax consequences for our shareholders.***

We may enter into financing transactions that could result in us or a portion of our assets being treated as a “taxable mortgage pool” for U.S. federal income tax purposes. If we were to enter into such a transaction, we would be taxed at the highest U.S. federal corporate income tax rate on a portion of the income, referred to as “excess inclusion income,” that is allocable to shareholders that are “disqualified organizations,” which are generally certain cooperatives, governmental entities and tax-exempt organizations that are exempt from tax on unrelated business taxable income. To the extent that common shares owned by “disqualified organizations” is held in record name by a broker-dealer or other nominee, the broker-dealer or other nominee would be liable for the U.S. federal corporate level tax on the portion of our excess inclusion income allocable to the common shares held by the broker-dealer or other nominee on behalf of the “disqualified organizations.” A RIC or other pass-through entity owning our common shares in record name will be subject to tax at the highest U.S. federal corporate tax rate on any excess inclusion income allocated to their owners that are disqualified organizations.

In addition, if we realize excess inclusion income, our shareholders will be subject to special tax rules with respect to their allocable shares of our excess inclusion income. For example, excess inclusion income cannot be offset by net operating losses of our shareholders. If a shareholder is a tax-exempt entity and not a disqualified organization, excess inclusion income is fully taxable as unrelated business taxable income. If a shareholder is a non-U.S. person, excess inclusion income would be subject to a 30% withholding tax without any reduction or exemption pursuant to any otherwise applicable income tax treaty. If the shareholder is a REIT, RIC, common trust fund or other pass-through entity, our allocable share of our excess inclusion income could be considered excess inclusion income of such entity.

***Distributions or gain on sale may be treated as unrelated business taxable income to U.S. tax-exempt investors in certain circumstances.***

If (1) all or a portion of our assets are subject to the rules relating to taxable mortgage pools and the allocation of “excess inclusion income”, (2) we are a “pension-held REIT,” (3) a U.S. tax-exempt shareholder has incurred debt to purchase or hold our common shares, or (4) any residual REMIC interests we hold or any of our qualified REIT subsidiaries that is treated as a taxable mortgage pool generate “excess inclusion income,” then a portion of the distributions to a U.S. tax-exempt shareholder and, in the case of condition (3), gains realized on the sale of common shares by such tax-exempt shareholder may be subject to U.S. federal income tax as unrelated business taxable income under the Code.

***The tax on prohibited transactions will limit our ability to engage in transactions, including certain methods of securitizing mortgage loans, that would be treated as sales for U.S. federal income tax purposes.***

A REIT's net income from prohibited transactions is subject to a 100% tax unless a safe harbor exception applies. In general, prohibited transactions are sales or other dispositions of property, other than foreclosure property, but including mortgage loans, held as inventory or primarily for sale to customers in the ordinary course of business. We might be subject to this tax if we were to sell or securitize loans in a manner that was treated as a sale of the loans as inventory for U.S. federal income tax purposes. Therefore, in order to avoid the prohibited transactions tax, we may choose not to engage in certain sales of loans, other than through a TRS, and we may be required to limit the structures we use for our securitization transactions, even though such sales or structures might otherwise be beneficial for us.

***Liquidation of our assets may jeopardize our REIT qualification.***

To qualify as a REIT, we must comply with requirements regarding our assets and our sources of income. If we are compelled to liquidate our portfolio assets to repay obligations to our lenders, we may be unable to comply with these requirements, ultimately jeopardizing our qualification as a REIT, or we may be subject to a 100% tax on any resultant gain if we sell assets in transactions that are considered to be prohibited transactions.

***Our ownership of, and relationship with, any TRS which we may form or acquire will be subject to limitations, and a failure to comply with the limitations could jeopardize our REIT status and may result in the application of a 100% excise tax.***

A REIT may own up to 100% of the stock of one or more TRSs. A TRS may earn income that would not be qualifying income if earned directly by the parent REIT. Both the subsidiary and the REIT must jointly elect to treat the subsidiary as a TRS. A corporation of which a TRS, directly or indirectly, owns more than 35% of the voting power or value of the stock will in turn automatically be treated as a TRS. Overall, no more than 20% of the value of a REIT's assets may consist of stock or securities of one or more TRSs. A TRS will pay U.S. federal, state and local income tax at the relevant corporate income tax rates on any income that it earns, and there is no requirement that a TRS must make a distribution of its taxable income to the parent REIT. The Code also imposes a 100% excise tax on certain transactions between a TRS and its parent REIT that are not conducted on an arm's-length basis.

Although we plan to monitor our investments in TRSs (if any), there can be no assurance that we will be able to comply with the 20% limitation or avoid the application of the 100% excise tax, each as discussed above.

***Investments in certain financial assets will not qualify as "real estate assets" or generate "qualifying income" for purposes of the 75% real estate asset and gross income qualification requirements and, as a result, our ability to make such investments will be limited.***

To qualify as a REIT for U.S. federal income tax purposes, we must comply with certain asset and gross income qualification requirements. Because of these REIT qualification requirements, our ability to acquire certain financial assets such as asset-backed securities, or ABS, will be limited, or we may be required to make such investments through a TRS. In the event that we were to make such an investment through a domestic TRS, any income or gain from such ABS would generally be subject to U.S. federal, state and local corporate income tax, which may reduce the cash flow generated by us and our subsidiaries in the aggregate, and our ability to make distributions to our shareholders. Our ability to make such investments through a TRS is limited, however, because of the REIT qualification requirement that no more than 20% of the value of our total assets can be comprised of stock and securities held by us in TRSs, and that 75% of our gross income must come from certain specified real estate sources.

***Legislative, regulatory or administrative changes could adversely affect us, our shareholders or our borrowers.***

Legislative, regulatory or administrative changes could be enacted or promulgated at any time, either prospectively or with retroactive effect, and may adversely affect us, our shareholders or our borrowers.

Further changes to the tax laws are possible. In particular, the federal income taxation of REITs may be modified, possibly with retroactive effect, by legislative, administrative or judicial action at any time. There can be no assurance that future tax law changes will not increase income tax rates, impose new limitations on deductions, credits or other tax benefits, or make other changes that may adversely affect our business, cash flows or financial performance or the tax impact to a shareholder of an investment in our common shares.

Investors are urged to consult with their tax advisor with respect to the impact of any regulatory or administrative developments and proposals and their potential effect on an investment in our common shares.

***Restrictions on the deduction of all of our interest expense could prevent us from satisfying the REIT distribution requirements and avoiding the incurrence of income or excise taxes.***

Rules enacted as part of the Tax Cut and Jobs Act may limit our ability (and the ability of entities that are not treated as disregarded entities for U.S. federal income tax purposes and in which we hold an interest) to deduct interest expense. Under amended Section 163(j) of the Code, the deduction for business interest expense may be limited to the amount of the taxpayer's business interest income plus 30% of the taxpayer's "adjusted taxable income" unless the taxpayer's gross receipts do not exceed \$25 million per year during the applicable testing period or the taxpayer qualifies to elect and elects to be treated as an "electing real property trade or business." A taxpayer's adjusted taxable income will start with its taxable income and add back items of non-business income and expense, business interest income and business interest expense, net operating losses, any deductions for "qualified business income". A taxpayer that is exempt from the interest expense limitations as an electing real property trade or business is ineligible for certain expensing benefits and is subject to less favorable depreciation rules for real property. The rules for business interest expense will apply to us and at the level of each entity in which or through which we invest that is not a disregarded entity for U.S. federal income tax purposes. To the extent that our interest expense is not deductible, our taxable income will be increased, as will our REIT distribution requirements and the amounts we need to distribute to avoid incurring income and excise taxes.

***Holdings who participate in the distribution reinvestment plan will recognize taxable income in the amount they would have received had they elected not to participate, even though they receive no cash.***

Holdings who participate in the distribution reinvestment plan will recognize taxable income in the amount they would have received had they elected not to participate, even though they receive no cash. These deemed distributions will be treated as actual distributions from us to the participating holders and will retain the character and U.S. federal income tax effects applicable to all distributions. Shares received under the plan will have a holding period beginning with the day after purchase, and a U.S. federal income tax basis equal to their cost, which is the gross amount of the deemed distribution.

***Foreclosures may impact our ability to qualify as a REIT and minimize tax liabilities.***

If we foreclose, or consider foreclosing, on properties securing defaulted loans that we hold, we will have to consider the impact that taking ownership of such properties would have on our ability to continue to qualify to be taxed as a REIT and any tax liabilities attributable thereto if we continue to qualify as a REIT. In certain cases, the operation of real property will not generate qualifying rents from real property for purposes of the gross income tests, e.g., income from operation of a hotel. In certain circumstances, we will be able to make an election with the IRS to treat property we take possession of in a foreclosure as "foreclosure property." If, and for so long as, such property qualifies as "foreclosure property," income therefrom is treated as qualifying income

for purposes of both gross income tests and gain from the sale of such property will not be subject to the 100% prohibited transaction tax for dealer sales, regardless of our how short our holding period in such property is when we sell such property or other dealer sales considerations. On the other hand, net income with respect to a property for which we've made a foreclosure property election that would not otherwise be qualifying income for purposes of the gross income tests will be taxed at the highest U.S. federal corporate income tax rate. In certain circumstances, the IRS might argue that a particular property did not qualify for a foreclosure property election or that its status as foreclosure property terminated while we believed it continued to qualify, possibly causing us to fail one or both gross income tests or causing any gain from the sale of such property to be subject to the prohibited transaction tax.

### **Risks Related to Plan Investors**

***If the fiduciary of an employee benefit plan or plan subject to ERISA or the Code fails to meet the fiduciary and other standards under ERISA, the Code or common law as a result of an investment in our common shares, the fiduciary could be subject to penalties.***

There are special considerations that apply to investing in our common shares on behalf of a “benefit plan investor” within the meaning of ERISA and the Plan Asset Regulations including a pension, profit sharing, 401(k) or other employer-sponsored retirement plan, health or welfare plan or trust, an IRA and a “Keogh” plan, that are subject to Title I of ERISA and/or Section 4975 of the Code. If you are investing the assets of any of the entities identified in the prior sentence in our common shares, you should satisfy yourself, to the extent applicable, that:

- the investment is consistent with your fiduciary obligations under applicable law, including common law, ERISA and the Code;
- the investment is made in accordance with the documents and instruments governing the trust, plan or IRA, including a plan’s investment policy;
- the investment satisfies the prudence and diversification requirements of Sections 404(a)(1)(B) and 404(a)(1)(C) of ERISA (to the extent such entity is subject to ERISA) and other applicable provisions of ERISA and the Code;
- the investment will not impair the liquidity of the trust, plan or IRA;
- the investment will not produce “unrelated business taxable income” for the trust plan or IRA;
- our shareholders will be able to value the assets of the plan in accordance with ERISA requirements and applicable provisions of the plan or IRA; and
- the investment will not constitute a non-exempt prohibited transaction under Title I of ERISA or Section 4975 of the Code.

Failure to satisfy the fiduciary standards of conduct and other applicable requirements of ERISA, the Code, or other applicable statutory or common law may result in the imposition of civil penalties, and can subject the fiduciary to equitable remedies. In addition, if an investment in our common shares constitutes a non-exempt prohibited transaction under Section 4975 of the Code, the fiduciary that authorized or directed the investment may be subject to the imposition of excise taxes with respect to the amount involved.

***We may encounter risks arising from provision of managerial assistance.***

As discussed under “Certain ERISA Considerations,” we intend to conduct our affairs so that our assets should not be deemed to constitute “plan assets” of any shareholder that is a “benefit plan investor” (each within the meaning of ERISA and the Plan Asset Regulations. In this regard, we may elect to operate the Company as a VCOC within the meaning of the Plan Asset Regulations. Operating the Company as a VCOC would require that the Company obtain rights to substantially participate in or influence the conduct of the management of a number

of the Company's investments. Such rights could expose the assets of the Company to claims by a portfolio company, its security holders and its creditors. While the Company intends to minimize exposure to these risks, the possibility of successful claims cannot be precluded. In addition, because the Company may be operated in a manner intended to qualify the Company as a VCOC in order to avoid holding "plan assets" within the meaning of ERISA, the Company may be restricted or precluded from making certain investments and the Company could be required to liquidate investments at a disadvantageous time, resulting in lower proceeds to the Company than might have been the case without the need for such compliance.

***If our assets at any time are deemed to constitute "plan assets" within the meaning of ERISA and the Plan Asset Regulations, that may lead to our being subject to certain ERISA and Code requirements.***

As noted above and discussed under "Certain ERISA Considerations," we intend to conduct our affairs so that our assets should not be deemed to constitute "plan assets" of any shareholder that is a "benefit plan investor" (each within the meaning of ERISA and the Plan Asset Regulations). If, notwithstanding our intent, our assets were deemed to constitute "plan assets" of any shareholder that is a "benefit plan investor" within the meaning of ERISA or the Plan Asset Regulations, this would result, among other things, in (i) the application of the prudence and other fiduciary responsibility standards of ERISA to investments made by the Company, and (ii) the possibility that certain transactions in which the Company might seek to engage could constitute "prohibited transactions" under ERISA and the Code. If a prohibited transaction occurs for which no exemption is available, the Advisor and/or any other fiduciary that has engaged in the prohibited transaction could be required to (i) restore to the benefit plan investor any profit realized on the transaction and (ii) reimburse the benefit plan investor for any losses suffered by the benefit plan investor as a result of the investment. In addition, each disqualified person (within the meaning of Section 4975 of the Code) involved could be subject to an excise tax equal to 15% of the amount involved in the prohibited transaction for each year the transaction continues and, unless the transaction is corrected within statutorily required periods, to an additional tax of 100%. Fiduciaries of a benefit plan investor who decide to invest in the Company could, under certain circumstances, be liable for prohibited transactions or other violations as a result of their investment in the Company or as co-fiduciaries for actions taken by or on behalf of the Company or the Advisor. With respect to an IRA that invests in the Company, the occurrence of a prohibited transaction involving the individual who established the IRA, or his or her beneficiaries, would cause the IRA to lose its tax-exempt status.

Prospective investors that are Plans should consult with their own legal, tax, financial and other advisors prior to investing to review these implications in light of such investor's particular circumstances. The sale of our common shares to any Plan is in no respect a representation by us or any other person associated with the offering of our common shares that such an investment meets all relevant legal requirements with respect to investments by Plans generally or any particular Plan, or that such an investment is appropriate for Plans generally or any particular Plan.

***We may encounter risks arising from potential control group liability.***

Under ERISA, upon the termination of a tax-qualified single employer defined benefit pension plan, the sponsoring employer and all members of its "controlled group" will be jointly and severally liable for 100% of the plan's unfunded benefit liabilities whether or not the controlled group members have ever maintained or participated in the plan. In addition, the U.S. Pension Benefit Guaranty Corporation (the "**PBGC**") may assert a lien with respect to such liability against any member of the controlled group on up to 30% of the collective net worth of all members of the controlled group. Similarly, in the event a participating employer partially or completely withdraws from a multiemployer (union) defined benefit pension plan, any withdrawal liability incurred under ERISA will represent a joint and several liability of the withdrawing employer and each member of its controlled group. A "controlled group" includes all "trades or businesses" under 80% or greater common ownership. This common ownership test is broadly applied to include both "parent-subsidiary groups" and "brother-sister groups" applying complex exclusion and constructive ownership rules. However, regardless of the percentage ownership that the Company holds in one or more of its portfolio entities, the Company itself cannot



be considered part of an ERISA controlled group unless the Company is considered to be a “trade or business.” While there are a number of cases that have held that managing investments is not a “trade or business” for tax purposes, the PBGC Appeals Board ruled that a private equity fund was a “trade or business” for ERISA controlled group liability purposes and at least one Federal Circuit Court has similarly concluded that a private equity fund could be a trade or business for these purposes based upon a number of factors including the fund’s level of involvement in the management of its portfolio companies and the nature of any management fee arrangements. If the Company were determined to be a trade or business for purposes of ERISA, it is possible, depending upon the structure of the portfolio investments by the Company and/or its affiliates and other co-investors in a portfolio entity and their respective ownership interests in the portfolio entity, that any tax-qualified single employer defined benefit pension plan liabilities and/or multiemployer plan withdrawal liabilities incurred by the portfolio entity could result in liability being incurred by the Company, with a resulting appropriation of Company assets to satisfy such pension liabilities and/or the imposition of a lien by the PBGC on certain Company assets. Moreover, regardless of whether or not the Company were determined to be a trade or business for purposes of ERISA, a court might hold that one of the portfolio entities in which we are investing could become jointly and severally liable for another portfolio entity’s unfunded pension liabilities pursuant to the ERISA “controlled group” rules, depending upon the relevant investment structures and ownership interests as noted above.

### **General Risk Factors**

#### ***The past performance of the Advisor’s senior management is not a predictor of our future results.***

Neither the track record of the senior management of the Advisor nor the performance of the Advisor will imply or predict (directly or indirectly) any level of our future performance. Our performance is dependent upon future events and is, therefore, inherently uncertain. Past performance cannot be relied upon to predict future events due to a variety of factors, including, without limitation, varying business strategies, different local and national economic circumstances, different supply and demand characteristics, varying degrees of competition and varying circumstances pertaining to the real estate capital markets.

#### ***Insurance on loans and real estate-related securities collateral may not cover all losses.***

There are certain types of losses, generally of a catastrophic nature, such as earthquakes, floods, hurricanes, terrorism or acts of war, which may be uninsurable or not economically insurable. Inflation, changes in building codes and ordinances, environmental considerations and other factors also might result in insurance proceeds insufficient to repair or replace a property if it is damaged or destroyed. Under these circumstances, the insurance proceeds received with respect to a property relating to one of our investments might not be adequate to restore our economic position with respect to our investment. Any uninsured loss could result in the corresponding nonperformance of or loss on our investment related to such property.

#### ***Our business may be adversely affected by the impact on the financial markets due to recent bank failures.***

Recent bank failures in the United States and elsewhere could have far-reaching effects on the U.S. and other financial markets, including widespread failures of financial institutions, limited availability of credit, counterparty credit risks and adverse effects on issuers of debt and equity and other assets in which we invest and other instruments to which we have exposure, as well as the broader economy. Any or all of these developments may have a material adverse effect on us; for example, fluctuations in the market prices of securities and/or interest rates may adversely affect the value of our portfolio and/or increase the inherent risks associated with an investment in real estate-related assets. The ability of assets securing our investments to refinance may depend on their ability to obtain additional financing. Any deterioration of the global debt markets or the credit ratings of certain investors (including, without limitation, sovereign nations), any possible future failures of certain financial services companies or a significant rise in interest rates, taxes or market perception of counterparty default risk will likely significantly reduce investor demand for Company-level financing and similar types of liquidity for investment grade, high-yield, and senior and other types of bank debt. This, in turn, is likely to result



in some potential lenders being unable or unwilling to finance new investments, to provide working capital or to provide financing for other purposes permitted under the Advisory Agreement or to be willing to provide such financing only on terms less favorable than those that had been available in the recent past. As of the date of this Registration Statement, certain U.S. banks have experienced liquidity issues related to, among other factors, rising interest rates. It is currently unknown the extent to which these events will affect the availability of financing for CRE. While disruption in the capital markets could enhance our ability to originate or acquire debt investments on attractive terms, a component of our investment strategy rests on our ability to obtain financing for our investments and operations on terms accretive to our investment strategy. A lack of such financing would adversely affect our ability to achieve our investment objectives.

***Sustainability risks may have a greater impact on us than that assessed by the Advisor.***

We may be affected by the impact of a number of sustainability factors, also referred to as ESG factors, on real estate assets securing or related to loans originated by us or other investments in which we participate (“**sustainability risks**”). The reach of sustainability themes may be broad and this subsection is therefore not an exhaustive list of all risks related to ESG factors which could have a negative impact (whether or not material) on the value of an underlying or related real estate asset and therefore adversely impact our returns.

The real estate assets securing or related to our loans and investments may be negatively affected by the exposure to physical climate events such as droughts, famines, floods, storms, fires and exposure to extreme temperatures; although a number of these risks may be insurable, it is not guaranteed that the insurance coverage may in all cases be adequate and losses connected to these events may be material. In addition, the actions taken on the real estate assets securing or related to our loans to improve such real estate asset’s environmental resilience and greenhouse gas emission footprint, including but not limited to actions aimed at improving a building’s energy use efficiency, deployment of clean energy generation and consumption equipment, actions aimed at reducing waste and water use, typically impose significant short-term costs. Similarly, social initiatives and the adherence to high governance standards, for example in the areas of transparency, corporate governance, management of conflicts of interest and fair remuneration principles, accounting and reporting of greenhouse gas emissions traced back to the construction and operation of assets secured by our loans and investments, may require material investments and effort where economic returns may be uncertain. Any decrease in value or significant costs and investments affecting the assets securing or related to loans originated by us or in which we invest may result in a borrower’s default or inability to pay amounts due on a loan, which would, in turn, adversely impact our returns.

Prospective investors should consider the adverse impacts that our investments may have on sustainability themes: the failure to support assets that advance sustainability themes and/or mitigate material physical climate and transition risks, may result in a number of negative fallouts ranging from reputational damages and, in some circumstances, fines and direct economic consequences from ESG related regulatory requirements that range from energy performance standards to mandatory disclosure.

We may also be negatively impacted (e.g., from a reputational point of view) if we do business with parties who fail to meet key ESG targets or make misleading statements with respect to ESG related objectives. In the event a counter-party of ours, or the real estate securing an investment of ours, uses manipulation or misinformation to bolster its ESG claims, we could be negatively impacted through no fault of our own.

Shareholders may differ in their views of whether or how ESG matters should be addressed and, as a result, we may invest in, or manage, our investments in a manner that does not reflect the beliefs and values of any particular investor which may be perceived negatively by at least some shareholders and adversely impact our reputation and business. Anti-ESG sentiment has gained some momentum across the United States, with several states having enacted or proposed “anti-ESG” policies or legislation, or issued related legal opinions. If we do not successfully manage ESG-related expectations across these varied shareholder interests, it could erode shareholder trust, impact our reputation, and constrain our acquisition and capital raising opportunities.

In considering investment opportunities and making ongoing decisions with respect to our investments, including decisions relating to follow-on investments, the Advisor may consider certain ESG factors. We may forego particular investments that do not meet certain ESG criteria or present material ESG risk that we may otherwise have made if we were seeking to make investments solely on the basis of financial returns. Further, it is possible that our investments are unable to obtain or realize the intended ESG outcomes.

Climate change and regulations intended to control its impact may affect the value of the real estate assets securing or related to loans we originated or in which we invest. We and the Advisor cannot predict the long-term impacts on real estate assets from climate change or related regulations. Laws enacted to mitigate climate change could increase energy costs, could make some buildings of property owners obsolete or cause such owners to make material investments in their properties to meet existing and newly created greenhouse gas emission benchmarks or energy performance standards, which could materially and adversely affect the value of older properties underlying or relating to our investments. Climate change may also have indirect effects on property owners by increasing the cost of (or making unavailable) property insurance. Moreover, compliance with new laws or regulations related to climate change, including compliance with “green” building codes or tenant preferences for “green” buildings, may cause property owners to incur additional costs when renovating older properties. Any decrease in value or significant costs and investments affecting the assets securing or related to loans originated by us or in which we invest may result in a borrower’s default or inability to pay amounts due on a loan, which would, in turn, adversely impact our returns. There can be no assurance that climate change will not have a material adverse effect on our assets, operations or business.

There can be no guarantee that the actual impact of the sustainability factors on our returns will not be materially greater than the impact assessed or expected by the Advisor.

***Failure to identify and exclude bad actors could disqualify us from relying on certain rules on which we rely.***

We are offering common shares in a private offering, not registered under the Securities Act, or any other securities laws, including state securities or blue sky laws. Our common shares are offered in reliance upon the exemption from registration thereunder provided by Section 4(a)(2) of the Securities Act and Rule 506 of Regulation D promulgated under the Securities Act. If certain persons and entities involved with the offering of the common shares, including any shareholder holding (20%) or more of a fund’s outstanding voting equity securities, are or have been subject to certain criminal convictions, SEC disciplinary orders, court injunctions or similar adverse events (collectively, “**bad act determinations**”), then in certain instances we may be disqualified from relying upon Rule 506. There is no assurance that efforts to exercise reasonable care to identify and exclude bad actors from participating in the offering will be deemed to be sufficient to comply with these requirements. If we were disqualified from relying upon the exemption from registration provided in Rule 506, there may not be another exemption from registration available under the Securities Act and, consequently, we may not have an exemption from registration under any state securities or blue sky laws. If these exemptions from registration were unavailable, then we may be subject to, and incur significant costs related to, enforcement actions and rescission rights may be available to the shareholders, which if exercised, may require us to liquidate assets earlier and on less advantageous terms than were anticipated at underwriting and/or may cause us to have a more limited amount of capital available for investment, impairing our ability to assemble, manage, retain and harvest a complete and balanced portfolio.

***Failure to obtain and maintain an exemption from being regulated as a commodity pool operator could subject us to additional regulation and compliance requirements that could materially adversely affect our business, results of operations and financial condition.***

Registration with the U.S. Commodity Futures Trading Commission (the “**CFTC**”) as a “commodity pool operator” or any change in our operations necessary to maintain our ability to rely upon an applicable exemption from being regulated as a commodity pool operator could adversely affect our ability to implement our investment program, conduct our operations or achieve our objectives and subject us to certain additional costs,

expenses and administrative burdens. Furthermore, any determination by us to cease or to limit investing in interests that may be treated as “commodity interests” to comply with the regulations of the CFTC may have a material adverse effect on our ability to implement our investment objectives and to hedge risks associated with our operations.

***Political changes may affect the real estate-related securities markets.***

The current regulatory environment in the United States may be impacted by future legislative developments.

The outcome of elections creates uncertainty with respect to legal, tax and regulatory regimes in which we and our investments, as well as the Advisor and its affiliates, will operate. Any significant changes in, among other things, economic policy (including with respect to interest rates and foreign trade), the regulation of the investment management industry, tax law, immigration policy or government entitlement programs could have a material adverse impact on us and our investments.

***Litigation outcomes may have an adverse impact on us.***

In the ordinary course of our business, we may be subject to litigation from time to time. The outcome of such proceedings may materially adversely affect our value and may continue without resolution for long periods of time. Any litigation may consume substantial amount of time and attention, and that time and the devotion of these resources to litigation may, at times, be disproportionate to the amounts at stake in the litigation. The expense of defending claims against us and paying any amounts pursuant to settlements or judgments would be borne by us and would reduce net assets. Our board of trustees will be indemnified by us in connection with such litigation, subject to certain conditions.

## ITEM 2 FINANCIAL INFORMATION

### Management's Discussion and Analysis of Financial Condition and Results of Operations

#### *Overview*

We are a Maryland statutory trust formed on June 28, 2023. Our investment strategy is focused primarily on originating, acquiring, financing and managing a portfolio of primarily CRE debt investments, focused on senior secured, floating-rate CRE loans diversified across both geography and asset class. Our CRE loans are expected to be primarily secured by properties in U.S., European and Australian markets and include multifamily, industrial and select other CRE asset classes, such as student housing, self-storage, life science, and data center assets. To a lesser extent, we may invest in (1) other real asset lending strategies, including infrastructure loans, and (2) other real-estate related debt and equity securities, including CMBS and CLOs.

We are an externally advised, perpetual-life REIT formed to pursue the following investment objectives:

- provide current income in the form of regular, stable cash distributions to achieve an attractive distribution yield;
- preserve and protect invested capital, by focusing on high quality real assets with current cash-flow and/or limited business plan risk;
- reduce downside risk through conservative loan-to-value ratios against high quality real assets with meaningful borrower equity or implied equity; and
- provide an investment alternative for shareholders seeking to allocate a portion of their long-term investment portfolios to CRE debt with lower volatility than publicly traded securities and compelling risk-adjusted returns compared to fixed income alternatives.

We may not achieve our investment objectives. See "*Item 1A. Risk Factors.*"

We intend to elect and qualify to be taxed as a REIT under the Code commencing with our taxable year ending December 31, 2023.

Our board of trustees will at all times have ultimate oversight and policy-making authority over us, including responsibility for governance, financial controls, compliance and disclosure. Pursuant to the Advisory Agreement, however, we have delegated to the Advisor the authority to source, evaluate and monitor our investment opportunities and make decisions related to the acquisition, management, financing and disposition of our assets, in accordance with our investment objectives, guidelines, policies and limitations, subject to oversight by our board of trustees.

We are not aware of any material trends or uncertainties, favorable or unfavorable, other than national economic conditions affecting real estate generally, that may be reasonably anticipated to have a material impact on either capital resources or the revenues or income to be derived from acquiring properties or real estate-related securities, other than those referred to in this Registration Statement.

#### *Basis of Presentation*

Our financial statements will be prepared in accordance with U.S. GAAP, which requires the use of estimates, assumptions and the exercise of subjective judgment as to future uncertainties.

#### *Revenues*

We were capitalized through the purchase by Starwood Real Estate Income, a wholly-owned subsidiary of Starwood Holdings, of 50 common shares for an aggregate purchase price of \$1,000 on July 14, 2023.

As of October 31, 2023, we have not engaged in principal operations nor generated any revenues. Our entire activity since inception to October 31, 2023, was our initial capitalization and preparation for our proposed fundraising through our private offering.

As of October 31, 2023, we had neither acquired nor entered into any arrangements to acquire any investments with the net proceeds from our private offering. The number and type of investments that we acquire will depend upon market conditions, the amount of proceeds we raise in our private offering and other circumstances existing at the time we are acquiring such assets.

We plan to focus on senior secured floating rate investments, secured by high quality real assets to generate current cash flow. We seek to identify attractive risk-reward investments by financing high quality real assets with substantial borrower equity and plan to partner with well-known sponsors with real assets in primarily gateway and select secondary markets. We expect to create synergies with Starwood Capital's existing debt capabilities by leveraging its significant scale and existing relationships to source high quality lending opportunities.

### ***Expenses***

#### **Management Fee**

For a discussion of the Management Fee payable to the Advisor, see "*Item 1 Business—Advisory Agreement.*"

#### **Performance Fee**

For a discussion of the Performance Fee payable to the Advisor, see "*Item 1 Business—Description of Business—Advisory Agreement.*"

#### **Shareholder Servicing Fee**

For a discussion of the shareholder servicing fee payable to the Dealer Manager, see "*Item 7 Certain relationships and Related Transactions, and Trustee Independence—Dealer Manager Agreement*" below.

#### **Organizational and Offering Expenses**

For a discussion of the organizational and offering expense reimbursement to the Advisor, see "*Item 1 Business—Description of Business—Advisory Agreement.*"

### ***Financial Condition, Liquidity and Capital Resources***

As of October 31, 2023, we are in our organizational period and have not yet commenced principal operations or generated any revenues. We expect that principal operations will commence when we issue common shares in the initial closing of our private offering.

Through the Initial Capitalization, Starwood Capital has agreed, from time to time, to purchase from the Company an aggregate amount of \$150 million in Class E shares, at a price per share equal to the Company's most recently determined NAV of its Class E shares, or if an NAV has yet to be calculated, then \$20.00. As of October 31, 2023, Starwood Capital and its subsidiaries have made an initial capital contribution of \$1,000 in cash, in exchange for 50 common shares. The Company may issue additional Class E shares to Starwood Capital in connection with the Company's acquisition of additional assets in the future.

We expect to generate cash primarily from (i) the net proceeds of our continuous private offering, (ii) cash flows from our operations, (iii) any financing arrangements we may enter into in the future and (iv) any future offerings of our equity or debt securities.

Our primary use of cash will be for (i) origination or acquisition of commercial mortgage loans and other commercial debt investments, CMBS and other commercial real estate-related debt investments, (ii) the cost of operations (including the Management Fee and Performance Fee), (iii) debt service of any borrowings, (iv) periodic repurchases, including under our share purchase plan (as described herein), and (v) cash distributions (if any) to the holders of our shares to the extent declared by our board of trustees.

### ***Quantitative and Qualitative Disclosures about Market Risk***

The primary components of our market risk are related to interest rates, credit spreads, credit market values, liquidity and foreign currency exchange rates. While we do not seek to avoid risk completely, we believe that risk can be quantified from historical experience, and we seek to actively manage that risk, to earn sufficient compensation to justify taking those risks and to maintain capital levels consistent with the risks we undertake.

#### ***Interest Rate Risk***

Interest rate risk is highly sensitive to many factors, including governmental, monetary and tax policies, domestic and international economic and political considerations, and other factors beyond our control. Our net interest income is exposed to interest rate volatility primarily as a result of the floating rate nature of the investments we hold and the financing we place on them. Additionally, we may use company-level facilities featuring floating interest rates for liquidity and working capital purposes. Furthermore, we may make investments in fixed and floating rate debt securities; the value of our positions may increase or decrease depending on interest rate movements. Finally, interest rate changes may impact the demand for loans and the availability of financing needed to expand our investment portfolio.

A rise in the general level of interest rates can be expected to lead to higher debt service payment requirements relative to any variable rate investments we hold and to declines in the value of any fixed rate investments we may hold. Rising interest rates carry default risk to our borrowers, because cash flows from underlying properties may fall below the debt service payments due to us on the investments, triggering borrower liquidity covenants. Therefore, we expect to protect property cash flows by requiring borrowers to purchase interest rate caps, which provides a hedge against rising interest rates, whereby the borrower will receive excess cash if interest rates exceed predetermined strike prices. Furthermore, rising interest rates also cause our overall cost of borrowing to increase, partially or fully, offsetting any increase in elevated debt service payments received on our variable rate investments. In general, we will seek to match the interest rate characteristics of our investments with the interest rate characteristics of any related financing obligations. In instances where the interest rate characteristics of an investment and the related financing obligation are not matched, we may mitigate such interest rate risk through the utilization of interest rate derivatives of the same duration. Given our target leverage ratios, an increase in interest rates may result in an increase in our net investment income and the amount of the Performance Fee payable to the Advisor.

A decline in interest rates can be expected to lead to lower debt service payments received from any variable rate investments we may hold, decreases in the interest income earned on any floating rate investments we hold, and increases in the value of any fixed rate investments we hold. To mitigate the impact of reduced earnings as a result of declining interest rates, we expect to structure interest rate floors into each loan where the borrower will be required to pay minimum interest payments should interest rates fall below a predetermined rate. Additionally, reduced interest rates also cause our overall cost of borrowings to decrease. Because our borrowings do not typically feature interest rate floors, but our variable rate investments feature minimum interest payments due to us, declining interest rates may result in an increase to the Company's net interest income and an increase in the amount of the Performance Fee payable to the Advisor.

As of October 31, 2023, we held no market sensitive instruments.



### *Credit Spread Risk*

Credit spread risk is the risk that interest rate spreads between two different financial instruments will change. In general, U.S. fixed-rate commercial mortgage loans and CMBS are priced based on a spread to U.S. Treasury securities or interest rate swaps. We will generally benefit if credit spreads narrow during the time that we hold a portfolio of mortgage loans, CMBS and/or CLO investments, and we may experience losses if credit spreads widen during the time that we hold a portfolio of mortgage loans, CMBS and/or CLO investments. We actively monitor our exposure to changes in credit spreads and we may enter into credit total return swaps or take positions in other credit-related derivative instruments to moderate our exposure to losses associated with a widening of credit spreads.

### *Credit Risk*

We are exposed to credit risk in our investments with respect to a borrower's ability to make required debt service payments to us and repay the unpaid principal balance in accordance to the terms of the loan agreement. We manage this risk by conducting a credit analysis prior to making an investment and by actively monitoring our portfolio and the underlying credit quality, including subordination and diversification, of our investments on an ongoing basis. In addition, we re-evaluate the credit risk inherent in our investments on a regular basis taking into consideration a number of fundamental macro-economic factors such as gross domestic product, unemployment, interest rates, capital markets activity, retail sales, store closing/openings, corporate earnings, housing inventory, affordability and regional home price trends.

We are exposed to credit risk with respect to the tenants that occupy properties that serve as collateral to our investments. To mitigate this risk, we seek to avoid large single tenant exposure and we undertake a credit evaluation of major tenants prior to making a loan. This analysis includes extensive due diligence of a potential tenant's creditworthiness and business, as well as an assessment of the strategic importance of the property to the tenant's core business operations.

Finally, we may be exposed to counterparty credit risk under the terms of a derivative contract. If the fair value of a derivative contract is positive, the counterparty will owe us, which creates credit risk for us. If the fair value of a derivative contract is negative, we will owe the counterparty and, therefore, do not have credit risk. We may seek to mitigate the credit risk associated with derivative instruments by entering into transactions with high-quality counterparties.

### *Market Value Risks*

We may also be exposed to market value risk with respect to the fair value of our investments, including debt securities, and borrowings due to changes in market conditions, including credit spreads, interest rates, property cash flows, and commercial property values that serve as collateral. We seek to manage our exposure to market risk by originating or acquiring investments secured by different property types located in diverse, but liquid markets with stable credit ratings. The fair value of our investments may fluctuate, therefore the amount we will realize upon any repayment, sale, or an alternative liquidation event is unknown.

Commercial property values are subject to volatility and may be adversely affected by a number of factors, including: national, regional and local economic conditions; local real estate conditions; changes or continued weakness in specific industry segments; construction quality, age and design; demographic factors; and retroactive changes to building or similar codes and/or tax and legal considerations. Changes in commercial property values are difficult to predict with accuracy. We model a range of valuation scenarios and the resulting impacts to our investments.

### *Liquidity Risk*

Market disruptions may lead to a significant decline in transaction activity in all or a significant portion of the asset classes in which we intend to invest and may at the same time lead to a significant contraction in short-

term and long-term debt and equity funding sources. A decline in liquidity of real estate and real estate-related investments, as well as a lack of availability of observable transaction data and inputs, may make it more difficult to sell our investments or determine their fair values. As a result, we may be unable to sell investments, or only be able to sell investments at a price that may be materially different from the fair values presented. Also, in such conditions, there is no guarantee that the Company's borrowing arrangements or other arrangements for obtaining leverage will continue to be available or, if available, will be available on terms and conditions acceptable to us. In addition, a decline in market value of our assets may have particular adverse consequences in instances where we borrowed money based on the fair value of our assets. A decrease in the market value of the our assets may result in the lender requiring it to post additional collateral or otherwise sell assets at a time when it may not be in our best interest to do so.

#### *Foreign Currency Risk*

Our loans and investments that are denominated in a foreign currency are also subject to risks related to fluctuations in exchange rates. We generally expect to mitigate this exposure by matching the currency of our foreign currency assets to the currency of the borrowings that finance those assets. As a result, we expect to substantially reduce our exposure to changes in portfolio value related to changes in foreign exchange rates.

We intend to hedge our net currency exposures in a prudent manner. In doing so, we generally expect to structure our foreign currency hedges so that the notional values and expiration dates of our hedges approximate the amounts and timing of future payments we expect to receive on the related investments. However, our currency hedging strategies may not eliminate all of our currency risk due to, among other things, uncertainties in the timing and/or amounts of payments received on the related investments, and/or unequal, inaccurate, or unavailable hedges to perfectly offset changes in future exchange rates. Additionally, we may be required under certain circumstances to collateralize our currency hedges for the benefit of the hedge counterparty, which could adversely affect our liquidity.

### **ITEM 3 PROPERTIES**

Our principal office is located at 2340 Collins Avenue, Miami Beach, Florida, 33139. As part of the Advisory Agreement, the Advisor is responsible for providing office space and office services required in rendering services to us. We consider these facilities to be suitable and adequate for the management and operations of our business.

#### **ITEM 4 SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT**

We have not yet commenced commercial activities. Starwood Real Estate Income made an initial capital contribution of \$1,000 in cash, in exchange for 50 common shares. Starwood Real Estate Income currently holds all of the outstanding common shares issued by the Company, and, as of October 31, 2023, Starwood Real Estate Income was our only shareholder. The address for Starwood Real Estate Income is in care of our principal executive offices at 2340 Collins Avenue, Miami Beach, Florida, 33139.

## ITEM 5 TRUSTEES AND EXECUTIVE OFFICERS

We operate under the direction of our board of trustees. Our board of trustees is currently comprised of one trustee, John P. McCarthy. Our board of trustees will retain the Advisor to manage our investments, subject to supervision by the board of trustees.

Upon the initial closing of our private offering, our board of trustees will have five members, three of whom will be independent trustees, as defined by our Declaration of Trust. A description of definition of “independent trustee” is found in “*Item 7 Certain relationships and Related Transactions, and Trustee Independence—Trustee Independence*” below.

### Trustees and Executive Officers

Information regarding our trustees and executive officers are set forth below:

Name	Age*	Position	Position Held Since
Barry S. Sternlicht . . . . .	62	Executive Chairperson	2023
John P. McCarthy . . . . .	62	Chairperson of the Board	2023
Dennis G. Schuh . . . . .	51	Chief Executive Officer and President	2023
Marc A. Fox . . . . .	63	Chief Financial Officer	2023
Rachel O. Zane . . . . .	35	Secretary	2023
Zachary H. Tanenbaum . . .	40	Head of Investor Relations	2023

\* As of October 31, 2023

Each trustee will hold office until his or her death, resignation, removal, disqualification or adjudication of legal incompetence or the election and qualification of his or her successor. The address for each of our trustees is c/o 2340 Collins Avenue, Miami Beach, Florida, 33139.

Each officer holds office at the pleasure of our board of trustees until his or her successor is duly appointed and qualified or until their earlier death, resignation or removal.

### Biographical Information

**Barry S. Sternlicht** has served as the Executive Chairperson since our formation in June 2023. He founded Starwood Capital, a private alternative investment firm focused on global real estate, hotel management, oil and gas and energy infrastructure with approximately \$120 billion in assets under management as of December 31, 2022, and has served as Chairman of the Board of Directors and Chief Executive Officer since its formation in 1991. Through the Starwood Capital platform, Mr. Sternlicht has created several multi-billion public market companies, ranging from traditional real estate to branded hospitality. He serves as the Chairman of the board of directors of Starwood Real Estate Income Trust, Inc. and Chairman of the board of directors and the Chief Executive Officer of Starwood Property Trust and the Chairman and Chief Executive Officer of Starwood Capital Group Management, LLC, a registered investment advisor and an affiliate of the Advisor. Throughout Mr. Sternlicht’s career, he has focused on capitalizing on emerging consumer trends, either directly via core operating assets or indirectly through Starwood Capital’s real estate portfolio. He has also executed several notable public market transactions to enhance the scale of the Starwood Capital platform, including the creation and expansion of Starwood Property Trust, the consolidation of Starwood Hotels & Resorts Worldwide, Inc. (formerly NYSE: HOT) (“HOT”), the spin-off and growth of Invitation Homes (NYSE: INVH) and the formation of Equity Residential (NYSE: EQR). Similarly, he has been involved in numerous private market consumer businesses as an early investor. Mr. Sternlicht also has deep operating expertise, serving as the Chairman, from January 1995 through May 2005, and as the Chief Executive Officer, from January 1995 through

September 2004, of HOT. During his tenure as Chief Executive Officer, HOT's market capitalization grew to approximately \$10 billion. As Chief Executive Officer, Mr. Sternlicht executed several key acquisitions, including Westin Hotels, Patriot American and ITT Corp., and led the development of the W Hotel concept. Outside of his public market experience, Mr. Sternlicht has made a variety of investments in the consumer sector. Most notably, he has acquired or founded a number of independent hotel chains, including Baccarat Hotels, 1 Hotels and Treehouse Hotels, which are operated by SH Hotels & Resorts, a hotel brand management company and an affiliate of Starwood Capital. In addition to these investments, Mr. Sternlicht has invested in various consumer facing companies, including ThirdLove, a women's clothing brand, Lytro, a developer of light-field cameras, and Lyric, a hospitality platform for business travelers. Mr. Sternlicht serves on the Board of Directors of The Estée Lauder Companies (NYSE: EL), Cano Health Inc. (NYSE: CANO) and LOG Commercial Properties e Participacoes SA. Mr. Sternlicht previously served as a director to Invitation Homes (NYSE: INVH) from 2014 to 2020. Mr. Sternlicht is a Founder of Jaws Mustang Acquisition Corporation (NYSE: JWSM.UN), Jaws Hurricane Acquisition Corp. (NASDAQ: HCNE) and Jaws Juggernaut Acquisition Corporation (NASDAQ: JUGG), blank check companies listed on either the New York Stock Exchange or NASDAQ. Mr. Sternlicht is the former Chairman of the Board of TRI Pointe Group (NYSE: TPH), iStar (NYSE: STAR) and Baccarat S.A., a crystal maker headquartered in Baccarat, France. He also previously served on the Board of Directors of Restoration Hardware (NYSE: RH), Vesper Healthcare Acquisition Corp. (NASDAQ: VSPR), A.S. Roma and Equity Residential. Mr. Sternlicht received a B.A., magna cum laude, with honors from Brown University and earned an M.B.A. with distinction from Harvard Business School.

**John P. McCarthy Jr.** has served as a trustee since our formation in June 2023 and is the Chairperson of our board of trustees. Mr. McCarthy has also served in several roles at Starwood Real Estate Income Trust, Inc., including Vice Chairman since May 2023 and as a member of the board of directors since November 2017. Mr. McCarthy previously served as Starwood Real Estate Income Trust, Inc.'s Chief Executive Officer since its formation in June 2017 until May 2023 and as President from June 2017 until January 2021. Mr. McCarthy has served on the Advisor's Investment Committee since November 2017. Mr. McCarthy has served as Managing Director of Starwood Capital since July 2015, where he was responsible for managing and expanding relationships with Starwood Capital's investors around the world. Mr. McCarthy previously served as Global Head of Asset Management for Starwood Capital from March 2009 to May 2012, during which time he also served on Starwood Capital's Investment Committee. Prior to rejoining Starwood Capital, Mr. McCarthy served as Deputy Head of Europe for the Abu Dhabi Investment Authority ("ADIA") from June 2012 to May 2015. During this time, Mr. McCarthy served on ADIA's Executive and Global Strategy committees. Prior to this, Mr. McCarthy served as Global Co-Head of Asset Management for Lehman Brothers Real Estate Private Equity from June 2005 to February 2009 and was a Partner at O'Connor Capital Partners ("O'Connor") and the Co-Head of the Europe Business. Prior to joining O'Connor, Mr. McCarthy worked for GE Capital where he held a variety of positions, including managing the firm's real estate investing activities across Central Europe. Mr. McCarthy has previously served on several boards throughout his career, including ERE, a Paris, France based developer of European Shopping Malls, Deutsche Annington, a listed German based residential rental platform encompassing more than 180,000 units and McCarthy & Stone, formerly the UK's largest developer of homes for seniors. Mr. McCarthy received a B.S. in Finance from the University of Connecticut, and an M.B.A. from Fordham University.

Mr. McCarthy provides our board of trustees with extensive investment management experience, particularly related to international markets and operating platforms.

**Dennis G. Schuh** has served as our Chief Executive Officer and President since our formation in June 2023. Mr. Schuh has also served as the Chief Originations Officer of Starwood Property Trust since February 2016. In this role, Mr. Schuh is responsible for national originations, including senior debt, mezzanine and preferred equity investments. Prior to joining Starwood Property Trust in 2016, Mr. Schuh was a Managing Director for J.P. Morgan from 1997 to February 2016, where he held several roles as head of CMBS Banking/Oriation and head of CMBS Capital Markets. Before joining J.P. Morgan in 1997, Mr. Schuh worked at Fitch Ratings where he rated CMBS and REITs. He served on the Board of Governors for the CRE Finance Council from 2006



to 2008 and on its Executive Committee from 2007 to 2008. Mr. Schuh graduated from Georgetown University with a B.S. in Business Administration with a degree in Finance.

Mr. Schuh provides our board of trustees with extensive real estate debt investment and investment management experience.

**Marc A. Fox** has served as our Chief Financial Officer since October 2023. Mr. Fox has served as a consultant for Starwood Capital periodically since January 2023. Prior to consulting for Starwood Capital, Mr. Fox served as the Chief Financial Officer for Greystone & Co from June 2021 to November 2022, where he was responsible accounting and financial reporting. Prior to his time at Greystone & Co, Mr. Fox was the Chief Financial Officer at Ladder Capital Finance (NYSE: LADR) from November 2008 to May 2021, where he was responsible for accounting, financial reporting and tax functions, among other things. Before joining Ladder Capital Finance, Mr. Fox served as Executive Vice President and Treasurer of GMAC Commercial Mortgage and Capmark Financial Group from August 1997 to November 2008, where he was responsible for all cash and debt management, asset and liability management, accounts payable and banking relationships. Mr. Fox received a B.S. degree in economics and a M.B.A. from The Wharton School at the University of Pennsylvania.

**Rachel O. Zane** has served as our Secretary since August 2023. Ms. Zane has served as an attorney for Starwood Capital since June 2022. In this role, Ms. Zane is responsible for overseeing transactional, asset management and other corporate legal matters for Starwood affiliated investment vehicles. Prior to joining Starwood Capital in 2022, Ms. Zane practiced corporate real estate law at Simpson Thacher & Bartlett LLP from September 2015 to May 2022. Ms. Zane received a B.S. from the University of Virginia, a M.S. from the University of Pennsylvania and a J.D. from Columbia Law School. She is licensed to practice law in New York.

**Zachary H. Tanenbaum** has served as our Head of Investor Relations since October 2023. Mr. Tanenbaum has also served as a Managing Director and Head of Investor Strategy for Starwood Property Trust since April 2014. In this role, Mr. Tanenbaum is responsible for cultivating and managing the company's relationships with the global investment and analyst communities. Prior to joining Starwood Property Trust in 2014, Mr. Tanenbaum served as a Senior Analyst at Wesley Capital Management, a long/short real estate securities hedge fund. In this role, he generated investment ideas across the REIT, real estate operating company, specialty finance and homebuilding sectors. He previously served in senior sell-side equity research positions at FBR Capital Markets and MLV & Co. Mr. Tanenbaum received a B.S. degree from Cornell University and an M.S. degree in real estate, with a concentration in finance and investment, from New York University.

## **Leadership Structure and Oversight Responsibilities**

Our board of trustees is responsible for supervising our business. However, pursuant to our Bylaws, our board of trustees may delegate some of its powers to one or more committees as deemed appropriate by our board of trustees, provided that each committee consists of at least a majority of independent trustees.

Our board of trustees currently has an Audit Committee (as defined below) and may form additional committees in the future.

### ***Audit Committee***

We expect the audit committee of the board of trustees (the “**Audit Committee**”) to be composed of three members. Each of the members of the Audit Committee will meet the independence standards and financial literacy requirements for service on an audit committee of a board of trustees pursuant to the Exchange Act and New York Stock Exchange rules applicable to audit committees and corporate governance, and at least one member of the Audit Committee will be an “audit committee financial expert” as that term is defined under Item 407 of Regulation S-K, as promulgated under the Exchange Act.

The Audit Committee will operate pursuant to its charter, which will be approved by our board of trustees. The charter sets forth the responsibilities of the Audit Committee, which will include, oversight of the following:

- our accounting and financial reporting processes;
- the integrity of our financial statements and other financial information provided by the Company to its shareholders, the public and others;
- our compliance with legal and regulatory requirements;
- the qualifications and independence of our independent auditors; and
- the performance of our internal and independent auditors.

In addition, the Audit Committee will determine the selection, appointment, retention and termination of the independent auditors to audit our annual financial statements and reviews with the independent auditors the plans and results of the audit engagement. The Audit Committee also will approve all audit and non-audit services provided by the independent public accountants to us and certain other persons and the fees we pay for these services.

The Audit Committee will adopt procedures for the processing of complaints relating to accounting, internal control and auditing matters. The Audit Committee will oversee the review and handling of any complaints submitted pursuant to the forgoing procedures and of any whistleblower complaints.

### **Corporate Governance**

The individuals who serve as our executive officers have certain responsibilities arising from Maryland law and our Bylaws. These responsibilities include executing contracts and other instruments in our name and on our behalf and such other responsibilities as may be prescribed by our board of trustees from time to time. Our officers will devote such portion of their time to our affairs as is required for the performance of their responsibilities, but they are not required to devote all of their time to us.

A majority of our entire board of trustees may change the number of trustees from time to time, provided that the total number is not less than 3 and, unless our Bylaws are amended, not more than 15. Our Bylaws provide that a majority of our trustees must be independent trustees except for a period of up to 60 days after the death, removal or resignation of, or other vacancy involving, an independent trustee pending the election of a successor independent trustee. Our Declaration of Trust defines “independent trustee” as a trustee who (a) who is not an officer or employee of the Trust, any subsidiary of the Trust, or the Sponsor or its Affiliates, (b) whom the Board affirmatively determines has no material relationship with the Trust and (c) who otherwise satisfies the trustee independence tests provided for in Section 303A.02 of the New York Stock Exchange Listed Company Manual, as may be amended from time to time. Our board of directors will be composed of a majority of independent trustees.

For so long as Starwood Capital or its affiliate acts as investment advisor to us, Starwood Capital has the right to designate two (2) affiliate trustees for election to our board of trustees. Our board of trustees must also consult with Starwood Capital in connection with filling any vacancies created by the removal, resignation, retirement or death of any trustee (other than in connection with a removal by shareholders in accordance with our Declaration of Trust).

Each trustee will serve until his or her resignation, removal, death or adjudication of legal incompetence or the election and qualification of his or her successor. Although the number of trustees may be increased or decreased, a decrease may not shorten the term of any incumbent trustee. Any trustee may resign at any time or may be removed by the shareholders only for “cause,” and then only upon the affirmative vote of shareholders entitled to cast at least a two-thirds of all the votes entitled to be cast generally in the election of trustees. In addition, any trustee may be removed, at any time, but only for “cause” by written instrument, signed by a

majority of the board of trustees. For these purposes, “cause” means, with respect to any particular trustee, conviction of a felony or a final judgment of a court of competent jurisdiction holding that such trustee caused demonstrable, material harm to us through bad faith or active and deliberate dishonesty. A vacancy on our board of trustees resulting for any reason other than removal for “cause” by the shareholders, may be filled only by a vote of a majority of the remaining trustees, or if the vacancy involved an independent trustee, by a majority vote of the remaining independent trustees (if any remaining trustees are independent trustees). A vacancy on our board of trustees resulting from removal by the shareholders for “cause” may be filled only by the shareholders.

Our board of trustees will generally meet quarterly or more frequently if necessary. Our trustees are not required to devote all of their time to our business and are only required to devote the time to our business as their duties may require. Consequently, in the exercise of their duties as trustees, our trustees will rely heavily on the Advisor and on information provided by the Advisor. As part of our trustees’ duties, our board of trustees will supervise the relationship between us and the Advisor. Our board of trustees is empowered to approve the payment of compensation to trustees for services rendered to us.

Our board of trustees will adopt written policies on investments and borrowings, the general terms of which are set forth in this Registration Statement. The board of trustees may revise these policies or establish further written policies on investments and borrowings and will monitor our administrative procedures, investment operations and performance. Our board of trustees, including a majority of our independent trustees, will periodically review our investment policies to determine that they are in our best interest.

***Code of Business Conduct and Ethics.*** We will adopt a Code of Business Conduct and Ethics that applies to all of our trustees, officers and employees (if any), and to all of the officers and employees of the Advisor, including our principal executive officer, principal financial officer, principal accounting officer or controller, or persons performing similar functions while they are performing services for us. Our Code of Business Conduct and Ethics, as it relates to those also covered by Starwood Capital’s code of conduct, operates in conjunction with, and in addition to, Starwood Capital’s code of conduct. Our Code of Business Conduct and Ethics is designed to comply with SEC regulations relating to codes of conduct and ethics.

***Corporate Governance Guidelines.*** We will adopt corporate governance guidelines to advance the functioning of our board and the audit committee and to set forth the expectations of our board of trustees as to how it and any committees should perform its and their respective functions.

## **ITEM 6 EXECUTIVE COMPENSATION**

### *(a) Compensation of Executive Officers*

We are externally managed and have no employees. Our executive officers serve as officers of the Advisor and are employees of the Advisor or one or more of its affiliates. The Advisory Agreement provides that the Advisor is responsible for managing our investment activities, as such our executive officers do not receive any cash compensation from us or any of our subsidiaries for serving as our executive officers but, instead, receive compensation from the Advisor. In addition, we do not reimburse the Advisor for compensation it pays to our executive officers. The Advisory Agreement does not require our executive officers to dedicate a specific amount of time to fulfilling the Advisor's obligations to us under the Advisory Agreement. Accordingly, the Advisor has informed us that it cannot identify the portion of the compensation it awards to our executive officers that relates solely to such executives' services to us, as the Advisor does not compensate its employees specifically for such services. Furthermore, we do not have employment agreements with our executive officers, we do not provide pension or retirement benefits, perquisites or other personal benefits to our executive officers, our executive officers have not received any nonqualified deferred compensation and we do not have arrangements to make payments to our executive officers upon their termination or in the event of a change in control of us.

A description of the Advisory Agreement and fees that we pay to the Advisor is found in "*Item 7 Certain Relationships and Related Transactions, and Trustee Independence*" below.

### **Compensation Committee Interlocks and Insider Participation**

We currently do not have a compensation committee of our board of trustees because we do not directly compensate our executive officers or reimburse the Advisor for their compensation. There are no interlocks or insider participation as to compensation decisions required to be disclosed pursuant to SEC regulations.

### **Trustee Compensation**

We intend to compensate each of our non-employee trustees who are not affiliated with the Advisor or Starwood Capital with an annual retainer, which is expected to be at a market rate in an amount to be determined by our board of trustees, or committee thereof, at a later date, plus an additional annual retainer, which is expected to be at a market rate in an amount to be determined by the Board, or committee thereof, at a later date, for the chairperson of our Audit Committee. We do not intend to pay our trustees additional fees for attending board meetings, but we intend to reimburse each of our trustees for reasonable out-of-pocket expenses incurred in attending board and committee meetings (including, but not limited to, airfare, hotel and food). Our trustees who are affiliated with Starwood Capital, including the Advisor, will not receive additional compensation for serving on the board of trustees or committees thereof.

## ITEM 7 CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS, AND TRUSTEE INDEPENDENCE

### *(a) Transactions with Related Persons, Promoters and Certain Control Persons*

#### **Advisory Agreement**

We intend to enter into the Advisory Agreement with the Advisor, pursuant to which we pay the Management Fee and Performance Fee. In addition, pursuant to the Advisory Agreement, we reimburse the Advisor for certain expenses as they occur. See “*Item 1 Description of Business—Advisory Agreement.*” The Advisory Agreement will be approved by our board of trustees, including our independent trustees.

#### **Dealer Manager Agreement**

We intend to enter into a Dealer Manager Agreement with the Dealer Manager, and we intend to enter into participating broker-dealer agreements with certain broker-dealers. Under the terms of the Dealer Manager Agreement and the participating broker-dealer agreements, the Dealer Manager serves as the dealer manager, and certain participating broker-dealers solicit capital, for our private offering of Class S shares, Class T shares, Class D shares, Class I shares and Class E shares.

The Dealer Manager will be entitled to receive upfront selling commissions of up to 3.0%, and upfront dealer manager fees of up to 0.5%, of the transaction price of each Class T share sold in the primary offering; however, such amounts may vary at certain participating broker-dealers provided that the sum will not exceed 3.5% of the transaction price. The Dealer Manager will be entitled to receive upfront selling commissions of up to 3.5% of the transaction price of each Class S share sold in the primary offering. The Dealer Manager will be entitled to receive upfront selling commissions of up to 1.5% of the transaction price of each Class D share sold in the primary offering. No upfront selling commissions, dealer manager fees or shareholder servicing fees are paid with respect to Class I shares and Class E shares. See “*Item 11 Description of Registrant’s Securities to be Registered—Description of Shares*” for further discussion of the differences between our Class T shares, Class S shares, Class D shares, Class I shares and Class E shares.

In addition, we pay the Dealer Manager selling commissions over time as shareholder servicing fees for ongoing services rendered to shareholders by participating broker-dealers or broker-dealers servicing investors’ accounts, referred to as servicing broker-dealers:

- with respect to our outstanding Class T shares equal to 0.85% per annum of the aggregate NAV of our outstanding Class T shares, consisting of an advisor shareholder servicing fee of 0.65% per annum, and a dealer shareholder servicing fee of 0.20% per annum, of the aggregate NAV of our outstanding Class T shares; however, with respect to Class T shares sold through certain participating broker-dealers, the investment professional shareholder servicing fee and the dealer shareholder servicing fee may be other amounts, provided that the sum of such fees will always equal 0.85% per annum of the NAV of such shares;
- with respect to our outstanding Class S shares equal to 0.85% per annum of the aggregate NAV of our outstanding Class S shares; and
- with respect to our outstanding Class D shares equal to 0.25% per annum of the aggregate NAV of our outstanding Class D shares.

We will not pay a shareholder servicing fee with respect to our outstanding Class I shares or Class E shares.

We will cease paying the shareholder servicing fee with respect to any Class T shares, Class S shares or Class D shares held in a shareholder’s account at the end of the month in which the Dealer Manager in conjunction with the transfer agent determines that total upfront selling commissions, dealer manager fees and

shareholder servicing fees paid with respect to such shares would exceed any applicable limit set by a participating broker-dealer set forth in any applicable agreement between the Dealer Manager and a participating broker-dealer at the time such shares were issued. At the end of such month, such Class T shares, Class S shares or Class D shares (and any shares issued under the distribution reinvestment plan (“**DRIP**”) with respect thereto) will convert into a number of Class I shares (including any fractional shares) with an equivalent aggregate NAV as such shares.

### **Indemnification Agreements with Trustees and Officers**

We intend to enter into indemnification agreements with our trustees and officers. The indemnification agreements are intended to provide our trustees and officers the maximum indemnification permitted under Maryland law and our Declaration of Trust. Each indemnification agreement provides that we shall indemnify the trustee or officer who is a party to the agreement including the advancement of legal expenses, if, by reason of his or her status with the Company, such trustee or officer is, or is threatened to be, made a party to or a witness in any threatened, pending, or completed proceeding, other than a proceeding by or in the right of the Company. For more information, see “*Item 12 Indemnification of Trustees and Officers*” below.

### **Sale of Shares to Starwood Capital**

We were capitalized through the purchase by Starwood Real Estate Income of 50 common shares for an aggregate purchase price of \$1,000 on July 14, 2023. These shares were issued and sold in reliance upon the available exemptions from registration requirements of Section 4(a)(2) of the Securities Act.

### **Potential Conflicts of Interest**

We are subject to conflicts of interest arising out of our relationship with Starwood Capital, including the Advisor and its affiliates. Certain of our executive officers are also executives of Starwood Capital. There is no guarantee that the policies and procedures adopted by us, the terms of our Declaration of Trust, the terms and conditions of the Advisory Agreement or the policies and procedures adopted by the Advisor, Starwood Capital and their affiliates will enable us to identify, adequately address or mitigate these conflicts of interest. Transactions between us and the Advisor or its affiliates will be subject to approval by our independent trustees. See “*Risk Factors—Risks Related to Conflicts of Interest.*”

We pay the Advisor the Management Fee regardless of the performance of our portfolio. The Advisor’s entitlement to the Management Fee, which is not based upon performance metrics or goals, might reduce its incentive to devote its time and effort to seeking investments that provide attractive risk-adjusted returns for our portfolio. We are required to pay the Advisor the Management Fee in a particular period despite experiencing a net loss or a decline in the value of our portfolio during that period. In addition, the Advisor is entitled to receive the Performance Fee based on our achievement of target levels of “Core Earnings,” which may create an incentive for the Advisor to place undue emphasis on the maximization of Core Earnings at the expense of other criteria, such as preservation of capital, in order to achieve higher incentive compensation or to use substantial debt or leverage for our portfolio or make riskier or more speculative investments on our behalf than they would otherwise make in the absence of such fee. If our interests and those of the Advisor are not aligned, the execution of our business plan and our results of operations could be adversely affected, which could adversely affect our results of operations and financial condition.

Some additional examples of conflicts of interest that may arise by virtue of our relationship with Starwood Capital, including the Advisor and Starwood Capital, include:

- *Broad and Wide-Ranging Activities.* The Advisor, Starwood Capital and their affiliates engage in a broad spectrum of activities, including a broad range of activities relating to investments in the real



estate industry, and have invested or committed billions of dollars in capital through various investment funds, managed accounts and other vehicles affiliated with Starwood Capital. In the ordinary course of their business activities, the Advisor, Starwood Capital and their affiliates may engage in activities where the interests of certain divisions of Starwood Capital and its affiliates, including the Advisor, or the interests of their clients may conflict with the interests of our shareholders. Certain of these divisions and entities affiliated with the Advisor have or may have investment objectives or guidelines similar to our investment guidelines and therefore may compete with us. In particular, Starwood Capital invests in a broad range of real properties and real estate-related debt investments via numerous different investment funds, managed accounts and other vehicles.

- *Starwood Capital's Policies and Procedures.* Specified policies and procedures implemented by Starwood Capital and its affiliates, including the Advisor, to mitigate potential conflicts of interest and address certain regulatory requirements and contractual restrictions may reduce the advantages across Starwood Capital's and its affiliates' various businesses that the Advisor expects to draw on for purposes of pursuing attractive investment opportunities. Because Starwood Capital has many different businesses, it is subject to a number of actual and potential conflicts of interest, greater regulatory oversight and more legal and contractual restrictions than that to which it would otherwise be subject if it had just one line of business. In addressing these conflicts and regulatory, legal and contractual requirements across its various businesses, Starwood Capital has implemented certain policies and procedures (e.g., information walls) that may reduce the benefits that Starwood Capital expects to utilize for purposes of identifying and managing its investments. For example, Starwood Capital may come into possession of material, non-public information with respect to companies that are Starwood Capital's and its affiliates' advisory clients in which the Advisor may be considering making an investment. As a consequence, that information, which could be of benefit to the Advisor, might become restricted to those other businesses and otherwise be unavailable to the Advisor, and could also restrict the Advisor's activities. Additionally, the terms of confidentiality or other agreements with or related to companies in which any investment vehicle of Starwood Capital has or has considered making an investment or which is otherwise an advisory client of Starwood Capital and its affiliates may restrict or otherwise limit the ability of Starwood Capital or its affiliates, including the Advisor, to engage in businesses or activities competitive with such companies.
- *Allocation of Investment Opportunities.* Certain inherent conflicts of interest arise from the fact that Starwood Capital and its affiliates, including the Advisor (pursuant to the Advisory Agreement), will provide investment management and other services both to us and to other persons or entities, whether or not the investment objectives or guidelines of any such other persons or entities are similar to ours, including, without limitation, the sponsoring, closing and managing of Other Starwood Accounts.

We believe our investment objectives, guidelines and strategy are generally distinct from Other Starwood Accounts. Accordingly, Starwood Capital believes there has been to date, and expect there to continue to be, sufficient investment opportunities for us within our investment guidelines because of the scale of the CRE debt market. There is, however, overlap of our investment opportunities with certain established Other Starwood Accounts and may be similar overlap with future Other Starwood Accounts. This overlap may from time to time create conflicts of interest, which the Advisor and its affiliates will seek to manage in a fair and reasonable manner in their sole discretion in accordance with Starwood Capital's prevailing policies and procedures

With respect to Other Starwood Accounts with investment objectives or guidelines that overlap with ours but that do not have priority over us, investment opportunities are allocated among us and one or more Other Starwood Accounts in accordance with Starwood Capital's prevailing policies and procedures on a basis that the Advisor and its affiliates believe to be fair and reasonable in their sole discretion, which may be on an alternating or co-invest basis subject to the following considerations: (i) any applicable investment objectives of ours and such Other Starwood Accounts (which, for us,

includes our primary objective of providing current income in the form of regular, stable cash distributions to achieve an attractive distribution yield); (ii) the sourcing of the transaction; (iii) the size and nature of the investment; (iv) the relative amounts of capital available for investment by us and such Other Starwood Accounts; (v) the sector, geography/location, expected return profile, expected distribution rates, anticipated cash flows, expected stability or volatility of cash flows, leverage profile, risk profile, and other features of the applicable investment opportunity and its impact on portfolio concentration and diversification (which, for us, will primarily be what we believe are lower risk loans against stabilized or core and core-plus real estate, or properties that require modest refurbishment or repositioning); (vi) avoiding allocation that could result in de minimis or odd-lot investments; (vii) any structural and operational differences between us and such Other Starwood Accounts and any applicable investment limitations (including, without limitation, exposure limits, hedging limits and diversification considerations) of us and such Other Starwood Accounts, investment limitations, parameters or contractual provisions of ours and such Other Starwood Accounts; (viii) the eligibility of us and such Other Starwood Accounts to make such investment under applicable laws; (ix) any other applicable tax, accounting, legal, regulatory compliance or operational considerations deemed relevant by the Advisor and its affiliates (including, without limitation, maintaining our qualification as a REIT and our status as a non-investment company exempt from the Investment Company Act) (e.g., joint venture investments between us and an Other Starwood Account must be on the same terms and satisfy the restrictions of all participants, such as lowest leverage targeted by any participant); and (x) any other requirements contained in the corporate governance documents of us and such Other Starwood Accounts and any other considerations deemed relevant by the Advisor, Starwood Capital and their affiliates in good faith. Our board of trustees (including our independent trustees) has the duty to ensure that the allocation methodology described above is applied fairly to us.

One Other Starwood Account, SEREDF II, generally targets performing debt investments related to properties in Europe and, to the extent an investment opportunity arises that satisfies both our and SEREDF II's investment guidelines, Starwood Capital has agreed to allocate no less than 33% of such European debt opportunity to SEREDF II. The remainder of each opportunity not allocated to SEREDF II will be allocated among us and Other Starwood Accounts in accordance with the investment allocation policy described above in such manner and proportion as Starwood Capital may determine in each case in its sole discretion. The pre-determined allocation to SEREDF II (and any successor funds with the same or similar investment guidelines) may result in less of an investment opportunity being made available to us.

One Other Starwood Account, SREDS, focuses primarily on originating, acquiring, financing, and managing commercial mortgage and mezzanine loans, subordinated mortgage loans, high-yield mortgages, participations, preferred equity investments, CMBS and CLOs in the United States; however, SREDS does not generally target loans secured by core or core-plus real estate. While we believe our investment criteria to be generally distinct from SREDS, to the extent an investment opportunity arises during the commitment period of SREDS that satisfies both our and SREDS' investment guidelines, SREDS (and select Other Starwood Accounts with similar investment criteria investing alongside SREDS) will have priority with respect to such investment opportunity, which may result in less investment opportunities being made available to us.

Other than (i) the priority granted to SEREDF II with respect to debt investment opportunities related to European real estate debt and (ii) the priority granted to SREDS with respect to real estate debt and debt-like equity investments that satisfies SREDS' and our investment criteria during the SREDS commitment period, no Other Starwood Accounts have priority over us with respect to investment opportunities. However, Starwood Capital may in the future grant priority to additional Other Starwood Accounts.

While the Advisor will seek to manage potential conflicts of interest in a fair and reasonable manner as required pursuant to the Advisory Agreement, the portfolio strategies employed by the Advisor, Starwood Capital or their affiliates in managing the Other Starwood Accounts could conflict with the

strategies employed by the Advisor in managing our business and may adversely affect the marketability, exit strategy, prices and availability of the properties, securities and instruments in which we invest. The Advisor, Starwood Capital or their affiliates may also give advice to the Other Starwood Accounts that may differ from advice given to us even though their investment objectives or guidelines may be the same or similar to ours.

- *Corporate Opportunities.* Our Declaration of Trust provides that, to the maximum extent permitted from time to time by Maryland law, (a) none of our trustees, officers or agents who is also an officer, employee or agent of Starwood Holdings or any of its affiliates is required to present, communicate or offer any business opportunity to us or any of our subsidiaries and (b) any such person shall have the right to hold and exploit any business opportunities or to direct, recommend, offer, sell, assign or otherwise transfer such business opportunity to any person or entity other than us and our subsidiaries. In addition, our Declaration of Trust provides that we renounce our interest or expectancy in, or in being offered an opportunity to participate in, any such business opportunity to the maximum extent permitted from time to time by Maryland law.
- *Investments in Different Levels or Classes of an Issuer's Securities.* From time to time, to the extent permitted by our Declaration of Trust, we and the Other Starwood Accounts may make investments at different levels of an issuer's or borrower's capital structure or otherwise in different classes of the same issuer's securities. We may make investments that are senior or junior to, or have rights and interests different from or adverse to, the investments made by the Other Starwood Accounts. Such investments may conflict with the interests of such Other Starwood Accounts in related investments, and the potential for any such conflicts of interests may be heightened in the event of a default or restructuring of any such investments. While Starwood Capital will seek to resolve any such conflicts in a fair and equitable manner in accordance with its prevailing policies and procedures with respect to conflicts resolution among the Other Starwood Accounts, such transactions are not required to be presented to our board of trustees for approval (unless otherwise required by our Declaration of Trust or investment guidelines), and any conflicts may not be resolved in our favor.
- *Pursuit of Differing Strategies.* At times, the investment professionals employed by the Advisor or its affiliates and other investment vehicles affiliated with the Advisor or Starwood Capital may determine that an investment opportunity may be appropriate for only some of the accounts, clients, entities, funds or investment vehicles for which he or she exercises investment responsibility, or may decide that certain of the accounts, clients, entities, funds or investment vehicles should take differing positions with respect to a particular security. In these cases, the investment professionals may place separate transactions for one or more accounts, clients, entities, funds or investment vehicles which may affect the market price of the security or the execution of the transaction, or both, to the detriment or benefit of one or more other accounts, clients, entities, funds or investment vehicles. For example, an investment professional may determine that it would be in the interest of another account to sell a security that we hold long, potentially resulting in a decrease in the market value of the security held by us.
- *Variation in Financial and Other Benefits.* A conflict of interest arises where the financial or other benefits available to the Advisor or its affiliates differ among the accounts, clients, entities, funds or investment vehicles that it manages. If the amount or structure of the Management Fee and the Performance Fee or the Advisor's or its affiliates' compensation differs among accounts, clients, entities, funds or investment vehicles (such as where certain funds or accounts pay higher base management fees, incentive fees, performance-based management fees or other fees), the Advisor might be motivated to help certain accounts, clients, entities, funds or investment vehicles over others. Similarly, the desire to maintain assets under management or to enhance the Advisor's performance record or to derive other rewards, financial or otherwise, could influence the Advisor or its affiliates in affording preferential treatment to those accounts, clients, entities, funds or investment vehicles that could most significantly benefit the Advisor or its affiliates. The Advisor may, for example, have an incentive to allocate favorable or limited opportunity investments or structure the timing of investments

to favor such accounts, clients, entities, funds or investment vehicles. Additionally, the Advisor or its affiliates might be motivated to favor accounts, clients, entities, funds or investment vehicles in which it has an ownership interest or in which Starwood Capital or its affiliates have ownership interests. Conversely, if an investment professional at the Advisor or its affiliates does not personally hold an investment in the fund but holds investments in other Starwood Capital affiliated vehicles, such investment professional's conflicts of interest with respect to us may be more acute.

- *Advisory and Other Relationships.* Starwood Capital is under no obligation to decline any engagements or investments in order to make an investment opportunity available to us. In connection with its investment advisory and other businesses, Starwood Capital may come into possession of information that limits its ability to engage in potential transactions. Our activities may be constrained as a result of the inability of Starwood Capital personnel to use such information. For example, employees of Starwood Capital not serving as employees of the Advisor or its affiliates may be prohibited by law or contract from sharing information with members of Starwood Capital. We may be forced to sell or hold existing investments, as a result of investment advisory relationships or other relationships that Starwood Capital may have or transactions or investments Starwood Capital and its affiliates may make or have made. Additionally, there may be circumstances in which one or more individuals associated with Starwood Capital are precluded from providing services to the Advisor because of certain confidential information available to those individuals or to other parts of Starwood Capital. Starwood Capital may receive and retain fees, remuneration, or other profits and receive compensation from such other activities, which have the potential to create conflicts of interest and which will not be shared with us or our shareholders.

Starwood Capital has long-term relationships with a significant number of corporations and their senior management. In determining whether to invest in a particular transaction on our behalf, the Advisor may consider those relationships (subject to its obligations under our Declaration of Trust and the Advisory Agreement), which may result in certain transactions that the Advisor will not undertake on our behalf in view of such relationships.

- *Service Providers.* Certain of our service providers (including lenders, brokers, attorneys, and investment banking firms) may be sources of investment opportunities, counterparties therein or advisors with respect thereto. This may influence the Advisor in deciding whether to select such a service provider. In addition, in instances where multiple Starwood Capital businesses may be exploring a potential individual investment, certain of these service providers may choose to be engaged by other Starwood Capital affiliates rather than us.

In addition, it is expected that certain Starwood Capital affiliates will also provide other services in respect of our investments from time to time, including, but not limited to, operating platforms providing loan servicing and administrative corporate services. Employees of these affiliates may also act as our executive officers and may also receive performance-based compensation in respect of our investments. The fees and expenses of such Starwood Capital-affiliated service providers (and, if applicable, their employees) are borne by our investments and there is no related offset to the Management Fee we pay to the Advisor. While Starwood Capital believes that any such affiliated service providers, when engaged, generally provide (or will provide) services at rates equal to or better than those provided by third parties (even in jurisdictions where insurance rates are statutorily determined), there is an inherent conflict of interest that may incentivize Starwood Capital to engage its affiliated service provider over a third party.

- *Rinaldi, Finkelstein & Franklin, L.L.C.,* which is counsel to our sponsor and its affiliates and is majority owned and controlled by Ellis F. Rinaldi, Co-General Counsel and Senior Managing Director of Starwood Capital and certain of its affiliates, may provide legal services to us or the Advisor on market terms.
- *Material, Non-Public Information.* We, directly or through Starwood Capital, the Advisor or certain of their respective affiliates may come into possession of material, non-public information with respect to an issuer in which we have invested or may invest. Should this occur, the Advisor may be restricted

from buying or selling securities, derivatives or loans of the issuer on our behalf until such time as the information becomes public or is no longer deemed material. Disclosure of such information to the personnel responsible for management of our business may be on a need-to-know basis only, and we may not be free to act upon any such information. Therefore, we and the Advisor may not have access to material, non-public information in the possession of Starwood Capital that might be relevant to an investment decision to be made by the Advisor on our behalf, and the Advisor may initiate a transaction or purchase or sell an investment that, if such information had been known to it, may not have been undertaken. Due to these restrictions, the Advisor may not be able to initiate a transaction on our behalf that it otherwise might have initiated and may not be able to purchase or sell an investment that it otherwise might have purchased or sold, which could negatively affect our operations.

- *Possible Future Activities.* The Advisor and its affiliates may expand the range of services that they provide over time. Except as and to the extent expressly provided in the Advisory Agreement, the Advisor and its affiliates are not restricted in the scope of its business or in the performance of any such services (whether now offered or undertaken in the future) even if such activities could give rise to conflicts of interest, and whether or not such conflicts are described herein. The Advisor, Starwood Capital and their affiliates continue to develop relationships with a significant number of companies, financial sponsors and their senior managers, including relationships with clients who may hold or may have held investments similar to those intended to be made by us. These clients may themselves represent appropriate investment opportunities for us or may compete with us for investment opportunities.
- *Transactions with Other Starwood Accounts and Other Affiliates.* From time to time, we may enter into purchase and sale transactions with Other Starwood Accounts. Such transactions will be conducted in accordance with, and subject to, our Declaration of Trust (including the requirement that such transaction be approved by a majority of our trustees, including a majority of our independent trustees, not otherwise interested in the transaction as being fair and reasonable and on terms no less favorable than those available from unaffiliated third parties), the terms and conditions of the Advisory Agreement and our Code of Ethics and applicable laws and regulations. These requirements will also apply to transactions with Starwood Capital, any of our trustees or any affiliates thereof.
- *Other Affiliate Transactions.* In connection with investments in which we participate alongside Other Starwood Accounts, we may from time to time share certain rights with such Other Starwood Accounts relating to such investments for legal, tax, regulatory or other similar reasons, including, in certain instances, certain control-related rights with respect to jointly held investments. When making any decisions related to such investments, there may be conflicting interests. The return on our investment may not be equivalent to or better than the returns obtained by Starwood Capital or its other affiliates.

Further, conflicts could arise once we and Starwood Capital or its affiliates have made our respective investments. For example, if we enter into a joint venture with an Other Starwood Account, our interests and the interests of such Other Starwood Account may conflict, for example when one joint venture partner seeks to sell the property in the joint venture but the other joint venture partner does not. In such situations, the ability of the Advisor to recommend actions in our best interests might be impaired.

### **Lack of Separate Representation; No Representation of Investors**

Simpson Thacher & Bartlett LLP, counsel to the Company, also represents Starwood Capital. Simpson Thacher & Bartlett LLP's representation of Starwood Capital and the Company is limited to specific matters as to which it has been consulted by Starwood Capital and/or the Company. There may exist other matters which could have a bearing on the Company and/or Starwood Capital as to which Simpson Thacher & Bartlett LLP has not been consulted.

In the course of advising Starwood Capital and/or the Company, there are times when the interests of the shareholders may differ from those of the Company and/or Starwood Capital with respect to a particular issue.



Simpson Thacher & Bartlett LLP does not represent the interests of shareholders in resolving those issues. In connection with our private offering and subsequent advice to the Company, neither Simpson Thacher & Bartlett nor any other law firm retained by Starwood Capital is representing the shareholders or any other prospective investor. Accordingly, prospective investors are strongly urged to consult their tax and legal advisors with respect to the tax and other legal aspects of an investment in the Company and the transactions contemplated hereby and with specific reference to their own personal financial and tax situation.

## **Other Considerations**

### *No Independent Advice*

The terms of the agreements and arrangements under which the Company is established and will be operated have been or will be established by Starwood Capital and are not the result of arm's-length negotiations or representations of shareholders by separate counsel. Potential investors should therefore seek their own legal, tax and financial advice before making an investment in the Company.

## **Certain Business Relationships**

Certain of our current trustees and officers are directors, officers or employees of the Advisor.

## **Trustee Independence**

Our Declaration of Trust defines an "independent trustee" as a trustee who (a) is not an officer or employee of the Company, any subsidiary of the Company, or Starwood Holdings or its affiliates, (b) our board of trustees affirmatively determines has no material relationship with the Company and (c) otherwise satisfies the director independence tests provided for in Section 303A.02 of the New York Stock Exchange Listed Company Manual, as may be amended from time to time.

(b) *[Reserved]*

(c) *Promoters and Certain Control Persons*

The Advisor may be deemed a promoter of the Company. We expect to enter into the Advisory Agreement with the Advisor. The Advisor, for its services to us, will be entitled to receive the Management Fee and the Performance Fee in addition to the reimbursement of certain expenses. In addition, under the Advisory Agreement and Declaration of Trust, we expect, to the extent permitted by applicable law, to indemnify the Advisor and certain of its affiliates. See "*Item 1 Business.*"

(d) *Smaller Reporting Company*

See "*Item 2 Financial Information*" and "*Item 4 Security Ownership of Certain Beneficial Owners and Management*" for information about our ownership.



## **ITEM 8 LEGAL PROCEEDINGS**

Neither we, the Advisor, nor Starwood Capital are currently subject to any material legal proceedings, nor, to our knowledge, are any material legal proceeding threatened against us, the Advisor or Starwood Capital. From time to time, we, the Advisor or Starwood Capital may be a party to certain legal and regulatory proceedings in the ordinary course of business.

## ITEM 9 MARKET PRICE OF AND DIVIDENDS ON THE REGISTRANT'S COMMON EQUITY AND RELATED SHAREHOLDER MATTERS

### Market Information

Our common shares will be offered and sold in transactions exempt from registration under the Securities Act under Section 4(a)(2) and Regulation D. See “*Item 10 Recent Sales of Unregistered Securities*” for more information. There is no public market for our common shares currently, nor can we give any assurance that one will develop.

Because our common shares are being acquired by investors in one or more transactions “not involving a public offering,” they are “restricted securities” and may be required to be held indefinitely. Our common shares may not be sold or transferred (i) except as permitted under our Declaration of Trust and (ii) unless the common shares are registered under applicable securities laws or specifically exempted from registration. Accordingly, an investor must be willing to bear the economic risk of investment in the shares unless and until we accept their repurchase or transfer request. No sale, transfer, assignment, pledge or other disposition, whether voluntary or involuntary, of the shares may be made except by registration of the transfer on our books. Each transferee will be required to execute an instrument agreeing to be bound by these restrictions and the other restrictions imposed on the shares and to execute such other instruments or certifications as are reasonably required by us.

### Holders

As of October 31, 2023, there was one holder of record of our common shares.

### Net Asset Value Calculation and Valuation Guidelines

Our board of trustees, including a majority of our independent trustees, intends to adopt valuation guidelines that contain a comprehensive set of methodologies to be used by the Advisor and our independent valuation advisor (the “**Independent Valuation Advisor**”) in connection with estimating the values of our assets and liabilities for purposes of our NAV calculation. These guidelines are designed to seek to produce a fair and accurate estimate of the price that would be received for our investments in an arm’s-length transaction between a willing buyer and a willing seller in possession of all material information about our investments. Periodically, our board of trustees, including a majority of our independent trustees, will review the appropriateness of our valuation procedures. From time to time, our board of trustees, including a majority of our independent trustees, may adopt changes to the valuation guidelines if it (1) determines that such changes are likely to result in a more accurate reflection of NAV or a more efficient or less costly procedure for the determination of NAV without having a material adverse effect on the accuracy of such determination or (2) otherwise reasonably believes a change is appropriate for the determination of NAV.

The calculation of NAV is intended to be a calculation of the fair value of our assets less our outstanding liabilities as described below and will likely differ from the book value of equity reflected in our financial statements.

To calculate NAV for the purpose of establishing a purchase and repurchase price for our common shares, we expect to adopt a model that calculates the fair values of our assets and liabilities in accordance with our valuation guidelines. Because these fair value calculations will involve significant professional judgment in the application of both observable and unobservable attributes, the calculated fair value of assets may differ from their actual realizable value or future fair value. While we believe these NAV calculation methodologies are consistent with standard industry practices, there is no rule or regulation that requires we calculate NAV in a certain way. As a result, other REITs may use different methodologies or assumptions to determine NAV. In addition, NAV is not a measure used under U.S. GAAP and the valuations of and certain adjustments made to our assets and liabilities used in the determination of NAV will differ from U.S. GAAP. Shareholders should not consider NAV to be equivalent to shareholders’ equity or any other U.S. GAAP measure.

### *Independent Valuation Advisor*

We expect to engage Altus Group U.S. Inc., a third-party valuation firm, which will be approved by our board of trustees, including a majority of our independent trustees, to serve as the Independent Valuation Advisor.

The Advisor, with the approval of our board of trustees, including a majority of independent trustees, may engage additional independent valuation advisors in the future as our portfolio grows and diversifies. While the Independent Valuation Advisor is responsible for reviewing and confirming the reasonableness of certain of the valuations prepared by the Advisor each month, it is not responsible for, and does not calculate, our NAV. The Advisor is ultimately responsible for the determination of NAV.

The Independent Valuation Advisor may be replaced at any time, in accordance with agreed-upon notice requirements, by a majority vote of our board of trustees, including a majority of our independent trustees. We will promptly disclose any changes to the identity or role of the Independent Valuation Advisor to shareholders. The Independent Valuation Advisor will discharge its responsibilities in accordance with our valuation guidelines.

Our board of trustees will not be involved in the periodic valuation of our assets and liabilities but will periodically receive and review such information about the valuation of our assets and liabilities as it deems necessary to exercise its oversight responsibility. Our NAV per share for each class of shares will be calculated monthly by our fund administrator and such calculation will be reviewed and confirmed by the Advisor. Pursuant to a valuation services agreement with the Independent Valuation Advisor, the Independent Valuation Advisor will review and confirm the reasonableness of certain valuations prepared by the Advisor each month. Based on the monthly valuations performed by the Advisor and the confirmations of reasonableness by the Independent Valuation Advisor of certain valuations, as discussed below, the Advisor will determine the final valuations of our assets and liabilities in order for our fund administrator to calculate the NAV per share for each class of shares.

We will pay fees to the Independent Valuation Advisor upon its delivery of each report confirming the reasonableness of the Advisor's valuations in accordance with the valuation services agreement. We also will agree to indemnify the Independent Valuation Advisor against certain liabilities arising out of the engagement. The compensation paid to the Independent Valuation Advisor will not be based on the estimated values of our assets and liabilities or any confirmation thereof.

The Independent Valuation Advisor and its affiliates have provided and is expected to continue to provide valuation advisory services to Starwood Capital and its affiliates and have received, and are expected to continue to receive, fees in connection with such services. The Independent Valuation Advisor and its affiliates will from time to time perform other commercial real estate and financial advisory services for Starwood Capital and its affiliates, or in transactions related to collateral that is a component of the subjects of the valuations being performed for us, or otherwise, so long as such other services do not adversely affect the independence of the Independent Valuation Advisor as certified in the applicable valuation report.

### **Valuation of Investments**

#### ***CRE Loans and Other Real Asset Loans***

The fair market value of our CRE loan and other real asset loan investments will be determined by the Advisor on a monthly basis. Newly originated or acquired loan investments will initially be valued at par in the month that they are closed, which is expected to represent fair value at that time. For each month after the initial month in which a loan investment is closed, the Independent Valuation Advisor will review and confirm the reasonableness of the Advisor's valuation of each of our CRE loan and other real asset loan investments. Valuations of CRE loan and other real asset loan investments reflect changes in interest rates, spreads, collateral value, loan tests (including loan impairment testing) and metrics, risk ratings, and anticipated liquidation timing

and proceeds, among others. The fair values are determined by discounting the future contractual cash flows to the present value using a current market interest rate or spread. The market rate is determined through consideration of the interest rates for debt of comparable quality and maturity, and, where applicable, the value of the underlying real estate investment.

Each report prepared by the Independent Valuation Advisor is addressed solely to us. The Independent Valuation Advisor's reports are not addressed to the public and may not be relied upon by any other person to establish an estimated value of our common shares and do not constitute a recommendation to any person to purchase or sell our common shares. In preparing its reports, the Independent Valuation Advisor will not solicit third-party indications of interest for our common shares in connection with possible purchases thereof or the acquisition of all or any part of us.

### ***Valuation of Collateral***

For CRE loan and other real asset loan investments, an appraisal will be completed by an independent appraisal firm prior to the closing of each transaction. Appraised values of property collateral are based on comparable sales, occupancy, leasing rates and expirations, discounted cash flows, and anticipated liquidation timing and proceeds, among other factors. The Advisor may choose to obtain an updated third party appraisal subsequent to the loan closing date if a material event occurs and impacts the collateral.

Each valuation report prepared by an independent appraiser will be addressed solely to us, but provided to the Independent Valuation Advisor for use in consideration of the reasonableness of the Advisor's valuations of our CRE loan and other real asset loan investments. Independent appraisal reports are not addressed to the public and may not be relied upon by any other person to establish an estimated value of our collateral.

### ***Valuation of Real Estate Owned Properties***

In the event we pursue ownership interest in the underlying collateral on a defaulted loan, then the asset will become REO property. REO properties will initially be valued at fair value (prepared by an independent appraiser) less closing costs, at the time of acquisition. Thereafter, as of the end of each month, the Advisor will determine the fair market value of each of the REO properties and the Independent Valuation Advisor will review and confirm the reasonableness of those valuations. Additionally, the REO properties may be valued by an independent appraiser periodically, as determined by the Advisor. Property-level valuations reflect changes in property value based on comparable sales, occupancy, leasing rates and expirations, discounted cash flows, and anticipated liquidation timing and proceeds, among other factors.

Each valuation report prepared by an independent appraiser is addressed solely to us but provided to the Independent Valuation Advisor for use in consideration of the reasonableness of the Advisor's valuation of our REO properties. Any independent appraiser's valuation report is not addressed to the public and may not be relied upon by any other person to establish the value of the property.

### ***Valuation of Other Real Estate-Related Assets***

Our investments in real estate-related assets will focus on non-distressed public and private real estate-related debt securities, including, but not limited to, CMBS and CLOs. In general, real estate-related assets are valued by the Advisor according to the procedures specified below upon acquisition or issuance and then monthly. Interim valuations of real estate-related assets that are valued monthly may be performed if the Advisor believes the value of the applicable asset may have changed materially since the most recent valuation. In addition, our board of trustees may retain additional independent valuation firms to assist with the valuation of real estate-related assets.

### ***Publicly Traded Real Estate-Related Assets***

Publicly traded real-estate related assets that are not restricted as to salability or transferability will generally be valued by the Advisor monthly on the basis of publicly available market quotations or at fair value determined in accordance with U.S. GAAP. Market quotations may be obtained from third-party pricing service providers or broker-dealers. When reliable market quotations are available from multiple sources, the Advisor will use commercially reasonable efforts to use two or more quotations and will typically value the assets based on the average of the quotations obtained. U.S. GAAP defines fair value as the price that would be received to sell an asset or be paid to transfer a liability (i.e., the exit price) in an orderly transaction between market participants at the measurement date. If market quotations are not readily available (or are otherwise not reliable for a particular investment), the fair value will be determined in good faith by the Advisor. The Advisor may adjust the value of public debt and equity real estate-related assets and derivatives that are restricted as to salability or transferability for a liquidity discount. In determining the amount of such discount, consideration is given to the nature and length of such restriction and the relative volatility of the market price of the security.

### ***Private Real Estate-Related Assets***

Investments in privately placed debt instruments and securities of real estate-related operating businesses (other than joint ventures), such as real estate development or management companies, will initially be valued by the Advisor at the acquisition price and thereafter will be revalued monthly at fair value. Each month, the Independent Valuation Advisor will review and confirm the reasonableness of those valuations. The fair value of real-estate related operating businesses is generally determined by using valuation methodologies such as discounted cash flow and market comparable analysis. The valuation analysis is supplemented with a qualitative assessment of the businesses' operating metrics and industry outlook. In evaluating the fair value of our interests in certain commingled investment vehicles, values periodically assigned to such interests by the respective issuers or broker-dealers may be relied upon.

### ***Valuation of Derivative Instruments***

In the ordinary course of business, we may hedge interest rate and foreign currency exposure with derivative financial instruments. We report our derivative assets and liabilities at fair value based on price quotes from at least one independent pricing service. The pricing service values bilateral interest rate swaps and interest rate caps under the income approach using valuation models. The significant inputs in these models are readily available in public markets or can be derived from observable market transactions for substantially the full terms of the contracts. The pricing service values currency forward contracts under the market approach through the use of quoted market prices available in an active market.

### ***Valuation of Liquid Non-Real Estate-Related Assets***

Liquid non-real estate-related assets include credit rated government debt securities, corporate debt securities, cash and cash equivalents. Liquid non-real estate-related assets will be valued monthly by the Advisor based on market quotations or at fair value determined in accordance with U.S. GAAP.

### ***Valuation of Liabilities***

The fair market value of any of our future facilities will be determined by the Advisor on a monthly basis, which will be used in calculating our NAV. New facilities will initially be valued at par, which is expected to represent fair value at that time. Each month thereafter, the Independent Valuation Advisor will review and confirm the reasonableness of the valuations of each facility liability that will be used in calculating NAV. Any changes to the fair value of facilities are expected to reflect changes including interest rates, spreads, and key loan metrics and tests utilizing the collateral value and cash flows, including the estimated liquidation timing and proceeds.

The fair value of any financing liabilities will generally be measured using our valuation guidelines discussed above.

Each report prepared by the Independent Valuation Advisor is addressed solely to us. The Independent Valuation Advisor's reports are not addressed to the public and may not be relied upon by any other person to establish value of the facilities that will be used in calculating NAV.

The Board has delegated to the Advisor the responsibility for monitoring significant events that may materially affect the values of our facilities for determining whether the existing valuations should be re-evaluated prior to the next scheduled monthly valuation in light of such significant events.

In addition to our debt obligations, we expect that our liabilities will include the fees payable to the Advisor and the Dealer Manager, accounts payable, accrued operating expenses, and other liabilities. Liabilities related to shareholder servicing fees will be allocable to Class T shares, Class S shares and Class D shares and will only be included in the NAV calculation for that class. Liabilities related to the Management Fee and Performance Fee will be allocable to Class T shares, Class S shares, Class D shares, and Class I shares and will only be included in the NAV calculation for those classes.

For purposes of calculating our NAV, neither (1) organization and offering expenses paid by the Advisor through the first anniversary of the initial closing of our private offering, nor (2) operating expenses paid by the Advisor, incurred by us during the period through the first anniversary of the initial closing of our private offering, are recognized as expenses or as a component of equity and reflected in our NAV until we reimburse the Advisor for these costs.

#### **NAV and NAV Per Share Calculation**

Our NAV is calculated for each of our share classes by our fund administrator, SS&C GIDS, Inc. Our board of trustees, including a majority of our independent trustees, may replace our fund administrator with another party, including the Advisor, if it is deemed appropriate to do so. The Advisor is responsible for reviewing and confirming our NAV, and overseeing the process around the calculation of our NAV, in each case, as performed by our fund administrator.

Each class will have an undivided interest in our assets and liabilities, other than class-specific shareholder servicing fees, the Management Fee and the Performance Fee. In accordance with the valuation guidelines, our fund administrator will calculate our NAV per share for each class as of the last calendar day of each month, including the estimated fair value of (1) real estate debt and other investments owned by us and (2) any other assets and liabilities. Because shareholder servicing fees, the Management Fee and the Performance Fee allocable to a specific class of shares will only be included in the NAV calculation for that class, the NAV per share for our classes of shares may differ.

The monthly NAV for each class of shares will be based on the net asset values of our investments, the addition of any other assets (such as cash on hand), and the deduction of any other liabilities (including accrued Performance Fees and the deduction of any shareholder servicing fees specifically applicable to such class of shares). At the end of each month, before taking into consideration repurchases or class-specific expense accruals for that month, any change in our aggregate NAV (whether an increase or decrease) is allocated among each class of shares based on each class's relative percentage of the previous aggregate NAV plus issuances of shares that were effective on the first calendar day of such month. The NAV calculation is available generally within 15 calendar days after the end of the applicable month. Changes in monthly NAV includes, without limitation, accruals of our net portfolio income, interest expense, the Management Fee, the Performance Fee, distributions, unrealized/realized gains and losses on assets, any applicable organization and offering expenses and any expense reimbursements. Changes in monthly NAV also includes material non-recurring events occurring during the month. On an ongoing basis, the Advisor will adjust the accruals to reflect actual operating results and the outstanding receivable, payable and other account balances resulting from the accumulation of monthly accruals



for which financial information is available. The operating expenses and organizational and offering expenses which are advanced by the Advisor to be reimbursed by us will not be included in such calculations until reimbursed to the Advisor.

The Advisor has agreed to advance all organization and offering expenses (other than upfront selling commissions, dealer manager fees and shareholder servicing fees) and certain of our operating expenses on our behalf through the first anniversary of the initial closing of our private offering. We will reimburse the Advisor for all such advanced costs and expenses ratably over the 60 months following the first anniversary of the initial closing of our private offering. For purposes of calculating our NAV, the organization and offering expenses and operating expenses paid by the Advisor through the first anniversary of the initial closing of our private offering will not be deducted as an expense until reimbursed by the Company (however such expenses may be amortized in order to mitigate these effects). After the first anniversary of the initial closing of our private offering, we will reimburse the Advisor for any organization and offering expenses and operating expenses that it incurs on behalf of us as and when incurred (or promptly thereafter).

Following the aggregation of the net asset values of our investments, the addition of any other assets (such as cash on hand) and the deduction of any other liabilities, our fund administrator incorporates any class-specific adjustments to NAV, including additional issuances and repurchases of shares and accruals of class-specific Management Fees, Performance Fees and shareholder servicing fees. The declaration of distributions will reduce the NAV for each class of our shares in an amount equal to the accrual of our liability to pay any such distribution to our shareholders of record of each class. NAV per share for each class of shares is calculated by dividing such class's NAV at the end of each month by the number of shares outstanding for that class at the end of such month.

#### **Relationship between NAV and Our Transaction Price**

Purchases and repurchases of common shares are not made based on the current NAV per share of our common shares at the time of purchase or repurchase. Generally, our transaction price will equal our prior month's NAV per share. The transaction price will be the price at which we repurchase shares and the price, together with applicable upfront selling commissions and dealer manager fees, at which we offer shares. Although the transaction price will generally be based on our prior month's NAV per share, such prior month's NAV may be significantly different from the current NAV per share of the applicable class as of the date on which a shareholder's purchase or repurchase occurs.

In addition, we may offer shares at a price that we believe reflects the NAV per share more appropriately than the prior month's NAV per share (including by updating a previously disclosed offering price) or suspend our offering and/or our share repurchase plan in exceptional cases where we believe there has been a material change (positive or negative) to our NAV per share since the end of the prior month due to the aggregate impact of factors such as general significant market events or disruptions or force majeure events. In cases where our transaction price is not based on the prior month's NAV per share, the offering price and repurchase price will not equal our NAV per share as of any time.

#### **Limits on the Calculation of Our Per Share NAV**

The overarching principle of our valuation guidelines is to seek to produce reasonable estimated values for each of our investments (and other assets and liabilities), or the price that would be received for that investment in orderly transactions between market participants. Any resulting potential disparity in our NAV per share may be in favor or to the detriment of existing shareholders whose shares are repurchased, or existing shareholders or new purchasers of the shares, as the case may be, depending on the circumstances at the time (for cases in which our transaction price is based on NAV).

Additionally, while the methodologies contained in our valuation guidelines are designed to operate reliably within a wide variety of circumstances, it is possible that in certain unanticipated situations or after the occurrence of certain extraordinary events (such as a significant disruption in relevant markets, a terrorist attack or an act of nature), the ability to calculate NAV may be impaired or delayed, including, circumstances where there is a delay in accessing or receiving information from vendors or other reporting agents upon which we may rely in determining the monthly value of our NAV. In these circumstances, a more accurate valuation of the NAV could be obtained by using different assumptions or methodologies. Accordingly, in special situations when, in the Advisor's reasonable judgment, the administration of the valuation guidelines would result in a valuation that does not represent a fair and accurate estimate of the value of our investment, alternative methodologies may be applied, provided that the Advisor must notify our board of trustees at the next scheduled board meeting of any alternative methodologies utilized and their impact on the overall valuation of our investments. Notwithstanding the foregoing, our board of trustees may suspend our continuous private offering and distribution reinvestment plan or our share repurchase plan if it determines that the calculation of NAV is materially incorrect or unreliable or there is a condition that restricts the valuation of a material portion of our assets.

We include no discounts to our NAV for the illiquid nature of the shares, including the limitations on shareholders' ability to sell shares under our share repurchase plan and our ability to suspend or terminate our share repurchase plan at any time. Our NAV generally does not consider exit costs that would likely be incurred if our assets and liabilities were liquidated or sold. While we may use market pricing concepts to value individual components of NAV, NAV per share is not derived from the market pricing information of open-end real estate debt funds listed on stock exchanges.

Our NAV per share does not represent the amount of our assets less our liabilities in accordance with U.S. GAAP.

We do not represent, warrant or guarantee that:

- a shareholder would be able to realize the NAV per share for the shares a shareholder owns if the shareholder attempts to sell its shares;
- a shareholder would ultimately realize distributions per share equal to the NAV per share upon liquidation of our assets and settlement of our liabilities or a sale of us;
- our common shares would trade at their NAV per share on a national securities exchange;
- a third party would offer the NAV per share for shares in an arm's-length transaction to purchase all or substantially all of the shares;
- the NAV per share would equate to a market price of an open-ended real estate debt fund; and/or
- NAV would represent the fair value of our assets less liabilities under U.S. GAAP.

### **Distribution Policy**

We expect to pay regular monthly distributions commencing with the first full calendar quarter after we commence substantial operations. Any distributions we make will be at the discretion of our board of trustees, considering factors such as our earnings, cash flow, capital needs and general financial condition. As a result, our distribution rates and payment frequency may vary from time to time. You will not be entitled to receive a distribution if your shares are repurchased prior to the applicable time of the record date.

Our board of trustees' discretion as to the payment of distributions will be directed, in substantial part, by its determination to cause us to comply with the REIT requirements. To maintain our qualification as a REIT, we generally are required to make aggregate annual distributions to our shareholders of at least 90% of our REIT taxable income, determined without regard to the dividends-paid deduction and excluding net capital gains. See "*Item 11 Description of Registrant's Securities to be Registered—Distribution Policy.*"

## **ITEM 10 RECENT SALES OF UNREGISTERED SECURITIES**

We were capitalized through the purchase by Starwood Real Estate Income of 50 common shares for an aggregate purchase price of \$1,000 on July 14, 2023. These shares were issued and sold in reliance upon the available exemptions from registration requirements of Section 4(a)(2) of the Securities Act.

We are engaging in a continuous, unlimited private placement offering of our common shares to “accredited investors” (as defined in Rule 501 promulgated pursuant to the Securities Act) made pursuant to exemptions provided by Section 4(a)(2) of the Securities Act and applicable state securities laws. As of the date of the Registration Statement, there have been no purchases under the continuous offering and Starwood Real Estate Income is our only shareholder.

## ITEM 11 DESCRIPTION OF REGISTRANT'S SECURITIES TO BE REGISTERED

### Description of our Shares

#### *General*

We were formed as a statutory trust under the laws of the State of Maryland. The rights of our shareholders are governed by Maryland law as well as our Certificate of Trust, Declaration of Trust, and Bylaws. The following summary of the terms of our common shares is a summary of certain provisions concerning our common shares and you should refer to the Maryland Statutory Trust Act (the "MSTA") and our Certificate of Trust, Declaration of Trust and Bylaws for a full description. The following summary is qualified in its entirety by the more detailed information contained in our Certificate of Trust, Declaration of Trust and Bylaws.

Under our Declaration of Trust, we have authority to issue an unlimited number of common shares of beneficial interest, par value \$0.01 per share, including unlimited shares classified as Class T shares, unlimited shares classified as Class S shares, unlimited shares classified as Class D shares, unlimited shares classified as Class E shares, and unlimited shares classified as Class I shares, and an unlimited number of shares classified as preferred shares of beneficial interest, par value \$0.01 per share (the "**preferred shares**").

#### *Common Shares*

Subject to the restrictions on ownership and transfer of our common shares set forth in our Declaration of Trust and except as may otherwise be specified in our Declaration of Trust, holders of common shares are entitled to one vote per share on all matters voted on by shareholders. Subject to any preferential rights of any outstanding class or series of shares of beneficial interest and to the provisions in our Declaration of Trust regarding the restriction on ownership and transfer of our common shares, shareholders are entitled to such distributions as may be authorized from time to time by our board of trustees (or a committee of our board of trustees) and declared by us out of legally available funds and, upon liquidation, are entitled to receive all assets available for distribution to our shareholders. Upon issuance for full payment in accordance with the terms of our private offering, all common shares issued in our private offering will be fully paid and non-assessable. Shareholders will not have preemptive rights, which means that shareholders will not have an automatic option to purchase any new common shares that we issue.

Our Declaration of Trust also contains a provision permitting our board of trustees, without any action by our shareholders, to amend or supplement our Declaration of Trust to classify or reclassify any unissued common shares from time to time into one or more classes or series by setting or changing the number, par value, designations, preferences, conversion or other rights, voting powers, restrictions, limitations as to dividends or other distributions, qualifications or terms or conditions of redemption of any new class or series of common shares or preferred shares.

We will generally not issue certificates for our common shares. Common shares will be held in "uncertificated" form, which will eliminate the physical handling and safekeeping responsibilities inherent in owning transferable share certificates and eliminate the need to return a duly executed share certificate to effect a transfer. We expect to engage a third-party service provider to act as our registrar and as the transfer agent for our common shares.

#### *Class T shares*

The Dealer Manager is entitled to receive upfront selling commissions of up to 3.0%, and dealer manager fees of 0.5%, of the transaction price of each Class T share sold in the primary offering; however, such amounts may vary, pursuant to agreements with certain participating broker-dealers, provided that the sum of the upfront selling commissions and dealer manager fees will not exceed 3.5% of the transaction price. The Dealer Manager anticipates that all or a portion of the upfront selling commissions and dealer manager fees will be retained by, or reallocated (paid) to, participating broker-dealers.

We will pay the Dealer Manager a shareholder servicing fee with respect to our outstanding Class T shares equal to 0.85% per annum of the aggregate NAV of our outstanding Class T shares, including any Class T shares sold pursuant to our distribution reinvestment plan. For each Class T share, this shareholder servicing fee consists of an advisor shareholder servicing fee and a dealer shareholder servicing fee. We expect that generally the advisor shareholder servicing fee will equal 0.65% per annum and the dealer shareholder servicing fee will equal 0.20% per annum, of the aggregate NAV for each Class T share. However, with respect to Class T shares sold through certain participating broker-dealers, the advisor shareholder servicing fee and the dealer shareholder servicing fee may be other amounts, provided that the sum of such fees will always equal 0.85% per annum of the NAV of such shares. The shareholder servicing fees will be paid monthly in arrears. The Dealer Manager will reallow (pay) all or a portion of the shareholder servicing fees to participating broker-dealers and servicing broker-dealers for ongoing shareholder services performed by such broker-dealers and will waive shareholder servicing fees to the extent a broker-dealer is not eligible to receive it for failure to provide such services.

No upfront selling commissions or dealer manager fees will be payable in respect of any Class T shares sold pursuant to our distribution reinvestment plan, but such shares will be charged the shareholder servicing fee payable with respect to all our outstanding Class T shares.

Class T shares are available through brokerage and transaction-based accounts.

In certain arrangements made between the Dealer Manager and financial intermediaries, a holder of Class T shares may convert Class T shares into, or exchange Class T shares for, a number of Class I shares with an equivalent net asset value at the time in which the total upfront selling commissions, dealer manager fees and shareholder servicing fees paid with respect to such shares would exceed any applicable limit set by a participating broker-dealer set forth in any applicable agreement between the Dealer Manager and a participating broker-dealer at the time such shares were issued. The Dealer Manager also has the right to approve at its own discretion the ability for a holder of Class T shares to convert Class T shares into, or exchange Class T shares for, a number of Class I shares with an equivalent net asset value under certain circumstances.

#### *Class S shares*

The Dealer Manager is entitled to receive upfront selling commissions of up to 3.5% of the transaction price of each Class S share sold in the primary offering; however, such amounts may vary pursuant to agreements with certain participating broker-dealer, provided that the sum of the upfront selling commissions shall not exceed 3.5% of the transaction price of each Class S share sold. The Dealer Manager anticipates that all or a portion of the upfront selling commissions will be retained by, or reallocated (paid) to, participating broker-dealers. No upfront dealer manager fees are paid for sales of any Class S shares.

We will pay the Dealer Manager a shareholder servicing fee with respect to our outstanding Class S shares equal to 0.85% per annum of the aggregate NAV of our outstanding Class S shares, including any Class S shares sold pursuant to our distribution reinvestment plan. The shareholder servicing fees will be paid monthly in arrears. The Dealer Manager will reallow (pay) all or a portion of the shareholder servicing fees to participating broker-dealers and servicing broker-dealers for ongoing shareholder services performed by such broker-dealers and will waive shareholder servicing fees to the extent a broker-dealer is not eligible to receive it for failure to provide such services.

No upfront selling commissions or dealer manager fees will be payable in respect of any Class S shares sold pursuant to our distribution reinvestment plan, but such shares will be charged the shareholder servicing fee payable with respect to all our outstanding Class S shares.

Class S shares are available through brokerage and transaction-based accounts.

In certain arrangements made between the Dealer Manager and financial intermediaries, a holder of Class S shares may convert Class S shares into, or exchange Class S shares for, a number of Class I shares with an

equivalent net asset value at the time in which the total upfront selling commissions, dealer manager fees and shareholder servicing fees paid with respect to such shares would exceed any applicable limit set by a participating broker-dealer set forth in any applicable agreement between the Dealer Manager and a participating broker-dealer at the time such shares were issued. The Dealer Manager also has the right to approve at its own discretion the ability for a holder of Class S shares to convert Class S shares into, or exchange Class S shares for, a number of Class I shares with an equivalent net asset value under certain circumstances.

#### *Class D shares*

The Dealer Manager is entitled to receive upfront selling commissions of up to 1.5% of the transaction price of each Class D share sold in the primary offering; however, such amounts may vary pursuant to agreements with certain participating broker-dealers provided that the sum of upfront selling commissions shall not exceed 1.5% of the transaction price of each Class D share sold. The Dealer Manager anticipates that all or a portion of the upfront selling commissions will be retained by, or reallocated (paid) to, participating broker-dealers. No dealer manager fees are paid for sales of any Class D shares.

We will pay the Dealer Manager a shareholder servicing fee with respect to our outstanding Class D shares equal to 0.25% per annum of the aggregate NAV of all our outstanding Class D shares, including any Class D shares sold pursuant to our distribution reinvestment plan. The shareholder servicing fees are paid monthly in arrears. The Dealer Manager will reallocate (pay) all or a portion of the shareholder servicing fees to participating broker-dealers and servicing broker-dealers for ongoing shareholder services performed by such broker-dealers and will waive shareholder servicing fees to the extent a broker-dealer is not eligible to receive it for failure to provide such services.

No upfront selling commissions or dealer manager fees are payable in respect of any Class D shares sold pursuant to our distribution reinvestment plan, but such shares will be charged the shareholder servicing fee payable with respect to all our outstanding Class D shares.

Class D shares are generally available for purchase in our private offering only (1) through fee-based programs, also known as wrap accounts, that provide access to Class D shares, (2) through participating broker-dealers that have alternative fee arrangements with their clients to provide access to Class D shares, (3) through certain registered investment advisors, (4) through bank trust departments or any other organization or person authorized to act in a fiduciary capacity for its clients or customers or (5) by other categories of investors that we name in an amendment or supplement to our Private Placement Memorandum.

In certain arrangements made between the Dealer Manager and financial intermediaries, a holder of Class D shares may convert Class D shares into, or exchange Class D shares for, a number of Class I shares with an equivalent net asset value at the time in which the total upfront selling commissions, dealer manager fees and shareholder servicing fees paid with respect to such shares would exceed any applicable limit set by a participating broker-dealer set forth in any applicable agreement between the Dealer Manager and a participating broker-dealer at the time such shares were issued. The Dealer Manager also has the right to approve at its own discretion the ability for a holder of Class D shares to convert Class D shares into, or exchange Class D shares for, a number of Class I shares with an equivalent net asset value under certain circumstances.

#### *Class I shares*

No upfront selling commissions, dealer manager fees or shareholder servicing fees are paid for sales of any Class I shares.

Class I shares are generally available for purchase in our private offering only (1) through fee-based programs, also known as wrap accounts, that provide access to Class I shares, (2) by endowments, foundations, pension funds, feeder funds and other institutional investors, (3) through participating broker-dealers that have



alternative fee arrangements with their clients to provide access to Class I shares, (4) through certain registered investment advisers, (5) through bank trust departments or any other organization or person authorized to act in a fiduciary capacity for its clients or customers, (6) by our executive officers and trustees and their immediate family members, as well as officers and employees of the Advisor, Starwood Capital or other affiliates and their immediate family members, and joint venture partners, consultants and other service providers (7) by Other Starwood Accounts or (8) by other categories of investors that we name in an amendment or supplement to our Private Placement Memorandum.

#### *Class E shares*

No upfront selling commissions, dealer manager fees or shareholder servicing fees are paid are paid for sales of any Class E shares.

Class E shares are available for purchase only by (i) our officers and trustees and their immediate family members, (ii) officers, trustees, directors and employees of Starwood Capital and its affiliates, including their respective immediate family members, and (iii) affiliates of Starwood Capital and Other Starwood Accounts. Holders of the Class E shares are entitled to receive distributions at the same rate applicable to other classes of our common shares, except with regard to deductions based on class-specific fees and expenses.

#### *Other Terms of Common Shares*

Each Class T share, Class S share and Class D share (including any fractional share) held in a shareholder's account will automatically and without any action on the part of the holder thereof convert into a number of Class I shares, with an equivalent NAV at the end of the month in which the Dealer Manager in conjunction with the transfer agent determines that total upfront selling commissions, dealer manager fees and shareholder servicing fees paid with respect to such shares would exceed any applicable limit set by a participating broker-dealer set forth in any applicable agreement between the Dealer Manager and a participating broker-dealer at the time such shares were issued.

If not already converted into Class I shares, each Class T Share, Class S Share, Class D Share and Class E Share (including any fractional share) held in a shareholder's account will automatically and without any action on the part of the holder thereof convert on the earliest of (i) a listing of Class I shares or (ii) our merger or consolidation with or into another entity or the sale or other disposition of all or substantially all of our assets, other than in connection with a Conversion Event, in each case in a transaction in which our shareholders receive cash or securities listed on a national securities exchange. In addition, immediately before any liquidation, dissolution or winding up, each share (including any fractional share) will automatically convert into a number of Class I shares (or fraction thereof) with an equivalent NAV as such share.

#### *Preferred Shares*

Our Declaration of Trust authorizes our board of trustees to designate and issue one or more classes or series of preferred shares without shareholder approval, and to establish the preferences, conversion or other rights, voting powers, restrictions, limitations as to dividends and other distributions, qualifications and terms or conditions of redemption of each class or series of preferred shares so issued. Because our board of trustees has the power to establish the preferences and rights of each class or series of preferred shares, it may afford the holders of any series or class of preferred share preferences, powers and rights senior to the rights of holders of common shares.

If we ever created and issued preferred shares with a distribution preference over our common shares, payment of any distribution preferences of outstanding preferred shares would reduce the amount of funds available for the payment of distributions on the common shares. Further, holders of preferred shares are

normally entitled to receive a liquidation preference in the event we liquidate, dissolve or wind up before any payment is made to the common shareholders, likely reducing the amount common shareholders would otherwise receive upon such an occurrence. In addition, under certain circumstances, the issuance of preferred shares may render more difficult or tend to discourage a merger, offer or proxy contest, the assumption of control by a holder of a large block of our securities, or the removal of incumbent management. Our board of trustees has no present plans to issue any preferred shares but may do so at any time in the future without shareholder approval.

### ***Meetings and Special Voting Requirements***

Under the MSTA and our Declaration of Trust and Bylaws, we are not required to, and do not anticipate, holding an annual meeting of shareholders each year. Special meetings of shareholders may be called only by our board of trustees, a majority of our independent trustees or our chief executive officer, executive chairperson, president or chairperson of the board of trustees. Special meetings of shareholders may also be called by our secretary only for the purpose of removing trustees and filling any resulting vacancy upon the written request of shareholders entitled to cast at least a majority of the votes entitled to be cast on such matter at the meeting, provided such request contains the information required in our Bylaws and the shareholders comply with the procedures contained in our Bylaws. In the event there are no trustees, any shareholder may call a special meeting for the purpose of electing trustees.

The presence either in person or by proxy of shareholders entitled to cast one-third of all the votes entitled to be cast on such matter at the meeting on any matter will constitute a quorum (unless our board of trustees, when setting a meeting, determines that a greater percentage (but not more than a majority of all the votes entitled to be cast at such meeting on any matter) shall constitute a quorum for such meeting). Generally, the affirmative vote of a majority of all votes cast is necessary to take shareholder action, except as described in the next paragraph.

Under our Declaration of Trust, subject to certain exceptions, shareholders generally are only entitled to vote at a duly held meeting at which a quorum is present on (1) amendments to our Declaration of Trust as provided in our Declaration of Trust, (2) a merger, consolidation, conversion (other than a Conversion Event), or transfer of all or substantially all of our assets as provided in our Declaration of Trust, (3) removal of a trustee for cause and the election of a successor trustee as provided in our Declaration of Trust, (4) the dissolution of the Company to the extent specifically provided by the terms of any class or series of common shares or preferred shares as set forth in our Declaration of Trust, (5) in the event that there are no trustees, the election of trustees and (6) such other matters that our board of trustees have submitted to our shareholders for approval or ratification. The affirmative vote of a plurality of the votes cast in the election of a trustee is generally required to elect any trustee, and the affirmative vote of a majority of the votes cast at a meeting of shareholders duly called and at which a quorum is present is generally sufficient to approve any other matter that may properly come before the Shareholders at such meeting (other than the removal of a trustee (as discussed below)). Shareholders have the power to remove a trustee from our board of trustees for “cause,” and then only by the affirmative vote of shareholders entitled to cast at least two-thirds of the votes entitled to be cast generally in the election of trustees. “Cause” is defined in our Declaration of Trust as conviction of a felony or a final judgment of a court of competent jurisdiction holding that such Trustee caused demonstrable, material harm to the Company through bad faith or active and deliberate dishonesty.

Shareholders are not entitled to exercise any appraisal rights or of the rights of an objecting shareholder.

Pursuant to our Declaration of Trust, shareholders may, during usual business hours, inspect and copy our Declaration of Trust and Bylaws and all amendments thereto, minutes of the proceedings of the shareholders, the annual statement of affairs of the Company and any voting trust agreements on file at our principal office to the extent permitted by the MSTA, but only if, and to the extent, such inspection is approved by our board of trustees.

### ***Restrictions on Ownership and Transfer***

Our Declaration of Trust contains restrictions on the number of our shares that a person or group may own. Unless our board of trustees otherwise determines, no person or group may acquire or hold, directly or indirectly through application of constructive ownership rules, in excess of 9.9% in value or number of shares, whichever is more restrictive, of our outstanding shares of all classes and series (including our common shares and preferred shares) or 9.9% in value or number of shares, whichever is more restrictive, of our outstanding common shares of all classes or series unless they receive an exemption (prospectively or retroactively) from our board of trustees.

Subject to certain limitations, our board of trustees, in its sole discretion, may exempt a person prospectively or retroactively from, or modify, these limits, subject to such terms, conditions, representations and undertakings as required by our Declaration of Trust and as our board of trustees may determine. Prior to the granting of any exemption, the board of trustees may require a ruling from the Internal Revenue Service, or an opinion of counsel, in either case in form and substance satisfactory to the board of trustees in its sole discretion, as it may deem necessary or advisable in order to determine or ensure our qualification as a REIT. Notwithstanding the receipt of any ruling or opinion, the board of trustees may impose such conditions or restrictions as it deems appropriate in connection with granting such exception. Our board of trustees has granted limited exemptions to certain persons who directly or indirectly own our common shares, including trustees, officers and shareholders controlled by them or trusts for the benefit of their families.

Our Declaration of Trust further prohibits any person from beneficially or constructively owning our shares that would result in our being “closely held” under Section 856(h) of the Code or otherwise cause us to fail to qualify as a REIT and any person from transferring our shares if the transfer would result in our shares being beneficially owned by fewer than 100 persons. Any person who acquires or attempts or intends to acquire our shares that may violate any of these restrictions, or who is the intended transferee of our shares which are transferred to the charitable trust, as described below, is required to give us immediate written notice, or in the case of a proposed or attempted transaction, give at least 15 days prior written notice, and provide us with such information as we may request in order to determine the effect of the transfer on our status as a REIT. The above restrictions will not apply if our board of trustees determines that it is no longer in our best interests to continue to qualify as a REIT or that compliance with such restrictions is no longer required for us to qualify as a REIT.

Any attempted transfer of our shares which, if effective, would result in violation of the above limitations, except for a transfer which results in shares being beneficially owned by fewer than 100 persons, in which case such transfer will be void and of no force and effect and the intended transferee shall acquire no rights in such shares, will cause the number of shares causing the violation, rounded to the nearest whole share, to be automatically transferred to a charitable trust for the exclusive benefit of one or more charitable beneficiaries designated by us and the proposed transferee will not acquire any rights in the shares. The automatic transfer will be deemed to be effective as of the close of business on the business day, as defined in our Declaration of Trust, prior to the date of the transfer. Our shares held in the charitable trust will be issued and outstanding shares. The proposed transferee will not benefit economically from ownership of any shares held in the charitable trust and will have no rights to dividends or other distributions and no rights to vote or other rights attributable to the shares held in the charitable trust. The trustee of the charitable trust will have all voting rights and rights to dividends or other distributions with respect to shares held in the charitable trust. These rights will be exercised for the exclusive benefit of the charitable beneficiaries. Any dividend or other distribution paid prior to our discovery that shares have been transferred to the charitable trust will be paid by the recipient to the trustee upon demand. Any dividend or other distribution authorized but unpaid will be paid when due to the trustee. Any dividend or other distribution paid to the trustee will be held in trust for the charitable beneficiaries. Subject to Maryland law, the trustee will have the authority to rescind as void any vote cast by the proposed transferee prior to our discovery that the shares have been transferred to the trust and to recast the vote in accordance with the desires of the trustee acting for the benefit of the charitable beneficiaries. However, if we have already taken irreversible corporate action, then the trustee will not have the authority to rescind and recast the vote.

Within 20 days of receiving notice from us that our shares have been transferred to the charitable trust, the trustee will sell the shares to a person designated by the trustee, whose ownership of the shares will not violate the above ownership limitations. Upon the sale, the interest of the charitable beneficiaries in the shares sold will terminate and the trustee will distribute the net proceeds of the sale to the proposed transferee and to the charitable beneficiaries as follows. The proposed transferee will receive the lesser of (i) the price paid by the proposed transferee for the shares or, if the proposed transferee did not give value for the shares in connection with the event causing the shares to be held in the charitable trust, such as a gift, devise or other similar transaction, the market price, as defined in our Declaration of Trust, of the shares on the day of the event causing the shares to be held in the charitable trust and (ii) the price per share received by the trustee (net of any commissions and other expenses) from the sale or other disposition of the shares. The trustee may reduce the amount payable to the proposed transferee by the amount of dividends and other distributions which have been paid to the proposed transferee and are owed by the proposed transferor to the transferee. Any net sale proceeds in excess of the amount payable per share to the proposed transferee any other amounts received by the trustee will be paid immediately to the charitable beneficiaries. If, prior to our discovery that our shares have been transferred to the trustee, the shares are sold by the proposed transferee, then the shares shall be deemed to have been sold on behalf of the charitable trust and, to the extent that the proposed transferee received an amount for the shares that exceeds the amount such proposed transferee was entitled to receive, the excess shall be paid to the trustee upon demand.

In addition, shares held in the charitable trust will be deemed to have been offered for sale to us, or our designee, at a price per share equal to the lesser of (i) the price per share in the transaction that resulted in the transfer to the charitable trust, or, in the case of a devise or gift, the market price at the time of the devise or gift and (ii) the market price on the date we, or our designee, accept the offer. We will have the right to accept the offer until the trustee has sold the shares. Upon a sale to us, the interest of the charitable beneficiaries in the shares sold will terminate and the trustee will distribute the net proceeds of the sale and any other amounts held by the trustee with respect to such shares to the proposed transferee. We may reduce the amount payable to the proposed transferee by the amount of dividends and other distributions which have been paid to the proposed transferor and are owed to the proposed transferor to the trustee. We may pay the amount of such reduction to the trustee for the benefit of the charitable beneficiaries.

If the transfer to the charitable trust as described above is not automatically effective for any reason to prevent violation of the above limitations or our failing to qualify as a REIT, then the transfer of the number of shares that otherwise cause any person to violate the above limitations will be void and the intended transferee shall acquire no rights in such shares.

All certificates, if any, representing our shares issued in the future will bear a legend referring to the restrictions described above.

Every owner of more than 5% of our outstanding shares, or such lower percentage as required by the Code or the regulations promulgated thereunder or as otherwise required by our board of trustees, within 30 days after the end of each taxable year, is required to give us written notice, stating the name and address of the owner, the number of shares of each class and series of our shares beneficially owned and a description of the manner in which the shares are held. Each such owner shall provide us with such additional information as we may request in order to determine the effect, if any, of its beneficial ownership on our status as a REIT and to ensure compliance with the ownership limits. In addition, each shareholder shall, upon demand, be required to provide us with such information as we may request in good faith in order to determine our status as a REIT and to comply with the requirements of any taxing authority or governmental authority or to determine such compliance.

Any subsequent transferee to whom you transfer any of your shares must comply with Rule 502(d) of Regulation D promulgated under the Securities Act.

### ***Number of Trustees; Vacancies on Board of Trustees; Removal of Trustees***

Our Declaration of Trust provides that the number of our trustees may be established only by our board of trustees pursuant to our Bylaws. Our Bylaws provide that, unless our Bylaws are amended, the number of trustees may not be fewer than three nor more than fifteen. For so long as Starwood Capital or its affiliate acts as investment advisor to us, Starwood Capital has the right to designate two (2) trustees for election to our board of trustees. Our board of trustees must also consult with Starwood Capital in connection with filling any vacancies created by the removal, resignation, retirement or death of any trustee (other than in connection with a removal by shareholders in accordance with our Declaration of Trust).

Any vacancy on our board of trustees (other than vacancies resulting from shareholder removal for cause of a trustee or vacancies among the independent trustees) may be filled only by a vote of a majority of the remaining trustees, even if the remaining trustees do not constitute a quorum (subject to Starwood Capital's right to designate two trustees for election to our board of trustees). Any trustee elected to fill a vacancy will serve until his or her resignation, removal, death or adjudication of legal incompetence or until his or her successor is duly elected and qualifies. A vacancy involving an independent trustee may be filled only by a vote of a majority of the remaining independent trustees. Vacancies resulting from shareholder removal of a trustee for cause can be filled only by the shareholders.

Any trustee may resign at any time and may be removed only for "cause" by our shareholders upon the affirmative vote of shareholders entitled to cast at least two-thirds of all the votes entitled to be cast generally in the election of trustees. In addition, any trustee may be removed, at any time, but only for "cause" by written instrument, signed by a majority of the trustees, specifying the date when such removal shall become effective. "Cause" is defined in our Declaration of Trust as conviction of a felony or a final judgment of a court of competent jurisdiction holding that such trustee caused demonstrable, material harm to the Company through bad faith or active and deliberate dishonesty.

### ***Amendment to Our Declaration of Trust and Bylaws***

Except as provided by our Certificate of Trust or the terms of any classes or series of shares and as provided below, our Declaration of Trust may be amended by the board of trustees, without any action by our shareholders. Amendments to our Declaration of Trust that the board of trustees determines would, viewed as a whole, materially and adversely affect the contract rights of our outstanding shares, but excluding amendments of the type specified in (a) Section 7.1 (Authorized Shares) of our Declaration of Trust or (b) Section 2-605 of the Maryland General Corporation Law (both of which shall not require approval of any shareholder), must be approved by the board of trustees and shareholders entitled to cast a majority of the votes entitled to be cast on the matter.

Our board of trustees will have the exclusive power to adopt, alter or repeal any provision of our Bylaws and to make new bylaws.

### ***Conversion***

The board of trustees may determine, without any action by the shareholders, that we will conduct a public offering as a non-listed REIT subject to the Statement of Policy Regarding Real Estate Investment Trusts published by the North American Securities Administrators Association on May 7, 2007, as amended from time to time. In connection with such determination and the conduct of such public offering, the board of trustees may cause us to (a) merge with or into or convert into another entity, (b) consolidate with one or more other entities into a new entity or (c) transfer all or substantially all of our assets to another entity (in each case, a "Conversion Event"). The board of trustees may take all actions that are required to effect a Conversion Event without any action by the shareholders.



### ***Effect of Certain Provisions of Maryland Law and of our Declaration of Trust and Bylaws***

Certain provisions of Maryland law, our Declaration of Trust and our Bylaws could delay, defer or prevent a transaction or a change in control of our company that might involve a premium price for shareholders or otherwise be in their best interest.

### ***Distribution Policy***

We intend to declare monthly distributions based on record dates established by our board of trustees (or a committee thereof) and to pay such distributions on a monthly basis (presently expected to commence with the first full calendar quarter after we commence substantial operations). Our distribution policy will be set by our board of trustees and is subject to change based on available cash flows. We cannot guarantee the amount of distributions paid, if any. In connection with a distribution to our shareholders, our board of trustees approves a monthly distribution for a certain dollar amount per share for each class of our common shares. We then calculate each shareholder's specific distribution amount for the quarter using applicable record and declaration dates, and your distributions begin to accrue on the date you are admitted as a shareholder.

Distributions will be made on all classes of our common shares at the same time. The per share amount of distributions on Class T shares, Class S shares, Class D shares, Class I shares and Class E shares will likely differ because of different class-specific shareholder servicing fees, the Management Fee and the Performance Fee that are deducted from the gross distributions for each share class. We expect to use the "record share" method of determining the per share amount of distributions on Class T shares, Class S shares, Class D shares, Class I shares and Class E shares, although our board of trustees may choose any other method. The "record share" method is one of several distribution calculation methods for multiple-class funds recommended, but not required, by the American Institute of Certified Public Accountants. Under this method, the amount to be distributed on our common shares will be increased by the sum of all class-specific shareholder servicing fees, the Management Fee and the Performance Fee for such period. Such amount will be divided by the number of our common shares outstanding on the record date. Such per share amount will be reduced for each class of common shares by the per share amount of any class-specific shareholder servicing fees, the Management Fee and the Performance Fee allocable to such class.

To qualify as a REIT, we are required to pay distributions sufficient to satisfy the requirements for qualification as a REIT for tax purposes. We intend to distribute sufficient income so that we satisfy the requirements for qualification as a REIT. In order to qualify as a REIT, we are required to distribute 90% of our annual REIT taxable income, determined without regard to the dividends-paid deduction and excluding net capital gains, to our shareholders. See sections entitled "*Certain U.S. Tax Considerations—REITs in General—Requirements for Qualification as a REIT*" and "*Certain U.S. Tax Considerations—Annual Distribution Requirements Applicable to REITs*" of this Registration Statement. Generally, income distributed to shareholders will not be taxable to us under the Code if we distribute at least 90% of our REIT taxable income, determined without regard to the dividends-paid deduction and excluding net capital gains.

Distributions are authorized at the discretion of our board of trustees, in accordance with our earnings, cash flows and general financial condition. Our board of trustees' discretion is directed, in substantial part, by its obligation to cause us to comply with the REIT requirements. Because we may receive income from interest or rents at various times during our fiscal year, distributions may not reflect our income earned in that particular distribution period but may be made in anticipation of cash flows which we expect to receive during a later quarter and may be made in advance of actual receipt of funds in an attempt to make distributions relatively uniform. Due to these timing differences, we may be required to borrow money, use proceeds from the issuance of securities (in our private offering or subsequent offerings, if any) or sell assets in order to distribute amounts sufficient to satisfy the requirement that we distribute at least 90% of our REIT taxable income, determined without regard to the deduction for dividends paid and excluding net capital gains, in order to qualify as a REIT.



We have not established any limit on the amount of proceeds from our private offering that may be used to fund distributions other than those limits imposed by our organizational documents and Maryland law. See “*Certain U.S. Tax Considerations*” of this Registration Statement for information concerning the U.S. federal income tax consequences of distributions paid by us.

We may not pay distributions in any particular amount, if at all. We may fund any distributions from sources other than cash flow from operations, including, without limitation, borrowings, offering proceeds (including from sales of our common shares to Starwood Capital or its affiliates), the sale of our assets, and repayments of our real estate debt investments, and we have no limits on the amounts we may fund from such sources. The extent to which we fund distributions from sources other than cash flow from operations will depend on various factors, including the level of participation in our distribution reinvestment plan, the extent to which the Advisor elects to receive the Management Fee and/or the Performance Fee in Class I shares or Class E shares, how quickly we invest the proceeds from this and any future offering and the performance of our investments, including our real estate debt investments, marketable securities and other short-term investments. Funding distributions from borrowings, offering proceeds, the sale of our assets, and repayments of our real estate debt investments will result in us having less funds available to acquire real estate-related investments. As a result, the return shareholders realize on their investment may be reduced. Doing so may also negatively impact our ability to generate cash flows. Likewise, funding distributions from the sale of additional securities will dilute a shareholder’s interest in the Company on a percentage basis and may impact the value of a shareholder’s investment especially if the Company sell these securities at prices less than the price a shareholder paid for its shares.

Our board of trustees may delegate to a committee of trustees the power to fix the amount and other terms of a distribution. In addition, if our board of trustees gives general authorization for a distribution and provides for or establishes a method or procedure for determining the maximum amount of the distribution, our board of trustees may delegate to one of our officers the power, in accordance with the general authorization, to fix the amount and other terms of the distribution.

#### ***Distribution Reinvestment Plan***

We expect to adopt a distribution reinvestment plan whereby shareholders will have their cash distributions automatically reinvested in additional common shares unless they elect to receive their distributions in cash. Any cash distributions attributable to the class or classes of shares owned by participants in the distribution reinvestment plan will be immediately reinvested in our shares on behalf of the participants on the business day such distribution would have been paid to such shareholder. See “*Certain U.S. Tax Considerations*” of this Registration Statement for information concerning the U.S. federal income tax consequences of participating in the distribution reinvestment plan.

The per share purchase price for shares purchased pursuant to the distribution reinvestment plan will be equal to the transaction price at the time the distribution is payable. Shareholders will not pay a selling commissions when purchasing shares pursuant to the distribution reinvestment plan. The shareholder servicing fees with respect to our Class S shares and Class D shares are calculated based on our NAV for those shares and may reduce the NAV or, alternatively, the distributions payable with respect to shares of each such class, including shares issued in respect of distributions on such shares under the distribution reinvestment plan. Shares acquired under the distribution reinvestment plan will entitle the participant to the same rights and be treated in the same manner as shares of that class purchased in our private offering.

We reserve the right to amend any aspect of our distribution reinvestment plan without the consent of our shareholders, provided that notice of any material amendment is sent to participants at least ten business days prior to the effective date of that amendment. In addition, we may suspend or terminate the distribution reinvestment plan for any reason at any time upon ten business days’ prior written notice to participants. A

shareholder's participation in the distribution reinvestment plan will be terminated to the extent that a reinvestment of such shareholder's distributions in our shares would cause the percentage ownership or other limitations contained in our Declaration of Trust to be violated. Participants may terminate their participation in the distribution reinvestment plan with ten business days' prior written notice to us.

#### *Account Statements*

Our transfer agent will provide on a quarterly basis to each participant in the distribution reinvestment plan a statement of account describing, as to such participant, (1) the distributions reinvested during the quarter, (2) the number of shares purchased during the quarter, (3) the per share purchase price for such shares and (4) the total number of shares purchased on behalf of the participant under the plan. On an annual basis, tax information with respect to income earned on shares under the plan for the calendar year will be provided to each applicable participant.

There is currently no market for our shares, and we do not expect that a market for our shares will develop in the future. We do not intend for the shares registered under this Registration Statement to be listed on any national securities exchange. There are no outstanding options or warrants to purchase our shares. Shareholders shall be entitled to the same limitation of personal liability extended to shareholders of a Maryland corporation as provided for by the MSTA. Our Declaration of Trust provides that no shareholder shall be liable for any debt, claim, demand, judgment or obligation of any kind of, against or with respect to us by reason of being a shareholder, nor shall any shareholder be subject to any personal liability whatsoever, in tort, contract or otherwise, to any person in connection with the Company's assets or the affairs of the Company by reason of being a shareholder.

## **ITEM 12 INDEMNIFICATION OF TRUSTEES AND OFFICERS**

The Advisor and its officers, managers, partners, agents, employees, controlling persons, members and any other person or entity affiliated with the Advisor, including without limitation its sole member, are not liable to the Company for any action taken or omitted to be taken by the Advisor in connection with the performance of any of its duties or obligations under the Advisory Agreement or otherwise as our investment adviser of the Company.

### **Declaration of Trust**

To the maximum extent permitted by Maryland law in effect from time to time, the Company shall indemnify each trustee, each officer, the Advisor, Starwood Holdings and each equityholder, member, manager, director, officer, employee or agent of any trustee or our board of trustees (each a “**Covered Person**”), including any individual or entity who, while serving as the Covered Person and, at our request, serves or has served any other enterprise in any management or agency capacity, against any claim or liability to which the Covered Person may become subject by reason of such status, except for liability for the Covered Person’s gross negligence or intentional misconduct. In addition, the Company shall, without requiring a preliminary determination of the ultimate entitlement to indemnification, pay or reimburse, in advance of final disposition of a proceeding, reasonable expenses incurred by a present or former Covered Person or shareholder made a party to or witness in a proceeding by reason of such status, provided that, in the case of a Covered Person, the Company must have received (i) a written affirmation by the Covered Person of the Covered Person’s good faith belief that the Covered Person has met the applicable standard of conduct necessary for indemnification by the Company and (ii) a written undertaking by or on behalf of the Covered Person to repay the amount paid or reimbursed by the Company if it is ultimately determined that the applicable standard of conduct was not met. The Company is not required to indemnify or advance funds to any person entitled to indemnification under our Declaration of Trust (x) with respect to any action initiated or brought voluntarily by such indemnified person (and not by way of defense) unless (I) approved or authorized by our board of trustees or (II) incurred to establish or enforce such person’s right to indemnification under the Declaration of Trust, or (y) in connection with any claim with respect to which such person is found to be liable to the Company.

The Company may, with the approval of our board of trustees, provide or obligate itself to provide such indemnification or payment or reimbursement of expenses to any person that served a predecessor of the Company as a Covered Person or any employee or agent of the Company or any predecessor of the Company. Except that no preliminary determination of the ultimate entitlement to indemnification shall be required for the payment or reimbursement of expenses, any indemnification or payment or reimbursement of the expenses permitted by our Declaration of Trust will be furnished in accordance with the procedures provided for indemnification or advance or reimbursement of expenses, as the case may be, under Section 2-418 of the Maryland General Corporation Law (or any successor provision thereto) for directors of Maryland corporations.

### **Indemnification Agreements**

We intend to enter into indemnification agreements with our trustees and officers. The indemnification agreements are intended to provide our trustees and officers the maximum indemnification permitted under Maryland law and our Declaration of Trust. Each indemnification agreement provides that we shall indemnify the trustee or officer who is a party to the agreement including the advancement of legal expenses, if, by reason of his or her status with the Company, such trustee or officer is, or is threatened to be, made a party to or a witness in any threatened, pending, or completed proceeding, other than a proceeding by or in the right of the Company.

### **Advisory Agreement**

The Company will indemnify the Advisor and the Advisor’s officers, managers, partners, agents, employees, controlling persons and members and any other person or entity affiliated with the Advisor, including

without limitation its general partner or managing member (collectively, the “**Indemnified Parties**”), and hold them harmless from and against all damages, liabilities, costs and expenses (including reasonable attorneys’ fees and amounts reasonably paid in settlement) incurred by the Indemnified Parties in or by reason of any pending, threatened or completed action, suit, investigation or other proceeding (including an action or suit by or in the right of the Company or its security holders) arising out of or otherwise based upon the performance of any of the Advisor’s duties or obligations under the Advisory Agreement or otherwise as an investment adviser of the Company. However, the Indemnified Parties shall not be entitled to indemnification in respect of, any liability to the Company or its shareholders to which the Indemnified Parties would otherwise be subject by reason of criminal conduct, willful misfeasance, bad faith or gross negligence in the performance of the Advisor’s duties or by reason of the reckless disregard of the Advisor’s duties and obligations under the Advisory Agreement.

**ITEM 13 FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA**

Set forth below is an index to our financial statement attached to this Registration Statement.

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Balance Sheet . . . . .	F-3
Notes to Financial Statement . . . . .	F-4

**ITEM 14 CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE**

There are not and have not been any disagreements between the Company and its accountant on any matter of accounting principles, practices, or financial statement disclosure.



## ITEM 15 FINANCIAL STATEMENTS AND EXHIBITS

*(a) List separately all financial statements filed*

The financial statement attached to this Registration Statement is listed under “*Item 13 Financial Statements and Supplementary Data.*”

*(b) Exhibits*

- 3.1\* Certificate of Trust of the Company, dated June 28, 2023
- 3.2\* Form of Declaration of Trust of the Company
- 3.3\* Form of Bylaws of the Company
- 4.1\* Form of Distribution Reinvestment Plan of the Company
- 10.1\*\* Form of Advisory Agreement
- 10.2\*\* Form of Dealer Manager Agreement
- 10.3\*\* Form of Participating Broker-Dealer Agreement between the Dealer Manager and participating broker-dealers (included as Exhibit A to the Dealer Manager Agreement filed as Exhibit 10.2 hereof)
- 10.4\* Form of Indemnification Agreement by and between the Company and its trustees and officers
- 10.5\*\* Form of Subscription Agreement in connection with Initial Capitalization
- 21.1\*\* Subsidiaries of the Company

\* Previously filed.

\*\* Filed herewith

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## **Report of Independent Registered Public Accounting Firm**

To the Board of Trustees and Shareholder of  
Starwood Credit Real Estate Income Trust

### ***Opinion on the Financial Statement—Balance Sheet***

We have audited the accompanying balance sheet of Starwood Credit Real Estate Income Trust (the “Company”) as of July 14, 2023, including the related notes (collectively referred to as the “financial statement”). In our opinion, the financial statement presents fairly, in all material respects, the financial position of the Company as of July 14, 2023 in conformity with accounting principles generally accepted in the United States of America.

### ***Basis for Opinion***

This financial statement is the responsibility of the Company’s management. Our responsibility is to express an opinion on the Company’s financial statement based on our audit. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) (PCAOB) and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audit of this financial statement in accordance with the standards of the PCAOB and in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free of material misstatement, whether due to error or fraud.

Our audit included performing procedures to assess the risks of material misstatement of the financial statement, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statement. Our audit also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statement. We believe that our audit provides a reasonable basis for our opinion.

/s/ PricewaterhouseCoopers LLP  
New York, NY  
August 3, 2023

We have served as the Company’s auditor since 2023.

**Starwood Credit Real Estate Income Trust**  
**Balance Sheet**

	<u>July 14, 2023</u>
<b>Assets</b>	
Cash and cash equivalents .....	\$1,000
<b>Total assets</b> .....	<u>\$1,000</u>
<b>Liabilities and Equity</b>	
<b>Total liabilities</b> .....	\$ —
Redeemable common shares .....	1,000
<b>Equity</b> .....	
<b>Total equity</b> .....	<u>—</u>
<b>Total liabilities and equity</b>	<u>\$1,000</u>

*See accompanying notes to financial statement.*

## **Starwood Credit Real Estate Income Trust**

### **Notes to Financial Statement**

#### **1. Organization and Business Purpose**

Starwood Credit Real Estate Income Trust (the “Company”) was formed on June 28, 2023 as a Maryland statutory trust and intends to qualify as a real estate investment trust (“REIT”) for U.S. federal income tax purposes. The Company was organized to originate, acquire, finance and manage a portfolio of primarily commercial real estate (“CRE”) debt investments, focused on senior secured, floating-rate CRE loans diversified across both geography and asset class. The Company’s CRE loan portfolio is expected to be comprised of debt investments primarily secured by properties located in the U.S., Europe, and Australia markets. To a lesser extent, the Company also may invest in other real asset lending strategies, including infrastructure loans and other real estate-related debt and equity securities, including commercial mortgage-backed securities and collateralized loan obligations. The Company intends to be externally managed by Starwood Credit Advisors, L.L.C. (the “Advisor”), an affiliate of Starwood Capital Group Holdings L.P. (together with any entity that is controlled by, controls or is under common control with Starwood Capital Group Holdings L.P., “Starwood Capital” or the “Sponsor”). On July 14, 2023 (date of initial capitalization), the Company was capitalized with a \$1,000 investment by Starwood Real Estate Income Holdings, L.P., a wholly-owned subsidiary of the Sponsor. Because employees of an affiliate of the Sponsor have the ability to cause the Company to repurchase the shares issued for this investment, the Company has classified these common shares in mezzanine equity on the Company’s Balance Sheet.

As of July 14, 2023, the Company has neither purchased nor contracted to purchase any investments. The Advisor has not identified any real estate-related debt or real estate-related securities in which it is probable that the Company will invest.

#### **2. Capitalization**

As of July 14, 2023, the Company was authorized to issue an unlimited number of shares classified as common shares of beneficial interest, par value \$0.01 per share (“common shares”), and an unlimited number of shares classified as preferred shares of beneficial interest, par value \$0.01 per share. The Company intends to undertake a continuous private offering, pursuant to which it will offer and sale its common shares to a limited number of investors, including common shares classified as Class T shares, common shares classified as Class S shares, common shares classified as Class D shares, common shares classified as Class E shares, and common shares classified as Class I shares, (the “Offering”). The share classes have different upfront selling commissions and ongoing shareholder servicing fees. The initial per share purchase price for shares of the Company’s common shares in the Offering will be \$20.00 per share plus applicable upfront selling commissions and dealer manager fees. Thereafter, the purchase price per share for each class of our common shares will vary and will generally equal the Company’s prior month’s net asset value (“NAV”) per share, as calculated monthly, plus applicable upfront selling commissions and dealer manager fees.

#### **3. Summary of Significant Accounting Policies**

The accompanying financial statement has been prepared in accordance with accounting principles generally accepted in the United States of America (“GAAP”).

##### **Basis of Presentation**

The preparation of the financial statement in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosures of contingent assets and liabilities at the date of the balance sheet. Actual results could differ from those estimates.

##### **Cash and Cash Equivalents**

Cash and cash equivalents represent cash held in banks, cash on hand, and liquid investments with original maturities of three months or less. The Company may have bank balances in excess of federally insured amounts;

however, the Company deposits its cash and cash equivalents with high credit-quality institutions to minimize credit risk exposure. The Company did not hold cash equivalents as of July 14, 2023.

### **Income Taxes**

The Company intends to make an election to be taxed as a REIT under Sections 856 through 860 of the Internal Revenue Code of 1986, as amended, commencing with its taxable year ending December 31, 2023. If the Company qualifies for taxation as a REIT, the Company generally will not be subject to federal corporate income tax to the extent it distributes 90% of its taxable income to its shareholders. REITs are subject to a number of other organizational and operational requirements. Even if the Company qualifies for taxation as a REIT, it may be subject to certain state and local taxes on its income and property, and federal income and excise taxes on its undistributed income.

### **Organization and Offering Expenses**

The Advisor has agreed to advance organization and offering expenses on behalf of the Company (including legal, accounting, and other expenses attributable to the organization, but excluding upfront selling commissions, dealer manager fees and shareholder servicing fees) through the first anniversary of the date of the commencement of the Offering. The Company will reimburse the Advisor for all such advanced expenses ratably over a 60-month period following the first anniversary of the commencement of the Offering.

As of July 14, 2023, the Advisor and its affiliates have incurred organization and offering expenses on the Company's behalf of approximately \$0.1 million. These organization and offering expenses are not recorded in the accompanying balance sheet because such costs are not the Company's liability until the date on which the Company commences operations. When recorded by the Company, organizational expenses will be expensed as incurred, and offering expenses will be charged to shareholders' equity. Any amount due to the Advisor but not paid will be recognized as a liability on the balance sheet.

### **4. Related Party Transactions**

The Company intends to enter into an advisory agreement with the Advisor. Pursuant to the advisory agreement between the Company and the Advisor, the Advisor is responsible for sourcing, evaluating and monitoring the Company's investment opportunities and making decisions related to the acquisition, origination, management, financing and disposition of the Company's assets, in accordance with the Company's investment objectives, guidelines, policies and limitations, subject to oversight by the Company's board of trustees.

Certain affiliates of the Company, including the Advisor, will receive fees and compensation in connection with the offering and ongoing management of the assets of the Company. The Advisor will be paid a management fee equal to 1.25% of NAV per annum, payable monthly. The management fee will be paid, at the Advisor's election, in cash, Class I shares or Class E shares, or any combination thereof. In addition, the Advisor may be entitled to receive a performance fee from the Company in the form of cash, Class I shares or Class E shares, or any combination thereof, which is calculated and payable quarterly. The performance fee will be equal to 12.5% of the Core Earnings (as defined in the advisory agreement) for the immediately preceding quarter, subject to a hurdle rate, expressed as a rate of return on average adjusted capital, equal to 1.25% per quarter or 5.0% on an annualized basis. Once Core Earnings in any quarter exceeds the hurdle rate, the Advisor is entitled to a "catch-up" fee equal to the amount of Core Earnings in excess of the hurdle rate, until Core Earnings for such quarter equals 1.429%, or 5.714% annually, of adjusted capital. Thereafter, the Advisor is entitled to receive 12.5% of the Core Earnings.

The Company may retain certain of the Advisor's affiliates for necessary services relating to the Company's investments or its operations, including any administrative services, special servicing, loan origination and closing as well as services related to mortgage servicing, group purchasing, healthcare, consulting/brokerage, capital markets/credit origination, loan servicing, property, title or other types of insurance, management consulting and other similar operational matters. As of August 3, 2023, the Company has not retained an affiliate of the Advisor for any such services.



## **5. Economic Dependency**

The Company will be dependent on the Advisor and its affiliates for certain services that are essential to it, including the sale of the Company's common shares, origination, acquisition and disposition decisions, and certain other responsibilities. In the event that the Advisor and its affiliates are unable to provide such services, the Company would be required to find alternative service providers.

## **6. Commitments and Contingencies**

As of July 14, 2023, the Company is not subject to any material litigation nor is the Company aware of any material litigation threatened against it.

## **7. Subsequent Events**

The Company evaluated events subsequent to July 14, 2023 through August 3, 2023, the date on which the financial statement was available to be issued.

**SIGNATURES**

Pursuant to the requirements of Section 12 of the Securities Exchange Act of 1934, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized.

**Starwood Credit Real Estate Income Trust**

By: /s/ Dennis G. Schuh

Name: Dennis G. Schuh

Title: Chief Executive Officer and President

Date: October 31, 2023

**FORM OF ADVISORY AGREEMENT**  
**AMONG**  
**STARWOOD CREDIT REAL ESTATE INCOME TRUST**  
**AND**  
**STARWOOD CREDIT ADVISORS, L.L.C.**

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## **FORM OF ADVISORY AGREEMENT**

**THIS ADVISORY AGREEMENT** (this “**Agreement**”), dated as of [                    ], 2023 (the “**Effective Date**”), is by and among Starwood Credit Real Estate Income Trust, a Maryland statutory trust (the “**Trust**”), and Starwood Credit Advisors, L.L.C., a Delaware limited liability company (the “**Advisor**”). Capitalized terms used herein shall have the meanings ascribed to them in Section 1 below.

### **WITNESSETH**

**WHEREAS**, the Trust intends to qualify as a REIT, and to invest its funds in investments permitted by the terms of Sections 856 through 860 of the Code;

**WHEREAS**, the Trust desires to avail itself of the knowledge, experience, sources of information, advice, assistance and certain facilities available to the Advisor and to have the Advisor undertake the duties and responsibilities hereinafter set forth, on behalf of, and subject to the supervision of, the board of trustees of the Trust (the “**Board**”), all as provided herein; and

**WHEREAS**, the Advisor is willing to undertake to render such services, subject to the supervision of the Board, on the terms and conditions hereinafter set forth.

**NOW, THEREFORE**, in consideration of the foregoing and of the mutual covenants and agreements contained herein, the parties agree as follows:

1. **Definitions.** As used in this Agreement, the following terms have the definitions hereinafter indicated:

“**4-Quarter Performance Measurement Period**” shall have the meaning set forth in Section 10(c).

“**Acquisition Expenses**” shall mean any and all expenses incurred by the Trust, the Advisor or any of their respective Affiliates either in connection with the selection, evaluation, structuring, acquisition, origination, financing and development of any investments, whether or not acquired, including, without limitation, legal fees and expenses, travel and communications expenses, costs of appraisals, accounting fees and expenses and title insurance premiums and the costs of performing due diligence.

“**Adjusted Capital**” means cumulative net proceeds generated from sales of Class T Common Shares, Class S Common Shares, Class D Common Shares and Class I Common Shares (including proceeds from the distribution reinvestment plan) reduced for Distributions from non-liquidating dispositions of its investments paid to Class T, Class S, Class D, and Class I Shareholders and amounts paid to Class T, Class S, Class D, and Class I Shareholders for share repurchases pursuant to the Trust’s share repurchase plan.

“**Advisor**” shall have the meaning set forth in the preamble of this Agreement.

“**Advisor Expenses**” shall have the meaning set forth in Section 11(a).

“**Affiliate**” shall have the meaning set forth in the Declaration of Trust.

“**Agreement**” shall have the meaning set forth in the preamble of this Agreement.

“**Annual Hurdle Rate**” shall have the meaning set forth in Section 10(c).

“**Applicable Hurdle Rate**” shall have the meaning set forth in Section 10(c).

“**Board**” shall have the meaning set forth in the Recitals.

“**Bylaws**” shall mean the bylaws of the Trust, as amended from time to time.

“**Cause**” shall mean, with respect to the termination of this Agreement, fraud, criminal conduct, willful misconduct or willful or gross negligent breach of fiduciary duty by the Advisor in connection with performing its duties hereunder.

“**CEA**” shall mean the U.S. Commodities Exchange Act, as amended.

“**Change of Control**” shall mean any event (including, without limitation, issue, transfer or other disposition of shares of the Trust, merger, share exchange or consolidation) after which any “person” (as that term is used in Sections 13(d) and 14(d) of the Exchange Act) is or becomes the “beneficial owner” (as defined in Rule 13d-3 of the Exchange Act), directly or indirectly, of securities of the Trust representing greater than 50% or more of the combined voting power of Trust’s then outstanding securities, respectively; provided, that, a Change of Control shall not be deemed to occur as a result of any widely distributed offering of the Shares.

“**Class D Common Shares**” shall have the meaning set forth in the Declaration of Trust.

“**Class E Common Shares**” shall have the meaning set forth in the Declaration of Trust.

“**Class I Common Shares**” shall have the meaning set forth in the Declaration of Trust.

“**Class S Common Shares**” shall have the meaning set forth in the Declaration of Trust.

“**Class T Common Shares**” shall have the meaning set forth in the Declaration of Trust.

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

“**Common Shares**” shall have the meaning set forth in the Declaration of Trust.

“**Core Earnings**” shall mean for the applicable performance measurement period, the net income (loss) attributable to shareholders of Class T Common Shares, Class S Common Shares, Class D Common Shares, and Class I Common Shares, computed in accordance with GAAP, including realized gains (losses) not otherwise included in GAAP net income (loss) and excluding (i) non-cash equity compensation expense, (ii) the Performance Fee, (iii) depreciation and amortization, (iv) any unrealized gains or losses or other non-cash items that are included in net income for the applicable reporting period, regardless of whether such items are included in other comprehensive income or loss, or in net income, (v) one-time events pursuant to changes in GAAP, and (vi) certain non-cash adjustments and certain material non-cash income or expense items, in each case after discussions between the Advisor and the Independent Trustees and approved by a majority of the Independent Trustees.



“**Dealer Manager**” shall mean Starwood Capital, L.L.C., or such other Person selected by the Board to act as the dealer manager or distribution agent.

“**Declaration of Trust**” shall mean the Declaration of Trust of the Trust, dated as of [ ], 2023, as it may be amended, supplemented or restated from time to time.

“**Distributions**” shall mean any distributions, pursuant to Section 7.6 of the Declaration of Trust, by the Trust to owners of Common Shares, including distributions that may constitute a return of capital for federal income tax purposes.

“**Effective Date**” shall have the meaning set forth in the preamble of this Agreement.

“**Exchange Act**” shall mean the Securities Exchange Act of 1934, as amended.

“**GAAP**” shall mean generally accepted accounting principles as in effect in the United States of America from time to time.

“**Independent Trustee**” shall have the meaning set forth in the Declaration of Trust.

“**Initial Partial-Quarter Performance Measurement Period**” shall have the meaning set forth in Section 10(c).

“**Investment Company Act**” shall mean the Investment Company Act of 1940, as amended.

“**Investment Guidelines**” shall mean the investment guidelines adopted by the Board, as amended from time to time, pursuant to which the Advisor has discretion to acquire and dispose of investments for the Trust without the prior approval of the Board.

“**Management Fee**” shall have the meaning set forth in Section 10(a).

“**NAV**” shall have the meaning set forth in the Declaration of Trust.

“**Organization and Offering Expenses**” shall have the meaning set forth in the Declaration of Trust.

“**Other Starwood Accounts**” shall mean investment funds, REITs, vehicles, accounts, products and/or other similar arrangements sponsored, advised and/or managed by Starwood, whether currently in existence or subsequently established (in each case, including any related successor funds, alternative vehicles, separately managed accounts, supplemental capital vehicles, surge funds, over-flow funds, co-investment vehicles and other entities formed in connection with Starwood side-by-side or additional general partner investments with respect thereto).

“**Partial-Year Performance Measurement Period**” shall have the meaning set forth in Section 10(c).

“**Performance Fee**” shall have the meaning set forth in Section 10(c).

“**Person**” shall mean an individual, corporation, business trust, estate, trust, partnership, joint venture, limited liability company or other legal entity.

“**PPM**” shall have the meaning set forth in the Declaration of Trust.

“**REIT**” shall have the meaning set forth in the Declaration of Trust.

“**Services**” shall have the meaning set forth in Section 8(c).

“**Shares**” shall have the meaning set forth in the Declaration of Trust.

“**Starwood**” means, collectively, Starwood Capital Group Holdings, L.P., a Delaware limited partnership, and any Affiliate thereof.

“**Starwood Names**” shall have the meaning set forth in Section 22.

“**Shareholder Servicing Fee**” shall mean the shareholder servicing fee payable to the Dealer Manager and reallowable to soliciting dealers with respect to Shares, as applicable and as described in the PPM.

“**Shareholder**” shall have the meaning set forth in the Declaration of Trust.

“**Termination Date**” shall mean the date of termination of this Agreement or expiration of this Agreement in the event this Agreement is not renewed for an additional term.

“**Trustees**” shall have the meaning set forth in the Declaration of Trust.

“**Trust**” shall have the meaning set forth in the preamble of this Agreement.

“**Upfront Sales Load**” shall have the meaning set forth in the Declaration of Trust.

“**Valuation Guidelines**” shall mean the valuation guidelines of the Trust as have been adopted by the Board, as amended from time to time.

2. **Appointment.** The Trust hereby appoints the Advisor to serve as its investment adviser on the terms and conditions set forth in this Agreement, and the Advisor hereby accepts such appointment. Except as otherwise provided in this Agreement, the Advisor hereby agrees to use its commercially reasonable efforts to perform the duties set forth herein, provided that the Company reimburses the Advisor for costs and expenses in accordance with Section 11.

3. **Duties of the Advisor.** Subject to the oversight of the Board and the terms and conditions of this Agreement and the Investment Guidelines and consistent with the provisions of the Trust’s most recent PPM, the Declaration of Trust and Bylaws, the Advisor will have plenary authority with respect to the management of the business and affairs of the Trust and will be responsible for implementing the investment strategy of the Trust. The Advisor will perform (or cause to be performed through one or more of its Affiliates or third parties) such services and activities relating to the selection of investments and rendering investment advice to the Trust as may be appropriate or otherwise mutually agreed from time to time, which may include, without limitation:

(a) serving as an advisor to the Trust with respect to the establishment and periodic review of the Investment Guidelines for the Trust’s investments, financing activities and operations;

(b) sourcing, evaluating and monitoring the Trust's investment opportunities and executing the acquisition, origination, management, financing and disposition of the Trust's assets, in accordance with the Investment Guidelines and the Trust's investment policies, strategies, objectives and limitations, subject to oversight by the Board;

(c) with respect to prospective acquisitions, originations, purchases, sales, exchanges or other dispositions of investments, conducting negotiations on the Trust's behalf with borrowers, sellers, purchasers and other counterparties and, if applicable, their respective agents, advisors and representatives, and determining the structure and terms of such transactions;

(d) providing the Trust with portfolio management and other related services;

(e) serving as the Trust's advisor with respect to decisions regarding any of the Trust's financings, hedging activities or borrowing, including (1) assisting the Trust in developing criteria for financing that is specifically tailored to the Trust's investment objectives, (2) advising the Trust with respect to obtaining appropriate financing for the investments (which, in accordance with applicable law and the terms and conditions of this Agreement and the Declaration of Trust and Bylaws, as applicable, may include financing by the Advisor or its Affiliates) and (3) negotiating and entering into, on the Trust's behalf, financing arrangements (including one or more credit facilities), repurchase agreements, interest rate or currency swap agreements, hedging arrangements, foreign exchange transactions, derivative transactions, and other agreements and instruments required or appropriate in connection with the Trust's activities;

(f) engaging and supervising, on the Trust's behalf and at the Trust's expense, independent contractors, advisors, consultants, attorneys, accountants, administrators, auditors, appraisers, independent valuation agents, escrow agents and other service providers (which may include Affiliates of the Advisor) that provide various services with respect to the Trust, including, without limitation, accounting, investment banking, securities brokerage, mortgage brokerage, credit analysis, risk management services, asset management services, loan servicing, other financial, legal or accounting services, due diligence services, underwriting review services, and all other services (including custody and transfer agent and registrar services) as may be required by Trust's activities or investments (or potential investments);

(g) communicating on the Trust's behalf with the holders of any of the Trust's equity or debt securities as required to satisfy the reporting and other requirements of any governmental bodies or agencies or trading markets and to maintain effective relations with such holders;

(h) advising the Trust in connection with policy decisions to be made by the Board;

- (i) providing the daily management of the Trust, including performing and supervising the various administrative functions reasonably necessary for the management of the Trust;
- (j) engaging one or more sub-advisors with respect to the management of the Trust, including, where appropriate, Affiliates of the Advisor;
- (k) evaluating and recommending to the Board hedging strategies and engaging in hedging activities on the Trust's behalf, consistent with the Trust's qualification as a REIT and with the Investment Guidelines;
- (l) investing and reinvesting any moneys and securities of the Trust (including investing in short-term investments pending investment in other investments, payment of fees, costs and expenses, or payments of dividends or Distributions to the Shareholders) and advising the Trust as to its capital structure and capital raising;
- (m) determining valuations for the assets and liabilities of the Trust and calculate, as of the last day of each month, the NAV per Common Share in accordance with the Valuation Guidelines, and in connection therewith, obtain appraisals performed by a third party appraisal firms, as needed, or conduct fair valuation determinations concerning the value of the Trust's assets and liabilities;
- (n) providing input in connection with the appraisals of the Trust's investments, as needed;
- (o) monitoring the Trust's investments for events that may be expected to have a material impact on the most recent estimated values;
- (p) monitoring each appraiser's valuation process to ensure that it complies with the Valuation Guidelines;
- (q) delivering to, or maintaining on behalf of, the Trust copies of appraisals obtained in connection with its investments, if any;
- (r) in the event that the Trust is a commodity pool under the CEA, acting as the Trust's commodity pool operator for the period and on the terms and conditions set forth in this Agreement, including, for the avoidance of doubt, the authority to make any filings, submissions or registrations (including for exemptive or "no action" relief) to the extent required or desirable under the CEA (and the Trust hereby appoints the Advisor to act in such capacity and the Advisor accepts such appointment and agrees to be responsible for such services);
- (s) placing, or arranging for the placement of, orders of investments pursuant to the Advisor's investment determinations for the Trust either directly with the issuer or with a broker or dealer (including any Affiliated broker or dealer);
- (t) making from time to time, or at any time reasonably requested by the Board, reports to the Board of its performance of services to the Trust under this Agreement, including reports with respect to potential conflicts of interest involving the Advisor or any of its Affiliates;

(u) advising the Trust regarding the Trust's ability to elect REIT status, and thereafter maintenance of the Trust's status as a REIT, and monitoring compliance with the various REIT qualification tests and other rules set out in the Code and the regulations promulgated thereunder;

(v) taking all necessary actions to enable the Trust to make required tax filings and reports, including soliciting Shareholders for required information to the extent provided by the REIT provisions of the Code;

(w) assisting the Trust in maintaining the registration of the Shares under federal and state securities laws, as applicable, with respect to any offering and complying with all federal, state and local regulatory requirements applicable to the Trust with respect to any offering and the Trust's business activities (including the Sarbanes-Oxley Act of 2002, as amended), including, with respect to any offering, preparing or causing to be prepared all supplements to the PPM and financial statements and all reports and documents, if any, required under the Securities Act of 1933, as amended, and the Exchange Act; and

(x) performing such other services from time to time in connection with the management of the Trust's investment activities as the Board shall reasonably request and/or the Advisor shall deem appropriate under the particular circumstances.

#### **4. Authority of Advisor.**

(a) Pursuant to the terms of this Agreement (including the restrictions included in this Section 4 and in Section 7), and subject to the continuing and exclusive authority of the Board over the management of the Trust, the Board (by virtue of its approval of this Agreement and authorization of the execution hereof by the officers of the Trust) hereby delegates to the Advisor the authority to take, or cause to be taken, any and all actions and to execute and deliver any and all agreements, certificates, assignments, instruments or other documents and to do any and all things that, in the judgment of the Advisor, may be necessary or advisable in connection with the Advisor's duties described in Section 3, including the making of any investment that fits within the Investment Guidelines and objectives, policies and limitations of the Trust and within the discretionary limits and authority as granted to the Advisor from time to time by the Board.

(b) Notwithstanding the foregoing, any investment that does not fit within the Investment Guidelines will require the prior approval of the Board or any duly authorized committee of the Board, as the case may be. Except as otherwise set forth herein, in the Investment Guidelines or in the Declaration of Trust, any investment that fits within the Investment Guidelines may be made by the Advisor on the Trust's behalf without the prior approval of the Board or any duly authorized committee of the Board.

(c) The prior approval of a majority of the Trustees (including a majority of the Independent Trustees) not otherwise interested in the transaction will be required for each transaction to which the Advisor or its Affiliates is a party.

(d) The Board will review the Investment Guidelines periodically, in its discretion, and may, at any time upon the giving of notice to the Advisor, amend the Investment Guidelines; provided, however, that such modification or revocation shall be effective upon receipt

by the Advisor or such later date as is specified by the Board and included in the notice provided to the Advisor and such modification or revocation shall not be applicable to investment transactions to which the Advisor has committed the Trust prior to the date of receipt by the Advisor of such notification, or if later, the effective date of such modification or revocation specified by the Board.

(e) The Advisor may retain, for and on behalf, and at the sole cost and expense, of the Trust, such services as the Advisor deems necessary or advisable in connection with the management and operations of the Trust, which may include Affiliates of the Advisor or unaffiliated third parties; provided, that any such services may only be provided by Affiliates to the extent such services are approved by a majority of the Trustees (including a majority of the Independent Trustees) not otherwise interested in such transactions as being fair and reasonable to the Trust and on terms and conditions not less favorable to the Trust than those available from non-Affiliated third parties. In performing its duties under Section 3, the Advisor shall be entitled to rely reasonably on qualified experts and professionals (including, without limitation, accountants, legal counsel and other professional service providers) hired by the Advisor at the Trust's sole cost and expense.

5. **Bank Accounts.** The Advisor may establish and maintain one or more bank accounts in the name of the Trust and any subsidiary thereof and may collect and deposit into any such account or accounts, and disburse from any such account or accounts, any money on behalf of the Trust, consistent with the Advisor's authority under this Agreement, provided that no funds shall be commingled with the funds of the Advisor; and the Advisor shall from time to time render, upon request by the Board, its audit committee or the auditors of the Trust, appropriate accountings of such collections and payments to the Board, its audit committee and the auditors of the Trust, as applicable.

6. **Records; Access.** The Advisor shall maintain, or shall cause to be maintained, appropriate records of its activities hereunder and make such records, or shall cause such records to be made, available for inspection by the Board and by counsel, auditors and authorized agents of the Trust, at any time or from time to time during normal business hours. The Advisor shall at all reasonable times have access to the books and records of the Trust.

7. **Limitations on Activities.** The Advisor shall refrain from any action that, in its sole judgment made in good faith, (i) is not in compliance with the Investment Guidelines, (ii) would adversely and materially affect the qualification of the Trust as a REIT under the Code or the status of the Trust as an entity excluded from investment company status under the Investment Company Act, or (iii) would materially violate any law, rule or regulation of any governmental body or agency having jurisdiction over the Trust or of any exchange on which the securities of the Trust may be listed or that would otherwise not be permitted by the Declaration of Trust or Bylaws. If the Advisor is ordered to take any action by the Board, the Advisor shall notify the Board if it is the Advisor's reasonable judgment that such action would adversely and materially affect such status or violate any such law, rule or regulation or the Declaration of Trust or Bylaws. Notwithstanding the foregoing, neither the Advisor nor any of its Affiliates shall be liable to the Trust, the Board, or the Shareholders for any act or omission by the Advisor or any of its Affiliates, except as provided in Section 19 of this Agreement.



## 8. Other Activities of the Advisor.

(a) Nothing in this Agreement shall (i) prevent the Advisor or any of its Affiliates, officers, trustees or employees from engaging in other businesses or from rendering services of any kind to any other Person or entity, whether or not the investment objectives or policies of any such other Person are similar to those of the Trust, including, without limitation, the sponsoring, closing, advising and/or managing of any Other Starwood Accounts, (ii) in any way bind or restrict the Advisor or any of its Affiliates, officers, directors or employees from buying, selling or trading any securities or commodities for their own accounts or for the account of others for whom the Advisor or any of its Affiliates, officers, directors or employees may be acting, or (iii) prevent the Advisor or any of its Affiliates, officers, directors or employees from receiving fees or other compensation or profits from such activities described in this Section 8(a) which shall be for the sole benefit of the Advisor's (and/or its Affiliates, officers, directors or employees) benefit. While information and recommendations supplied to the Trust shall, in the Advisor's reasonable and good faith judgment, be appropriate under the circumstances and in light of the investment objectives and policies of the Trust, such information and recommendations may be different in certain material respects from the information and recommendations supplied by the Advisor or any Affiliate of the Advisor to others (including, for greater certainty, the Other Starwood Accounts and their investors, as described more fully in Section 8(b)).

(b) The Advisor and the Trust acknowledge and agree that, notwithstanding anything to the contrary contained herein, (i) the Advisor and its Affiliates sponsor, advise and/or manage Other Starwood Accounts and may in the future sponsor, advise and/or manage additional Other Starwood Accounts and (ii) with respect to Other Starwood Accounts with investment objectives or guidelines that overlap with the Trust's, the Advisor and its Affiliates will allocate investment opportunities between the Trust and such Other Starwood Accounts in accordance with Starwood's prevailing policies and procedures on a basis that the Advisor and its Affiliates determine to be reasonable in their sole discretion, and there may be circumstances where investments that are consistent with the Investment Guidelines may be shared with or allocated to one or more Other Starwood Accounts (in lieu of the Trust) in accordance with Starwood's prevailing policies and procedures.

(c) In connection with the services of the Advisor hereunder, the Trust and the Board acknowledge and agree that (i) as part of Starwood's regular businesses, personnel of the Advisor and its Affiliates may from time-to-time work on other projects and matters (including with respect to one or more Other Starwood Accounts), and that conflicts may arise with respect to the allocation of personnel between the Trust and one or more Other Starwood Accounts and/or the Advisor and such other Affiliates, (ii) unless prohibited by the Declaration of Trust, Other Starwood Accounts may invest, from time to time, in investments in which the Trust also invests (including at a different level of an issuer's capital structure (e.g., an investment by an Other Starwood Account in a mezzanine debt interest with respect to the same issuer to whom the Trust has made a mortgage loan)) and while Starwood will seek to resolve any such conflicts in a fair and reasonable manner in accordance with its prevailing policies and procedures with respect to conflicts resolution among Other Starwood Accounts generally (as described in the PPM), such transactions are not required to be presented to the Board or any committee thereof for approval (unless otherwise required by the Declaration of Trust or the Investment Guidelines), and there can be no assurance that any conflicts will be resolved in the Trust's favor, (iii) the Trust will from

time to time pay fees to the Advisor and its Affiliates, including portfolio entities of Other Starwood Accounts, for providing various services described in the PPM (collectively, “Services”), which fees will be in addition to the compensation paid to the Advisor pursuant to Section 10 hereof, (iv) the Advisor and its Affiliates, the Advisor and its Affiliates may from time to time receive fees from portfolio entities or other issuers for providing Services, including with respect to Other Starwood Accounts and related portfolio entities, and while such fees may give rise to conflicts of interest, the Trust will not receive the benefit of any such fees, and (v) the terms and conditions of the governing agreements of such Other Starwood Accounts (including with respect to the economic, reporting, and other rights afforded to investors in such Other Starwood Accounts) are materially different from the terms and conditions applicable to the Trust and the Shareholders, and neither the Trust nor the Shareholders (in such capacity) shall have the right to receive the benefit of any such different terms applicable to investors in such Other Starwood Accounts as a result of an investment in the Trust or otherwise. The Advisor shall keep the Board reasonably informed on a periodic basis in connection with the foregoing.

(d) The Advisor is not permitted to consummate on the Trust’s behalf any transaction that involves (i) the sale of any investment to or (ii) the acquisition of any investment from Starwood, any Other Starwood Account or any of their Affiliates unless such transaction is approved by a majority of the Trustees, including a majority of the Independent Trustees, not otherwise interested in such transaction as being fair and reasonable to the Trust. The Advisor will seek to resolve any conflicts of interest in a fair and reasonable manner in accordance with its prevailing policies and procedures with respect to conflicts resolution among Other Starwood Accounts generally, but only those transactions set forth in this Section 8(d) will be expressly required to be presented for approval to the Independent Trustees or any committee thereof (unless otherwise required by the Declaration of Trust or the Investment Guidelines).

(e) For the avoidance of doubt, it is understood that neither the Trust nor the Board has the authority to determine the salary, bonus or any other compensation paid by the Advisor to any director, officer, member, partner, employee, or shareholder of the Advisor or its Affiliates, including any person who is also a Trustee, officer or employee of the Trust.

9. **Relationship with Trustees and Officers.** Subject to Section 7 of this Agreement and to restrictions advisable with respect to the qualification of the Trust as a REIT, directors, managers, officers and employees of the Advisor or an Affiliate of the Advisor or any corporate parent of an Affiliate, may serve as a Trustee or officer of the Trust, except that no director, officer or employee of the Advisor or its Affiliates who also is a Trustee or officer of the Trust shall receive any compensation from the Trust for serving as a Trustee or officer other than (a) reasonable reimbursement for travel and related expenses incurred in attending meetings of the Board or (b) as otherwise approved by the Board, including a majority of the Independent Trustees, and no such Trustee shall be deemed an Independent Trustee for purposes of satisfying the Trustee independence requirement set forth in the Declaration of Trust. For so long as this Agreement is in effect, the Advisor shall have the have the right to designate two Trustees for election to the Board. Furthermore, the Board shall consult with the Advisor in connection with filling of any vacancies created by the removal, resignation, retirement or death of any Trustee (other than in connection with a removal by Shareholders in accordance with the Declaration of Trust).

#### 10. Compensation.

(a) The Trust will pay the Advisor a management fee (the “Management Fee”) equal to 1.25% of NAV per annum for the Class T Common Shares, Class S Common Shares, Class D Common Shares, and Class I Common Shares, payable monthly in arrears, before giving effect to any accruals for the Management Fee, the Shareholder Servicing Fee, the Performance Fee or any Distributions. The Advisor shall receive the Management Fee as compensation for services rendered hereunder. For the avoidance of doubt, no Management Fee shall be paid on Class E Common Shares.

(b) The Advisor has agreed to waive the Management Fee for the first three months following the Effective Date.

(c) The Trust shall pay the Advisor a performance fee (the “Performance Fee”), which is accrued monthly and payable quarterly (or part thereof that the Advisory Agreement is in effect) in arrears. Commencing with the calendar quarter representing the fourth full calendar quarter completed after the Effective Date, the Performance Fee shall be an amount, not less than zero, equal to (i) 12.5% of Core Earnings for the immediately preceding four calendar quarters (each such period, a “4-Quarter Performance Measurement Period”), subject to a hurdle rate, expressed as an annual rate of return on average Adjusted Capital, equal to 5.0% (the “Annual Hurdle Rate”), minus (ii) the sum of any Performance Fees paid to the Advisor with respect to the first three calendar quarters in the applicable 4-Quarter Performance Measurement Period. As a result, the Advisor does not earn a Performance Fee for any calendar quarter until Core Earnings for the applicable 4-Quarter Performance Measurement Period exceed the Annual Hurdle Rate.

For each of the three full calendar quarters preceding the initial 4-Quarter Performance Measurement Period, the Performance Fee shall be an amount, not less than zero, equal to (i) 12.5% of cumulative Core Earnings for all of the full calendar quarter periods completed since the Effective Date (each such period, a “Partial-Year Performance Measurement Period”), subject to the Applicable Hurdle Rate (as defined below), which is calculated by multiplying 5% by a fraction consisting of (x) a numerator equal to the number of full calendar quarter periods included in the Partial-Year Performance Measurement Period, and (y) a denominator equal to 4, minus (ii) the sum of any Performance Fees paid to the Advisor with respect to the prior Partial-Year Performance Measurement Periods.

In the event that the period from the Effective Date through the first calendar quarter end date following such date is shorter than a full calendar quarter (such period, the “Initial Partial-Quarter Performance Measurement Period”), the Performance Fee for the Initial Partial-Quarter Performance Measurement Period shall be an amount, not less than zero, equal to (i) 12.5% of Core Earnings for the Initial Partial-Quarter Performance Measurement Period, subject to the Applicable Hurdle Rate, which is calculated by multiplying 5% by a fraction consisting of (x) a numerator equal to the number of calendar days included in the Initial Partial-Quarter Performance Measurement Period, and (y) a denominator equal to 365. For the sake of clarity, neither the Core Earnings for, nor the number of calendar days included in, the Initial Partial-Quarter Performance Period, will be factored into the computation of Performance Fees for subsequent Partial-Year Performance Measurement Periods or 4-Quarter Performance Measurement Periods.

Once Core Earnings exceed the Applicable Hurdle Rate, the Advisor shall be entitled to a “catch-up” fee equal to the amount of Core Earnings in excess of the Applicable Hurdle Rate, until Core Earnings for the applicable performance measurement period exceed a percentage of average Adjusted Capital equal to the Applicable Hurdle Rate divided by 0.875 (or 1 minus 0.125) for the applicable performance measurement period. Thereafter, the Advisor shall be entitled to receive 12.5% of Core Earnings. “Applicable Hurdle Rate” means (i) the Annual Hurdle Rate with respect to a 4-Quarter Performance Measurement Period or (ii) the Annual Hurdle Rate as adjusted above with respect to a Partial-Year Performance Measurement Period and the Initial Partial-Quarter Measurement Period, as applicable. The Performance Fee shall be calculated based on the full Management Fee earned and regardless of whether the Advisor elects to receive such fee in cash, Class I Common Shares or Class E Common Shares

(d) The Management Fee and Performance Fee may be paid, at the Advisor’s election, in cash or cash equivalent aggregate NAV amounts of Class I Common Shares or Class E Common Shares, or any combination thereof. If the Advisor elects to receive any portion of its Management Fee or Performance Fee in Common Shares, the Advisor or any subsequent transferee thereof may elect to have the Trust repurchase such Common Shares from the Advisor or such transferee at a later date at a repurchase price per Common Share equal to the then NAV per Common Share of such class. Common Shares obtained by the Advisor or any subsequent transferee will not be subject to the Trust’s share repurchase plan, including the repurchase limits or any reduction or penalty for an early repurchase.

(e) In the event this Agreement is terminated or its term expires without renewal, the Advisor will be entitled to receive each of its prorated Management Fee and Performance Fee through the date of termination. Such pro ration shall take into account the number of days of any partial calendar month or calendar year for which this Agreement was in effect.

(f) In the event the Trust commences a liquidation of its investments during any calendar year, the Trust will pay the Advisor the Management Fee and the Performance Fee from the proceeds of the liquidation.

## 11. Expenses.

(a) Subject to Sections 4(e) and 11(b), the Advisor shall be responsible for the expenses related to any and all personnel of the Advisor who provide investment advisory services to the Trust pursuant to this Agreement (including, without limitation, each of the officers of the Trust and any Trustees who are also directors, officers or employees of the Advisor or any of its Affiliates), including, without limitation, salaries, bonus and other wages, payroll taxes and the cost of employee benefit plans of such personnel, and costs of insurance with respect to such personnel (“Advisor Expenses”).

(b) In addition to the compensation paid to the Advisor pursuant to Section 10 hereof, the Trust shall pay all of its costs and expenses directly or reimburse the Advisor or its Affiliates for costs and expenses of the Advisor and its Affiliates incurred on behalf of the Trust other than Advisor Expenses. Without limiting the generality of the foregoing, it is specifically agreed that the following costs and expenses of the Trust are not Advisor Expenses and shall be paid by the Trust and shall not be paid by the Advisor or Affiliates of the Advisor:

- (i) Organization and Offering Expenses;

(ii) Acquisition Expenses;

(iii) fees, costs and expenses in connection with the issuance and transaction costs incident to the trading, origination, settling, disposition and financing of the Trust's investments (whether or not consummated), including brokerage commissions, hedging costs, prime brokerage fees, custodial expenses, clearing and settlement charges, and other investment costs fees and expenses actually incurred in connection with the pursuit, making, holding, originating, settling, monitoring or disposing of actual or potential investments;

(iv) the actual cost of goods and services used by the Trust and obtained from either Affiliates of the Advisor or Persons not Affiliated with the Advisor, including fees paid to administrators, consultants, attorneys, technology providers and other services providers, and brokerage fees paid in connection with the origination, acquisition and/or sale of investments;

(v) all fees, costs and expenses of legal, tax, accounting, consulting, auditing (including internal audit), finance, administrative, investment banking, capital market, transfer agency, escrow agency, custody, prime brokerage, asset management, data or technology services and other non-investment advisory services rendered to the Trust by the Advisor or its Affiliates in compliance with Section 4(e) including, without limitation, salaries, bonus and other wages, payroll taxes and the cost of employee benefit plans and insurance with respect to all personnel of the Advisor other than those who provide investment advisory services to the Trust or serve as executive officers of the Trust, as described above;

(vi) expenses of acquiring, originating, managing and disposing the Trust's investments, whether payable to an Affiliate of the Advisor or a non-Affiliated Person;

(vii) the compensation and expenses of the Trustees (excluding those trustees who are directors, officers or employees of the Advisor) and the cost of liability insurance to indemnify the Trustees and officers and expenses incurred in connection with preparation of materials for meetings of the Board and its committees;

(viii) interest and fees and expenses arising out of borrowings made by the Trust, including, but not limited to, costs associated with the establishment and maintenance of any of the Trust's credit facilities, other financing arrangements, or other indebtedness of the Trust (including commitment fees, accounting fees, legal fees, closing and other similar costs) or any of the Trust's securities offerings, whether or not any facilities arrangements or indebtedness are implemented or such securities are offered;

(ix) expenses connected with communications to holders of the Trust's securities or securities of any subsidiary of the Trust and other bookkeeping and clerical work necessary in maintaining relations with holders of such securities and in complying with the continuous reporting and other requirements of governmental bodies or agencies, including, without limitation, all costs of preparing and filing required reports with the SEC, the costs payable by the Trust to any transfer agent and registrar, expenses in connection with the listing and/or trading of the Trust's securities on any exchange, the fees payable by the Trust to any such exchange in connection with its listing, costs of preparing, printing and mailing the Trust's annual report to the Shareholders and proxy materials, if any, with respect to any meeting of the Shareholders and any other reports or related statements;

(x) the Trust's allocable share of costs associated with technology-related expenses, including without limitation, any computer software or hardware, electronic equipment or purchased information technology services from third-party vendors or Affiliates of the Advisor, technology service providers and related software/hardware utilized in connection with the Trust's investment and operational activities;

(xi) the Trust's allocable share of expenses incurred by managers, officers, personnel and agents of the Advisor for travel on the Trust's behalf and other out-of-pocket expenses incurred by them in connection with the purchase, financing, refinancing, sale or other disposition of an investment;

(xii) expenses relating to compliance-related matters and regulatory filings relating to the Trust's activities (including, without limitation, expenses relating to the preparation and filing of Form PF, Form ADV, reports to be filed with the U.S. Commodity Futures Trading Commission, reports, disclosures, and/or other regulatory filings of the Advisor and its Affiliates relating to the Trust's activities (including the Trust's pro rata share of the costs of the Advisor and its Affiliates of regulatory expenses that relate to the Trust and Other Starwood Accounts));

(xiii) the costs of any litigation involving the Trust or its assets and the amount of any judgments or settlements paid in connection therewith, trustees and officers liability or other insurance and indemnification or extraordinary expense or liability relating to the affairs of the Trust;

(xiv) all taxes and statutory, regulatory or license fees or other governmental charges;

(xv) all insurance costs incurred in connection with the operation of the Trust's business except for the costs attributable to the insurance that the Advisor elects to carry for itself and its personnel;



(xvi) expenses incurred in connection with maintaining the status of the Trust as a REIT or the payments of interest, dividends or Distributions in cash or any other form authorized or caused to be made by the Board to or on account of holders of the Trust's securities, including, without limitation, in connection with any distribution reinvestment plan;

(xvii) any judgment or settlement of pending or threatened proceedings (whether civil, criminal or otherwise) against the Trust, or against any Trustee or officer of the Trust or in his or her capacity as such for which the Trust is required to indemnify such Trustee or officer by any court or governmental agency;

(xviii) expenses incurred in connection with the formation, organization, continuation, liquidation and/or restructuring of any corporation, partnership, joint venture or other entity through which the Trust's investments are made or in which any such entity invests; and

(xix) expenses incurred related to industry association memberships or attending industry conferences on behalf of the Trust.

(c) The Advisor may, at its option, elect not to seek reimbursement for certain expenses during a given period, which determination shall not be deemed to construe a waiver of reimbursement for similar expenses in future periods.

(d) Any reimbursement payments owed by the Trust to the Advisor may be offset by the Advisor against amounts due to the Trust from the Advisor. Cost and expense reimbursement to the Advisor shall be subject to adjustment at the end of each calendar year in connection with the annual audit of the Trust.

(e) Notwithstanding the foregoing, the Advisor shall pay for all Organization and Offering Expenses (other than Upfront Sales Loads and Shareholder Servicing Fees) incurred prior to the first anniversary of the Effective Date. All Organization and Offering Expenses (other than Upfront Sales Loads and Shareholder Servicing Fees) paid by the Advisor pursuant to this Section 11(e) shall be reimbursed by the Trust to the Advisor in 60 equal monthly installments commencing with the first anniversary of the Effective Date.

12. **Other Services.** Should the Board request that the Advisor or any director, manager, officer or employee thereof render services for the Trust other than set forth in Section 3, such services shall be separately compensated at such rates and in such amounts as are agreed by the Advisor and the Independent Trustees, subject to the limitations contained in the Declaration of Trust, and shall not be deemed to be services pursuant to the terms of this Agreement.

13. **No Joint Venture.** The Trust, on the one hand, and the Advisor, on the other, are not partners or joint venturers with each other, and nothing in this Agreement shall be construed to make them such partners or joint venturers or impose any liability as such on either of them.

14. **Term.** This Agreement shall continue in effect for two years from the Effective Date, subject to an unlimited number of successive two-year renewals if approved by a majority of the Board and a majority of the Independent Trustees.

15. **Termination by the Parties.** This Agreement may be terminated (i) at the option of the Advisor immediately upon a Change of Control of the Trust, (ii) immediately by the Trust for Cause or upon the bankruptcy of the Advisor or (iii) upon a breach of a material provision of this Agreement by the Advisor and such breach continues for a period of 30 days after written notice thereof specifying such breach and requesting that the same be remedied in such 30-day period (or 45 days after written notice of such breach if the Advisor takes steps to cure such breach within 30 days of the written notice). The provisions of Sections 17 through 22 survive termination of this Agreement.

16. **Assignment to an Affiliate.** Except as set forth herein, the Advisor shall not assign, sell or otherwise dispose of all or any part of its right, title and interest in and to this Agreement to any Persons other than an Affiliate without the approval of a majority of the Trustees (including a majority of the Independent Trustees). Notwithstanding the foregoing, the Advisor may assign any rights to receive fees or other payments under this Agreement to any Person without obtaining the consent of the Board. This Agreement shall not be assigned by the Trust without the approval of the Advisor, except in the case of an assignment by the Trust to a corporation or other organization which is a successor to all of the assets, rights and obligations of the Trust, in which case such successor organization shall be bound hereunder and by the terms of said assignment in the same manner as the Trust is bound by this Agreement. This Agreement shall be binding on successors to the Trust resulting from a Change of Control or sale of all or substantially all the assets of the Trust, and shall likewise be binding on any successor to the Advisor.

17. **Payments to and Duties of Advisor Upon Termination.** After the Termination Date, the Advisor shall not be entitled to compensation for further services hereunder except it shall be entitled to receive from the Trust within 30 days after the effective date of such termination all unpaid reimbursements of expenses and all earned but unpaid fees payable to the Advisor prior to termination of this Agreement.

(a) The Advisor shall promptly upon termination:

- (i) pay over to the Trust all money collected and held for the account of the Trust pursuant to this Agreement, after deducting any accrued compensation and reimbursement for its expenses to which it is then entitled;
- (ii) deliver to the Board a full accounting, including a statement showing all payments collected by it and a statement of all money held by it, covering the period following the date of the last accounting furnished to the Board;
- (iii) deliver to the Board all assets, including all investments, and documents of the Trust then in the custody of the Advisor; and
- (iv) cooperate with, and take all reasonable actions requested by, the Trust and Board in making an orderly transition of the advisory function.

18. **Indemnification by the Trust.** The Trust shall indemnify and hold harmless the Advisor and its Affiliates, including their respective officers, managers, directors, partners and employees, from all liability, claims, damages or losses arising in the performance of their duties hereunder, and related expenses, including reasonable attorneys' fees, to the extent such liability,

claims, damages or losses and related expenses are not fully reimbursed by insurance, and to the fullest extent possible without such indemnification being inconsistent with the laws of the State of Maryland or the Declaration of Trust.

19. **Indemnification by Advisor.** The Advisor shall indemnify and hold harmless the Trust from contract or other liability, claims, damages, taxes or losses and related expenses including attorneys' fees, to the extent that (i) such liability, claims, damages, taxes or losses and related expenses are not fully reimbursed by insurance and (ii) are incurred by reason of the Advisor's bad faith, fraud, willful misconduct, gross negligence or reckless disregard of its duties under this Agreement; provided, however, that the Advisor shall not be held responsible for any action of the Board in following or declining to follow any advice or recommendation given by the Advisor.

20. **Non-Solicitation.** During the term of this Agreement and for two (2) years after the Termination Date, the Trust shall not, without the consent of the Advisor, employ or otherwise retain any employee of the Advisor or any of its Affiliates or any person who has been employed by the Advisor or any of its Affiliates at any time within the two (2) year period immediately preceding the date on which such person commences employment with or is otherwise retained by the Trust. The Trust acknowledges and agrees that, in addition to any damages, the Advisor may be entitled to equitable relief for any violation of this Section 20 by the Trust, including, without limitation, injunctive relief.

21. **Miscellaneous.**

(a) **Notices.** Any notice, report or other communication required or permitted to be given hereunder shall be in writing unless some other method of giving such notice, report or other communication is required by the Declaration of Trust, the Bylaws, or accepted by the party to whom it is given, and shall be given by being delivered by hand, by courier or overnight carrier, by registered or certified mail or by electronic mail using the contact information set forth herein:

The Trust:	Starwood Credit Real Estate Income Trust 2340 Collins Avenue Miami Beach, FL 33139 Attention: Office of the General Counsel Email: rinaldi@starwood.com
with a required copies to:	Simpson Thacher & Bartlett LLP 425 Lexington Avenue New York, NY 10017 Attention: Benjamin Wells / Ryan Bekkerus Email: bwells@stblaw.com / rbekkerus@stblaw.com  Simpson Thacher & Bartlett LLP 900 G Street NW Washington, D.C. 20001 Attention: Daniel B. Honeycutt Email: daniel.honeycutt@stblaw.com

The Advisor: Starwood Credit Advisors, L.L.C.  
2340 Collins Avenue  
Miami Beach, FL 33139  
Attention: Office of the General Counsel  
Email: rinaldi@starwood.com

with a required copies to: Simpson Thacher & Bartlett LLP  
425 Lexington Avenue  
New York, NY 10017  
Attention: Benjamin Wells / Ryan Bekkerus  
Email: bwells@stblaw.com / rbekkerus@stblaw.com  
  
Simpson Thacher & Bartlett LLP  
900 G Street NW  
Washington, D.C. 20001  
Attention: Daniel B. Honeycutt  
Email: daniel.honeycutt@stblaw.com

Any party may at any time give notice in writing to the other parties of a change in its address for the purposes of this Section 21(a).

(b) **Modification.** This Agreement shall not be changed, modified, terminated, or discharged, in whole or in part, except by an instrument in writing signed by the parties hereto, or their respective successors or assignees.

(c) **Severability.** The provisions of this Agreement are independent of and severable from each other, and no provision shall be affected or rendered invalid or unenforceable by virtue of the fact that for any reason any other or others of them may be invalid or unenforceable in whole or in part.

(d) **Governing Law; Exclusive Jurisdiction; Jury Trial.** The provisions of this Agreement shall be construed and interpreted in accordance with the laws of the State of New York. The parties hereby irrevocably submit to the exclusive jurisdiction of the courts of the State of New York and the Federal courts of the United States of America located in Borough of Manhattan, New York for purposes of any suit, action or other proceeding arising from this Agreement, and hereby waive, and agree not to assert, as a defense in any action, suit or proceeding for the interpretation or enforcement hereof or thereof, that it is not subject thereto or that such action, suit or proceeding may not be brought or is not maintainable in such courts or that the venue thereof may not be appropriate or that this Agreement or any such document may not be enforced in or by such courts. Each of the parties hereby consent to and grant any such court jurisdiction over the person of such parties and over the subject matter of any such dispute. EACH OF THE PARTIES TO THIS AGREEMENT HEREBY IRREVOCABLY WAIVES ALL RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT.

(e) **Entire Agreement.** This Agreement contains the entire agreement and understanding among the parties hereto with respect to the subject matter hereof, and supersedes all prior and contemporaneous agreements, understandings, inducements and conditions, express or implied, oral or written, of any nature whatsoever with respect to the subject matter hereof. The express terms hereof control and supersede any course of performance or usage of the trade inconsistent with any of the terms hereof.

(f) **Indulgences, No Waivers.** Neither the failure nor any delay on the part of a party to exercise any right, remedy, power or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege preclude any other or further exercise of the same or of any other right, remedy, power or privilege, nor shall any waiver of any right, remedy, power or privilege with respect to any occurrence be construed as a waiver of such right, remedy, power or privilege with respect to any other occurrence. No waiver shall be effective unless it is in writing and is signed by the party asserted to have granted such waiver.

(g) **Gender; Number.** Words used herein regardless of the number and gender specifically used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context requires.

(h) **Headings.** The titles and headings of Sections and Subsections contained in this Agreement are for convenience only, and they neither form a part of this Agreement nor are they to be used in the construction or interpretation hereof.

(i) **Execution in Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon, and all of which shall together constitute one and the same instrument. Counterparts may be delivered via facsimile, electronic mail (including any electronic signature covered by the U.S. federal E-SIGN Act of 2000, Uniform Electronic Transactions Act, the Electronic Signatures and Records Act or other applicable law (e.g., www.docusign.com)), or other transmission method. This Agreement shall become binding when one or more counterparts hereof, individually or taken together, shall bear the signatures of all of the parties reflected hereon as the signatories.

22. **Trademark.** The Advisor hereby grants the Trust a fully paid-up, royalty-free, non-exclusive, non-transferable license to use the name “Starwood Credit Real Estate Income Trust” and to use “Starwood,” “SCRED,” and “SCREDIT” as constituent parts of the names of each of their Affiliates and to use such names in connection with their materials (including those used in connection with the Trust’s website) (collectively, the “Starwood Names”) solely in connection with the operation, maintenance and execution of business of the Trust. All rights in and to the Starwood Names not expressly granted herein to the Trust are retained and reserved by the Advisor (or its Affiliates). The Trust agrees not to contest the validity of the Advisor’s (or its Affiliates’) rights to the Starwood Names. At no time during the term of the Agreement or following the termination of the Agreement shall the Trust have any right, title or interest to the name or goodwill attached to the Starwood Names. Upon the termination of this Agreement at any time and for any reason, all of the Trust’s right, title and interest in and to the use of the Starwood Names shall terminate and any goodwill thereto shall continue to vest in the Advisor (or its Affiliates). The Trust shall have sixty (60) days from the date of termination to cease all further use of the Starwood Names.

*[Signature Page Follows]*

**IN WITNESS WHEREOF**, the parties hereto have executed this Advisory Agreement as of the date and year first above written.

Starwood Credit Real Estate Income Trust

By: \_\_\_\_\_  
Name: [            ]  
Title: [            ]

Starwood Credit Advisors, L.L.C.

By: \_\_\_\_\_  
Name: [            ]  
Title: [            ]



## FORM OF DEALER MANAGER AGREEMENT

\_\_\_\_\_, 2023

Starwood Capital, L.L.C.  
591 West Putnam Avenue  
Greenwich, CT 06830

Starwood Credit Real Estate Income Trust, a Maryland statutory Trust (the “Trust”), that intends to satisfy the requirements of the Internal Revenue Code of 1986, as amended (the “Code”) for qualification and taxation of the Trust as a real estate investment trust (“REIT”), is conducting a continuous private offering (the “Offering”) in accordance with Rule 506(b) of Regulation D under the Securities Act of 1933, as amended (the “Securities Act”), of common shares of beneficial interest, par value \$0.01 per share (the “Shares”), which may consist of Class S shares, Class T shares, Class D shares, Class I shares and Class E shares, as set forth in the Trust’s Declaration of Trust, as amended from time to time (the “Declaration of Trust”). Starwood Capital, L.L.C., as the managing dealer (the “Dealer Manager”), and the broker-dealers participating in the offering (the “Participating Broker-Dealers”) will solicit subscriptions pursuant to which investors will invest in Shares, from time to time. Such solicitations will be made by the Dealer Manager and any Participating Broker-Dealer on a “best efforts” basis. Investments will be solicited (i) in the United States only to U.S. persons who are “accredited investors” within the meaning of Regulation D under the U.S. Securities Act of 1933, as amended (the “Securities Act”), and (ii) outside the United States in accordance with Regulation S under the Securities Act and pursuant to the laws, rules, and regulations applicable to the offer and sale of Shares in the applicable non-U.S. jurisdiction.

The Shares will be issued and sold at the offering prices per Share set forth in the Private Placement Memorandum pursuant to a primary offering (the “Primary Shares”) and the Trust’s distribution reinvestment plan (the “DRIP Shares”). In connection with the Offering, the minimum purchase by any one person shall be as set forth in the Private Placement Memorandum (except as otherwise indicated in any letter or memorandum from the Trust to the Dealer Manager).

The Trust is offering five classes of Shares, Class T, Class S, Class D, Class I Shares and Class E Shares. The differences between the classes of Shares and the eligibility requirements for each class are described in detail in the Private Placement Memorandum. The Shares are to be offered and sold as described under the caption “Plan of Distribution” in the Private Placement Memorandum. Except as otherwise agreed by the Trust and the Dealer Manager, Shares sold through the Dealer Manager are to be sold through the Dealer Manager, as the dealer manager, and the Participating Broker-Dealers with whom the Dealer Manager has entered into or will enter into a selected dealer or other agreement related to the distribution of Shares substantially in the form attached to this Agreement as “Exhibit A” or such other form as approved by the Trust (each, a “Selected Dealer Agreement”) at a purchase price generally equal to the Trust’s prior month’s net asset value (“NAV”) per share applicable to the class of Shares being purchased (as calculated in accordance with the procedures described in the Private Placement Memorandum), or at a different offering price made available to investors in cases where the Trust believes there has been a material change to the NAV per Share since the end of the prior month, plus in either case any applicable selling commissions and dealer manager fees, subject in certain circumstances to reductions thereof as described in the Private Placement Memorandum. For shareholders who participate in the Trust distribution reinvestment plan (the “DRIP”), the cash distributions attributable to the class of Shares that each shareholder owns will be automatically invested in additional Shares of the same class. The DRIP Shares are to be issued and sold to shareholders of the Trust at a purchase price per Share equal to the Primary Shares in the Offering before any applicable selling commissions and dealer manager fees (the “transaction price”) of the applicable class of Shares on the date that the distribution is payable.

The Trust hereby enters into this agreement (this “Agreement”) with the Dealer Manager, as follows:

1. *Representations and Warranties of the Trust:* The Trust represents and warrants to the Dealer Manager and each Participating Broker-Dealer with whom the Dealer Manager has entered into or will enter into a Participating Broker-Dealer Agreement (the “Participating Broker-Dealer Agreement”) in substantially the form attached as Exhibit A to this Agreement (or such other form as shall be approved in writing by the Trust) that, as of the date hereof and at all times during the Offering (provided that, to the extent such representations and warranties are given only as of a specified date or dates, the Trust only makes such representations and warranties as of such date or dates), with respect to the Offering, as applicable, that:

a. The Shares have not been registered under the Securities Act, the securities laws of any other State or the securities laws of any other jurisdiction, but will be offered and sold in reliance on an exemption from the registration requirements of the Securities Act and any other applicable laws pursuant to the confidential private placement memorandum, dated as of October 31, 2023 (as amended and/or supplemented from time to time, the “Private Placement Memorandum”). The Shares are being offered and sold (i) in the United States under the exemption provided by Section 4(a)(2) of the Securities Act and Rule 506(b) of Regulation D promulgated thereunder and other exemptions of similar import in the laws of the states and jurisdictions where the Offering will be made, to U.S. persons who are “accredited investors” within the meaning of Regulation D under the Securities Act, and (ii) outside the United States in accordance with Regulation S under the Securities Act. As of the date hereof, no jurisdiction in which the Shares have been or will be offered or sold has issued any notification with respect to the suspension of the qualification of the Shares for sale in such jurisdiction and no proceedings for that purpose have been instituted or are pending or, to the knowledge of the Trust, threatened. The Trust is in compliance in all material respects with all federal and state securities laws, rules and regulations applicable to it and its activities, including, without limitation, with respect to the Offering and the sale of the Shares.

b. The Trust is a statutory trust duly organized, validly existing and in good standing under the laws of the State of Maryland, and is in good standing with the State Department of Assessments and Taxation of Maryland, with full power and authority to conduct its business as described in the Private Placement Memorandum.

c. The Private Placement Memorandum does not, and any amendments thereto will not, contain an untrue statement of material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they are made, not misleading; provided, however, that the Trust makes no warranty or representation with respect to any statement contained in the Private Placement Memorandum, or any amendments or supplements thereto, made in reliance upon and in conformity with information furnished in writing to the Trust by the Dealer Manager or any Participating Broker-Dealer expressly for use in the Private Placement Memorandum or any amendments or supplements thereto.

d. The Trust intends to use the funds received from the sale of the Shares as set forth in the Private Placement Memorandum.

e. Except as have been obtained or waived, no material consent, approval, authorization or other order of any governmental authority is required in connection with the execution or delivery by the Trust of this Agreement or the issuance and sale by the Trust of the Shares, except any necessary qualification under the securities or blue sky laws of the jurisdictions in which the Shares are being offered by the Dealer Manager and the Participating Broker-Dealers; and (b) and necessary qualification or notice under the conduct rules set forth in the Financial Industry Regulatory Authority, Inc. (“FINRA”) rulebook (the “FINRA Rules”).

f. Unless otherwise described in the Private Placement Memorandum, there are no actions, suits or proceedings pending or to the knowledge of the Trust, threatened against the Trust, at law or in equity or before or by any federal or state commission, regulatory body or administrative agency or other governmental body, domestic or foreign, which will have a material adverse effect on the business or property of the Trust (a “Material Adverse Effect”).

g. The execution and delivery of this Agreement, the consummation of the transactions herein contemplated and compliance with the terms of this Agreement by the Trust will not conflict with or constitute a default under (a) the Declaration of Trust or by-laws, (b) any indenture, mortgage, deed of trust, lease or other material agreement to which the Trust is party, (c) any law, rule or regulation applicable to the Trust or (d) any writ, injunction or decree of any government, governmental instrumentality or court, domestic or foreign, having jurisdiction over the Trust, except to the extent that the enforceability of the indemnity and contribution provisions contained in Section 4 of this Agreement may be limited under applicable securities laws and except, in the cases of clauses (b), (c) and (d), for such conflicts or defaults, that individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect.

h. The Trust has full legal right, power and authority to enter into this Agreement and to perform the transactions contemplated hereby, except to the extent that the enforceability of the indemnity and contribution provisions contained in Section 4 of this Agreement may be limited under applicable securities laws.

i. At the time of the issuance of the Shares, the Shares will have been duly authorized and, when issued and sold as contemplated by the Private Placement Memorandum and the Declaration of Trust, and upon payment therefor as provided by the Private Placement Memorandum and this Agreement, will be validly issued, fully paid and nonassessable and will conform to the description thereof contained in the Private Placement Memorandum.

j. Except as otherwise disclosed in the Private Placement Memorandum, the Trust owns or possesses, has the right to use or can acquire on reasonable terms, adequate patents, patent rights, licenses, inventions, copyrights, know-how (including trade secrets and other unpatented and unpatentable proprietary or confidential information, systems or procedures), trademarks, service marks, trade names or other intellectual property (collectively, “Intellectual Property”) necessary to carry on the business now operated by the Trust, except where the failure to have such ownership or possession would not, singly or in the aggregate, have a Material Adverse Effect.

k. The Trust has filed all material federal, state and foreign income tax returns, which have been required to be filed, on or before the due date (taking into account all extensions of time to file) and has paid or provided for the payment of all taxes indicated by said returns and all assessments received by the Trust to the extent that such taxes or assessments have become due, except where the Trust is contesting such assessments in good faith.

l. The Trust does not intend to conduct its business so as to be an “investment company” as that term is defined in the Investment Company Act of 1940, as amended, and the rules and regulations thereunder, and it will exercise reasonable diligence to ensure that it does not become an “investment company” within the meaning of the Investment Company Act of 1940, as amended.

m. The Trust complies in all material respects with applicable privacy provisions of the Gramm-Leach-Bliley Act of 1999 (the “GLB Act”) and applicable provisions of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT Act) of 2001, as amended (the “USA PATRIOT Act”).

n. Any and all printed sales literature or other materials that have been approved in advance in writing by the Trust and appropriate regulatory agencies for use in the Offering (“Authorized Sales Materials”) prepared by the Trust and any of its affiliates (excluding the Dealer Manager) specifically for use with potential investors in connection with the Offering, when used in conjunction with the Private Placement Memorandum, did not at the time provided for use, and, as to later provided materials, will not at the time provided for use, include any untrue statement of a material fact nor did they at the time provided for use, or, as to later provided materials, will they, omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made and when read in conjunction with the Private Placement Memorandum, not misleading. If at any time any event occurs that is known to the Trust as a result of which such Authorized Sales Materials when used in conjunction with the Private Placement Memorandum would include an untrue statement of a material fact or, in view of the circumstances under which they were made, omit to state any material fact necessary to make the statements therein not misleading, the Trust will notify the Dealer Manager thereof.

o. When applicable, the financial statements of the Trust included in the registration statement on Form 10 (the “Form 10”) and included or to be included in the Trust’s periodic reports filed pursuant to the U.S. Securities Exchange Act of 1934, as amended (the “Exchange Act”), together with the related notes, will present fairly, in all material respects, the financial position of the Trust, as of the date specified, in conformity with generally accepted accounting principles applied on a consistent basis and in conformity with Regulation S-X of the U.S. Securities and Exchange Commission (the “SEC”), except as described in the notes thereto.

p. When applicable, the independent accounting firm that will have audited and certified any financial statements included in the Form 10 or to be included in the Trust’s Annual Report on Form 10-K or any amendments thereto, shall be, as of the applicable dates thereof, and shall have been during the periods covered by their report included therein, independent registered public accountants as required by the Securities Act and the rules and regulations of the Public Company Accounting Oversight Board.

q. When applicable, the Trust expects to implement and maintain controls and other procedures that will be designed to ensure that information required to be disclosed by the Trust in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the SEC’s rules and forms and is accumulated and communicated to the Trust’s management, including its chief executive officer and chief financial officer, or persons performing similar functions, as appropriate to allow timely decisions regarding required disclosure; and the Trust will make and keep books, records and accounts which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the Trust; and the Trust expects to implement and maintain a system of internal accounting controls sufficient to provide reasonable assurances that: (i) transactions are executed in accordance with management’s general or specific authorization; (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles and to maintain accountability for assets; (iii) access to assets is permitted only in accordance with management’s general or specific authorization; and (iv) the recorded accountability for assets is compared with existing assets at reasonable intervals and appropriate action is taken with respect to any differences; and, to the Trust’s knowledge, neither the Trust, nor any employee or agent thereof, has made any payment of funds of the Trust or received or retained any funds and no funds of the Trust have been set aside to be used for any payment, in each case in material violation of any law, rule or regulation applicable to the Trust.

r. This Agreement has been duly authorized, executed and delivered by the Trust and, assuming due authorization, execution and delivery by the Dealer Manager, is a legal, valid and binding agreement of the Trust enforceable against the Trust in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium, or similar laws affecting creditors' rights generally, and by general equitable principles, and except to the extent that the enforceability of the indemnity and/or contribution provisions contained in Section 4 of this Agreement may be limited under applicable securities laws

s. The Trust is qualified to do business and is in good standing in every jurisdiction in which the conduct of its business, as described in the Private Placement Memorandum, requires such qualification, except where the failure to do so would not have a Material Adverse Effect.

t. Neither the Trust nor, to the knowledge of the Trust, any trustee, officer, employee or affiliate of the Trust is aware of or has taken any action, directly or indirectly, that would result in a violation by such persons of the Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations thereunder.

2. *Covenants of the Trust.* The Trust covenants and agrees with the Dealer Manager that:

a. The Trust will promptly advise the Dealer Manager of the receipt of any material comments of, or requests for additional or supplemental information from, the SEC to the extent that the Trust expects such comments or requests will have a Material Adverse Effect on the Trust or the Shares and of any proposed amendment or supplement to the Private Placement Memorandum. Prior to amending or supplementing the Private Placement Memorandum, the Trust shall furnish to the Dealer Manager for its review, a reasonable period of time prior to the proposed use thereof, a copy of each such proposed amendment or supplement. The Trust will file and amend a Form D in accordance with the rules and regulations of the Securities Act.

b. The Trust will, at no expense to the Dealer Manager, furnish the Dealer Manager with such number of printed copies of the Private Placement Memorandum, including all amendments and exhibits thereto, and the Authorized Sales Materials as the Dealer Manager may reasonably request. The Trust will similarly furnish to the Dealer Manager and Participating Broker-Dealers designated by the Dealer Manager as many copies of the following documents as the Dealer Manager may reasonably request in connection with the sale of Shares: (a) the Private Placement Memorandum, including all amendments and exhibits thereto; and (b) any other Authorized Sales Materials.

c. The Trust will use its commercially reasonable efforts to (a) qualify the Shares for sale under, or to establish the exemption of the sale of the Shares from qualification or registration under, the applicable state securities laws, or the applicable laws of any non-U.S. jurisdiction, designated in Schedule II hereto (the "Qualified Jurisdictions") and (b) maintain such qualifications or exemptions in effect throughout the Offering. In connection therewith, the Trust will prepare and file all such reports as may be required by the securities regulatory authorities in the Qualified Jurisdictions in which the Shares have been sold, provided that the Dealer Manager shall have provided the Trust with any information required for such filings or reports that is in the Dealer Manager's possession. The Trust will notify the Dealer Manager promptly following each date of (i) the effectiveness of qualification or exemption of Shares in any additional jurisdiction in which the sale of Shares has been authorized by appropriate state regulatory authorities; and (ii) a change in the status of the qualification or exemption of the Shares in any jurisdiction in any respect. The Trust will file and obtain clearance of the Authorized Sales Materials only to the extent required by FINRA or applicable state securities laws. The Trust will furnish to the Dealer Manager a copy of such papers filed by the Trust in connection with any such qualification.

d. If at any time when a Private Placement Memorandum is delivered to a potential investor any event occurs as a result of which, in the opinion of either the Trust or the Dealer Manager, the Private Placement Memorandum would include an untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, the Trust will promptly notify the Dealer Manager thereof (unless the information shall have been received from the Dealer Manager) and will effect the preparation of an amended or supplemental Private Placement Memorandum that will correct such statement or omission.

e. The Trust is conducting the offering of Shares as a private placement and shall not take any action that (i) causes the offering of the Shares to lose any exemption from registration with the SEC provided by Section 4(a)(2) of the Securities Act and/or any regulations promulgated thereunder or (ii) causes the offering of Shares to lose its exemption from registration provided by Rule 506(b) of Regulation D under the Securities Act.

f. The Trust will operate in a manner so as to enable the Trust to qualify to be taxed as a REIT under the Code, for each taxable year during which it elects to be treated as a REIT under the Code; provided, however, that at the discretion of the Trust's board of trustees, it may elect to not be so treated.

### 3. *Obligations and Compensation of Dealer Manager.*

a. The Trust hereby appoints the Dealer Manager as its agent during the Offering to solicit subscriptions for the Shares upon the other terms and conditions set forth in the Private Placement Memorandum and the Subscription Agreement. The Dealer Manager hereby accepts such agency and agrees to use its best efforts to procure subscribers for the Shares during the Offering, including through the Participating Broker-Dealers. The Dealer Manager represents to the Trust that it is a member in good standing of FINRA and that it and its employees and representatives have all required licenses and registrations to act under this Agreement. With respect to the Dealer Manager's participation in the distribution of the Shares in the Offering, the Dealer Manager agrees to comply, and ensure that the Participating Broker-Dealers comply, in all material respects with the applicable requirements of the Securities Act, the Exchange Act, and the rules and regulations promulgated thereunder, and all other state or federal laws, rules and regulations applicable to the Offering and the sale of Shares, all applicable state securities laws and regulations, and the rules of FINRA applicable to the Offering, from time to time in effect.

b. The Dealer Manager shall comply, and require in the Participating Dealer Agreement that the Participating Broker-Dealers comply, with (a) the privacy standards and requirements of the GLB Act; (b) the privacy standards and requirements of any other applicable federal or state law; and (c) its own internal privacy policies and procedures, each as may be amended from time to time.

c. Promptly after the execution of this Agreement, the Dealer Manager and the Participating Broker-Dealers shall commence the offering of the Shares in the Offering for cash in such jurisdictions in which the Offering is permitted.

d. The Dealer Manager shall cause the Shares to be offered and sold only in each jurisdiction designated in Schedule II hereto as "Qualified Jurisdictions," and in such additional jurisdictions as may be added thereto from time to time. No Shares shall be offered or sold for the account of the Trust in any other jurisdictions. The Dealer Manager shall use and distribute in conjunction with the offer and sale of any Shares only the Private Placement Memorandum and the Authorized Sales Materials. The Authorized Sales Materials may only be furnished to prospective investors if accompanied or preceded by the Private Placement Memorandum. The Dealer Manager represents and warrants to the Trust that it

will not (i) use any sales literature not authorized and approved by the Trust; (ii) use any “broker-dealer use only” or “advisor use only” materials with prospective investors in connection with offers or sales of the Shares; or (iii) offer or sell Shares by means of any form of general solicitation or general advertisement, including but not limited to (A) any advertisement, article, notice or other communication published in any newspaper, magazine or similar media or broadcast over television or radio and (B) any seminar or meeting whose attendees have been invited by any general solicitation or general advertising. The Dealer Manager agrees to comply with all applicable requirements under the Securities Act, the Exchange Act, conduct rules and/or regulations promulgated by FINRA or its predecessor, the National Association of Securities Dealers, Inc. (“NASD”), and any other foreign, state or local securities or other laws or rules of FINRA or any other applicable self-regulatory organization in offering and selling Shares. The Dealer Manager agrees, and will cause the Participating Broker-Dealers to each agree, to suspend or terminate offering and sale of the Shares upon request of the Trust at any time and to resume offering and sale of the Shares upon subsequent request of the Trust.

e. Subject to volume discounts and other special circumstances described in or otherwise provided in this Agreement and under the caption “Plan of Distribution” in the Private Placement Memorandum, which may be amended, restated or supplemented from time to time, the Trust will pay to the Dealer Manager selling commissions in connection with sales of Class T, Class S and Class D Shares, as described in Schedule 1 to this Agreement. The applicable selling commissions payable to the Dealer Manager will be paid substantially concurrently with the execution by the Trust of orders submitted by purchasers of Class T, Class S and Class D Shares and all or a portion of the selling commissions may be reallocated by the Dealer Manager to the Participating Broker-Dealers who sold the Class T, Class S or Class D Shares giving rise to such selling commissions, as described more fully in the Participating Dealer Agreement entered into with each such Participating Broker-Dealer.

f. Subject to volume discounts and other special circumstances described in or otherwise provided in this Agreement and under the caption “Plan of Distribution” in the Private Placement Memorandum, which may be amended and restated from time to time, the Trust will pay to the Dealer Manager dealer manager fees in connection with sales of Class T Shares, as described in Schedule 1 to this Agreement. The applicable dealer manager fees payable to the Dealer Manager will be paid substantially concurrently with the execution by the Trust of orders submitted by purchasers of Class T Shares and all or a portion of the dealer manager fees may be reallocated by the Dealer Manager to the Participating Broker-Dealers who sold the Class T Shares giving rise to such dealer manager fees, as described more fully in the Participating Dealer Agreement entered into with each such Participating Broker-Dealer.

g. Except as may be provided in the “Plan of Distribution” section of the Private Placement Memorandum, which may be amended, restated or supplemented from time to time, subject to the limitations set forth in Section 3.g. below, the Trust will pay to the Dealer Manager a shareholder servicing fee with respect to sales of Class S and Class D Shares and an advisor shareholder servicing fee and dealer shareholder servicing fee with respect to Class T Shares, all as described in Schedule 1 to this Agreement (the “Servicing Fee”). The Trust will pay the Servicing Fee to the Dealer Manager monthly in arrears. The Dealer Manager may reallocate all or a portion of the Servicing Fee to any Participating Broker-Dealers who sold the Class T, Class S or Class D Shares giving rise to a portion of such Servicing Fee to the extent the Participating Dealer Agreement with such Participating Broker-Dealer provides for such a reallocation and such Participating Broker-Dealer is in compliance with the terms of such Participating Dealer Agreement related to such reallocation. Notwithstanding the foregoing, subject to the terms of the Private Placement Memorandum, at such time as the Participating Broker-Dealer who sold the Class T, Class S or Class D Shares giving rise to a portion of the Servicing Fee is no longer the broker-dealer of record with respect to such Class T, Class S or Class D Shares or that the Participating Broker-Dealer no longer satisfies any or all of the conditions in its Participating Dealer Agreement for the receipt of the Servicing Fee, then Participating Broker-Dealer’s entitlement to the Servicing Fees related to such Class T,



Class S or Class D Shares, as applicable, shall cease, and Participating Broker-Dealer shall not receive the Servicing Fee for any month in which Participating Broker-Dealer is not eligible on the last day of such month. Broker-dealer transfers will be made effective as of the start of the first business day of a month.

Thereafter, such Servicing Fees may be reallocated to the then-current broker-dealer of record of the Class T, Class S or Class D Shares, as applicable, if any such broker-dealer of record has been designated (the “Servicing Dealer”), to the extent such Servicing Dealer has entered into a Participating Dealer Agreement or similar agreement with the Dealer Manager (“Servicing Agreement”), such Participating Dealer Agreement or Servicing Agreement with the Servicing Dealer provides for such reallocation and the Servicing Dealer is in compliance with the terms of such agreement related to such reallocation. In this regard, all determinations will be made by the Dealer Manager in good faith in its sole discretion. The Participating Broker-Dealer is not entitled to any Servicing Fee with respect to Class I or Class E Shares. The Dealer Manager may also reallocate some or all of the Servicing Fee to other broker-dealers who provide services with respect to the Shares (who shall be considered additional Servicing Dealers) pursuant to a Servicing Agreement with the Dealer Manager to the extent such Servicing Agreement provides for such reallocation and such additional Servicing Dealer is in compliance with the terms of such agreement related to such reallocation, in accordance with the terms of such Servicing Agreement.

h. The Dealer Manager shall cease receiving the Servicing Fee with respect to any Class T Shares, Class S Shares or Class D Shares held in a shareholder’s account at the end of the month in which the Dealer Manager, in conjunction with the transfer agent, determines that total selling commissions, dealer manager fees and Servicing Fees paid with respect to such Shares would exceed any applicable limit set by a participating broker-dealer set forth in any applicable agreement between the Dealer Manager and a Participating Broker-Dealer at the time such shares were issued. At the end of such month, such Class T Shares, Class S Shares and Class D Shares (and any Shares issued under the DRIP with respect thereto) held in a shareholder’s account shall automatically convert without any action on the part of the holder thereof into a number of Class I Shares (including any fractional Shares) with an equivalent aggregate NAV as such Shares. In addition, the Dealer Manager will cease receiving the Servicing Fee on Class T Shares, Class S Shares and Class D Shares in connection with an Offering upon the earlier to occur of the following: (i) a listing of Class I Shares or (ii) the merger or consolidation of the Trust with or into another entity or the sale or other disposition of all or substantially all of the Trust’s assets in each case in a transaction in which the Trust’s shareholders receive cash or shares listed on a national stock exchange.

i. The terms of any reallocation of selling commissions, dealer manager fees and the Servicing Fee shall be set forth in the Participating Dealer Agreement or Servicing Agreement entered into with the Participating Broker-Dealers or Servicing Dealers, as applicable. The Trust will not be liable or responsible to any Participating Broker-Dealer or Servicing Dealer for direct payment of commissions, or any reallocation of dealer manager fees or the Servicing Fee to such Participating Broker-Dealer or Servicing Dealer, it being the sole and exclusive responsibility of the Dealer Manager for payment of commissions or any reallocation of dealer manager fees or the Servicing Fee to Participating Broker-Dealers and Servicing Dealers. Notwithstanding the foregoing, at the discretion of the Trust, the Trust may act as agent of the Dealer Manager by making direct payment of commissions, dealer manager fees or Servicing Fees to Participating Broker-Dealers on behalf of the Dealer Manager without incurring any liability.

j. In addition to the other items of underwriting compensation set forth in this Section 3, the Trust or Starwood Credit Advisors, L.L.C. (the “Advisor”) shall reimburse the Dealer Manager for all items of underwriting compensation referenced in the Private Placement Memorandum, to the extent the Private Placement Memorandum indicates that they will be paid by the Trust or the Advisor, as applicable.

k. In addition to reimbursement as provided under Section 3.i., the Trust shall also pay directly or reimburse the Dealer Manager for reasonable bona fide due diligence expenses incurred by any Participating Broker-Dealer as described in the Private Placement Memorandum. The Dealer Manager shall obtain from any Participating Broker-Dealer and provide to the Trust a detailed and itemized invoice for any such due diligence expenses.

l. The Dealer Manager represents and warrants to the Trust that the information under the caption “Plan of Distribution” in the Private Placement Memorandum and all other information furnished to the Trust by the Dealer Manager in writing expressly for use in the Private Placement Memorandum, or any amendment or supplement thereto, does not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading.

m. The Dealer Manager and all Participating Broker-Dealers will offer and sell the Shares at the offering prices per Share as determined in accordance with the Private Placement Memorandum.

n. The Dealer Manager has not taken and shall not take any action that (i) causes the offering of the Shares to lose any exemption from registration with the SEC provided by Section 4(a)(2) of the Securities Act and/or any regulations promulgated thereunder or (ii) causes the offering of Shares to lose its exemption from registration provided by Rule 506(b) of Regulation D under the Securities Act.

o. Neither the Dealer Manager nor any of its affiliates, directors, executive officers, general partners, managing members, beneficial owners of 20% or more of the Dealer Manager’s outstanding voting equity securities or promoters are or have been subject to any order, conviction, suspension, expulsion or other event which would bar the Trust from relying on Rule 506 pursuant to Rule 506(d) or which would require disclosure to prospective purchasers of securities in the Offering pursuant to Rule 506(e).

p. Neither the Dealer Manager nor any of its directors, executive officers, general partners, managing members or other officers participating in the Offering, nor any of the directors, executive officers or other officers participating in the Offering of any such general partner or managing member, nor any other officers, employees or associated persons of the Dealer Manager or any such general partner or managing member that have been or will be paid (directly or indirectly) remuneration for solicitation of purchasers in connection with the offer and sale of Shares (each, a “Dealer Manager Covered Person” and, together, “Dealer Manager Covered Persons”), is subject to any of the “Bad Actor” disqualifications (“Disqualification Events”) set forth in Rule 506(d) of Regulation D under the Securities Act applicable to the Dealer Manager except for a Disqualification Event contemplated by Rule 506(d)(2) of the Securities Act, a description of which has been furnished in writing to the Trust prior to the date hereof. The “Bad Actor” disqualifications include, among other things: (1) criminal convictions and court injunctions and restraining orders issued in connection with the purchase or sale of a security or false filings with the SEC; (2) final orders from the Commodities Futures Trading Commission, federal banking agencies and certain other regulators that bar a person from associating with a regulated entity or engaging in the business of securities, insurance or banking or that are based on certain fraudulent conduct; (3) SEC disciplinary orders relating to investment advisers, brokers, dealers and their associated persons; (4) SEC cease-and-desist orders relating to violations of certain anti-fraud provisions and registration requirements of the federal securities laws; (5) suspensions or expulsions from membership in a self-regulatory organization (“SRO”) or from association with an SRO member; and (6) U.S. Postal Service false representation orders. To the extent permitted by applicable law and without disclosing any non-public personal information regarding any Dealer Manager Covered Person, the Dealer Manager will promptly notify the Trust if it becomes aware of a Dealer Manager Covered Person who is or becomes the subject of a Disqualifying Event or determines that the Trust’s exemption under Rule 506 is no longer available as a result of any Disqualifying Event.

q. In its agreements with Participating Broker-Dealers, the Dealer Manager will require the Participating Broker-Dealers to represent that:

- (i) it has exercised reasonable care, in accordance with section (e) of Rule 506, in making a factual inquiry into whether any Disqualifying Event exists with respect to the Participating Broker-Dealer or any of its Covered Persons;
- (ii) it shall make periodic factual inquiry as to the occurrence or existence of any Disqualifying Events with respect to itself and its Covered Persons, and shall conduct such factual inquiry with reasonable care in accordance with subsection (d)(2)(iv) of Rule 506;
- (iii) To the extent permitted by applicable law, it will promptly notify the Trust if it is or becomes subject to a Disqualifying Event or if it becomes aware that any of its Covered Persons is or becomes the subject of a Disqualifying Event; and
- (iv) If a Disqualifying Event occurs with respect to any of its Covered Persons, the Trust shall have the right to terminate the Participating Dealer Agreement with effect from the date of the occurrence of the Disqualifying Event.

#### 4. *Indemnification.*

a. Subject to the limitations below, the Trust will indemnify and hold harmless the Participating Broker-Dealers and the Dealer Manager, their officers and directors and each person, if any, who controls such Participating Broker-Dealer or Dealer Manager within the meaning of Section 15 of the Securities Act (the "Indemnified Persons") from and against any losses, claims, damages or liabilities ("Losses"), joint or several, to which such Indemnified Persons may become subject, under the Securities Act, the Exchange Act or otherwise, insofar as such Losses (or actions in respect thereof) arise out of or are based upon (a) any untrue statement of a material fact contained (i) in the Private Placement Memorandum, or (ii) in any Authorized Sales Materials, or (b) the omission to state in the Private Placement Memorandum or Authorized Sales Materials a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. The Trust will reimburse the Dealer Manager and each Indemnified Person of the Dealer Manager for any legal or other expenses reasonably incurred by the Dealer Manager or such Indemnified Person in connection with investigating or defending such Loss.

Notwithstanding the foregoing provisions of this Section 4.a., the Trust may not indemnify or hold harmless the Dealer Manager, any Participating Broker-Dealer or any of their affiliates for liabilities arising from or out of a violation of state or federal securities laws, unless one or more of the following conditions are met:

- (i) There has been a successful adjudication on the merits of each count involving alleged securities law violations as to the particular indemnitee;
- (ii) Such claims have been dismissed with prejudice on the merits by a court of competent jurisdiction as to the particular indemnitee; or
- (iii) A court of competent jurisdiction approves a settlement of the claims against the particular indemnitee and finds that indemnification of the settlement and the related costs should be made,

and the court considering the request for indemnification has been advised of the position of the Commission and of the published position of any state securities regulatory authority in which the securities were offered or sold as to indemnification for violations of securities laws.

Further notwithstanding the foregoing provisions of this Section 4.a., the Trust will not be liable in any such case to the extent that any such Loss or expense arises out of or is based upon an untrue statement or omission made in reliance upon and in conformity with written information furnished (x) to the Trust by the Dealer Manager or (y) to the Trust or the Dealer Manager by or on behalf of any Participating Broker-Dealer specifically for use in the Private Placement Memorandum or any Authorized Sales Materials, and, further, the Trust will not be liable for the portion of any Loss in any such case if it is determined that such Participating Broker-Dealer or the Dealer Manager was at fault in connection with such portion of the Loss, expense or action.

The foregoing indemnity agreement of this Section 4.a. is subject to the further condition that, insofar as it relates to any untrue statement or omission made in the Private Placement Memorandum that was eliminated or remedied in any subsequent amendment or supplement thereto, such indemnity agreement shall not inure to the benefit of an Indemnified Party from whom the person asserting any Losses purchased the Shares that are the subject thereof, if a copy of the Private Placement Memorandum as so amended or supplemented was not sent or given to such person at or prior to the time the subscription of such person was accepted by the Trust, but only if a copy of the Private Placement Memorandum as so amended or supplemented had been supplied to the Dealer Manager or the Participating Broker-Dealer prior to such acceptance.

b. The Dealer Manager will indemnify and hold harmless the Trust, its officers and trustees (including any person named in the Private Placement Memorandum, with his or consent, as about to become a trustee) and each person, if any, who controls the Trust within the meaning of Section 15 of the Securities Act (the “Trust Indemnified Persons”), from and against any Losses to which any of the Trust Indemnified Persons may become subject, under the Securities Act, the Exchange Act or otherwise, insofar as such Losses (or actions in respect thereof) arise out of or are based upon (a) any untrue statement of a material fact contained (i) in the Private Placement Memorandum or (ii) in any Authorized Sales Materials; or (b) the omission to state in the Private Placement Memorandum or Authorized Sales Materials a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, provided that clauses (a) and (b) apply, to the extent, but only to the extent, that such untrue statement or omission was made in reliance upon and in conformity with written information furnished to the Trust by or on behalf of the Dealer Manager specifically for use with reference to the Dealer Manager in the preparation of the Private Placement Memorandum or any or supplement thereto or in preparation of Authorized Sales Materials; or (c) any use of sales literature not authorized or approved by the Trust or any use of “broker-dealer use only” or “advisor use only” materials with members of the public by the Dealer Manager in the offer and sale of the Shares or any use of sales literature in a particular jurisdiction if such material bears a legend denoting that it is not to be used in connection with the sale of Shares to persons in such jurisdiction; or (d) any untrue statement made by the Dealer Manager or its representatives or agents or omission to state a fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading in connection with the offer and sale of the Shares; or (e) any material violation of this Agreement; or (f) any failure to comply with applicable laws governing privacy issues, money laundering abatement and anti-terrorist financing efforts, including applicable rules of the SEC, FINRA and the USA PATRIOT Act; or (g) any other failure to comply with applicable rules of FINRA or federal or state securities laws and the rules and regulations promulgated thereunder. The Dealer Manager will reimburse the aforesaid parties for any legal or other expenses reasonably incurred by them in connection with investigating or defending such Loss, expense or action. This indemnity agreement will be in addition to any liability that the Dealer Manager may otherwise have.

c. Each Participating Broker-Dealer severally will indemnify and hold harmless the Trust, the Dealer Manager, each of their officers, trustees and directors (including any person named in the Private Placement Memorandum, with his or her consent, as about to become a trustee) and each person, if any, who controls the Trust or the Dealer Manager within the meaning of Section 15 of the Securities Act (the “Dealer Indemnified Persons”) from and against any Losses to which a Dealer Indemnified Person may become subject, under the Securities Act, the Exchange Act or otherwise, insofar as such Losses (or actions in respect thereof) arise out of or are based upon (a) any untrue statement of a material fact contained (i) in the Private Placement Memorandum, or any amendment or supplement thereto, or (ii) in any Authorized Sales Materials; or (b) the omission to state in the Private Placement Memorandum or Authorized Sales Materials a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, provided that clauses (a) and (b) apply, to the extent, but only to the extent, that such untrue statement or omission was made in reliance upon and in conformity with written information furnished to the Trust or the Dealer Manager by or on behalf of the Participating Broker-Dealer specifically for use with reference to the Participating Broker-Dealer in the preparation of the Private Placement Memorandum or in preparation of Authorized Sales Materials; or (c) any use of sales literature not authorized or approved by the Trust or any use of “broker-dealer use only” or “advisor use only” materials with members of the public by the Participating Broker-Dealer in the offer and sale of the Shares or any use of sales literature in a particular jurisdiction if such material bears a legend denoting that it is not to be used in connection with the sale of Shares to members of the public in such jurisdiction; or (d) any untrue statement made by the Participating Broker-Dealer or its representatives or agents or omission to state a fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading in connection with the offer and sale of the Shares; or (e) any material violation of this Agreement or the Participating Dealer Agreement entered into between the Dealer Manager and the Participating Broker-Dealer; or (f) any failure or alleged failure to comply with all applicable laws, including, without limitation, laws governing privacy issues, money laundering abatement and anti-terrorist financing efforts, including applicable rules of the SEC, FINRA and the USA PATRIOT Act; or (g) any other failure or alleged failure to comply with applicable rules of FINRA or federal or state securities laws and the rules and regulations promulgated thereunder. Each such Participating Broker-Dealer will reimburse each Participating Broker-Dealer Indemnified Person for any legal or other expenses reasonably incurred by them in connection with investigating or defending any such Loss, expense or action. This indemnity agreement will be in addition to any liability that such Participating Broker-Dealer may otherwise have.

d. Promptly after receipt by an indemnified party under this Section 4 of notice of the commencement of any action, such indemnified party will, if a claim in respect thereof is to be made against any indemnifying party under this Section 4, notify in writing the indemnifying party of the commencement thereof. The failure of an indemnified party to so notify the indemnifying party will relieve the indemnifying party from any liability under this Section 4 as to the particular item for which indemnification is then being sought, but not from any other liability that it may have to any indemnified party. In case any such action is brought against any indemnified party, and it notifies an indemnifying party of the commencement thereof, the indemnifying party will be entitled, to the extent it may wish, jointly with any other indemnifying party similarly notified, to participate in the defense thereof, with separate counsel. Such participation shall not relieve such indemnifying party of the obligation to reimburse the indemnified party for reasonable legal and other expenses (subject to Section 4.e.) incurred by such indemnified party in defending itself, except for such expenses incurred after the indemnifying party has deposited funds sufficient to effect the settlement, with prejudice, of the claim in respect of which indemnity is sought. Any such indemnifying party shall not be liable to any such indemnified party on account of any settlement of any claim or action effected without the consent of such indemnifying party. Any indemnified party shall not be bound to perform or refrain from performing any act pursuant to the terms of any settlement of any claim or action effected without the consent of such indemnified party.

e. The indemnifying party shall pay all legal fees and expenses of the indemnified party in the defense of such claims or actions; provided, however, that the indemnifying party shall not be obliged to pay legal expenses and fees to more than one law firm in connection with the defense of similar claims arising out of the same alleged acts or omissions giving rise to such claims notwithstanding that such actions or claims are alleged or brought by one or more parties against more than one indemnified party. If such claims or actions are alleged or brought against more than one indemnified party, then the indemnifying party shall only be obliged to reimburse the expenses and fees of the one law firm that has been selected by a majority of the indemnified parties against which such action is finally brought; and in the event a majority of such indemnified parties are unable to agree on which law firm for which expenses or fees will be reimbursable by the indemnifying party, then payment shall be made to the first law firm of record representing an indemnified party against the action or claim. Such law firm shall be paid only to the extent of services performed by such law firm and no reimbursement shall be payable to such law firm on account of legal services performed by another law firm.

f. The indemnity agreements contained in this Section 4 shall remain operative and in full force and effect regardless of (a) any investigation made by or on behalf of any Participating Broker-Dealer, or any person controlling any Participating Broker-Dealer or by or on behalf of the Trust, the Dealer Manager or any officer or director thereof, or by or on behalf of any person controlling the Trust or the Dealer Manager, (b) delivery of any Shares and payment therefor, and (c) any termination of this Agreement. A successor of any Participating Broker-Dealer or of any of the parties to this Agreement, as the case may be, shall be entitled to the benefits of the indemnity agreements contained in this Section 4.

5. *Survival of Provisions.*

a. The respective agreements, representations and warranties of the Trust and the Dealer Manager set forth in this Agreement shall remain operative and in full force and effect regardless of (a) any investigation made by or on behalf of the Dealer Manager or any Participating Broker-Dealer or any person controlling the Dealer Manager or any Participating Broker-Dealer or by or on behalf of the Trust or any person controlling the Trust; (b) the acceptance of any payment for the Shares; and (c) the delivery of signed Subscription Agreements.

b. The respective agreements of the Trust and the Dealer Manager set forth in Sections 3.d. through 3.j. and Sections 4 through 14 of this Agreement shall remain operative and in full force and effect regardless of any termination of this Agreement.

6. *Applicable Law.* The validity, interpretation and construction of this Agreement shall be governed by, the laws of the State of New York; provided however, that causes of action for violations of federal or state securities laws shall not be governed by this Section. Venue for any action brought hereunder shall lie exclusively in New York, New York.

7. *Counterparts.* This Agreement may be executed in any number of counterparts. Each counterpart, when executed and delivered, shall be an original contract, but all counterparts, when taken together, shall constitute one and the same Agreement.

8. *Successors and Amendment.*

a. This Agreement shall inure to the benefit of and be binding upon the Dealer Manager and the Trust and their respective successors. Nothing in this Agreement is intended or shall be construed to give to any other person any right, remedy or claim, except as otherwise specifically provided herein. Each Participating Broker-Dealer is an intended third-party beneficiary with respect to Sections 1 and 4 hereof with direct enforcement rights hereunder.

b. This Agreement may be amended by the written agreement of the Dealer Manager and the Trust.

c. Neither the Trust nor the Dealer Manager may assign or transfer any of such party's rights or obligations under this Agreement without the prior written consent of the Dealer Manager, on the one hand, or the Trust, on the other hand.

9. *Entire Agreement.* This Agreement and the Exhibits attached hereto constitute the entire agreement among the parties and supersede any prior understanding, whether written or oral, prior to the date hereof with respect to the Offering.

10. *Term and Termination.*

Any party to this Agreement shall have the right to terminate this Agreement on 60 days' written notice or immediately upon notice to the other party in the event that such other party shall have failed to comply with any material provision hereof. Upon expiration or termination of this Agreement, (a) the Trust shall pay to the Dealer Manager all earned but unpaid compensation and reimbursement for all incurred, accountable compensation to which the Dealer Manager is or becomes entitled under Section 3 pursuant to the requirements of that Section 3 at such times as such amounts become payable pursuant to the terms of such Section 3, offset by any losses suffered by the Trust or any officer or director of the Trust arising from the Dealer Manager's breach of this Agreement or an action that would otherwise give rise to an indemnification claim against the Dealer Manager under Section 4.b. herein, and (b) the Dealer Manager shall promptly deliver to the Trust all records and documents in its possession that relate to the Offering other than as required by law to be retained by the Dealer Manager. Dealer Manager shall use its commercially reasonable efforts to cooperate with the Trust to accomplish an orderly transfer of management of the Offering to a party designated by the Trust.

11. *Confirmation.* The Trust hereby agrees and assumes the duty to confirm on its behalf and on behalf of Participating Broker-Dealers who sell the Shares all orders for purchase of Shares accepted by the Trust. Such confirmations will comply with the rules of the SEC and FINRA, and will comply with applicable laws of such other jurisdictions to the extent the Trust is advised of such laws in writing by the Dealer Manager.

12. *Private Placement Memorandum and Authorized Sales Materials.* Dealer Manager agrees that it is not authorized or permitted to give and will not give, any information or make any representation concerning the Shares except as set forth in the Private Placement Memorandum and any Authorized Sales Materials. The Dealer Manager further agrees (a) not to deliver any Authorized Sales Materials to any investor or prospective investor, to any broker-dealer that has not entered into a Participating Dealer Agreement or Servicing Agreement, or to any representatives or other associated persons of such a broker-dealer, unless it is accompanied or preceded by the Private Placement Memorandum, as amended or supplemented, (b) not to show or give to any investor or prospective investor or reproduce any material or writing that is supplied to it by the Trust and marked "dealer only," "financial advisor use only" or otherwise bearing a legend denoting that it is not to be used in connection with the sale of Shares to members of the public and (c) not to show or give to any investor or prospective investor in a particular jurisdiction (and will similarly require Participating Broker-Dealers pursuant to the Participating Dealer Agreement) any material or writing that is supplied to it by the Trust if such material bears a legend denoting that it is not to be used in connection with the sale of Shares to members of the public in such jurisdiction. Dealer Manager, in its agreements with Participating Broker-Dealers, will include requirements and obligations of the Participating Broker-Dealers similar to those imposed upon the Dealer Manager pursuant to this section.



13. *Suitability of Investors.* The Dealer Manager will offer Shares, and in its agreements with Participating Broker-Dealers will require that the Participating Broker-Dealers offer Shares, only to those persons who meet the suitability standards set forth in the Private Placement Memorandum or in any suitability letter or memorandum sent by the Trust (including, for the avoidance of doubt, only from investors each of which, together with any other investor for which such investor is acting as a trustee or other fiduciary, the Dealer Manager or Participating Broker-Dealer making such offering of Shares, shall reasonably believe (a) is an “accredited investor” with respect to the Shares within the meaning of Regulation D under the Securities Act; or (b) is not a United States person within the meaning of Rule 902 under the Securities Act) and will only make offers to persons in the jurisdictions in which it is advised in writing that the Shares are qualified for sale or that such qualification is not required. Notwithstanding the qualification of the Shares for sale in any respective jurisdiction (or the exemption therefrom), the Dealer Manager represents, warrants and covenants that it will not offer Shares and will not permit any of its registered representatives to offer Shares in any jurisdiction unless both the Dealer Manager and such registered representative are duly licensed to transact securities business in such jurisdiction. In offering Shares, the Dealer Manager will comply, and in its agreements with Participating Broker-Dealers, the Dealer Manager will require that the Participating Broker-Dealers comply, with the provisions of the FINRA Rules, as well as all other applicable rules and regulations relating to suitability of investors.

The Dealer Manager further represents, warrants and covenants that neither the Dealer Manager, nor any person associated with the Dealer Manager, shall offer or sell Shares in any jurisdiction except to investors who satisfy the investor suitability standards and minimum investment requirements under the most restrictive of the following: (a) applicable provisions described in the Private Placement Memorandum, including status as an “accredited investor” as defined in Regulation D under the Securities Act, minimum income and net worth standards; (b) applicable laws of the jurisdiction of which such investor is a resident; or (c) applicable FINRA Rules. The Dealer Manager agrees to ensure that, in recommending the purchase, sale or exchange of Shares to an investor, the Dealer Manager, or a person associated with the Dealer Manager, shall have reasonable grounds to believe, on the basis of information obtained from the investor (and thereafter maintained in the manner and for the period required by the SEC, any state securities commission, any applicable non-U.S. jurisdiction, FINRA or the Trust) concerning his or her age, investment objectives, other investments, financial situation and needs and any other information known to the Dealer Manager, or person associated with the Dealer Manager, that (i) the investor can reasonably benefit from an investment in the Shares based on the investor’s overall investment objectives and portfolio structure, (ii) the investor is able to bear the economic risk of the investment based on the investor’s overall financial situation and (iii) the investor has an apparent understanding of (A) the fundamental risks of the investment, (B) the risk that the investor may lose his or her entire investment in the Shares, (C) the lack of liquidity of the Shares, (D) the background and qualifications of the Advisor or the persons responsible for directing and managing the Trust and (E) the tax consequences of an investment in the Shares. In the case of sales to fiduciary accounts, the suitability standards must be met by the person who directly or indirectly supplied the funds for the purchase of the Shares or by the beneficiary of such fiduciary account; and the purchaser of Shares has a substantive pre-existing relationship with the Dealer Manager pursuant to Regulation D under the Securities Act. The Dealer Manager further represents, warrants and covenants that the Dealer Manager, or a person associated with the Dealer Manager, will make every reasonable effort to determine the suitability and appropriateness of an investment in Shares of each proposed investor by reviewing documents and records disclosing the basis upon which the determination as to suitability was reached as to each purchaser of Shares pursuant to a subscription solicited by the Dealer Manager, whether such documents and records relate to accounts which have been closed, accounts which are currently maintained or accounts hereafter established. The Dealer Manager agrees to retain its records in compliance with applicable law and make available a record of the information obtained to determine that an investor meets the suitability standards imposed on the offer or sale of Shares at the time of the initial purchase of Shares to (i) the Trust and (ii) representatives of the SEC, FINRA and applicable state or non-U.S. securities administrators upon the Dealer Manager’s receipt of an appropriate document subpoena or other appropriate

request for documents from any such agency for a period of at least six years following the Termination Date. In addition, at the Trust's reasonable written request, which shall be no later than the six year anniversary of the Termination Date, and at the Trust's sole expense, the Dealer Manger agrees to retain such records for a reasonable period of time beyond the six year anniversary of the Termination Date. The Dealer Manager shall not purchase any Shares for a discretionary account without obtaining the prior written approval of the Dealer Manager's customer and his or her signature on a Subscription Agreement.

14. *Submission of Orders.* The Dealer Manager will require in its agreements with each Participating Broker-Dealer that each Participating Broker-Dealer comply with the submission of orders procedures set forth in the form of Participating Dealer Agreement attached as "Exhibit A" to this Agreement. To the extent the Dealer Manager is involved in the distribution process other than through a Participating Broker-Dealer, the Dealer Manager will comply with such submission of orders procedures, and will require each person desiring to purchase Shares in the Offering to complete and execute a subscription agreement in the form filed as an appendix to the Private Placement Memorandum or such other form agreed to by the Trust (a "Subscription Agreement") and to deliver to the Dealer Manager or as otherwise directed by the Dealer Manager such completed and executed Subscription Agreement together with a check or wire transfer ("instrument of payment") in the amount of such person's purchase, which must be at least the minimum purchase amount set forth in the Private Placement Memorandum. Subscription Agreements and instruments of payment will be transmitted by the Dealer Manager to the Trust, as soon as practicable, but in any event by the end of the second business day following receipt by the Dealer Manager. If the Dealer Manager receives a Subscription Agreement or instrument of payment not conforming to the instructions set forth in the form of Participating Dealer Agreement, the Dealer Manager shall return such Subscription Agreement and instrument of payment directly to such subscriber not later than the end of the next business day following its receipt. Instruments of payment of rejected subscribers will be promptly returned to such subscribers.

15. *Notice.* Notices and other writings contemplated by this Agreement shall be delivered via (i) hand, (ii) first class registered or certified mail, postage prepaid, return receipt requested, (iii) a nationally recognized overnight courier or (iv) electronic mail. All such notices shall be addressed, as follows:

If to the Dealer Manager:                   Starwood Capital, L.L.C.  
Attn: Matthew Guttin  
591 West Putnam Avenue  
Greenwich, CT 06830  
Email: mguttin@starwood.com

If to the Trust:                               Starwood Credit Real Estate Income Trust  
Attn: Rachel Zane  
591 West Putnam Avenue  
Greenwich, CT 06830  
Email: rzane@starwood.com

[Signature Page Follows]

If the foregoing correctly sets forth our understanding, please indicate your acceptance thereof in the space provided below for that purpose, whereupon this letter and your acceptance shall constitute a binding agreement between us as of the date first above written.

Very truly yours,

STARWOOD CREDIT REAL ESTATE INCOME  
TRUST

By: \_\_\_\_\_  
Name:  
Title:

Accepted and agreed to as of the  
date first above written:

STARWOOD CAPITAL, L.L.C.

By: \_\_\_\_\_  
Name:  
Title:

*Signature Page to Dealer Manager Agreement*

## **Schedule 1**

### **Compensation**

#### **I. Selling Commissions**

Subject to certain Participating Broker-Dealers' right to retain selling commissions as described in the Participating Dealer Agreement, the Trust will pay to the Dealer Manager selling commissions in the amount of (a) up to 3.0% of the transaction price per share of each Class T share sold; however, such amount may vary pursuant to the Participating Dealer Agreement with certain Participating Broker-Dealers, provided that the sum of upfront selling commissions and dealer manager fees shall not exceed 3.5% of the transaction price of each Class T Share sold, (b) up to 3.5% of the transaction price per share of each Class S Share sold and (c) up to 1.5% of the transaction price per share of each Class D Share sold.

The Trust will not pay to the Dealer Manager any selling commissions in respect of the purchase of any Class I Shares, Class E Shares or DRIP Shares.

#### **II. Dealer Manager Fees**

The Trust will pay to the Dealer Manager dealer manager fees in the amount of up to 0.5% of the transaction price per share of each Class T Share sold; however, such amount may vary pursuant to the Participating Dealer Agreement with certain Participating Broker-Dealers, provided that the sum of upfront selling commissions and dealer manager fees shall not exceed 3.5% of the transaction price of each Class T Share sold.

The Trust will not pay to the Dealer Manager any dealer manager fees in respect of the purchase of any Class S Shares, Class D Shares, Class I Shares, Class E Shares or DRIP Shares.

#### **III. Servicing Fee**

The Trust will pay to the Dealer Manager a Servicing Fee with respect to outstanding Class T Shares that is paid monthly in an amount equal to 0.85% per annum of the aggregate NAV of the outstanding Class T Shares, consisting of an advisor shareholder servicing fee of 0.65% per annum and a dealer shareholder servicing fee of 0.20% per annum; however, such fees may vary pursuant to the Participating Dealer Agreement with certain Participating Broker-Dealers, provided that the sum of the advisor shareholder servicing fee and dealer shareholder servicing fee shall always equal 0.85% per annum.

The Trust will pay to the Dealer Manager a Servicing Fee with respect to outstanding Class S Shares that is paid monthly in an amount equal to 0.85% per annum of the aggregate NAV of the outstanding Class S Shares.

The Trust will pay to the Dealer Manager a Servicing Fee with respect to Class D Shares that is paid monthly in an amount equal to 0.25% per annum of the aggregate NAV of the outstanding Class D Shares.

The Trust will not pay the Dealer Manager a Servicing Fee with respect to Class I Shares or Class E Shares.

**Schedule II**

**QUALIFIED JURISDICTIONS  
AS OF OCTOBER 2023**

United States of America

**Exhibit A**

**FORM OF  
PARTICIPATING DEALER AGREEMENT**

Ladies and Gentlemen:

Starwood Capital, L.L.C., as the dealer manager (“Dealer Manager”) for Starwood Credit Real Estate Income Trust, a Maryland statutory trust (the “Trust”), invites you (“Participating Broker-Dealer”) to participate in the distribution of common shares of beneficial interest, \$0.01 par value per share, of the Trust subject to the following terms:

I. *Dealer Manager Agreement*

The Dealer Manager has entered into a Dealer Manager Agreement (the “Dealer Manager Agreement”) with the Trust dated October 31, 2023, attached hereto as Exhibit “A.” Except as otherwise specifically stated herein, all terms used in this Participating Dealer Agreement (this “Agreement”) have the meanings provided in the Dealer Manager Agreement.

As described in the Dealer Manager Agreement, the Trust is conducting a continuous private offering (the “Offering”) in accordance with Rule 506(b) of Regulation D under the Securities Act of 1933, as amended (the “Securities Act”), of its Class T, Class S, Class D, Class I and/or Class E common shares of beneficial interest (the “Shares”).

Upon effectiveness of this Participating Dealer Agreement (this “Agreement”) pursuant to Section XIV below, you will become one of the Participating Broker-Dealers referred to in the Dealer Manager Agreement and will be entitled and subject to the representations, warranties and covenants contained in the Dealer Manager Agreement relating to the rights and obligations of a Participating Broker-Dealer, including, but not limited to, the provisions of Sections 3 regarding suspension of offers and sales of Shares, solicitation of subscriptions of Shares, regulatory compliance, Section 4, wherein each of the Participating Broker-Dealers severally agrees to indemnify and hold harmless the Trust, the Advisor, the Dealer Manager and their respective officers, trustees, directors, employees, members, partners, agents and representatives, and each person, if any, who controls such entity within the meaning of Section 15 of the Securities Act of 1933, as amended (the “Securities Act”), or Section 20 of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), Section 14 regarding submission of subscriptions for Shares, and Section 12 regarding suitability of investors and compliance procedures for offers and sales of Shares. The Shares are offered solely through broker-dealers who are members in good standing of the Financial Industry Regulatory Authority, Inc. (“FINRA”).

Participating Broker-Dealer hereby agrees to use its best efforts to sell the Shares for cash on the terms and conditions stated in the Private Placement Memorandum. Nothing in this Agreement shall be deemed or construed to make Participating Broker-Dealer an employee, agent, representative, or partner of the Dealer Manager, the Trust or the Advisor, and Participating Broker-Dealer is not authorized to act for the Dealer Manager, the Trust or the Advisor or to make any representations on their behalf except as set forth in the Private Placement Memorandum and the Authorized Sales Materials. In the event that Participating Broker-Dealer uses printed materials in connection with the Offering prepared by the Trust, the Advisor or the Dealer Manager intended for “broker-dealer use only” or “advisor use only,” Participating Broker-Dealer shall use such “broker-dealer use only” or “advisor use only” materials in accordance with Section VII below.

## II. *Submission of Orders*

Each person desiring to purchase Shares in the Offering will be required to complete and execute a Subscription Agreement and to deliver to Participating Broker-Dealer such completed and executed Subscription Agreement together with a check or wire transfer (“instrument of payment”) in the amount of such person’s purchase, which must be at least the minimum purchase amount set forth in the Private Placement Memorandum. Those persons who purchase Shares will be instructed by Participating Broker-Dealer to make their instruments of payment payable to or for the benefit of “Starwood Credit Real Estate Income Trust”. Purchase orders that include a completed and executed Subscription Agreement in good order and instruments of payment received by the Trust at least five (5) business days prior to the last business day of the month (unless waived by the Dealer Manager) will be executed as of the first calendar day of the next month (based on the prior month’s transaction price). Subscribers may not submit an initial purchase order until at least five (5) business days after the date on which the subscriber receives a copy of the Private Placement Memorandum.

If Participating Broker-Dealer receives a Subscription Agreement or instrument of payment not conforming to the foregoing instructions, Participating Broker-Dealer shall return such Subscription Agreement and instrument of payment directly to such subscriber not later than the end of the next business day following its receipt. Subscription Agreements and instruments of payment received by Participating Broker-Dealer that conform to the foregoing instructions shall be transmitted for deposit pursuant to one of the methods described in this Section II. Transmittal of received investor funds will be made in accordance with the procedures set forth below.

Where, pursuant to Participating Broker-Dealer’s internal supervisory procedures, internal supervisory review is conducted at the same location at which Subscription Agreements and instruments of payment are received from subscribers, Subscription Agreements and instruments of payment will be transmitted by the end of the next business day following receipt by Participating Broker-Dealer to the Trust or its agent as set forth in the Subscription Agreement or as otherwise directed by the Trust.

Where, pursuant to Participating Broker-Dealer’s internal supervisory procedures, final internal supervisory review is conducted at a different location, Subscription Agreements and instruments of payment will be transmitted by the end of the next business day following receipt by Participating Broker-Dealer to the office of Participating Broker-Dealer conducting such final internal supervisory review (the “Final Review Office”). The Final Review Office will, by the end of the next business day following receipt by the Final Review Office, transmit such Subscription Agreements and instruments of payment to the Trust or its agent as set forth in the Subscription Agreement or as otherwise directed by the Trust.

## III. *Pricing*

Except as otherwise provided in the Private Placement Memorandum, which may be amended or supplemented from time to time, the Shares shall be offered at a purchase price payable in cash generally equal to the Trust’s prior month’s net asset value (“NAV”) per share applicable to the class of Shares being purchased (as calculated in accordance with the procedures described in the Private Placement Memorandum), or at a different offering price made available to investors in cases where the Trust believes there has been a material change to the NAV per Share since the end of the prior month, plus in either case any applicable selling commissions and dealer manager fees. For shareholders who participate in the Trust’s distribution reinvestment plan (“DRIP”), the cash distributions attributable to the class of shares that each shareholder owns will be automatically re-invested in additional shares of the same class. The DRIP Shares will be issued and sold to shareholders of the Trust at a purchase price equal to the then-current Share offering price per share before any applicable selling commissions and dealer manager fees (“transaction price”) of the applicable class of Shares on the date the distribution is payable. Except as otherwise indicated in the Private Placement Memorandum or in any letter or memorandum sent to Participating Broker-Dealer by the Trust or the Dealer Manager, a minimum initial purchase of \$10,000 in Class T, Class S, Class D, Class I and Class E Shares and additional investments may be made in cash in minimal increments of at least \$500 in Shares, unless waived by the Dealer Manager. The Shares are nonassessable.



IV. *Participating Broker-Dealer's Compensation*

Except as may be provided in the "Plan of Distribution" section of the Private Placement Memorandum, which may be amended or supplemented from time to time, as compensation for completed sales and ongoing shareholder services rendered by Participating Broker-Dealer hereunder, Participating Broker-Dealer is entitled, on the terms and subject to the conditions herein, to the compensation set forth on Schedule I hereto, which compensation reflects the payment of all or a portion of the selling commissions, dealer manager fees and Servicing Fees received by the Dealer Manager in connection with Shares sold by Participating Broker-Dealer or Shares owned by shareholders to whom Participating Broker-Dealer performs ongoing shareholder services, as applicable.

V. *Representations, Warranties and Covenants of Participating Broker-Dealer*

In addition to the representations and warranties found elsewhere in this Agreement, Participating Broker-Dealer represents, warrants and agrees that:

(i) Participating Broker-Dealer is duly organized and existing and in good standing under the laws of the state, commonwealth or other jurisdiction in which Participating Broker-Dealer is organized.

(ii) Participating Broker-Dealer is empowered under applicable laws and by Participating Broker-Dealer's organizational documents to enter into this Agreement and perform all activities and services of Participating Broker-Dealer provided for herein and that there are no impediments, prior or existing, or regulatory, self-regulatory, administrative, civil or criminal matters affecting Participating Broker-Dealer's ability to perform under this Agreement.

(iii) The execution, delivery and performance of this Agreement; the incurrence of the obligations set forth herein; and the consummation of the transactions contemplated herein, including the issuance and sale of the Shares, will not constitute a breach of, or default under, any agreement or instrument by which Participating Broker-Dealer is bound, or to which any of its assets are subject, or any order, rule, or regulation applicable to it of any court, governmental body, or administrative agency having jurisdiction over it.

(iv) All requisite actions have been taken to authorize Participating Broker-Dealer to enter into and perform this Agreement.

(v) Participating Broker-Dealer shall promptly notify Dealer Manager in writing of any written claim or complaint or any enforcement action or other proceeding with respect to Shares offered hereunder against Participating Broker-Dealer or its principals, affiliates, officers, directors, employees or agents, or any person who controls Participating Broker-Dealer, within the meaning of Section 15 of the Securities Act.

(vi) Participating Broker-Dealer will not sell or distribute Shares or otherwise make any such Shares available in any jurisdiction outside of the United States unless Participating Broker-Dealer receives prior written consent from Dealer Manager.

(vii) Participating Broker-Dealer acknowledges that the Dealer Manager will enter into similar agreements with other broker-dealers, which does not require the consent of Participating Broker-Dealer.

(viii) Participating Broker-Dealer has policies and procedures to ensure compliance with FINRA Rule 2030 and is currently in compliance with FINRA Rule 2030. Moreover, Participating Broker-Dealer represents that neither Participating Broker-Dealer nor any of its Covered Associates has made, directly or indirectly, any contributions that prohibit Participating Broker-Dealer from engaging in solicitation activities for compensation under FINRA Rule 2030 (a "Triggering Contribution"). Participating Broker-Dealer hereby agrees that neither it nor its Covered Associates will make a Triggering Contribution or violate FINRA Rule 2030 while engaged hereunder. If Participating Broker-Dealer breaches this provision and becomes aware of a Triggering Contribution or a violation of FINRA Rule 2030, Participating Broker-Dealer shall promptly provide written notice to the Dealer Manager of the nature of the ban or violation. As used herein, "Covered Associate" means any (i) general partner, managing member or executive officer of Participating Broker-Dealer, as well as any person with a similar status or function, (ii) any associated person of Participating Broker-Dealer who engages in distribution or solicitation activities with a government entity, (iii) any associated person of Participating Broker-Dealer who supervises, directly or indirectly, the government entity distribution or solicitation activities of a person in (ii) above, and (iv) any political action committee controlled by Participating Broker-Dealer or one of its Covered Associates.

#### VI. *Right to Reject Orders or Cancel Sales*

All orders, whether initial or additional, are subject to acceptance by and shall only become effective upon confirmation by the Trust, which reserves the right to reject any order for any reason or no reason including, without limitation, orders not accompanied by an executed Subscription Agreement in good order or without the required instrument of payment in full payment for the Shares. Issuance and delivery of the Shares will be made only after actual receipt of payment therefor. If any check is not paid upon presentment, or if the Trust is not in actual receipt of clearinghouse funds or cash, certified or cashier's check or the equivalent in payment for the Shares, the Trust reserves the right to cancel the sale without notice.

In the event that the Dealer Manager has reallocated any selling commission or dealer manager fee to Participating Broker-Dealer for the sale of one or more Shares and the subscription is rejected, canceled or rescinded for any reason as to one or more of the Shares covered by such subscription, Participating Broker-Dealer shall pay the amount specified to the Dealer Manager within ten (10) days following mailing of notice to Participating Broker-Dealer by the Dealer Manager stating the amount owed as a result of rescinded or rejected subscriptions. Further, if Participating Broker-Dealer has retained selling commissions in connection with an order that is subsequently rejected, canceled or rescinded for any reason, Participating Broker-Dealer agrees to return to the subscriber any selling commission theretofore retained by Participating Broker-Dealer with respect to such order within three (3) days following mailing of notice to Participating Broker-Dealer by the Dealer Manager stating the amount owed as a result of rescinded or rejected subscriptions. If Participating Broker-Dealer fails to pay any such amounts, the Dealer Manager shall have the right to offset such amounts owed against future compensation due and otherwise payable to Participating Broker-Dealer (it being understood and agreed that such right to offset shall not be in limitation of any other rights or remedies that the Dealer Manager may have in connection with such failure).

VII. *Private Placement Memorandum and Authorized Sales Materials; Compliance with Laws*

Participating Broker-Dealer is not authorized or permitted to give, and will not give, any information or make any representation (written or oral) concerning the Shares except as set forth in the Private Placement Memorandum and the Authorized Sales Materials. The Dealer Manager will supply Participating Broker-Dealer with reasonable quantities of the Private Placement Memorandum, as well as any Authorized Sales Materials for delivery to investors, and Participating Broker-Dealer will deliver a copy of the Private Placement Memorandum to each investor to whom an offer is made prior to or simultaneously with the first solicitation of an offer to sell the Shares to an investor. Participating Broker-Dealer agrees that it will not send or give any supplements to the Private Placement Memorandum, any amended Private Placement Memorandum or any Authorized Sales Materials to that investor unless it has previously sent or given a Private Placement Memorandum and all supplements thereto and any amended Private Placement Memorandum to that investor or has simultaneously sent or given a Private Placement Memorandum and all supplements thereto and any amended Private Placement Memorandum with such Private Placement Memorandum supplement, amended Private Placement Memorandum or Authorized Sales Materials. Participating Broker-Dealer agrees that it will not show or give to any investor or prospective investor or reproduce any material or writing that is supplied to it by the Dealer Manager and marked "broker-dealer use only" or "advisor use only" or otherwise bearing a legend denoting that it is not to be used in connection with the offer or sale of Shares. Participating Broker-Dealer agrees that it will not use in connection with the offer or sale of Shares any materials or writings which have not been previously approved by the Trust in writing other than the Private Placement Memorandum and the Authorized Sales Materials. Participating Broker-Dealer agrees to comply with all the applicable requirements under the Securities Act, the Exchange Act, conduct rules of FINRA and any other foreign, state or local securities or other laws or rules of FINRA or any other applicable self-regulatory agency in offering and selling Shares.

On becoming a Participating Broker-Dealer, and in offering and selling Shares, Participating Broker-Dealer agrees to comply with all the applicable requirements imposed upon it under (a) the Securities Act, the Exchange Act and the rules and regulations of the SEC promulgated under both such acts, (b) all applicable state securities laws and regulations as from time to time in effect, (c) any other state, federal, foreign and other laws and regulations applicable to the Offering, the sale of Shares or the activities of Participating Broker-Dealer pursuant to this Agreement, including without limitation the privacy standards and requirements of state and federal laws, including the Gramm-Leach-Bliley Act of 1999 (the "GLB Act"), and the laws governing money laundering abatement and anti-terrorist financing efforts, including the applicable rules of the SEC and FINRA, the Bank Secrecy Act, as amended, the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT Act) of 2001, as amended (the "USA PATRIOT Act"), and regulations administered by the Office of Foreign Asset Control at the Department of the Treasury, and (d) this Agreement and the Private Placement Memorandum as amended and supplemented. With respect to Participating Broker-Dealer's use of electronic delivery of offering documents or subscription agreements and electronic signatures, Participating Broker-Dealer agrees to comply with the applicable requirements of the Electronic Signatures in Global and National Commerce Act and the Uniform Electronic Transactions Act referred to therein, each as may be amended from time to time. Notwithstanding the termination of this Agreement or the payment of any amount to Participating Broker-Dealer, Participating Broker-Dealer agrees to pay Participating Broker-Dealer's proportionate share of any claim, demand or liability asserted against Participating Broker-Dealer and the other Participating Broker-Dealers on the basis that such Participating Broker-Dealers or any of them constitute an association, unincorporated business or other separate entity, including in each case such Participating Broker-Dealer's proportionate share of any expenses incurred in defending against any such claim, demand or liability.

### VIII. *License and Association Membership*

Participating Broker-Dealer's acceptance of this Agreement constitutes a representation to the Trust and the Dealer Manager that Participating Broker-Dealer is a properly registered or licensed broker-dealer, duly authorized to sell Shares under federal and state securities laws and regulations in all states where it offers or sells Shares, and that it is a member in good standing of FINRA. Participating Broker-Dealer represents and warrants that it is its sole responsibility to ensure that its representatives are properly registered and licensed as required by any applicable law, rule or regulation. This Agreement shall automatically terminate if Participating Broker-Dealer ceases to be a member in good standing of FINRA or with the securities commission of the state in which Participating Broker-Dealer's principal office is located. Participating Broker-Dealer agrees to notify the Dealer Manager immediately if Participating Broker-Dealer ceases to be a member in good standing of FINRA or with the securities commission of any state in which Participating Broker-Dealer is currently registered or licensed, or in the case of a foreign dealer, so to conform. Participating Broker-Dealer also hereby agrees to abide by the conduct rules set forth in the FINRA rulebook ("FINRA Rules").

### IX. *Limitation of Offer; Suitability*

The Shares shall only be offered or sold in the United States. In connection with an Offering, Participating Broker-Dealer shall not approach or contact any prospective investor that is located outside of the United States without the prior written consent of the Dealer Manager. Shares are available for purchase by persons meeting the suitability standards described in the Private Placement Memorandum. Participating Broker-Dealer will offer Shares only to persons who meet the respective suitability standards, minimum investment requirements, and investor qualifications for the Shares as set forth in the Private Placement Memorandum and in accordance with the offering and conditions contained therein, or in any suitability letter or memorandum sent to it by the Trust or the Dealer Manager. Notwithstanding the qualification of the Shares for sale in any respective jurisdiction (or the exemption therefrom), and the Dealer Manager's written consent for Participating Broker-Dealer to offer Shares in such jurisdiction. Participating Broker-Dealer represents, warrants and covenants that it will not offer Shares and will not permit any of its registered representatives to offer Shares in any jurisdiction unless both Participating Broker-Dealer and such registered representative are duly licensed to transact securities business in such jurisdiction. In offering Shares, Participating Broker-Dealer will comply with the provisions of FINRA Rules, as well as all other applicable rules and regulations relating to suitability of investors. Participating Broker-Dealer acknowledges and agrees that the marketing of Shares to "U.S. persons" (as defined in Regulation S under the Securities Act) will rely on Rule 506(b) under Regulation D under the Securities Act as a safe harbor from registration under Securities Act. The Participating Broker-Dealer represents, warrants and covenants that it will not offer or sell Shares by means of any form of "general solicitation" or "general advertising" (within the meaning of Rule 502(c) of Regulation D under the Securities Act), including but not limited to (A) any advertisement, article, notice or other communication published in any newspaper, magazine or similar media or broadcast over television or radio and (B) any seminar or meeting whose attendees have been invited by any general solicitation or general advertising.

Participating Broker-Dealer further represents, warrants and covenants that neither Participating Broker-Dealer, nor any person associated with Participating Broker-Dealer, shall offer or sell Shares in any jurisdiction except to investors who satisfy the investor suitability standards and minimum investment requirements under the most restrictive of the following: (a) applicable provisions described in the Private Placement Memorandum, including status as an "accredited investor"; (b) applicable laws of the jurisdiction of which such investor is a resident; or (c) applicable FINRA Rules. Participating Broker-Dealer further represents, warrants and covenants that Participating Broker-Dealer, or a person associated with Participating Broker-Dealer, will make every reasonable effort to determine the suitability and appropriateness of an investment in Shares of each proposed investor by reviewing documents and records

disclosing the basis upon which the determination as to suitability was reached as to each purchaser of Shares pursuant to a subscription solicited by Participating Broker-Dealer, whether such documents and records relate to accounts which have been closed, accounts which are currently maintained, or accounts hereafter established. Participating Broker-Dealer agrees to retain such documents and records in Participating Broker-Dealer's records for a period of six (6) years from the date of the applicable sale of Shares, to otherwise comply with the record keeping requirements provided in Section XII below and to make such documents and records available to (i) the Dealer Manager and the Trust upon request, and (ii) representatives of the SEC, FINRA and applicable state securities administrators upon Participating Broker-Dealer's receipt of an appropriate document subpoena or other appropriate request for documents from any such agency. Participating Broker-Dealer further represents, warrants and covenants that it will notify Dealer Manager in writing if an investment in the Shares becomes no longer suitable or appropriate for a proposed investor prior to the acceptance of the order by the Trust. Participating Broker-Dealer shall not purchase any Shares for a discretionary account without obtaining the prior written approval of Participating Broker-Dealer's customer and his or her signature on a Subscription Agreement.

X. *Disclosure Review; Confidentiality of Information*

Participating Broker-Dealer agrees that it shall have reasonable grounds to believe, based on the information made available to it through the Private Placement Memorandum or other materials, that all material facts are adequately and accurately disclosed in the Private Placement Memorandum and provide a basis for evaluating the Shares. In making this determination, Participating Broker-Dealer shall evaluate, at a minimum, items of compensation, physical properties, tax aspects, financial stability and experience of the sponsor, conflicts of interest and risk factors, and appraisals and other pertinent reports. If Participating Broker-Dealer relies upon the results of any inquiry conducted by another member or members of FINRA, Participating Broker-Dealer shall have reasonable grounds to believe that such inquiry was conducted with due care, that the member or members conducting or directing the inquiry consented to the disclosure of the results of the inquiry and that the person who participated in or conducted the inquiry is not the Dealer Manager or a sponsor or an affiliate of the sponsor of the Trust.

It is anticipated that (i) Participating Broker-Dealer and Participating Broker-Dealer's officers, directors, managers, employees, owners, members, partners, home office diligence personnel or other agents of Participating Broker-Dealer that are conducting a due diligence inquiry on behalf of Participating Broker-Dealer and (ii) persons or committees, as the case may be, responsible for determining whether Participating Broker-Dealer will participate in the Offering ((i) and (ii) are collectively, the "Diligence Representatives") either have previously or will in the future have access to certain Confidential Information (defined below) pertaining to the Trust, the Dealer Manager, Starwood Credit Advisors, L.L.C. (the "Advisor") or their respective affiliates. For purposes hereof, "Confidential Information" shall mean and include: (i) trade secrets concerning the business and affairs of the Trust, the Dealer Manager, the Advisor, or their respective affiliates; (ii) confidential data, know-how, current and planned research and development, current and planned methods and processes, marketing lists or strategies, slide presentations, business plans, however documented, belonging to the Trust, the Dealer Manager, the Advisor, or their respective affiliates; (iii) information concerning the business and affairs of the Trust, the Dealer Manager, the Advisor, or their respective affiliates (including, without limitation, historical financial statements, financial projections and budgets, investment-related information, models, budgets, plans, and market studies, however documented; (iv) any information marked or designated "Confidential—For Due Diligence Purposes Only"; and (v) any notes, analysis, compilations, studies, summaries and other material containing or based, in whole or in part, on any information included in the foregoing. Participating Broker-Dealer agrees to keep, and to cause its Diligence Representatives to keep, all such Confidential Information strictly confidential and to not use, distribute or copy the same except in connection with Participating Broker-Dealer's due diligence inquiry. Participating Broker-Dealer agrees to not disclose, and to cause its Diligence Representatives not to disclose, such Confidential Information to the public, or to Participating

Broker-Dealer's sales staff, financial advisors, or any person involved in selling efforts related to the Offering or to any other third party and agrees not to use the Confidential Information in any manner in the offer and sale of the Shares. Participating Broker-Dealer further agrees to use all reasonable precautions necessary to preserve the confidentiality of such Confidential Information, including, but not limited to (a) limiting access to such information to persons who have a need to know such information only for the purpose of Participating Broker-Dealer's due diligence inquiry and (b) informing each recipient of such Confidential Information of Participating Broker-Dealer's confidentiality obligation. Participating Broker-Dealer acknowledges that Participating Broker-Dealer or its Diligence Representatives may previously have received Confidential Information in connection with preliminary due diligence on the Trust, and agrees that the foregoing restrictions shall apply to any such previously received Confidential Information. Participating Broker-Dealer acknowledges that Participating Broker-Dealer or its Diligence Representatives may in the future receive Confidential Information either in individual or collective meetings or telephone calls with the Trust, and agrees that the foregoing restrictions shall apply to any Confidential Information received in the future through any source or medium. Participating Broker-Dealer acknowledges the restrictions and limitations of Regulation F-D promulgated by the SEC and agrees that the foregoing restrictions are necessary and appropriate in order for the Trust to comply therewith. Notwithstanding the foregoing, Confidential Information may be disclosed (a) if approved in writing for disclosure by the Trust or the Dealer Manager, (b) pursuant to a subpoena or as required by law, or (c) as required by regulation, rule, order or request of any governing or self-regulatory organization (including the SEC or FINRA), provided that Participating Broker-Dealer shall notify the Dealer Manager in advance if practicable under the circumstances of any attempt to obtain Confidential Information pursuant to provisions (b) and (c).

XI. *Participating Broker-Dealer's Compliance with Anti-Money Laundering Rules and Regulations*

Participating Broker-Dealer hereby represents that it has complied and will comply with Section 326 of the USA PATRIOT Act and the implementing rules and regulations promulgated thereunder in connection with broker/dealers' anti-money laundering obligations. Participating Broker-Dealer hereby represents that it has adopted and implemented, and will maintain a written anti-money laundering compliance program ("AML Program") including, without limitation, anti-money laundering policies and procedures relating to customer identification in compliance with applicable laws and regulations, including federal and state securities laws, applicable rules of FINRA, and the USA PATRIOT Act and the implementing rules and regulations promulgated thereunder. In accordance with these applicable laws and regulations and its AML Program, Participating Broker-Dealer agrees to verify the identity of its new customers; to maintain customer records; and to check the names of new customers against government watch lists, including the Office of Foreign Asset Control's (OFAC) list of Specially Designated Nationals and Blocked Persons. Additionally, Participating Broker-Dealer will monitor account activity to identify patterns of unusual size or volume, geographic factors and any other "red flags" described in the USA PATRIOT Act as potential signals of money laundering or terrorist financing. Participating Broker-Dealer will submit to the Financial Crimes Enforcement Network any required suspicious activity reports about such activity and further will disclose such activity to applicable federal and state law enforcement when required by law. Upon request by the Dealer Manager at any time, Participating Broker-Dealer hereby agrees to furnish (a) a copy of its AML Program to the Dealer Manager for review, and (b) a copy of the findings and any remedial actions taken in connection with Participating Broker-Dealer's most recent independent testing of its AML Program. Participating Broker-Dealer agrees to notify the Dealer Manager immediately if Participating Broker-Dealer is subject to a FINRA disclosure event or fine from FINRA related to its AML Program.

## XII. *Privacy*

Participating Broker-Dealer agrees to abide by and comply in all respects with (a) the privacy standards and requirements of the GLB Act and applicable regulations promulgated thereunder, (b) the privacy standards and requirements of any other applicable federal or state law, including the Fair Credit Reporting Act (“FCRA”) and (c) its own internal privacy policies and procedures, each as may be amended from time to time.

The parties hereto acknowledge that from time to time, Participating Broker-Dealer may share with the Trust and the Trust may share with Participating Broker-Dealer nonpublic personal information (as defined under the GLB Act) of customers of Participating Broker-Dealer. This nonpublic personal information may include, but is not limited to a customer’s name, address, telephone number, social security number, account information and personal financial information. Participating Broker-Dealer shall only be granted access to such nonpublic personal information of each of its customers that pertains to the period or periods during which Participating Broker-Dealer served as the broker-dealer of record for such customer’s account. Participating Broker-Dealer, the Dealer Manager and the Trust shall not disclose nonpublic personal information of any customers who have opted out of such disclosures, except (a) to service providers (when necessary and as permitted under the GLB Act), (b) to carry out the purposes for which one party discloses such nonpublic personal information to another party under this Agreement (when necessary and as permitted under the GLB Act) or (c) as otherwise required by applicable law. Any nonpublic personal information that one party receives from another party shall be subject to the limitations on usage described in this Section XII. Except as expressly permitted under the FCRA, Participating Broker-Dealer agrees that it shall not disclose any information that would be considered a “consumer report” under the FCRA.

Participating Broker-Dealer shall be responsible for determining which customers have opted out of the disclosure of nonpublic personal information by periodically reviewing and, if necessary, retrieving a list of such customers (the “List”) to identify customers that have exercised their opt-out rights. In the event Participating Broker-Dealer, the Dealer Manager or the Trust expects to use or disclose nonpublic personal information of any customer for purposes other than as set forth in this Section XII, it must first consult the List to determine whether the affected customer has exercised his or her opt-out rights. The use or disclosure of any nonpublic personal information of any customer that is identified on the List as having opted out of such disclosures, except as set forth in this Section XII, shall be prohibited.

Participating Broker-Dealer shall implement commercially reasonable measures in compliance with industry best practices designed (a) to assure the security and confidentiality of nonpublic personal information of all customers; (b) to protect such information against any anticipated threats or hazards to the security or integrity of such information; (c) to protect against unauthorized access to, or use of, such information that could result in material harm to any customer; (d) to protect against unauthorized disclosure of such information to unaffiliated third parties; and (e) to otherwise ensure its compliance with all applicable privacy standards and requirements of federal or state law (including, but not limited to, the GLB Act), and any other applicable legal or regulatory requirements. Participating Broker-Dealer further agrees to cause all its agents, representatives, affiliates, subcontractors, or any other party to whom Participating Broker-Dealer provides access to or discloses nonpublic personal information of customers to implement appropriate measures designed to meet the objectives set forth in this Section XII.

## XIII. *Participating Broker-Dealer’s Undertaking to Not Facilitate a Secondary Market in the Shares*

Participating Broker-Dealer acknowledges that there is no public trading market for the Shares and that there are limits on the ownership, transferability and repurchase of the Shares, which significantly limit the liquidity of an investment in the Shares. Participating Broker-Dealer also acknowledges that the Trust’s share repurchase plan (the “Plan”) provides only a limited opportunity for investors to have their Shares purchased by the Trust and that the Trust’s board of trustees may, in its sole discretion, amend, suspend, or



terminate the Plan at any time in accordance with the terms of the Plan. Participating Broker-Dealer hereby agrees that so long as the Trust has not listed the Shares on a national securities exchange, Participating Broker-Dealer will not engage in any action or transaction that would facilitate or otherwise create the appearance of a secondary market in the Shares without the prior written approval of the Dealer Manager.

#### *XIV. Arbitration*

Any dispute, controversy or claim arising between the parties relating to this Agreement (whether such dispute arises under any federal, state or local statute or regulation, or at common law), shall be resolved by final and binding arbitration administered in accordance with the then-current commercial arbitration rules of FINRA in accordance with the terms of this Agreement (including the governing law provisions of this Agreement and pursuant to the Federal Arbitration Act (9 U.S.C. §§ 1 – 16). The parties will request that the arbitrator or arbitration panel (“Arbitrator”) issue written findings of fact and conclusions of law. The Arbitrator shall not be empowered to make any award or render any judgment for punitive damages, and the Arbitrator shall be required to follow applicable law in construing this Agreement, making awards, and rendering judgments. The decision of the arbitration panel shall be final and binding, and judgment upon any arbitration award may be entered by any court having jurisdiction. All arbitration hearings will be held at the New York City FINRA District Office or at another mutually agreed upon site. The parties may agree on a single arbitrator, or, if the parties cannot so agree, each party will have the right to choose one arbitrator, and the selected arbitrators will choose a third arbitrator. Each arbitrator must have experience and education that qualify him or her to competently address the specific issues to be designated for arbitration. Notwithstanding the preceding, no party will be prevented from immediately seeking provisional remedies in courts of competent jurisdiction, including but not limited to, temporary restraining orders and preliminary injunctions, but such remedies will not be sought as a means to avoid or stay arbitration.

#### *XV. Termination*

Participating Broker-Dealer will suspend or terminate its offer and sale of Shares upon the request of the Trust or the Dealer Manager at any time and will resume its offer and sale of Shares hereunder upon subsequent request of the Trust or the Dealer Manager. Any party may terminate this Agreement by written notice. Such termination shall be effective 48 hours after the mailing or other transmission of such notice by the methods provided in Section XVII below. This Agreement is the entire agreement of the parties and supersedes all prior agreements, if any, between the parties hereto.

This Agreement may be amended at any time by the Dealer Manager by written notice to Participating Broker-Dealer, and any such amendment shall be deemed accepted by Participating Broker-Dealer upon placement of an order for sale of Shares by such Participating Broker-Dealer’s customer after Participating Broker-Dealer has received such notice.

The respective agreements and obligations of the Dealer Manager and Participating Broker-Dealer set forth in Sections IV, VI, VII, and XIII through XVII of this Agreement shall remain operative and in full force and effect regardless of the termination of this Agreement.

#### *XVI. Use of Trust and Starwood Names*

Except as expressly provided herein, nothing herein shall be deemed to constitute a waiver by the Dealer Manager of any consent that would otherwise be required under this Agreement or applicable law prior to the use of Participating Broker-Dealer of the name or identifying marks of the Trust, the Dealer Manager, “Starwood”, “Starwood Capital” or “Starwood Capital Group” (or any combination or derivation thereof). The Dealer Manager reserves the right to withdraw its consent to the use of the Trust’s name at

any time and to request to review any materials generated by Participating Broker-Dealer that use the Trust's or Starwood's name or mark. Any such consent is expressly subject to the continuation of this Agreement and shall terminate with the termination of this Agreement as provided herein.

XVII. *Notice*

Notices and other writings contemplated by this Agreement shall be delivered via (i) hand, (ii) first class registered or certified mail, postage prepaid, return receipt requested, (iii) a nationally recognized overnight courier or (iv) electronic mail. All such notices shall be addressed, as follows:

If to the Dealer Manager:	Starwood Capital, L.L.C. Attn: Matthew Guttin 591 West Putnam Avenue Greenwich, CT 06830 Email: mguttin@starwood.com
If to Participating Broker-Dealer:	To the address specified by Participating Broker-Dealer herein.

XVIII. *Attorney's Fees and Applicable Law*

In any action to enforce the provisions of this Agreement or to secure damages for its breach, the prevailing party shall recover its costs and reasonable attorney's fees. This Agreement shall be construed under the laws of the State of New York and shall take effect when signed by Participating Broker-Dealer and countersigned by the Dealer Manager. Venue for any action (including arbitration) shall lie exclusively in New York, New York.

XIX. *No Partnership*

Nothing in this Agreement shall be construed or interpreted to constitute Participating Broker-Dealer as an employee, agent or representative of, or in association with or in partnership with, the Dealer Manager, the Trust or the other Participating Broker-Dealers; instead, this Agreement shall only constitute Participating Broker-Dealer as a dealer authorized by the Dealer Manager to sell the Shares according to the terms set forth in the Private Placement Memorandum as amended and supplemented and in this Agreement.

XX. *ERISA Matters*

The parties agree as follows:

(a) Participating Broker-Dealer is a broker-dealer registered under the Exchange Act.

(b) To the extent Participating Broker-Dealer (or its registered representatives) uses or relies on any of the information, tools and materials that the Dealer Manager, the Trust, the Advisor, the sponsor of the Trust or each of their respective affiliates and related parties (collectively, the "Trust Parties") provides directly to Participating Broker-Dealer (or its registered representatives), without direct charge, for use in connection with Participating Broker-Dealer's "Retirement Customers" (which include a plan, plan fiduciary, plan participant or beneficiary, individual retirement account ("IRA") or IRA owner subject to Title I of the Employee Retirement Income Security Act of 1974 ("ERISA") or Section 4975 of the Internal Revenue Code of 1986, as amended (the "Code")), Participating Broker-Dealer will act as a "fiduciary" under ERISA or the Code (as applicable), and will be responsible for exercising independent judgment in evaluating the retirement account transaction.

(c) Certain of the Trust Parties have financial interests associated with the purchase of Shares of the Trust, including the fees, expense reimbursements and other payments they anticipate receiving in connection with the purchase of Shares of the Trust, as described in the Private Placement Memorandum.

(d) To the extent that Participating Broker-Dealer provides investment advice to its Retirement Customers, Participating Broker-Dealer will do so in a fiduciary capacity under ERISA or the Code, or both, and Participating Broker-Dealer is responsible for exercising independent judgment with respect to any investment advice it provides to its Retirement Customers.

(e) Participating Broker-Dealer is independent of Dealer Manager and Dealer Manager is not undertaking to provide impartial investment advice to Participating Broker-Dealer or its Retirement Customers.

XXI. *Electronic Signatures and Electronic Delivery of Documents. Electronic Signatures.*

(a) Electronic Signatures. If Participating Broker-Dealer has adopted or adopts a process by which persons may authorize certain account-related transactions and/or requests, in whole or in part, by “Electronic Signature” (as such term is defined by the Electronic Signatures in Global and National Commerce Act, the Uniform Electronic Transactions Act, and applicable rules, regulations and/or guidance relating to the use of electronic signatures issued by the SEC and FINRA including, as applicable, the Electronic Signature Law), to the extent the Trust allows the use of Electronic Signature, in whole or in part, Dealer represents that: (i) each Electronic Signature will be genuine; (ii) each Electronic Signature will represent the signature of the person required to sign the Subscription Agreement or other form to which such Electronic Signature is affixed; (iii) Participating Broker-Dealer will comply with all applicable the terms of the Electronic Signature Law; and (iv) Participating Broker-Dealer agrees to the Electronic Signature Use Indemnity Agreement attached hereto as Exhibit B.

(b) Electronic Delivery. If Participating Broker-Dealer intends to use electronic delivery to distribute the Private Placement Memorandum or other documents related to the Trust to any person, Participating Broker-Dealer will comply with all applicable rules, regulations and/or guidance relating to the electronic delivery of documents issued by the SEC and FINRA and any other applicable laws or regulations related to the electronic delivery of offering documents including, as appropriate, Electronic Signature Law. Participating Broker-Dealer shall obtain and document its receipt of the informed consent to receive documents electronically of persons, which documentation shall be maintained by Participating Broker-Dealer and made available to the Trust and/or the Dealer Manager upon request.

THE DEALER MANAGER:

STARWOOD CAPITAL, L.L.C.

\_\_\_\_\_  
Date:

We have read the foregoing Agreement and we hereby accept and agree to the terms and conditions therein set forth. We hereby represent that the list below of jurisdictions in which we are registered or licensed as a broker or dealer and are fully authorized to sell securities is true and correct, and we agree to advise you of any change in such list during the term of this Agreement.

1. IDENTITY OF PARTICIPATING BROKER-DEALER:

Company Name: \_\_\_\_\_

Type of entity: \_\_\_\_\_  
(Corporation, Partnership or Proprietorship)

Organized in the State of: \_\_\_\_\_

Licensed as broker-dealer in all States: Yes      No

If no, list all States licensed as broker-dealer: \_\_\_\_\_

Tax ID#: \_\_\_\_\_

2. Person to receive notices delivered pursuant to the Agreement.

Name: \_\_\_\_\_

Company: \_\_\_\_\_

Address: \_\_\_\_\_

City, State and  
Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

AGREED TO AND ACCEPTED BY PARTICIPATING BROKER-DEALER:

\_\_\_\_\_  
(Participating Broker-Dealer's Firm Name)

By: \_\_\_\_\_  
Signature

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

SCHEDULE I  
ADDENDUM  
TO  
PARTICIPATING DEALER AGREEMENT WITH  
STARWOOD CAPITAL, L.L.C.

Name of Participating Broker-Dealer:

The following (the “Addendum”) reflects the selling commissions, dealer manager fees and Servicing Fees as agreed upon between Starwood Capital, L.L.C. (the “Dealer Manager”) and Participating Broker-Dealer, effective as of the effective date of the Participating Dealer Agreement (the “Agreement”) between the Dealer Manager and Participating Broker-Dealer in connection with the offering of Shares of Starwood Credit Real Estate Income Trust (the “Trust”).

**Upfront Selling Commissions and Dealer Manager Fees**

Except as may be provided in the “Plan of Distribution” section of the Private Placement Memorandum, which may be amended or supplemented from time to time, as compensation for completed sales (as defined below) by Participating Broker-Dealer of Class T, Class S and Class D Shares that Participating Broker-Dealer is authorized to sell and for services rendered by Participating Broker-Dealer hereunder, the Dealer Manager shall reallocate to Participating Broker-Dealer an upfront selling commission in an amount equal to the percentage set forth below of the transaction price per Share on such completed sales of Class T, Class S and Class D Shares, as applicable, by Participating Broker-Dealer. Participating Broker-Dealer shall not receive selling commissions for sales of any DRIP Shares, or for sales of any Class I or Class E Shares. For purposes of this Schedule I, a “completed sale” shall occur if and only if a transaction has closed with a subscriber for Shares pursuant to all applicable offering and subscription documents, payment for the Shares has been received by the Trust in full in the manner provided in Section II of the Agreement, the Trust has accepted the subscription agreement of such subscriber, and the Trust has thereafter distributed the selling commission to the Dealer Manager in connection with such transaction.

Except as may be provided in the “Plan of Distribution” section of the Private Placement Memorandum, which may be amended or supplemented from time to time, as compensation for completed sales by Participating Broker-Dealer of Class T Shares that Participating Broker-Dealer is authorized to sell and for services rendered by Participating Broker-Dealer hereunder, the Dealer Manager shall reallocate to Participating Broker-Dealer an upfront dealer manager fee in an amount equal to the percentage set forth below of the transaction price per share on such completed sales of Class T Shares by Participating Broker-Dealer. Participating Broker-Dealer shall not receive dealer manager fees for sales of any DRIP Shares, or for sales of any Class S, Class D, Class E or Class I Shares.

Participating Broker-Dealer may withhold the selling commissions and dealer manager fees, if applicable, to which it is entitled pursuant to the Agreement, this Schedule I and the Private Placement Memorandum from the purchase price for the Shares in the Offering and forward the balance to the Trust or its agent as set forth in the Subscription Agreement if it represents to the Dealer Manager that: (i) Participating Broker-Dealer is legally permitted to do so; and (ii) (A) Participating Broker-Dealer meets all applicable net capital requirements under the Rules of FINRA or other applicable rules regarding such an arrangement; (B) Participating Broker-Dealer has forwarded the Subscription Agreement to the Trust or its agent within the time required under Section II of the Agreement, and received the Trust’s written acceptance of the subscription prior to forwarding the purchase price for the Shares, net of the selling commissions and dealer manager fees, if applicable, to which Participating Broker-Dealer is entitled, to the Trust or its agent; and (C) Participating Broker-Dealer has verified that there are sufficient funds in the investor’s account with Participating Broker-Dealer to cover the entire cost of the subscription. Participating Broker-Dealer shall wire such subscription funds to the Trust or its agent as set forth in the Subscription Agreement by the end of the second business day following receipt of the Trust’s written acceptance of the subscription.

Participating Broker-Dealer shall be responsible for implementing the volume discounts described in or as otherwise provided in the “Plan of Distribution” section of the Private Placement Memorandum. Requests to combine purchase orders of Class T, Class D or Class S Shares as a part of a combined order for the purpose of qualifying for discounts as described in the “Plan of Distribution” section of the Private Placement Memorandum must be made in writing by Participating Broker-Dealer, and any resulting reduction in selling commissions or dealer manager fees will be prorated among the separate subscribers.

### **Terms and Conditions of the Servicing Fees**

The payment of the Servicing Fee to Participating Broker-Dealer is subject to terms and conditions set forth herein and the Private Placement Memorandum as may be amended or supplemented from time to time. If Participating Broker-Dealer elects to sell Class T, Class S or Class D Shares, eligibility to receive the Servicing Fee with respect to the Class T, Class S or Class D Shares, as applicable, sold by Participating Broker-Dealer is conditioned upon Participating Broker-Dealer acting as broker-dealer of record with respect to such Shares and complying with the requirements set forth below, including providing shareholder and account maintenance services with respect to such Shares. For the avoidance of doubt, such services are non-distribution services, other than those primarily intended to result in the sale of Shares.

(i) the existence of an effective Participating Dealer Agreement or ongoing Servicing Agreement between the Dealer Manager and Participating Broker-Dealer, and

(ii) the provision of services with respect to the Class T, Class S or Class D Shares, as applicable, by Participating Broker-Dealer, which may include one or more, without limitation and as appropriate, of the following:

1. assistance with recordkeeping, including maintaining records for and on behalf of Participating Broker-Dealer’s customers reflecting transactions and balances of Shares owned,
2. transmitting shareholder communications to its customers from the Trust or the Dealer Manager, including the Private Placement Memorandum, annual and periodic reports, and proxy statements,
3. establishing an account and providing ongoing account maintenance,
4. assistance with and answering investor inquiries regarding the Trust, including distribution payments and reinvestment decisions,
5. helping investors understand their investments,
6. Share repurchase requests,
7. assistance with Share conversion processing, or
8. providing such other similar services as the shareholder may reasonably require in connection with its investment in the class of Shares.

With respect to Class T Shares, the financial advisor of Participating Broker-Dealer responsible for the sale of such Class T Shares is expected to provide one or more of the services listed in items 3 through 8 above. In connection with this provision, Participating Broker-Dealer agrees to reasonably cooperate to provide certification to the Trust, the Participating Broker-Dealer Manager, and its agents (including its auditors) confirming the provision of services to each particular class of shareholders upon reasonable request.



Participating Broker-Dealer hereby represents by its acceptance of each payment of the Servicing Fee that it complies with each of the above requirements and is providing the above-described services. Participating Broker-Dealer agrees to promptly notify Dealer Manager if it is no longer the broker-dealer of record with respect to some or all of the Class T, Class S or Class D Shares giving rise to such Servicing Fees or if it no longer satisfies any or all of the conditions set forth above.

Subject to the conditions described herein, the Dealer Manager will reallow to Participating Broker-Dealer the Servicing Fee in an amount described below, on Class T, Class S or Class D Shares, as applicable, sold by Participating Broker-Dealer. To the extent payable, the Servicing Fee will accrue monthly based on the Trust's then-current NAV of the Shares of such class and will be payable monthly in arrears as provided in the Private Placement Memorandum. All determinations regarding the total amount and rate of reallowance of the Servicing Fee, Participating Broker-Dealer's compliance with the listed conditions, and the portion retained by the Dealer Manager will be made by the Dealer Manager in its sole discretion.

Notwithstanding the foregoing, subject to the terms of the Private Placement Memorandum, at such time as Participating Broker-Dealer is no longer the broker-dealer of record with respect to such Class T, Class S or Class D Shares or that Participating Broker-Dealer no longer satisfies any or all of the conditions set forth above, then Participating Broker-Dealer's entitlement to the Servicing Fees related to such Class T, Class S and Class D Shares, as applicable, shall cease, and Participating Broker-Dealer shall not receive the Servicing Fee for any month in which Participating Broker-Dealer is not eligible on the last day of such month. Broker-dealer transfers will be made effective as of the start of the first business day of a month.

Thereafter, such Servicing Fees may be reallowed to the then-current broker-dealer of record of the Class T, Class S and Class D Shares, as applicable, if any such broker-dealer of record has been designated (the "Servicing Dealer"), to the extent such Servicing Dealer has entered into a Participating Dealer Agreement or similar agreement with the Dealer Manager ("Servicing Agreement") and such Participating Dealer Agreement or Servicing Agreement with the Servicing Dealer provides for such reallowance. In this regard, all determinations will be made by the Dealer Manager in good faith in its sole discretion. Participating Broker-Dealer is not entitled to any Servicing Fee with respect to Class I or Class E Shares. The Dealer Manager may also reallow some or all of the Servicing Fee to other broker-dealers who provide services with respect to the Shares (who shall be considered additional Servicing Dealers) pursuant to a Servicing Agreement with the Dealer Manager to the extent such Servicing Agreement provides for such reallowance and such additional Servicing Dealer is in compliance with the terms of such agreement related to such reallowance, in accordance with the terms of such Servicing Agreement.

As described in the Private Placement Memorandum, the Trust and the Dealer Manager shall cease paying the Servicing Fee with respect to any Class T Shares, Class S and Class D Shares held in a shareholder's account at the end of the month in which the Dealer Manager, in conjunction with the transfer agent, determines that total selling commissions, dealer manager fees and Servicing Fees paid with respect to such Shares would exceed any applicable limit set by a participating broker-dealer set forth in any applicable agreement between the Dealer Manager and a Participating Broker-Dealer at the time such shares were issued. At the end of such month, such Class T, Class S and Class D Shares (and any Shares issued under the DRIP with respect thereto) held in a shareholder's account shall automatically convert without any action on the part of the holder thereof into a number of Class I Shares (including any fractional Shares) with an equivalent aggregate NAV as such Shares. In addition, the Trust and the Dealer Manager will cease paying the Servicing Fee on Class T, Class S and Class D Shares in connection with such Offering upon the earlier to occur of the following: (i) a listing of Class I Shares or (ii) the merger or consolidation of the Trust with or into another entity or the sale or other disposition of all or substantially all of the Trust's

assets, in each case in a transaction in which the Trust's shareholders receive cash or shares listed on a national stock exchange. For purposes of this Schedule I, the portion of the Servicing Fee accruing with respect to Class T, Class S and Class D Shares of the Trust's common shares issued (publicly or privately) by the Trust during the term of a particular Offering, and not issued pursuant to a prior Offering, shall be underwriting compensation with respect to such particular Offering and not with respect to any other Offering.

## **General**

Selling commissions, dealer manager fees and Servicing Fees due to Participating Broker-Dealer pursuant to this Agreement will be paid to Participating Broker-Dealer within 30 days after receipt by the Dealer Manager. Participating Broker-Dealer, in its sole discretion, may authorize Dealer Manager to deposit selling commissions, dealer manager fees, Servicing Fees or other payments due to it pursuant to this Agreement directly to its bank account. If Participating Broker-Dealer so elects, Participating Broker-Dealer shall provide such deposit authorization and instructions in Schedule II to this Agreement.

The parties hereby agree that the foregoing selling commissions and reallocated dealer manager fees and Servicing Fee are not in excess of the usual and customary distributors' or sellers' commission received in the sale of securities similar to the Shares, that Participating Broker-Dealer's interest in the Offering is limited to such selling commissions and reallocated dealer manager fees and Servicing Fee from the Dealer Manager and Participating Broker-Dealer's indemnity referred to in Section 4 of the Dealer Manager Agreement, and that the Trust is not liable or responsible for the direct payment of such selling commissions and reallocated dealer manager fees and Servicing Fee to Participating Broker-Dealer.

Except as otherwise described under "Upfront Selling Commissions" above, Participating Broker-Dealer waives any and all rights to receive compensation, including the dealer manager fees and Servicing Fee, until it is paid to and received by the Dealer Manager. Participating Broker-Dealer acknowledges and agrees that if the Trust pays selling commissions, dealer manager fees or Servicing Fees, as applicable, to the Dealer Manager, the Trust is relieved of any obligation for selling commissions, dealer manager fees or Servicing Fees, as applicable, to Participating Broker-Dealer. The Trust may rely on and use the preceding acknowledgement as a defense against any claim by Participating Broker-Dealer for selling commissions, dealer manager fees or Servicing Fees, as applicable, the Trust pays to Dealer Manager but that Dealer Manager fails to remit to Participating Broker-Dealer. Participating Broker-Dealer affirms that the Dealer Manager's liability for selling commissions and dealer manager fees payable and the Servicing Fee is limited solely to the proceeds of selling commissions, dealer manager fees and the Servicing Fee, as applicable, receivable from the Trust and Participating Broker-Dealer hereby waives any and all rights to receive payment of selling commissions or any reallocation of dealer manager fees or the Servicing Fee, as applicable, due until such time as the Dealer Manager is in receipt of the selling commission, dealer manager fee or Servicing Fee, as applicable, from the Trust. Notwithstanding the above, Participating Broker-Dealer affirms that, to the extent Participating Broker-Dealer retains selling commissions as described above under "Upfront Selling Commissions," neither the Trust nor the Dealer Manager shall have liability for selling commissions payable to Participating Broker-Dealer, and that Participating Broker-Dealer is solely responsible for retaining the selling commissions due to Participating Broker-Dealer from the subscription funds received by Participating Broker-Dealer from its customers for the purchase of Shares in accordance with the terms of this Agreement.

Notwithstanding anything herein to the contrary, Participating Broker-Dealer will not be entitled to receive any selling commissions, dealer manager fees or Servicing Fee that would cause the aggregate amount of selling commissions, dealer manager fees, Servicing Fees and other forms of underwriting compensation paid from any source in connection with the Offering to exceed any agreed upon amount.

## Due Diligence

In addition, as set forth in the Private Placement Memorandum, the Dealer Manager or, in certain cases at the option of the Trust, the Trust, will pay or reimburse Participating Broker-Dealer for reasonable *bona fide* due diligence expenses incurred by Participating Broker-Dealer in connection with the Offering. Such due diligence expenses may include travel, lodging, meals and other reasonable out-of-pocket expenses incurred by Participating Broker-Dealer and its personnel when visiting the Trust's offices or properties to verify information relating to the Trust or its properties. Participating Broker-Dealer shall provide a detailed and itemized invoice for any such due diligence expenses and shall obtain the prior written approval from the Dealer Manager for such expenses, and no such expenses shall be reimbursed absent a detailed and itemized invoice. Notwithstanding the foregoing, no such payment will be made if such payment would cause the aggregate of such reimbursements to Participating Broker-Dealer and other broker-dealers, together with all other organization and offering expenses, to exceed any agreed upon amount. All such reimbursements will be made in accordance with, and subject to the restrictions and limitations imposed under the Private Placement Memorandum, FINRA rules and other applicable laws and regulations.

## Share Class Election

CHECK EACH APPLICABLE BOX BELOW IF DEALER ELECTS TO PARTICIPATE IN THE DISTRIBUTION OF THE LISTED SHARE CLASS

Class T Shares

Class S Shares

Class D Shares

Class I Shares

The following reflects the selling commission, dealer manager fee and the Servicing Fee as agreed upon between the Dealer Manager and Participating Broker-Dealer for the applicable Share class.

(Initials) Selling commission of [ ]% of the transaction price per Class T Share\* (Up to 3.0%)

By initialing here, Participating Broker-Dealer hereby agrees to the terms of the Agreement and this Schedule I with respect to the Class T Shares.

(Initials) Dealer manager fee of [ ]% of the transaction price per Class T Share\* (Up to 0.5%)

By initialing here, Participating Broker-Dealer hereby agrees to the terms of the Agreement and this Schedule I with respect to the Class T Shares.

(Initials) Servicing Fee of [ ]% (Annualized Rate) of aggregate NAV of outstanding Class T Shares, consisting of an advisor shareholder servicing fee of [ ]% (Annualized Rate), and a dealer shareholder servicing fee of [ ]% (Annualized Rate), of the aggregate NAV of outstanding Class T Shares. (Sum of advisor shareholder servicing fee and dealer shareholder servicing fee must not exceed 0.85%)

By initialing here, Participating Broker-Dealer agrees to the terms of eligibility for the Servicing Fee set forth in this Schedule I. Should Participating Broker-Dealer choose to opt out of this provision, it will not be eligible to receive the Servicing Fee and initialing is not necessary. Participating Broker-Dealer represents by its acceptance of each payment of the Servicing Fee that it complies with each of the above requirements.

(Initials) Selling commission of [ ]% of the transaction price per Class S Share\* (Up to 3.5%)

By initialing here, Participating Broker-Dealer hereby agrees to the terms of the Agreement and this Schedule I with respect to the Class S Shares.

(Initials) Servicing Fee of [ ]% (Annualized Rate) of aggregate NAV of outstanding Class S Shares (Up to 0.85%)

By initialing here, Participating Broker-Dealer agrees to the terms of eligibility for the Servicing Fee set forth in this Schedule I. Should Participating Broker-Dealer choose to opt out of this provision, it will not be eligible to receive the Servicing Fee and initialing is not necessary. Participating Broker-Dealer represents by its acceptance of each payment of the Servicing Fee that it complies with each of the above requirements.

(Initials) Selling commission of [ ]% of the transaction price per Class D Share (Up to 1.5%)

By initialing here, Participating Broker-Dealer hereby agrees to the terms of the Agreement and this Schedule I with respect to the Class D Shares.

(Initials) Servicing Fee of [ ]% (Annualized Rate) of aggregate NAV of outstanding Class D Shares (Up to 0.25%)

By initialing here, Participating Broker-Dealer agrees to the terms of eligibility for the Servicing Fee set forth in this Schedule I. Should Participating Broker-Dealer choose to opt out of this provision, it will not be eligible to receive the Servicing Fee and initialing is not necessary. Participating Broker-Dealer represents by its acceptance of each payment of the Servicing Fee that it complies with each of the above requirements.

(Initials) A cap on the total selling commissions, dealer manager fees and Servicing Fees paid with respect to the Class T Shares held within a shareholder's account of [ ]% of the gross proceeds from the sale of such shares (including the gross proceeds of any shares issued under the DRIP with respect thereto).

By initialing here, Participating Broker-Dealer hereby agrees to the terms of the Agreement and this Schedule I with respect to a cap of less than [ ]% of the gross proceeds from the sale of any shares (including the gross proceeds of any shares issued under the DRIP with respect thereto) on the total selling commissions, dealer manager fees and Servicing Fees paid with respect to the shares held in a shareholder's account and sold pursuant to the Agreement and this Schedule I. Should Participating Broker-Dealer choose to opt out of this provision, the cap will be [ ]% and initialing is not necessary.

\* Subject to discounts described in the "Plan of Distribution" section of the Private Placement Memorandum.

WITNESS WHEREOF, the parties hereto have caused this Addendum to be executed as of the date first written above.

“DEALER MANAGER”

STARWOOD CAPITAL, L.L.C.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

“DEALER”

\_\_\_\_\_  
(Print Name of Participating Broker-Dealer)

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

SCHEDULE II  
TO  
PARTICIPATING DEALER AGREEMENT WITH  
STARWOOD CAPITAL, L.L.C.

**NAME OF ISSUER:** STARWOOD CREDIT REAL ESTATE INCOME TRUST

**NAME OF DEALER:**

**SCHEDULE TO AGREEMENT DATED:**

Participating Broker-Dealer hereby authorizes the Dealer Manager or its agent to deposit selling commissions, dealer manager fees, Servicing Fees and other payments due to it pursuant to the Agreement to its bank account specified below. This authority will remain in force until Participating Broker-Dealer notifies the Dealer Manager in writing to cancel it. In the event that the Dealer Manager deposits funds erroneously into Participating Broker-Dealer's account, the Dealer Manager is authorized to debit the account with no prior notice to Participating Broker-Dealer for an amount not to exceed the amount of the erroneous deposit.

Bank Name: \_\_\_\_\_

Bank Address: \_\_\_\_\_

Bank Routing Number: \_\_\_\_\_

Account Number: \_\_\_\_\_

“DEALER”

\_\_\_\_\_

(Print Name of Participating Broker-Dealer)

By: \_\_\_\_\_

Name:

Title:

Date

**EXHIBIT A**

**TO FORM OF PARTICIPATING DEALER AGREEMENT**

**Dealer Manager Agreement**



## **EXHIBIT B**

### **TO FORM OF PARTICIPATING DEALER AGREEMENT**

#### **Electronic Signature Use Indemnity Agreement**

Participating Broker-Dealer has adopted a process by which clients may authorize certain account-related transactions or requests, in whole or in part, evidenced by Electronic Signature (as such term is defined in Section XXI hereof). In consideration of the Trust allowing Participating Broker-Dealer and its clients to execute certain account-related transactions and/or requests, in whole or in part, by Electronic Signature, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Participating Broker-Dealer does hereby, for itself and its successors and permitted assigns, covenant and agree to indemnify and hold harmless the Trust, the Dealer Manager Parties, each of their affiliates and each of their and their affiliates' officers, directors, trustees, agents and employees, in whatever capacity they may act, from and against any and all claims (whether groundless or otherwise), losses, liabilities, damages and expenses, including, but not limited to, costs, disbursements and reasonable counsel fees (whether incurred in connection with such claims, losses, liabilities, damages and expenses or in connection with the enforcement of any rights hereunder), arising out of or in connection with the Participating Broker-Dealer's representations or covenants set forth in Section XXI hereof or the representations described below.

Participating Broker-Dealer represents that it will comply with all applicable terms of Electronic Signature Law as outlined in Section XXI hereof. Dealer represents that the Trust may accept any Electronic Signature without any responsibility to verify or authenticate that it is the signature of Participating Broker-Dealer's client given with such client's prior authorization and consent. Participating Broker-Dealer represents that the Trust may act in accordance with the instructions authorized by Electronic Signature without any responsibility to verify that Participating Broker-Dealer's client intended to give the Electronic Signature for the purpose of authorizing the instruction, transaction or request and that Participating Broker-Dealer's client received all disclosures required by applicable Electronic Signature Law. Participating Broker-Dealer agrees to provide a copy of each Electronic Signature and further evidence supporting any Electronic Signature upon request by the Trust.

## FORM OF SUBSCRIPTION AGREEMENT

To: Starwood Credit Real Estate Income Trust  
2340 Collins Avenue  
Miami Beach, FL 33139

Re: Subscription Agreement for the Purchase of Class E Common Shares of Beneficial Interest (this "Subscription Agreement")

Starwood Real Estate Income Holdings, L.P., a Delaware limited partnership ("Starwood RE Income Holdings"), or any entity that is controlled by, controls or is under common control with Starwood RE Income Holdings and any of their respective predecessor entities (collectively, "Starwood Capital"), as of the \_\_\_ day of \_\_\_\_\_, 2023, agrees, from time to time, to purchase a number of Class E common shares of beneficial interest, par value \$0.01 per common share (the "Class E Shares"), of Starwood Credit Real Estate Income Trust, a Maryland statutory trust (the "Trust"), in an aggregate amount of not less than \$150 million (the "Commitment"), pursuant to the terms and conditions of this Subscription Agreement. Each of the Trust and Starwood Capital agree that, to the extent the Class E shares are not yet designated under the Trust's organizational documents as of the date of any Capital Contribution (as defined below), the Trust shall issue common shares to Starwood Capital, which shall subsequently be reclassified as Class E Shares in connection with such designation at a later date.

Starwood Capital acknowledges that the Trust will not register the issuance of the Class E Shares under the Securities Act of 1933, as amended (the "Securities Act"), or any state securities laws (the "State Acts") in reliance upon exemptions from registration contained in the Securities Act and the State Acts, and that the Trust relies upon these exemptions, in part, because of Starwood Capital's representations, warranties and agreements contained in this Subscription Agreement.

The parties hereto represent, warrant and agree as follows:

1. Starwood Capital hereby agrees, from time to time, to purchase from the Trust an aggregate of not less than \$150 million in Class E Shares, subject to the following additional provisions:

a. The Trust shall provide at least five (5) business days, or such shorter period upon the consent of Starwood Capital, prior notice (each, a "Contribution Notice") when the Trust requires a capital contribution from Starwood Capital pursuant to this Subscription Agreement (a "Capital Contribution"). The Contribution Notice shall include the amount of the Capital Contribution (the "Capital Contribution Amount") and the date by which such amount shall be paid to the Trust (the "Contribution Date").

b. Starwood Capital shall make all Capital Contributions pursuant to the terms of this Subscription Agreement in U.S. dollars by wire transfer of immediately available funds on the applicable Contribution Date.

c. In exchange for each Capital Contribution pursuant to the terms of this Subscription Agreement, the Trust shall issue to Starwood Capital a number of Class E Shares equal to the applicable Capital Contribution Amount divided by a per Class E Share price equal to either (i) where the Trust has not yet calculated a net asset value ("NAV") per share of the Class E Shares, a Class E Share price equal to \$20.00 or (ii) after the date on which the Trust calculates a NAV per share of the Class E Shares, a Class E Share price equal to the most recently determined NAV per share of the Class E Shares immediately prior to the Contribution Date, as determined by Starwood Credit Advisors, L.L.C., the Trust's investment advisor, and consistent with the valuation procedures described in the Trust's Private Placement Memorandum in connection with its continuous private offering (as amended and/or supplemented from time to time, the "Private Placement Memorandum").

2. Starwood Capital hereby represents and warrants to the Trust as follows:

a. Starwood Capital has carefully read this Subscription Agreement and, to the extent it believes necessary, has discussed with its counsel the representations, warranties and agreements that it makes by signing this Subscription Agreement and acknowledges and agrees to all of the limitations set forth herein relating to the repurchase by the Trust of such Class E Shares.

b. Starwood Capital is a legal entity duly organized, validly existing and in good standing under the laws of the state, commonwealth or other jurisdiction wherein it was organized or established. Starwood Capital has all requisite power and authority to purchase the Class E Shares, execute and deliver this Subscription Agreement and to perform all of the obligations required to be performed by Starwood Capital hereunder, and such purchase and performance will not violate or contravene any law, rule or regulation binding on or applicable to Starwood Capital or any investment guideline or restriction applicable to Starwood Capital. The person executing this Subscription Agreement on behalf of Starwood Capital is duly authorized to do so in the capacity in which such person is executing this Subscription Agreement. This Subscription Agreement and any other documents executed and delivered by Starwood Capital in connection herewith have been duly authorized, executed, and delivered by Starwood Capital, and are the legal, valid, and binding obligations of Starwood Capital, enforceable against Starwood Capital in accordance with their respective terms, except to the extent that enforceability may be limited by bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium, and similar laws of general application related to or affecting creditors' rights and by general equitable principles.

c. Starwood Capital is purchasing the Class E Shares for its own account, with the intention of holding the Class E Shares for investment and with no present intention of dividing or allowing others to participate in this investment or of reselling or otherwise participating, directly or indirectly, in a distribution of the Class E Shares. Starwood Capital will not make any sale, transfer or other disposition of the Class E Shares without registration under the Securities Act and the State Acts unless an exemption from registration is available under the Securities Act and the State Acts. Starwood Capital acknowledges that Starwood Capital and its affiliates have no right to require the Trust or any other party to seek such registration of the Class E Shares. Starwood Capital acknowledges that the Trust has no obligation to comply with the conditions of Rule 144 promulgated under the Securities Act or to take any other action necessary in order to make available any exemption for the resale of the Class E Shares without registration. Starwood Capital further acknowledges that the Class E Shares will be subject to significant restrictions on transferability and ownership as set forth from time to time in the Trust's Declaration of Trust (as amended from time to time, the "Declaration of Trust").

d. Starwood Capital is familiar with the business in which the Trust is or will be engaged, and based upon its knowledge and experience in financial and business matters, it is familiar with the investments of the type that it is agreeing to undertake in this Subscription Agreement; it is fully aware of the problems and risks involved in making investments of this type; and it is capable of evaluating the merits and risks of such investments.

e. Starwood Capital is not relying on any communication (written or oral) of the Trust or any of their respective affiliates as investment or tax advice or as a recommendation to purchase the Class E Shares. Starwood Capital acknowledges that no U.S. federal or state or non-U.S. agency has passed upon the merits or risks of an investment in the Class E Shares or made any finding or determination concerning the fairness or advisability of an investment in the Class E Shares.

f. Starwood Capital has such knowledge, skill and experience in business, financial and investment matters that Starwood Capital is capable of evaluating the merits and risks of an investment in the Class E Shares and making an informed investment decision with respect thereto. Starwood Capital has made an independent legal, tax, accounting and financial evaluation of the merits and risks of an investment in the Class E Shares. Starwood Capital is able to bear the substantial economic risks related to an investment in the Class E Shares for an indefinite period of time, has no need for liquidity in such investment, and can afford a complete loss of such investment.

g. Starwood Capital is an “accredited investor” as defined in Regulation D under the Securities Act. Starwood Capital agrees to furnish additional information reasonably requested by the Trust to assure compliance with applicable securities laws, rules and regulations in connection with the purchase and sale of the Class E Shares.

h. Starwood Capital acknowledges that neither the Trust nor any other person offered to sell the Class E Shares by means of, and Starwood Capital is not investing in the Class E Shares as a result of, any form of general solicitation or advertising, including but not limited to: (a) any advertisement, article, notice or other communication published in any newspaper, magazine or similar media or broadcast over television or radio or (b) any seminar or meeting whose attendees were invited by any general solicitation or general advertising.

i. Except as otherwise disclosed to the Trust, Starwood Capital hereby certifies that none of the disqualifying events or conditions (each, a “Rule 506(d) Event”) described in Rule 506(d) under Regulation D promulgated under the Securities Act has occurred or is true as of the date hereof with respect to (a) Starwood Capital or (b) any beneficial owner of Starwood Capital which indirectly holds 20% or more of the total outstanding shares of the Trust. Starwood Capital shall promptly notify the Trust, in the event that, after the date hereof, the foregoing sentence is no longer accurate.

j. Starwood Capital acknowledges that the Trust will not issue physical certificates for the Class E Shares. Instead, the Class E Shares will be recorded on the books and records of the Trust or the Trust’s transfer agent.

k. Starwood Capital acknowledges that the representations made by Starwood Capital herein shall be continuing and must be valid as of each Contribution Date. If there is any material change to the facts or circumstances underlying the representations made by Starwood Capital herein such that the representations would become false, inaccurate or misleading, Starwood Capital agrees to promptly notify the Trust of such material change.

3. The Trust hereby represents and warrants to Starwood Capital as follows:

a. The Trust is a legal entity duly organized, validly existing and in good standing under the laws of the state of Maryland. The Trust has all requisite power and authority to execute and deliver this Subscription Agreement and to perform all of the obligations required to be performed by it hereunder, and such performance will not violate or contravene any law, rule or regulation binding on or applicable to the Trust. The person executing this Subscription Agreement on behalf of the Trust is duly authorized to do so in the capacity in which such person is executing this Subscription Agreement. This Subscription Agreement and any other documents executed and delivered by the Trust in connection herewith have been duly authorized, executed, and delivered by the Trust and are the legal, valid, and binding obligations of the Trust, enforceable against the Trust in accordance with their respective terms, except to the extent that enforceability may be limited by bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium, and similar laws of general application related to or affecting creditors’ rights and by general equitable principles.

b. Neither the offer and sale of the Class E Shares nor the execution and delivery by the Trust of, and the performance by the Trust of its respective obligations under, this Subscription Agreement will result in a violation or default of, or the imposition of any lien upon any assets of the Trust or any of its respective subsidiaries pursuant to (a) any provision of applicable law, (b) its organizational documents, (c) the organizational documents, each as amended, of any subsidiary of the Trust, (d) any agreement or other instrument binding upon the Trust or any subsidiary of the Trust or (e) any order any governmental entity, agency or court having jurisdiction over the Trust or any subsidiary of the Trust or any of its assets, except in the case of clauses (a), (c), (d) and (e) for any such violation, default or lien that would not, individually or in the aggregate, reasonably be expected to materially and adversely affect the Trust's business, financial condition or results of operations or the Trust's ability to perform its obligations under this Subscription Agreement.

c. No consent, approval, authorization, order, registration, qualification or filing of or with any governmental entity by the Trust is required in connection with the transactions contemplated herein, except such as may be required under the Securities Act or State Acts. No consent, approval, or authorization of any other person is required to be obtained by the Trust in connection with the transactions contemplated herein, except for any such consent, approval or authorization that would not reasonably be expected to materially and adversely affect the Trust's business, financial condition or results of operations or the Trust's ability to perform its obligations under this Subscription Agreement.

d. The Class E Shares to be issued pursuant to the terms of this Subscription Agreement will, when issued, paid for and delivered, be duly and validly authorized, issued and delivered and shall be fully paid and non-assessable, and such Class E Shares will be free and clear of all taxes, liens (other than transfer restrictions imposed hereunder, under the Declaration of Trust or by applicable law), preemptive rights, subscription and similar rights.

e. As of the date hereof, there is no action, suit or proceeding before or by any court or governmental agency or body, now pending, or, to the knowledge of the Trust, threatened against the Trust or any of its respective subsidiaries, which would have a material adverse effect on or would materially and adversely affect the properties or assets of the Trust or which might materially and adversely affect the Trust's ability to perform its obligations under this Subscription Agreement.

f. The Trust acknowledges that the representations made by it herein shall be continuing and must be valid as of each Contribution Date.

4. The Class E Shares purchased by Starwood Capital described herein shall be subject to the following repurchase terms:

a. Subject to the terms and conditions set forth in this Section 4, Starwood Capital agrees to hold all of the Class E Shares it receives in connection with the Commitment until (i) with respect to Class E Shares issued in respect of the initial \$125 million of the Commitment, the earlier of (x) the first date that the Trust's NAV reaches \$1 billion and (y) the second anniversary of the initial closing of the Trust's continuous private offering, (ii) with respect to Class E shares issued in respect of the Commitment in excess of \$125 million, but not greater than \$150 million, at least the second anniversary of the initial closing of the Trust's continuous private offering, and (iii) with respect to any remaining Class E shares (representing purchases exceeding \$150 million), at any time following the initial closing of the Trust's continuous private offering (such dates referred to in (i) - (iii), collectively, the "Applicable Liquidity Date").

b. Following the Applicable Liquidity Date, Starwood Capital may, from time to time, request to have such Class E Shares repurchased by the Trust (each a “Starwood Repurchase”) at a price per share equal to the most recently determined NAV per Class E Share as of the repurchase date.

c. The Class E Shares issued in connection with the Commitment are not eligible for repurchase pursuant to the Trust’s share repurchase plan as described in the Private Placement Memorandum (as amended from time to time, the “Share Repurchase Plan”) and are not therefore subject to the quarterly limitation or the early repurchase deduction as described therein.

d. For so long as Starwood Capital or its affiliate acts as investment advisor to the Trust, the Trust shall not effect any Starwood Repurchase with respect to any quarter in which either (i) the full amount of all common shares of the Trust requested to be repurchased under the Share Repurchase Plan are not repurchased or (ii) the Share Repurchase Plan has been suspended.

e. Should any Starwood Repurchase, in the Trust’s judgment, place an undue burden on the Trust’s liquidity, adversely affect the Trust’s operations or risk having an adverse impact on the Trust as a whole, the Trust may elect not to redeem or repurchase from Starwood Capital, or may offer to purchase or redeem less than the amount of the Starwood Repurchase.

f. The Trust may in its sole discretion determine to suspend repurchases under this Subscription Agreement if it is prohibited from repurchasing the Class E Shares by a legal, contractual or regulatory restriction applicable to it or its affiliates.

g. For so long as Starwood Capital or its affiliate acts as investment advisor to the Trust, Starwood Capital will not request that Class E Shares issued in respect of the Commitment be repurchased under the Share Repurchase Plan.

5. The principal office of Starwood Capital is at the address shown under its signature on the signature page of this Subscription Agreement.

6. This Subscription Agreement shall be governed by and construed in accordance with the laws of the State of New York without giving effect to the conflict of laws provisions therein.

7. This Subscription Agreement contains the entire agreement between the parties with respect to the subject matter thereof. The provisions of this Subscription Agreement may not be modified or waived except in a writing signed by both parties.

8. This Subscription Agreement and the rights, powers and duties set forth herein shall, except as set forth herein, bind and inure to the benefit of the heirs, executors, administrators, legal representatives, successors and assigns of the parties hereto. The parties hereto may not assign any of their respective rights or interests in and under this Subscription Agreement without the prior written consent of the other party, and any attempted assignment without such consent shall be void and without effect.

9. If any part of this Subscription Agreement is held by a court of competent jurisdiction to be unenforceable, illegal or invalid, the balance of this Subscription Agreement shall remain in effect and unaffected by such unenforceability, illegality or invalidity.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the parties have executed this Subscription Agreement as of the date first above written.

**STARWOOD CAPITAL:**

**STARWOOD REAL ESTATE INCOME HOLDINGS,  
L.P.**, a Delaware limited partnership

BY: Starwood Real Estate Income Holdings GP, L.L.C., its  
general partner

By: \_\_\_\_\_  
Name:  
Title:  
Address:

EIN:

**Acknowledged by:**

**THE TRUST:**

**STARWOOD CREDIT REAL ESTATE INCOME  
TRUST**, a Maryland statutory trust

By: \_\_\_\_\_  
Name:  
Title:

*[Signature Page to Starwood Subscription Agreement]*



**LIST OF SUBSIDIARIES OF STARWOOD CREDIT REAL ESTATE INCOME TRUST**

<b>Name of Subsidiary</b>	<b>Jurisdiction of Organization</b>
SCREDIT Real Estate Capital, LLC	Delaware
SCREDIT Mortgage Funding, LLC	Delaware
SCREDIT CA Fundings, LLC	Delaware
SCREDIT Mortgage Funding Sub-1, LLC	Delaware
SCREDIT Mortgage Funding BC, LLC	Delaware
SCREDIT CA Fundings-T, LLC	Delaware
SCREDIT Mortgage Funding Sub-1-T, LLC	Delaware