UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 8-K

CURRENT REPORT
Pursuant to Section 13 or 15(d)
of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): August 25, 2023

MOBILE INFRASTRUCTURE CORPORATION
(Exact name of registrant as specified in its charter)

Maryland	**001-40415**	**98-1583957**
(State or other jurisdiction of incorporation)	**(Commission File Number)**	**(IRS Employer Identification No.)**

30 W. 4th Street **Cincinnati, Ohio** **(Address of principal executive offices)**	**45202** **(Zip Code)**

Registrant's telephone number, including area code: (513) 834-5110

Fifth Wall Acquisition Corp. III
1 Little West 12th Street
4th Floor
New York, NY 10014
(Former name or former address, if changed since last report)

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

☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, $0.0001 par value per share	BEEP	NYSE American LLC

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company ☒

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

INTRODUCTORY NOTE

The Domestication and Mergers

As previously disclosed, on December 13, 2022, Fifth Wall Acquisition Corp. III, a Cayman Islands exempted company ("**FWAC**"), entered into that certain Agreement and Plan of Merger, dated as of December 13, 2022, as amended by that certain First Amendment to Agreement and Plan of Merger, dated as of March 23, 2023 (as amended, the "**Merger Agreement**"), by and among FWAC, Queen Merger Corp. I, a Maryland corporation and a wholly-owned subsidiary of FWAC ("**Merger Sub**"), and Mobile Infrastructure Corporation, a Maryland corporation ("**MIC**").

On August 25, 2023, as contemplated by the Merger Agreement and described in the section titled "*Proposal 2—The Domestication Proposal*" beginning on page 163 of the definitive joint proxy statement/prospectus, dated July 11, 2023 (the "**Joint Proxy Statement/Prospectus**") and filed with the United States Securities and Exchange Commission (the "**SEC**"), FWAC filed a notice of deregistration with the Cayman Islands Registrar of Companies, together with the necessary accompanying documents, and filed Articles of Incorporation and Articles of Conversion with the Maryland State Department of Assessments and Taxation, pursuant to which FWAC was domesticated and converted to a Maryland corporation, and is referred to in this Current Report on Form 8-K (the "**Report**") as "**New MIC**" or the "**Company**" (the "**Domestication**").

In connection with the Domestication, (a) each then issued and outstanding Class A ordinary share, par value $0.0001 per share, of FWAC ("**FWAC Class A Shares**") converted automatically, on a one-for-one basis, into one share of common stock, par value $0.0001 per share, of New MIC (the "**New MIC Common Stock**"); and (b) each then issued and outstanding Class B ordinary share, par value $0.0001 per share, of FWAC ("**FWAC Class B Shares**") converted automatically, on a one-for-one basis, into one share of New MIC Common Stock.

On August 25, 2023, as contemplated by the Merger Agreement and described in the section titled "*The Merger—The Merger Agreement*" beginning on page 222 of the Joint Proxy Statement/Prospectus, following the Domestication: (a) Merger Sub merged with and into MIC (the "**First Merger**") with MIC continuing as the surviving entity (the "**First-Step Surviving Company**" and the time the First Merger became effective being referred to as the "**First Effective Time**"), and (b) immediately following the First Effective Time, the First-Step Surviving Company merged with and into New MIC in accordance with the Maryland General Corporation Law (the "**Second Merger**" and, together with the First Merger, the "**Merger**"), with New MIC continuing as the surviving entity resulting from the Second Merger. The closing of the Merger is referred to herein as the "**Closing**" and the date of the Closing is referred to herein as the "**Closing Date**." In connection with the Second Merger, FWAC changed its name to "Mobile Infrastructure Corporation."

In connection with the Merger, among other things: (a) each issued and outstanding share of common stock, par value $0.0001 per share, of MIC ("**MIC Common Stock**") (excluding shares owned by MIC and any of its subsidiaries (each, a "**Mobile Company**")) converted into the right to receive such number of shares of New MIC Common Stock at an exchange ratio of 1.5 to 1 for an aggregate of 11,632,040 shares of New MIC Common Stock and (b) each issued and outstanding share of Series 1 Convertible Redeemable Preferred Stock, par value $0.0001 per share, of MIC (the "**MIC Series 1 Preferred Stock**") and Series A Convertible Redeemable Preferred Stock, par value $0.0001 per share, of MIC (the "**MIC Series A Preferred Stock**") converted into the right to receive one share of Series 1 Convertible Redeemable Preferred Stock, par value $0.0001 per share, of New MIC (the "**New MIC Series 1 Preferred Stock**") or one share of Series A Convertible Redeemable Preferred Stock, par value $0.0001 per share, of New MIC (the "**New MIC Series A Preferred Stock**" and, together with the New MIC Series 1 Preferred Stock, the "**New MIC Preferred Stock**"), as applicable, having terms materially the same as the applicable MIC Series 1 Preferred Stock or MIC Series A Preferred Stock, except that the shares of New MIC Preferred Stock will be convertible into shares of New MIC Common Stock instead of shares of MIC Common Stock. Each share of New MIC Preferred Stock will be convertible into a number of shares of New MIC Common Stock determined by a formula to be applied at the time of conversion, which formula was described in the Joint Proxy Statement/Prospectus. Each outstanding share of MIC Common Stock that was held by any Mobile Company was cancelled without payment of any consideration therefor and no Mobile Company was entitled to any consideration by virtue of the Merger. In addition, upon the First Merger Effective Time, the outstanding and unexercised warrant to purchase 1,702,128 shares of MIC Common Stock at an exercise price of $11.75 per share

(the "**MIC Common Stock Warrant**") became a warrant (the "**New MIC Warrant**") to purchase 2,553,192 shares of New MIC Common Stock at an exercise price of $7.83 per share. The sole holder of the New MIC Warrant is Color Up, LLC, a Delaware limited liability company ("**Color Up**").

In connection with the Merger, Mobile Infra Operating Partnership, L.P., a Maryland limited partnership (the "**Operating Partnership**"), converted (the "**Conversion**") from a Maryland limited partnership to a Delaware limited liability company, Mobile Infra Operating Company, LLC (following the Conversion, the "**Operating Company**"). In connection with the Conversion, each outstanding unit of partnership interest of the Operating Partnership converted automatically, on a one-for-one basis, into an equal number of identical membership units of the Operating Company. Following the Conversion, the classes of partnership units of the Operating Partnership designated as "Common Units," "Class A Units," "LTIP Units" and "Performance Units" became classes of membership units of the Operating Company. The Conversion was consummated prior to the First Effective Time and at or about the time of the Domestication. MIC was the sole general partner of the Operating Partnership and, prior to the Conversion, owned substantially all of its assets and conducted substantially all of its operations through the Operating Partnership. Following the Conversion, New MIC is a member of the Operating Company. New MIC owns substantially all of its assets and conducts substantially all of its operations through the Operating Company. Immediately following the Conversion, New MIC owns approximately 52.05% of the Common Units. The Operating Company will be managed by a board of directors consisting of two board members—one individual appointed by New MIC who shall be entitled to two votes on every matter submitted to a vote of the board of directors of the Operating Company and one individual appointed by the non-New MIC members of the Operating Company who shall be entitled to one vote on every matter submitted to a vote of the board of directors of the Operating Company. The two directors of the Operating Company as of the date of this Report are Manuel Chavez, III and Stephanie Hogue.

The foregoing description of the Merger Agreement is a summary only and is qualified in its entirety by reference to the full text of the Merger Agreement, which is incorporated by reference as Exhibits 2.1 and 2.2 to this Report and incorporated herein by reference.

Preferred Equity PIPE Financing

Pursuant to subscription agreements (the "**Subscription Agreements**") entered into on June 15, 2023, by and between FWAC and each of HSCP Strategic III, L.P., a Delaware limited partnership ("**HS3**"), Harvest Small Cap Partners, L.P. and Harvest Small Cap Partners Master, Ltd., entities controlled by Jeffrey B. Osher, a director of New MIC, and Bombe-MIC Pref, LLC, an entity controlled by Manuel Chavez, III and of which Stephanie Hogue is a member, each of whom is a director and officer of New MIC (collectively, the "**Preferred PIPE Investors**"), New MIC, immediately prior to the Closing, issued and sold to the Preferred PIPE Investors a total of 46,000 shares of Series 2 Convertible Preferred Stock, par value $0.0001 per share, of New MIC (the "**Series 2 Preferred Stock**") at $1,000 per share for an aggregate purchase price of $46,000,000, on the terms and subject to the conditions set forth therein (the "**Preferred PIPE Investment**").

The shares of Series 2 Preferred Stock will convert into shares of New MIC Common Stock upon the earliest of December 31, 2023 (provided that there has been no suspension or removal of New MIC Common Stock from NYSE American ("**NYSE**") during the thirty (30)-day period following the Closing) or a change of control of New MIC. The aggregate of 46,000 shares of Series 2 Preferred Stock and the Dividends (as defined below) will convert into 13,787,462 shares of New MIC Common Stock, which number is comprised of (i) 12,534,058 shares of New MIC Common Stock issuable upon the conversion of 46,000 shares of Series 2 Preferred Stock based on the stated value of such shares and (ii) 1,253,404 shares of New MIC Common Stock issuable upon the conversion of the Dividends the holders of Series 2 Preferred Stock would be entitled to, which would be received upon conversion of shares of Series 2 Preferred Stock on December 31, 2023, assuming the current conversion price and the authorization of the Dividends by the board of directors of New MIC. The described amounts are subject to appropriate adjustment in relation to certain events, such as recapitalizations, stock dividends, stock splits, stock combinations, reclassifications, or similar events affecting the Series 2 Preferred Stock, as set forth in New MIC Charter (as defined below).

The shares of Series 2 Preferred Stock are non-voting shares. The holders of shares of Series 2 Preferred Stock will be entitled to receive dividends (the "**Dividends**") at a cumulative annual rate of 10% during the period between the initial issuance of such shares and the conversion thereof into shares of New MIC Common Stock; provided that if the date of the distribution occurs prior to the first anniversary of the original date of issuance of such share, the holder of such share of Series 2 Preferred Stock shall receive Dividends at a cumulative annual rate of 10% of the $1,000 per share liquidation preference for a period of one year, which will be paid in full on the conversion date. Dividends will be paid in kind and also convert into shares of New MIC Common Stock.

The Subscription Agreements provide that the shares of New MIC Common Stock issued to the Preferred PIPE Investors upon the conversion of the Series 2 Preferred Stock (including the conversion of Dividends) will be subject to a one-year lock-up. A description of the Subscription Agreements is included in the Joint Proxy Statement/Prospectus in the section titled "*The Merger—The Merger Agreement—PIPE Investment*" beginning on page 223 of the Joint Proxy Statement/Prospectus.

The shares of Series 2 Preferred Stock issued to the Preferred PIPE Investors were issued in a private placement transaction exempt from registration pursuant to Section 4(a)(2) of the Securities Act of 1933, as amended (the "**Securities Act**").

The foregoing description of the Subscription Agreements and the provisions of the New MIC Charter pertaining to the terms of the Series 2 Preferred Stock is a summary only and is qualified in its entirety by reference to the full text of the form of the Subscription Agreement and the New MIC Charter, which are filed as Exhibit 10.47 and Exhibit 3.1 to this Report, respectively, and incorporated herein by reference.

Item 1.01 Entry into a Material Definitive Agreement.

Registration Rights Agreement

In connection with the Closing and as contemplated by the Merger Agreement, New MIC, Fifth Wall Acquisition Sponsor III LLC, a Cayman Islands limited liability company (the "**Sponsor**"), certain former directors of FWAC, the Preferred PIPE Investors, and Color Up (collectively, the "**RRA Holders**"), entered into a Registration Rights Agreement (the "**Registration Rights Agreement**"). The terms of the Registration Rights Agreement are described in the Joint Proxy Statement/Prospectus in the section titled "*The Merger—Certain Related Agreements—Registration Rights Agreement*" on page 243 of the Joint Proxy Statement/Prospectus. In connection with the execution of the Registration Rights Agreement, the Registration and Shareholder Rights Agreement, dated as of May 24, 2021 (the "**FWAC Prior Agreement**"), by and among FWAC, the Sponsor and certain former directors of FWAC was terminated. Under the FWAC Prior Agreement, the Sponsor and certain former directors of FWAC were entitled to customary registration rights.

Pursuant to the Registration Rights Agreement, New MIC granted the RRA Holders certain registration rights with respect to the Registrable Securities (as defined below) of New MIC. Among other things, the Registration Rights Agreement requires New MIC to register (a) all shares of New MIC Common Stock, (b) all shares of New MIC Common Stock issuable upon exercise, conversion, redemption, or exchange of any option, warrant, convertible or exchangeable security, including the New MIC Warrant, the Common Units, and the shares of Series 2 Preferred Stock, (c) the New MIC Warrant, and (d) any additional securities issued or issuable as a dividend or distribution on, in exchange for, or otherwise in respect of, such shares of New MIC Common Stock and Common Units (including as a result of combinations, recapitalizations, mergers, consolidations, reorganizations, stock splits or otherwise) (collectively, the "**Registrable Securities**"). The Registration Rights Agreement requires New MIC to file a registration statement registering for resale the Registrable Securities as promptly as practicable following the Closing but no later than the first business day to occur thirty (30) calendar days after Closing. New MIC is required to use its reasonable best efforts to have such registration statement declared effective as soon as practicable after the filing thereof, but no later than the earlier of (a) the 90th calendar day (or 135th calendar day if the SEC notifies New MIC that it will "review" the registration statement) following the filing date of the registration statement and (b) the 10th business day after the date New MIC is notified (orally or in writing, whichever is earlier) by the SEC that the registration statement will not be "reviewed" or will not be subject to further review.

Information concerning the security ownership of certain RRA Holders is set forth under the heading "*Security Ownership of Certain Beneficial Owners and Management*" in Item 2.01 of this Report and is incorporated herein by reference into this Item 1.01. For additional information about material relationships between New MIC and RRA Holders affiliated with FWAC, MIC, or New MIC, please see the information section titled "*Certain Relationships and Related Transactions*" beginning on page 386 of the Joint Proxy Statement/Prospectus, which is incorporated herein by reference.

The foregoing description of the Registration Rights Agreement is a summary only and is qualified in its entirety by reference to the full text of the Registration Rights Agreement, a copy of which is filed as Exhibit 10.42 to this Report and incorporated herein by reference.

Side Letter

On the Closing Date, and immediately prior to the Closing, FWAC, the Sponsor, and MIC entered into that certain Letter Agreement, dated as of August 25, 2023 (the "**Letter Agreement**"), relating to that certain Second Amended and Restated Sponsor Agreement, dated as of December 13, 2022, as amended and restated on May 11, 2023 and June 15, 2023 (the "**Sponsor Agreement**"), by and among FWAC, MIC, the Sponsor, and the former members of the board of directors of FWAC party thereto. The Letter Agreement provides for the cancellation of 100,000 FWAC Class B Shares issued and outstanding and held by the Sponsor immediately prior to the Closing for no consideration.

The foregoing description of the Letter Agreement is a summary only and is qualified in its entirety by reference to the full text of the Letter Agreement, a copy of which is filed as Exhibit 10.46 to this Report and incorporated herein by reference.

Indemnification Agreements

In connection with the Merger, on the Closing Date, New MIC entered into indemnification agreements with each of its directors and executive officers. Each indemnification agreement provides for indemnification and advancement by New MIC of certain expenses and costs relating to claims, suits, or proceedings arising from service to New MIC or, at its request, service to other entities to the fullest extent permitted by applicable law.

The foregoing description of the indemnification agreements is a summary only and is qualified in its entirety by reference to the full text of the form of indemnification agreement, a copy of which is filed as Exhibit 10.51 to this Report and incorporated herein by reference.

Warrant Assumption and Amendment Agreement

At the First Effective Time, MIC, New MIC, and Color Up entered into a Warrant Assumption and Amendment Agreement (the "**Warrant Assumption and Amendment Agreement**") to that certain Warrant Agreement, dated August 25, 2021 (the "**Warrant Agreement**"), by and between MIC and Color Up, pursuant to which, among other things, effective as of the First Effective Time, New MIC assumed the MIC Common Stock Warrant remaining outstanding and unexpired at that time, and such MIC Common Stock Warrant became the New MIC Warrant.

The foregoing description of the Warrant Assumption and Amendment Agreement is a summary only and is qualified in its entirety by reference to the full text of the Warrant Assumption and Amendment Agreement, a copy of which is filed as Exhibit 10.15 to this Report and incorporated herein by reference.

Amended and Restated Warrant Agreement

On August 29, 2023, New MIC and Color Up entered into an Amended and Restated Warrant Agreement (the "**Amended Warrant Agreement**"), pursuant to which the Warrant Agreement was amended and restated to:

(i) reflect the effects of the Merger (including but not limited to the reduction in the exercise price of the New MIC Warrant from $11.75 to $7.83 per share and the increase in the number of the underlying shares from 1,702,128 shares of MIC Common Stock to 2,553,192 shares of New MIC Common Stock) and

(ii) permit Color Up to exercise the New MIC Warrant on a cashless basis at Color Up's option.

The foregoing description of the Amended Warrant Agreement is a summary only and is qualified in its entirety by reference to the full text of the Amended Warrant Agreement, a copy of which is filed as Exhibit 10.16 to this Report and incorporated herein by reference.

LLC Agreement

Following the Conversion, Color Up, HS3, each of Manuel Chavez, III, Stephanie Hogue, Jeffrey B. Osher, Lorrence T. Kellar, Danica Holley, Damon Jones and Shawn Nelson, individually, and MIC became a member of the Operating Company. MIC owns substantially all of its assets and conducts substantially all of its operations through the Operating Company. At the First Effective Time, MIC and the other members of the Operating Company entered into the Limited Liability Company Agreement of Mobile Infra Operating Company, LLC (the "**Operating Company LLC Agreement**"), which sets forth the rights and obligations of the holders' membership interests of the Operating Company. Under the Operating Company LLC Agreement, the Operating Company is managed by a board of directors consisting of two board members—one individual appointed by New MIC who is entitled to two votes on every matter submitted to a vote of the board of directors of the Operating Company and one individual appointed by the non-New MIC members of the Operating Company who is entitled to one vote on every matter submitted to a vote of the board of directors of the Operating Company. Mr. Chavez, Ms. Hogue, and Mr. Osher beneficially owned, as the controlling persons of Color Up, 11,242,635 Common Units, or approximately 44.2% of the outstanding Common Units immediately prior to Closing. Mr. Osher beneficially owned through HS3 an additional 2,553,192 Common Units, or approximately 10% of the outstanding Common Units, and 638,298 Class A Units immediately prior to Closing. As of Closing, Mr. Chavez and Ms. Hogue beneficially own, in the aggregate, 2,250,000 Performance Units, and Mr. Chavez, Ms. Hogue, Mr. Osher, Mr. Kellar, Ms. Holley, and Mr. Jones beneficially own, in the aggregate, approximately 651,556 LTIP Units.

The foregoing description of the Operating Company LLC Agreement is a summary only and is qualified in its entirety by reference to the full text of the Operating Company LLC Agreement, a copy of which is filed as Exhibit 10.50 to this Report and incorporated herein by reference.

Credit Agreement Amendment

On the Closing Date, and immediately prior to the Closing, MIC entered into that certain Waiver and Second Amendment to Credit Agreement (the "**Second Amendment**"), by and among the Operating Partnership, certain subsidiaries of the Operating Partnership (together with the Operating Partnership, the "**Borrower**"), MIC, and KeyBank National Association ("**KeyBank**") and the other financial institutions party thereto as lenders (the "**Lenders**"), amending that certain Credit Agreement, dated as of March 29, 2022, as amended by that certain First Amendment to Credit Agreement, dated as of November 17, 2022 (together with the Second Amendment, the "**Credit Agreement**"), by and among the Borrower, MIC, KeyBank, and the Lenders. As of the Closing, the Credit Agreement was assumed by the Company both by operation of law and by the express consent of the Lenders.

Pursuant to the Second Amendment, KeyBank and the Lenders agreed to waive certain existing events of default under the Credit Agreement, in the limited manner set forth therein, related to mandatory prepayments and certain financial covenants. Additionally, the Second Amendment, among other things:

- reduced the total commitment of the Lenders from $75 million to $58.7 million as of the Closing;
- required that the Company, as successor in interest to MIC, or the Borrower remit $15,000,000 of the proceeds from the Preferred PIPE Investment at the Closing to pay down outstanding borrowing under the Credit Agreement;
- removed the Fixed Charge Coverage Ratio (as defined in the Credit Agreement);
- required a Borrowing Base Interest Coverage Ratio (as defined in the Credit Agreement) of 1.10 to 1.00;
- required that the Company maintain at least $7 million in unencumbered cash, unencumbered cash equivalents, and amounts on deposit in an account containing cash collateral to be used for interest payments;
- required the contribution of certain real property as collateral and concurrently with any sale or refinancing of that property, the Company deposit the proceeds from such sale or refinancing with KeyBank as cash collateral on the Credit Agreement;
- increased the Applicable Debt Pool Yield (as defined in the Credit Agreement) from 8.0% to 9.0%; and
- established a reserve for certain cash collateral to be used for interest payments.

The foregoing description of the Second Amendment is a summary only and is qualified in its entirety by reference to the full text of the Second Amendment, a copy of which is filed as Exhibit 10.25 to this Report and incorporated herein by reference.

Item 1.02 Termination of a Material Definitive Agreement.

Effective upon the Closing, the FWAC Prior Agreement was terminated. The information contained in Item 1.01 of this Report relating to the FWAC Prior Agreement is hereby incorporated by reference into this Item 1.02.

Item 2.01 Completion of Acquisition or Disposition of Assets.

The information contained in (or incorporated by reference into) the disclosure set forth in the "*Introductory Note*" above is incorporated by reference into this Item 2.01.

FORM 10 INFORMATION

Prior to the Closing, the Company was a shell company (as defined in Rule 12b-2 under the Securities Exchange Act of 1934, as amended (the "**Exchange Act**")), with no operations, formed as a vehicle to effect a business combination with one or more operating businesses. Item 2.01(f) of Form 8-K states that if the registrant was a shell company, as the Company was immediately before the Merger, then the registrant must disclose the information that would be required if the registrant were filing a general form for registration of securities on Form 10. Accordingly, New MIC is providing the information below that would be included in a Form 10 (if it were to file a Form 10). Please note that the information provided below relates to the combined company after the consummation of the Merger, unless otherwise specifically indicated or the context otherwise requires.

Cautionary Note Regarding Forward-Looking Statements

Statements in this Report, including statements incorporated by reference, may constitute "forward-looking statements" under the Private Securities Litigation Reform Act of 1995. All statements, other than statements of historical fact, that address activities, events, or developments that the Company expects, believes, or anticipates will or may occur in the future, including statements related to plans, strategies, and objectives of management, the Company's business prospects, future profitability, and the Company's competitive position, are forward-looking statements. The words "will," "may," "believes," "anticipates," "thinks," "expects," "estimates," "plans," "intends," "outlook," "forecast," "project," "continue," "could," "might," "possible," "potential," "predict," "should," "would" and similar expressions are intended to identify forward-looking statements. Forward-looking statements involve risks and uncertainties that could cause actual results to differ materially from those anticipated by these forward-looking statements. Forward-looking statements are not guarantees of performance and speak only as of the date hereof. The inclusion of any statement in this Report does not constitute an admission by the Company or any other person that the events or circumstances described in such statement are material. In addition, new risks may emerge from time to time and it is not possible for management to predict such risks or to assess the impact of such risks on the Company's business or financial results. Accordingly, future results may differ materially from historical results or from those discussed or implied by these forward-looking statements. Given these risks and uncertainties, the reader should not place undue reliance on these forward-looking statements. These risks and uncertainties include, but are not limited to, the following:

- the Company's ability to recognize the anticipated benefits of the business combination;
- increased fuel prices may adversely affect the Company's operating environment and costs;
- the Company has a limited operating history which makes its future performance difficult to predict;
- MIC incurred net losses attributable to MIC common stockholders of $11.1 million and $14.1 million for the years ended December 31, 2022 and 2021, respectively, and $1.7 million and $2 million for the six months ended June 30, 2023 and 2022, respectively, and the Company may experience additional net losses in the future;
- the Company will need to improve cash flow from operations to avoid a future liquidity event;
- the Company depends on its management team and the loss of key personnel could have a material adverse effect upon the Company's ability to conduct and manage its business;
- a material failure, inadequacy, interruption, or security failure of the Company's technology networks and related systems could harm the Company's business;
- the Company's executive officers and certain of the Company's directors face or may face conflicts of interest related to their positions and interests in affiliates of the Company, which could hinder the Company's ability to implement its business strategy and generate returns to investors;
- estimates of market opportunity and forecasts of market growth may prove to be inaccurate, and even if the market in which the Company competes achieves the forecasted growth, the Company's business could fail to grow at a similar rate, if at all;
- MIC's revenues had been and the Company's revenues will continue to be significantly influenced by demand for parking facilities generally, and a decrease in such demand would likely have a greater adverse effect on the Company's revenues than if it owned a more diversified real estate portfolio;
- the Company may be unable to attain its investment strategy or increase the value of its portfolio;
- the Company may be unable to grow its business by acquisitions of additional parking facilities;

- the Company's parking facilities face intense competition, which may adversely affect rental and fee income;
- the Company may be required to expend funds to correct defects or to make improvements before a property can be sold. The Company cannot assure investors that it will have funds available to correct such defects or to make such improvements;
- the Company requires scale to improve cash flow and earnings for investors;
- changing consumer preferences and legislation affecting the Company's industry or related industries may lead to a decline in parking demand, which could have a material adverse impact on the Company's business, financial condition and results of operations;
- the COVID-19 pandemic may have a material adverse effect on the Company's business, financial condition, results of operations, cash flows, liquidity and ability to satisfy the Company's debt service obligations, and its duration and ultimate lasting impact is unknown;
- the Company's investments in real estate will be subject to the risks typically associated with investing in real estate;
- uninsured losses or premiums for insurance coverage relating to real property may adversely affect the Company's investor returns;
- the Company's material weaknesses in its internal control over financial reporting could adversely affect the Company's ability to report its results of operations and financial condition accurately and in a timely manner;
- the Company may not be able to access financing sources on attractive terms, or at all, which could adversely affect its ability to execute its business plan;
- the Company may not obtain sufficient capital on acceptable terms and, as a result, the Company's business and its ability to operate could be materially adversely impacted;
- instability in the debt markets and other factors may make it more difficult for the Company to finance or refinance properties, which could reduce the number of properties the Company can acquire and the amount of cash distributions the Company can make to its investors;
- increasing interest rates may adversely affect the Company;
- the Company identified conditions and events that raise substantial doubt about the Company's ability to continue as a going concern;
- adverse judgments, settlements, or investigations resulting from legal proceedings in which the Company may be involved could reduce its profits, limit its ability to operate its business or distract its officers from attending to its business;
- holders of outstanding New MIC Preferred Stock and Series 2 Preferred Stock have dividend, liquidation, and other rights that are senior to the rights of the holders of New MIC Common Stock; and
- The Preferred PIPE Investment is structured as an issuance of preferred stock, which may be viewed as less favorable to New MIC and the holders of its shares than other forms of financing and may expose holders of shares of New MIC Common Stock to additional dilution following the closing of the Merger, any of which could cause investors to lose some or all of their investment.

Additional information concerning these, and other risks, is described under "*Risk Factors*" and "*Management's Discussion and Analysis of Financial Condition and Results of Operations of Mobile Infrastructure Corporation*," in the Joint Proxy Statement/Prospectus beginning on pages 82 and 343, respectively. We expressly disclaim any obligation to update any of these forward-looking statements, except to the extent required by applicable law.

Business and Properties

The Company's business and properties are described in the Joint Proxy Statement/Prospectus in the section titled "*Description of MIC's Businesses*" beginning on page 310, which is incorporated herein by reference.

Risk Factors

A summary of the risks associated with the Company's business is included on pages 69-70 of the Joint Proxy Statement/Prospectus under the heading "*Summary Risk Factors*" and is incorporated herein by reference, except that the first paragraph of subsection titled "*Risks Related to Financial, Tax and Accounting Issues*" is amended and restated as follows:

- The Company identified conditions and events that raise substantial doubt about the Company's ability to continue as a going concern.

The risks associated with the Company's business are described in detail in the Joint Proxy Statement/Prospectus in the section titled "*Risk Factors*," beginning on page 82 of the Joint Proxy Statement/Prospectus, which is incorporated herein by reference, except that the risk factors set forth below are amended and restated in their entirety.

The disclosure on the third through sixth paragraphs on page 94 and the first paragraph on page 95 of the Joint Proxy Statement/Prospectus in the subsection titled "*Risks Related to Financial, Tax and Accounting Issues*" is amended and restated as follows:

The Company identified conditions and events that raise substantial doubt about the Company's ability to continue as a going concern.

MIC's financial statements included elsewhere in this Report have been prepared on a going concern basis, which contemplates the realization of assets and satisfaction of liabilities in the ordinary course of business. MIC's independent auditor included an explanatory paragraph regarding MIC's ability to continue as a "going concern" in its report on MIC's financial statements for the year ended December 31, 2022 due to MIC's inability to comply with a financial covenant under its Credit Agreement. Subsequently, MIC entered into an amendment to its Credit Agreement, which resulted in a waiver of all existing events of default, the payment by the Company, as successor to MIC, or Borrower of $15 million of the proceeds from the Preferred PIPE Investment at the Closing to pay down outstanding borrowing, the decrease of available credit from $75 million to $58.7 million and certain modifications to the financial covenants.

In addition, MIC has experienced net losses since inception and may continue to experience additional losses. Likewise, there can be no assurance of the absence of future defaults under the terms of the Credit Agreement. Moreover, immediately prior to the Merger, MIC had approximately $90 million of debt which matures within the next twelve months. The Company does not currently have sufficient cash on hand or available liquidity to repay the maturing debt as it comes due. Furthermore, additional conditions and events that raise substantial doubt about the Company's ability to continue as a going concern may transpire in the future.

As a result, the Company may not have sufficient capital as and when needed, which may materially adversely affect the Company's business, financial conditions, and results of operations and may cause the Company to significantly modify its operational plans to continue as a going concern. Additionally, the Company's lack of cash resources and its potential inability to continue as a going

concern may materially adversely affect the Company's share price and the Company's ability to raise or access new capital, enter into critical contractual relations with third parties, and otherwise execute its development strategy.

To increase the available cash resources, management's plans include capitalizing on recent business development initiatives that the Company anticipates will improve total revenues through increased utilization of parking assets and in many cases at higher average ticket rates and budgeting reduced overhead costs in 2023 through the reduction or elimination of certain controllable expenses. However, there can be no assurance that the Company will be successful in completing any of these options.

The disclosure on the second through fifth paragraphs on page 95 and the first through third paragraphs on page 96 of the Joint Proxy Statement/Prospectus in the subsection titled "*Risks Related to Financial, Tax and Accounting Issues*" is amended and restated as follows:

MIC previously identified material weaknesses in its internal control over financial reporting, and the Company may identify additional material weaknesses in the future or otherwise fail to maintain effective internal control over financial reporting, which may result in material misstatements of the Company's financial statements or cause the Company to fail to meet its periodic reporting obligations. These material weaknesses could adversely affect the Company's ability to report its results of operations and financial condition accurately and in a timely manner.

MIC's management identified material weaknesses in its internal control over financial reporting in connection with its assessment as of and for the year ended December 31, 2022. A material weakness is a deficiency, or combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of a company's annual or interim financial statements will not be prevented or detected on a timely basis. Such material weakness was carried over to the Company, as MIC's successor. Specifically, these control deficiencies constituted material weaknesses, either individually or in the aggregate, relating to: (a) MIC's lack of appropriate segregation of duties within its accounting and finance groups; (b) the lack of formal and effective controls over user access to certain information systems to ensure adequate restriction of users and privileged access to transaction processing applications; and (c) inappropriate application of GAAP.

Although MIC had begun to implement measures to address the material weaknesses, the implementation of those measures did not fully address the material weaknesses and deficiencies in MIC's internal control over financial reporting, and, as of June 30, 2023, MIC could not conclude that these matters have been fully remedied. The following remedial actions had been identified and initiated by MIC:

- MIC hired and trained additional accounting resources with appropriate levels of experience and reallocating responsibilities across MIC's finance organization. This measure provides for the segregation of duties and ensures that the appropriate level of knowledge and experience will be applied based on the risk and complexity of transactions and tasks under review.
- MIC did and the Company expects to continue to educate control owners and enhance policies to ensure appropriate restrictions related to user access and privileged access are in place.
- MIC re-evaluated the permissions of user roles within its accounting system andre-assigned access to individuals in order to establish a more appropriate segregation of duties.
- MIC enhanced internal control documentation for key controls to ensure the assignment of preparers and reviewers, and established policies for the formal sign-off of key controls.

- Beginning with the third quarter of 2022, MIC established a formal Disclosure Committee to enhance governance by management for the oversight of internal controls over financial reporting, including disclosure controls and procedures.
- MIC provided access to accounting literature and research to enable the control owners in evaluating technical accounting pronouncements for certain transactions, in addition to utilizing third-party resources when appropriate.
- Through its continued remediation efforts, MIC identified and recorded certain accounting adjustments during the third and fourth quarters of 2022 that were considered immaterial, individually and in the aggregate, to MIC's consolidated financial statements taken as a whole for the affected periods. The Company's continued remediation activities will include the designing of internal control policies and practices that directly respond to these accounting adjustments.

Additionally, there can be no assurance that the Company will be able to timely and seamlessly proceed with the remediation measures to address the material weaknesses identified above and strengthen its internal control over financial reporting.

Any failure to maintain such internal control could adversely impact the Company's ability to report its financial position and results of operations on a timely and accurate basis. If the Company's financial statements are not accurate, investors may not have a complete understanding of its operations. Likewise, if the Company's financial statements are not filed on a timely basis, the Company could be subject to sanctions or investigations by the NYSE, the SEC, or other regulatory authorities. Additionally, failure to timely file required Exchange Act reports will cause the Company to be ineligible to utilize short-form registration statements on Form S-3, which may impair the Company's ability to obtain capital in a timely fashion to execute our business strategies or issue shares of common stock to effect an acquisition. Ineffective internal controls could also cause investors to lose confidence in the Company's reported financial information, which could have a negative effect on the trading price of the Company's stock and may result in a material adverse effect on the Company's business.

The Company can give no assurance that any additional material weaknesses or resulting restatements of financial results will not arise in the future due to a failure to implement and maintain adequate internal control over financial reporting or circumvention of these controls. In addition, even if the Company is successful in strengthening its controls and procedures, in the future those controls and procedures may not be adequate to prevent or identify irregularities or errors or to facilitate the fair presentation of the Company's financial statements.

The disclosure on the first and second paragraphs on page 100 and the first and second paragraphs on page 101 of the Joint Proxy Statement/Prospectus in the subsection titled "*Risks Related to MIC's Indebtedness and Certain Other Obligations*" is amended and restated as follows:

We have debt, and we may incur additional debt.

The Company is subject to numerous risks associated with the Company's debt, including the risk that the Company's cash flows could be insufficient to meet the required payments on its debt. There are no limits in the Company's organizational documents on the amount of debt it may incur, and the Company may incur substantial debt. The Company's debt obligations could have important consequences for its investors. Incurrence of debt may increase its vulnerability to adverse economic, market, and industry conditions, limit its flexibility in planning for, or reacting to, changes in its business, and place the Company at a disadvantage in relation to competitors that have lower debt levels. Excessive debt could limit the Company's ability to obtain financing for working capital, capital expenditures, acquisitions, refinancing, lease obligations, or other purposes, prevent it from achieving investment grade ratings from nationally recognized credit rating agencies, and reduce its ability to make distributions to our investors.

For example, the Credit Agreement contains customary representations, warranties, conditions to borrowing, covenants, and events of default, including certain covenants that limit or restrict, subject to certain exceptions, the ability of the Company, the Operating Company, and the Company's other subsidiaries to sell or transfer assets, enter into a merger or consolidate with another company, create liens, make investments or acquisitions or incur certain indebtedness. Among other things, the Credit Agreement requires the Company to maintain:

- a total leverage ratio not to exceed 65%;
- an interest reserve in an amount equal to $375,000, subject to adjustment;
- an aggregate of $7,000,000 in unencumbered cash, unencumbered cash equivalents, and amounts on deposit in an account containing cash collateral to be used for interest payments;
- a borrowing base interest coverage ratio of no less than 1.10 to 1.00; and
- a tangible net worth of not less than $206,908,200 plus 90% of the net proceeds received by the Company or the Operating Company and certain of the Company's subsidiaries at any time from the issuance of stock (whether common, preferred, or otherwise) by the Company, the Operating Company, or certain of the Company's other subsidiaries.

Management's Discussion and Analysis of Financial Condition and Results of Operations

Reference is made to the disclosure contained in the Joint Proxy Statement/Prospectus in the section titled "*Management's Discussion and Analysis of Financial Condition and Results of Operations of Mobile Infrastructure Corporation*," which is incorporated herein by reference. Reference is also made to the disclosure contained in Part I, Item 2, "*Management's Discussion and Analysis of Financial Condition and Results of Operations*" in MIC's Quarterly Report on Form 10-Q for the Quarter Ended June 30, 2023 filed with the SEC on August 14, 2023, which is incorporated herein by reference.

Security Ownership of Certain Beneficial Owners and Management

The following table sets forth information regarding the beneficial ownership of New MIC Common Stock as of August 28, 2023, by:

- each person who is known to be the beneficial owner of more than 5% of the outstanding shares of New MIC Common Stock;
- each of the Company's directors and named executive officers; and
- all directors and executive officers of the Company as a group.

The following table also sets forth information regarding the beneficial ownership of Series 2 Preferred Stock and limited liability company interests of the Operating Company as of August 28, 2023, by:

- each of the Company's directors and named executive officers; and
- all directors and executive officers of the Company as a group.

Beneficial ownership is determined according to the rules of the SEC, which generally provide that a person has beneficial ownership of a security if he, she, or it possesses sole or shared voting or investment power over that security, including options and warrants that are currently exercisable or exercisable within 60 days. All information with respect to beneficial ownership is based upon filings made by the respective beneficial owners with the SEC or information provided to New MIC by such beneficial owners.

The beneficial ownership percentages set forth in the following table are based on the following numbers of the pertinent securities outstanding as of August 28, 2023:

(i) 14,978,325 shares of New MIC Common Stock;

(ii) 46,000 shares of Series 2 Preferred Stock; and

(iii) 28,774,152 Common Units outstanding, provided that the Company (which is not included in the table below) owns 14,978,325 Common Units representing approximately 52.05% of the outstanding Common Units.

Unless otherwise indicated, the Company believes that all persons named in the table below have sole voting and investment power with respect to the voting securities beneficially owned by them. Unless otherwise indicated, the address of each individual below is c/o Mobile Infrastructure Corporation, 30 W. 4th Street, Cincinnati, Ohio 45202.

Name of Beneficial Owner	New MIC Common Stock		Series 2 Preferred Stock		Operating Company Common Units	
	Shares Beneficially Owned[1]	Percentage, %	Shares Beneficially Owned	Percentage, %	Common Units Beneficially Owned[2]	Percentage, %
Five Percent Holders						
Color Up[3]	6,490,438[4]	37.02	—	*	11,242,635	39.07
HS3[5]	6,490,438[4]	37.02	20,000	43.48	14,434,125[6]	49.07
Fifth Wall Acquisition Sponsor III LLC[7]	2,807,000	18.74	—	*	—	*
Directors and Named Executive Officers						
Manuel Chavez, III[3]	6,490,438[4]	37.02	6,000[8]	13.04	11,262,960[9]	39.12
Stephanie Hogue[3]	6,490,438[4]	37.02	6,000[8]	13.04	11,257,879[10]	39.10
Jeffrey B. Osher[3][5]	6,490,438[4]	37.02	40,000[11]	86.96	14,435,170[12]	49.08
Lorrence Kellar	—	*	—	*	1,204[13]	*
Danica Holley	—	*	—	*	991[14]	*
Damon Jones	—	*	—	*	1,045[15]	*
David Garfinkle	—	*	—	*	—	*
Brad Greiwe	—	*	—	*	—	*
All Directors and Executive Officers as a Group (8 individuals)	6,490,438[4]	37.02	46,000[16]	100	14,473,979[17]	49.14

* Represents beneficial ownership of less than 1%.

(1) Does not include shares of New MIC Common Stock that may be issued upon redemption of Common Units (including the Common Units which such person may acquire upon the vesting and conversion to Common Units of outstanding Performance Units, LTIP Units, and Class A Units) because, upon the holder's election to redeem Common Units, the Company may elect to redeem such Common Units for cash or shares of New MIC Common Stock in the Company's sole discretion. Does not include shares of New MIC Common Stock that may be issued upon conversion of Series 2 Preferred Stock (including the dividends thereon) because shares of Series 2 Preferred Stock are not convertible or exchangeable into shares of New MIC Common Stock within 60 days of August 28, 2023.

(2) Does not include 1,406,250 Performance Units issued to Mr. Chavez and 843,750 Performance Units issued to Ms. Hogue. Although the referenced Performance Units (subject to terms and conditions of the Operating Company LLC Agreement) are convertible into Common Units upon vesting, the vesting conditions of the Performance Units cannot be satisfied within 60 days of August 28, 2023.

(3) Securities held directly by Color Up may be deemed to be beneficially owned by (i) Mr. Chavez, Ms. Hogue, and Mr. Osher, who are the managers of Color Up and may be deemed to share voting and dispositive power with regard to the securities held directly by Color Up; (ii) HS3, which is a member of Color Up and which may be deemed to share dispositive power with regard to securities held directly by Color Up; and (iii) Bombe Asset Management, LLC ("Bombe"), a Delaware limited liability company formed and owned by Mr. Chavez, which is a member of Color Up and may be deemed to share dispositive power with regard to securities held directly by Color Up. The address of Bombe is 30 W. 4th Street, Cincinnati, Ohio 45202.

(4) Consists of the following securities directly held by Color Up: (i) 3,937,246 shares of New MIC Common Stock and (ii) 2,553,192 shares of New MIC Common Stock issuable upon exercise of the New MIC Warrant.

(5) Securities held directly by HS3 may be deemed to be beneficially owned by (i) Harvest Small Cap Partners GP, LLC ("HSCP"), the general partner of HS3, (ii) No Street Capital LLC ("No Street"), the managing member of HSCP, and (ii) Mr. Osher, the managing member of No Street. As discussed in footnote (3), HS3 may be deemed to share dispositive power with regard to securities directly held by Color Up. The address of HS3, HSCP, No Street, and Mr. Osher is 505 Montgomery Street, Suite 1250, San Francisco, California 94111.

(6) Consists of (i) 11,242,635 Common Units held directly by Color Up, (ii) 2,553,192 Common Units held directly by HS3, and (iii) 638,298 Class A Units exercisable into 638,298 Common Units within 60 days of August 28, 2023 held directly by HS3.

(7) Includes 1,900,000 shares of New MIC Common Stock that are subject to vesting and forfeiture, as provided in the Sponsor Agreement. Andriy Mykhaylovskyy and Brendan Wallace, by virtue of being managing members of the Sponsor, have voting and dispositive power over the securities held by the Sponsor and, therefore, may be deemed to have beneficial ownership of the securities held directly by the Sponsor. The address of the Sponsor and Messrs. Mykhaylovskyy and Wallace is 6060 Center Drive, 10th Floor, Los Angeles, California 90045.

(8) Represents shares of Series 2 Preferred Stock held directly by Bombe-MIC Pref, LLC ("Bombe Pref"). Mr. Chavez is the manager of Bombe Pref and may be deemed to share voting and dispositive power with regard to the securities held directly by Bombe Pref. Ms. Hogue is a member of Bombe Pref and may be deemed to share dispositive power with regard to securities held directly by Bombe Pref.

(9) Consists of (i) 11,242,635 Common Units held directly by Color Up and (ii) 20,325 vested LTIP Units convertible into Common Units within 60 days of August 28, 2023.

(10) Consists of (i) 11,242,635 Common Units held directly by Color Up and (ii) 15,244 vested LTIP Units convertible into Common Units within 60 days of August 28, 2023.
(11) Consists of (i) 20,000 shares of Series 2 Preferred Stock held directly by HS3, (ii) 6,633 shares of Series 2 Preferred Stock held directly by HSCP, and (iii) 13,367 of Series 2 Preferred Stock held directly by Harvest Small Cap Partners Master, Ltd. ("HSCP Master"). Securities held directly by HSCP Master may be deemed to be beneficially owned by No Street, the investment manager of HSCP Master, and Mr. Osher, the managing member of No Street, both sharing voting and dispositive power with regard to the securities held directly by HSCP Master. The address of HSCP Master is 505 Montgomery Street, Suite 1250, San Francisco, California 94111.
(12) Consists of (i) 11,242,635 Common Units held directly by Color Up, (ii) 2,553,192 Common Units held directly by HS3, (iii) 638,298 Class A Units exercisable into 638,298 Common Units within 60 days of August 28, 2023 held directly by HS3, and (iv) 1,045 vested LTIP Units convertible into Common Units within 60 days of August 28, 2023.
(13) Consists of 1,204 vested LTIP Units convertible into Common Units within 60 days of August 28, 2023.
(14) Consists of 991 vested LTIP Units convertible into Common Units within 60 days of August 28, 2023.
(15) Consists of 1,045 vested LTIP Units convertible into Common Units within 60 days of August 28, 2023.
(16) Consists of (i) 20,000 shares of Series 2 Preferred Stock held directly by HS3, (ii) 6,633 shares of Series 2 Preferred Stock held directly by HSCP, (iii) 13,367 shares of Series 2 Preferred Stock held directly by HSCP Master, and (iv) 6,000 shares of Series 2 Preferred Stock held directly by Bombe Pref.
(17) Consists of (i) 11,242,635 Common Units held directly by Color Up, (ii) 2,553,192 Common Units held directly by HS3, (iii) 638,298 Class A Units exercisable into 638,298 Common Units within 60 days of August 28, 2023 held directly by HS3, and (iv) 39,854 vested LTIP Units convertible into Common Units within 60 days of August 28, 2023.

Directors and Executive Officers

Information with respect to the Company's directors and executive officers is set forth in the Joint Proxy Statement/Prospectus in the section titled "*Management of New MIC After the Merger*" beginning on page 374, and that information is incorporated herein by reference. Each member of the New MIC board of directors is elected by its stockholders to serve until the next annual meeting of stockholders and until his or her successor is duly elected and qualifies.

On July 25, 2023, Kyle Brown resigned from his position as Chief Accounting Officer of MIC effective as of July 28, 2023.

Executive and Director Compensation

Information with respect to the compensation of the Company's named executive officers and directors is set forth in the Joint Proxy Statement/Prospectus in the sections titled "*Directors and Executive Officer Compensation—Executive and Director Compensation of MIC*" and "*Directors and Executive Officer Compensation—Post-Merger Executive Compensation*" beginning on pages 358 and 366, respectively, and that information is incorporated herein by reference.

Compensation Committee Interlocks and Insider Participation

No member of the Compensation Committee has ever served as an officer of the Company. None of the Company's directors has an interlocking or other relationship with another board or compensation committee that would require disclosure under Item 407(e)(4) of SEC Regulation S-K.

Certain Relationships and Related Transactions, and Director Independence

Information with respect to certain relationships and related person transactions of the Company are described in the Joint Proxy Statement/Prospectus in the section titled "*Certain Relationships and Related Transactions"* beginning on page 386, and that information is incorporated herein by reference. Information with respect to certain relationships and related person transactions of the Company described in Item 1.01 under the titles "*Warrant Assumption and Amendment Agreement*" and "*Amended and Restated Warrant Agreement*" of this Report is incorporated herein by reference.

The board of directors of the Company has determined that each of the Company's directors, other than Mr. Manuel Chavez, III, and Ms. Stephanie Hogue, qualifies as "independent" under the listing requirements of the NYSE American LLC.

Legal Proceedings

From time to time, the Company may be subject to various legal proceedings, investigations, or claims that arise in the ordinary course of our business activities. As of the date of this filing, the Company is not currently a party to any litigation, investigation, or claim the outcome of which, if determined adversely to it, would individually or in the aggregate be reasonably expected to have a material adverse effect on the Company's business, financial position, results of operations, or cash flows or which otherwise is required to be disclosed under Item 103 of SEC Regulation S-K.

Market Price of and Dividends on the Registrant's Common Equity and Related Stockholder Matters

Shares of New MIC Common Stock began trading on the NYSE American LLC under the symbol "BEEP" on August 28, 2023.

As of August 28, 2023, the Company had 14,978,325 shares of New MIC Common Stock issued and outstanding and held of record by 3,243 holders.

The Company has not paid any cash dividends on shares of New MIC Common Stock to date. It is the present intention of the Company's board of directors to retain future earnings for the development, operation, and expansion of its business, and the Company's board of directors does not anticipate declaring or paying any cash dividends for the foreseeable future. The payment of dividends is within the discretion of the Company's board of directors and will be contingent upon the Company's future revenues and earnings, as well as its capital requirements and general financial condition.

Recent Sales of Unregistered Securities

The following sets forth information as to securities sold in the last three years by MIC, which were not registered under the Securities Act. The descriptions of these issuances are historical and have not been adjusted to give effect to the Merger. To the extent required by Item 10 of Form 10, the information contained in (or incorporated by reference into) the disclosure set forth in the "*Introductory Note*" above is incorporated herein by reference.

Equity Purchase and Contribution Agreement dated January 8, 2021

On August 25, 2021, in connection with the closing of the transactions contemplated by the equity purchase and contribution agreement dated January 8, 2021, Color Up contributed to the Operating Partnership (a) cash consideration of $35,000,000, (b) certain technology and (c) the outstanding equity interests of three property owning entities (the "**Acquired Properties**" and, together with the cash consideration and certain technology, the "**Contributed Interests**"), which properties are located in Cincinnati, Ohio and Chicago, Illinois. The Acquired Properties consisted of parking assets totaling approximately 1,201,000 square feet. In exchange for the Contributed Interests, the Operating Partnership issued 7,459,090 common units of limited partnership interest of the Operating Partnership ("**OP Units**") and MIC issued the MIC Common Stock Warrant. In connection with the Conversion, each outstanding OP Unit converted automatically, on a one-for-one basis, into an equal number of Common Units. The Common Units generally may be redeemed by the holder thereof for cash or, at the option of New MIC, for shares of New MIC Common Stock. The OP Units and the MIC Common Stock Warrant were issued in a private placement transaction exempt from registration pursuant to Section 4(a)(2) of the Securities Act.

Securities Purchase Agreement dated November 2, 2021

On November 2, 2021, MIC entered into a securities purchase agreement, by and among MIC, the Operating Partnership, and HS3, pursuant to which the Operating Partnership issued and sold to HS3: (a) 1,702,128 OP Units; and (b) 425,532 units of limited partnership interest of the Operating Partnership designated as "Class A Units" which entitle HS3 to purchase up to 425,532 OP Units at an exercise price equal to $11.75 per Class A Unit, and HS3 paid to the Operating Partnership cash consideration of $20.0 million. In connection with the Conversion, each outstanding Class A Unit converted automatically, on a one-for-one basis, into an equal number of Class A Units of the Operating Company. In connection with the Merger, the number of Class A Units was adjusted to 638,298 and the exercise price for the Class A Units was adjusted to $7.83 per Class A Unit. The Common Units generally may be redeemed by the holder thereof for cash or, at the option of New MIC, for shares of New MIC Common Stock. Such securities were issued in a private placement transaction exempt from registration pursuant to Section 4(a)(2) of the Securities Act.

LTIP Units

The table below sets forth the dates, the numbers, and the recipients of the LTIP Units issued in consideration of the continuous service of a grantee in private placement transactions exempt from registration pursuant to Section 4(a)(2) of the Securities Act.

Issuance/Grant Date	Number of Units	Grantee
May 27, 2022	2,411	Lorrence T. Kellar
May 27, 2022	2,092	Damon D. Jones
May 27, 2022	1,984	Danica Holley
May 27, 2022	2,092	Jeffrey Osher
May 27, 2022	1,107	Shawn Robert Nelson
August 23, 2022	102,128	Stephanie Hogue
August 23, 2022	170,213	Manuel Chavez III
February 28, 2023	50,813	Stephanie Hogue
February 28, 2023	81,301	Manuel Chavez III
February 28, 2023	5,420	Damon D. Jones
February 28, 2023	5,758	Lorrence T. Kellar
February 28, 2023	4,742	Danica Holley
February 28, 2023	5,420	Jeffrey B. Osher
February 28, 2023	4,742	Shawn Robert Nelson

Performance Units

The table below sets forth the dates, the numbers, and the recipients of the Performance Units issued in consideration of the continuous service of a grantee in private placement transactions exempt from registration pursuant to Section 4(a)(2) of the Securities Act.

Issuance/Grant Date	Number of Units	Grantee
May 27, 2022	937,500	Manual Chavez III
May 27, 2022	562,500	Stephanie Hogue

Cashless Exercise of Class A Units

On August 29, 2023, the Operating Company issued 156,138 Common Units to HS3 upon the cashless exercise of 638,298 Class A Units based upon a fair market value of $10.37 per Common Unit, as determined under the terms of the Class A Unit Agreement, dated November 2, 2021, by and between the Operating Company and HS3.

The foregoing securities were issued in reliance upon the exemption from registration pursuant to Section 3(a)(9) of the Securities Act.

Description of Registrant's Securities to be Registered

The description of the Company's securities included in the Joint Proxy Statement/Prospectus in the section titled "*Description of New MIC's Securities*" beginning on page 399 is incorporated herein by reference.

Indemnification of Directors and Officers

The disclosure set forth under the heading "*Indemnification Agreements*" in Item 1.01 of this Report is incorporated herein by reference.

Further information about the indemnification of the Company's directors and officers is set forth in the Joint Proxy Statement/Prospectus in the section titled "*Management of New MIC After the Merger—Limitation on Liability and Indemnification Matters*" on page 380, and is incorporated herein by reference.

Financial Statements

The information set forth in Item 9.01(a) and (b) of this Report is incorporated herein by reference.

Changes in and Disagreements with Accountants on Accounting and Financial Disclosure

The disclosure set forth in Item 4.01 of this Report is incorporated herein by reference.

Financial Statements and Exhibits

The information set forth in Item 9.01 of this Report is incorporated herein by reference.

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

The information contained in Item 1.01 of this Report relating to the Second Amendment to the Credit Agreement is hereby incorporated by reference into this Item 2.03.

Item 3.02 Unregistered Sales of Equity Securities.

The information contained in (or incorporated by reference into) the disclosure set forth in the "*Introductory Note*" under the headings "*Preferred Equity PIPE Financing*" and "*Cashless Exercise of Class A Units*" is incorporated herein by reference.

Item 3.03 Material Modifications to Rights of Security Holders.

On August 25, 2023, in connection with the Domestication, the Company filed the Articles of Incorporation (the "**New MIC Charter**") and Articles of Conversion with the Maryland State Department of Assessments and Taxation. On August 25, 2023, effective upon the Closing, the Company's board of directors adopted Bylaws (the "**Bylaws**"), which became effective on that date. The material terms of the New MIC Charter and the Bylaws and the general effect upon the rights of holders of FWAC's capital stock are discussed in the Joint Proxy Statement/Prospectus in the sections titled "*Description of New MIC's Securities*" beginning on page 399, "*Proposal 4(A)-(I) - The Governance Proposals*" beginning on page 168 and "*Comparison of Rights of New MIC Stockholders and MIC Stockholders*" beginning on page 428, which are incorporated herein by reference.

The information contained in (or incorporated by reference into) the disclosure set forth in the "*Introductory Note*" of this Report relating to Series 2 Preferred Stock is hereby incorporated by reference into this Item 3.03.

Copies of the New MIC Charter and the Bylaws are filed as Exhibit 3.1 and Exhibit 3.2 to this Report, respectively, and are incorporated herein by reference.

Item 4.01 Changes in Registrant's Certifying Accountant.

On August 25, 2023, the Audit Committee of the Company's board of directors approved the engagement of Deloitte & Touche LLP ("**Deloitte**") as the Company's independent registered public accounting firm to audit the Company's consolidated financial statements for the year ending December 31, 2023. Deloitte served as the independent registered public accounting firm of MIC prior to the Merger. Accordingly, WithumSmith+Brown, PC ("**Withum"**), FWAC's independent registered public accounting firm prior to the Merger, was informed as of the Closing Date that it would be dismissed and replaced by Deloitte as the Company's independent registered public accounting firm.

Withum's report on FWAC's financial statements as of December 31, 2022 and 2021 and for the year ended December 31, 2022 and for the period from February 19, 2021 (inception) through December 31, 2021, and the related notes to the financial statements, did not contain any adverse opinion or disclaimer of opinion, nor were they qualified or modified as to uncertainty, audit scope or accounting principles, except for the substantial doubt about the Company's ability to continue as a going concern.

During the period from February 19, 2021 (inception) through December 31, 2021, the year ended December 31, 2022, and the subsequent period through August 25, 2023, there were no: (a) disagreements with Withum on any matter of accounting principles or practices, financial statement disclosures or audited scope or procedures, which disagreements if not resolved to Withum's satisfaction would have caused Withum to make reference to the subject matter of the disagreement in connection with its report or (b) reportable events as defined in Item 304(a)(1)(v) of Regulation S-K under the Exchange Act, except for the control deficiency disclosed as a material weakness in FWAC's Annual Report on Form 10-K for the year ended December 31, 2022.

The Company has provided Withum with a copy of the disclosures made by the Company in response to this Item 4.01 and has requested that Withum furnish the Company with a letter addressed to the SEC stating whether it agrees with the statements made by the Company in response to this Item 4.01 and, if not, stating the respects in which it does not agree. A letter from Withum is attached hereto as Exhibit 16.1.

During the period from February 19, 2021 (inception) through December 31, 2021, the year ended December 31, 2022, and the subsequent period through August 25, 2023, the Company did not consult Deloitte with respect to either (a) the application of accounting principles to a specified transaction, either completed or proposed; or the type of audit opinion that might be rendered on the Company's financial statements, and no written report or oral advice was provided to the Company by Deloitte that Deloitte concluded was an important factor considered by the Company in reaching a decision as to the accounting, auditing or financial reporting issue; or (b) any matter that

was either the subject of a disagreement, as that term is described in Item 304(a)(1)(iv) of Regulation S-K under the Exchange Act and the related instructions to Item 304 of Regulation S-K under the Exchange Act, or a reportable event, as that term is defined in Item 304(a)(1)(v) of RegulationS-K under the Exchange Act.

Item 5.01 Change in Control of Registrant.

The information contained in (or incorporated by reference into) the disclosure set forth in the "*Introductory Note*" and in Item 2.01 of this Report is incorporated herein by reference.

As a result of the consummation of the Merger, a change of control of FWAC has occurred, and the shareholders of FWAC as of immediately prior to the Closing held 22.34% of the outstanding shares of New MIC Common Stock immediately following the Closing.

Prior to the consummation of the Merger, FWAC was a special purpose acquisition company. Its largest shareholder was the Sponsor, which immediately prior to the consummation of the Merger beneficially owned 98.25% of the outstanding FWAC Class B Shares and 67.27% of the outstanding FWAC Class A Shares.

By virtue of the consummation of the Merger, the Sponsor beneficially owns 18.47% of the outstanding New MIC Common Stock, which includes 1,900,000 shares of New MIC Common Stock subject to vesting restrictions and forfeiture under the Sponsor Agreement; and Manuel Chavez, III, Stephanie Hogue, and Jeffrey B. Osher, as a group, beneficially own 37.02% of the outstanding New MIC Common Stock and expect to beneficially own 64.75% of the outstanding New MIC Common Stock after giving effect to the conversion of the Series 2 Preferred Stock. Reference is made to "*Item 2.01. Completion of Acquisition or Disposition of Assets—Form 10 Information—Security Ownership of Certain Beneficial Owners and Management*," which is incorporated herein by reference, for information regarding the percentage of voting securities of New MIC beneficially owned directly or indirectly by holders of greater than 5% of New MIC Common Stock as of August 28, 2023.

Item 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

Upon the Closing, and in accordance with the terms of the Merger Agreement, each executive officer of FWAC resigned from his or her position, and each of Brendan Wallace, Andriy Mykhaylovskyy, Adeyemi Ajao, Alana Beard, Poonam Sharma Mathis, and Amanda Parness resigned from the New MIC board of directors.

The information contained in (or incorporated by reference into) the disclosure set forth in the "*Introductory Note*" and in the sections titled "*Directors and Executive Officers*," "*Executive and Director Compensation*" and "*Certain Relationships and Related Transactions, and Director Independence*" in Item 2.01 of this Report is incorporated herein by reference.

Mobile Infrastructure Corporation and Mobile Infra Operating Company, LLC 2023 Incentive Award Plan

At the extraordinary general meeting of the stockholders of the Company on August 10, 2023, the stockholders of the Company considered and approved the Mobile Infrastructure Corporation and Mobile Infra Operating Company, LLC 2023 Incentive Award Plan (the "**Incentive Award Plan**"). The Incentive Award Plan was previously approved by the board of directors of FWAC and FWAC's shareholders.

A description of the Incentive Award Plan is included in the Joint Proxy Statement/Prospectus in the section titled "*Proposal 6—The Share Plan Proposal*" beginning on page 180, and such description is incorporated herein by reference. The foregoing description of the Incentive Award Plan is qualified in its entirety by the full text of the Incentive Award Plan, which is filed as Exhibit 10.41 and incorporated herein by reference.

Item 5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.

The information contained in (or incorporated by reference into) the disclosure set forth in Item 3.03 of this Report is incorporated herein by reference.

Item 5.05 Amendments to the Registrant's Code of Ethics, or Waiver of a Provision of the Code of Ethics.

In connection with the Merger, on the Closing Date, the Company's board of directors approved and adopted a new Code of Business Conduct and Ethics applicable to all employees, officers, and directors of the Company, including its Chief Executive Officer, Chief Financial Officer and other executive and senior financial officers. A copy of the Code of Business Conduct and Ethics can be found in the Investors Relations section of the Company's website at www.mobileit.com.

Item 5.06 Change in Shell Company Status.

As a result of the Merger, the Company ceased to be a shell company (as defined in Rule12b-2 under the Exchange Act). Pursuant to the Merger Agreement, Brad Greiwe, a co-founder and the managing partner of the Sponsor, was nominated by FWAC to serve as an initial director of the Company.

The disclosures in the Joint Proxy Statement/Prospectus in the sections titled "*The Merger—The Merger Agreement*" and " *—Certain Related Agreements*" beginning on pages 222 and 240, respectively, and "*Proposal 2—The Domestication Proposal*" beginning on page 152 are incorporated herein by reference. Further, the disclosures set forth in the "*Introductory Note*" and in Item 2.01 of this Report are incorporated herein by reference.

Item 7.01 Regulation FD Disclosure.

On August 28, 2023, the Company issued a press release announcing the closing of the Merger. A copy of the press release is furnished hereto as Exhibit 99.1 and incorporated by reference herein.

The information in this Item 7.01, including Exhibit 99.1, is furnished and shall not be deemed "filed" for purposes of Section 18 of the Exchange Act, or otherwise subject to liabilities under that section, and shall not be deemed to be incorporated by reference in any filing under the Securities Act, or the Exchange Act, regardless of any general incorporation language in any such filing.

Item 9.01 Financial Statements and Exhibits.

(a) Financial Statements of Businesses Acquired.

The audited consolidated financial statements of MIC as of December 31, 2022 and 2021 and for the years ended December 31, 2022 and 2021 and the related notes are included in the Joint Proxy Statement/Prospectus beginning on page F-66 and are incorporated herein by reference. The unaudited condensed consolidated financial statements of MIC as of June 30, 2023 and for the three and six months ended June 30, 2023 and 2022 and the related notes are included in MIC's Quarterly Report on Form 10-Q filed with the SEC on August 14, 2023 beginning on page 1 and are incorporated herein by reference.

(b) Pro Forma Financial Information.

The unaudited pro forma condensed combined financial information as of and for the six months ended June 30, 2023 and the year ended December 31, 2022 is set forth on Exhibit 99.2 hereto and is incorporated herein by reference.

(d) Exhibits.

Exhibit	Description	Incorporated by Reference			
		Schedule/ Form	File Number	Exhibit or Annex	Filing Date
2.1#	Merger Agreement, dated as of December 13, 2022, by and among Fifth Wall Acquisition Corp. III, Queen Merger Corp. I and MIC	424B3	333-269231	A-1	July 11, 2023
2.2#	First Amendment to the Merger Agreement, dated as of March 23, 2023, by and among Fifth Wall Acquisition Corp. III, Queen Merger Corp. I and MIC	424B3	333-269231	A-2	July 11, 2023
3.1*	Articles of Incorporation of the Company				
3.2*	Articles of Merger (effecting the change of the name of the Company to "Mobile Infrastructure Corporation")				
3.3*	Bylaws of the Company				
4.1	Specimen Common Stock Certificate of the Company	S-4/A	333-269231	4.2	April 11, 2023
10.1	Amended and Restated Letter Agreement, dated as of May 11, 2023, by and among Fifth Wall Acquisition Corp. III, its executive officers, its directors, and Fifth Wall Acquisition Sponsor III LLC	S-4/A	333-269231	10.1	May 11, 2023
10.2	MVP REIT II, Inc. Long-Term Incentive Plan	Form S-11/A	333-205893	10.3	September 24, 2015
10.3	Loan Agreement, dated as of January 10, 2017, by and between MVP Detroit Center Garage, LLC and Bank of America, N.A.	Form 8-K	333-205893	10.1	January 12, 2017
10.4	Loan Agreement, dated as of November 30, 2018, by and among certain subsidiaries of MIC named as borrowers party thereto and LoanCore Capital Credit REIT LLC as lender	Form 8-K	000-55760	10.1	December 6, 2018
10.5	Contribution Agreement, dated as of March 29, 2019, and effective as of April 1, 2019, among MIC, MVP Realty Advisors, LLC, dba The Parking REIT Advisors, Vestin Realty Mortgage I, Inc., Vestin Realty Mortgage II, Inc., and Michael V. Shustek	Form 8-K	000-55760	2.1	April 3, 2019
10.6	Services Agreement, dated as of March 29, 2019, by and among MIC, Mobile Infra Operating Partnership, L.P., Vestin Realty Mortgage I, Inc., Vestin Realty Mortgage II, Inc., MVP Realty Advisors, LLC, dba The Parking REIT Advisors, and Michael V. Shustek	Form 8-K	000-55760	10.1	April 3, 2019
10.7	First Amendment to Loan Agreement, dated as of July 9, 2020, by and among certain subsidiaries of MIC named as borrowers party thereto and LLC Warehouse V LLC as lender and successor-in-interest to LoanCore Capital Credit REIT LLC	Form 10-Q	000-55760	10.1	November 16, 2020
10.8	Second Amendment to Loan Agreement, dated as of December 8, 2020, by and among certain subsidiaries of MIC as borrowers party thereto and LLC Warehouse V LLC as lender and successor-in-interest to LoanCore Capital Credit REIT LLC	Form 10-K	000-55760	10.15	March 31, 2021

Exhibit	Description	Incorporated by Reference			
		Schedule/ Form	File Number	Exhibit or Annex	Filing Date
10.9	Third Amendment to Loan Agreement, dated as of December 8, 2021, by and among MIC as guarantor, certain subsidiaries of MIC as borrowers party thereto, and LoanCore 2021-CRE4 Issuer Ltd. as lender and successor-in-interest to LoanCore Capital Credit REIT LLC	Form 10-K	000-55760	10.14	March 30, 2022
10.10	Equity Purchase and Contribution Agreement, dated as of January 8, 2021, by and among MIC, Mobile Infra Operating Partnership, L.P., Michael V. Shustek, Vestin Realty Mortgage II, Inc., Vestin Realty Mortgage I, Inc., and Color Up, LLC	Form 8-K	000-55760	10.1	January 14, 2021
10.11	Tax Matters Agreement, dated as of August 25, 2021, by and among MIC, Mobile Infra Operating Partnership, L.P., and each Protected Partner identified as a signatory on Schedule I thereto	Form 8-K	000-55760	10.1	August 31, 2021
10.12	Stockholders Agreement, dated as of August 25, 2021, by and between MIC and the Investors identified on the signature pages thereto	Form 8-K	000-55760	10.2	August 31, 2021
10.13	Assignment of Claims, Causes of Action, and Proceeds, dated as of August 25, 2021, by MIC in favor of Michael V. Shustek, MVP Realty Advisors, LLC, Vestin Realty Mortgage I, Inc., Vestin Realty Mortgage II, Inc., and their designees, successors, representatives, heirs, and assigns	Form 8-K	000-55760	10.3	August 31, 2021
10.14	Warrant Agreement, dated as of August 25, 2021, by and between MIC and Color Up, LLC	Form 8-K	000-55760	10.4	August 31, 2021
10.15*	Warrant Assumption and Amendment Agreement, dated as of August 25, 2023, by and among MIC, the Company, and Color Up, LLC				
10.16*	Amended and Restated Warrant Agreement, dated as of August 29, 2023, by and between the Company and Color Up, LLC				
10.17	Software License and Development Agreement, dated as of August 25, 2021, by and between MIC and DIA Land Co., LLC	Form 8-K	000-55760	10.7	August 31, 2021
10.18	First Amendment to Services Agreement, dated as of August 25, 2021, by and among MIC, MVP REIT II Operating Partnership, L.P., Vestin Realty Mortgage I, Inc., Vestin Realty Mortgage II, Inc., MVP Realty Advisors, LLC, and Michael V. Shustek	Form 8-K	000-55760	10.8	August 31, 2021
10.19	First Amendment to Contribution Agreement, dated as of August 25, 2021, by and among MIC, Vestin Realty Mortgage I, Inc., Vestin Realty Mortgage II, Inc., MVP Realty Advisors, LLC, and Michael V. Shustek	Form 8-K	000-55760	10.9	August 31, 2021
10.20	Securities Purchase Agreement, dated as of November 2, 2021, by and among MIC, Mobile Infra Operating Partnership, L.P., and HSCP Strategic III, LP	Form 8-K	000-55760	10.1	November 4, 2021

Exhibit	Description	Incorporated by Reference			
		Schedule/ Form	File Number	Exhibit or Annex	Filing Date
10.21	Class A Unit Agreement, dated as of November 2, 2021, by and between Mobile Infra Operating Partnership, L.P. and HSCP Strategic III, LP	Form 8-K	000-55760	10.2	November 4, 2021
10.22	Amended and Restated Registration Rights Agreement, dated as of November 2, 2021, by and among MIC and the Holders	Form 8-K	000-55760	10.3	November 4, 2021
10.23	Credit Agreement, dated as of March 29, 2022, by and among MIC, Mobile Infra Operating Partnership, L.P., certain subsidiaries of MIC, as borrowers party thereto, KeyBanc Capital Markets and KeyBank, National Association, as administrative agent and lender	Form 8-K	000-55760	10.1	April 1, 2022
10.24	First Amendment to Credit Agreement, dated as of November 17, 2022, by and among Mobile Infra Operating Partnership, L.P., KeyBank National Association, and the other financial institutions party thereto	Form 8-K	000-55760	10.1	November 22, 2022
10.25#*	Waiver and Second Amendment to Credit Agreement, dated as of August 25, 2023, by and among Mobile Infra Operating Partnership, L.P., MIC, each subsidiary of MIC party thereto, KeyBank National Association, and the other financial institutions party thereto				
10.26	Employment Agreement, dated as of August 25, 2021, by and between MIC and Manuel Chavez	Form 8-K	000-55760	10.10	August 31, 2021
10.27	Employment Agreement, dated as of August 25, 2021, by and between MIC and Stephanie Hogue	Form 8-K	000-55760	10.11	August 31, 2021
10.28	First Amendment to Employment Agreement, dated as of August 23, 2022, by and among MIC, Mobile Infra Operating Partnership, L.P., and Manuel Chavez	Form 8-K	000-55760	10.1	August 26, 2022
10.29	First Amendment to Employment Agreement, dated as of August 23, 2022, by and among MIC, Mobile Infra Operating Partnership, L.P., and Stephanie Hogue	Form 8-K	000-55760	10.2	August 26, 2022
10.30	Second Amendment to Employment Agreement, dated as of December 13, 2022, by and among MIC, Mobile Infra Operating Partnership, L.P., and Manuel Chavez	Form 8-K	000-55760	10.4	December 14, 2022
10.31	Second Amendment to Employment Agreement, dated as of December 13, 2022, by and among MIC, Mobile Infra Operating Partnership, L.P., and Stephanie Hogue	Form 8-K	000-55760	10.5	December 14, 2022
10.32	Form of Performance Unit Award Agreement	Form 10-Q	000-55760	10.1	August 15, 2022
10.33	Form of First Amendment to Performance Unit Agreement	S-4/A	333-269231	10.39	April 11, 2023

Exhibit	Description	Incorporated by Reference			
		Schedule/ Form	File Number	Exhibit or Annex	Filing Date
10.34	Form of LTIP Unit Agreement (Director Grants)	Form 10-Q	000-55760	10.2	August 15, 2022
10.35	Form of LTIP Unit Agreement (Liquidity Event)	Form 8-K	000-55760	10.3	August 26, 2022
10.36	First Amendment to LTIP Unit Agreement, dated as of December 13, 2022, by and among MIC, Mobile Infra Operating Partnership, L.P., and Manuel Chavez	Form 8-K	000-55760	10.6	December 14, 2022
10.37	First Amendment to LTIP Unit Agreement, dated as of December 13, 2022, by and among MIC, Mobile Infra Operating Partnership, L.P., and Stephanie Hogue	Form 8-K	000-55760	10.7	December 14, 2022
10.38	Form of First Amendment to LTIP Unit Agreement	S-4/A	333-269231	10.44	April 11, 2023
10.39	Form of Mobile Infrastructure Corporation and Mobile Infra Operating Company, LLC Performance Unit Award Agreement	S-4/A	333-269231	10.45	April 11, 2023
10.40	Form of MIC and Mobile Infra Operating Company, LLC LTIP Unit Award Agreement	S-4/A	333-269231	10.46	April 11, 2023
10.41	Mobile Infrastructure Corporation and Mobile Infra Operating Company, LLC 2023 Incentive Award Plan	424B3	333-269231	N	July 11, 2023
10.42*	Registration Rights Agreement, dated as of August 25, 2023, by and among the Company, Fifth Wall Acquisition Sponsor III LLC, the FWAC Sponsor Holders identified on Schedule A thereto, the MIC Holders identified on Scheduled B thereto, and the Preferred Holders identified on Schedule C thereto				
10.43	Sponsor Lock-Up Agreement, dated as of December 13, 2022, by and among Fifth Wall Acquisition Sponsor III LLC, Fifth Wall Acquisition Corp. III, and MIC	Form 8-K	001-40415	10.1	December 14, 2022
10.44	Seller Lock-up Agreement, dated as of December 13, 2022, by and among Fifth Wall Acquisition Corp. III, MIC, and certain security holders of MIC	Form 8-K	001-40415	10.2	December 14, 2022
10.45	Second Amended and Restated Sponsor Agreement, dated as of June 15, 2023, by and among Fifth Wall Acquisition Corp. III, MIC, Fifth Wall Acquisition Sponsor III LLC, and certain holders of FWAC Class B Shares	424B3	333-269231	F	July 11, 2023
10.46*	Letter Agreement, dated August 25, 2023, by and among Fifth Wall Acquisition Corp. III, Fifth Wall Acquisition Sponsor III LLC, and MIC				
10.47	Form of Preferred Subscription Agreement	424B3	333-269231	K	July 11, 2023
10.48	Support Agreement, dated December 13, 2022, by and between Fifth Wall Acquisition Corp. III and Color Up, LLC	Form 8-K	001-40415	10.5	December 14, 2022

Exhibit	Description	Incorporated by Reference			
		Schedule/ Form	File Number	Exhibit or Annex	Filing Date
10.49	Amended and Restated Support Agreement, dated as of March 23, 2023, by and between Fifth Wall Acquisition Corp. III and HSCP Strategic III, LP	Form 8-K	001-40415	10.1	March 23, 2023
10.50*	Limited Liability Company Agreement of Mobile Infra Operating Company, LLC				
10.51	Form of Indemnification Agreement of the Company	S-4/A	333-269231	10.60	April 11, 2023
16.1*	Letter from WithumSmith+Brown, PC to the Securities and Exchange Commission, dated August 31, 2023				
21.1*	List of Subsidiaries of the Company				
99.1*	Press Release, dated August 28, 2023				
99.2*	Unaudited Pro Forma Condensed Combined Financial Information as of and for the six months ended June 30, 2023 and the year ended December 31, 2022				
104*	Cover Page Interactive Data File (formatted as Inline XBRL and contained in Exhibit 101)				

* Filed or furnished herewith.

Certain of the exhibits and schedules to this Exhibit have been omitted in accordance with RegulationS-K Item 601.The Registrant agrees to furnish a copy of all omitted exhibits and schedules to the SEC upon its request.

SIGNATURES

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

MOBILE INFRASTRUCTURE CORPORATION

Date: August 31, 2023

By: */s/ Stephanie Hogue*
Name: Stephanie Hogue
Title: President, Chief Financial Officer, Treasurer, and Corporate Secretary

Exhibit 3.1

FIFTH WALL ACQUISITION CORP. III
ARTICLES OF INCORPORATION

ARTICLE I
INCORPORATOR

The undersigned, Andriy Mykhhaylovskyy, whose address is c/o Fifth Wall, 1 Little West 12th Street, Fourth Floor, New York, NY being at least 18 years of age, by these Articles of Incorporation and by Articles of Conversion, does hereby convert Fifth Wall Acquisition Corp. III, a Cayman Islands exempted company, which was formed on February 19, 2021, into a corporation formed under the general laws of the State of Maryland.

ARTICLE II
NAME

The name of the corporation (the "Corporation") is:

Fifth Wall Acquisition Corp. III

ARTICLE III
PURPOSE

The purposes for which the Corporation is formed are to engage in any lawful act or activity (including, without limitation or obligation, engaging in business as a real estate investment trust under the Internal Revenue Code of 1986, as amended, or any successor statute (the "Code")) for which corporations may be organized under the general laws of the State of Maryland as now or hereafter in force. For purposes of the charter of the Corporation (the "Charter"), "REIT" means a real estate investment trust under Sections 856 through 860 of the Code or any successor provisions.

ARTICLE IV
PRINCIPAL OFFICE IN STATE AND RESIDENT AGENT

The address of the principal office of the Corporation in the State of Maryland is c/oCSC-Lawyers Incorporating Service Company, 7 St. Paul Street, Suite 820, Baltimore, Maryland 21202. The name and address of the resident agent of the Corporation in the State of Maryland are CSC-Lawyers Incorporating Service Company, 7 St. Paul Street, Suite 820, Baltimore, Maryland 21202. The resident agent is a Maryland corporation.

ARTICLE V
PROVISIONS FOR DEFINING, LIMITING
AND REGULATING CERTAIN POWERS OF THE
CORPORATION AND OF THE STOCKHOLDERS AND DIRECTORS

Section 5.1 Number of Directors. The business and affairs of the Corporation shall be managed under the direction of the Board of Directors. The number of directors of the Corporation initially shall be six, which number may be increased or decreased only by the Board of Directors pursuant to the Bylaws of the Corporation (the "Bylaws"), but shall never be less than the minimum number required by the Maryland General Corporation Law (the "MGCL"). The names of the directors who shall serve until the next annual meeting of stockholders and until their successors are duly elected and qualify are:

Brendan Wallace
Andriy Mykhaylovskyy
Adeyemi Ajao
Alana Beard
Poonam Sharma
Amanda Parness

The Directors shall be elected in the manner provided in the Bylaws and, subject to the immediately succeeding paragraph, any vacancy on the Board of Directors may be filled in the manner provided in the Bylaws.

The Corporation elects, effective at such time as it becomes eligible underSection 3-802 of the MGCL to make the election provided for under Section 3-804(c) of the MGCL, that, except as may be provided by the Board of Directors in setting the terms of any class or series of stock, any and all vacancies on the Board of Directors may be filled only by the affirmative vote of a majority of the directors remaining in office, even if the remaining directors do not constitute a quorum, and any director elected to fill a vacancy shall serve for the remainder of the full term of the directorship in which such vacancy occurred and until a successor is elected and qualifies.

Section 5.2 Extraordinary Actions. Notwithstanding any provision of law permitting or requiring any action to be taken or approved by the affirmative vote of stockholders entitled to cast a greater number of votes, any such action shall be effective and valid if declared advisable by the Board of Directors and taken or approved by the affirmative vote of stockholders entitled to cast a majority of all the votes entitled to be cast on the matter.

Section 5.3 Authorization by Board of Stock Issuance. The Board of Directors may authorize the issuance from time to time of shares of stock of the Corporation of any class or series, whether now or hereafter authorized, or securities or rights convertible into shares of its stock of any class or series, whether now or hereafter authorized, for such consideration as the Board of Directors may deem advisable (or without consideration in the case of a stock split or stock dividend or for the purpose of qualifying as a REIT under the Code), subject to such restrictions or limitations, if any, as may be set forth in the Charter or the Bylaws.

Section 5.4 Preemptive and Appraisal Rights. Except as may be provided by the Board of Directors in setting the terms of classified or reclassified shares of stock pursuant to Section 6.4 or as may otherwise be provided by a contract approved by the Board of Directors, no holder of shares of stock of the Corporation shall, as such holder, have any preemptive right to purchase or subscribe for any additional shares of stock of the Corporation or any other security

of the Corporation which it may issue or sell. Holders of shares of stock shall not be entitled to exercise any rights of an objecting stockholder provided for under Title 3, Subtitle 2 of the MGCL or any successor statute unless the Board of Directors upon such terms and conditions as may be specified by the Board of Directors, determines that such rights apply, with respect to all or any shares of all or any classes or series of stock, to one or more transactions occurring after the date of such determination in connection with which holders of such shares would otherwise be entitled to exercise such rights.

Section 5.5 Determinations by Board. The determination as to any of the following matters, made by or pursuant to the direction of the Board of Directors, shall be final and conclusive and shall be binding upon the Corporation and every holder of shares of its stock: the amount of the net income of the Corporation for any period and the amount of assets at any time legally available for the payment of dividends, acquisition of its stock or the payment of other distributions on its stock; the amount of paid-in surplus, net assets, other surplus, cash flow, funds from operations, adjusted funds from operations, core earnings, net profit, net assets in excess of capital, undivided profits or excess of profits over losses on sales of assets; the amount, purpose, time of creation, increase or decrease, alteration or cancellation of any reserves or charges and the propriety thereof (whether or not any obligation or liability for which such reserves or charges shall have been created shall have been set aside, paid or discharged); any interpretation or resolution of any ambiguity with respect to any provision of the Charter (including any of the terms, preferences, conversion or other rights, voting powers or rights, restrictions, limitations as to dividends or other distributions, qualifications or terms or conditions of redemption of any shares of any class or series of stock of the Corporation) or of the Bylaws; the number of shares of stock of any class or series of the Corporation; the fair value, or any sale, bid or asked price to be applied in determining the fair value, of any asset owned or held by the Corporation or of any shares of stock of the Corporation; any matter relating to the acquisition, holding and disposition of any assets by the Corporation; any interpretation of the terms and conditions of one or more agreements with any person, corporation, association, company, trust, partnership (limited or general) or other entity; the compensation of directors, officers, employees or agents of the Corporation; or any other matter relating to the business and affairs of the Corporation or required or permitted by applicable law, the Charter or Bylaws or otherwise to be determined by the Board of Directors.

Section 5.6 REIT Qualification. From and after the date that the Board of Directors determines that it is in the best interest of the Corporation to qualify as a REIT for U.S. federal income tax purposes, the Board of Directors shall use its reasonable best efforts to take such actions as are necessary or appropriate to cause the Corporation to qualify as a REIT and to preserve its status as a REIT; however, if the Board of Directors determines that it is no longer in the best interests of the Corporation to attempt to, or continue to, qualify as a REIT, the Board of Directors may revoke or otherwise terminate the Corporation's REIT election. The Board of Directors, in its sole and absolute discretion, also may (a) determine that compliance with any restriction or limitation on stock ownership and transfers set forth in Article VII is no longer required for prospective or ongoing REIT qualification and (b) make any other determination or take any other action pursuant to Article VII.

Section 5.7 Removal of Directors. Subject to the rights of holders of shares of one or more classes or series of Preferred Stock (as defined below) to elect or remove one or more directors, any director, or the entire Board of Directors, may be removed from office at any time, but only for cause and then only by the affirmative vote of a majority of the votes entitled to be cast generally in the election of directors. For the purpose of this paragraph, "cause" shall mean, with respect to any particular director, conviction of a felony or a final judgment of a court of competent jurisdiction holding that such director caused demonstrable, material harm to the Corporation through bad faith or active and deliberate dishonesty.

ARTICLE VI
STOCK

Section 6.1 Authorized Shares. The Corporation has authority to issue 600,000,000 shares of stock, consisting of 500,000,000 shares of Common Stock, $0.0001 par value per share ("Common Stock"), and 100,000,000 shares of Preferred Stock, $0.0001 par value per share ("Preferred Stock"), 50,000 of which have been classified as Series A Convertible Redeemable Preferred Stock, 97,000 of which have been classified as Series 1 Convertible Redeemable Preferred Stock and 60,000 of which have been classified as Series 2 Convertible Preferred Stock. The aggregate par value of all authorized shares of stock having par value is $60,000. If shares of one class of stock are classified or reclassified into shares of another class of stock pursuant to Section 6.2, 6.3 or 6.4 of this Article VI, the number of authorized shares of the former class shall be automatically decreased and the number of shares of the latter class shall be automatically increased, in each case by the number of shares so classified or reclassified, so that the aggregate number of shares of stock of all classes that the Corporation has authority to issue shall not be more than the total number of shares of stock set forth in the first sentence of this paragraph. The Board of Directors, with the approval of a majority of the entire Board of Directors and without any action by the stockholders of the Corporation, may amend the Charter from time to time to increase or decrease the aggregate number of shares of stock or the number of shares of stock of any class or series that the Corporation has authority to issue.

Section 6.2 Common Stock. Subject to the provisions of Article VII and except as may otherwise be specified in the Charter, each share of Common Stock shall entitle the holder thereof to one vote. The Board of Directors may reclassify any unissued shares of Common Stock from time to time into one or more classes or series of stock.

Section 6.3 Preferred Stock. The Board of Directors may classify any unissued shares of Preferred Stock and reclassify any previously classified but unissued shares of Preferred Stock of any class or series from time to time into one or more classes or series of stock.

Section 6.3.1 Series A Convertible Redeemable Preferred Stock. 50,000 shares of Preferred Stock shall be classified as Series A Convertible Redeemable Preferred Stock of the Corporation with the preferences, conversion and other rights, voting powers, restrictions, limitations as to dividends and other distributions, qualifications, and terms and conditions of redemption set forth on Annex A hereto.

Section 6.3.2 Series 1 Convertible Redeemable Preferred Stock. 97,000 shares of Preferred Stock shall be classified as Series 1 Convertible Redeemable Preferred Stock of the Corporation with the preferences, conversion and other rights, voting powers, restrictions, limitations as to dividends and other distributions, qualifications, and terms and conditions of redemption set forth on Annex B hereto.

Section 6.3.3 Series 2 Convertible Preferred Stock. 60,000 shares of Preferred Stock shall be classified as Series 2 Convertible Preferred Stock of the Corporation with the preferences, conversion and other rights, voting powers, restrictions, limitations as to dividends and other distributions, qualifications, and terms and conditions of redemption set forth on Annex C hereto.

Section 6.4 Classified or Reclassified Shares. Prior to the issuance of classified or reclassified shares of any class or series of stock, the Board of Directors by resolution shall: (a) designate that class or series to distinguish it from all other classes and series of stock of the Corporation; (b) specify the number of shares to be included in the class or series; (c) set or change, subject to the provisions of Article VII and subject to the express terms of any class or series of stock of the Corporation outstanding at the time, the preferences, conversion or other rights, voting powers, restrictions, limitations as to dividends or other distributions, qualifications and terms and conditions of redemption for each class or series; and (d) cause the Corporation to file articles supplementary with the State Department of Assessments and Taxation of Maryland (the "SDAT"). Any of the terms of any class or series of stock set or changed pursuant to clause (c) of this Section 6.4 may be made dependent upon facts or events ascertainable outside the Charter (including determinations by the Board of Directors or other facts or events within the control of the Corporation) and may vary among holders thereof, provided that the manner in which such facts, events or variations shall operate upon the terms of such class or series of stock is clearly and expressly set forth in the articles supplementary or other Charter document.

Section 6.5 Action by Stockholders. Any action required or permitted to be taken at any meeting of stockholders may be taken without a meeting (a) if a unanimous consent setting forth the action is given in writing or by electronic transmission by each stockholder entitled to vote on the matter and filed with the minutes of the proceedings of the stockholders or (b) if the action is advised, and submitted to the stockholders for approval, by the Board of Directors and a consent in writing or by electronic transmission of stockholders entitled to cast not less than the minimum number of votes that would be necessary to authorize or take the action at a meeting of stockholders is delivered to the Corporation in accordance with the MGCL. The Corporation shall give notice of any action taken by less than unanimous consent to each stockholder not later than ten days after the effective time of such action.

Section 6.6 Charter and Bylaws. The rights of all stockholders and the terms of all stock of the Corporation are subject to the provisions of the Charter and the Bylaws.

Section 6.7 Distributions. Except as may otherwise be provided in the terms of any class or series of Preferred Stock, in determining whether a distribution (other than upon liquidation, dissolution or winding up) is permitted under Maryland law, amounts that would be needed, if the Corporation were to be dissolved at the time of the distribution, to satisfy the preferential rights upon dissolution of stockholders whose preferential rights upon dissolution are superior to those receiving the distribution, shall not be added to the Corporation's total liabilities.

ARTICLE VII
RESTRICTION ON TRANSFER AND OWNERSHIP OF SHARES

Section 7.1 Definitions. For the purpose of this Article VII, the following terms shall have the following meanings:

Aggregate Stock Ownership Limit. The term "Aggregate Stock Ownership Limit" shall mean 9.8 percent in value of the aggregate of the outstanding shares of Capital Stock, or such other percentage determined by the Board of Directors in accordance with Section 7.2.8 of the Charter or such other percentage that the Board of Directors determines appropriate, relying on the type of information and representations described in Section 7.2.7 of the Charter.

Beneficial Ownership. The term "Beneficial Ownership" shall mean ownership of Capital Stock by a Person, whether the interest in the shares of Capital Stock is held directly or indirectly (including by a nominee), and shall include interests that would be treated as owned through the application of Section 544 of the Code, as modified by Section 856(h)(1)(B) of the Code. The terms "Beneficial Owner," "Beneficially Owns" and "Beneficially Owned" shall have the correlative meanings.

Business Day. The term "Business Day" shall mean any day, other than a Saturday or Sunday, that is neither a legal holiday nor a day on which banking institutions in New York City are authorized or required by law, regulation or executive order to close.

Capital Stock. The term "Capital Stock" shall mean all classes or series of stock of the Corporation, including, without limitation, Common Stock and Preferred Stock.

Charitable Beneficiary. The term "Charitable Beneficiary" shall mean one or more beneficiaries of the Trust as determined pursuant to Section 7.3.6, provided that each such organization must be described in Section 501(c)(3) of the Code and contributions to each such organization must be eligible for deduction under each of Sections 170(b)(1)(A), 2055 and 2522 of the Code.

Constructive Ownership. The term "Constructive Ownership" shall mean ownership of Capital Stock by a Person, whether the interest in the shares of Capital Stock is held directly or indirectly (including by a nominee), and shall include interests that would be treated as owned through the application of Section 318(a) of the Code, as modified by Section 856(d)(5) of the Code. The terms "Constructive Owner," "Constructively Owns" and "Constructively Owned" shall have the correlative meanings.

Excepted Holder. The term "Excepted Holder" shall mean a stockholder of the Corporation for whom an Excepted Holder Limit is created by the Charter or by the Board of Directors pursuant to Section 7.2.7.

Existing Holder. The term "Existing Holder" shall mean any Person who is the Beneficial Owner or Constructive Owner of shares of Capital Stock in excess of the Aggregate Stock Ownership Limit or Ownership Limit, as applicable, on the Initial Date, so long as, but only so long as, such Person Beneficially Owns or Constructively Owns shares of Capital Stock in excess of the Aggregate Stock Ownership Limit or Ownership Limit, as applicable.

Excepted Holder Limit. The term "Excepted Holder Limit" shall mean, provided that the affected Excepted Holder agrees to comply with the requirements established by the Board of Directors pursuant to Section 7.2.7 and subject to adjustment pursuant to Section 7.2.7, the percentage limit established by the Board of Directors pursuant to Section 7.2.7.

Existing Holder Limit. The term "Existing Holder Limit" shall mean the Existing Holder's percentage of the outstanding Capital Stock Beneficially Owned or Constructively Owned by such Existing Holder on the Initial Date, unless otherwise adjusted pursuant to Section 7.2.7(e); provided, however, that such Person's Existing Holder Limit upon any Reduction Event shall be the higher of (x) the foregoing percentage as adjusted by the Reduction Event and (y) the Common Stock Ownership Limit or Aggregate Stock Ownership Limit, as applicable.

Individual. The term "Individual" means an "individual" within the meaning of Section 542(a)(2) of the Code, but not including a qualified trust subject to the look through rule of Section 856(h)(3)(A)(i) of the Code.

Initial Date. The term "Initial Date" shall mean 12:01 a.m., Eastern Time, on the date immediately following the consummation of the Transaction.

Market Price. The term "Market Price" on any date shall mean, with respect to any class or series of outstanding shares of Capital Stock, the Closing Price for such Capital Stock on such date. The "Closing Price" on any date shall mean the last sale price for such Capital Stock, regular way, or, in case no such sale takes place on such day, the average of the closing bid and asked prices, regular way, for such Capital Stock, in either case as reported in the principal consolidated transaction reporting system with respect to securities listed or admitted to trading on the Nasdaq or, if such Capital Stock is not listed or admitted to trading on the Nasdaq, as reported on the principal consolidated transaction reporting system with respect to securities listed on the principal national securities exchange on which such Capital Stock is listed or admitted to trading or, if such Capital Stock is not listed or admitted to trading on any national securities exchange, the last quoted price, or, if not so quoted, the average of the high bid and low asked prices in the over-the-counter market, as reported by the principal automated quotation system that may then be in use or, if such Capital Stock is not quoted by any such system, the average of the closing bid and asked prices as furnished by a professional market maker making a market in such Capital Stock selected by the Board of Directors or, in the event that no trading price is available for such Capital Stock, the fair market value of the Capital Stock, as determined by the Board of Directors.

Nasdaq. The term "Nasdaq" shall mean the Nasdaq Stock Market.

Ownership Limit. The term "Ownership Limit" shall mean 9.8 percent (in value or in number of shares, whichever is more restrictive) of the aggregate of the outstanding shares of each class or series of stock of the Corporation, including Common Stock and Preferred Stock, or such other percentage determined by the Board of Directors in accordance with Section 7.2.8 of the Charter or such other percentage that the Board of Directors determines appropriate, relying on the type of information and representations described in Section 7.2.7 of the Charter.

Person. The term "Person" shall mean an individual, corporation, partnership, limited liability company, estate, trust (including a trust qualified under Sections 401(a) or 501(c)(17) of the Code), a portion of a trust permanently set aside for or to be used exclusively for the purposes described in Section 642(c) of the Code, association, private foundation within the meaning of Section 509(a) of the Code, joint stock company or other entity and also includes a group as that term is used for purposes of Section 13(d)(3) of the Securities Exchange Act of 1934, as amended, and a group to which an Excepted Holder Limit applies.

Prohibited Owner. The term "Prohibited Owner" shall mean, with respect to any purported Transfer, any Person who, but for the provisions of this Article VII, would Beneficially Own or Constructively Own shares of Capital Stock in violation of Section 7.2.1, and if appropriate in the context, shall also mean any Person who would have been the record owner of the shares that the Prohibited Owner would have so owned.

Reduction Event. The term "Reduction Event" shall mean the issuance of Capital Stock by the Corporation or any sale of Capital Stock by an Existing Holder.

Restriction Termination Date. The term "Restriction Termination Date" shall mean the first day after the Initial Date on which the Board of Directors determines pursuant to Section 5.6 of the Charter that it is no longer in the best interests of the Corporation to attempt to, or continue to, qualify as a REIT or that compliance with the restrictions and limitations on Beneficial Ownership, Constructive Ownership and Transfers of shares of Capital Stock set forth herein is no longer required in order for the Corporation to attempt to, or continue to, qualify as a REIT.

Transaction. The term "Transaction" means the merger of Queen Merger Sub I, a Maryland corporation, with and into Mobile Infrastructure Corporation, a Maryland corporation (as the surviving entity, the "Surviving Company"), followed by the merger of the Surviving Company with and into the Corporation.

Transfer. The term "Transfer" shall mean any issuance, sale, transfer, gift, assignment, devise or other disposition, as well as any other event that causes any Person to acquire Beneficial Ownership or Constructive Ownership, or any agreement to take any such action or cause any such event, of Capital Stock or the right to vote or receive dividends on Capital Stock, including (a) the granting or exercise of any option (or any disposition of any option), (b) any disposition of any securities or rights convertible into or exchangeable for Capital Stock or any interest in Capital Stock or any exercise of any such conversion or exchange right and (c) Transfers of interests in other entities that result in changes in Beneficial Ownership or Constructive Ownership of Capital Stock; in each case, whether voluntary or involuntary, whether owned of record, Constructively Owned or Beneficially Owned and whether by operation of law or otherwise. The terms "Transferring" and "Transferred" shall have the correlative meanings.

Trust. The term "Trust" shall mean any trust provided for in Section 7.3.1.

Trustee. The term "Trustee" shall mean the Person unaffiliated with the Corporation and a Prohibited Owner that is appointed by the Corporation to serve as trustee of the Trust.

Section 7.2 Capital Stock.

Section 7.2.1 Ownership Limitations. During the period commencing on the Initial Date and prior to the Restriction Termination Date, but subject to Section 7.4:

(a) Basic Restrictions.

(i) (1) No Person, other than an Excepted Holder or an Existing Holder, shall Beneficially Own or Constructively Own shares of Capital Stock in excess of the Aggregate Stock Ownership Limit, (2) no Person, other than an Excepted Holder or an Existing Holder, shall Beneficially Own or Constructively Own shares of any class or series of stock of the Corporation, including Common Stock and Preferred Stock, in excess of the Ownership Limit, (3) no Excepted Holder shall Beneficially Own or Constructively Own shares of Capital Stock in excess of the Excepted Holder Limit for such Excepted Holder, and (4) no Existing Holder shall Beneficially Own or Constructively Own shares of Capital Stock in excess of the Existing Holder Limit for such Existing Holder.

(ii) Except with respect to any shares of Capital Stock Beneficially Owned or Constructively Owned by an Existing Holder as of the Initial Date, no Person shall Beneficially Own or Constructively Own shares of Capital Stock to the extent that such Beneficial Ownership or Constructive Ownership of Capital Stock would result in the Corporation being "closely held" within the meaning of Section 856(h) of the Code (without regard to whether the ownership interest is held during the last half of a taxable year), or otherwise failing to qualify as a REIT (including, without limitation, Beneficial Ownership or Constructive Ownership that would result in the Corporation owning (actually or Constructively) an interest in a tenant that is described in Section 856(d)(2)(B) of the Code if the income derived by the Corporation from such tenant would cause the Corporation to fail to satisfy any of the gross income requirements of Section 856(c) of the Code).

(iii) Any Transfer of shares of Capital Stock that, if effective, would result in the Capital Stock being beneficially owned by less than 100 Persons (determined under the principles of Section 856(a)(5) of the Code) shall be void ab initio, and the intended transferee shall acquire no rights in such shares of Capital Stock.

(b) Transfer in Trust. If any Transfer of shares of Capital Stock occurs which, if effective, would result in any Person Beneficially Owning or Constructively Owning shares of Capital Stock in violation of Section 7.2.1(a)(i) or (ii),

(i) then that number of shares of the Capital Stock the Beneficial Ownership or Constructive Ownership of which otherwise would cause such Person to violate Section 7.2.1(a)(i) or (ii) (rounded up to the nearest whole share) shall be automatically transferred to a Trust for the benefit of a Charitable Beneficiary, as described in Section 7.3, effective as of the close of business on the Business Day prior to the date of such Transfer, and such Person shall acquire no rights in such shares; or

(ii) if the transfer to the Trust described in clause (i) of this sentence would not be effective for any reason to prevent the violation of Section 7.2.1(a)(i) or (ii), then the Transfer of that number of shares of Capital Stock that otherwise would cause any Person to violate Section 7.2.1(a)(i) or (ii) shall be void ab initio, and the intended transferee shall acquire no rights in such shares of Capital Stock.

(iii) To the extent that, upon a transfer of shares of Capital Stock pursuant to this Section 7.2.1(b), a violation of any provision of this Article VII would nonetheless be continuing (for example where the ownership of shares of Capital Stock by a single Trust would violate the 100 stockholder requirement applicable to REITs), then shares of Capital Stock shall be transferred to that number of Trusts, each having a distinct Trustee and a Charitable Beneficiary or Charitable Beneficiaries that are distinct from those of each other Trust, such that there is no violation of any provision of this Article VII.

Section 7.2.2 Remedies for Breach. If the Board of Directors shall at any time determine that a Transfer or other event has taken place that results in a violation of Section 7.2.1 or that a Person intends to acquire or has attempted to acquire Beneficial Ownership or Constructive Ownership of any shares of Capital Stock in violation of Section 7.2.1 (whether or not such violation is intended), the Board of Directors shall take such action as it deems advisable to refuse to give effect to or to prevent such Transfer or other event, including, without limitation, causing the Corporation to redeem shares, refusing to give effect to such Transfer on the books of the Corporation or instituting proceedings to enjoin such Transfer or other event; provided, however, that any Transfer or attempted Transfer or other event in violation of Section 7.2.1 shall automatically result in the transfer to the Trust described above, and, where applicable, such Transfer (or other event) shall be void ab initio as provided above irrespective of any action (or non-action) by the Board of Directors.

Section 7.2.3 Notice of Restricted Transfer. Any Person who acquires or attempts or intends to acquire Beneficial Ownership or Constructive Ownership of shares of Capital Stock that will or may violate Section 7.2.1(a) or any Person who would have owned shares of Capital Stock that resulted in a transfer to the Trust pursuant to the provisions of Section 7.2.1(b) shall immediately give written notice to the Corporation of such event or, in the case of such a proposed or attempted transaction, give at least 15 days prior written notice, and shall provide to the Corporation such other information as the Corporation may request in order to determine the effect, if any, of such Transfer on the Corporation's prospective or ongoing status as a REIT.

Section 7.2.4 Owners Required To Provide Information. From the Initial Date and prior to the Restriction Termination Date:

(a) every owner of five percent or more (or such lower percentage as required by the Code or the Treasury Regulations promulgated thereunder) of the outstanding shares of Capital Stock, within 30 days after the end of each taxable year, shall give written notice to the Corporation stating the name and address of such owner, the number of shares of Capital Stock Beneficially Owned and a description of the manner in which such shares are held. Each such owner shall provide to the Corporation such additional information as the Corporation may request in order to determine the effect, if any, of such Beneficial Ownership on the Corporation's prospective or ongoing status as a REIT and to ensure compliance with the Aggregate Stock Ownership Limit and the Ownership Limit; and

(b) each Person who is a Beneficial Owner or Constructive Owner of Capital Stock and each Person (including the stockholder of record) who is holding Capital Stock for a Beneficial Owner or Constructive Owner shall provide to the Corporation such information as the Corporation may request, in order to determine the Corporation's prospective or ongoing status as a REIT and to comply with the requirements of any taxing authority or governmental authority or to determine such compliance.

Section 7.2.5 Remedies Not Limited. Subject to Section 5.5 of the Charter, nothing contained in this Section 7.2 shall limit the authority of the Board of Directors to take such other action as it deems necessary or advisable to protect the Corporation in preserving the Corporation's prospective or ongoing status as a REIT.

Section 7.2.6 Ambiguity. In the case of an ambiguity in the application of any of the provisions of this Section 7.2, Section 7.3 or any definition contained in Section 7.1, the Board of Directors may determine the application of the provisions of this Section 7.2 or Section 7.3 or any such definition with respect to any situation based on the facts known to it. In the event Section 7.2 or Section 7.3 requires an action by the Board of Directors and the Charter fails to provide specific guidance with respect to such action, the Board of Directors may determine the action to be taken so long as such action is not contrary to the provisions of Sections 7.1, 7.2 or 7.3. Absent a decision to the contrary by the Board of Directors, if a Person would have (but for the remedies set forth in Section 7.2.2) acquired Beneficial Ownership or Constructive Ownership of Capital Stock in violation of Section 7.2.1, such remedies (as applicable) shall apply first to the shares of Capital Stock which, but for such remedies, would have been Beneficially Owned or Constructively Owned (but not actually owned) by such Person, pro rata among the Persons who actually own such shares of Capital Stock based upon the relative number of the shares of Capital Stock held by each such Person.

Section 7.2.7 Exceptions.

(a) Subject to Section 7.2.1(a)(ii), the Board of Directors may exempt (prospectively or retroactively) a Person from the Aggregate Stock Ownership Limit and the Ownership Limit, as the case may be, and may establish or increase an Excepted Holder Limit for such Person if:

(i) the Board of Directors obtains such representations and undertakings from such Person as are reasonably necessary for the Board to ascertain that no individual's Beneficial Ownership or Constructive Ownership of such shares of Capital Stock will violate Section 7.2.1(a)(ii);

(ii) such Person does not and represents that it will not own, actually or Constructively, an interest in a tenant of the Corporation (or a tenant of any entity owned or controlled by the Corporation) that would cause the Corporation to own, actually or Constructively, more than a 9.9% interest (as set forth in Section 856(d)(2)(B) of the Code) in such tenant and the Board of Directors obtains such representations and undertakings from such Person as the Board of Directors determines are reasonably necessary to ascertain this fact (for this purpose, a tenant from whom the Corporation (or an entity owned or controlled by the Corporation) derives (and is expected to continue to derive) a sufficiently small amount of revenue such that rent from such tenant would not adversely affect the Corporation's ability to qualify as a REIT shall not be treated as a tenant of the Corporation); and

(iii) such Person agrees that any violation or attempted violation of such representations or undertakings (or other action which is contrary to the restrictions contained in Sections 7.2.1 through 7.2.6) will result in such shares of Capital Stock being automatically transferred to a Trust in accordance with Sections 7.2.1(b) and 7.3.

(b) Prior to granting any exception pursuant to Section 7.2.7(a), the Board of Directors 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 Directors, as it may deem necessary or advisable in order to determine or ensure the Corporation's status as a REIT. Notwithstanding the receipt of any ruling or opinion, the Board of Directors may impose such conditions or restrictions as it deems appropriate in connection with granting such exception.

(c) Subject to Section 7.2.1(a)(ii), an underwriter which participates in a public offering, forward sale or a private placement of Capital Stock (or securities convertible into or exchangeable for Capital Stock) may Beneficially Own or Constructively Own shares of Capital Stock (or securities convertible into or exchangeable for Capital Stock) in excess of the Aggregate Stock Ownership Limit, the Ownership Limit, or both such limits, but only to the extent necessary to facilitate such public offering, forward sale or private placement.

(d) The Board of Directors may only reduce the Excepted Holder Limit for an Excepted Holder: (1) with the written consent of such Excepted Holder at any time, (2) unless the terms and conditions of the agreements and undertakings entered into with such Excepted Holder in connection with the establishment of the Excepted Holder Limit for that Excepted Holder provide otherwise, at any time after the Excepted Holder no longer Beneficially Owns or Constructively Owns shares of Capital Stock in excess of the Ownership Limit or the Aggregate Stock Ownership Limit or (3) pursuant to the terms and conditions of the agreements and undertakings entered into with such Excepted Holder in connection with the establishment of the Excepted Holder Limit for that Excepted Holder. No Excepted Holder Limit shall be reduced to a percentage that is less than the Ownership Limit or the Aggregate Stock Ownership Limit.

(e) The Board of Directors is hereby expressly vested with the full power and authority to reduce the Existing Holder Limit as in effect from time to time on and after the date hereof for an Existing Holder. No such reduction shall constitute or be deemed to constitute an amendment of the Charter, and shall take effect automatically without any action on the part of any stockholder as of the date specified by the Board of Directors that is subsequent to the Board

resolution approving and effecting such reduction. An Existing Holder shall not be deemed to have violated either the Aggregate Stock Ownership Limit or the Ownership Limit, as applicable, until such time as such Existing Holder's percentage of ownership of Capital Stock, having fallen below the Ownership Limit or Aggregate Stock Ownership Limit, as applicable, again exceeds the Ownership Limit or Aggregate Stock Ownership Limit, as applicable.

Section 7.2.8 Increase or Decrease in Ownership or Aggregate Stock Ownership Limits. Subject to Section 7.2.1(a)(ii) and this Section 7.2.8, the Board of Directors may from time to time following the Initial Date increase or decrease the Ownership Limit and the Aggregate Stock Ownership Limit for one or more Persons and increase or decrease the Ownership Limit and the Aggregate Stock Ownership Limit for all other Persons. No decreased Ownership Limit or Aggregate Stock Ownership Limit will be effective for any Person whose percentage of ownership of Capital Stock is in excess of such decreased Ownership Limit or Aggregate Stock Ownership Limit, as applicable, until such time as such Person's percentage of ownership of Capital Stock equals or falls below the decreased Ownership Limit or Aggregate Stock Ownership Limit, as applicable; provided, however, any further acquisition of Capital Stock by any such Person (other than a Person for whom an exemption has been granted pursuant to Section 7.2.7(a) or an Excepted Holder) in excess of the Capital Stock owned by such person on the date the decreased Ownership Limit or Aggregate Stock Ownership Limit, as applicable, became effective will be in violation of the Ownership Limit or Aggregate Stock Ownership Limit. No increase to the Ownership Limit or Aggregate Stock Ownership Limit may be approved if, following the Initial Date, the new Ownership Limit and/or Aggregate Stock Ownership Limit would allow five or fewer Individuals to Beneficially Own, in the aggregate more than 49.9% in value of the outstanding Capital Stock or otherwise cause the Corporation to fail to qualify as a REIT. Prior to increasing or decreasing the Ownership Limit or the Aggregate Stock Ownership Limit pursuant to this Section 7.2.8, the Board of Directors may require such opinions of counsel, affidavits, undertakings or agreements, in form and substance satisfactory to the Board of Directors, as it may deem necessary or advisable in order to determine or ensure the Corporation's qualification as a REIT.

Section 7.2.9 Legend. Each certificate for shares of Capital Stock, if certificated, shall bear substantially the following legend:

> The shares represented by this certificate are subject to restrictions on Beneficial Ownership and Constructive Ownership and Transfer for the purpose, among others, of the Corporation's prospective or ongoing status as a REIT under the Internal Revenue Code of 1986, as amended (the "Code"). Subject to certain further restrictions and except as expressly provided in the Corporation's Charter, (i) no Person may Beneficially Own or Constructively Own shares of the Corporation's Common Stock in excess of the Ownership Limit unless such Person is an Excepted Holder (in which case the Excepted Holder Limit shall be applicable) or an Existing Holder (in which case the Existing Holder Limit shall be applicable); (ii) no Person may Beneficially Own or Constructively Own shares of Capital Stock of the Corporation in excess of the Aggregate Stock

Ownership Limit, unless such Person is an Excepted Holder (in which case the Excepted Holder Limit shall be applicable) or an Existing Holder (in which case the Existing Holder Limit shall be applicable); (iii) no Person may Beneficially Own or Constructively Own Capital Stock that would result in the Corporation being "closely held" under Section 856(h) of the Code or otherwise cause the Corporation to fail to qualify as a REIT; and (iv) no Person may Transfer shares of Capital Stock if such Transfer would result in the Capital Stock of the Corporation being owned by fewer than 100 Persons. Any Person who Beneficially Owns or Constructively Owns or attempts or intends to Beneficially Own or Constructively Own shares of Capital Stock which cause or will cause a Person to Beneficially Own or Constructively Own shares of Capital Stock in excess or in violation of the above limitations must immediately notify the Corporation. If any of the restrictions on transfer or ownership provided in (i), (ii) or (iii) above are violated, the shares of Capital Stock in excess or in violation of the above limitations will be automatically transferred to a Trustee of a Trust for the benefit of one or more Charitable Beneficiaries. In addition, the Corporation may redeem shares upon the terms and conditions specified by the Board of Directors in its sole and absolute discretion if the Board of Directors determines that ownership or a Transfer or other event may violate the restrictions described above. Furthermore, if the ownership restrictions provided in (iv) above would be violated or upon the occurrence of certain events, attempted Transfers in violation of the restrictions described above may be void ab initio. All capitalized terms in this legend have the meanings defined in the Charter of the Corporation, as the same may be amended from time to time, a copy of which, including the restrictions on transfer and ownership, will be furnished to each holder of shares of Capital Stock of the Corporation on request and without charge. Requests for such a copy may be directed to the Secretary of the Corporation at its Principal Office.

Instead of the foregoing legend, the certificate or any notice in lieu of a certificate may state that the Corporation will furnish a full statement about certain restrictions on ownership and transfer of the shares to a stockholder on request and without charge.

Section 7.3 Transfer of Capital Stock in Trust.

Section 7.3.1 Ownership in Trust. Upon any purported Transfer or other event described in Section 7.2.1(b) that would result in a transfer of shares of Capital Stock to a Trust, such shares of Capital Stock shall be deemed to have been transferred to the Trustee as trustee of a Trust for the exclusive benefit of one or more Charitable Beneficiaries. Such transfer to the Trustee shall be deemed to be effective as of the close of business on the Business Day prior to the purported Transfer or other event that results in the transfer to the Trust pursuant to Section 7.2.1(b). The Trustee shall be appointed by the Corporation and shall be a Person unaffiliated with the Corporation and any Prohibited Owner. Each Charitable Beneficiary shall be designated by the Corporation as provided in Section 7.3.6.

Section 7.3.2 Status of Shares Held by the Trustee. Shares of Capital Stock held by the Trustee shall be issued and outstanding shares of Capital Stock of the Corporation. The Prohibited Owner shall have no rights in the shares held by the Trustee. The Prohibited Owner shall not benefit economically from ownership of any shares held in trust by the Trustee, shall have no rights to dividends or other distributions and shall not possess any rights to vote or other rights attributable to the shares held in the Trust.

Section 7.3.3 Dividend and Voting Rights. The Trustee shall have all voting rights and rights to dividends or other distributions with respect to shares of Capital Stock held in the Trust, which rights shall be exercised for the exclusive benefit of the Charitable Beneficiary. Any dividend or other distribution paid prior to the discovery by the Corporation that the shares of Capital Stock have been transferred to the Trustee shall be paid by the recipient of such dividend or other distribution to the Trustee upon demand and any dividend or other distribution authorized but unpaid shall be paid when due to the Trustee. Any dividend or other distribution so paid to the Trustee shall be held in trust for the Charitable Beneficiary. The Prohibited Owner shall have no voting rights with respect to shares of Capital Stock held in the Trust and, subject to Maryland law, effective as of the date that the shares of Capital Stock have been transferred to the Trust, the Trustee shall have the authority (at the Trustee's sole and absolute discretion) (i) to rescind as void any vote cast by a Prohibited Owner prior to the discovery by the Corporation that the shares of Capital Stock have been transferred to the Trust and (ii) to recast such vote; provided, however, that if the Corporation has already taken irreversible corporate action, then the Trustee shall not have the authority to rescind and recast such vote. Notwithstanding the provisions of this Article VII, until the Corporation has received notification that shares of Capital Stock have been transferred into a Trust, the Corporation shall be entitled to rely on its stock transfer and other stockholder records for purposes of preparing lists of stockholders entitled to vote at meetings, determining the validity and authority of proxies and otherwise conducting votes and determining the other rights of stockholders.

Section 7.3.4 Sale of Shares by Trustee. Within 20 days of receiving notice from the Corporation that shares of Capital Stock have been transferred to the Trust, the Trustee of the Trust shall sell the shares held in the Trust to a person, designated by the Trustee, whose ownership of the shares will not violate the ownership limitations set forth in Section 7.2.1(a). Upon such sale, the interest of the Charitable Beneficiary in the shares sold shall terminate and the Trustee shall distribute the net proceeds of the sale to the Prohibited Owner and to the Charitable Beneficiary as provided in this Section 7.3.4. The Prohibited Owner shall receive the lesser of (1) the price paid by the Prohibited Owner for the shares or, if the Prohibited Owner did not give value for the shares in connection with the event causing the shares to be held in the Trust (*e.g.*, in the case of a gift, devise or other such transaction), the Market Price of the shares on the day of the event causing the shares to be held in the Trust and (2) the price per share received by the Trustee (net of any commissions and other expenses of sale) from the sale or other disposition of the shares held in the Trust. The Trustee may reduce the amount payable to the Prohibited Owner by the amount of dividends and distributions which have been paid to the Prohibited Owner and are owed

by the Prohibited Owner to the Trustee pursuant to Section 7.3.3 of this Article VII. Any net sales proceeds in excess of the amount payable to the Prohibited Owner shall be immediately paid to the Charitable Beneficiary. If, prior to the discovery by the Corporation that shares of Capital Stock have been transferred to the Trustee, such shares are sold by a Prohibited Owner, then (i) such shares shall be deemed to have been sold on behalf of the Trust and (ii) to the extent that the Prohibited Owner received an amount for such shares that exceeds the amount that such Prohibited Owner was entitled to receive pursuant to this Section 7.3.4, such excess shall be paid to the Trustee upon demand.

Section 7.3.5 Purchase Right in Stock Transferred to the Trustee. Shares of Capital Stock transferred to the Trustee shall be deemed to have been offered for sale to the Corporation, or its designee, at a price per share equal to the lesser of (i) the price per share in the transaction that resulted in such transfer to the Trust (or, in the case of a devise or gift, the Market Price at the time of such devise or gift) and (ii) the Market Price on the date the Corporation, or its designee, accepts such offer. The Corporation may reduce the amount payable to the Prohibited Owner by the amount of dividends and distributions which has been paid to the Prohibited Owner and is owed by the Prohibited Owner to the Trustee pursuant to Section 7.3.3 of this Article VII. The Corporation may pay the amount of such reduction to the Trustee for the benefit of the Charitable Beneficiary. The Corporation shall have the right to accept such offer until the Trustee has sold the shares held in the Trust pursuant to Section 7.3.4. Upon such a sale to the Corporation, the interest of the Charitable Beneficiary in the shares sold shall terminate and the Trustee shall distribute the net proceeds of the sale to the Prohibited Owner.

Section 7.3.6 Designation of Charitable Beneficiaries. By written notice to the Trustee, the Corporation shall designate one or more nonprofit organizations to be the Charitable Beneficiary or Charitable Beneficiaries of the interest in the Trust such that (i) the shares of Capital Stock held in the Trust would not violate the restrictions set forth in Section 7.2.1(a) in the hands of such Charitable Beneficiary or Charitable Beneficiaries and (ii) each such organization must be described in Section 501(c)(3) of the Code and contributions to each such organization must be eligible for deduction under each of Sections 170(b)(1)(A), 2055 and 2522 of the Code. Neither the failure of the Corporation to make such designation nor the failure of the Corporation to appoint the Trustee before the automatic transfer provided in Section 7.2.1(b) shall make such transfer ineffective, provided that the Corporation thereafter makes such designation and appointment.

Section 7.4 Nasdaq Transactions. Nothing in this Article VII shall preclude the settlement of any transaction entered into through the facilities of the Nasdaq or any other national securities exchange or automated inter-dealer quotation system. The fact that the settlement of any transaction occurs shall not negate the effect of any other provision of this Article VII and any transferee in such a transaction shall be subject to all of the provisions and limitations set forth in this Article VII.

Section 7.5 Enforcement. The Corporation is authorized specifically to seek equitable relief, including injunctive relief, to enforce the provisions of this Article VII.

Section 7.6 Non-Waiver. No delay or failure on the part of the Corporation or the Board of Directors in exercising any right hereunder shall operate as a waiver of any right of the Corporation or the Board of Directors, as the case may be, except to the extent specifically waived in writing.

ARTICLE VIII
AMENDMENTS

The Corporation reserves the right from time to time to make any amendment to the Charter, now or hereafter authorized by law, including any amendment altering the terms or contract rights, as expressly set forth in the Charter, of any shares of outstanding stock. All rights and powers conferred by the Charter on stockholders, directors and officers are granted subject to this reservation. Except for those amendments permitted to be made without stockholder approval under Maryland law or by specific provision in the Charter, any amendment to the Charter shall be valid only if declared advisable by the Board of Directors and approved by the affirmative vote of stockholders entitled to cast a majority of all the votes entitled to be cast on the matter.

ARTICLE IX
LIMITATION OF LIABILITY; INDEMNIFICATION AND ADVANCE OF EXPENSES

Section 9.1 Limitation of Liability. To the maximum extent that Maryland law in effect from time to time permits limitation of the liability of directors and officers of a corporation, no present or former director or officer of the Corporation shall be liable to the Corporation or its stockholders for money damages.

Section 9.2 Indemnification and Advance of Expenses. To the maximum extent permitted by Maryland law in effect from time to time, the Corporation shall indemnify and, without requiring a preliminary determination of the ultimate entitlement to indemnification, shall pay or reimburse reasonable expenses in advance of final disposition of a proceeding to (a) any individual who is a present or former director or officer of the Corporation and who is made, or threatened to be made, a party to, or witness in, the proceeding by reason of his or her service in that capacity or (b) any individual who, while a director or officer of the Corporation and at the request of the Corporation, serves or has served as a director, officer, partner, manager, member or trustee of another corporation, real estate investment trust, partnership, joint venture, limited liability company, trust, employee benefit plan or other enterprise and who is made, or threatened to be made, a party to, or witness in, the proceeding by reason of his or her service in that capacity. The rights to indemnification and advance of expenses provided by the Charter shall vest immediately upon the election of a director or officer. The Corporation may, with the approval of its Board of Directors or any duly authorized committee thereof, provide such indemnification and advance for expenses to an individual who served a predecessor of the Corporation in any of the capacities described in (a) or (b) above and to any employee or agent of the Corporation or a predecessor of the Corporation. The indemnification and payment or reimbursement of expenses provided in the Charter shall not be deemed exclusive of or limit in any way other rights to which any person seeking indemnification or payment or reimbursement of expenses may be or may become entitled under any bylaw, resolution, insurance or agreement or otherwise.

Section 9.3 Amendment or Repeal. Neither the amendment nor repeal of this Article IX, nor the adoption or amendment of any other provision of the Charter or the Bylaws inconsistent with this Article IX, shall apply to or affect in any respect the applicability of the preceding sections of this Article IX with respect to any act or failure to act which occurred prior to such amendment, repeal or adoption.

ARTICLE X
EFFECTIVE TIME

These Articles of Incorporation shall become effective at 10:06 a.m., Eastern Time, on August 25, 2023.

IN WITNESS WHEREOF, I have signed these Articles of Incorporation and acknowledge the same to be my act on this 25th day of August, 2023.

/s/ Andriy Mykhaylovskyy
Andriy Mykhaylovskyy
Incorporator

ANNEX A
SERIES A CONVERTIBLE REDEEMABLE PREFERRED STOCK

1. Designation and Number. A series of Preferred Stock, designated the "Series A Convertible Redeemable Preferred Stock" (the "Series A Preferred Stock"), is hereby established. The number of shares of Series A Preferred Stock shall be 50,000. The par value of the Series A Preferred Stock shall be $0.0001.

2. Definitions. In addition to the capitalized terms elsewhere defined herein, the following terms, when used herein, shall have the meanings indicated:

(a) "Listing Event" shall mean either (i) the listing of the Common Stock (as defined in the Charter) on a national securities exchange or (ii) a merger, sale of all or substantially all of the Corporation's assets or another transaction, in each case, approved by the Board of Directors in which the holders of Common Stock will receive shares of common stock that are listed on a national securities exchange, or options or warrants to acquire shares of common stock that are listed on a national securities exchange, in exchange for their existing shares, options and warrants of the Corporation, as applicable.

(b) "Merger" shall mean the merger of Mobile (as defined below) with and into the Corporation, as contemplated by the Agreement and Plan of Merger, dated as of December 13, 2022, as amended by the First Amendment to Agreement and Plan of Merger, dated as of March 23, 2023, by and between the Corporation, Mobile and Queen Merger Sub I, a Maryland corporation.

(c) "Mobile" shall mean Mobile Infrastructure Corporation, a Maryland corporation.

(d) "Mobile Preferred Stock" shall mean the Series A Convertible Redeemable Preferred Stock, par value $0.0001 per share, of Mobile.

(e) "Nasdaq" shall mean the Nasdaq Stock Market.

(f) "Person" shall mean any company, limited liability company, partnership, trust, organization, association, other entity or individual.

(g) "Trading Day" shall mean, (i) if the Common Stock is listed or admitted to trading on Nasdaq, a day on which Nasdaq is open for the transaction of business, (ii) if the Common Stock is not listed or admitted to trading on Nasdaq but is listed or admitted to trading on another national securities exchange or automated quotation system, a day on which such national securities exchange or automated quotation system, as the case may be, on which the Common Stock is listed or admitted to trading is open for the transaction of business, or (iii) if the Common Stock is not listed or admitted to trading on any national securities exchange or automated quotation system, any day other than a Saturday, a Sunday or a day on which banking institutions in the State of New York are authorized or obligated by law or executive order to close.

(h) "VWAP" shall mean, for any Trading Day, the volume-weighted average price, calculated by dividing the aggregate value of Common Stock traded on Nasdaq during regular hours (price per share multiplied by number of shares traded) by the total volume (number of shares) of Common Stock traded on Nasdaq (or such other national securities exchange or automated quotation system on which the Common Stock is listed) for such Trading Day, or if such volume-weighted average price is unavailable, the market value of one share of Common Stock on such Trading Day as determined by the Board of Directors in a commercially reasonable manner, using a volume-weighted average price method.

3. Rank. The Series A Preferred Stock shall, with respect to rights to the payment of dividends and the distribution of assets upon the liquidation, dissolution or winding up of the Corporation, rank (a) senior to all classes or series of Common Stock and any other class or series of stock of the Corporation the terms of which specifically provide that the holders of the Series A Preferred Stock are entitled to receive dividends or amounts distributable upon the liquidation, dissolution or winding up of the Corporation in preference or priority to the holders of such class or series (the "Junior Stock"); (b) on a parity with the Series 1 Convertible Redeemable Preferred Stock of the Corporation and any other class or series of stock of the Corporation the terms of which specifically provide that the holders of such class or series of stock and the Series A Preferred Stock are entitled to receive dividends and amounts distributable upon the liquidation, dissolution or winding up of the Corporation in proportion to their respective amounts of accumulated, accrued and unpaid dividends per share or liquidation preferences, without preference or priority of one over the other (the "Parity Stock"); and (c) junior to any class or series of stock of the Corporation the terms of which specifically provide that the holders of such class or series are entitled to receive dividends or amounts distributable upon the liquidation, dissolution or winding up of the Corporation in preference or priority to the holders of the Series A Preferred Stock (the "Senior Stock").

4. Dividends.

(a) Subject to the preferential rights of holders of any class or series of Senior Stock, holders of the Series A Preferred Stock shall be entitled to receive, when and as authorized by the Board of Directors and declared by the Corporation, out of funds legally available for the payment of dividends, cash dividends at the rate of 5.75% per annum of the initial stated value of $1,000 per share (the "Stated Value") (equivalent to a fixed annual rate of $57.50 per share); provided, however, that the annual dividend rate on each share of Series A Preferred Stock shall be increased to 7.50% of the Stated Value (equivalent to a fixed annual rate of $75.00 per share) until the occurrence of a Listing Event, at which time, the dividend rate on each share of Series A Preferred Stock will revert automatically to 5.75% per annum of the Stated Value. The dividends on each share of Series A Preferred Stock shall be cumulative from the first date on which such share of Series A Preferred Stock is issued (the "Original Issue Date") and shall be payable monthly on the 12th day of the month following the month for which the dividend was declared or, if not a business day, the next succeeding business day (each, a "Dividend Payment Date"); provided, that, no holder of any shares of Series A Preferred Stock shall be entitled to receive any dividends

paid or payable on the Series A Preferred Stock with a Dividend Payment Date before the date such shares of Series A Preferred Stock are issued. Notwithstanding anything to the contrary contained herein, any and all accrued but unpaid dividends (whether or not declared) on each share of Mobile Preferred Stock exchanged in the Merger for a share of Series A Preferred Stock shall be treated for purposes of the Charter as if accrued by the Corporation with respect to such share of Series A Preferred Stock, including any unpaid dividends prior to the Original Issue Date and otherwise in accordance with this Section 4(a) (such amount with respect to each share of Series A Preferred Stock, not including the amount of any accrued and unpaid dividends paid in cash as part of the consideration paid in the Merger to the holder of such share of Mobile Preferred Stock for which the Series A Preferred Stock was exchanged, the "Mobile Preferred Accrual"). Any dividend payable on the Series A Preferred Stock for any partial dividend period shall be computed ratably on the basis of a 360-day year consisting of twelve 30-day months. Dividends shall be payable in arrears to holders of record as they appear in the stock records of the Corporation at the close of business on the applicable record date (the "Dividend Record Date") 15 days preceding the applicable Dividend Payment Date. The term "business day" shall mean any day, other than Saturday, Sunday, or a day on which banking institutions in the State of New York are authorized or obligated by law to close, or a day which is or is declared a national or a New York state holiday.

(b) Holders of Series A Preferred Stock shall not be entitled to any dividends in excess of cumulative dividends, as herein provided, on the Series A Preferred Stock. Any dividend payment made on the Series A Preferred Stock shall first be credited against the earliest accrued but unpaid dividend due with respect to such shares which remains payable.

(c) No interest, or sum of money in lieu of interest, shall be payable in respect of any dividend payment or payments on the Series A Preferred Stock that may be in arrears (including the Mobile Preferred Accrual).

(d) When dividends are not paid in full upon the Series A Preferred Stock (including the Mobile Preferred Accrual) or any other class or series of Parity Stock, or a sum sufficient for such payment is not set apart, all dividends declared upon the Series A Preferred Stock and any shares of Parity Stock shall be declared ratably in proportion to the respective amounts of dividends accumulated, accrued and unpaid on the Series A Preferred Stock and accumulated, accrued and unpaid on such Parity Stock (which shall not include any accumulation in respect of unpaid dividends for prior dividend periods if such Parity Stock does not have a cumulative dividend).

(e) Except as set forth in the preceding paragraph, unless full cumulative dividends equal to the full amount of all accumulated, accrued and unpaid dividends on the Series A Preferred Stock have been, or are concurrently therewith, declared and paid, or declared and set apart for payment, for all past dividend periods, no dividends (other than dividends or distributions paid in shares of Junior Stock or options, warrants or rights to subscribe for or purchase shares of Junior Stock) shall be declared and paid or declared and set apart for payment by the Corporation and no other distribution of cash or other property may be

declared and made, directly or indirectly, by the Corporation with respect to any shares of Junior Stock or Parity Stock, nor shall any shares of Junior Stock or Parity Stock be redeemed, purchased or otherwise acquired (other than a redemption, purchase or other acquisition of Common Stock made for purposes of an equity incentive or benefit plan of the Corporation) for any consideration (or any monies be paid to or made available for a sinking fund for the redemption of any shares of any such stock), directly or indirectly, by the Corporation (except by conversion into or exchange for shares of Junior Stock, or options, warrants or rights to subscribe for or purchase shares of Junior Stock), nor shall any other cash or other property be paid or distributed to or for the benefit of holders of shares of Junior Stock or Parity Stock.

(f) Notwithstanding the foregoing provisions of this Section 4, the Corporation shall not be prohibited from (i) declaring or paying or setting apart for payment any dividend or other distribution on any Junior Stock or Parity Stock, or (ii) redeeming, purchasing or otherwise acquiring Junior Stock or Parity Stock, in each case, if such declaration, payment, setting apart for payment, redemption, purchase or other acquisition is necessary in order to comply with the restrictions on transfer and ownership set forth in Article VII of the Charter.

5. Liquidation Preference.

(a) Upon any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, before any payment or distribution by the Corporation shall be made to or set apart for the holders of any shares of Junior Stock, the holders of shares of the Series A Preferred Stock shall be entitled to be paid out of the assets of the Corporation that are legally available for distribution to the stockholders, a liquidation preference equal to the Stated Value per share (the "Liquidation Preference"), plus an amount equal to all accumulated, accrued and unpaid dividends (whether or not declared) to and including the date of payment (including the Mobile Preferred Accrual). Until the holders of the Series A Preferred Stock have been paid the Liquidation Preference in full, plus an amount equal to all accumulated, accrued and unpaid dividends (whether or not earned or declared) to the date of final distribution to such holders, no payment will be made to any holder of Junior Stock upon the liquidation, dissolution or winding up of the Corporation. If upon the voluntary or involuntary liquidation, dissolution or winding up of the Corporation, the available assets of the Corporation, or proceeds thereof, distributable among the holders of the Series A Preferred Stock shall be insufficient to pay in full the above described Liquidation Preference and the liquidating payments on any shares of any class or series of Parity Stock, then such assets, or the proceeds thereof, shall be distributed among the holders of the Series A Preferred Stock and any such Parity Stock ratably in the same proportion as the respective amounts that would be payable on such Series A Preferred Stock and any such Parity Stock if all amounts payable thereon were paid in full. After payment of the full amount of the Liquidation Preference to which they are entitled, the holders of the Series A Preferred Stock shall have no right or claim to any of the remaining assets of the Corporation.

(b) Upon any liquidation, dissolution or winding up of the Corporation, after payment shall have been made in full to the holders of the Series A Preferred Stock and any Parity Stock, the holders of any classes or series of Junior Stock shall be entitled to receive any and all assets of the Corporation remaining to be paid or distributed, and the holders of the Series A Preferred Stock and any Parity Stock shall not be entitled to share therein.

(c) The consolidation or merger of the Corporation with or into any other corporation, trust or entity or of any other corporation, trust or entity with or into the Corporation, or the sale or transfer of all or substantially all of the assets or business of the Corporation or a statutory share exchange, shall not be deemed to constitute a voluntary or involuntary liquidation, dissolution or winding up of the Corporation. A Listing Event shall not be deemed to constitute a voluntary or involuntary liquidation, dissolution or winding up of the Corporation.

(d) In determining whether a distribution (other than upon voluntary or involuntary liquidation), by dividend, redemption or other acquisition of shares of stock of the Corporation or otherwise is permitted under the Maryland General Corporation Law, amounts that would be needed, if the Corporation were to be dissolved at the time of distribution to satisfy the preferential rights upon dissolution of holders of shares of the Series A Preferred Stock (including the Mobile Preferred Accrual) shall not be added to the Corporation's total liabilities.

6. Conversion.

(a) Subject to the Corporation's redemption rights set forth inSection 6(b), each share of Series A Preferred Stock is convertible into shares of Common Stock at the election of the holder thereof by written notice to the Corporation (each, a "Conversion Notice"). The Conversion Notice shall state: (i) the number of shares of Series A Preferred Stock to be converted; and (ii) that the shares of Series A Preferred Stock are to be converted pursuant to the applicable terms of the Series A Preferred Stock. Each such share of Series A Preferred Stock will convert into a number of shares of Common Stock determined by dividing (i) the sum of (A) 100% of the Stated Value plus (B) any accrued but unpaid dividends to, but not including, the Conversion Date (as defined below) (unless the Conversion Date is after a Dividend Record Date and prior to the corresponding Dividend Payment Date, in which case no additional amount for such accrued and unpaid dividend will be included in such sum) by (ii) the conversion price of each share of Common Stock (the "Conversion Price"). The Conversion Price will be determined as follows:

i. Provided there has been a Listing Event, the Conversion Price for such share of Series A Preferred Stock will be equal to the VWAP per share of Common Stock of the Corporation (or its successor) for the 20 Trading Days prior to the delivery date of the Conversion Notice.

ii. If a Listing Event has not occurred, the Conversion Price for such share of Series A Preferred Stock will be equal to 100% of the Corporation's net asset value per share of Common Stock ("NAV per share"), if then established, and until the Corporation establishes a NAV per share, the Conversion Price will be equal to $25.00, or the initial offering price per share of Common Stock in Mobile's initial public offering.

A holder may elect to convert all or any portion of its shares of Series A Preferred Stock by delivering a Conversion Notice stating its desire to convert such number of shares of Series A Preferred Stock into Common Stock. Subject to the Corporation's redemption rights set forth in Section 6(b) and Section 7, the conversion of the Series A Preferred Stock subject to a Conversion Notice (the "Conversion Shares") into Common Stock will occur at the end of the 20th Trading Day after the Corporation's receipt of such Conversion Notice (the "Conversion Date").

(b) Notwithstanding the foregoing, upon a holder providing a Conversion Notice, the Corporation will have the right (but not the obligation) to redeem, in its sole discretion, any or all of the Conversion Shares at a redemption price, payable in cash, equal to 100% of the Stated Value of each share of Series A Preferred Stock, plus any accrued but unpaid dividends (including the Mobile Preferred Accrual) thereon to, but not including, the redemption date (the "Redemption Price").

The Corporation, in its discretion, may elect to redeem any such shares of Series A Preferred Stock by delivering a written notice of redemption to the holder thereof on or prior to 10th Trading Day prior to the close of trading on the Conversion Date. If the Corporation elects to redeem such Conversion Shares, the Corporation shall pay the Redemption Price, without interest, to holder of the redeemed Conversion Shares promptly following the delivery of a notice of redemption pursuant to this Section 6, but, in any event, not later than the Conversion Date, which payment date shall also be the redemption date for purposes of this Section 6; *provided, however*, that if the Corporation exercises its redemption right pursuant to Section 7, such shares shall be redeemed in accordance with the procedures set forth inSection 7. If a notice of redemption is not delivered by the Corporation by the 10th Trading Day prior to the close of trading on the Conversion Date, the Conversion Shares shall thereafter convert into shares of Common Stock, effective as of the close of trading on the Conversion Date.

(c) Holders of Series A Preferred Stock shall not have the right to convert any shares that the Corporation has elected to redeem pursuant to this Section 6 or Section 7. Accordingly, if the Corporation has provided a notice of redemption with respect to some of all of the Series A Preferred Stock, holders of any Series A Preferred Stock that the Corporation has called for redemption shall not be permitted to exercise their conversion right pursuant to Section 6 in respect of any of the shares that have been called for redemption, and such shares of Series A Preferred Stock shall not be so converted and the holders of such shares shall be entitled to receive on the applicable redemption date the applicable redemption price.

(d) Written notice as to the redemption of any Conversion Shares pursuant to this Section 6 shall be given by first class mail, postage pre-paid, to each such record holder of such shares of Series A Preferred Stock at the respective mailing addresses of each such holder as the same shall appear on the stock transfer records of the Corporation. No failure to give such notice or any defect therein or in the mailing thereof shall affect the validity of the proceedings for the redemption of any such shares of Series A Preferred Stock except as to the holder to whom notice was defective or not given. In addition to any information required by law or by the applicable rules of any exchange upon which Series A Preferred Stock may then be listed or admitted to trading, such notice shall state: (i) the redemption date (which may not be after the Conversion Date); (ii) the Redemption Price payable on the redemption date, including without limitation a statement as to whether or not accumulated, accrued and unpaid dividends shall be payable as part of the Redemption Price, or payable on the next Dividend Payment Date to the record holder at the close of business on the relevant Dividend Record Date as described above; (iii) that the Series A Preferred Stock are being redeemed pursuant to this Section 6; and (iv) that dividends on the shares of Series A Preferred Stock to be redeemed will cease to accrue on such redemption date. If less than all the Conversion Shares are to be redeemed, the notice mailed to such holder also shall specify the number of Conversion Shares to be redeemed.

(e) If notice of redemption of any shares of Series A Preferred Stock has been given and if the funds necessary for such redemption have been set apart by the Corporation for the benefit of the holders of any shares of Series A Preferred Stock so called for redemption, then, from and after the redemption date, dividends will cease to accrue on such shares of Series A Preferred Stock, such shares of Series A Preferred Stock shall be redeemed in accordance with the notice and shall no longer be deemed outstanding and all rights of the holders of such shares will terminate, except the right to receive the cash payable upon such redemption without interest thereon. No further action on the part of the holders of such shares shall be required.

(f) In the event of any conversion or redemption pursuant to Section 6, if the Conversion Date or redemption date, as applicable, occurs after a Dividend Record Date and on or prior to the related Dividend Payment Date, the dividend payable on such Dividend Payment Date in respect of such shares converted or called for redemption, as applicable, shall be payable on such Dividend Payment Date to the holders of record at the close of business on such Dividend Record Date, and shall not be payable in connection with the conversion or redemption of such shares.

(g) Notwithstanding anything to the contrary contained herein, no holder of shares of Series A Preferred Stock will be entitled to convert such shares of Series A Preferred Stock into shares of Common Stock to the extent that receipt of such shares of Common Stock would cause the holder of such shares of Common Stock (or any other person) to violate the restrictions on transfer and ownership set forth in Article VII of the Charter.

7. Optional Redemption by the Corporation.

(a) Except as provided in Section 6, the Series A Preferred Stock are not redeemable by the Corporation prior to the 20th Trading Day after the date of a Listing Event, if any. However, the Series A Preferred Stock shall be subject to the provisions of Article VII of the Charter. Pursuant to Article VII of the Charter, and without limitation of any provisions of such Article VII, the Series A Preferred Stock, together with all other stock of the Corporation, owned by a stockholder in excess of the Aggregate Stock Ownership Limit (as defined in the Charter) will automatically be transferred to a Trust (as defined in the Charter) for the benefit of a Charitable Beneficiary (as defined in the Charter) and the Corporation shall have the right to purchase such transferred shares from the Trust. For this purpose, the Market Price (as defined in the Charter) of Series A Preferred Stock shall equal the Stated Value, plus an amount equal to all accumulated, accrued and unpaid dividends (whether or not earned or declared) to and including the date of purchase.

(b) From time to time, on and after the 20th Trading Day after the date of a Listing Event, if any, the Corporation may, at its option, redeem such shares of the Series A Preferred Stock, in whole or from time to time, in part, at a redemption price equal to 100% of the Stated Value per share, plus all accumulated, accrued and unpaid dividends, if any, to and including the date fixed for redemption (including the Mobile Preferred Accrual) (the "Optional Redemption Date").

(c) The Optional Redemption Date shall be selected by the Corporation and shall be 30 days after the date on which the Corporation sends a notice of redemption (the "Optional Redemption Notice").

(d) If full cumulative dividends (including the Mobile Preferred Accrual) on all outstanding shares of Series A Preferred Stock have not been declared and paid or declared and set apart for payment for all past dividend periods, no shares of Series A Preferred Stock may be redeemed pursuant to this Section 7, unless all outstanding shares of Series A Preferred Stock are simultaneously redeemed, and neither the Corporation nor any of its affiliates may purchase or otherwise acquire shares of Series A Preferred Stock otherwise than pursuant to a purchase or exchange offer made on the same terms to all holders of the Series A Preferred Stock; provided, however, that the foregoing shall not prevent the redemption or purchase by the Corporation of shares of Series A Preferred Stock pursuant to Article VII of the Charter.

(e) If fewer than all the outstanding shares of Series A Preferred Stock are to be redeemed pursuant to thisSection 7, the Corporation shall select those shares to be redeemed pro rata or in such manner as the Board of Directors may determine.

(f) The Optional Redemption Notice shall be given by first class mail, postagepre-paid, to each such record holder of such shares of Series A Preferred Stock at the respective mailing addresses of each such holder as the same shall appear on the stock transfer records of the Corporation. No failure to give such notice or any defect therein or in the mailing thereof shall affect the validity of the proceedings for the redemption of any such shares of Series A Preferred Stock except as to the holder to whom notice was defective or not given.

(g) In addition to any information required by law or by the applicable rules of any exchange upon which Series A Preferred Stock may then be listed or admitted to trading, the Optional Redemption Notice shall state: (i) the Optional Redemption Date; (ii) the redemption price payable on the Optional Redemption Date, including without limitation a statement as to whether or not accumulated, accrued and unpaid dividends shall be payable as part of the redemption price, or payable on the next Dividend Payment Date to the record holder at the close of business on the relevant Dividend Record Date as described above; (iii) whether the redemption price will be paid in cash or Common Stock; (iv) that the Series A Preferred Stock are being redeemed pursuant to Section 7; and (v) that dividends on the shares of Series A Preferred Stock to be redeemed will cease to accrue on such Optional Redemption Date. If less than all the shares of Series A Preferred Stock held by any holder are to be redeemed, the notice mailed to such holder also shall specify the number of shares of Series A Preferred Stock held by such holder to be redeemed.

(h) If the Optional Redemption Notice has been given and if the funds necessary for such redemption have been set apart by the Corporation for the benefit of the holders of any shares of Series A Preferred Stock so called for redemption, then, from and after the Optional Redemption Date, dividends will cease to accrue on such shares of Series A Preferred Stock, such shares of Series A Preferred Stock shall be redeemed in accordance with the notice and shall no longer be deemed outstanding and all rights of the holders of such shares will terminate, except the right to receive the cash or Common Stock payable upon such redemption without interest thereon. No further action on the part of the holders of such shares shall be required.

(i) Pursuant to Section 6 above, the Corporation also shall have the right to redeem all or any portion of the Conversion Shares subject to a Conversion Notice for a cash payment to the holder thereof equal to the Redemption Price set forth in Section 6(b) above, by delivering a Redemption Notice to the holder of such Conversion Shares on or prior 10th Trading Day prior to the close of trading on the applicable Conversion Date.

(j) Subject to applicable law and the limitation on purchases when dividends on the Series A Preferred Stock are in arrears, the Corporation may, at any time and from time to time, purchase or otherwise acquire any shares of Series A Preferred Stock in the open market, by tender or by private agreement.

8. Redemption Price.

(a) The redemption price payable pursuant to any redemption pursuant toSection 7 (other than any redemption in connection with a Conversion Notice pursuant to Sections 6 and 7(i)) shall be paid in cash or, at the election of the Corporation in its sole discretion, in shares of Common Stock, based on the VWAP of the Common Stock for the 20 Trading Days immediately preceding the Optional Redemption Date; provided however, that if the shares of Common Stock are not then listed on a national securities exchange, then the value of the Common Stock will be equal to the then current NAV per share of Common Stock if then established by the Corporation. Until the establishment of a NAV per share, the value of the Common Stock for redemption purposes shall be equal to $25.00 or the initial offering price per share of Common Stock in Mobile's initial public offering. For the avoidance of doubt, any accumulated, accrued and unpaid dividends, if any, with respect to shares of Series A Preferred Stock to be redeemed shall be paid in cash.

(b) Redemptions of shares of Series A Preferred Stock by the Corporation in connection with a Conversion Notice pursuant to Sections 6 and 7(i), if any, shall be paid in cash.

(c) In the event of any redemption pursuant to Section 7, if the Optional Redemption Date occurs after a Dividend Record Date and on or prior to the related Dividend Payment Date, the dividend payable on such Dividend Payment Date in respect of such shares called for redemption shall be payable on such Dividend Payment Date to the holders of record at the close of business on such Dividend Record Date, and shall not be payable as part of the redemption price for such shares.

9. No Fractional Shares. The Corporation shall not issue fractional shares of Common Stock upon any conversion pursuant to Section 6 or redemption pursuant to Section 7, but in lieu of fractional shares, the Corporation, at its sole discretion, may (i) eliminate a fractional interest by rounding up to a full share, (ii) arrange for the disposition of a fractional interest by the person entitled to it, (iii) pay cash for the fair value of a fractional share of stock determined as of the time when the person entitled to receive it is determined, or (iv) otherwise arrange for the disposition of the fractional interest in accordance with Section 2-214 of the Maryland General Corporation Law.

10. Appointment of Transfer Agent; Mechanics of Conversion and Redemption.

(a) The Corporation shall maintain or cause to be maintained a register in which, subject to such reasonable regulations as it may prescribe, the Corporation shall provide for the registration of shares of Series A Preferred Stock and of transfers of shares of Series A Preferred Stock for the purpose of registering shares of Series A Preferred Stock and of transfers of shares of Series A Preferred Stock as herein provided. The Corporation may appoint a registrar and one or more transfer agents for the Series A Preferred Stock as it shall determine. The Corporation may change the transfer agent without prior notice to any holder.

(b) If the Corporation elects to issue Common Stock upon any conversion pursuant to Section 6 or redemption pursuant to Section 7, the Corporation shall cause the transfer agent to, as soon as practicable, but not later than three (3) business days after the effective date of such conversion or redemption, register the number of shares of Common Stock to which such holder shall be entitled as a result of such redemption. The person or persons entitled to receive the shares of Common Stock issuable upon such conversion or redemption shall be treated for all purposes as the record holder or holders of such shares of Common Stock as of the effective date of such conversion or redemption.

11. Reservation of Shares.

(a) The Corporation shall reserve and shall at all times have reserved out of its authorized but unissued shares of Common Stock, a sufficient number of shares of Common Stock to permit any conversion pursuant to Section 6 or redemption pursuant to Section 7 of the then outstanding shares of Series A Preferred Stock. All shares of Common Stock when issued upon redemption of shares of Series A Preferred Stock shall be validly issued, fully paid and nonassessable.

(b) Any shares of Series A Preferred Stock that shall at any time have been converted or redeemed pursuant toSection 6 or redeemed pursuant to Section 7 or otherwise acquired by the Corporation shall, after such redemption or acquisition, have the status of authorized but unissued Preferred Stock, without designation as to class or series until such shares are once more classified and designated as part of a particular class or series by the Board of Directors.

12. Adjustments. If a conversion or redemption of any shares of Series A Preferred Stock pursuant toSection 6, Section 7 or Section 8 occurs less than 20 Trading Days after the Corporation: (i) declares a dividend or makes a distribution on the Common Stock payable in Common Stock, (ii) subdivides or splits the outstanding Common Stock, (iii) combines or reclassifies the outstanding Common Stock into a smaller number of shares or (iv) consolidates with, or merges with or into, any other person, or engages in any reorganization, reclassification or recapitalization that is effected in such a manner that the holders of Common Stock are entitled to receive stock, securities, cash or other assets with respect to or in exchange for Common Stock (other than as a cash dividend or distribution declared by the Corporation), the Stated Value shall be adjusted so that the conversion or redemption of the Series A Preferred Stock less than 20 Trading Days after such event shall entitle the holder to receive the aggregate number of shares of Common Stock or cash, which, if the Series A Preferred Stock had been converted or redeemed immediately prior to such event, such holder would have owned upon such conversion or redemption and been entitled to receive by virtue of such dividend, distribution, subdivision, split, combination, consolidation, merger, reorganization, reclassification or recapitalization.

13. Voting Rights. Holders of the Series A Preferred Stock shall not have any voting rights.

14. Restrictions on Transfer. The Series A Preferred Stock are subject to the provisions of Article VII of the Charter. In addition, no shares of Series A Preferred Stock may be sold or otherwise Transferred (as defined in the Charter) unless the holder thereof delivers evidence, to the satisfaction of the Corporation, that such sale or other Transfer (as defined in the Charter) of such shares of Series A Preferred Stock is made to an accredited investor solely in compliance with all federal and state securities laws. Series A Preferred Stock shall include the following legend and any other legends required by state securities laws and the Charter and Bylaws:

> THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AND HAVE BEEN ACQUIRED FOR INVESTMENT AND NOT WITH A VIEW TO, OR IN CONNECTION WITH, THE SALE OR DISTRIBUTION THEREOF. NO SUCH SALE OR DISTRIBUTION MAY BE EFFECTED WITHOUT AN EFFECTIVE REGISTRATION STATEMENT RELATED THERETO OR AN OPINION OF COUNSEL IN A FORM SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED UNDER THE SECURITIES ACT OF 1933.

Any sale or transfer of shares of Series A Preferred Stock made in violation of any federal or state securities law shall be *void ab initio.*

ANNEX B
SERIES 1 CONVERTIBLE REDEEMABLE PREFERRED STOCK

1. Designation and Number. A series of Preferred Stock, designated the "Series 1 Convertible Redeemable Preferred Stock" (the "Series 1 Preferred Stock"), is hereby established. The number of shares of Series 1 Preferred Stock shall be 97,000. The par value of the Series 1 Preferred Stock shall be $0.0001.

2. Definitions. In addition to the capitalized terms elsewhere defined herein, the following terms, when used herein, shall have the meanings indicated:

(a) "Listing Event" shall mean either (i) the listing of the Common Stock (as defined in the Charter) on a national securities exchange or (ii) a merger, sale of all or substantially all of the Corporation's assets or another transaction, in each case, approved by the Board of Directors in which the holders of Common Stock will receive shares of common stock that are listed on a national securities exchange, or options or warrants to acquire shares of common stock that are listed on a national securities exchange, in exchange for their existing shares, options and warrants of the Corporation, as applicable.

(b) "Merger" shall mean the merger of Mobile (as defined below) with and into the Corporation, as contemplated by the Agreement and Plan of Merger, dated as of December 13, 2022, as amended by the First Amendment to Agreement and Plan of Merger, dated as of March 23, 2023, by and between the Corporation, Mobile and Queen Merger Sub I, a Maryland corporation.

(c) "Mobile" shall mean Mobile Infrastructure Corporation, a Maryland corporation.

(d) "Mobile Preferred Stock" shall mean the Series 1 Convertible Redeemable Preferred Stock, par value $0.0001 per share, of Mobile.

(e) "Nasdaq" shall mean the Nasdaq Stock Market.

(f) "Person" shall mean any company, limited liability company, partnership, trust, organization, association, other entity or individual.

(g) "Trading Day" shall mean, (i) if the Common Stock is listed or admitted to trading on Nasdaq, a day on which Nasdaq is open for the transaction of business, (ii) if the Common Stock is not listed or admitted to trading on Nasdaq but is listed or admitted to trading on another national securities exchange or automated quotation system, a day on which such national securities exchange or automated quotation system, as the case may be, on which the Common Stock is listed or admitted to trading is open for the transaction of business, or (iii) if the Common Stock is not listed or admitted to trading on any national securities exchange or automated quotation system, any day other than a Saturday, a Sunday or a day on which banking institutions in the State of New York are authorized or obligated by law or executive order to close.

(h) "VWAP" shall mean, for any Trading Day, the volume-weighted average price, calculated by dividing the aggregate value of Common Stock traded on Nasdaq during regular hours (price per share multiplied by number of shares traded) by the total volume (number of shares) of Common Stock traded on Nasdaq (or such other national securities exchange or automated quotation system on which the Common Stock is listed) for such Trading Day, or if such volume-weighted average price is unavailable, the market value of one share of Common Stock on such Trading Day as determined by the Board of Directors in a commercially reasonable manner, using a volume-weighted average price method.

3. Rank. The Series 1 Preferred Stock shall, with respect to rights to the payment of dividends and the distribution of assets upon the liquidation, dissolution or winding up of the Corporation, rank (a) senior to all classes or series of Common Stock and any other class or series of stock of the Corporation the terms of which specifically provide that the holders of the Series 1 Preferred Stock are entitled to receive dividends or amounts distributable upon the liquidation, dissolution or winding up of the Corporation in preference or priority to the holders of shares of such class or series (the "Junior Stock"); (b) on a parity with the Series A Convertible Redeemable Preferred Stock of the Corporation and any other class or series of stock of the Corporation the terms of which specifically provide that the holders of such class or series of stock and the Series 1 Preferred Stock are entitled to receive dividends and amounts distributable upon the liquidation, dissolution or winding up of the Corporation in proportion to their respective amounts of accumulated, accrued and unpaid dividends per share or liquidation preferences, without preference or priority of one over the other (the "Parity Stock"); and (c) junior to any class or series of stock of the Corporation the terms of which specifically provide that the holders of such class or series are entitled to receive dividends or amounts distributable upon the liquidation, dissolution or winding up of the Corporation in preference or priority to the holders of the Series 1 Preferred Stock (the "Senior Stock").

4. Dividends.

(a) Subject to the preferential rights of holders of any class or series of Senior Stock, holders of the Series 1 Preferred Stock shall be entitled to receive, when and as authorized by the Board of Directors and declared by the Corporation, out of funds legally available for the payment of dividends, cash dividends at the rate of 5.50% per annum of the initial stated value of $1,000 per share (the "Stated Value") (equivalent to a fixed annual rate of $55.00 per share); provided, however, that the annual dividend rate on each share of Series 1 Preferred Stock shall be increased to 7.00% of the Stated Value (equivalent to a fixed annual rate of $70.00 per share) until the occurrence of a Listing Event, at which time, the dividend rate on each share of Series 1 Preferred Stock will revert automatically to 5.50% per annum of the Stated Value. The dividends on each share of Series 1 Preferred Stock shall be cumulative from the first date on which such shares of Series 1 Preferred Stock is issued (the "Original Issue Date") and shall be payable monthly on the 12th day of the month following the month for which the dividend was declared or, if not a business day, the next succeeding business day (each, a "Dividend Payment Date"); provided, that, no holder of any shares of Series 1 Preferred Stock shall be entitled to receive any dividends

paid or payable on the Series 1 Preferred Stock with a Dividend Payment Date before the date such shares of Series 1 Preferred Stock are issued. Notwithstanding anything to the contrary contained herein, any and all accrued but unpaid dividends (whether or not declared) on each share of Mobile Preferred Stock exchanged in the Merger for a share of Series 1 Preferred Stock shall be treated for purposes of the Charter as if accrued by the Corporation with respect to such share of Series 1 Preferred Stock, including any unpaid dividends prior to the Original Issue Date and otherwise in accordance with this Section 4(a) (such amount with respect to each share of Series 1 Preferred Stock, not including the amount of any accrued and unpaid dividends paid in cash as part of the consideration paid in the Merger to the holder of such share of Mobile Preferred Stock for which the Series 1 Preferred Stock was exchanged, the "Mobile Preferred Accrual"). Any dividend payable on the Series 1 Preferred Stock for any partial dividend period shall be computed ratably on the basis of a 360-day year consisting of twelve 30-day months. Dividends shall be payable in arrears to holders of record as they appear in the stock records of the Corporation at the close of business on the 24th day of each month (the "Dividend Record Date"). The term "business day" shall mean any day, other than Saturday, Sunday, or a day on which banking institutions in the State of New York are authorized or obligated by law to close, or a day which is or is declared a national or a New York state holiday.

(b) Holders of Series 1 Preferred Stock shall not be entitled to any dividends in excess of cumulative dividends, as herein provided, on the Series 1 Preferred Stock. Any dividend payment made on the Series 1 Preferred Stock shall first be credited against the earliest accrued but unpaid dividend due with respect to such shares which remains payable.

(c) No interest, or sum of money in lieu of interest, shall be payable in respect of any dividend payment or payments on the Series 1 Preferred Stock that may be in arrears (including the Mobile Preferred Accrual).

(d) When dividends are not paid in full upon the Series 1 Preferred Stock (including the Mobile Preferred Accrual) or any other class or series of Parity Stock, or a sum sufficient for such payment is not set apart, all dividends declared upon the Series 1 Preferred Stock and any shares of Parity Stock shall be declared ratably in proportion to the respective amounts of dividends accumulated, accrued and unpaid on the Series 1 Preferred Stock and accumulated, accrued and unpaid on such Parity Stock (which shall not include any accumulation in respect of unpaid dividends for prior dividend periods if such Parity Stock does not have a cumulative dividend).

(e) Except as set forth in the preceding paragraph, unless full cumulative dividends equal to the full amount of all accumulated, accrued and unpaid dividends on the Series 1 Preferred Stock have been, or are concurrently therewith, declared and paid, or declared and set apart for payment, for all past dividend periods, no dividends (other than dividends or distributions paid in shares of Junior Stock or options, warrants or rights to subscribe for or purchase shares of Junior Stock) shall be declared and paid or declared and set apart for payment by the Corporation and no other distribution of cash or other property may be declared and made, directly or indirectly, by the Corporation with respect to any shares of

Junior Stock or Parity Stock, nor shall any shares of Junior Stock or Parity Stock be redeemed, purchased or otherwise acquired (other than a redemption, purchase or other acquisition of Common Stock made for purposes of an equity incentive or benefit plan of the Corporation) for any consideration (or any monies be paid to or made available for a sinking fund for the redemption of any shares of any such stock), directly or indirectly, by the Corporation (except by conversion into or exchange for shares of Junior Stock, or options, warrants or rights to subscribe for or purchase shares of Junior Stock), nor shall any other cash or other property be paid or distributed to or for the benefit of holders of shares of Junior Stock or Parity Stock.

(f) Notwithstanding the foregoing provisions of this Section 4, the Corporation shall not be prohibited from (i) declaring or paying or setting apart for payment any dividend or other distribution on any shares of Junior Stock or Parity Stock, or (ii) redeeming, purchasing or otherwise acquiring Junior Stock or Parity Stock, in each case, if such declaration, payment, setting apart for payment, redemption, purchase or other acquisition is necessary in order to comply with the restrictions on transfer and ownership set forth in Article VII of the Charter.

5. Liquidation Preference.

(a) Upon any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, before any payment or distribution by the Corporation shall be made to or set apart for the holders of any shares of Junior Stock, the holders of shares of the Series 1 Preferred Stock shall be entitled to be paid out of the assets of the Corporation that are legally available for distribution to the stockholders, a liquidation preference equal to the Stated Value per share (the "Liquidation Preference"), plus an amount equal to all accumulated, accrued and unpaid dividends (whether or not declared) to and including the date of payment (including the Mobile Preferred Accrual). Until the holders of the Series 1 Preferred Stock have been paid the Liquidation Preference in full, plus an amount equal to all accumulated, accrued and unpaid dividends (whether or not earned or declared) to the date of final distribution to such holders, no payment will be made to any holder of Junior Stock upon the liquidation, dissolution or winding up of the Corporation. If upon the voluntary or involuntary liquidation, dissolution or winding up of the Corporation, the available assets of the Corporation, or proceeds thereof, distributable among the holders of the Series 1 Preferred Stock shall be insufficient to pay in full the above described Liquidation Preference and the liquidating payments on any shares of any class or series of Parity Stock, then such assets, or the proceeds thereof, shall be distributed among the holders of the Series 1 Preferred Stock and any such Parity Stock ratably in the same proportion as the respective amounts that would be payable on such Series 1 Preferred Stock and any such Parity Stock if all amounts payable thereon were paid in full. After payment of the full amount of the Liquidation Preference to which they are entitled, the holders of the Series 1 Preferred Stock shall have no right or claim to any of the remaining assets of the Corporation.

(b) Upon any liquidation, dissolution or winding up of the Corporation, after payment shall have been made in full to the holders of the Series 1 Preferred Stock and any Parity Stock, the holders of any classes or series of Junior Stock shall be entitled to receive any and all assets of the Corporation remaining to be paid or distributed, and the holders of the Series 1 Preferred Stock and any Parity Stock shall not be entitled to share therein.

(c) The consolidation or merger of the Corporation with or into any other corporation, trust or entity or of any other corporation, trust or entity with or into the Corporation, or the sale or transfer of all or substantially all of the assets or business of the Corporation or a statutory share exchange, shall not be deemed to constitute a voluntary or involuntary liquidation, dissolution or winding up of the Corporation. A Listing Event shall not be deemed to constitute a voluntary or involuntary liquidation, dissolution or winding up of the Corporation.

(d) In determining whether a distribution (other than upon voluntary or involuntary liquidation), by dividend, redemption or other acquisition of shares of stock of the Corporation or otherwise is permitted under the Maryland General Corporation Law, amounts that would be needed, if the Corporation were to be dissolved at the time of distribution to satisfy the preferential rights upon dissolution of holders of shares of the Series 1 Preferred Stock (including the Mobile Preferred Accrual) shall not be added to the Corporation's total liabilities.

6. Conversion.

(a) Subject to the Corporation's redemption rights set forth inSection 6(b), each share of Series 1 Preferred Stock is convertible into shares of Common Stock at the election of the holder thereof by written notice to the Corporation (each, a "Conversion Notice"). The Conversion Notice shall state: (i) the number of shares of Series 1 Preferred Stock to be converted; and (ii) that the shares of Series 1 Preferred Stock are to be converted pursuant to the applicable terms of the Series 1 Preferred Stock. Each such share of Series 1 Preferred Stock will convert into a number of shares of Common Stock determined by dividing (i) the sum of (A) 100% of the Stated Value plus (B) any accrued but unpaid dividends to, but not including, the Conversion Date (as defined below) (unless the Conversion Date is after a Dividend Record Date and prior to the corresponding Dividend Payment Date, in which case no additional amount for such accrued and unpaid dividend will be included in such sum) by (ii) the conversion price of each share of Common Stock (the "Conversion Price"). The Conversion Price will be determined as follows:

i. Provided there has been a Listing Event, the Conversion Price for such share of Series 1 Preferred Stock will be equal to the VWAP per share of Common Stock of the Corporation (or its successor) for the 20 Trading Days prior to the delivery date of the Conversion Notice.

ii. If a Listing Event has not occurred, the Conversion Price for such share of Series 1 Preferred Stock will be equal to 100% of the Corporation's net asset value per share of Common Stock ("NAV per share"), if then established, and until the Corporation establishes a NAV per share, the Conversion Price will be equal to $25.00, or the initial offering price per share of common stock in Mobile's initial public offering.

A holder may elect to convert all or any portion of its shares of Series 1 Preferred Stock by delivering a Conversion Notice stating its intent to convert such number of shares of Series 1 Preferred Stock into Common Stock. Subject to the Corporation's redemption rights set forth in Section 6(b) and Section 7, the conversion of the shares of Series 1 Preferred Stock subject to a Conversion Notice (the 'Conversion Shares") into shares of Common Stock will occur at the end of the 20th Trading Day after the Corporation's receipt of such Conversion Notice (the 'Conversion Date").

(b) Notwithstanding the foregoing, upon a holder providing a Conversion Notice, the Corporation will have the right (but not the obligation) to redeem, in its sole discretion, any or all of the Conversion Shares at a redemption price, payable in cash, equal to 100% of the Stated Value of each share of Series 1 Preferred Stock, plus any accrued but unpaid dividends (including the Mobile Preferred Accrual) thereon to, but not including, the redemption date (the "Redemption Price"):

The Corporation, in its discretion, may elect to redeem, in whole or in part, any such shares of Series 1 Preferred Stock by delivering a written notice of redemption to the holder thereof on or prior to 10th Trading Day prior to the close of trading on the Conversion Date. If the Corporation elects to redeem such Conversion Shares, the Corporation shall pay the Redemption Price, without interest, to holder of the redeemed Conversion Shares promptly following the delivery of a notice of redemption pursuant to this Section 6, but, in any event, not later than the Conversion Date, which payment date shall also be the redemption date for purposes of this Section 6; *provided, however*, that if the Corporation exercises its redemption right pursuant to Section 7, such shares shall be redeemed in accordance with the procedures set forth in Section 7. If a notice of redemption is not delivered by the Corporation by the 10th Trading Day prior to the close of trading on the Conversion Date, the Conversion Shares shall thereafter convert into shares of Common Stock, effective as of the close of trading on the Conversion Date.

(c) Holders of Series 1 Preferred Stock shall not have the right to convert any shares that the Corporation has elected to redeem pursuant to this Section 6 or Section 7. Accordingly, if the Corporation has provided a notice of redemption with respect to some of all of the Series 1 Preferred Stock, holders of any Series 1 Preferred Stock that the Corporation has called for redemption shall not be permitted to exercise their conversion right pursuant to Section 6 in respect of any of the shares that have been called for redemption, and such shares of Series 1 Preferred Stock shall not be so converted and the holders of such shares shall be entitled to receive on the applicable redemption date the applicable redemption price.

(d) Written notice as to the redemption of any Conversion Shares pursuant to this Section 6 shall be given by first class mail, postage pre-paid, to each such record holder of such shares of Series 1 Preferred Stock at the respective mailing addresses of each such holder as the same shall appear on the stock transfer records of the Corporation. No failure to give such notice or any defect therein or in the mailing thereof shall affect the validity

of the proceedings for the redemption of any such shares of Series 1 Preferred Stock except as to the holder to whom notice was defective or not given. In addition to any information required by law or by the applicable rules of any exchange upon which Series 1 Preferred Stock may then be listed or admitted to trading, such notice shall state: (i) the redemption date (which may not be after the Conversion Date); (ii) the Redemption Price payable on the redemption date, including, without limitation, a statement as to whether or not accumulated, accrued and unpaid dividends shall be payable as part of the Redemption Price, or payable on the next Dividend Payment Date to the record holder at the close of business on the relevant Dividend Record Date as described above; (iii) that the Series 1 Preferred Stock is being redeemed pursuant to this Section 6; and (iv) that dividends on the shares of Series 1 Preferred Stock to be redeemed will cease to accrue on such redemption date. If less than all the Conversion Shares are to be redeemed, the notice mailed to such holder also shall specify the number of Conversion Shares to be redeemed.

(e) If notice of redemption of any shares of Series 1 Preferred Stock has been given and if the funds necessary for such redemption have been set apart by the Corporation for the benefit of the holders of any shares of Series 1 Preferred Stock so called for redemption, then, from and after the redemption date, dividends will cease to accrue on such shares of Series 1 Preferred Stock, such shares of Series 1 Preferred Stock shall be redeemed in accordance with the notice and shall no longer be deemed outstanding and all rights of the holders of such shares will terminate, except the right to receive the cash payable upon such redemption without interest thereon. No further action on the part of the holders of such shares shall be required.

(f) In the event of any conversion or redemption pursuant to Section 6, if the Conversion Date or redemption date, as applicable, occurs after a Dividend Record Date and on or prior to the related Dividend Payment Date, the dividend payable on such Dividend Payment Date in respect of such shares converted or called for redemption, as applicable, shall be payable on such Dividend Payment Date to the holders of record at the close of business on such Dividend Record Date, and shall not be payable in connection with the conversion or redemption of such shares.

(g) Notwithstanding anything to the contrary contained herein, no holder of shares of Series 1 Preferred Stock will be entitled to convert such shares of Series 1 Preferred Stock into shares of Common Stock to the extent that receipt of such shares of Common Stock would cause the holder of such shares of Common Stock (or any other person) to violate the restrictions on transfer and ownership set forth in Article VII of the Charter.

7. Optional Redemption by the Corporation.

(a) Except as provided in Section 6, the Series 1 Preferred Stock are not redeemable by the Corporation prior to the 20th Trading Day after the date of a Listing Event, if any. However, the Series 1 Preferred Stock shall be subject to the provisions of Article VII of the Charter. Pursuant to Article VII of the Charter, and without limitation of any provisions of such Article VII, the Series 1 Preferred Stock, together with all other stock of the Corporation, owned by a stockholder in excess of the Aggregate Stock Ownership Limit

(as defined in the Charter) will automatically be transferred to a Trust (as defined in the Charter) for the benefit of a Charitable Beneficiary (as defined in the Charter) and the Corporation shall have the right to purchase such transferred shares from the Trust. For this purpose, the Market Price (as defined in the Charter) of Series 1 Preferred Stock shall equal the Stated Value, plus an amount equal to all accumulated, accrued and unpaid dividends (whether or not earned or declared) to and including the date of purchase.

(b) From time to time, on and after the 20th Trading Day after the date of a Listing Event, if any, the Corporation may, at its option, redeem such shares of the Series 1 Preferred Stock, in whole or from time to time, in part, at a redemption price equal to 100% of the Stated Value per share, plus all accumulated, accrued and unpaid dividends, if any, to and including the date fixed for redemption (including the Mobile Preferred Accrual) (the "Optional Redemption Date").

(c) The Optional Redemption Date shall be selected by the Corporation and shall be 30 days after the date on which the Corporation sends a notice of redemption (the "Optional Redemption Notice").

(d) If full cumulative dividends (including the Mobile Preferred Accrual) on all outstanding shares of Series 1 Preferred Stock have not been declared and paid or declared and set apart for payment for all past dividend periods, no shares of Series 1 Preferred Stock may be redeemed pursuant to this Section 7, unless all outstanding shares of Series 1 Preferred Stock are simultaneously redeemed, and neither the Corporation nor any of its affiliates may purchase or otherwise acquire shares of Series 1 Preferred Stock otherwise than pursuant to a purchase or exchange offer made on the same terms to all holders of the Series 1 Preferred Stock; provided, however, that the foregoing shall not prevent the redemption or purchase by the Corporation of shares of Series 1 Preferred Stock pursuant to Article VII of the Charter.

(e) If fewer than all the outstanding shares of Series 1 Preferred Stock are to be redeemed pursuant to thisSection 7, the Corporation shall select those shares to be redeemed pro rata or in such manner as the Board of Directors may determine.

(f) The Optional Redemption Notice shall be given by first class mail, postagepre-paid, to each such record holder of such shares of Series 1 Preferred Stock at the respective mailing addresses of each such holder as the same shall appear on the stock transfer records of the Corporation. No failure to give such notice or any defect therein or in the mailing thereof shall affect the validity of the proceedings for the redemption of any such shares of Series 1 Preferred Stock except as to the holder to whom notice was defective or not given.

(g) In addition to any information required by law or by the applicable rules of any exchange upon which Series 1 Preferred Stock may then be listed or admitted to trading, the Optional Redemption Notice shall state: (i) the Optional Redemption Date; (ii) the redemption price payable on the Optional Redemption Date, including without limitation a statement as to whether or not accumulated, accrued and unpaid dividends shall be payable as part of the redemption price, or payable on the next Dividend Payment Date to

the record holder at the close of business on the relevant Dividend Record Date as described above; (iii) whether the redemption price will be paid in cash or Common Stock; (iv) that the Series 1 Preferred Stock is being redeemed pursuant to Section 7; and (v) that dividends on the shares of Series 1 Preferred Stock to be redeemed will cease to accrue on such Optional Redemption Date. If less than all the shares of Series 1 Preferred Stock held by any holder are to be redeemed, the notice mailed to such holder also shall specify the number of shares of Series 1 Preferred Stock held by such holder to be redeemed.

(h) If the Optional Redemption Notice has been given and if the funds necessary for such redemption have been set apart by the Corporation for the benefit of the holders of any shares of Series 1 Preferred Stock so called for redemption, then, from and after the Optional Redemption Date, dividends will cease to accrue on such shares of Series 1 Preferred Stock, such shares of Series 1 Preferred Stock shall be redeemed in accordance with the notice and shall no longer be deemed outstanding and all rights of the holders of such shares will terminate, except the right to receive the cash or Common Stock payable upon such redemption without interest thereon. No further action on the part of the holders of such shares shall be required.

(i) Pursuant to Section 6 above, the Corporation also shall have the right to redeem all or any portion of the Conversion Shares subject to a Conversion Notice for a cash payment to the holder thereof equal to the Redemption Price set forth in Section 6(b) above, by delivering a Redemption Notice to the holder of such Conversion Shares on or prior 10th Trading Day prior to the close of trading on the applicable Conversion Date.

(j) Subject to applicable law and the limitation on purchases when dividends on the Series 1 Preferred Stock are in arrears, the Corporation may, at any time and from time to time, purchase or otherwise acquire any shares of Series 1 Preferred Stock in the open market, by tender or by private agreement.

8. Redemption Price.

(a) The redemption price payable pursuant to any redemption pursuant toSection 7 (other than any redemption in connection with a Conversion Notice pursuant to Sections 6 and 7(i)) shall be paid in cash or, at the election of the Corporation in its sole discretion, in shares of Common Stock, based on the VWAP of the Common Stock for the 20 Trading Days immediately preceding the Optional Redemption Date; provided however, that if the shares of Common Stock are not then listed on a national securities exchange, then the value of the Common Stock will be equal to the then current NAV per share of Common Stock if then established by the Corporation. Until the establishment of a NAV per share, the value of the Common Stock for redemption purposes shall be equal to $25.00, or the initial offering price per share of common stock in Mobile's initial public offering. For the avoidance of doubt, any accumulated, accrued and unpaid dividends, if any, with respect to shares of Series 1 Preferred Stock to be redeemed shall be paid in cash.

(b) Redemptions of shares of Series 1 Preferred Stock by the Corporation in connection with a Conversion Notice pursuant toSections 6 and 7(i), if any, shall be paid in cash.

(c) In the event of any redemption pursuant to Section 7, if the Optional Redemption Date occurs after a Dividend Record Date and on or prior to the related Dividend Payment Date, the dividend payable on such Dividend Payment Date in respect of such shares called for redemption shall be payable on such Dividend Payment Date to the holders of record at the close of business on such Dividend Record Date, and shall not be payable as part of the redemption price for such shares.

9. No Fractional Shares. The Corporation shall not issue fractional shares of Common Stock upon any conversion pursuant to Section 6 or redemption pursuant to Section 7, but in lieu of fractional shares, the Corporation, at its sole discretion, may (i) eliminate a fractional interest by rounding up to a full share, (ii) arrange for the disposition of a fractional interest by the person entitled to it, (iii) pay cash for the fair value of a fractional share of stock determined as of the time when the person entitled to receive it is determined, or (iv) otherwise arrange for the disposition of the fractional interest in accordance with Section 2-214 of the Maryland General Corporation Law.

10. Appointment of Transfer Agent; Mechanics of Conversion and Redemption.

(a) The Corporation shall maintain or cause to be maintained a register in which, subject to such reasonable regulations as it may prescribe, the Corporation shall provide for the registration of shares of Series 1 Preferred Stock and of transfers of shares of Series 1 Preferred Stock for the purpose of registering shares of Series 1 Preferred Stock and of transfers of shares of Series 1 Preferred Stock as herein provided. The Corporation may appoint a registrar and one or more transfer agents for the Series 1 Preferred Stock as it shall determine. The Corporation may change the transfer agent without prior notice to any holder.

(b) If the Corporation elects to issue Common Stock upon any conversion pursuant to Section 6 or redemption pursuant to Section 7, the Corporation shall cause the transfer agent to, as soon as practicable, but not later than three (3) business days after the effective date of such conversion or redemption, register the number of shares of Common Stock to which such holder shall be entitled as a result of such redemption. The person or persons entitled to receive the shares of Common Stock issuable upon such conversion or redemption shall be treated for all purposes as the record holder or holders of such shares of Common Stock as of the effective date of such conversion or redemption.

11. Reservation of Shares.

(a) The Corporation shall reserve and shall at all times have reserved out of its authorized but unissued shares of Common Stock a sufficient number of shares of Common Stock to permit any conversion pursuant to Section 6 or redemption pursuant to Section 7 of the then outstanding shares of Series 1 Preferred Stock. All shares of Common Stock when issued upon redemption of shares of Series 1 Preferred Stock shall be validly issued, fully paid and nonassessable.

(b) Any share of Series 1 Preferred Stock that shall at any time have been converted or redeemed pursuant to Section 6 or redeemed pursuant to Section 7 or otherwise acquired by the Corporation shall, after such redemption or acquisition, have the status of authorized but unissued Preferred Stock, without designation as to class or series until such shares are once more classified and designated as part of a particular class or series by the Board of Directors.

12. Adjustments. If a conversion or redemption of any shares of Series 1 Preferred Stock pursuant to Section 6, Section 7 or Section 8 occurs less than 20 Trading Days after the Corporation: (i) declares a dividend or makes a distribution on the Common Stock payable in Common Stock, (ii) subdivides or splits the outstanding Common Stock, (iii) combines or reclassifies the outstanding Common Stock into a smaller number of shares or (iv) consolidates with, or merges with or into, any other person, or engages in any reorganization, reclassification or recapitalization that is effected in such a manner that the holders of Common Stock are entitled to receive stock, securities, cash or other assets with respect to or in exchange for Common Stock (other than as a cash dividend or distribution declared by the Corporation), the Stated Value shall be adjusted so that the conversion or redemption of the Series 1 Preferred Stock less than 20 Trading Days after such event shall entitle the holder to receive the aggregate number of shares of Common Stock or cash, which, if the Series 1 Preferred Stock had been converted or redeemed immediately prior to such event, such holder would have owned upon such conversion or redemption and been entitled to receive by virtue of such dividend, distribution, subdivision, split, combination, consolidation, merger, reorganization, reclassification or recapitalization.

13. Voting Rights. Holders of the Series 1 Preferred Stock shall not have any voting rights.

14. Restrictions on Transfer. The Series 1 Preferred Stock are subject to the provisions of Article VII of the Charter. In addition, no shares of Series 1 Preferred Stock may be sold or otherwise Transferred (as defined in the Charter) unless the holder thereof delivers evidence, to the satisfaction of the Corporation, that such sale or other Transfer (as defined in the Charter) of such shares of Series 1 Preferred Stock is made to an accredited investor solely in compliance with all federal and state securities laws. Shares of Series 1 Preferred Stock shall include the following legend and any other legends required by state securities laws and the Charter and Bylaws:

> THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AND HAVE BEEN ACQUIRED FOR INVESTMENT AND NOT WITH A VIEW TO, OR IN CONNECTION WITH, THE SALE OR DISTRIBUTION THEREOF. NO SUCH SALE OR DISTRIBUTION MAY BE EFFECTED WITHOUT AN EFFECTIVE REGISTRATION STATEMENT RELATED THERETO OR AN OPINION OF COUNSEL IN A FORM SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED UNDER THE SECURITIES ACT OF 1933.

Any sale or transfer of shares of Series 1 Preferred Stock made in violation of any federal or state securities law shall be *void ab initio.*

ANNEX C
SERIES 2 CONVERTIBLE PREFERRED STOCK

1. Designation and Number. A series of Preferred Stock, designated the "Series 2 Convertible Preferred Stock" (the 'Series 2 Preferred Stock"), is hereby established. The par value of the Series 2 Preferred Stock is $0.0001 per share. The number of shares of Series 2 Preferred Stock shall be 60,000.

2. Rank. The Series 2 Preferred Stock will, with respect to dividend rights and rights upon liquidation, dissolution or winding up of the Corporation, rank (i) prior or senior to the Series A Convertible Redeemable Preferred Stock of the Corporation, the Series 1 Convertible Redeemable Preferred Stock of the Corporation, any class or series of Common Stock of the Corporation and any other class or series of equity securities, if the holders of Series 2 Preferred Stock are entitled to the receipt of dividends or of amounts distributable upon liquidation, dissolution or winding up in preference or priority to the holders of shares of such class or series ("Junior Stock"); (ii) on a parity with any class or series of equity securities of the Corporation if, pursuant to the specific terms of such class or series of equity securities, the holders of such class or series of equity securities and the holders of the Series 2 Preferred Stock are entitled to the receipt of dividends and of amounts distributable upon liquidation, dissolution or winding up of the Corporation in proportion to their respective amounts of accrued and unpaid dividends per share (if any) or liquidation preferences, without preference or priority one over the other ("Parity Stock"); (iii) junior to any class or series of equity securities of the Corporation if, pursuant to the specific terms of such class or series, the holders of such class or series are entitled to the receipt of dividends or amounts distributable upon liquidation, dissolution or winding up of the Corporation in preference or priority to the holders of the Series 2 Preferred Stock ("Senior Stock"); and (iv) junior to all of the existing and future indebtedness of the Corporation. The term "equity securities" does not include convertible debt securities, which will rank senior to the Series 2 Preferred Stock.

3. Dividends.

(a) Holders of shares of the Series 2 Preferred Stock are entitled to receive, when and as authorized by the Board of Directors and declared by the Corporation, out of funds of the Corporation legally available for the payment of dividends, dividends at a cumulative annual rate of 10.0% of the $1,000.00 per share liquidation preference for the period beginning from, and including, the original date of issuance of such share of Series 2 Preferred Stock and ending on the Dividend Payment Date (as defined below); provided that the if the Dividend Payment Date occurs prior to the first anniversary of the original date of issuance of such share of Series 2 Preferred Stock, Holders of such share shall receive dividends at a cumulative annual rate of 10.0% of the $1,000.00 per share liquidation preference for a period of one year. Dividends shall be payable in kind only on a single payment date and shall not be payable in cash. Dividends shall be payable on the date (and immediately preceding the time) that the Series 2 Preferred Stock converts into Common Stock in accordance with Section 5 (the "Dividend Payment Date"); provided, that if the Dividend Payment Date is not a Business Day, then the dividend which would otherwise have been payable on such Dividend Payment Date may be paid on the preceding or succeeding Business Day with the same force and effect as if paid on such Dividend

Payment Date and no interest, additional dividends or other sums shall accrue thereon. Dividends will be payable to holders of record as they appear in the stock records of the Corporation for the Series 2 Preferred Stock at the close of business one (1) Business Day immediately preceding the Dividend Payment Date (the "Dividend Record Date"). For the avoidance of doubt, each share of Series 2 Preferred Stock outstanding on the Dividend Record Date shall be entitled to the same dividend on the Dividend Payment Date, whether or not such share was issued and outstanding for the entire dividend period.

(b) The number of shares of Series 2 Preferred Stock to be issued in payment of such dividend in kind with respect to each outstanding share of Series 2 Preferred Stock shall be determined by dividing (i) the amount of such dividend per share by (ii) the $1,000.00 liquidation preference per share of Series 2 Preferred Stock.

(c) No dividends on shares of Series 2 Preferred Stock shall be authorized by the Board of Directors or declared or paid or set apart for payment by the Corporation if such authorization, declaration, payment or setting apart for payment shall be restricted or prohibited by applicable law.

(d) In determining for purposes of Section 2-311 of the Maryland General Corporation Law or otherwise under the Maryland General Corporation Law whether a distribution (other than upon voluntary or involuntary liquidation, dissolution or winding up of the Corporation), by dividend, redemption or otherwise, is permitted, amounts that would be needed, if the Corporation were to be dissolved at the time of the distribution, to satisfy the preferential rights upon dissolution of holders of shares of the Series 2 Preferred Stock will not be added to the total liabilities of the Corporation.

(e) "Business Day" shall mean any day, other than a Saturday or Sunday, that is neither a legal holiday nor a day on which banking institutions in New York, New York are authorized or required by law, regulation or executive order to close.

4. Liquidation Preference.

(a) Upon any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, before any payment or distribution shall be made to or set apart for the holders of any Junior Stock, the holders of Series 2 Preferred Stock shall be entitled to receive a liquidation preference equal to the greater of (i) $1,000.00 per share, plus an amount equal to all accrued and unpaid dividends, determined, for purposes of calculating any accrued and unpaid dividends, as if the date of final distribution to such holders is the Dividend Payment Date (the "Liquidation Amount"), and (ii) such amount per share as would have been payable had all shares of Series 2 Preferred Stock been converted into Common Stock pursuant to Section 5 immediately prior to such liquidation, dissolution or winding up. If upon any liquidation, dissolution or winding up of the Corporation, its assets, or proceeds thereof, distributable among the holders of Series 2 Preferred Stock shall be insufficient to pay in full the above described preferential amount and liquidating payments on any other shares of any class or series of Parity Stock, then such assets, or the proceeds thereof, shall be distributed among the holders of Series 2 Preferred Stock and any such other Parity Stock ratably in the same proportion as the respective amounts that would be payable on such Series 2 Preferred Stock and any such other Parity Stock if all amounts payable thereon were paid in full.

(b) Upon any liquidation, dissolution or winding up of the Corporation, after payment shall have been made in full to the holders of Series 2 Preferred Stock and any holders of Parity Stock, any other class or series of Junior Stock shall be entitled to receive any and all assets remaining to be paid or distributed, and the holders of the Series 2 Preferred Stock shall not be entitled to share therein.

(c) Written notice of any such liquidation, dissolution or winding up of the Corporation, stating the payment date or dates when, and the place or places where, the amounts distributable in such circumstances shall be payable, shall be given by first class mail, postage pre-paid, not less than 10 or more than 60 days prior to the payment date stated therein, to each record holder of the Series 2 Preferred Stock at the respective addresses of such holders as the same shall appear on the stock transfer records of the Corporation.

(d) None of a consolidation or merger of the Corporation with or into another entity, a merger of another entity with or into the Corporation, a statutory share exchange by the Corporation or a sale, lease or conveyance of all or substantially all of the Corporation's property or business shall be considered a liquidation, dissolution or winding up of the Corporation.

5. Mandatory Conversion.

(a) Upon the earlier of (i) thirty (30) days after the date that the Common Stock first becomes listed on Nasdaq, the New York Stock Exchange or the NYSE American; provided that (x) there has been no suspension or removal from listing during such thirty (30)-day period and (y) such date shall, in no case, occur prior to December 31, 2023; or (ii) a Change of Control (as defined below), all outstanding shares of Series 2 Preferred Stock will automatically convert into such number of fully paid and nonassessable shares of Common Stock as is determined by dividing the Liquidation Amount by the Conversion Price in effect at the time of conversion. The "Conversion Price" means $3.67, which initial Conversion Price, and the rate at which shares of Series 2 Preferred Stock shall be converted into shares of Common Stock, is subject to adjustment in accordance with this Section 5. "Change of Control" means (i) any sale, transfer, conveyance or disposition in one or a series of transactions of all or substantially all of the consolidated assets of the Corporation to a person, other than to a subsidiary of the Corporation or a person that becomes a subsidiary of the Corporation; or (ii) any sale, consolidation, merger, recapitalization or other transaction of the Corporation with or into another person (whether or not the Corporation is the surviving entity) that results in the holders of Common Stock (including shares of Common Stock determined on an as-converted basis assuming all Series 2 Preferred Stock then outstanding had been converted pursuant to this Section 5 as of immediately prior to such sale, consolidation or merger) immediately prior to such sale, consolidation, merger, recapitalization or other transaction failing to hold at least a majority of the shares of Common Stock (or other stock of the resulting entity or its parent company, as determined on an as-converted basis); provided that the initial business combination of the Corporation's predecessor, Fifth Wall Acquisition Corp. III, shall not constitute a Change of Control.

(b) Procedural Requirements. The Corporation shall notify in writing or by electronic transmission all holders of record of shares of Series 2 Preferred Stock of the mandatory conversion of the shares of Series 2 Preferred Stock pursuant to Section 5(a). Unless otherwise provided herein, the notice need not be sent in advance of the occurrence of the mandatory conversion. Effective upon the mandatory conversion or as soon as practicable thereafter, the Corporation shall issue and deliver to such holder, or to such holder's nominee(s), the number of full shares of Common Stock issuable on such conversion in accordance with the provisions hereof in book-entry form, together with cash as provided in Section 5(c) in lieu of any fraction of a share of Common Stock otherwise issuable upon such conversion.

(c) Fractional Shares. No fractional shares of Common Stock will be issued upon conversion of the Series 2 Preferred Stock. In lieu of any fractional shares to which the holder would otherwise be entitled, the Corporation shall pay cash equal to such fraction multiplied by the closing price of the Common Stock as reported by the NYSE American (or such other national securities exchange or automated quotation system on which the Common Stock is listed) on the effective date of the conversion (or if such date is not a trading day, then the closing price shall be determined as of the next succeeding trading day). Whether or not fractional shares would be issuable upon such conversion will be determined on the basis of the total number of shares of Series 2 Preferred Stock held by a stockholder at the time and the aggregate number of shares of Common Stock issuable to the stockholder upon such conversion.

(d) Reservation of Shares. For the purpose of effecting the conversion of the Series 2 Preferred Stock, the Corporation shall at all times while any share of Series 2 Preferred Stock is outstanding, reserve and keep available out of its authorized but unissued stock, that number of its authorized but unissued shares of Common Stock as may from time to time be sufficient to effect the conversion of all outstanding shares of Series 2 Preferred Stock; and if at any time the number of authorized but unissued shares of Common Stock is not sufficient to effect the conversion of all then-outstanding shares of Series 2 Preferred Stock, the Corporation shall use its best efforts to cause such corporate action to be taken as may be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purposes.

(e) Effect of Conversion. All shares of Series 2 Preferred Stock that shall have been converted into Common Stock as provided herein shall no longer be deemed to be outstanding and all rights with respect to such shares will immediately cease and terminate at the conversion time, except only the right of the holders thereof to receive shares of Common Stock in exchange therefor and to receive payment in lieu of any fraction of a share otherwise issuable upon such conversion as provided in Section 5(c). Any shares of Series 2 Preferred Stock so converted shall be returned to the status of authorized but unissued shares of Series 2 Preferred Stock.

(f) Adjustment for Stock Splits and Combinations. If the Corporation at any time or from time to time after the date on which the first share of Series 2 Preferred Stock is issued by the Corporation (such date referred to herein as the "Original Issue Date") effects a subdivision of the outstanding shares of Common Stock (including a subdivision effected by payment of a stock dividend), the Conversion Price for the Series 2 Preferred Stock in effect immediately before that subdivision shall be proportionately decreased so that the number of shares of Common Stock issuable on conversion of each share of Series 2 Preferred Stock will be increased in proportion to the increase in the aggregate number of shares of Common Stock outstanding. If the Corporation at any time or from time to time after the Original Issue Date combines the outstanding shares of Common Stock, the Conversion Price for the Series 2 Preferred Stock in effect immediately before the combination will be proportionately increased so that the number of shares of Common Stock issuable on conversion of each share of such series shall be decreased in proportion to such decrease in the aggregate number of shares of Common Stock outstanding. Any adjustment under this Section 5(f) becomes effective at the close of business on the date the subdivision or combination becomes effective.

(g) No Voluntary Conversion. Except as set forth in this Section 5, the shares of Series 2 Preferred Stock are not convertible into or exchangeable for any other property or securities of the Corporation, and shares of Series 2 Preferred Stock shall not be voluntarily convertible at the election of the holder thereof or otherwise.

6. Limited Voting Rights. Except as otherwise set forth herein, the holders of Series 2 Preferred Stock shall not have any voting rights, and the consent of the holders thereof shall not be required for the taking of any action by the Corporation. In any matter in which the holders of Series 2 Preferred Stock are entitled to vote, each such holder shall have the right to one vote for each share of Series 2 Preferred Stock held by such holder. The holders of shares of Series 2 Preferred Stock shall have exclusive voting rights on any amendment to the Charter that would alter the contract rights, as expressly set forth in the Charter, of only the Series 2 Preferred Stock.

7. No Redemption Rights. Except in connection with a voluntary or involuntary liquidation, dissolution or winding up of the Corporation, the shares of Series 2 Preferred Stock are not otherwise redeemable at the election of the Corporation.

8. Preemptive Rights.

(a) Each holder of Series 2 Preferred Stock shall have the right to purchase its Pro Rata Amount (as defined below) of any New Securities (as defined below) that the Corporation may, from time to time, propose to sell and issue. In the event the Corporation proposes to issue any New Securities, it shall give all holders of Series 2 Preferred Stock written or electronic notice, at their last addresses as they shall appear on the stock transfer records of the Corporation, at least 10 days before such issuance, describing the New Securities, the price and number of shares (or principal amount) and the general terms upon which the Corporation proposes to issue the same. Each such holder shall have 10 days

from the date of receipt of any such notice to agree to purchase up to the amount of New Securities equal to such holder's Pro Rata Amount of such New Securities for the price and upon the general terms specified in the notice by giving written notice to the Corporation at its principal office or such other address as may be specified by the Corporation in its notice to the holders, of such holder's intention to purchase such New Securities at the initial closing of the sale of New Securities and the number of such New Securities that such holder intends to purchase.

(b) If a holder of Series 2 Preferred Stock fails to exercise in full its right of participation within said 10 day period as set forth in Section 8(a), the Corporation shall have 180 days thereafter to sell additional amounts of New Securities as to which such holder's option was not exercised, at the same price as specified in the Corporation's notice and upon terms (other than price) no more favorable in any material respect to the buyer thereof than the terms specified in the Corporation's notice. The Corporation shall not issue or sell any additional amounts of New Securities after the expiration of such 180-day period without first offering such securities to the holders of Series 2 Preferred Stock in the manner provided in Section 8(a) above.

(c) For purposes of this Section 8, the term "Pro Rata Amount" means, at any time, with respect to any holder of Series 2 Preferred Stock, the ratio of (a) the number of shares of Common Stock into which the Series 2 Preferred Stock held by such holder are then convertible, to (b) the total number of shares of Common Stock of the Corporation outstanding (on a fully diluted basis), including all outstanding securities convertible into or exchangeable or exercisable for shares of Common Stock on an as-converted or exercised basis (including, without limitation, the Series 2 Preferred Stock and outstanding options and warrants exercisable for shares of Common Stock); and "New Securities" means any shares of stock of the Corporation, whether or not now authorized, and securities of any type whatsoever that are, or may become, convertible into or exchangeable or exercisable for shares of stock, other than (1) the Series 2 Preferred Stock issued on or about August 25, 2023 and shares of Common Stock issued upon conversion thereof, (2) shares of Common Stock and/or options, warrants or other purchase rights exercisable for shares of Common Stock, and the shares of Common Stock issued pursuant to such options, warrants or other rights issued or to be issued to employees, officers or directors of, or consultants to the Corporation or any subsidiary of the Corporation pursuant to the Corporation's 2023 Incentive Award Plan or any other stock purchase, stock option or stock incentive plans, dividend reinvestment or other arrangements approved by the Board of Directors; (3) securities issued in the initial business combination of the Corporation's predecessor, Fifth Wall Acquisition Corp. III, or as consideration for the Corporation's bona fide arms-length acquisition of another business enterprise by merger, purchase of all or substantially all assets, purchase of shares, or other reorganization approved by the Board of Directors; (4) shares of Common Stock issued upon the redemption, exchange or conversion of equity interests in Mobile Infra Operating Company, LLC or its successor; (5) shares of Common Stock issued pursuant to options, warrants, notes or other rights to acquire securities of the Corporation (or any subsidiary or predecessor entity) outstanding as of August 25, 2023; and (6) securities issued in any share split, stock dividend or recapitalization of the Corporation for which an adjustment is made to the terms of conversion of the Series 2 Preferred Stock under Section 5 herein.

(d) The preemptive rights provided for in this Section 8 shall terminate and be of no further force and effect from and after a conversion effected under Section 5 above.

9. Restrictions on Ownership and Transfer of Shares. The Series 2 Preferred Stock shall be subject to the restrictions on ownership and transfer set forth in Article VII of the Charter. Pursuant to Article VII of the Charter, and without limitation of any provisions of such Article VII, shares of Series 2 Preferred Stock together with other shares of Capital Stock owned by a stockholder in excess of the Aggregate Stock Ownership Limit or Ownership Limit, as applicable, shall automatically be transferred to a Trust for the benefit of the Charitable Beneficiary.

10. Status of Reacquired Shares. Any shares of Series 2 Preferred Stock that shall at any time have been acquired by the Corporation shall have the status of authorized but unissued shares of Series 2 Preferred Stock until such shares are once more reclassified and designated as part of a particular class or series of stock by the Board of Directors.

11. Waiver of Notice. Whenever any notice is required to be given pursuant to the terms of the Series 2 Preferred Stock set forth herein or pursuant to applicable law, a waiver thereof in writing or by electronic transmission, given by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

12. Withholding. The Corporation and any other applicable withholding agent shall be entitled to deduct and withhold from any amount actually or deemed paid or distributed with respect to the Series 2 Preferred Stock, Common Stock or other securities issued upon conversion of the Series 2 Preferred Stock and any adjustments to the Conversion Price of the Series 2 Preferred Stock, in each case, to the extent required by applicable law. To the extent that any amount is so deducted or withheld, such amount shall be treated as having been paid to the person in respect of which such deduction and withholding was made.

Exhibit 3.2

ARTICLES OF MERGER

OF

MOBILE INFRASTRUCTURE CORPORATION
(a Maryland corporation)

WITH AND INTO

FIFTH WALL ACQUISITION CORP. III
(a Maryland corporation)

Mobile Infrastructure Corporation, a Maryland corporation (the "Merging Corporation"), and Fifth Wall Acquisition Corp. III, a Maryland corporation (the "Surviving Corporation"), do hereby certify to the State Department of Assessments and Taxation of Maryland as follows:

FIRST: The Merging Corporation and the Surviving Corporation agree to effect a merger (the "Merger") of the Merging Corporation with and into the Surviving Corporation, upon the terms and conditions set forth herein and in that certain Agreement and Plan of Merger, dated as of December 13, 2022, as amended by that certain First Amendment to Agreement and Plan of Merger, dated as of March 23, 2023 (the "Merger Agreement"), by and among the Merging Corporation, the Surviving Corporation and Queen Merger Corp. I.

SECOND: The Surviving Corporation is a Maryland corporation and shall survive the Merger as the successor entity and, pursuant to these Articles of Merger, the name of the Surviving Corporation is hereby amended to Mobile Infrastructure Corporation. The principal office in Maryland of the Surviving Corporation is located in Baltimore City.

THIRD: The Merging Corporation is a Maryland corporation. The principal office of the Merging Corporation in the State of Maryland is located in Baltimore County. The Merging Corporation owns no interest in land in the State of Maryland.

FOURTH: The Merger was advised, authorized and approved by the Surviving Corporation in the manner and by the vote required by the laws of the State of Maryland and its charter as follows:

(a) The board of directors of the Surviving Corporation approved and adopted, at a duly called meeting of the board at which a quorum was present, by the vote of a majority of the entire board of directors, resolutions that approved and adopted the Merger Agreement and approved the Merger and the consummation of the other transactions contemplated by the Merger Agreement.

(b) Approval of the Merger by the stockholders of the Surviving Corporation is not required pursuant toSection 3-105(a)(7)(i) of the Maryland General Corporation Law.

FIFTH: The Merger was advised, authorized and approved by the Merging Corporation in the manner and by the vote required by the laws of the State of Maryland and its charter as follows:

(a) The board of directors of the Merging Corporation approved and adopted, at a duly called meeting of the board at which a quorum of the members of the board of directors was present, resolutions that approved and adopted the Merger Agreement, declared advisable, approved and authorized the entry into the Merger Agreement, the Merger and the consummation of the other transactions contemplated by the Merger Agreement, and directed that the Merger be submitted to the holders of the Merging Corporation's common stock, par value $0.0001 per share (the "Common Stock"), for their consideration.

(b) At a special meeting of stockholders duly called and held, the Merger and the other transactions contemplated by the Merger Agreement were approved by the affirmative vote of the holders of the Common Stock of a majority of all of the votes entitled to be cast on such matters.

SIXTH: The total number of shares of all classes of stock that the Surviving Corporation has the authority to issue is 600,000,000 shares, consisting of 500,000,000 shares of common stock, par value $0.0001 per share, 100,000,000 shares of preferred stock, par value $0.0001 per share, of which 50,000 shares are designated as Series A Convertible Redeemable Preferred Stock, par value $0.0001 per share, 97,000 shares are designated as Series 1 Convertible Redeemable Preferred Stock, par value $0.0001 per share, and 60,000 shares are designated as Series 2 Convertible Preferred Stock, par value $0.0001 per share. The aggregate par value of all the shares of all classes having par value is $60,000.

SEVENTH: The total number of shares of all classes of stock that the Merging Corporation has authority to issue is 100,000 shares of common stock, $0.01 par value per share ("Merging Corporation Common Stock"). The aggregate par value of all the shares of stock of all classes having par value is $1,000.

EIGHTH: At the Effective Time (as defined below), the Merging Corporation shall be merged with and into the Surviving Corporation; and, thereupon, the Surviving Corporation shall possess any and all purposes and powers of the Merging Corporation; and all leases, licenses, property, rights, privileges and powers of whatever nature and description of the Merging Corporation shall be transferred to, vested in and devolved upon the Surviving Corporation, without further act or deed, and all of the debts, liabilities, duties and obligations of the Merging Corporation will become the debts, liabilities, duties and obligations of Surviving Corporation. At the Effective Time, as more fully set forth in the Merger Agreement:

(a) each share of Merging Corporation Common Stock issued and outstanding immediately prior to the Effective Time shall no longer be outstanding, shall be automatically cancelled and shall cease to exist; and

(b) each share of all classes of stock of the Surviving Corporation issued and outstanding immediately prior to the Effective Time shall remain outstanding and be unaffected by the Merger.

NINTH: The Merger shall become effective as of 10:08 a.m., Eastern time, on August 25, 2023 (the "Effective Time").

TENTH: Each of the undersigned acknowledges these Articles of Merger to be the act and deed of the respective entity on behalf of which he or she has signed, and further, as to all matters or facts required to be verified under oath, each of the undersigned acknowledges that, to the best of his or her knowledge, information and belief, these matters and facts relating to the entity on whose behalf he or she has signed are true in all material respects and that this statement is made under the penalties for perjury.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, these Articles of Merger are hereby signed in the name of and have been duly executed, as of the 25th day of August, 2023, on behalf of the Surviving Corporation by its officer set forth below, and on behalf of the Merging Corporation by its officer set forth below.

ATTEST:

/s/ Andriy Mykhaylovskyy
Name: Andriy Mykhaylovskyy
Title: Chief Financial Officer

SURVIVING CORPORATION:

FIFTH WALL ACQUISITION CORP. III., a Maryland corporation

By: */s/ Brendan Wallace*
Name: Brendan Wallace
Title: Chief Executive Officer

ATTEST:

/s/ Stephanie Hogue
Name: Stephanie Hogue
Title: Chief Financial Officer and Secretary

MERGING CORPORATION:

MOBILE INFRASTRUCTURE CORPORATION, a Maryland corporation

By: */s/ Manuel Chavez III*
Name: Manuel Chavez III
Title: Chief Executive Officer

MOBILE INFRASTRUCTURE CORPORATION

BYLAWS

ARTICLE I

OFFICES

Section 1. PRINCIPAL OFFICE. The principal office of the Corporation in the State of Maryland shall be located at such place as the Board of Directors may designate.

Section 2. ADDITIONAL OFFICES. The Corporation may have additional offices, including a principal executive office, at such places as the Board of Directors may from time to time determine or the business of the Corporation may require.

ARTICLE II

MEETINGS OF STOCKHOLDERS

Section 1. PLACE. All meetings of stockholders shall be held at the principal executive office of the Corporation or at such other place as shall be set in accordance with these Bylaws and stated in the notice of the meeting. The Board of Directors is authorized to determine that a meeting not be held at any place, but instead may be held partially or solely by means of remote communication. In accordance with these Bylaws and subject to any guidelines and procedures adopted by the Board of Directors, stockholders and proxy holders may participate in any meeting of stockholders held by means of remote communication and may vote at such meeting as permitted by Maryland law. Participation in a meeting by these means constitutes presence in person at the meeting.

Section 2. ANNUAL MEETING. An annual meeting of stockholders for the election of directors and the transaction of any business within the powers of the Corporation shall be held on the date and at the time and place set by the Board of Directors.

Section 3. SPECIAL MEETINGS.

(a) General. Each of the chair of the board, chief executive officer, president and Board of Directors may call a special meeting of stockholders. Except as provided in subsection (b)(4) of this Section 3, a special meeting of stockholders shall be held on the date and at the time and place set by the chair of the board, chief executive officer, president or Board of Directors, whoever has called the meeting. Subject to subsection (b) of this Section 3, a special meeting of stockholders shall also be called by the secretary of the Corporation to act on any matter that may properly be considered at a meeting of stockholders upon the written request of stockholders entitled to cast not less than a majority of all the votes entitled to be cast on such matter at such meeting (the “Special Meeting Percentage”).

(b) Stockholder-Requested Special Meetings. (1) Any stockholder of record seeking to have stockholders request a special meeting shall, by sending written notice to the secretary (the "Record Date Request Notice") by registered mail, return receipt requested, request the Board of Directors to fix a record date to determine the stockholders entitled to request a special meeting (the "Request Record Date"). The Record Date Request Notice shall set forth the purpose of the meeting and the matters proposed to be acted on at it, shall be signed by one or more stockholders of record as of the date of signature (or their agents duly authorized in a writing accompanying the Record Date Request Notice), shall bear the date of signature of each such stockholder (or such agent) and shall set forth all information relating to each such stockholder and each matter proposed to be acted on at the meeting that would be required to be disclosed in connection with the solicitation of proxies for the election of directors in an election contest (even if an election contest is not involved), or would otherwise be required in connection with such a solicitation, in each case pursuant to Regulation 14A (or any successor provision) under the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder (the "Exchange Act"). Upon receiving the Record Date Request Notice, the Board of Directors may fix a Request Record Date. The Request Record Date shall not precede and shall not be more than ten days after the close of business on the date on which the resolution fixing the Request Record Date is adopted by the Board of Directors. If the Board of Directors, within ten days after the date on which a valid Record Date Request Notice is received, fails to adopt a resolution fixing the Request Record Date, the Request Record Date shall be the close of business on the tenth day after the first date on which a Record Date Request Notice is received by the secretary.

(2) In order for any stockholder to request a special meeting to act on any matter that may properly be considered at a meeting of stockholders, one or more written requests for a special meeting (collectively, the "Special Meeting Request") signed by stockholders of record (or their agents duly authorized in a writing accompanying the request) as of the Request Record Date entitled to cast not less than the Special Meeting Percentage shall be delivered to the secretary. In addition, the Special Meeting Request shall (i) set forth the purpose of the meeting and the matters proposed to be acted on at it (which shall be limited to those lawful matters set forth in the Record Date Request Notice received by the secretary), (ii) bear the date of signature of each such stockholder (or such agent) signing the Special Meeting Request, (iii) set forth (A) the name and address, as they appear in the Corporation's books, of each stockholder signing such request (or on whose behalf the Special Meeting Request is signed), (B) the class, series and number of all shares of stock of the Corporation which are owned (beneficially or of record) by each such stockholder and (C) the nominee holder for, and number of, shares of stock of the Corporation owned beneficially but not of record by such stockholder, (iv) be sent to the secretary by registered mail, return receipt requested, and (v) be received by the secretary within 60 days after the Request Record Date. Any requesting stockholder (or agent duly authorized in a writing accompanying the revocation of the Special Meeting Request) may revoke such stockholder's request for a special meeting at any time by written revocation delivered to the secretary.

(3) The secretary shall inform the requesting stockholders of the reasonably estimated cost of preparing and mailing or delivering the notice of the meeting (including the Corporation's proxy materials). The secretary shall not be required to call a special meeting upon stockholder request and such meeting shall not be held unless, in addition to the documents required by paragraph (2) of this Section 3(b), the secretary receives payment of such reasonably estimated cost prior to the preparation and mailing or delivery of such notice of the meeting.

(4) In the case of any special meeting called by the secretary upon the request of stockholders (a "Stockholder-Requested Meeting"), such meeting shall be held at such place, date and time as may be designated by the Board of Directors; *provided*, however, that the date of any Stockholder-Requested Meeting shall be not more than 90 days after the record date for such meeting (the "Meeting Record Date"); and *provided further* that if the Board of Directors fails to designate, within ten days after the date that a valid Special Meeting Request is actually received by the secretary (the "Delivery Date"), a date and time for a Stockholder-Requested Meeting, then such meeting shall be held at 2:00 p.m., local time, on the 90th day after the Meeting Record Date or, if such 90th day is not a Business Day (as defined below), on the first preceding Business Day; and*provided further* that in the event that the Board of Directors fails to designate a place for a Stockholder-Requested Meeting within ten days after the Delivery Date, then such meeting shall be held at the principal executive office of the Corporation. In fixing a date for a Stockholder-Requested Meeting, the Board of Directors may consider such factors as it deems relevant, including, without limitation, the nature of the matters to be considered, the facts and circumstances surrounding any request for the meeting and any plan of the Board of Directors to call an annual meeting or a special meeting. In the case of any Stockholder-Requested Meeting, if the Board of Directors fails to fix a Meeting Record Date that is a date within 30 days after the Delivery Date, then the close of business on the 30th day after the Delivery Date shall be the Meeting Record Date. The Board of Directors may revoke the notice for any Stockholder-Requested Meeting in the event that the requesting stockholders fail to comply with the provisions of paragraph (3) of this Section 3(b).

(5) If written revocations of the Special Meeting Request have been delivered to the secretary and the result is that stockholders of record (or their agents duly authorized in writing), as of the Request Record Date, entitled to cast less than the Special Meeting Percentage have delivered, and not revoked, requests for a special meeting on the matter to the secretary: (i) if the notice of meeting has not already been delivered, the secretary shall refrain from delivering the notice of the meeting and send to all requesting stockholders who have not revoked such requests written notice of any revocation of a request for a special meeting on the matter, or (ii) if the notice of meeting has been delivered and if the secretary first sends to all requesting stockholders who have not revoked requests for a special meeting on the matter written notice of any revocation of a request for the special meeting and written notice of the Corporation's intention to revoke the notice of the meeting or for the chair of the meeting to adjourn the meeting without action on the matter, (A) the secretary may revoke the notice of the meeting at any time before ten days before the commencement of the meeting or (B) the chair of the meeting may call the meeting to order and adjourn the meeting from time to time without acting on the matter. Any request for a special meeting received after a revocation by the secretary of a notice of a meeting shall be considered a request for a new special meeting.

(6) The chair of the board, chief executive officer, president or Board of Directors may appoint regionally or nationally recognized independent inspectors of elections to act as the agent of the Corporation for the purpose of promptly performing a ministerial review of the validity of any purported Special Meeting Request received by the secretary. For the purpose of permitting the

inspectors to perform such review, no such purported Special Meeting Request shall be deemed to have been received by the secretary until the earlier of (i) five Business Days after actual receipt by the secretary of such purported request and (ii) such date as the independent inspectors certify to the Corporation that the valid requests received by the secretary represent, as of the Request Record Date, stockholders of record entitled to cast not less than the Special Meeting Percentage. Nothing contained in this paragraph (6) shall in any way be construed to suggest or imply that the Corporation or any stockholder shall not be entitled to contest the validity of any request, whether during or after such five Business Day period, or to take any other action (including, without limitation, the commencement, prosecution or defense of any litigation with respect thereto, and the seeking of injunctive relief in such litigation).

(7) For purposes of these Bylaws, "Business Day" shall mean any day other than a Saturday, a Sunday or a day on which banking institutions in the State of Ohio are authorized or obligated by law or executive order to close.

Section 4. NOTICE. Not less than ten nor more than 90 days before each meeting of stockholders, the secretary shall give to each stockholder entitled to vote at such meeting and to each stockholder not entitled to vote who is entitled to notice of the meeting notice in writing or by electronic transmission stating the time and place of the meeting and, in the case of a special meeting or as otherwise may be required by any statute, the purpose for which the meeting is called, by mail, by presenting it to such stockholder personally, by leaving it at the stockholder's residence or usual place of business, by electronic transmission or by any other means permitted by Maryland law. If mailed, such notice shall be deemed to be given when deposited in the United States mail addressed to the stockholder at the stockholder's address as it appears on the records of the Corporation, with postage thereon prepaid. If transmitted electronically, such notice shall be deemed to be given when transmitted to the stockholder by an electronic transmission to any address or number of the stockholder at which the stockholder receives electronic transmissions. The Corporation may give a single notice to all stockholders who share an address, which single notice shall be effective as to any stockholder at such address, unless such stockholder objects to receiving such single notice or revokes a prior consent to receiving such single notice. Failure to give notice of any meeting to one or more stockholders, or any irregularity in such notice, shall not affect the validity of any meeting fixed in accordance with this Article II or the validity of any proceedings at any such meeting.

Subject to Section 11(a) of this Article II, any business of the Corporation may be transacted at an annual meeting of stockholders without being specifically designated in the notice, except such business as is required by any statute to be stated in such notice. No business shall be transacted at a special meeting of stockholders except as specifically designated in the notice. The Corporation may postpone or cancel a meeting of stockholders by making a public announcement (as defined in Section 11(c)(4) of this Article II) of such postponement or cancellation prior to the meeting. Notice of the date, time and place to which the meeting is postponed shall be given not less than ten days prior to such date and otherwise in the manner set forth in this section.

Section 5. ORGANIZATION AND CONDUCT. Every meeting of stockholders shall be conducted by an individual appointed by the Board of Directors to be chair of the meeting or, in the absence of such appointment or appointed individual, by the chair of the board or, in the case of a vacancy in the office or absence of the chair of the board, by one of the following individuals present at the meeting in the following order: the chief executive officer, the president, the vice presidents in their order of rank and, within each rank, in their order of seniority, the secretary, or, in the absence of such officers, a chair chosen by the stockholders by the vote of a majority of the votes cast by stockholders present in person or by proxy. The secretary or, in the case of a vacancy in the office or absence of the secretary, an assistant secretary or an individual appointed by the Board of Directors or the chair of the meeting shall act as secretary. In the event that the secretary presides at a meeting of stockholders, an assistant secretary, or, in the absence of all assistant secretaries, an individual appointed by the Board of Directors or the chair of the meeting, shall record the minutes of the meeting. Even if present at the meeting, the person holding the office named herein may delegate to another person the power to act as chair or secretary of the meeting. The order of business and all other matters of procedure at any meeting of stockholders shall be determined by the chair of the meeting. The chair of the meeting may prescribe such rules, regulations and procedures and take such action as, in the discretion of the chair and without any action by the stockholders, are appropriate for the proper conduct of the meeting, including, without limitation, (a) restricting admission to the time set for the commencement of the meeting; (b) limiting attendance or participation at the meeting to stockholders of record of the Corporation, their duly authorized proxies and such other individuals as the chair of the meeting may determine; (c) recognizing speakers at the meeting and determining when and for how long speakers and any individual speaker may address the meeting; (d) determining when and for how long the polls should be opened and when the polls should be closed and when announcement of the results should be made; (e) maintaining order and security at the meeting; (f) removing any stockholder or any other individual who refuses to comply with meeting procedures, rules or guidelines as set forth by the chair of the meeting; (g) concluding a meeting or recessing or adjourning the meeting, whether or not a quorum is present, to a later date and time and at a place either (i) announced at the meeting or (ii) provided at a future time through means announced at the meeting; and (h) complying with any state and local laws and regulations concerning safety and security. Unless otherwise determined by the chair of the meeting, meetings of stockholders shall not be required to be held in accordance with any rules of parliamentary procedure.

Section 6. QUORUM. At any meeting of stockholders, the presence in person or by proxy of stockholders entitled to cast a majority of all the votes entitled to be cast at such meeting on any matter shall constitute a quorum; but this section shall not affect any requirement under any statute or the charter of the Corporation (the "Charter") for the vote necessary for the approval of any matter. If such quorum is not established at any meeting of the stockholders, the chair of the meeting may adjourn the meeting from time to time to a date not more than 120 days after the original record date without notice other than announcement at the meeting. The date, time and place of the meeting, as reconvened, shall be either (a) announced at the meeting or (b) provided at a future time through means announced at the meeting.

The stockholders present either in person or by proxy, at a meeting which has been duly called and at which a quorum has been established, may continue to transact business until adjournment, notwithstanding the withdrawal from the meeting of enough stockholders to leave fewer than would be required to establish a quorum.

Section 7. VOTING. A plurality of all the votes cast at a meeting of stockholders duly called and at which a quorum is present shall be sufficient to elect a director. Each share entitles the holder thereof to vote for as many individuals as there are directors to be elected and for whose election the holder is entitled to vote. A majority of the votes cast at a meeting of stockholders duly called and at which a quorum is present shall be sufficient to approve any other matter which may properly come before the meeting, unless more than a majority of the votes cast is required by statute or by the Charter. Unless otherwise provided by statute or by the Charter, each outstanding share of stock, regardless of class, entitles the holder thereof to cast one vote on each matter submitted to a vote at a meeting of stockholders. Voting on any question or in any election may be *viva voce* unless the chair of the meeting shall order that voting be by ballot or otherwise.

Section 8. PROXIES. A holder of record of shares of stock of the Corporation may cast votes in person or by proxy that is (a) executed by the stockholder or by the stockholder's duly authorized agent in any manner permitted by applicable law, (b) compliant with Maryland law and these Bylaws and (c) filed in accordance with the procedures established by the Corporation. Such proxy or evidence of authorization of such proxy shall be filed with the record of the proceedings of the meeting. No proxy shall be valid more than eleven months after its date unless otherwise provided in the proxy.

Any stockholder directly or indirectly soliciting proxies from other stockholders must use a proxy card color other than white, which shall be reserved for the exclusive use by the Board of Directors.

Section 9. VOTING OF STOCK BY CERTAIN HOLDERS. Stock of the Corporation registered in the name of a corporation, limited liability company, partnership, joint venture, trust or other entity, if entitled to be voted, may be voted by the president or a vice president, managing member, manager, general partner or trustee thereof, as the case may be, or a proxy appointed by any of the foregoing individuals, unless some other person who has been appointed to vote such stock pursuant to a bylaw or a resolution of the governing body of such corporation or other entity or agreement of the partners of a partnership presents a certified copy of such bylaw, resolution or agreement, in which case such person may vote such stock. Any trustee or fiduciary, in such capacity, may vote stock registered in such trustee's or fiduciary's name, either in person or by proxy.

Shares of stock of the Corporation directly or indirectly owned by it shall not be voted at any meeting and shall not be counted in determining the total number of outstanding shares entitled to be voted at any given time, unless they are held by it in a fiduciary capacity, in which case they may be voted and shall be counted in determining the total number of outstanding shares at any given time.

The Board of Directors may adopt by resolution a procedure by which a stockholder may certify in writing to the Corporation that any shares of stock registered in the name of the stockholder are held for the account of a specified person other than the stockholder. The resolution shall set forth the class of stockholders who may make the certification, the purpose for which the certification may be made, the form of certification and the information to be contained in it; if the certification is with respect to a record date, the time after the record date within which the certification must be received by the Corporation; and any other provisions with respect to the procedure which the

Board of Directors considers necessary or appropriate. On receipt by the secretary of the Corporation of such certification, the person specified in the certification shall be regarded as, for the purposes set forth in the certification, the holder of record of the specified stock in place of the stockholder who makes the certification.

Section 10. INSPECTORS. The Board of Directors or the chair of the meeting may appoint, before or at the meeting, one or more inspectors for the meeting and any successor to the inspector. Except as otherwise provided by the chair of the meeting, the inspectors, if any, shall (a) determine the number of shares of stock represented at the meeting, in person or by proxy, and the validity and effect of proxies, (b) receive and tabulate all votes, ballots or consents, (c) report such tabulation to the chair of the meeting, (d) hear and determine all challenges and questions arising in connection with the right to vote, and (e) do such acts as are proper to fairly conduct the election or vote. Each such report shall be in writing and signed by the inspector or by a majority of them if there is more than one inspector acting at such meeting. If there is more than one inspector, the report of a majority shall be the report of the inspectors. The report of the inspector or inspectors on the number of shares represented at the meeting and the results of the voting shall be *prima facie* evidence thereof.

Section 11. ADVANCE NOTICE OF STOCKHOLDER NOMINEES FOR DIRECTOR AND OTHER STOCKHOLDER PROPOSALS

(a) Annual Meetings of Stockholders. (1) Nominations of individuals for election to the Board of Directors and the proposal of other business to be considered by the stockholders may be made at an annual meeting of stockholders (i) pursuant to the Corporation's notice of meeting, (ii) by or at the direction of the Board of Directors or (iii) by any stockholder of the Corporation who was a stockholder of record at the record date set by the Board of Directors for the purpose of determining stockholders entitled to vote at the annual meeting, at the time of giving of notice by the stockholder as provided for in this Section 11(a) and at the time of the annual meeting (and any postponement or adjournment thereof), who is entitled to vote at the meeting in the election of each individual so nominated or on any such other business and who has complied with this Section 11(a).

(2) For any nomination or other business to be properly brought before an annual meeting by a stockholder pursuant to clause (iii) of paragraph (a)(1) of this Section 11, the stockholder must have given timely notice thereof in writing to the secretary of the Corporation and any such other business must otherwise be a proper matter for action by the stockholders. To be timely, a stockholder's notice shall set forth all information and certifications required under this Section 11 and shall be delivered to the secretary at the principal executive office of the Corporation not earlier than the 150th day nor later than 5:00 p.m., Eastern Time, on the 120h day prior to the first anniversary of the date of the proxy statement (as defined in Section 11(c)(4) of this Article II) for the preceding year's annual meeting; provided, however, that in connection with the Corporation's first annual meeting or in the event that the date of the annual meeting is advanced or delayed by more than 30 days from the first anniversary of the date of the preceding year's annual meeting, in order for notice by the stockholder to be timely, such notice must be so delivered not earlier than the 150th day prior to the date of such annual meeting and not later than 5:00 p.m., Eastern Time, on the later of the 120th day prior to the date of such annual meeting, as originally convened, or the tenth day following the day on which public announcement of the date of such meeting is first made. The public announcement of a postponement or adjournment of an annual meeting shall not commence a new time period for the giving of a stockholder's notice as described above.

(3) Such stockholder's notice shall set forth:

(i) as to each individual whom the stockholder proposes to nominate for election or reelection as a director (each, a "Proposed Nominee"), all information relating to the Proposed Nominee that would be required to be disclosed in connection with the solicitation of proxies for the election of the Proposed Nominee as a director in an election contest (even if an election contest is not involved), or would otherwise be required in connection with such solicitation, in each case pursuant to Regulation 14A (or any successor provision) under the Exchange Act;

(ii) as to any other business that the stockholder proposes to bring before the meeting, (A) a description of such business (including the text of any proposal), the stockholder's reasons for proposing such business at the meeting and any material interest in such business of such stockholder or any Stockholder Associated Person (as defined below), individually or in the aggregate, including any anticipated benefit to the stockholder or the Stockholder Associated Person therefrom and (B) any other information relating to such item of business that would be required to be disclosed in a proxy statement or other filing required to be made in connection with solicitations of proxies in support of the business proposed to be brought before the meeting pursuant to Regulation 14A (or any successor provision) of the Exchange Act;

(iii) as to the stockholder giving the notice, any Proposed Nominee and any Stockholder Associated Person,

(A) the class, series and number of all shares of stock or other securities of the Corporation or any affiliate thereof (collectively, the "Company Securities"), if any, which are owned (beneficially or of record) by such stockholder, Proposed Nominee or Stockholder Associated Person, the date on which each such Company Security was acquired and the investment intent of such acquisition, and any short interest (including any opportunity to profit or share in any benefit from any decrease in the price of such stock or other security) in any Company Securities of any such person,

(B) the nominee holder for, and number of, any Company Securities owned beneficially but not of record by such stockholder, Proposed Nominee or Stockholder Associated Person,

(C) whether and the extent to which such stockholder, Proposed Nominee or Stockholder Associated Person, directly or indirectly (through brokers, nominees or otherwise), is subject to or during the last six months has engaged in any hedging, derivative or other transaction or series of transactions or entered into any other agreement, arrangement or understanding (including any short interest, any borrowing or lending of securities or any proxy or voting agreement), the effect or intent of which is to (I) manage risk or benefit of changes in the price of (x) Company Securities or (y) any security of any entity that was listed in the Peer Group in the Stock Performance Graph in the most recent annual report to security holders of the Corporation (a "Peer Group

Company") for such stockholder, Proposed Nominee or Stockholder Associated Person or (II) increase or decrease the voting power of such stockholder, Proposed Nominee or Stockholder Associated Person in the Corporation or any affiliate thereof (or, as applicable, in any Peer Group Company) disproportionately to such person's economic interest in the Company Securities (or, as applicable, in any Peer Group Company);

(D) any substantial interest, direct or indirect (including, without limitation, any existing or prospective commercial, business or contractual relationship with the Corporation), by security holdings or otherwise, of such stockholder, Proposed Nominee or Stockholder Associated Person, in the Corporation or any affiliate thereof, other than an interest arising from the ownership of Company Securities where such stockholder, Proposed Nominee or Stockholder Associated Person receives no extra or special benefit not shared on a *pro rata* basis by all other holders of the same class or series;

(iv) as to the stockholder giving the notice, any Stockholder Associated Person with an interest or ownership referred to in clauses (ii) or (iii) of this paragraph (3) of this Section 11(a) and any Proposed Nominee,

(A) the name and address of such stockholder, as they appear on the Corporation's stock ledger, and the current name and address, if different, of each such Stockholder Associated Person and any Proposed Nominee and

(B) the investment strategy or objective, if any, of such stockholder and each such Stockholder Associated Person who is not an individual and a copy of the prospectus, offering memorandum or similar document, if any, provided to investors or potential investors in such stockholder and each such Stockholder Associated Person;

(v) the name and address of any person who contacted or was contacted by the stockholder giving the notice or any Stockholder Associated Person about the Proposed Nominee or other business proposal;

(vi) to the extent known by the stockholder giving the notice, the name and address of any other person supporting the nominee for election or reelection as a director or the proposal of other business;

(vii) if the stockholder is proposing one or more Proposed Nominees, a representation that such stockholder, Proposed Nominee or Stockholder Associated Person intends or is part of a group which intends to solicit the holders of shares representing at least 67% of the voting power of shares entitled to vote on the election of directors in support of Proposed Nominees in accordance with Rule 14a-19 of the Exchange Act; and

(viii) all other information regarding the stockholder giving the notice and each Stockholder Associated Person that would be required to be disclosed by the stockholder in connection with the solicitation of proxies for the election of directors in an election contest (even if an election contest is not involved), or would otherwise be required in connection with such a solicitation, in each case pursuant to Regulation 14A (or any successor provision) under the Exchange Act.

(4) Such stockholder's notice shall, with respect to any Proposed Nominee, be accompanied by a:

(i) written undertaking executed by the Proposed Nominee:

(A) that such Proposed Nominee (I) is not, and will not become, a party to any agreement, arrangement or understanding with any person or entity other than the Corporation in connection with service or action as a director that has not been disclosed to the Corporation, (II) will serve as a director of the Corporation if elected and will notify the Corporation simultaneously with the notification to the stockholder of the Proposed Nominee's actual or potential unwillingness or inability to serve as a director and (III) does not need any permission or consent from any third party to serve as a director of the Corporation, if elected, that has not been obtained, including any employer or any other board or governing body on which such Proposed Nominee serves;

(B) attaching copies of any and all requisite permissions or consents;

(C) attaching a completed Proposed Nominee questionnaire (which questionnaire shall be provided by the Corporation, upon request, to the stockholder providing the notice and shall include all information relating to the Proposed Nominee that would be required to be disclosed in connection with the solicitation of proxies for the election of the Proposed Nominee as a director in an election contest (even if an election contest is not involved), or would otherwise be required in connection with such solicitation, in each case pursuant to Regulation 14A (or any successor provision) under the Exchange Act, or would be required pursuant to the rules of any national securities exchange on which any securities of the Corporation are listed or over-the-counter market on which any securities of the Corporation are traded); and

(ii) certificate executed by the stockholder certifying that such stockholder will:

(A) comply with Rule 14a-19 promulgated under the Exchange Act in connection with such stockholder's solicitation of proxies in support of any Proposed Nominee;

(B) notify the Corporation as promptly as practicable of any determination by the stockholder to no longer solicit proxies for the election of any Proposed Nominee as a director at the annual meeting;

(C) furnish such other or additional information as the Corporation may request for the purpose of determining whether the requirements of this Section 11 have been complied with and of evaluating any nomination or other business described in the stockholder's notice; and

(D) appear in person or by proxy at the meeting to nominate any Proposed Nominees or to bring such business before the meeting, as applicable, and acknowledges that if the stockholder does not so appear in person or by proxy at the meeting to nominate such Proposed Nominees or bring such business before the meeting, as applicable, the Corporation need not bring such Proposed Nominee or such business for a vote at such meeting and any proxies or votes cast in favor of the election of any such Proposed Nominee or of any proposal related to such other business need not be counted or considered.

(5) Notwithstanding anything in this subsection (a) of this Section 11 to the contrary, in the event that the number of directors to be elected to the Board of Directors is increased, and there is no public announcement of such action at least 130 days prior to the first anniversary of the date of the proxy statement (as defined in Section 11(c)(4) of this Article II) for the preceding year's annual meeting, a stockholder's notice required by clause (iii) of paragraph (a)(1) of this Section 11 shall also be considered timely, but only with respect to nominees for any new positions created by such increase, if it shall be delivered to the secretary at the principal executive office of the Corporation not later than 5:00 p.m., Eastern Time, on the tenth day following the day on which such public announcement is first made by the Corporation.

(6) For purposes of this Section 11, "Stockholder Associated Person" of any stockholder shall mean (i) any person acting in concert with such stockholder or another Stockholder Associated Person or who is otherwise a participant (as defined in Instruction 3 to Item 4 of Schedule 14A under the Exchange Act) in the solicitation, (ii) any beneficial owner of shares of stock of the Corporation owned of record or beneficially by such stockholder (other than a stockholder that is a depositary) and (iii) any person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such stockholder or such Stockholder Associated Person.

(b) Special Meetings of Stockholders. Only such business shall be conducted at a special meeting of stockholders as shall have been brought before the meeting pursuant to the Corporation's notice of meeting and, except as contemplated by and in accordance with the next two sentences of this Section 11(b), no stockholder may nominate an individual for election to the Board of Directors or make a proposal of other business to be considered at a special meeting. Nominations of individuals for election to the Board of Directors may be made at a special meeting of stockholders at which directors are to be elected only (1) by or at the direction of the Board of Directors or (2) provided that the special meeting has been called in accordance with Section 3(a) of this Article II for the purpose of electing directors, by any stockholder of the Corporation who is a stockholder of record at the record date set by the Board of Directors for the purpose of determining stockholders entitled to vote at the special meeting, at the time of giving of notice provided for in this Section 11 and at the time of the special meeting (and any postponement or adjournment thereof), who is entitled to vote at the meeting in the election of each individual so nominated and who has complied with the notice procedures set forth in this Section 11. In the event the Corporation calls a special meeting of stockholders for the purpose of electing one or more individuals to the Board of Directors, any stockholder may nominate an individual or individuals (as the case may be) for election as a director as specified in the Corporation's notice of meeting, if the stockholder's notice, containing the

information and certifications required by paragraphs (a)(3) and (4) of this Section 11, is delivered to the secretary at the principal executive office of the Corporation not earlier than the 120th day prior to such special meeting and not later than 5:00 p.m., Eastern Time, on the later of the 90th day prior to such special meeting or the tenth day following the day on which public announcement is first made of the date of the special meeting. The public announcement of a postponement or adjournment of a special meeting shall not commence a new time period for the giving of a stockholder's notice as described above.

(c) General. (1) If any information or certification submitted pursuant to this Section 11 by any stockholder proposing a nominee for election as a director or any proposal for other business at a meeting of stockholders, including any information or certification from a Proposed Nominee, shall be inaccurate in any material respect, such information or certification may be deemed not to have been provided in accordance with this Section 11. Any such stockholder shall notify the Corporation of any inaccuracy or change (within two Business Days of becoming aware of such inaccuracy or change) in any such information or certification. Upon written request by the secretary or the Board of Directors, any such stockholder or Proposed Nominee shall provide, within five Business Days of delivery of such request (or such other period as may be specified in such request), (i) written verification, satisfactory, in the discretion of the Board of Directors or any authorized officer of the Corporation, to demonstrate the accuracy of any information submitted by the stockholder pursuant to this Section 11, (ii) a written update of any information (including, if requested by the Corporation, written confirmation by such stockholder that it continues to intend to bring such nomination or other business proposal before the meeting and, if applicable, satisfy the requirements of Rule 14a-19(a)(3)) submitted by the stockholder pursuant to this Section 11 as of an earlier date and (iii) an updated certification by each Proposed Nominee that such individual will serve as a director of the Corporation if elected. If a stockholder or Proposed Nominee fails to provide such written verification, update or certification within such period, the information as to which such written verification, update or certification was requested may be deemed not to have been provided in accordance with this Section 11.

(2) Only such individuals who are nominated in accordance with this Section 11 shall be eligible for election by stockholders as directors, and only such business shall be conducted at a meeting of stockholders as shall have been brought before the meeting in accordance with this Section 11. A stockholder proposing a Proposed Nominee shall have no right to (i) nominate a number of Proposed Nominees that exceed the number of directors to be elected at the meeting or (ii) substitute or replace any Proposed Nominee unless such substitute or replacement is nominated in accordance with this Section 11 (including the timely provision of all information and certifications with respect to such substitute or replacement Proposed Nominee in accordance with the deadlines set forth in this Section 11). If the Corporation provides notice to a stockholder that the number of Proposed Nominees proposed by such stockholder exceeds the number of directors to be elected at a meeting, the stockholder must provide written notice to the Corporation within five Business Days stating the names of the Proposed Nominees that have been withdrawn so that the number of Proposed Nominees proposed by such stockholder no longer exceeds the number of directors to be elected at a meeting. If any individual who is nominated in accordance with this Section 11 becomes unwilling or unable to serve on the Board of Directors, then the nomination with respect to such individual shall no longer be valid and no votes may validly be cast for such individual. The chair of the meeting shall have the power to determine whether a nomination or any other business proposed to be brought before the meeting was made or proposed, as the case may be, in accordance with this Section 11.

(3) Notwithstanding the foregoing provisions of this Section 11, the Corporation shall disregard any proxy authority granted in favor of, or votes for, director nominees other than the Corporation's nominees if the stockholder or Stockholder Associated Person (each, a "Soliciting Stockholder") soliciting proxies in support of such director nominees abandons the solicitation or does not (i) comply with Rule 14a-19 promulgated under the Exchange Act, including any failure by the Soliciting Stockholder to (A) provide the Corporation with any notices required thereunder in a timely manner or (B) comply with the requirements of Rule 14a-19(a)(2) and Rule 14a-19(a)(3) promulgated under the Exchange Act or (ii) timely provide sufficient evidence in the determination of the Board of Directors sufficient to satisfy the Corporation that such Soliciting Stockholder has met the requirements of Rule 14a-19(a)(3) promulgated under the Exchange Act in accordance with the following sentence. Upon request by the Corporation, if any Soliciting Stockholder provides notice pursuant to Rule 14a-19(b) promulgated under the Exchange Act (or is not required to provide notice because the information required by Rule 14a-19(b) has been provided in a preliminary or definitive proxy statement previously filed by such Soliciting Stockholder), such Soliciting Stockholder shall deliver to the Corporation, no later than five Business Days prior to the applicable meeting, sufficient evidence in the judgment of the Board of Directors that it has met the requirements of Rule 14a-19(a)(3) promulgated under the Exchange Act.

(4) For purposes of this Section 11, "the date of the proxy statement" shall have the same meaning as "the date of the company's proxy statement released to shareholders" as used in Rule 14a-8(e) promulgated under the Exchange Act, as interpreted by the Securities and Exchange Commission from time to time. "Public announcement" shall mean disclosure (i) in a press release reported by the Dow Jones News Service, Associated Press, Business Wire, PR Newswire or other widely circulated news or wire service or (ii) in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to the Exchange Act.

(5) Notwithstanding the foregoing provisions of this Section 11, a stockholder shall also comply with all applicable requirements of state law and of the Exchange Act with respect to the matters set forth in this Section 11. Nothing in this Section 11 shall be deemed to affect any right of a stockholder to request inclusion of a proposal in, or the right of the Corporation to omit a proposal from, any proxy statement filed by the Corporation with the Securities and Exchange Commission pursuant to Rule 14a-8 (or any successor provision) under the Exchange Act. Nothing in this Section 11 shall require disclosure of revocable proxies received by, or routine solicitation contacts made by or on behalf of, the stockholder or Stockholder Associated Person pursuant to a solicitation of proxies after the filing of an effective Schedule 14A by such stockholder or Stockholder Associated Person.

(6) Notwithstanding anything in these Bylaws to the contrary, except as otherwise determined by the chair of the meeting, if the stockholder giving notice as provided for in this Section 11 does not appear in person or by proxy at such annual or special meeting to present each nominee for election as a director or the proposed business, as applicable, such matter shall not be considered at the meeting.

Section 12. CONTROL SHARE ACQUISITION ACT. Notwithstanding any other provision of the Charter or these Bylaws, Title 3, Subtitle 7 of the Maryland General Corporation Law, or any successor statute (the "MGCL"), shall not apply to any acquisition by any person of shares of stock of the Corporation. This section may be repealed, in whole or in part, at any time, whether before or after an acquisition of control shares and, upon such repeal, may, to the extent provided by any successor bylaw, apply to any prior or subsequent control share acquisition.

ARTICLE III

DIRECTORS

Section 1. GENERAL POWERS. The business and affairs of the Corporation shall be managed under the direction of the Board of Directors.

Section 2. NUMBER, TENURE AND RESIGNATION. A majority of the entire Board of Directors may establish, increase or decrease the number of directors, provided that the number thereof shall never be less than the minimum number required by the MGCL, nor more than 15, and further provided that the tenure of office of a director shall not be affected by any decrease in the number of directors. Any director of the Corporation may resign at any time by delivering a resignation to the Board of Directors, the chair of the board or the secretary. Any resignation shall take effect immediately upon its receipt or at such later time specified in the resignation. The acceptance of a resignation shall not be necessary to make it effective unless otherwise stated in the resignation.

Section 3. ANNUAL AND REGULAR MEETINGS. An annual meeting of the Board of Directors may be held at such time and place as shall be specified in a notice given as hereinafter provided for special meetings of the Board of Directors. The Board of Directors may provide, by resolution, the time and place of regular meetings of the Board of Directors without other notice than such resolution.

Section 4. SPECIAL MEETINGS. Special meetings of the Board of Directors may be called by or at the request of the chair of the board, the chief executive officer, the president or a majority of the directors then in office. The person or persons authorized to call special meetings of the Board of Directors may fix the time and place of any special meeting of the Board of Directors called by them. The Board of Directors may provide, by resolution, the time and place of special meetings of the Board of Directors without other notice than such resolution.

Section 5. NOTICE. Notice of any special meeting of the Board of Directors shall be delivered personally or by telephone, electronic mail, facsimile transmission, courier or United States mail to each director at such director's business or residence address. Notice by personal delivery, telephone, electronic mail or facsimile transmission shall be given at least 24 hours prior to the meeting. Notice by United States mail shall be given at least three days prior to the meeting. Notice by courier shall be given at least two days prior to the meeting. Telephone notice shall be deemed to

be given when the director or such director's agent is personally given such notice in a telephone call to which the director or such director's agent is a party. Electronic mail notice shall be deemed to be given upon transmission of the message to the electronic mail address given to the Corporation by the director. Facsimile transmission notice shall be deemed to be given upon completion of the transmission of the message to the number given to the Corporation by the director and receipt of a completed answer-back indicating receipt. Notice by United States mail shall be deemed to be given when deposited in the United States mail properly addressed, with postage thereon prepaid. Notice by courier shall be deemed to be given when deposited with or delivered to a courier properly addressed. Neither the business to be transacted at, nor the purpose of, any annual, regular or special meeting of the Board of Directors need be stated in the notice, unless specifically required by statute or these Bylaws.

Section 6. QUORUM. A majority of the directors shall constitute a quorum for the transaction of business at any meeting of the Board of Directors, provided that, if less than a majority of such directors is present at such meeting, a majority of the directors present may adjourn the meeting from time to time without further notice, and provided further that if, pursuant to applicable law, the Charter or these Bylaws, the vote of a majority or other percentage of a specified group of directors is required for action, a quorum must also include a majority or such other percentage of such group.

The directors present at a meeting which has been duly called and at which a quorum has been established may continue to transact business until adjournment, notwithstanding the withdrawal from the meeting of enough directors to leave fewer than required to establish a quorum.

Section 7. VOTING. The action of a majority of the directors present at a meeting at which a quorum is present shall be the action of the Board of Directors, unless the concurrence of a greater proportion is required for such action by applicable law, the Charter or these Bylaws. If enough directors have withdrawn from a meeting to leave fewer than required to establish a quorum, but the meeting is not adjourned, the action of the majority of that number of directors necessary to constitute a quorum at such meeting shall be the action of the Board of Directors, unless the concurrence of a greater proportion is required for such action by applicable law, the Charter or these Bylaws.

Section 8. ORGANIZATION. At each meeting of the Board of Directors, the chair of the board or, in the absence of the chair, the chief executive officer shall act as chair of the meeting. Even if present at the meeting, the director named herein may designate another director to act as chair of the meeting. In the absence of both the chair of the board and chief executive officer the lead independent director, if one, or, in the absence of all such individuals, the president or, in the absence of the president, a director chosen by a majority of the directors present, shall act as chair of the meeting. The secretary or, in the secretary's absence, an assistant secretary of the Corporation, or, in the absence of the secretary and all assistant secretaries, an individual appointed by the chair of the meeting, shall act as secretary of the meeting.

Section 9. TELEPHONE MEETINGS. Directors may participate in a meeting by means of a conference telephone or other communications equipment if all persons participating in the meeting can hear each other at the same time. Participation in a meeting by these means shall constitute presence in person at the meeting.

Section 10. CONSENT BY DIRECTORS WITHOUT A MEETING. Any action required or permitted to be taken at any meeting of the Board of Directors may be taken without a meeting, if a consent in writing or by electronic transmission to such action is given by each director and is filed with the minutes of proceedings of the Board of Directors.

Section 11. VACANCIES. If for any reason any or all the directors cease to be directors, such event shall not terminate the Corporation or affect these Bylaws or the powers of the remaining directors hereunder. Except as may be provided by the Board of Directors in setting the terms of any class or series of preferred stock, any vacancy on the Board of Directors may be filled only by a majority of the remaining directors, even if the remaining directors do not constitute a quorum. Any director elected to fill a vacancy shall serve for the remainder of the full term of the class in which the vacancy occurred and until a successor is elected and qualifies.

Section 12. COMPENSATION. Directors shall not receive any stated salary for their services as directors but, by resolution of the Board of Directors, may receive compensation per year and/or per meeting and/or per visit to real property or other facilities owned or leased by the Corporation and for any service or activity they performed or engaged in as directors. Directors may be reimbursed for expenses of attendance, if any, at each annual, regular or special meeting of the Board of Directors or of any committee thereof and for their expenses, if any, in connection with each property visit and any other service or activity they perform or engage in as directors; but nothing herein contained shall be construed to preclude any directors from serving the Corporation in any other capacity and receiving compensation therefor.

Section 13. RELIANCE. Each director and officer of the Corporation shall, in the performance of such director's or officer's duties with respect to the Corporation, be entitled to rely on any information, opinion, report or statement, including any financial statement or other financial data, prepared or presented by an officer or employee of the Corporation whom the director or officer reasonably believes to be reliable and competent in the matters presented, by a lawyer, certified public accountant or other person, as to a matter which the director or officer reasonably believes to be within the person's professional or expert competence, or, with respect to a director, by a committee of the Board of Directors on which the director does not serve, as to a matter within its designated authority, if the director reasonably believes the committee to merit confidence.

Section 14. RATIFICATION. The Board of Directors or the stockholders may ratify any act, omission, failure to act or determination made not to act (an "Act") by the Corporation or its officers to the extent that the Board of Directors or the stockholders could have originally authorized the Act and, if so ratified, such Act shall have the same force and effect as if originally duly authorized, and such ratification shall be binding upon the Corporation and its stockholders. Any Act questioned in any proceeding on the ground of lack of authority, defective or irregular execution, adverse interest of a director, officer or stockholder, non-disclosure, miscomputation, the application of improper principles or practices of accounting or otherwise, may be ratified, before or after judgment, by the Board of Directors or by the stockholders, and such ratification shall constitute a bar to any claim or execution of any judgment in respect of such questioned Act.

Section 15. CERTAIN RIGHTS OF DIRECTORS AND OFFICERS. Any director or officer, in such director's or officer's personal capacity or in a capacity as an affiliate, employee, or agent of any other person, or otherwise, may have business interests and engage in business activities similar to, in addition to or in competition with those of or relating to the Corporation.

Section 16. EMERGENCY PROVISIONS. Notwithstanding any other provision in the Charter or these Bylaws, this Section 16 shall apply during the existence of any catastrophe, or other similar emergency condition, as a result of which a quorum of the Board of Directors under Article III of these Bylaws cannot readily be obtained (an "Emergency"). During any Emergency, unless otherwise provided by the Board of Directors, (a) a meeting of the Board of Directors or a committee thereof may be called by any director or officer by any means feasible under the circumstances; (b) notice of any meeting of the Board of Directors during such an Emergency may be given less than 24 hours prior to the meeting to as many directors and by such means as may be feasible at the time, including publication, television or radio; and (c) the number of directors necessary to constitute a quorum shall be one-third of the entire Board of Directors.

ARTICLE IV

COMMITTEES

Section 1. NUMBER, TENURE AND QUALIFICATIONS. The Board of Directors may appoint from among its members an Audit Committee, a Compensation Committee, a Nominating and Corporate Governance Committee and one or more other committees, composed of one or more directors, to serve at the pleasure of the Board of Directors. In the absence of any member of any such committee, the members thereof present at any meeting, whether or not they constitute a quorum, may appoint another director to act in the place of such absent member.

Section 2. POWERS. The Board of Directors may delegate to any committee appointed under Section 1 of this Article any of the powers of the Board of Directors, except as prohibited by law. Except as may be otherwise provided by the Board of Directors, any committee may delegate some or all of its power and authority to one or more subcommittees, composed of one or more directors, as the committee deems appropriate in its sole discretion.

Section 3. MEETINGS. Notice of committee meetings shall be given in the same manner as notice for special meetings of the Board of Directors. A majority of the members of the committee shall constitute a quorum for the transaction of business at any meeting of the committee. The act of a majority of the committee members present at a meeting shall be the act of such committee. The Board of Directors, or in the absence of such designation, the applicable committee, may designate a chair of any committee, and such chair or, in the absence of a chair, any two members of any committee (if there are at least two members of the committee) may fix the time and place of its meeting unless the Board shall otherwise provide.

Section 4. TELEPHONE MEETINGS. Members of a committee of the Board of Directors may participate in a meeting by means of a conference telephone or other communications equipment if all persons participating in the meeting can hear each other at the same time. Participation in a meeting by these means shall constitute presence in person at the meeting.

Section 5. CONSENT BY COMMITTEES WITHOUT A MEETING. Any action required or permitted to be taken at any meeting of a committee of the Board of Directors may be taken without a meeting, if a consent in writing or by electronic transmission to such action is given by each member of the committee and is filed with the minutes of proceedings of such committee.

Section 6. VACANCIES. Subject to the provisions hereof, the Board of Directors shall have the power at any time to change the membership of any committee, to appoint the chair of any committee, to fill any vacancy, to designate an alternate member to replace any absent or disqualified member or to dissolve any such committee.

ARTICLE V

OFFICERS

Section 1. GENERAL PROVISIONS. The officers of the Corporation shall include a president, a secretary and a treasurer and may include a chair of the board, a vice chair of the board, a chief executive officer, one or more vice presidents, a chief operating officer, a chief financial officer, one or more assistant secretaries and one or more assistant treasurers. In addition, the Board of Directors may from time to time elect such other officers with such powers and duties as it shall deem necessary or appropriate. The officers of the Corporation shall be elected annually by the Board of Directors, except that the chief executive officer or president may from time to time appoint one or more vice presidents, assistant secretaries and assistant treasurers or other officers. Each officer shall serve until such officer's successor is elected and qualifies or until such officer's death, or such officer's resignation or removal in the manner hereinafter provided. Any two or more offices except president and vice president may be held by the same person. Election of an officer or agent shall not of itself create contract rights between the Corporation and such officer or agent.

Section 2. REMOVAL AND RESIGNATION. Any officer or agent of the Corporation may be removed, with or without cause, by the Board of Directors, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Any officer of the Corporation may resign at any time by delivering a resignation to the Board of Directors, the chair of the board, the chief executive officer, the president or the secretary. Any resignation shall take effect immediately upon its receipt or at such later time specified in the resignation. The acceptance of a resignation shall not be necessary to make it effective unless otherwise stated in the resignation. Such resignation shall be without prejudice to the contract rights, if any, of the Corporation.

Section 3. VACANCIES. A vacancy in any office may be filled by the Board of Directors for the balance of the term.

Section 4. CHAIR OF THE BOARD. The Board of Directors may designate from among its members a chair of the board, who shall not, solely by reason of these Bylaws, be an officer of the Corporation. The Board of Directors may designate the chair of the board as an executive or non-executive chair. The chair of the board shall preside over the meetings of the Board of Directors. The chair of the board shall perform such other duties as may be assigned to the chair of the board by these Bylaws or the Board of Directors.

Section 5. CHIEF EXECUTIVE OFFICER. The Board of Directors may designate a chief executive officer. In the absence of such designation, the chair of the board shall be the chief executive officer of the Corporation. The chief executive officer shall have general responsibility for implementation of the policies of the Corporation, as determined by the Board of Directors, and for the management of the business and affairs of the Corporation. The chief executive officer may execute any deed, mortgage, bond, contract or other instrument, except in cases where the execution thereof shall be expressly delegated by the Board of Directors or by these Bylaws to some other officer or agent of the Corporation or shall be required by law to be otherwise executed; and in general shall perform all duties incident to the office of chief executive officer and such other duties as may be prescribed by the Board of Directors from time to time.

Section 6. CHIEF OPERATING OFFICER. The Board of Directors may designate a chief operating officer. The chief operating officer shall have the responsibilities and duties as determined by the Board of Directors or the chief executive officer.

Section 7. CHIEF FINANCIAL OFFICER. The Board of Directors may designate a chief financial officer. The chief financial officer shall have the responsibilities and duties as determined by the Board of Directors or the chief executive officer.

Section 8. PRESIDENT. In the absence of a chief executive officer, the president shall in general supervise and control all of the business and affairs of the Corporation. In the absence of a designation of a chief operating officer by the Board of Directors, the president shall be the chief operating officer. The president may execute any deed, mortgage, bond, contract or other instrument, except in cases where the execution thereof shall be expressly delegated by the Board of Directors or by these Bylaws to some other officer or agent of the Corporation or shall be required by law to be otherwise executed; and in general shall perform all duties incident to the office of president and such other duties as may be prescribed by the Board of Directors from time to time.

Section 9. VICE PRESIDENTS. In the absence of the president or in the event of a vacancy in such office, the vice president (or in the event there be more than one vice president, the vice presidents in the order designated at the time of their election or, in the absence of any designation, then in the order of their election) shall perform the duties of the president and when so acting shall have all the powers of and be subject to all the restrictions upon the president; and shall perform such other duties as from time to time may be assigned to such vice president by the chief executive officer, the president or the Board of Directors. The Board of Directors may designate one or more vice presidents as executive vice president, senior vice president, or vice president for particular areas of responsibility.

Section 10. SECRETARY. The secretary shall (a) keep the minutes of the proceedings of the stockholders, the Board of Directors and committees of the Board of Directors in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law; (c) be custodian of the corporate records and of the seal of the Corporation; (d) keep a register of the address of each stockholder which shall be furnished to the secretary by such stockholder; (e) have general charge of the stock transfer books of the Corporation; and (f) in general perform such other duties as from time to time may be assigned to the secretary by the chief executive officer, the president or the Board of Directors.

Section 11. TREASURER. The treasurer shall have the custody of the funds and securities of the Corporation, shall keep full and accurate accounts of receipts and disbursements in books belonging to the Corporation, shall deposit all moneys and other valuable effects in the name and to the credit of the Corporation in such depositories as may be designated by the Board of Directors and in general perform such other duties as from time to time may be assigned to the treasurer by the chief executive officer, the president or the Board of Directors. In the absence of a designation of a chief financial officer by the Board of Directors, the treasurer shall be the chief financial officer of the Corporation.

The treasurer shall disburse the funds of the Corporation as may be ordered by the Board of Directors, taking proper vouchers for such disbursements, and shall render to the president and Board of Directors, at the regular meetings of the Board of Directors or whenever it may so require, an account of all the transactions as treasurer and of the financial condition of the Corporation.

Section 12. ASSISTANT SECRETARIES AND ASSISTANT TREASURERS. The assistant secretaries and assistant treasurers, in general, shall perform such duties as shall be assigned to them by the secretary or treasurer, respectively, or by the chief executive officer, the president or the Board of Directors.

Section 13. COMPENSATION. The compensation of the officers shall be fixed from time to time by or under the authority of the Board of Directors and no officer shall be prevented from receiving such compensation by reason of the fact that such officer is also a director.

ARTICLE VI

CONTRACTS, CHECKS AND DEPOSITS

Section 1. CONTRACTS. The Board of Directors may authorize any officer or agent to enter into any contract or to execute and deliver any instrument in the name of and on behalf of the Corporation and such authority may be general or confined to specific instances. Any agreement, deed, mortgage, lease or other document shall be valid and binding upon the Corporation when duly authorized or ratified by action of the Board of Directors and executed by an authorized person.

Section 2. CHECKS AND DRAFTS. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Corporation shall be signed by such officer or agent of the Corporation in such manner as shall from time to time be determined by the Board of Directors.

Section 3. DEPOSITS. All funds of the Corporation not otherwise employed shall be deposited or invested from time to time to the credit of the Corporation as the Board of Directors, the chief executive officer, the president, the chief financial officer, or any other officer designated by the Board of Directors may determine.

ARTICLE VII

STOCK

Section 1. CERTIFICATES. Except as may be otherwise provided by the Board of Directors or any officer of the Corporation, stockholders of the Corporation are not entitled to certificates representing the shares of stock held by them. In the event that the Corporation issues shares of stock represented by certificates, such certificates shall be in such form as prescribed by the Board of Directors or a duly authorized officer, shall contain the statements and information required by the MGCL and shall be signed by the officers of the Corporation in any manner permitted by the MGCL. In the event that the Corporation issues shares of stock without certificates, to the extent then required by the MGCL the Corporation shall provide to the record holders of such shares a written statement of the information required by the MGCL to be included on stock certificates. There shall be no difference in the rights and obligations of stockholders based on whether or not their shares are represented by certificates.

Section 2. TRANSFERS. All transfers of shares of stock shall be made on the books of the Corporation in such manner as the Board of Directors or any officer of the Corporation may prescribe and, if such shares are certificated, upon surrender of certificates duly endorsed. The issuance of a new certificate upon the transfer of certificated shares is subject to the determination of the Board of Directors or an officer of the Corporation that such shares shall no longer be represented by certificates. Upon the transfer of any uncertificated shares, the Corporation shall provide to the record holders of such shares, to the extent then required by the MGCL, a written statement of the information required by the MGCL to be included on stock certificates.

The Corporation shall be entitled to treat the holder of record of any share of stock as the holder in fact thereof and, accordingly, shall not be bound to recognize any equitable or other claim to or interest in such share or on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise expressly provided by the laws of the State of Maryland.

Notwithstanding the foregoing, transfers of shares of any class or series of stock will be subject in all respects to the Charter and all of the terms and conditions contained therein.

Section 3. REPLACEMENT CERTIFICATE. Any officer of the Corporation may direct a new certificate or certificates to be issued in place of any certificate or certificates theretofore issued by the Corporation alleged to have been lost, destroyed, stolen or mutilated, upon the making of an affidavit of that fact by the person claiming the certificate to be lost, destroyed, stolen or mutilated; provided, however, if such shares have ceased to be certificated, no new certificate shall be issued unless requested in writing by such stockholder and the Board of Directors or an officer of the Corporation has determined that such certificates may be issued. Unless otherwise determined by an

officer of the Corporation, the owner of such lost, destroyed, stolen or mutilated certificate or certificates, or such owner's legal representative, shall be required, as a condition precedent to the issuance of a new certificate or certificates, to give the Corporation a bond in such sums as it may direct as indemnity against any claim that may be made against the Corporation.

Section 4. FIXING OF RECORD DATE. The Board of Directors may set, in advance, a record date for the purpose of determining stockholders entitled to notice of or to vote at any meeting of stockholders or determining stockholders entitled to receive payment of any dividend or the allotment of any other rights, or in order to make a determination of stockholders for any other proper purpose. Such record date, in any case, shall not be prior to the close of business on the day the record date is fixed and shall be not more than 90 days and, in the case of a meeting of stockholders, not less than ten days, before the date on which the meeting or particular action requiring such determination of stockholders of record is to be held or taken.

When a record date for the determination of stockholders entitled to notice of or to vote at any meeting of stockholders has been set as provided in this section, such record date shall continue to apply to the meeting if postponed or adjourned, except if the meeting is postponed or adjourned to a date more than 120 days after the record date originally fixed for the meeting, in which case a new record date for such meeting shall be determined as set forth herein.

Section 5. STOCK LEDGER. The Corporation shall maintain at its principal office or at the office of its counsel, accountants or transfer agent, an original or duplicate stock ledger containing the name and address of each stockholder and the number of shares of each class held by such stockholder.

Section 6. FRACTIONAL STOCK; ISSUANCE OF UNITS. The Board of Directors may authorize the Corporation to issue fractional shares of stock or authorize the issuance of scrip, all on such terms and under such conditions as it may determine. Notwithstanding any other provision of the Charter or these Bylaws, the Board of Directors may authorize the issuance of units consisting of different securities of the Corporation.

ARTICLE VIII

ACCOUNTING YEAR

The Board of Directors shall have the power, from time to time, to fix the fiscal year of the Corporation by a duly adopted resolution.

ARTICLE IX

DISTRIBUTIONS

Section 1. AUTHORIZATION. Dividends and other distributions upon the stock of the Corporation may be authorized by the Board of Directors, subject to the provisions of law and the Charter. Dividends and other distributions may be paid in cash, property or stock of the Corporation, subject to the provisions of law and the Charter.

Section 2. CONTINGENCIES. Before payment of any dividend or other distribution, there may be set aside out of any assets of the Corporation available for dividends or other distributions such sum or sums as the Board of Directors may from time to time, in its sole discretion, think proper as a reserve fund for contingencies, for equalizing dividends, for repairing or maintaining any property of the Corporation or for such other purpose as the Board of Directors shall determine, and the Board of Directors may modify or abolish any such reserve.

ARTICLE X

INVESTMENT POLICY

Subject to the provisions of the Charter, the Board of Directors may from time to time adopt, amend, revise or terminate any policy or policies with respect to investments by the Corporation as it shall deem appropriate in its sole discretion.

ARTICLE XI

SEAL

Section 1. SEAL. The Board of Directors may authorize the adoption of a seal by the Corporation. The seal shall contain the name of the Corporation and the year of its incorporation and the words "Incorporated Maryland." The Board of Directors may authorize one or more duplicate seals and provide for the custody thereof.

Section 2. AFFIXING SEAL. Whenever the Corporation is permitted or required to affix its seal to a document, it shall be sufficient to meet the requirements of any law, rule or regulation relating to a seal to place the word "(SEAL)" adjacent to the signature of the person authorized to execute the document on behalf of the Corporation.

ARTICLE XII

WAIVER OF NOTICE

Whenever any notice of a meeting is required to be given pursuant to the Charter or these Bylaws or pursuant to applicable law, a waiver thereof in writing or by electronic transmission, given by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice. Neither the business to be transacted at nor the purpose of any meeting need be set forth in the waiver of notice of such meeting, unless specifically required by statute. The attendance of any person at any meeting shall constitute a waiver of notice of such meeting, except where such person attends a meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting has not been lawfully called or convened.

ARTICLE XIII
EXCLUSIVE FORUM FOR CERTAIN LITIGATION

Unless the Corporation consents in writing to the selection of an alternative forum, the Circuit Court for Baltimore City, Maryland, or, if that court does not have jurisdiction, the United States District Court for the District of Maryland, Northern Division, shall be the sole and exclusive forum for (a) any Internal Corporate Claim, as such term is defined in the MGCL, or any successor provision thereof, (b) any derivative action or proceeding brought on behalf of the Corporation, other than actions arising under federal securities laws, (c) any action asserting a claim of breach of any duty owed by any director or officer or other employee of the Corporation to the Corporation or to the stockholders of the Corporation, (d) any action asserting a claim against the Corporation or any director or officer or other employee of the Corporation arising pursuant to any provision of the MGCL or the Charter or these Bylaws, or (e) any other action asserting a claim against the Corporation or any director or officer or other employee of the Corporation that is governed by the internal affairs doctrine. None of the foregoing actions, claims or proceedings may be brought in any court sitting outside the State of Maryland unless the Corporation consents in writing to such court.

ARTICLE XIV

AMENDMENT OF BYLAWS

The Board of Directors shall have the exclusive power to adopt, alter or repeal any provision of these Bylaws and to make new Bylaws.

Exhibit 10.15

Execution Version

WARRANT ASSUMPTION AND AMENDMENT AGREEMENT

This Warrant Assumption and Amendment Agreement (this "Agreement") is made as of August 25, 2023 and effective as of the closing of the First Merger (as defined below), by and among Mobile Infrastructure Corporation (f/k/a "The Parking REIT, Inc."), a Maryland Corporation (the "Company"), Fifth Wall Acquisition Corp. III, a Maryland corporation to be renamed Mobile Infrastructure Corporation upon the closing of the Mergers (as defined below) (the "Surviving PubCo") and Color Up, LLC, a Delaware limited liability company ("Color Up").

RECITALS

WHEREAS, the Company and Color Up are parties to that certain warrant agreement dated August 25, 2021, (the "Warrant Agreement") pursuant to which the Company issued to Color Up 1,702,128 warrants (the "Common Stock Warrants") with each such Common Stock Warrant entitling Color Up to purchase one share of common stock, $0.0001 par value per share, of the Company (the "Common Stock"), at an exercise price of $11.75 per share (the "Warrant Price").

WHEREAS, Fifth Wall Acquisition Corp. III, a Cayman Islands exempted company (the "Parent"), Queen Merger Corp. I, a Maryland corporation and wholly owned subsidiary of the Parent ("Merger Sub") and the Company entered into an Agreement and Plan of Merger, dated as of December 13, 2022 (as amended, modified and/or supplemented from time to time, the "Merger Agreement"), pursuant to which, among other things: (i) the Parent agreed to transfer by way of continuation from the Cayman Islands and to domesticate in the State of Maryland resulting in Surviving PubCo (the "Domestication"), (ii) after the Domestication, Merger Sub will merged with and into the Company (the "First Merger"), with the Company surviving the First Merger as a wholly owned subsidiary of the Parent (the "First-Step Surviving Company"), and (iii) immediately following the First Merger, the First-Step Surviving Company will merge with and into Surviving PubCo (the "Second Merger" and, together with the First Merger, the "Mergers"), with the Surviving PubCo continuing as the surviving entity;

WHEREAS, the parties to the Merger Agreement further agreed that, as provided in Section 3.2(a)(iv) of the Merger Agreement, upon the effectiveness of the First Merger, (a) the First-Step Surviving Company shall assume each Common Stock Warrant remaining outstanding and unexpired at that time, (b) each such Common Stock Warrant shall become a warrant (each, a "Surviving PubCo Warrant") to purchase 1.5 shares of common stock, par value $0.0001 per share, of Surviving Pubco, and (c) the exercise price of each such Surviving Pubco Warrant shall be equal to $7.83 per share;

WHEREAS, Section 3.2(a)(iv) of the Merger Agreement requires the Parent to use commercially reasonable efforts to issue to each holder of Surviving Pubco Warrants a document evidencing the assumption by the Parent of the Common Stock Warrants previously held by such holder;

WHEREAS, Section 3.5 of the Warrant Agreement requires the Company to deliver written notice to each holder of Common Stock Warrants upon the occurrence of certain events, including any adjustment to the exercise price of such warrants or the number of shares issuable upon exercise of such warrants; and

WHEREAS, unless otherwise indicated herein, capitalized terms used by not defined herein shall have the meanings given to such terms in the Merger Agreement.

NOW, THEREFORE, in consideration of the mutual agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the parties hereto agree as follows.

ARTICLE I
ASSUMPTION; NOTIFICATION; CONSENT.

Section 1.1 Assumption.

(a) Effective upon the effectiveness of the First Merger, (i) PubCo hereby assumes, and agrees to pay, perform, satisfy and discharge in full, as the same become due, all of the Company's liabilities and obligations under the Warrant Agreement (as amended hereby) arising from and after the execution of this Agreement, and (ii) the each of the parties hereto agree and acknowledge that the transactions contemplated by the Merger Agreement constitute an Alternative Issuance (as defined in Section 3.4 of the Warrant Agreement) and, pursuant to Section 3.4 of the Warrant Agreement, the Warrant Agreement is amended and modified, without any further action of the parties hereto, such that each Common Stock Warrant represents the right to purchase shares of Surviving PubCo pursuant to the terms and conditions of the Warrant Agreement (as amended hereby) and as set forth in Section 1.2.

(b) Each of the Company and Surviving Pubco further agree and acknowledge that the execution and delivery of this Agreement by Surviving Pubco to Color Up shall satisfy the obligation of Surviving Pubco set forth in Section 3.2(a)(iv) of the Merger Agreement to deliver to Color Up a document evidencing the assumption by Surviving Pubco of the Common Stock Warrants previously held by Color Up.

Section 1.2 Notification. The parties hereto agree and acknowledge that, upon and following the effectiveness of the First Merger, each Common Stock Warrant is hereby exercisable for 1.5 shares of common stock, par value $0.0001 per share, of Surviving Pubco at an exercise price of $7.83 per share pursuant to the terms of the Warrant Agreement (as amended hereby). Color Up further agrees and acknowledges that delivery of this Agreement by the Company to Color Up shall satisfy the obligation of the Company set forth in Section 3.5 of the Warrant Agreement to notify Color Up (a) upon the occurrence of the transactions contemplated by the Merger Agreement and (b) of the adjustment of the Warrant Price (as defined in the Warrant Agreement and the number of shares issuable upon exercise of a Common Stock Warrant).

ARTICLE II
AMENDMENT OF WARRANT AGREEMENT

In addition to the amendments contemplated by Section 1.1(a)(ii) and Section 1.2, concurrent with the effectiveness of the First Merger and assumption of the Warrant Agreement pursuant to Section 1.1(a)(i), Surviving Pubco and Color Up hereby amend the Warrant Agreement as provided in this Article 2, effective as of the execution of this Agreement.

Section 2.1 Preamble. The preamble on page one of the Warrant Agreement is hereby amended by deleting "The Parking REIT, Inc." and replacing it with "Mobile Infrastructure Corporation". As a result thereof, all references to the "Company" in the Warrant Agreement shall be references to Surviving PubCo rather than The Parking REIT, Inc.

Section 2.2 Notice. The address for notices to the Company set forth in Section 9.2 of the Warrant Agreement is hereby amended and restated in its entirety as follows:

Mobile Infrastructure Corporation
30 West 4th Street
Cincinnati, OH 45202
Attention: Manuel Chavez, Chief Executive Officer
Email: manuel@mobileit.com

with copies (which shall not constitute notice) to:

Venable LLP
750 E. Pratt Street, Suite 900
Baltimore, MD 21202
Attention: Hirsh M. Ament
Email: HMAment@Venable.com

ARTICLE III
MISCELLANEOUS PROVISIONS

Section 3.1 Termination. Each of the parties hereto acknowledges and agrees that the effectiveness of this Agreement shall automatically be terminated and shall be null and void if the Merger Agreement shall be terminated for any reason.

Section 3.2 Successors. All the covenants and provisions of this Agreement by or for the benefit of the Company, Surviving PubCo or Color Up shall bind and inure to the benefit of their respective successors and assigns.

Section 3.3 Severability. This Agreement shall be deemed severable, and the invalidity or unenforceability of any term or provision hereof shall not affect the validity or enforceability of this Agreement or of any other term or provision hereof. Furthermore, in lieu of any such invalid or unenforceable term or provision, the parties hereto intend that there shall be added as a part of this Agreement a provision as similar in terms to such invalid or unenforceable provision as may be possible and be valid and enforceable.

Section 3.4 Applicable Law. The validity, interpretation and performance of this Agreement shall be governed in all respects by the laws of the State of Maryland, without giving effect to conflict of law principles that would result in the application of the substantive laws of another jurisdiction. The parties hereby agree that any action, proceeding or claim against a party arising out of or relating in any way to this Agreement shall be brought and enforced in the courts of the State of Maryland or the United States District Court for the District of Maryland, Northern Division and irrevocably submits to such jurisdiction, which jurisdiction shall be exclusive. Each of the parties hereby waives any objection to such exclusive jurisdiction and that such courts represent an inconvenient forum.

Section 3.5 Counterparts. This Agreement may be executed in any number of original or facsimile counterparts and each of such counterparts shall for all purposes be deemed to be an original, and all such counterparts shall together constitute but one and the same instrument.

Section 3.6 Effect of Headings. The section headings herein are for convenience only and are not part of this Agreement and shall not affect the interpretation thereof.

Section 3.7 Entire Agreement. This Agreement and the Warrant Agreement, as modified by this Agreement, constitutes the entire understanding of the parties and supersedes all prior agreements, understandings, arrangements, promises and commitments, whether written or oral, express or implied, relating to the subject matter hereof, and all such prior agreements, understandings, arrangements, promises and commitments are hereby canceled and terminated.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, Surviving PubCo, the Company and Color Up have duly executed this Agreement, all as of the date first written above.

COMPANY:

MOBILE INFRASTRUCTURE CORPORATION

By: */s/ Stephanie Hogue*
Name: Stephanie Hogue
Title: President, Chief Financial Officer, Treasurer and Secretary

SURVIVING PUBCO:

By: */s/ Andriy Mykhaylovskyy*
Name: Andriy Mykhaylovskyy
Title: Chief Financial Officer

COLOR UP:

COLOR UP, LLC

By: */s/ Manual Chavez, III*
Name: Manuel Chavez, III
Title: Chief Executive Officer

Exhibit 10.16

AMENDED AND RESTATED WARRANT AGREEMENT

MOBILE INFRASTRUCTURE CORPORATION

and COLOR UP, LLC

Dated as of August 29, 2023

THIS AMENDED AND RESTATED WARRANT AGREEMENT (this "Agreement"), dated as of August 29, 2023, is by and between Mobile Infrastructure Corporation, a Maryland corporation (the "Company"), and Color Up, LLC, a Delaware limited liability company (the "Purchaser").

WHEREAS, in accordance with the Warrant Agreement, dated as of August 25, 2021, by and between the Company and the Purchaser (the "Original Warrant Agreement"), each warrant entitled the holder thereof to purchase one share of common stock of the Company, par value $0.0001 per share ("Common Stock"), for $11.75 per share, subject to adjustment;

WHEREAS, on December 13, 2022, the Company (as successor in interest to Fifth Wall Acquisition Corp. III, a Cayman Islands exempted company ("FWAC")), entered into that certain Agreement and Plan of Merger, dated as of December 13, 2022, as amended by that certain First Amendment to Agreement and Plan of Merger, dated as of March 23, 2023, by and among FWAC, Queen Merger Corp. I, a Maryland corporation and a wholly-owned subsidiary of FWAC ("Merger Sub"), and Mobile Infrastructure Corporation, a Maryland corporation ("MIC"), whereby Merger Sub merged with and into MIC, with MIC continuing as the surviving entity (the "First-Step Surviving Company"), and (b) the First-Step Surviving Company merged with and into FWAC in accordance with the Maryland General Corporation Law, with the Company continuing as the surviving entity resulting from the merger (collectively, the "Merger");

WHEREAS, in connection with the Merger, the number of warrants subject to the Original Warrant Agreement was adjusted from 1,702,128 to 2,553,192 (the "Warrants") and the Warrant Price (as defined below) was adjusted from $11.75 per share to $7.83 per share; and

WHEREAS, the Original Warrant Agreement is hereby amended and restated to provide for the form and provisions of the Warrants after giving effect to the Merger, the terms upon which the Warrant Shares (as defined below) shall be issued and exercised, and the respective rights, limitation of rights, and immunities of the Company and the holders of the Warrants.

NOW, THEREFORE, in consideration of the mutual agreements herein contained, the parties hereto agree as follows:

1. Warrants.

1.1 Form of Warrant. Each Warrant shall be issued in registered form and shall be substantially in the form of Exhibit A hereto, the provisions of which are incorporated herein and shall be signed by, or bear the facsimile signature of, the Chief Executive Officer, President, Chief Financial Officer, Secretary or other officer of the Company. In the event the Person whose electronic signature has been placed upon any Warrant shall have ceased to serve in the capacity in which such Person signed the Warrant before such Warrant is issued, it may be issued with the same effect as if he or she had not ceased to be such at the date of issuance.

1.2 Registration.

1.2.1. Warrant Register. The Company shall maintain books (the "Warrant Register") for the registration of original issuance and the registration of transfer of the Warrants. Upon the initial issuance of the Warrants, the Company shall register the Warrants in the names and denominations of the respective holders thereof.

1.2.2. Registered Holder. Prior to due presentment for registration of transfer of any Warrant, the Company may deem and treat the Person in whose name such Warrant is registered in the Warrant Register (the "Registered Holder") as the absolute owner of such Warrant and of each Warrant represented thereby (notwithstanding any notation of ownership or other writing on the Warrant Certificate (as defined below) made by anyone other than the Company), for the purpose of any exercise thereof, and for all other purposes, and the Company shall not be affected by any notice to the contrary.

2. Terms and Exercise of Warrants.

2.1 Warrant Price. Each Warrant shall entitle the Registered Holder thereof, subject to the provisions of such Warrant and of this Agreement, to purchase from the Company one share of Common Stock, at the price of $7.83 per share (such shares, the "Warrant Shares"), subject to the adjustments provided in Section 3. The term "Warrant Price" as used in this Agreement shall mean the price per share at which shares of Common Stock may be purchased at the time a Warrant is exercised.

2.2 Duration of Warrants. A Warrant may be exercised from the date hereof (the "Exercise Period") and terminating at 5:00 p.m., New York City time, on August 25, 2026 (the "Expiration Date"); provided, however, that the exercise of any Warrant shall be subject to the satisfaction of any applicable conditions set forth in this Agreement, including the conditions set forth in Section 2.4.

2.3 Exercise of Warrants.

2.3.1. Exercise Procedure. Subject to the provisions of the Warrant and this Agreement, a Warrant may be exercised by the Registered Holder thereof (A) by delivering to the Company at its address set forth in Section 9.2 hereof, (i) the Warrant Certificate (in the form attached hereto as Exhibit A, the "Warrant Certificate") evidencing the Warrants to be exercised, and (ii) a notice of exercise (in the form attached hereto as Exhibit B), properly completed and executed by the Registered Holder on the reverse of the Warrant Certificate, and (B) by paying full the Warrant Price for each full share of Common Stock as to which the Warrant is exercised in lawful money of the Unites States, by wire transfer to the Company, unless Net Exercise is elected in accordance with Section 2.3.2.

2.3.2. Net Exercise. In lieu of exercising the Warrant pursuant to Section 2.3.1., at any time, the Purchaser may elect to credit the Warrant Price against the Fair Market Value of the Warrant Shares at the time of exercise (the "Net Exercise") pursuant to this Section 2.3.2. If the Company shall receive written notice from the Purchaser at the time of exercise of the Warrant that the Purchaser elects to Net Exercise the Warrant, the Company shall deliver to the Purchaser (without payment by the Purchaser of any exercise price in cash) that number of Warrant Shares computed using the following formula:

$$X = \frac{Y\,(A - B)}{A}$$

where

X= The number of Warrant Shares to be issued to the Purchaser.

Y= The number of Warrant Shares purchasable under the Warrant or, if only a portion of the Warrant is being exercised, the portion of the Warrant being cancelled (at the date of such calculation).

A= The Fair Market Value of one share of Common Stock.

B= The Warrant Price (as adjusted hereunder).

2.3.3. Issuance of Shares of Common Stock on Exercise. As soon as practicable after the exercise of any Warrant and, if applicable, the clearance of the funds in payment of the Warrant Price in accordance with Section 2.3.1, the Company shall issue to the Registered Holder of such Warrant a certificate or certificates for the number of full shares of Common Stock to which he, she or it is entitled, registered in such name or names as may be directed by him, her or it, and if such Warrant shall not have been exercised in full, a new countersigned Warrant for the number of shares as to which such Warrant shall not have been exercised.

2.3.4. Date of Issuance. Each person in whose name any certificate for shares of Common Stock is issued shall for all purposes be deemed to have become the holder of record of such shares of Common Stock on the date on which the Warrant was surrendered and, if applicable, payment of the Warrant Price was made, irrespective of the date of delivery of such certificate, except that, if the date of such surrender and payment is a date when the share transfer books of the Company are closed, such person shall be deemed to have become the holder of such shares at the close of business on the next succeeding date on which the share transfer books are open.

2.4 Limitation on Exercise Rights. Notwithstanding anything to the contrary contained herein, the number of Warrant Shares that may be acquired by the Registered Holder upon any exercise a Warrant (or otherwise in respect hereof) shall be limited to the extent necessary to ensure that, following such exercise (or other issuance), the total number of shares of Common Stock then beneficially owned by such Registered Holder and any other Persons whose beneficial ownership of Common Stock would be aggregated with the Registered Holder's pursuant to Sections 542(a)(2) and 544 of the United States Internal Revenue Code of 1986, as amended (the "Code"), as those sections are used in Section 856(h) of the Code, does not exceed 9.8% of the

total number of issued and outstanding shares of Common Stock (including for such purpose the shares of Common Stock issuable upon such exercise) unless the Board of Directors has, in its sole discretion, granted the Registered Holder a waiver from the stock ownership limitations set forth in the Charter. The parties hereto acknowledge that certain listing standards of the Trading Market may generally require the Company to obtain the approval of its stockholders before entering into certain transactions that potentially result in the issuance of 20% or more of its outstanding Common Stock; accordingly, in the event of an exercise of the Warrants that would result in the total number of shares of Common Stock then beneficially owned by a Registered Holder and any Affiliate of such Registered Holder exceeding 19.9% of the total number of then issued and outstanding shares of Common Stock (including for such purpose the shares of Common Stock issuable upon such exercise), the Company shall, at its discretion, either obtain stockholder approval of such issuances or upon settlement of the exercise of such Warrant deliver cash in lieu of any shares otherwise deliverable upon exercise of such Warrant in excess of such limitation, in accordance with the provisions of Section 2 hereof.

3. Adjustments.The Warrant Price and shares of Common Stock issuable upon exercise of a Warrant shall be subject to adjustment from time to time as follows; provided, that no single event shall cause an economically duplicative adjustment under more than one subsection of this Section 3.

3.1 Split-Ups/Dividends. If after the date hereof, and subject to the provisions of Section 3.6 below, the number of outstanding shares of Common Stock is increased by a stock dividend payable in shares of Common Stock, or by a split-up of shares of Common Stock or other similar event, then, on the effective date of such stock dividend, split-up or similar event, the number of shares of Common Stock issuable on exercise of each Warrant shall be increased in proportion to such increase in the outstanding shares of Common Stock.

3.2 Aggregation of Shares. If after the date hereof, and subject to the provisions of Section 3.6 hereof, the number of outstanding shares of Common Stock is decreased by a consolidation, combination, reverse stock split or reclassification of shares of Common Stock or other similar event, then, on the effective date of such consolidation, combination, reverse stock split, reclassification or similar event, the number of shares of Common Stock issuable on exercise of each Warrant shall be decreased in proportion to such decrease in outstanding shares of Common Stock.

3.3 Adjustments in Warrant Price. Whenever the number of shares of Common Stock purchasable upon the exercise of the Warrants is adjusted, as provided in Section 3.1 or 3.2 above, the Warrant Price shall be adjusted (to the nearest cent) by multiplying such Warrant Price immediately prior to such adjustment by a fraction (x) the numerator of which shall be the number of shares of Common Stock purchasable upon the exercise of the Warrants immediately prior to such adjustment, and (y) the denominator of which shall be the number of shares of Common Stock so purchasable immediately thereafter. The aggregate Warrant Price payable for the total number of Warrant Shares purchasable under the Warrants (as adjusted) shall remain the same.

3.4 Replacement of Securities upon Reorganization, etc. In case of any reclassification or reorganization of the outstanding shares of Common Stock (other than a change under Section 3.1 or Section 3.2 hereof or that solely affects the par value of such shares of Common Stock), or in the case of any merger or consolidation of the Company with or into another corporation (other than a consolidation or merger in which the Company is the continuing corporation and that does not result in any reclassification or reorganization of the outstanding shares of Common Stock), or in the case of any sale or conveyance to another corporation or entity of the assets or other property of the Company as an entirety or substantially as an entirety in connection with which the Company is dissolved, the holders of the Warrants shall thereafter have the right to purchase and receive, upon the basis and upon the terms and conditions specified in the Warrants and in lieu of the shares of Common Stock immediately theretofore purchasable and receivable upon the exercise of the rights represented thereby, the kind and amount of shares of stock or other securities or property (including cash) receivable upon such reclassification, reorganization, merger or consolidation, or upon a dissolution following any such sale or transfer, that the holder of the Warrants would have received if such holder had exercised his, her or its Warrant(s) immediately prior to such event (the "Alternative Issuance"); provided, however, that (i) if the holders of Common Stock were entitled to exercise a right of election as to the kind or amount of securities, cash or other assets receivable upon such consolidation or merger, then the kind and amount of securities, cash or other assets constituting the Alternative Issuance for which each Warrant shall become exercisable shall be deemed to be the weighted average of the kind and amount received per share by the holders of Common Stock in such consolidation or merger that affirmatively make such election, and (ii) if a tender, exchange or redemption offer shall have been made to and accepted by the holders of Common Stock under circumstances in which, upon completion of such tender or exchange offer, the maker thereof, together with members of any group (within the meaning of Rule 13d- 5(b)(1) under the Securities Exchange Act of 1934, as amended (the "Exchange Act")) of which such maker is a part, and together with any affiliate or associate of such maker (within the meaning of Rule 12b-2 under the Exchange Act) and any members of any such group of which any such affiliate or associate is a part, own beneficially (within the meaning of Rule 13d-3 under the Exchange Act) more than 50% of the outstanding shares of Common Stock, the holder of a Warrant shall be entitled to receive as the Alternative Issuance, the highest amount of cash, securities or other property to which such holder would actually have been entitled as a stockholder if such Warrant holder had exercised the Warrant prior to the expiration of such tender or exchange offer, accepted such offer and all of the Common Stock held by such holder had been purchased pursuant to such tender or exchange offer, subject to adjustments (from and after the consummation of such tender or exchange offer) as nearly equivalent as possible to the adjustments provided for in this Section 3.

3.5 Notices of Changes in Warrant. Upon every adjustment of the Warrant Price or the number of shares issuable upon exercise of a Warrant, the Company shall give written notice thereof to the each holder of a Warrant pursuant to Section 9.2 of this Agreement, which notice shall state the Warrant Price resulting from such adjustment and the increase or decrease, if any, in the number of shares purchasable at such price upon the exercise of a Warrant, setting forth in reasonable detail the method of calculation and the facts upon which such calculation is based. Upon the occurrence of any event specified in Sections 3.1, 3.2, 3.3 or 3.4, the Company shall give written notice of the occurrence of such event to each holder of a Warrant, at the last address set forth for such holder in the Warrant Register, of the record date or the effective date of the event. Failure to give any such notice, or any defect therein, shall not affect the legality or validity of such event.

3.6 No Fractional Shares. Notwithstanding any provision contained in this Agreement to the contrary, the Company shall not issue fractional shares upon the exercise of Warrants. If, by reason of any adjustment made pursuant to this Section 3, the holder of any Warrant would be entitled, upon the exercise of such Warrant, to receive a fractional interest in a share, the Company shall, upon such exercise, pay cash equal to the product of such fraction multiplied by the Fair Market Value of one Warrant Share.

3.7 Form of Warrant. The form of Warrant need not be changed because of any adjustment pursuant to this Section 3, and Warrants issued after such adjustment may state the same Warrant Price and the same number of shares as is stated in the Warrants initially issued pursuant to this Agreement; provided, however, that the Company may at any time in its sole discretion make any change in the form of Warrant that the Company may deem appropriate and that does not affect the substance thereof, and any Warrant thereafter issued or countersigned, whether in exchange or substitution for an outstanding Warrant or otherwise, may be in the form as so changed.

3.8 Other Events. In case any event shall occur affecting the Company as to which none of the provisions of preceding subsections of this Section 3 are strictly applicable, but which would require an adjustment to the terms of the Warrants in order to (i) avoid an adverse impact on the Warrants and (ii) effectuate the intent and purpose of this Section 3, then, in each such case, the Company shall appoint a firm of independent public accountants, investment banking or other appraisal firm of recognized national standing, reasonably acceptable to the Registered Holder, which shall give its opinion as to whether or not any adjustment to the rights represented by the Warrants is necessary to effectuate the intent and purpose of this Section 3 and, if they determine that an adjustment is necessary, the terms of such adjustment. The Company shall adjust the terms of the Warrants in a manner that is consistent with any adjustment recommended in such opinion.

4. Transfer and Exchange of Warrants.

4.1 Restrictions on Transfer. Except as permitted pursuant to this Section 4.1, the Warrants may not be sold, assigned, disposed of, pledged, hypothecated, encumbered or otherwise transferred (collectively, a "Transfer") by the Registered Holder without the prior written consent of the Company which consent may be withheld in its sole and absolute discretion until six months following the date hereof. Notwithstanding the foregoing, the restriction on Transfer shall not apply to a Transfer by a Registered Holder to a Permitted Transferee. Six months following the date hereof, the Warrants may be freely Transferred subject to compliance with applicable securities laws. Notwithstanding the preceding two sentences, following any Transfer any such Warrants subject to a Transfer permitted pursuant to this Section 4.1 shall at all times remain subject to the terms and restrictions set forth in this Agreement. Any Transfer of the Warrants and Warrant Shares must be in compliance with the Securities Act of 1933, as amended (the "Act"), and applicable state securities Laws and, unless such Warrants or Warrant Shares are transferred pursuant to an effective registration statement under the Act, if requested by the Company, receipt by the Company of an opinion of counsel, reasonably satisfactory to the Company, that such Transfer is in compliance with the Act and applicable state securities Laws.

4.2 Registration on Transfer. Subject to the instructions set forth in Section 4.1, the Company shall register the transfer, from time to time, of any outstanding Warrant upon the Warrant Register, upon surrender of such Warrant by the Registered Holder to the Company for transfer, properly endorsed with signatures properly guaranteed and accompanied by appropriate instructions for transfer. Upon any such transfer, a new Warrant shall be issued and the old Warrant shall be cancelled by the Company.

4.3 Procedure for Surrender of Warrants. Warrants may be surrendered to the Company, together with a written request for exchange or transfer, and thereupon the Company shall issue in exchange therefor one or more new Warrants as requested by the Registered Holder of the Warrants so surrendered, representing an equal aggregate number of Warrants; provided, however, that in the event that a Warrant surrendered for transfer bears a restrictive legend, the Company shall not cancel such Warrant and issue new Warrants in exchange thereof until the Company has received an opinion of counsel stating that such transfer may be made and indicating whether the new Warrants must also bear a restrictive legend.

4.4 Fractional Warrants. The Company shall not be required to effect any registration of transfer or exchange of a Warrant which shall result in the issuance of a warrant certificate for a fraction of a Warrant.

4.5 Service Charges. No service charge shall be made for any exchange or registration of Transfer of Warrants.

5. Other Provisions Relating to Rights of Holders of Warrants.

5.1 No Rights as Stockholder. A Warrant does not entitle the Registered Holder thereof to any of the rights of a stockholder of the Company, including, without limitation, the right to receive dividends, or other distributions, exercise any preemptive rights, to vote or to consent or to receive notice as stockholders in respect of the meetings of stockholders or the election of directors of the Company or any other matter.

5.2 Lost, Stolen, Mutilated, or Destroyed Warrants. If any Warrant is lost, stolen, mutilated, or destroyed, the Company shall, on such terms as to indemnity or otherwise as the Company may in its discretion reasonably impose (which shall, in the case of a mutilated Warrant, include the surrender thereof), issue a new Warrant of like denomination, tenor, and date as the Warrant so lost, stolen, mutilated, or destroyed. Any such new Warrant shall constitute a substitute contractual obligation of the Company, whether or not the allegedly lost, stolen, mutilated, or destroyed Warrant shall be at any time enforceable by anyone.

5.3 Registration of Common Stock. Any Common Stock issuable to Purchaser upon exercise of the Warrants shall be "Registerable Shares," as such is defined in that certain Registration Rights Agreement, dated as of August 25, 2023, by and among the Company and the other parties party thereto (the "Registration Rights Agreement"), and entitled to the registration rights provided therein. Notwithstanding anything to the contrary herein, if a Warrant is exercised in connection with the exercise of the Registered Holder's registration rights in accordance with the Registration Rights Agreement, such Warrant shall not be deemed to have been exercised to the extent that the applicable Warrant Shares are not sold in the applicable offering. The Company will procure, subject to issuance or notice of issuance, the listing of any Warrant Shares issuable upon exercise of a Warrant on the principal stock exchange on which shares of Common Stock are then listed or traded.

6. Covenants. The Company warrants and agrees for the benefit of the Registered Holders that:

6.1 Due Authorization and Valid Issuance. All shares of Common Stock which may be issued upon the exercise of the Warrants will, upon issue be duly authorized, validly issued, fully paid and non-assessable, issued without violation of any preemptive or similar rights of any stockholder of the Company and free and clear of all liens and encumbrances, with no personal liability attaching to the ownership thereof.

6.2 Sufficient Number of Shares. During the Exercise Period, the Company will at all times have authorized and reserved for the purpose of issue upon exercise of the rights evidenced by the Warrants, a sufficient number of shares of Common Stock to provide for the exercise of the Warrants.

6.3 Compliance with Law. The Company shall take all such actions as may be necessary to ensure that all such Warrant Shares are issued without violation by the Company of any applicable Law or governmental regulation or any requirements of any domestic securities exchange upon which shares of Common Stock or other securities constituting Warrant Shares may be listed at the time of such exercise (except for the official notice of issuance which shall be immediately delivered by the Company upon each such issuance).

6.4 Listing on National Exchange. The Company shall use its best efforts to cause the Warrant Shares, immediately upon such exercise, to be listed on any domestic securities exchange upon which shares of Common Stock or other securities constituting Warrant Shares are listed at the time of such exercise.

7. Representations and Warranties.

7.1 Representation by the Company. The Company represents that (a) the Warrant is, and any Warrant issued in substitution for or replacement of the Warrant shall be, upon issuance, duly authorized and validly issued and (b) all corporate actions on the part of the Company necessary for the issuance of the Warrants and the Common Stock issuable upon exercise of the Warrants have been taken.

7.2 Representations and Warranties by the Registered Holder. The Registered Holder represents and warrants to the Company as follows:

a) The Warrants and the shares of Common Stock issuable upon exercise thereof are being acquired for its own account, for investment and not with a view to, or for resale in connection with, any distribution or public offering thereof within the meaning of the Act.

b) The Registered Holder understands that the Warrants and the shares of Common Stock have not been registered under the Act by reason of their issuance in a transaction exempt from the registration and prospectus delivery requirements of the Act pursuant to Section 4(a)(2) thereof, and that they must be held by the Registered Holder indefinitely, and that the Registered Holder must therefore bear the economic risk of such investment indefinitely, unless a subsequent disposition thereof is registered under the Act or is exempted from such registration.

c) The Registered Holder has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of the acquisition of the Warrants and the shares of Common Stock purchasable pursuant to the terms of the Warrants and of protecting its interests in connection therewith.

d) The Registered Holder is able to bear the economic risk of the purchase of the shares of Common Stock pursuant to the terms of the Warrants.

e) The Registered Holder is an "accredited investor" as such term is defined in Rule 501 of Regulation D promulgated under the Act.

8. Taxes.

8.1 Withholding. The Company and its paying agent shall be entitled to deduct and withhold taxes on all payments and distributions (or deemed distributions) on the Warrants and Warrant Shares to the extent required by applicable Law. To the extent that any amounts are so deducted or withheld, such deducted or withheld amounts shall be treated for all purposes of a Warrant as having been paid to the Person in respect of which such deduction or withholding was made. In the event the Company previously remitted any amounts to a governmental authority on account of such taxes required to be deducted or withheld in respect of any payment or distribution (or deemed distribution) with respect to a Warrant or Warrant Share (or in respect of any payment or distribution (or deemed distribution) in respect thereof), the Company shall be entitled (i) to offset any such amounts against any amounts otherwise payable in respect of such Warrant or Warrant Share or (ii) to require the Person in respect of whom such deduction or withholding was made to reimburse the Company for such amounts (and such Person shall promptly so reimburse the Company upon demand). The Company shall take commercially reasonable steps to minimize or eliminate any withholding or deduction described in this Section 8.1, including by giving the Person in respect of whom such deduction or withholding may be made an opportunity to provide additional information or to apply for an exemption from, or a reduced rate of, withholding. Notwithstanding anything to the contrary in this Section 8.1, the Company shall (i) make commercially reasonable efforts to notify each holder of Warrants or Warrant Shares at least ten (10) Business Days prior to any withholding of its intention of any such withholding (it being understood that any such notice shall include a brief written description of the basis for such withholding) and (ii) not withhold with respect to any U.S. federal withholding tax if it receives a properly completed and duly executed IRS Form W-9 certifying its exemption from withholding from a holder of Warrants or Warrant Shares.

8.2 Transfer Tax. The Company shall pay any and all documentary, stamp and similar issue or transfer tax ("Transfer Tax") due on the issue of shares of Warrant Shares or certificates representing such shares or securities. However, the Company shall not be required to pay any Transfer Tax that may be payable in respect of the issue or delivery (or any transfer involved in the issue or delivery) of Warrant Shares to a beneficial owner other than the beneficial

owner of the Warrant Shares immediately prior to the event pursuant to which such issue or delivery is required, and no such issue or delivery shall be made unless and until the person requesting such issue or delivery has paid to the Company the amount of any such Transfer Tax or has established to the satisfaction of the Company that such Transfer Tax has been paid or is not payable.

8.3 Warrant Value. The parties intend that the fair market value as of August 25, 2021 for federal income tax purposes of the Warrants issued hereby shall not be in excess of $400,000, and the parties shall perform their federal (and conforming state and local) income tax reporting consistent therewith, except to the extent otherwise required by applicable law.

9. Miscellaneous Provisions.

9.1 Successors. All the covenants and provisions of this Agreement by or for the benefit of the Company shall bind and inure to the benefit of its respective successors and assigns.

9.2 Notices. Any notice, statement or demand authorized by this Agreement to be given or made by the holder of any Warrant to or on the Company shall be in writing and shall be given or made (and shall be deemed to have been duly given or made upon receipt) by delivery in person, by overnight courier service, by email with receipt confirmed, or by registered or certified mail (postage prepaid, return receipt requested) at the following addresses (or at such other address as shall be specified in a notice given in accordance with this Section 9.2):

Mobile Infrastructure Corporation
30 W. 4th Street
Cincinnati, Ohio 45202
Attention: Stephanie Hogue
Email: stephanie@mobileit.com

With a copy to (which copy alone shall not constitute notice):

Venable LLP
750 E. Pratt St., Suite 900
Baltimore, Maryland 21202
Attn: Hirsh Ament
Email: Hament@Venable.com

Any notice, statement or demand authorized by this Agreement to be given or made by the Company to the holder of any Warrant shall be in writing and shall be given or made (and shall be deemed to have been duly given or made upon receipt) by delivery in person, by overnight courier service, by email with receipt confirmed, or by registered or certified mail (postage prepaid, return receipt requested) at the following addresses (or at such other address as shall be specified in a notice given in accordance with this Section 9.2):

Color Up, LLC
c/o Bombe Asset Management, Ltd.
250 E. 5th Street, Suite 2110
Cincinnati, Ohio 45202
Attn: Manuel Chavez, III
Email: [***]

With a copy to (which copy alone shall not constitute notice):

Keating Muething & Klekamp PLL
One East Fourth Street, Suite 1400
Cincinnati, Ohio 45202
Attention: Allison Westfall
Email: AWestfall@kmklaw.com

9.3 Amendments. All modifications or amendments to this Agreement, including any amendment to increase the Warrant Price or shorten the Exercise Period, shall require the vote or written consent of the Registered Holders of a majority of the then outstanding Warrants. Notwithstanding the foregoing, the Company may lower the Warrant Price pursuant to Section 3 of this Agreement or extend the duration of the Exercise Period without the consent of the Registered Holders.

9.4 Counterparts. This Agreement may be executed in one or more counterparts (including by facsimile or electronic mail), each of which shall be deemed to be an original but all of which taken together shall constitute one and the same agreement, and shall become effective when one or more counterparts have been signed by each of the parties hereto and delivered to the other parties hereto.

9.5 Entire Agreement; No Third-Party Beneficiaries. This Agreement constitutes the entire agreement and supersedes all other prior agreements and understandings, both written and oral, among the parties and their Affiliates, or any of them, with respect to the subject matter hereof. No provision of this Agreement shall confer upon any Person other than the parties hereto, the Registered Holders of the Warrants and their permitted assigns any rights or remedies hereunder. This Agreement may only be enforced against, and any claims or causes of action that may be based upon, arise out of or relate to this Agreement, or the negotiation, execution or performance of this Agreement may only be made against the entities that are expressly identified as parties hereto and the Registered Holders of the Warrants.

9.6 Governing Law; Jurisdiction.

9.6.1. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Maryland applicable to contracts executed in and to be performed entirely within that State, regardless of the laws that might otherwise govern under any applicable conflict of Laws principles.

9.6.2. All actions and proceedings arising out of or relating to this Agreement shall be heard and determined exclusively in any Maryland state or federal court. The parties hereto hereby (a) submit to the exclusive jurisdiction of any Maryland state or federal court, for the purpose of any action or proceeding arising out of or relating to this Agreement brought by any party hereto, and (b)

irrevocably waive, and agree not to assert by way of motion, defense, or otherwise, in any such action or proceeding, any claim that it is not subject personally to the jurisdiction of the above-named courts, that its property is exempt or immune from attachment or execution, that the action or proceeding is brought in an inconvenient forum, that the venue of the action or proceeding is improper, or that this Agreement or the transactions contemplated hereby may not be enforced in or by any of the above-named courts.

9.7 Specific Enforcement. The parties hereto agree that irreparable damage for which monetary relief, even if available, would not be an adequate remedy, would occur in the event that the parties hereto do not perform the provisions of this Agreement in accordance with its specified terms or otherwise breach such provisions. Accordingly the parties acknowledge and agree that the parties shall be entitled to an injunction or injunctions, specific performance or other equitable relief to prevent breaches of this Agreement and to enforce specifically the terms and provisions hereof in the courts without proof of damages or otherwise, this being in addition to any other remedy to which they are entitled under this Agreement and this right of specific enforcement is an integral part of the transactions contemplated hereby and without that right, the parties would not have entered into this Agreement. The parties agree not to assert that a remedy of specific enforcement is unenforceable, invalid, contrary to Law or inequitable for any reason, and agree not to assert that a remedy of monetary damages would provide an adequate remedy or that the parties otherwise have an adequate remedy at law. The parties acknowledge and agree that any party shall not be required to provide any bond or other security in connection with its pursuit of an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions hereof.

9.8 Waiver of Jury Trial. EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY THAT MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE IT HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT AND THE WARRANTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER, (B) IT UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF SUCH WAIVER, (C) IT MAKES SUCH WAIVER VOLUNTARILY AND (D) IT HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVER AND CERTIFICATIONS IN THIS SECTION 9.8.

9.9 Severability. If any term, condition or other provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal or incapable of being enforced by any rule of Law or public policy, all other terms, provisions and conditions of this Agreement shall nevertheless remain in full force and effect. Upon such determination that any term, condition or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible to the fullest extent permitted by applicable Law.

9.10 Interpretation. When a reference is made in this Agreement to a Section or Exhibit, such reference shall be to a Section of, or an Exhibit to this Agreement unless otherwise indicated. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. Whenever the words "include," "includes" or "including" are used in this Agreement, they shall be deemed to be followed by the words "without limitation." The words "hereof," "herein" and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement unless the context requires otherwise. The words "date hereof" when used in this Agreement shall refer to the date of this Agreement. The terms "or," "any" and "either" are not exclusive. The word "extent" in the phrase "to the extent" shall mean the degree to which a subject or other thing extends, and such phrase shall not mean simply "if." The word "will" shall be construed to have the same meaning and effect as the word "shall." All terms defined in this Agreement shall have the defined meanings when used in any document made or delivered pursuant hereto unless otherwise defined therein. The definitions contained in this Agreement are applicable to the singular as well as the plural forms of such terms and to the masculine as well as to the feminine and neuter genders of such term. Any agreement, instrument or statute defined or referred to herein or in any agreement or instrument that is referred to herein means such agreement, instrument or statute as from time to time amended, modified or supplemented, including (in the case of agreements or instruments) by waiver or consent and (in the case of statutes) by succession of comparable successor statutes and references to all attachments thereto and instruments incorporated therein. Unless otherwise specifically indicated, all references to "dollars" or "$" shall refer to the lawful money of the United States. References to a Person are also to its permitted assigns and successors. When calculating the period of time between which, within which or following which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period shall be excluded and, unless otherwise required by Law, if the last day of such period is not a Business Day, the period in question shall end on the next succeeding Business Day.

10. Definitions. For purposes of this Agreement and the Warrants, the following terms have the following meanings:

"Affiliate" means, with respect to any specified Person, any other Person that, directly or indirectly, controls, is controlled by, or is under common control with such Person, including, without limitation, any general partner, managing member, officer or director of such Person.

"Business Day" means each day other than a Saturday, Sunday or other day on which banks in New York, New York are not required by Law to be open.

"Charter" means the charter of the Company, as may be amended, restated, or amended and restated from time to time, in the form filed with, and accepted for record by, the State Department of Assessments and Taxation of Maryland.

"Fair Market Value" of one share of Common Stock shall mean (w) the last reported sales price of the Common Stock for such day on the domestic securities exchange on which the Common Stock may at the time be listed; (x) if there have been no sales of the Common Stock on any such exchange on any such day, the average of the highest bid and lowest asked prices for the Common Stock on such exchange at the end of such day; (y) if on any such day the Common Stock

is not listed on a domestic securities exchange, the closing sales price of the Common Stock as quoted on the OTC Bulletin Board, the Pink OTC Markets or similar quotation system or association for such day; or (z) if there have been no sales of the Common Stock on the OTC Bulletin Board, the Pink OTC Markets or similar quotation system or association on such day, the average of the highest bid and lowest asked prices for the Common Stock quoted on the OTC Bulletin Board, the Pink OTC Markets or similar quotation system or association at the end of such day; in each case, averaged over five (5) consecutive Business Days ending on the Business Day immediately prior to the day as of which Fair Market Value is being determined as displayed under the heading "Bloomberg VWAP" on the applicable Bloomberg Markets page for the Company; provided, that if the Common Stock is listed on any domestic securities exchange, the term "Business Day" as used in this sentence means Business Days on which such exchange is open for trading. If at any time the Fair Market Value cannot be calculated as of such date on the foregoing basis, the Fair Market Value shall be such value as determined in good faith by the Board of Directors.

"Law" means any U.S. federal, U.S. state, national, local, foreign or other statute, law, treaty, rule, code, regulation, ordinance or other requirement of any kind of any governmental entity, including the common law.

"Permitted Transferee" means, with respect to a Registered Holder, (i) any controlled affiliate of such Registered Holder, (ii) any member of Color Up, LLC, or (iii) any direct or indirect member or limited partner of such Registered Holder of which the Registered Holder serves as the general partner, managing member or discretionary manager or advisor.

"Person" means any individual, corporation, partnership, trust, limited liability company, association or other entity.

"Trading Market" means any of the following markets or exchanges on which the Common Stock may be listed or quoted for trading on the date in question: the Nasdaq Global Market, the Nasdaq Global Select Market, the New York Stock Exchange or the NYSE American LLC (or any successors to any of the foregoing).

[*Remainder of page intentionally left blank*]

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

COMPANY:

MOBILE INFRASTRUCTURE CORPORATION, a Maryland corporation

By: */s/ Stephanie Hogue*
Name: Stephanie Hogue
Title: President, Chief Financial Officer, Secretary and Treasurer

PURCHASER:

COLOR UP, LLC, a Delaware limited liability company

By: */s/ Manuel Chavez*
Name: Manuel Chavez
Title: Chief Executive Officer

EXHIBIT A

[Form of Warrant Certificate]

[FACE]

Number

Warrants

THE SECURITIES REPRESENTED BY THIS INSTRUMENT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"), OR THE SECURITIES LAWS OF ANY STATE AND MAY NOT BE TRANSFERRED, SOLD OR OTHERWISE DISPOSED OF EXCEPT WHILE A REGISTRATION STATEMENT RELATING THERETO IS IN EFFECT UNDER SUCH ACT AND APPLICABLE STATE SECURITIES LAWS OR PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER SUCH ACT OR SUCH LAWS.

THE SECURITIES REPRESENTED BY THIS INSTRUMENT ARE SUBJECT TO RESTRICTIONS SET FORTH IN THE STOCKHOLDERS AGREEMENT, DATED AS OF AUGUST 25, 2021, THE AMENDED AND RESTATED WARRANT AGREEMENT AND THE CHARTER (AS DEFINED HEREIN), COPIES OF WHICH ARE ON FILE WITH THE SECRETARY OF THE ISSUER.

THIS WARRANT SHALL BE VOID IF NOT EXERCISED PRIOR TO THE EXPIRATION OF THE EXERCISE PERIOD PROVIDED FOR IN THE AMENDED AND RESTATED WARRANT AGREEMENT DESCRIBED BELOW

MOBILE INFRASTRUCTURE CORPORATION

Incorporated Under the Laws of the State of Maryland

Warrant Certificate

This Warrant Certificate certifies that _____, or registered assigns, is the Registered Holder of _____ warrants (the "Warrants") to purchase shares of Common Stock, $0.0001 par value ("Common Stock"), of Mobile Infrastructure Corporation, a Maryland corporation (the "Company"). Each Warrant entitles the holder, upon exercise during the period set forth in the Warrant Agreement referred to below, to receive from the Company that number of fully paid and nonassessable shares of Common Stock (each, a "Warrant") as set forth below, at the warrant price (the "Warrant Price") as determined pursuant to the Warrant Agreement, upon surrender of this Warrant Certificate at the office of the Company subject to the conditions set forth herein and in the Warrant Agreement. Defined terms used in this Warrant Certificate but not defined herein shall have the meanings given to them in the Warrant Agreement.

Each Warrant is initially exercisable for one fully paid andnon-assessable share of Common Stock. The number of shares of Common Stock issuable upon exercise of the Warrants is subject to certain limitations and adjustment upon the occurrence of certain events, in each case as set forth in the Warrant Agreement.

The Warrant Price is equal to $7.83 per share. The Warrant Price is subject to adjustment upon the occurrence of certain events set forth in the Warrant Agreement.

Subject to the conditions set forth in the Warrant Agreement, the Warrants may be exercised only during the Exercise Period.

Reference is hereby made to the further provisions of this Warrant Certificate set forth on the reverse hereof and such further provisions shall for all purposes have the same effect as though fully set forth at this place.

This Warrant Certificate shall be governed by, and construed in accordance with, the laws of the State of Maryland applicable to contracts executed in and to be performed entirely within that State, regardless of the laws that might otherwise govern under any applicable conflict of Laws principles.

MOBILE INFRASTRUCTURE CORPORATION

By: _____
Name:
Title:

[Form of Warrant Certificate]
[Reverse]

The Warrants evidenced by this Warrant Certificate are part of a duly authorized issue of Warrants entitling the holder on exercise to receive shares of Common Stock and are issued or to be issued pursuant to an Amended and Restated Warrant Agreement dated as of August 29, 2023 (the "Warrant Agreement"), which Warrant Agreement is hereby incorporated by reference in and made a part of this instrument and is hereby referred to for a description of the rights, limitation of rights, obligations, duties and immunities thereunder of the Company and the holders (the words "holders" or "holder" meaning the Registered Holders or Registered Holder) of the Warrants. A copy of the Warrant Agreement may be obtained by the holder hereof upon written request to the Company.

Warrants may be exercised at any time during the Exercise Period set forth in the Warrant Agreement. The holder of Warrants evidenced by this Warrant Certificate may exercise them by surrendering this Warrant Certificate, with the form of notice of exercise set forth hereon properly completed and executed at the principal corporate office of the Company. In the event that upon any exercise of Warrants evidenced hereby the number of Warrants exercised shall be less than the total number of Warrants evidenced hereby, there shall be issued to the holder hereof or his, her or its assignee, a new Warrant Certificate evidencing the number of Warrants not exercised.

The Warrant Agreement provides that upon the occurrence of certain events the number of shares of Common Stock issuable upon exercise of the Warrants set forth on the face hereof may, subject to certain conditions, be adjusted. In lieu of any fractional share to which the Registered Holder would otherwise be entitled, the Company shall make a cash payment equal to the Fair Market Value of one share of Common Stock on the payment date multiplied by such fraction.

Warrant Certificates, when surrendered at the principal corporate office of the Company by the Registered Holder thereof in person or by legal representative or attorney duly authorized in writing, may be exchanged, in the manner and subject to the limitations provided in the Warrant Agreement, but without payment of any service charge, for another Warrant Certificate or Warrant Certificates of like tenor evidencing in the aggregate a like number of Warrants.

Upon due presentation for registration of transfer of this Warrant Certificate at the office of the Company a new Warrant Certificate or Warrant Certificates of like tenor and evidencing in the aggregate a like number of Warrants shall be issued to the transferee(s) in exchange for this Warrant Certificate, subject to the limitations provided in the Warrant Agreement, without charge except for any tax or other governmental charge imposed in connection therewith.

The Company may deem and treat the Registered Holder(s) hereof as the absolute owner(s) of this Warrant Certificate (notwithstanding any notation of ownership or other writing hereon made by anyone), for the purpose of any exercise hereof, of any distribution to the holder(s) hereof, and for all other purposes, and the Company shall not be affected by any notice to the contrary. Neither the Warrants nor this Warrant Certificate entitle any holder hereof to any rights of a stockholder of the Company.

EXHIBIT B
Notice of Exercise

(To be signed only upon exercise of Warrant)

To: Mobile Infrastructure Corporation

The undersigned, the holder of a right to purchase (the "Warrant") common stock, par value $0.0001 per share ("Common Stock"), of Mobile Infrastructure Corporation, a Maryland corporation (the "Company"), pursuant to the attached Warrant Certificate, dated as of _____ __, issued pursuant to the Amended and Restated Warrant Agreement, dated as of August 29, 2023 (the "Warrant Agreement"), hereby irrevocably elects to exercise the purchase right represented by such Warrant Certificate for, and to purchase thereunder, _____ (_____) shares of Common Stock and (choose one):

1. _____ herewith makes payment of _____Dollars ($_____) therefor by wire transfer of immediately available funds to the account designated below by the Company:

   Amount of Transfer: $_____
   Date of Transfer: _____, 20__
   Bank: [•]
   ABA Number: [•]
   A/C Number: [•]
   A/C Name: [•]
   Ref: [•]
   ATT: [•]

2. _____ herewith elects to Net Exercise the Warrant pursuant to Section 2.3.2 of the Warrant Agreement.

The undersigned requests that the certificates or book entry position representing the shares of Common Stock to be acquired pursuant to such exercise be issued in the name of, and delivered to _____, whose address is _____.

By its signature below the undersigned hereby represents and warrants that it is an "accredited investor" as defined in Rule 501(a) of Regulation D promulgated under the Securities Act of 1933, as amended, and agrees to be bound by the terms and conditions of the attached Warrant Certificate as of the date hereof.

DATED: _____

[NAME OF REGISTERED HOLDER]

By:_____

Name:_____

Its:_____

[Signature page to Notice of Exercise]

Exhibit 10.25

WAIVER AND SECOND AMENDMENT TO CREDIT AGREEMENT

THIS WAIVER AND SECOND AMENDMENT TO CREDIT AGREEMENT (this "***Agreement***") is dated as of August 25, 2023 by and among **MOBILE INFRA OPERATING PARTNERSHIP, L.P.,** a Maryland limited partnership (the "***Lead Borrower***"), each Subsidiary Borrower (and together with Lead Borrower, individually and collectively, jointly and severally, the "***Borrower***"), **MOBILE INFRASTRUCTURE CORPORATION**, a Maryland corporation ("***Parent***"), and **KEYBANK NATIONAL ASSOCIATION** as administrative agent (the "***Administrative Agent***"), and the other financial institutions party hereto, as lenders (each a "***Lender***" and collectively, the "***Lenders***").

A. The Borrower, the Administrative Agent and the Lenders are party to that certain Credit Agreement, dated as of March 29, 2022, as amended by that certain First Amendment to Credit Agreement, dated as of November 17, 2022 (the "***Credit Agreement***", and as amended by this Agreement, the "***Amended Credit Agreement***");

B. The Borrower has failed to make the mandatory prepayment required under Section 2.10(e) as a result of the Pool Debt Yield for the fiscal quarter ended on December 31, 2022 and thereafter, which has resulted in an Event of Default under Section 7.01(a) (the "***Prepayment Default***");

C. The Borrower has failed to comply with (i) the financial covenant set forth in Section 5.01(a) for the fiscal quarter ended on December 31, 2022; (ii) the financial covenant set forth in Section 5.02(b) for the fiscal quarter ended on December 31, 2022; and (iii) the financial covenant set forth in Section 5.02(d) for the fiscal quarter ended on March 31, 2023, each of which has resulted in an Event of Default under Section 7.01(d) (the "***Financial Covenant Defaults***"; and together with the Prepayment Default, the "***Existing Defaults***");

D. The Borrower may fail to comply with (i) the financial covenant set forth in Section 5.01(a) for the fiscal quarter ended on June 30, 2023; (ii) the financial covenant set forth in Section 5.02(b) for the fiscal quarter ended on June 30, 2023; and (iii) the financial covenant set forth in Section 5.02(d) for the fiscal quarter ended on June 30, 2023, each of which would result in an Event of Default under Section 7.01(d) (the "***Prospective Defaults***");

E. The Borrower has requested that the Administrative Agent and the Lenders agree to waive the Existing Defaults, which are continuing on the date hereof;

F. The Borrower has requested that the Administrative Agent and the Lenders agree to reduce the Commitment upon the terms and subject to the conditions set forth in this Agreement; and

G. The Borrower and the Administrative Agent have agreed to make certain modifications to the Credit Agreement upon the terms and subject to the conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual promises herein contained and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto do hereby agree as follows:

1. **CREDIT AGREEMENT DEFINITIONS**. Unless otherwise expressly defined herein, capitalized terms used but not defined herein shall have the meaning given to such terms in the Amended Credit Agreement.

2. **WAIVER**. Subject to satisfaction of the conditions set forth in ***Section 6*** below, the Administrative Agent and the Lenders hereby waive the Existing Defaults and the Prospective Defaults. The waiver specified herein is a one-time waiver only, relates only to the Existing Defaults and Prospective Defaults and shall not be deemed to constitute a modification or waiver of (a) Sections 2.10(e), 5.01(a), 5.02(b), or 5.02(d) of the Amended Credit Agreement with respect to any other fiscal period, or (b) any other provisions of the Amended Credit Agreement or other Loan Documents. The Borrower hereby acknowledges and agrees that, except as specifically provided herein with respect to the Existing Defaults and Prospective Defaults, nothing in this section or anywhere in this Agreement shall be deemed or otherwise construed as a waiver by the Administrative Agent or the Lenders of any representation, covenant, or other obligation of the Credit Parties under the Loan Documents or any of the Administrative Agent's or the Lenders' rights and remedies pursuant to the Loan Documents, applicable law, or otherwise.

3. **AMENDMENTS TO CREDIT AGREEMENT.** Effective as of the Second Amendment Effective Date, the Credit Agreement is hereby amended as follows:

3.01. The Total Commitment is hereby reduced to FIFTY EIGHT MILLION SEVEN HUNDRED THOUSAND DOLLARS ($58,700,000) and the amount of each Lender's Commitment under the Credit Agreement is set forth on Schedule 1.1 of the Amended Credit Agreement.

3.02. Section 1.01 of the Credit Agreement is hereby amended by amending and restating each of the following definitions in their entirety to read as follows:

"Applicable Pool Debt Yield" means, a percentage equal to (i) from March 29, 2022 until September 30, 2022, seven percent (7.0%), (ii) from October 1, 2022 until June 30, 2023, seven and one-half percent (7.5%), (iii) from July 1, 2023 until the Second Amendment Effective Date, eight percent (8.0%), and (iv) at all times from and after the Second Amendment Effective Date, nine percent (9.0%).

"Commitment" means, with respect to each Lender, the commitment of such Lender to make Loans hereunder, expressed as an amount representing the maximum aggregate amount of such Lender's Credit Exposure hereunder, as such commitment may be reduced or increased from time to time pursuant to Section 2.08 or assignments by or to such Lender pursuant to Section 9.04. The amount of such Lender's Commitment is set forth on Schedule 1.01, or in the Assignment and Acceptance pursuant to which such Lender shall have assumed its Commitment, as applicable. The aggregate amount of the Lenders' Commitments is $58,700,000.00.

"Pool NOI" means, as of any date of calculation, Net Operating Income from all Pool Properties for the most recently ended fiscal quarter (or, with respect to the Raider Park Property, for the most recently ended period of four calendar quarters, in each case, subject to the gross up provisions of the definition of Net Operating Income for any Pool Properties not owned for the entirety of such period); provided that, no single Pool Property shall comprise in excess of 30% of the Pool NOI at any time, with any excess being excluded from Pool NOI .

"Total Commitment" means the sum of the Commitments of the Lenders, as in effect from time to time. On the Second Amendment Effective Date, the Total Commitment equals $58,700,000.

3.03. Section 1.01 of the Credit Agreement is hereby amended to add the following new defined terms in appropriate alphabetical order therein:

"Borrowing Base Interest Coverage Ratio" means, as of any date of calculation, the ratio for the Parent and its Subsidiaries on a consolidated basis (without duplication) of, (a) the sum of Net Operating Income from all Pool Properties for the most recently ended month; to (b) all Senior Interest Expense with respect to the Obligations for such month; provided, that with respect to the Borrowing Base Interest Coverage Ratio, "Senior Interest Expense" excludes non-cash amortization of deferred loan fees.

"Consent Agreement" means a certain Consent Agreement, dated as of the date hereof, by and among Parent, Borrower, and the Administrative Agent.

"Eligible Hedge Counterparty" means, (i) the Administrative Agent or (ii) another financial institution approved by Administrative Agent;provided that, if such other financial institution described in clause (ii) should thereafter suffer any downgrade, withdrawal or qualification of its credit rating or material deterioration of its financial condition, upon request from the Administrative Agent, the Credit Parties shall replace such financial institution as counterparty on any applicable Eligible Interest Hedge with another financial institution reasonably approved by Administrative Agent.

"Eligible Interest Hedge" means an interest rate Hedging Agreement entered into by a Credit Party with an Eligible Hedge Counterparty in respect of the Obligations, which is in form and substance reasonably acceptable to the Administrative Agent, and which has been collaterally assigned to the Administrative Agent, for the benefit of the Secured Parties, to secure the Obligations pursuant to documentation reasonably acceptable to the Administrative Agent.

"FWAC" means Fifth Wall Acquisition Corp. III, a Cayman Islands exempted company.

"Miami Property" means that certain Individual Property located at 150 SE 2nd Avenue, Unit 150, Miami, Florida 33131.

"New MIC" means FWAC, following its conversion to a Maryland corporation as a result of the Transaction (as defined in the Consent Agreement).

"PIPE Investment" means the issuance and sale by FWAC, and the purchase by the PIPE Investors, of 46,000 shares of Series 2 Convertible Preferred Stock, par value $0.0001 per share, of New MIC at $1,000 per share for an aggregate purchase price of $46,000,000, pursuant to certain Subscription Agreements entered into by the PIPE Investors on June 15, 2023.

"PIPE Investors" means certain entities controlled by Mr. Jeffrey B. Osher, Mr. Manuel Chavez, III, and Ms. Stephanie Hogue, who are directors of Parent.

"Raider Park Property" means that certain Real Property located at 2522 Marsha Sharp Freeway in Lubbock, Texas 79415.

"Second Amendment Effective Date" means August 25, 2023.

"Senior Interest Expense" means, as of any date of calculation and for any period, the aggregate Interest Expense paid or payable with respect to the Obligations during such period, plus any cash amounts paid by such Person under any Eligible Interest Hedge (other than any payments in respect of the termination of such Hedging Agreement), less any cash amounts received by such Person under any Eligible Interest Hedge (other than any payments in respect of the termination of such Hedging Agreement), in each case, during such period. For the avoidance of doubt, in connection with a Borrowing Request, Senior Interest Expense shall be calculated on a pro forma basis including interest on the requested Loans accruing at the then-current interest rate hereunder (including the then-current SOFR rate requested by Borrowers and Applicable Rate), with the SOFR rate applicable to any portion of the Loans that is subject to an Eligible Interest Hedge being capped at the rate provided in such Eligible Interest Hedge.

3.04. Section 2.10 of the Credit Agreement is hereby amended to add new clauses (f) and (g) in appropriate numerical order as follows:

(f) On the Second Amendment Effective Date, as a condition precedent to the Second Amendment, the Borrower, or the Parent on behalf of the Borrower, shall prepay the Loans in an amount equal to Fifteen Million Dollars ($15,000,000), from the net proceeds of the PIPE Investment.

(g) Concurrently with any sale or refinancing of the Miami Property, the Borrower shall deposit cash collateral with the Administrative Agent, as additional collateral for the Loans, in an amount equal to one hundred percent (100%) of the net proceeds from the sale or refinancing of the Miami Property. Such cash collateral shall be, at all times, maintained in a deposit account established with KeyBank in the name of the Parent Borrower or a Subsidiary thereof (the "***Miami Cash Collateral Account***") and subject to the sole dominion, control and discretion of Administrative Agent, its authorized agents or designees, subject to the terms of the Loan Documents. Upon the occurrence of any Event of Default hereunder, all amounts contained in the Miami Cash Collateral Account may be applied by the Agent to the Obligations as provided in Section 7.03. Any remaining balance of the Miami Cash Collateral Account shall be promptly paid over to the Borrowers upon the payment in full of the Obligations. For the avoidance of doubt, the failure of the Borrowers to deposit the net proceeds of the sale or refinancing of the Miami Property into the Miami Cash Collateral Account shall constitute an Event of Default under Section 7.01(a).

3.05. Section 5.02 of the Credit Agreement is hereby amended by amending and restating clause (b) thereof in its entirety to read as follows:

(b) Commencing with the fiscal quarter ending June 30, 2023, the Fixed Charge Coverage Ratio shall not be tested;

3.06. Section 5.02 of the Credit Agreement is hereby amended by amending and restating clause (d) thereof in its entirety to read as follows:

(d) The Parent and the Borrower shall at all times maintain a minimum Liquidity (including amounts on deposit in the Debt Service Reserve Account) of not less than, from and after the Second Amendment Effective Date, $7,000,000;

3.07. Section 5.02 of the Credit Agreement is hereby amended by deleting the "." at the end of clause (e) thereof, inserting the phrase "; and" in lieu thereof, and inserting a new clause (f) therein as follows:

(e) The Borrowing Base Interest Coverage Ratio shall not be less than 1.10 to 1.00

3.08. A new Section 5.19 is hereby added to the Credit Agreement in appropriate numerical order as follows:

Section 5.19. Interest Reserve.

(a) The Borrower has established Account #359681690376 maintained with KeyBank in the name of the Lead Borrower for deposit of certain cash collateral to be used for interest payments on the Loans (the "***Debt Service Reserve Account***"). On the Second Amendment Effective Date, the Borrower shall have deposited into the Debt Service Reserve Account an amount equal to $375,000.00. Thereafter, the Borrower will deposit additional funds in the Debt Service Reserve Account in accordance with Section 5.19(b) below. The Debt Service Reserve Account is subject to the sole dominion, control and discretion of Administrative Agent, its authorized agents or designees, subject to the terms of the Loan Documents. Neither Borrower nor any other party shall have the right of withdrawal with respect to the Debt Service Reserve Account, except in accordance with the provisions of, and for the purposes stated in, this Section 5.19. So long as no Event of Default shall have occurred and be continuing, amounts on deposit in the Debt Service Reserve Account may be applied to payments of interest due under this Agreement as they become due, up to the amount of the Interest Shortfall for any month ("***Permitted Debt Service***"). Borrower may, no more frequently than on a monthly basis, request that the Agent agree to release a portion of the funds in the Debt Service Reserve Account to be used for Permitted Debt Service, including to reimburse the Borrower for payments of Permitted Debt Service with respect to such month. Upon the occurrence of any Event of Default hereunder, all amounts contained in the Debt Service Reserve Account may be applied by the Agent to the Obligations as provided in Section 7.03. Any remaining balance of the Debt Service Reserve Account shall be promptly paid over to the Borrowers upon the payment in full of the Obligations.

(b) If at any time, the amount of funds on deposit in the Debt Service Reserve Account is less than an amount equal to the excess of (i) the interest on the Loans paid or payable for the most recently ended month over (ii) the amount of Net Operating Income from all Pool Properties for the most recently ended month (such excess with respect to any month, the "***Interest Shortfall***"), the Borrower will promptly deposit to the Debt Service Reserve Account additional funds as necessary such that the total balance on deposit in the Debt Service Reserve Account will not be less than three (3) times the Interest Shortfall for the most recently ended month.

(c) If the Borrower delivers a Compliance Certificate evidencing that the Borrowing Base Interest Coverage Ratio has been not less than 1.15 to 1.0 for three consecutive months, then, at the Borrower's request, any remaining balance of the Debt Service Reserve Account shall be promptly paid over to the Borrowers and the provisions of this Section 5.19 shall not apply thereafter; provided that if, subsequently, the Borrowing Base Interest Coverage Ratio is less than 1.0 to 1.0 for any consecutive three-month period, the Borrower will promptly deposit into the Debt Service Reserve Account funds in an amount equal to three (3) times the Interest Shortfall for the then most recently-ended month and the provisions of this Section 5.19 will be applicable thereafter until further suspended or terminated in accordance herewith.

3.09. A new Section 5.20 is hereby added to the Credit Agreement in appropriate numerical order as follows:

Section 5.20 Miami Property Collateral. Within 45 days (as such date may be extended by Administrative Agent) of the Second Amendment Effective Date, Borrowers shall deliver to Administrative Agent the Real Estate Collateral Documents related to the Miami Property.

3.10. Section 6.02(c) of the Credit Agreement is hereby amended by adding the following phrase at the end thereof, immediately prior to the ".":

; provided that, without the consent of the Administrative Agent in its sole discretion, the Borrowers shall not, and shall not permit any Subsidiary thereof, to sell the Miami Property for a contractual price of less than three million dollars ($3,000,000).

3.11. Schedule 1.01 of the Credit Agreement is hereby amended and restated in its entirety as set forth on Annex A attached hereto.

3.12. Exhibit B of the Credit Agreement is hereby amended and restated in its entirety as set forth on Annex B attached hereto.

4. **REPRESENTATIONS AND WARRANTIES**. The Borrower hereby represents and warrants to the Administrative Agent and the Lenders that, as of the date hereof:

4.01. The representations and warranties of Borrower and each other Credit Party contained in*Article III* of the Amended Credit Agreement or any other Loan Document, are true and correct in all material respects on and as of the Second Amendment Effective Date, except to the extent that such representations and warranties specifically refer to an earlier date, in which

case they shall be true and correct in all material respects as of such earlier date, and except that for purposes of the Amended Credit Agreement, the representations and warranties contained in *Section 3.04* of the Amended Credit Agreement shall be deemed to refer to the most-recent statements furnished pursuant to *Section 5.01* of the Amended Credit Agreement;

4.02. No Default or Event of Default other than the Existing Defaults and Prospective Default exists as of the Second Amendment Effective Date, or would result after giving effect to this Agreement; and

4.03. This Agreement has been duly authorized, executed and delivered by Borrower so as to constitute the legal and binding obligation of Borrower, enforceable against it in accordance with its terms, subject to Debtor Relief Laws and equitable principles.

5. **CONDITIONS PRECEDENT**. The effectiveness of this Agreement is subject to the conditions precedent that Administrative Agent shall have received the following (the date when such conditions shall have been satisfied or waived, the "***Second Amendment Effective Date***"):

5.01. **Agreement**. This Agreement, duly executed and delivered by Borrower, the Administrative Agent, and Lenders constituting the Required Lenders;

5.02. **Authority**. Evidence reasonably satisfactory to the Administrative Agent that the Borrower has taken all necessary action approving or consenting to entry into the transactions contemplated herein;

5.03. **Constituent Documents**. A certificate from a responsible officer (not individually, but in his or her capacity as such officer) of Borrower that its authority documents and certificates that were previously delivered to the Administrative Agent in connection with the Credit Agreement have not been amended or modified since such date, certifying the organizational documents of New MIC, and certifying any resolutions being executed in connection herewith;

5.04. **Prepayment**. The Borrower shall have prepaid the Loans in an amount not less than $15,000,000.00 from the proceeds of the PIPE Investment;

5.05. **Interest Reserve**. The Borrower shall have deposited an amount not less than $375,000.00 into the Debt Service Reserve Account;

5.06. **Transaction and Assumption**. The Transaction (as defined in the Consent Agreement) shall have been consummated and New MIC shall have executed an acknowledgment to this Amendment to assume the Obligations of Parent in writing;

5.07. **Compliance Certificate**. A compliance certificate adjusted to give pro forma effect to the Transaction (as defined in the Consent Agreement) and the prepayment of the Loans on the date hereof, showing compliance with the financial covenants set forth in *Section 5.02* of the Credit Agreement as of June 30, 2023, inclusive, and a Borrowing Base Report dated as of the date hereof after giving effect to the prepayment of the Loans on the date hereof; and

5.08. **Fees and Expenses.** Payment to the Administrative Agent all reasonable and documented out-of-pocket fees and expenses (including attorney's fees and expenses), incurred by the Administrative Agent and the Lenders in connection with this Agreement.

6. **NO OTHER AMENDMENTS; RATIFICATION OF LOAN DOCUMENTS**. Except for the amendments set forth in ***Sections 2*** and ***3*** of this Agreement, (a) the Amended Credit Agreement and the other Loan Documents shall remain unchanged and in full force and effect and (b) nothing in this Agreement is intended, or shall be construed, to constitute a novation or an accord and satisfaction of Borrower's or any Guarantor's Obligations under or in connection with the Amended Credit Agreement or any other Loan Document. Borrower hereby ratifies, confirms and reaffirms all of the terms and conditions of the Amended Credit Agreement and each of the other Loan Documents to which it is party, and further acknowledges and agrees that all of the terms and conditions of the Amended Credit Agreement and such Loan Documents remain in full force and effect, in each case, except as expressly provided in this Agreement. This Agreement shall constitute a Loan Document for all purposes.

7. **MISCELLANEOUS**.

7.01. **Governing Law**. This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

7.02. **Successors and Assigns**. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted by the Amended Credit Agreement.

7.03. **Invalid Provisions**. If any provision of this Agreement is held to be illegal, invalid, or unenforceable under present or future laws effective during the term of this Agreement, such provision shall be fully severable and this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Agreement, and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance from this Agreement, unless such continued effectiveness of this Agreement, as modified, would be contrary to the basic understandings and intentions of the parties as expressed herein.

7.04. **Headings**. Section headings are for convenience of reference only and shall in no way affect the interpretation of this Agreement.

7.05. **Counterparts; Integration; Effectiveness**. This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and the other Loan Documents constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in ***Section 6***, this Agreement shall become effective when it shall have been executed by Administrative Agent and when Administrative Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Agreement by telecopy or other electronic imaging means shall be effective as delivery of a manually executed counterpart of this Agreement.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK
SIGNATURE PAGES FOLLOW.

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

LEAD BORROWER:

MOBILE INFRA OPERATING PARTNERSHIP, L.P.,
a Maryland limited partnership

By: MOBILE INFRASTRUCTURE CORPORATION,
a Maryland corporation, its General Partner

By: */s/ Manuel Chavez*
Name: Manuel Chavez
Title: Chief Executive Officer

ADMINISTRATIVE AGENT:

KEYBANK NATIONAL ASSOCIATION,
as Administrative Agent and as a Lender

By: */s/ Christopher T. Neil*
Name: Christopher T. Neil
Title: Senior Banker

ANNEX A

SCHEDULE 1.01

Name	Commitment	Applicable Percentage
KEYBANK, NATIONAL ASSOCIATION	$58,700,000.00	100%
TOTAL	$58,700,000.00	100%

ANNEX B

EXHIBIT B-1

FORM OF COMPLIANCE CERTIFICATE

Key Bank, National Association,
as Administrative
Agent
225 Franklin Street
Boston, MA 02110

Attn: Mr. Christopher Neil

RE: MOBILE INFRA OPERATING COMPANY, LLC and certain of its Subsidiaries

Compliance Certificate for _____ through _____

Dear Ladies and Gentlemen:

This Compliance Certificate is made with reference to that certain Credit Agreement dated as of March 29, 2022 (as amended, supplemented or otherwise modified from time to time, the "Credit Agreement"), among MOBILE INFRA OPERATING COMPANY, LLC, a Delaware limited liability company, and certain of its Subsidiaries, as borrowers (collectively, the "Borrower"), the financial institutions party thereto, as lenders, and KeyBank, National Association, as Administrative Agent. All capitalized terms used in this Compliance Certificate (including any attachments hereto) and not otherwise defined in this Compliance Certificate shall have the meanings set forth for such terms in the Credit Agreement. All Section references herein shall refer to the Credit Agreement.

I hereby certify that I am the Chief Financial Officer of MOBILE INFRA OPERATING COMPANY, LLC, a Delaware limited partnership, and that I make this Certificate on behalf of the Borrower. I further represent and certify on behalf of the Borrower as follows as of the date of this Compliance Certificate:

1. Pursuant to the Credit Agreement, the Credit Parties are furnishing to you herewith (or have most recently furnished to you) the consolidated financial statements of Parent for the most recently available [fiscal quarter][fiscal year] (the "Reporting Period"). Such financial statements have been prepared in accordance with GAAP and present fairly the consolidated financial position in all material respects of Parent and its Subsidiaries at the date thereof and the results of its operations for the periods covered thereby.

2. I have reviewed the terms of the Loan Documents and have made, or have caused to be made under my supervision, a review in reasonable detail of the transactions and consolidated and consolidating financial condition of the Borrower and its Subsidiaries, during the Reporting Period covered by the financial reports delivered simultaneous herewith pursuant to Section 5.01[(a)][(b)], and that such review has not disclosed the existence during or at the end of such Reporting Period (and that I do not have knowledge of the existence as at the date hereof) of any condition or event which constitutes a Default or Event of Default. (Note: If the signer does have knowledge of any Default or Event of Default, the form of certificate should be revised to specify the Default or Event of Default, the nature thereof and the actions taken, being taken or proposed to be taken by the Borrower with respect thereto.)

3. Neither the Borrower, Guarantor or any Subsidiary thereof has defaulted under any recourse Indebtedness under which it is obligated.

4. All referenced dollar amounts in this certificate are stated in thousands unless otherwise noted.

5. Attached hereto as Schedule A-1 is a list of the Real Property that comprises the Pool Properties and the Pool Value, and Schedule A-2 is a list of the Real Property assets that were identified as being a Pool Property in the last Compliance Certificate and that are no longer qualified to be a Pool Property as of the last day of the Reporting Period.

6. Attached hereto as Schedule B-1 is a detailed calculation of Interest Expense for the Reporting Period and Schedule B-2 is a detailed calculation of Interest Expense, principal paid and due and payable on Indebtedness, and cash dividends payable on the Guarantor's preferred stock for the Reporting Period, which amounts aggregated:

Schedule B-1	$
Schedule B-2	$

7. Attached hereto as Schedule C is a detailed calculation of Adjusted EBITDA for the Reporting Period, which amount was:

EBITDA	$
Adjusted EBITDA	$

As of the last day of the Reporting Period:				
1. [Intentionally Omitted]:				
2. Tangible Net Worth ("TNW"):				
(a) Total Asset Value	$			
(b) All Indebtedness (including contingent and indirect liabilities	$			
(c) Tangible Net Worth ((a) minus (b))	$			
Required Tangible Net Worth				
(i) $ 206,908,200 plus				
(ii) 90% of Common or Preferred Equity Issuances plus				
Total Required Tangible Net Worth ((i) plus (ii))			$	
Covenant: Current TNW must exceed required TNW				
3. Total Leverage Ratio Calculation:				
(a) Indebtedness (Borrower and Parent)				$
(b) Total Asset Value				
(i) For Pool Properties, the Appraised Value thereof; plus	$			
(ii) For each non-Pool Property, the "as is" appraised value thereof, or if no such appraisal has been obtained for 24 months, fair market value thereof	$			
(iii) Assets under Development prior to 24 months after commencement of operations, undepreciated cost basis; plus	$			
(iv) Assets under Development after 24 months following commencement of operations, fair market value; plus	$			
(v) Cash and cash equivalents	$			
(vi) Less the excess value of any Investment in excess of any of the limitations set forth in Section 6.03 (attached detailed calculation from 5 below))	$			
TOTAL ASSET VALUE	$			
(c) Total Leverage Ratio ((a) divided by (b))		%		

Covenant: less than sixty five percent (65%)

4. Liquidity:

(a) unencumbered cash $

(b) unencumbered cash equivalents $

(c) amounts on deposit in the Debt Service Reserve Account $

(c) Liquidity ((a) plus (b) plus (c)) $

Covenant: $7,000,000

5. Permitted Investment Limitations:

(a) Investments in non-wholly owned (<90%) Subsidiaries – Value (not in excess of ten percent (10%) of Total Asset Value) $

Compliance: Y/N

(b) Investments in non-parking assets – Value (not in excess of five percent (5%) of Total Asset Value) $

Compliance: Y/N

(c) Investments in mortgage notes secured by parking properties—Value (not in excess of five percent (5%) of Total Asset Value) $

Compliance: Y/N

(d) Aggregate of Investments described in Sections (a)-(b) above (not in excess of ten percent (10%) of Total Asset Value) $

Compliance: Y/N

Calculation of excess value to be excluded based on the foregoing limitations from Total Asset Value

6. Recourse Indebtedness

The recourse Indebtedness of Parent does not, in the aggregate, exceed 10% of Total Asset Value.

7. Other Indebtedness

(a) Other Recourse Indebtedness of the Credit Parties $_____

(b) Other Non-Recourse Indebtedness of the Credit Parties $_____

(e) Other Non-Recourse Indebtedness of the Subsidiaries $_____

(f) Aggregate Defaulted Other Recourse Indebtedness of the Credit Parties and Subsidiaries: $_____

	Limit: not to exceed $25,000,000		
	e. Aggregate Defaulted Other Non-Recourse Indebtedness of the Credit Parties and their Subsidiaries	$_____	
	Limit: not to exceed $50,000,000		
8.	Minimum Pool Requirements		
	(a) Number of Pool Properties	_____	
	Covenant: no fewer than eight (8)		
	Compliance: Y/N		
	(e) Pool Value	$_____	
	Covenant: no less than $100,000,000		
	Compliance: Y/N		
9.	Borrowing Base Interest Coverage Ratio Calculation:		
	(a) Net Operating Income from all Pool Properties		$
	(b) Senior Interest Expense		$
	(c) Borrowing Base Interest Coverage Ratio ((a) divided by (b))		
	Covenant: 1.10 to 1.0		

This Compliance Certificate has been executed and delivered as of the date set forth above.

MOBILE INFRA OPERATING COMPANY, LLC,
a Delaware limited liability company

By: */s/ Manuel Chavez*
Name: Manuel Chavez
Title: Manager

SCHEDULE A TO COMPLIANCE CERTIFICATE

POOL PROPERTIES

SCHEDULE B TO COMPLIANCE CERTIFICATE

INTEREST EXPENSE

SCHEDULE C TO COMPLIANCE CERTIFICATE

EBITDA

ACKNOWLEDGMENT AND ASSUMPTION OF OBLIGATIONS.

Both by operation of law and by the express consent of the Lenders, the undersigned hereby assumes all of the Obligations of Parent arising under the Credit Agreement, that certain Guaranty dated as of March 29, 2022 by the Parent and certain of its Subsidiaries, and any of the other Loan Documents, including but not limited to that certain Waiver and Second Amendment to Credit Agreement dated as of August 25, 2023 to which this Acknowledgement and Assumption of Obligations is attached and of which it constitutes part (capitalized terms used and not defined herein having the meanings ascribed thereto in such Waiver and Second Amendment to Credit Agreement), whether heretofore or hereafter incurred, and agrees to (X) make all payments required under such Loan Documents and to discharge such Obligations as they become due or are declared due in accordance with the terms of the Loan Documents, (Y) perform and observe all of the covenants and conditions of the Credit Agreement and the other Loan Documents to be performed or observed thereunder by Parent, and (Z) be bound in all respects by the terms of the Credit Agreement and the other Loan Documents to which Parent is a party or by which Parent is bound or subject, in each case, as if it were the original signatory thereto.

MOBILE INFRASTRUCTURE CORPORATION
(f/k/a FIFTH WALL ACQUISITION CORP. III), a Maryland corporation, successor by merger to Mobile Infrastructure Corporation, a Maryland corporation

By: */s/ Manuel Chavez*
Name: Manuel Chavez
Title: Chief Executive Officer

Exhibit 10.42

Execution Version

REGISTRATION RIGHTS AGREEMENT

This REGISTRATION RIGHTS AGREEMENT (this "Agreement") is entered into as of August 25, 2023, by and among:

(i) Mobile Infrastructure Corporation (f/k/a "Fifth Wall Acquisition Corp. III"), a Maryland corporation (the "Company");

(ii) Fifth Wall Acquisition Sponsor III LLC, a Cayman Islands exempted limited company (the "Sponsor" and, collectively, together with its Permitted Transferees that become party hereto, the "Sponsor Holders");

(iii) each Person executing this Agreement and listed on Schedule A hereto (collectively, together with their Permitted Transferees that become party hereto, the "FWAC Sponsor Holders");

(iv) each Person executing this Agreement and listed on Schedule B hereto (collectively, together with their Permitted Transferees that become party hereto, the "MIC Holders"); and

(v) each Person executing this Agreement and listed on Schedule C hereto (collectively, together with their Permitted Transferees that become party hereto, the "Preferred Holders", and collectively with the MIC Holdings, FWAC Sponsor Holders and the Sponsor Holders, the "Holders").

Certain capitalized terms used herein shall have the meanings ascribed to such terms in Section 1.

RECITALS:

WHEREAS, the Company, Queen Merger Corp. I, a Maryland corporation and wholly owned subsidiary of the Company ("Merger Sub"), and Mobile Infrastructure Corporation, a Maryland corporation ("MIC"), entered into an Agreement and Plan of Merger, dated as of December 13, 2022, as amended by the First Amendment to Agreement and Plan of Merger, dated as of March 23, 2023 (as may be further amended, modified and/or supplemented from time to time, the "Merger Agreement"), pursuant to which, among other things, (i) the Company transferred by way of continuation from the Cayman Islands to the State of Maryland and domesticated by means of a corporate conversion, (ii) Merger Sub merged with and into MIC (the "First Merger"), with MIC surviving the First Merger as a wholly owned subsidiary of the Company (the "First-Step Surviving Company"), and (c) immediately following the First Merger, the First-Step Surviving Company merged with and into the Company in accordance with the MGCL (the "Second Merger" and, together with the First Merger, the "Mergers"), with the Company continuing as the surviving entity;

WHEREAS, the Company, the Sponsor and the FWAC Sponsor Holders are parties to that certain Registration and Shareholder Rights Agreement, dated as of May 24, 2021 (the "FWAC Prior Agreement");

WHEREAS, the Company, as successor to MIC, and the MIC Holders are parties to that certain Amended and Restated Registration Rights Agreement, dated as of November 2, 2021 (the "MIC Prior Agreement" and, together with the FWAC Prior Agreement, the "Prior Agreements"); and

WHEREAS, the Company and the other parties hereto desire to terminate the Prior Agreements in their entirety and to enter into this Agreement and, as applicable, to accept the rights created pursuant to this Agreement in lieu of any rights granted to them under the Prior Agreements.

NOW, THEREFORE, the Company and the other parties to this Agreement hereby agree to terminate the Prior Agreements, which shall be of no further force or effect, and the parties hereto further agree as follows:

Section 1. Certain Definitions. In this Agreement, the following terms have the following respective meanings:

"Agreement" has the meaning ascribed to it in the preamble.

"Board" means the board of directors of the Company.

"Business Day" means each Monday, Tuesday, Wednesday, Thursday and Friday that is not a day on which banking institutions in New York, New York are authorized or obligated by applicable law, regulation or executive order to close.

"Class A Unit Agreement" means that certain Class A Unit Agreement, dated November 2, 2021, by and between the Operating LLC and HSCP, as amended and restated.

"Closing Date" means the closing date of the Mergers.

"Color Up" means Color Up, LLC, a Delaware limited liability company.

"Commission" means the U.S. Securities and Exchange Commission or any other federal agency at the time administering the Securities Act.

"Common Stock" means the shares of common stock of the Company, $0.0001 par value per share.

"Company Lock-Up Agreement" means that certain Lock-Up Agreement, dated as of December 13, 2022, by and among the Company, MIC and Color Up.

"Company Notice" has the meaning ascribed to it in Section 2(b).

"Demand Notice" has the meaning ascribed to it in Section 2(a).

"Demand Registration Statement" means any one or more registration statements of the Company filed under the Securities Act, covering the resale of any of the Registrable Securities pursuant to Section 2 of this Agreement, and all amendments and supplements to any such registration statements, including post-effective amendments, in each case including the prospectus contained therein, all exhibits thereto and all materials and documents incorporated by reference therein.

"Effectiveness Date" has the meaning ascribed to it in Section 4.

"End of Suspension Notice" has the meaning ascribed to it in Section 5(c).

"Exchange Act" means the Securities Exchange Act of 1934, as amended, and the rules and regulations of the Commission thereunder, all as the same shall be in effect at the relevant time.

"FINRA" means the Financial Industry Regulatory Authority.

"First Merger" has the meaning ascribed to it in the recitals hereof.

"First-Step Surviving Company" has the meaning ascribed to it in the recitals hereof.

"FWAC Prior Agreement" has the meaning ascribed to it in the recitals hereof.

"FWAC Sponsor Holders" has the meaning ascribed to it in the preamble.

"Holder" has the meaning ascribed to it in the preamble.

"HSCP" means HSCP Strategic III, L.P., a Delaware limited partnership.

"Indemnified Party" has the meaning ascribed to it in Section 9(c).

"Indemnifying Party" has the meaning ascribed to it in Section 9(c).

"LLC Units" means the units in the Operating LLC designated as "Common Units", including any LLC Units which may be issuable upon on the conversion of interests in the Operating LLC designated as "Class A Units" in accordance with the Operating Agreement and the Class A Unit Agreement, in each case held by the MIC Holders.

"Letter Agreement" means that certain Letter Agreement, dated as of May 24, 2021, between the Sponsor, the Holders party thereto and the Company.

"Losses**"** has the meaning ascribed to it in Section 9(a).

"Majority Selling Holders" means Holder(s) who collectively own a majority of the Registrable Securities that are proposed to be included in an underwritten offering of Registrable Securities.

"Maximum Number of Shares" has the meaning ascribed to it in Section 2(c).

"Merger Agreement" has the meaning ascribed to it in the recitals hereof.

"Merger Sub" has the meaning ascribed to it in the recitals hereof.

"Mergers" has the meaning ascribed to it in the recitals hereof.

"MIC" has the meaning ascribed to it in the recitals hereof.

"MIC Holders" has the meaning ascribed to it in the preamble.

"MIC Prior Agreement" has the meaning ascribed to it in the recitals hereof.

"NYSE" means the New York Stock Exchange.

"Operating Agreement" means the Operating Agreement of the Operating LLC.

"Operating LLC" means Mobile Infra Operating Company, LLC, a Delaware limited liability company.

"Permitted Transferees" means transferees permitted by Section 11 and each Person holding Registrable Securities as a result of a transfer, distribution or assignment to that Person of Registrable Securities (other than pursuant to an effective Resale Registration Statement or Rule 144), *provided*, if applicable, such transfer, distribution or assignment is made in accordance with Section 11 of this Agreement.

"Person" means an individual, partnership, corporation, business trust, limited liability company, limited liability partnership, joint stock company, trust, unincorporated association, joint venture or other entity.

"Piggyback Holders" has the meaning ascribed to it in Section 3(a).

"Piggyback Registration Statement" means any one or more registration statements of the Company filed under the Securities Act, covering the resale of any of the Registrable Securities pursuant to Section 3 of this Agreement, and all amendments and supplements to any such registration statements, including post-effective amendments, in each case including the prospectus contained therein, all exhibits thereto and all materials and documents incorporated by reference therein.

"Piggyback Request" has the meaning ascribed to it in Section 3(a).

"Preferred Holders" has the meaning ascribed to it in the preamble.

"Preferred Subscription Agreement" means those certain subscription agreements for the sale of Series 2 Preferred Stock entered into by the Company with each of the Preferred Holders on June 15, 2023.

"Prior Agreements" has the meaning ascribed to it in the Recitals.

"Prospectus" means the prospectus included in any Resale Registration Statement (including a prospectus that discloses information previously omitted from a prospectus filed as part of an effective Resale Registration Statement in reliance upon Rule 430A under the Securities Act), as amended or supplemented by any prospectus supplement or any issuer free writing prospectus (as defined in Rule 433 under the Securities Act), with respect to the offering of any portion of the Registrable Securities covered by such Resale Registration Statement, and all other amendments and supplements to the prospectus, including post-effective amendments, and all material incorporated by reference or deemed to be incorporated by reference in such prospectus.

"Registrable Securities" means, with respect to any Holder, (i) all shares of Common Stock, (ii) all shares of Common Stock issuable upon exercise, conversion, redemption or exchange of any option, warrant or convertible or exchangeable security issued by the Company or the Operating LLC, including the LLC Units, the Series 2 Preferred Stock and the Warrants, (iii) the Warrants and (iv) any additional securities issued or issuable as a dividend or distribution on, in exchange for, or otherwise in respect of, such shares of Common Stock and LLC Units (including as a result of combinations, recapitalizations, mergers, consolidations, reorganizations, stock splits or otherwise); *provided* that shares of Common Stock and the Warrants shall cease to be Registrable Securities with respect to any Holder at the time such shares or Warrants, as applicable, (a) have been sold pursuant to an effective Resale Registration Statement, (b) are eligible to be sold without restriction or limitation thereunder on volume or manner of sale or other restrictions or limitations under Rule 144, or (c) have been sold to the Company or any of its subsidiaries.

"Registration Expenses" means any and all expenses incident to the performance of or compliance with the registration requirements of this Agreement, including (i) all fees of the Commission, the NYSE or such other exchange on which the Registrable Securities are listed from time to time, and FINRA, (ii) all fees and expenses incurred in connection with compliance with federal or state securities or blue sky laws (including any registration, listing and filing fees and reasonable fees and disbursements of counsel in connection with blue sky qualification of any of the Registrable Securities and the preparation of a blue sky memorandum and compliance with the rules of FINRA and the NYSE or other applicable exchange), (iii) all expenses of any Persons in preparing or assisting in preparing, word processing, duplicating, printing, delivering and distributing any Resale Registration Statement, any Prospectus, any amendments or supplements thereto, securities sales agreements, certificates and any other documents relating to the performance under and compliance with this Agreement, (iv) all fees and expenses incurred in connection with the listing or inclusion of any of the Registrable Securities on the NYSE or other applicable exchange pursuant to Section 6(k), (v) the fees and disbursements of counsel for the Company and of the independent public accountants of the Company (including the expenses of any special audit, agreed upon procedures and "cold comfort" letters required by or incident to such performance), (vi) the reasonable fees and disbursements of one counsel (along with any reasonably necessary local counsel) representing all Holders mutually agreed by the Majority Selling Holders; and (vii) any fees and disbursements customarily paid in issues and sales of securities (including the fees and expenses of any experts retained by the Company in connection with any Resale Registration Statement); *provided*, *however*, that Registration Expenses shall exclude (x) "brokers" or "underwriters" fees, discounts and commissions and transfer taxes, if any, relating to the sale or disposition of Registrable Securities by a Holder; or (y) any legal counsel fees of the Holders (including any local counsel) in excess of $100,000 without the consent of the Company (such consent not to be unreasonably withheld).

"Registration Statement" has the meaning ascribed to it in Section 4.

"Renewal Deadline" has the meaning ascribed to it in Section 2(g).

"Requesting Holders" has the meaning ascribed to it in Section 2(b).

"Resale Registration Statement" means any one or more registration statements of the Company filed under the Securities Act, whether a Demand Registration Statement, Piggyback Registration Statement, Registration Statement or otherwise, covering the resale of any of the Registrable Securities pursuant to the provisions of this Agreement, and all amendments and supplements to any such registration statements, including post-effective amendments and new registration statements, in each case including the prospectus contained therein, all exhibits thereto and all materials and documents incorporated by reference therein.

"Rule 144," "Rule 158," "Rule 415" or "Rule 424," respectively, means such specified rule promulgated by the Commission pursuant to the Securities Act, as such rule may be amended from time to time, or any similar rule or regulation hereafter adopted by the Commission as a replacement thereto having substantially the same effect as such rule.

"Second Merger" has the meaning ascribed to it in the Recitals.

"Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations of the Commission thereunder, all as the same shall be in effect at the relevant time.

"Selling Expenses" means, if any, all underwriting or broker fees, discounts and selling commissions or similar fees or arrangements, transfer taxes allocable to the sale of the Registrable Securities included in the applicable offering and all other expenses incurred in connection with the performance by the Holders of their obligations under the terms of this Agreement.

"Series 2 Preferred Stock" means the Series 2 Convertible Preferred Stock, par value $0.0001 per share, of the Company.

"Sponsor" has the meaning ascribed to it in the preamble.

"Sponsor Holders" has the meaning ascribed to it in the preamble.

"Sponsor Lock-Up Agreement" means that certain Lock-Up Agreement, dated as of December 13, 2022, by and among the Company, MIC and the Sponsor.

"Stockholders' Agreement" means that certain Stockholders' Agreement, dated as of August 25, 2021, by and between MIC and the investors identified on the signature pages thereof.

"Suspension Event" has the meaning ascribed to it in Section 5(a).

"Suspension Notice" has the meaning ascribed to it in Section 5(a).

"Warrants" means the warrants issued by the Company or assumed by the Company effective as of the closing of the Mergers.

Section 2. Demand Registration Rights.

(a) Provided the Company has not filed the Registration Statement and caused the Registration Statement to become effective, with the Prospectus therein available to effect resales of Registrable Securities, by the Effectiveness Deadline (subject to extension in accordance Section 4) and subject to the provisions hereof, each Holder of at least 150,000 Registrable Securities, from time to time at any time from and after the Effectiveness Deadline, may request registration for resale under the Securities Act of all or part of the Registrable Securities owned by such Holder by giving written notice thereof (a "Demand Notice") to the Company (which Demand Notice shall specify the number and kind of Registrable Securities to be offered by such Holder, the intended methods of distribution, including whether such methods will include or involve an underwritten offering, and whether such Demand Registration Statement will be a "shelf" registration statement under Rule 415). Subject to 2(c) and 2(e) below, the Company shall use reasonable best efforts (i) to file a Demand Registration Statement (which shall be a "shelf" registration statement under Rule 415 if requested pursuant to such Holder's request pursuant to the first sentence of this Section 2(a)) registering for resale such number of Registrable Securities as requested to be so registered within 30 days in the case of a registration on Form S-3 (and 45 days in the case of a registration on FormS-11 or such other appropriate form) after Company's receipt of a Demand Notice, and (ii) to cause such Demand Registration Statement to be declared effective by the Commission as soon as reasonably practicable thereafter. Notwithstanding the foregoing, the Company shall not be required to file a registration pursuant to this Section 2(a)(i) prior to the expiration of any lock-up period imposed with respect to the Registrable Securities under the Letter Agreement, the CompanyLock-Up Agreement, the Sponsor Lock-Up Agreement, the Preferred Subscription Agreement, and the Stockholders' Agreement, as applicable; and (ii) with respect to securities that are not Registrable Securities. The Company shall not be obligated to take any action to effect any demand registration (i) if a Demand Registration Statement, Piggyback Registration Statement or Registration Statement has been filed and was declared or became effective, with the Prospectus in the applicable registration statement available to effect resales of Registrable Securities, or (ii) within the preceding sixty (60) calendar days (unless otherwise consented to by the Company), an underwritten public offering was consummated. If permitted under the Securities Act, such Demand Registration Statement shall be automatically effective upon filing.

(b) Within 10 days after receipt of any Demand Notice under 2(a), the Company shall give written notice of such requested registration (which shall specify the intended method of disposition of such Registrable Securities) to all other Holders of Registrable Securities (a "Company Notice"), and the Company shall include (subject to the provisions of this Agreement) in such registration, all Registrable Securities of such Holders with respect to which the Company has received written requests for inclusion therein within 15 days after the delivery of such Company Notice (the "Requesting Holders"); *provided* that any such other Holder may withdraw its request for inclusion prior to the applicable registration statement becoming effective by notifying the Company in accordance with Section 12(e). Notwithstanding the foregoing, the Company may, at any time (including, without limitation, prior to or after receiving a Demand Notice from a Holder), in its sole discretion, include all Registrable Securities then outstanding or any portion thereof in any Demand Registration Statement, including by virtue of adding such Registrable Securities as additional securities to an effective Demand Registration Statement (in which event the Company shall be deemed to have satisfied its registration obligation under Section 2 with respect to the Registrable Securities so included, so long as such registration statement remains effective and not the subject of any stop order, injunction or other order of the Commission). In addition, the Company may include in a Demand Registration Statement shares of Common Stock for sale for its own account or for the account of other security holders of the Company.

(c) If such Demand Registration Statement is filed in connection with an underwritten offering and the managing underwriters advise the Company and the Holders covered by such Demand Registration Statement that, in the reasonable opinion of the managing underwriters, the number of securities proposed to be sold pursuant to the Demand Registration Statement exceeds the number of securities that can be sold in such underwritten offering without materially delaying or jeopardizing the success of the offering (including the offering price per security) (such maximum number of securities, the "Maximum Number of Shares"), the Company shall include in such Demand Registration Statement only such number of securities that, in the reasonable opinion of the managing underwriters, can be sold without materially delaying or jeopardizing the success of the offering (including the offering price per security), which securities shall be so included in the following order of priority, unless otherwise agreed by the Company and the Holders covered by such Demand Registration Statement: (i) first, the Registrable Securities of the Requesting Holders *pro rata* in accordance with the number of Registrable Securities owned thereby, (ii) second, any securities the Company proposes to sell for its own account, and (iii) third, any other securities that have been requested to be so included in such Demand Registration Statement.

(d) If any of the Registrable Securities covered by a Demand Registration Statement are to be sold in an underwritten offering, the Holder(s) that delivered the Demand Notice shall have the right to select the underwriters (and their roles) in the offering and determine the structure of the offering and negotiate the terms of any underwriting agreement as they relate to the Requesting Holders, including the number of Registrable Securities to be sold (if not all Registrable Securities offered can be sold at the highest price offered by the underwriters), the offering price and underwriting discount; *provided* that such underwriters, structure and terms are reasonably acceptable to the Company and a majority of the Requesting Holders.

(e) Notwithstanding the foregoing, if the Board determines in its good faith judgment that the filing of a Demand Registration Statement would (i) have a material adverse effect on the Company, or (ii) require the disclosure of material non-public information concerning the Company that at the time is not, in the good faith judgment of the Board, in the best interests of the Company to disclose and is not, in the opinion of the Company's counsel, otherwise required to be disclosed, then the Company shall have the right to defer such filing for the period during which such registration would have

such a material adverse effect on the Company; *provided*, *however*, that (x) the Company may not defer such filing for a period of more than 60 days after receipt of any Demand Notice, and (y) the Company may not exercise its right to defer the filing of a Demand Registration Statement more than once in any 12-month period without the consent of a majority of the Requesting Holders. The Company shall give written notice of its determination to the Requesting Holder to defer the filing and of the fact that the purpose for such deferral no longer exists, in each case, promptly after the occurrence thereof.

(f) Following the date of effectiveness of any Demand Registration Statement, the Company shall use reasonable best efforts to keep the Demand Registration Statement continuously effective until such time as all of the Registrable Securities covered by such Demand Registration Statement have been sold pursuant to such Demand Registration Statement.

(g) If, by the third anniversary (the "Renewal Deadline") of the initial effective date of a Demand Registration Statement filed pursuant to Section 2(a) any of the Registrable Securities remain unsold by the Holders included on such Demand Registration Statement, the Company shall file, if it has not already done so and is eligible to do so, a new Resale Registration Statement covering the Registrable Securities included on the prior Demand Registration Statement and shall use reasonable best efforts to cause such Resale Registration Statement to be declared effective on or prior to the Renewal Deadline; and the Company shall take all other action necessary or appropriate to permit the public offering and sale of the Registrable Securities to continue as contemplated in the prior Demand Registration Statement.

Section 3. Piggyback Registration Rights.

(a) If, at any time, the Company has determined to register any of its securities for its own account or for the account of other security holders of the Company on any registration statement (other than (i) on Form S-3 relating to any dividend reinvestment or similar plan or (ii) FormsS-4 or S-8 or any successor form to such forms) that permits the inclusion of the Registrable Securities, the Company shall give the Holders written notice thereof promptly (but in no event less than 20 days prior to the anticipated filing date) and, subject to Section 3(b), shall include in such Piggyback Registration Statement all Registrable Securities requested to be included therein pursuant to the written request (a "Piggyback Request") of one or more Holders (the "Piggyback Holders") received within 10 days after delivery of the Company's notice.

(b) If a Piggyback Registration Statement is filed in connection with a primary underwritten offering on behalf of the Company, and the managing underwriters advise the Company that, in the reasonable opinion of the managing underwriters, the number of shares of Common Stock proposed to be included in such Piggyback Registration Statement exceeds the Maximum Number of Shares, the Company shall include in such Piggyback Registration Statement, unless otherwise agreed by the Company and the Majority Selling Holders, (i) first, the number of shares of Common Stock (or other common shares of the Company) that the Company proposes to sell, and (ii) second, the Registrable Securities of Piggyback Holders (such number of shares shall be allocated among such Piggyback Holders on a *pro rata* basis according to the number of Registrable Securities requested to be included by each such Piggyback Holder).

(c) If a Piggyback Registration Statement is filed in connection with an underwritten offering on behalf of a holder of shares of Common Stock other than under this Agreement, and the managing underwriters advise the Company that, in the reasonable opinion of the managing underwriters, the number of shares of Common Stock proposed to be sold pursuant to such Piggyback Registration Statement exceeds the Maximum Number of Shares, then the Company shall include in such Piggyback Registration Statement, unless otherwise agreed by the Company and such holder(s) (including, if applicable, a majority of the Piggyback Holders), (i) first, the number of shares of Common Stock

requested to be included therein by the holder(s) requesting such registration, (ii) second, the Registrable Securities of Piggyback Holders (such number of shares shall be allocated among such Piggyback Holders on a *pro rata* basis according to the number of Registrable Securities requested to be included by each such Piggyback Holder, if necessary), (iii) third, the number of shares of Common Stock requested to be included therein by any other holders, and (iv) fourth, the number of shares of Common Stock that the Company proposes to sell.

(d) If any Piggyback Registration Statement is filed in connection with a primary or secondary underwritten offering, the Company shall have the right to select, in its sole discretion, the managing underwriter or underwriters to administer any such offering.

(e) The Company shall not grant to any Person the right to request the Company to register any Common Stock on a Piggyback Registration Statement unless such rights are consistent with the provisions of this Section 3.

(f) If, at any time after giving a Piggyback Notice and prior to the effective date of the registration statement filed in connection with such registration, the Company shall determine for any reason not to register the securities originally intended to be included in such registration statement, the Company may, at its election, give written notice of such determination to the Piggyback Holders and thereupon the Company shall be relieved of its obligation to register such Registrable Securities in connection with the registration of securities originally intended to be included in such registration statement.

Section 4. Initial Registration. The Company agrees that it will file with the Commission (at the Company's sole cost and expense) a registration statement registering the resale of the Registerable Securities (the "Registration Statement") as promptly as practicable following the Closing Date, and in any event no later than the first business day to occur 30 calendar days after the Closing Date, and shall use its reasonable best efforts to have the Registration Statement declared effective as soon as practicable after the filing thereof, but no later than the earlier of (A) the 90th calendar day (or 135th calendar day if the Commission notifies the Company that it will "review" the Registration Statement) following the filing date of the Registration Statement and (B) the 10th business day after the date the Company is notified (orally or in writing, whichever is earlier) by the Commission that the Registration Statement will not be "reviewed" or will not be subject to further review (such earlier date, the "Effectiveness Date"). The Company agrees to cause such Registration Statement, or another shelf registration statement that includes the Registerable Securities, to remain effective until the earliest of (i) the date on which the Holders cease to hold any Registerable Securities covered by such Registration Statement, or (ii) on the first date on which each Holder is able to sell all of its Registerable Securities under Rule 144 without limitation as to the manner of sale or the amount of such securities that may be sold and without the requirement for the Company to be in compliance with the current public information required under Rule 144(c)(1) (or Rule 144(i)(2), if applicable). If the Commission prevents the Company from including any or all of the Registerable Securities proposed to be registered for resale under the Registration Statement due to limitations on the use of Rule 415 of the Securities Act for the resale of the Company's securities by the applicable stockholders or otherwise, (i) such Registration Statement shall register for resale such number of Company securities which is equal to the maximum number of Company securities as is permitted by the Commission, (ii) the number of Company securities to be registered for each selling stockholder named in the Registration Statement shall be reduced pro rata among all such selling stockholders and (iii) the Company shall promptly file another registration statement covering the offer and sale of the remaining Registerable Securities held by the Holders. Any failure by the Company to file the Registration Statement by the required filing date or to effect such Registration Statement by the Effectiveness Date shall not otherwise relieve the Company of its obligations to file or effect the Registration Statement as set forth in this Section 4, provided that any delay in the filing date or

Effectiveness Date that is not a breach of the Company's obligations hereunder shall give rise to a corresponding extension of such deadline(s), as applicable, by an equal number of days. The Company may amend the Registration Statement so as to convert the Registration Statement to a Registration Statement on Form S-3 at such time after the Company becomes eligible to use such FormS-3.

Section 5. Suspension.

(a) Subject to the provisions of this Section 5 and a good faith determination by the Board that it is in the best interests of the Company to suspend the use of any Resale Registration Statement following the effectiveness of such Resale Registration Statement (and the filings with any U.S. federal or state securities commissions, as necessary), the Company, by written notice to the Holders (a "Suspension Notice"), may direct the Holders to suspend sales of the Registrable Securities pursuant to such Resale Registration Statement for such times as the Company reasonably may determine is necessary and advisable (but in no event for more than 30 days in any 90-day period or 90 days in any 365-day period) if any of the following events occurs or will occur, as applicable: (i) an underwritten public offering of Common Stock (or other common shares of the Company) by the Company for its own account if the Company is advised by the managing underwriter or underwriters that the concurrent resale of the Registrable Securities by the Holders pursuant to the Resale Registration Statement would have a material adverse effect on the Company's offering, subject to Section 3 hereof, (ii) there is material non-public information regarding the Company that (A) the Board determines not to be in the Company's best interest to disclose, (B) would, in the good faith determination of the Board, require any revision to the Resale Registration Statement so that it shall 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, in light of the circumstances under which they were made, not misleading, and (C) the Company is not otherwise required to disclose or (iii) there is a significant bona fide business purpose or opportunity (including the acquisition or disposition of assets (other than in the ordinary course of business), including any significant merger, consolidation, tender offer or other similar transaction) available to the Company that the Company determines not to be in the Company's best interests to disclose (each of the events described in clauses (i)-(iii), a "Suspension Event").

(b) Upon the earlier to occur of (i) the Company delivering to the Holders an End of Suspension Notice (as defined below), or (ii) the end of the maximum permissible suspension period, the Company shall use reasonable best efforts to promptly amend or supplement the Resale Registration Statement on a post-effective basis, if necessary, or to take such action as is necessary to make resumed use of the Resale Registration Statement so as to permit the Holders to resume sales of the Registrable Securities as soon as possible.

(c) If the Company intends to suspend a Resale Registration Statement upon the occurrence of a Suspension Event, the Company shall give a Suspension Notice to the Holders of Registrable Securities covered by any Resale Registration Statement to suspend sales of the Registrable Securities, and such Suspension Notice shall state that such suspension shall continue only for so long as the Suspension Event or its effect is continuing (subject to the time limitations set forth in Section 5(a)) and that the Company is taking all reasonable steps to terminate suspension of the effectiveness of the Resale Registration Statement as promptly as reasonably possible. Such Holders shall not effect any sales of the Registrable Securities pursuant to such Resale Registration Statement (or such filings) at any time after it has received a Suspension Notice from the Company and prior to receipt of an End of Suspension Notice. If so directed by the Company, each such Holder shall deliver to the Company (at the reasonable expense of the Company) all copies other than permanent file copies then in such Holder's possession of the Prospectus covering the Registrable Securities at the time of receipt of the Suspension Notice. The Holders may recommence effecting sales of the Registrable Securities pursuant to the Resale Registration Statement (or such filings) following further notice to such effect (an "End of Suspension Notice") from the Company, which End of Suspension Notice shall be given by the Company to the Holders of Registrable Securities covered by any Resale Registration Statement in the manner described above promptly following the conclusion of any Suspension Event and its effect.

(d) In the event the Company has delivered a Suspension Notice to the Holders, the Company shall have the right to place restrictive legends on the certificates representing (or book entries evidencing) Registrable Securities and to impose stop transfer instructions with respect to the Registrable Securities until the Company delivers to the Holders an End of Suspension Notice.

Section 6. Registration Procedures.

In connection with the obligations of the Company with respect to any resale registration pursuant to this Agreement, the Company shall use its reasonable best efforts to effect such registration and to permit the sale of such Registrable Securities in accordance with the intended method or methods of distribution thereof and in connection therewith the Company shall:

(a) prepare and file with the Commission, as specified in this Agreement, each Resale Registration Statement, which shall comply as to form in all material respects with the requirements of the applicable form and include all exhibits and financial statements required by the Commission to be filed therewith, and use reasonable best efforts to cause any Resale Registration Statement to become and remain effective as set forth in Section 2 or Section 4, as applicable;

(b) subject to Section 5, (i) prepare and file with the Commission such amendments and post-effective amendments to each such Resale Registration Statement as may be necessary to keep such Resale Registration Statement effective for the period described in Section 2 or Section 4, as applicable, (ii) cause each Prospectus contained therein to be supplemented by any required Prospectus supplement, and as so supplemented to be filed pursuant to Rule 424 or any similar rule that may be adopted under the Securities Act, and (iii) comply in all material respects with the provisions of the Securities Act with respect to the disposition of all securities covered by each Resale Registration Statement during the applicable period in accordance with the intended method or methods of distribution specified by the Holders of Registrable Securities covered by such Resale Registration Statement;

(c) furnish to the Holders of Registrable Securities covered by a Resale Registration Statement, without charge, such number of copies of each Prospectus, including each preliminary Prospectus, and any amendment or supplement thereto and such other documents as any such Holder may reasonably request, in order to facilitate the public sale or other disposition of the Registrable Securities; subject to Section 5, the Company hereby consents to the use of such Prospectus, including each preliminary Prospectus, by such Holders in connection with the offering and sale of the Registrable Securities covered by any such Prospectus;

(d) use reasonable best efforts to register or qualify, or obtain exemption from registration or qualification for, all Registrable Securities by the time the applicable Resale Registration Statement is declared effective by the Commission under all applicable state securities or "blue sky" laws of such domestic jurisdictions as any Holder of Registrable Securities covered by a Resale Registration Statement may reasonably request in writing, keep each such registration or qualification or exemption effective during the period such Resale Registration Statement is required to be kept effective pursuant to Section 2 or Section 4, as applicable, and do any and all other acts and things that may be reasonably necessary or advisable to enable such Holder to consummate the disposition in each such jurisdiction of such Registrable Securities owned by such Holder;

(e) cooperate with each Holder and each underwriter, if any, participating in the disposition of such Registrable Securities and their respective counsel in connection with any filings required to be made with FINRA;

(f) notify each Holder with Registrable Securities covered by a Resale Registration Statement promptly and, if requested by any such Holder, confirm such advice in writing (i) when such Resale Registration Statement has become effective and when any post-effective amendments and supplements thereto become effective, (ii) of the issuance by the Commission or any state securities authority of any stop order suspending the effectiveness of such Resale Registration Statement or the initiation of any proceedings for that purpose, (iii) of any written comments or requests by the Commission or any other federal or state governmental authority for amendments or supplements to such Resale Registration Statement or related Prospectus or for additional information, and (iv) of the happening of any event during the period such Resale Registration Statement is effective as a result of which such Resale Registration Statement or the related Prospectus or any document incorporated by reference therein contains any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein not misleading (which information shall be accompanied by a Suspension Notice);

(g) during the period of time set forth in Section 2 or Section 4, as applicable, use its reasonable best efforts to avoid the issuance of, or if issued, to obtain the withdrawal of, any order enjoining or suspending the use or effectiveness of a Resale Registration Statement or suspending the qualification (or exemption from qualification) of any of the Registrable Securities for sale in any jurisdiction, as promptly as practicable;

(h) upon request, furnish to each requesting Holder with Registrable Securities covered by a Resale Registration Statement, without charge, at least one conformed copy of such Resale Registration Statement and any post-effective amendment or supplement thereto (without documents incorporated therein by reference or exhibits thereto, unless requested);

(i) except as provided in Section 5, upon the occurrence of any event contemplated by Section 6(f)(iv), use reasonable best efforts to promptly prepare a supplement or post-effective amendment to a Resale Registration Statement or the related Prospectus or any document incorporated therein by reference or file any other required document so that, as thereafter delivered to the purchasers of the Registrable Securities, such Prospectus shall not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, and, upon request, promptly furnish to each requesting Holder a reasonable number of copies of each such supplement or post-effective amendment;

(j) enter into customary agreements and take all other action in connection therewith in order to expedite or facilitate the distribution of the Registrable Securities included in such Resale Registration Statement;

(k) use reasonable best efforts (including seeking to cure in the Company's listing or inclusion application any deficiencies cited by the exchange or market) to list or include all Registrable Securities on any securities exchange on which such Registrable Securities are then listed or included, and enter into such customary agreements including a supplemental listing application and indemnification agreement in customary form;

(l) prepare and file in a timely manner all documents and reports required by the Exchange Act and, to the extent the Company's obligation to file such reports pursuant to Section 15(d) of the Exchange Act expires prior to the expiration of the effectiveness period of the Resale Registration Statement as required by Section 2 or Section 4, as applicable, the Company shall register the Registrable Securities under the Exchange Act and maintain such registration through the effectiveness period required by Section 2 or Section 4, as applicable;

(m) (i) otherwise use reasonable best efforts to comply in all material respects with all applicable rules and regulations of the Commission, (ii) make generally available to its stockholders, as soon as reasonably practicable, earnings statements (which need not be audited) covering at least 12 months that satisfy the provisions of Section 11(a) of the Securities Act and Rule 158 thereunder, and (iii) delay filing any Resale Registration Statement or Prospectus or amendment or supplement to such Resale Registration Statement or Prospectus to which any Holder of Registrable Securities covered by any Resale Registration Statement shall have reasonably objected on the grounds that such Resale Registration Statement or Prospectus or amendment or supplement does not comply in all material respects with the requirements of the Securities Act, such Holder having been furnished with a copy thereof at least two Business Days prior to the filing thereof; *provided*, *however*, that the Company may file such Resale Registration Statement or Prospectus or amendment or supplement following such time as the Company shall have made a good faith effort to resolve any such issue with the objecting Holder and shall have advised the Holder in writing of its reasonable belief that such filing complies in all material respects with the requirements of the Securities Act;

(n) cause to be maintained a registrar and transfer agent for all Registrable Securities covered by any Resale Registration Statement from and after a date not later than the effective date of such Resale Registration Statement;

(o) in connection with any sale or transfer of the Registrable Securities (whether or not pursuant to a Resale Registration Statement) that would result in the securities being delivered no longer constituting Registrable Securities, cooperate with the Holders to facilitate the timely preparation and delivery of certificates representing (or book entries evidencing) the Registrable Securities to be sold, which certificates or book entries shall not bear any transfer restrictive legends arising under federal or state securities laws, and to enable such Registrable Securities to be in such denominations and registered in such names as the Holders may request at least three Business Days prior to any sale of the Registrable Securities;

(p) cause management of the Company to cooperate as may be reasonably requested with each of the Holders of Registrable Securities covered by a Resale Registration Statement, including by participating in roadshows, one-on-one meetings with institutional investors, and any request for information or other diligence request by any such Holder or any underwriter; notwithstanding the foregoing, management of the Company shall not be required to participate in roadshows or one-on-one meetings with institutional investors unless requested by one or more Holders of Registrable Securities having an aggregate value of at least $50,000,000;

(q) in connection with an underwritten public offering of Registrable Securities, use reasonable best efforts to obtain a customary "comfort" letter from the independent registered public accountants for the Company and any acquisition target of the Company whose financial statements are required to be included or incorporated by reference in any Resale Registration Statement, in form and substance customarily given by independent registered public accountants in an underwritten public offering, addressed to the underwriters, if any, and to the Holders of the Registrable Securities being sold pursuant to each Resale Registration Statement;

(r) execute and deliver all instruments and documents (including an underwriting agreement or placement agent agreement, as applicable in customary form) and take such other actions and obtain such certificates and opinions as sellers of the Registrable Securities being sold reasonably request in order to effect a public offering of such Registrable Securities and in such connection, whether or not an underwriting agreement is entered into and whether or not the offering is an underwritten offering, (A) make such representations and warranties to the Holders of such Registrable Securities and the underwriters, if any, with respect to the business of the Company and its subsidiaries, and the Resale Registration Statement and documents, if any, incorporated by reference therein, in each case, in form, substance and scope as are customarily made by issuers to underwriters in underwritten offerings, and, if true, confirm the same if and when requested, and (B) use reasonable best efforts to furnish to the selling Holders and underwriters of such Registrable Securities opinions and negative assurance letters of counsel to the Company and updates thereof (which counsel and opinions (in form, scope and substance) are reasonably satisfactory to the managing underwriters, if any, and one counsel selected by a majority of the selling Holders of the Registrable Securities), covering the matters customarily covered in opinions requested in underwritten offerings and such other matters as may be reasonably requested by such counsel and any such underwriters; and

(s) upon reasonable request by a Holder, the Company shall file an amendment to any applicable Resale Registration Statement (or Prospectus supplement, as applicable), to name additional Holders of Registrable Securities or otherwise update the information provided by any such Holder in connection with such Holder's disposition of Registrable Securities.

Section 7. Obligations of the Holders.

(a) The Company may require the Holders to furnish in writing to the Company such information regarding such Holder and the proposed method or methods of distribution of Registrable Securities by such Holder as the Company may from time to time reasonably request in writing or as may be required to effect the registration of the Registrable Securities, and no Holder may be entitled to be named as a selling stockholder in any Resale Registration Statement or use the Prospectus forming a part thereof if such Holder does not provide such information to the Company; *provided*, *however*, that if the Company elects to file a registration statement that includes all Registrable Securities outstanding in accordance with Section 2(a) or Section 4, the Company shall be permitted to include in such registration statement such information regarding the Holders as the Company has in its possession at the time of the filing of such registration statement. Each Holder further agrees to furnish promptly to the Company in writing all information required from time to time to make the information previously furnished by such Holder not misleading.

(b) Each Holder agrees to, upon receipt of any notice from the Company of the happening of any event of the kind described in Sections 6(f)(ii), 6(f)(iii) or 6(f)(iv) hereof, immediately discontinue disposition of Registrable Securities pursuant to a Resale Registration Statement until (i) any such stop order is vacated, or (ii) if an event described in Section 6(f)(iii) or Section 6(f)(iv) occurs, such Holder's receipt of the copies of the supplemented or amended Prospectus. If so directed by the Company, such Holder shall deliver to the Company (at the reasonable expense of the Company) all copies, other than permanent file copies then in such Holder's possession, in its possession of the Prospectus covering such Registrable Securities current at the time of receipt of such notice.

Section 8. Expenses of Registration. The Company shall pay all Registration Expenses in connection with the registration of the resale of the Registrable Securities pursuant to this Agreement and any other actions that may be taken in connection with the registration contemplated herein. Each Holder participating in a registration pursuant to Section 2, Section 3 or Section 4 shall bear such Holder's proportionate share (based on the total number of Registrable Securities sold in such registration) of all Selling Expenses and any other expense relating to a registration of Registrable Securities pursuant to this Agreement and any other Selling Expenses relating to the sale or disposition of such Holder's Registrable Securities pursuant to any Resale Registration Statement. The Company shall not be required to pay any fees and disbursements to underwriters not customarily paid by the issuers of securities in an offering similar to the applicable offering, including underwriting discounts and commissions and transfer taxes, if any, attributable to the sale of Registrable Securities.

Section 9. Indemnification and Contribution.

(a) The Company shall indemnify and hold harmless each Holder of Registrable Securities covered by a Resale Registration Statement, each person who controls any such Holder (within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act), and the officers, directors, members, managers, stockholders, partners, limited or general partners, agents and employees of each of them, to the fullest extent permitted by applicable law, from and against any and all losses, penalties, claims, damages, liabilities, costs (including reasonable attorneys' fees) and expenses (collectively, "Losses"), as incurred, arising out of or relating to (i) any untrue or alleged untrue statement of a material fact contained in a Resale Registration Statement or any Prospectus or in any amendment or supplement thereto or in any preliminary Prospectus, or arising out of or relating to any omission or alleged omission of a material fact required to be stated therein or necessary to make the statements therein (in the case of any Prospectus or supplement thereto, in light of the circumstances under which they were made) not misleading, or (ii) any violation or alleged violation by the Company of the Securities Act, the Exchange Act or any state securities law, or any rule or regulation thereunder, in connection with the performance of its obligations under this Agreement; in each case, except to the extent, but only to the extent, that (A) such untrue statement or omission is based upon information regarding such Holder furnished in writing to the Company by or on behalf of such Holder expressly for use therein, or (B) such information relates to such Holder or such Holder's proposed method of distribution of the Registrable Securities and was approved in writing by or on behalf of such Holder expressly for use in the Resale Registration Statement, such Prospectus or in any amendment or supplement thereto.

(b) Each Holder of Registrable Securities covered by a Resale Registration Statement shall, severally and not jointly, indemnify and hold harmless, to the fullest extent permitted by law, the Company, each director of the Company, each officer of the Company who shall sign a Resale Registration Statement, and each Person who controls any of the foregoing Persons (within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act) against any Losses, as incurred, arising out of or relating to any untrue or alleged untrue statement of a material fact contained in a Resale Registration Statement or any Prospectus or in any amendment or supplement thereto or in any preliminary Prospectus, or arising out of or relating to any omission or alleged omission of a material fact required to be stated therein or necessary to make the statements therein (in the case of any Prospectus or supplement thereto, in light of the circumstances under which they were made) not misleading, but only to the extent that (i) such untrue statement or omission is based upon information regarding such Holder furnished in writing to the Company by or on behalf of such Holder expressly for use therein, or (ii) such information relates to such Holder or such Holder's proposed method of distribution of the Registrable Securities and was approved in writing by or on behalf of such Holder expressly for use in the Resale Registration Statement, such Prospectus or in any amendment or supplement thereto.

(c) Each party entitled to indemnification under this Section 9 (the "Indemnified Party") shall give notice to the party required to provide indemnification (the "Indemnifying Party") promptly after such Indemnified Party has actual knowledge of any claim as to which indemnity may be sought, but the omission to so notify the Indemnifying Party shall not relieve it from any liability which it may have to the Indemnified Party pursuant to the provisions of this Section 9 except to the extent of the actual damages suffered by such delay in notification. The Indemnifying Party shall assume the defense of such action, including the employment of counsel to be chosen by the Indemnifying Party to be reasonably satisfactory to the Indemnified Party, and payment of expenses. The Indemnified Party shall have the right to employ its own counsel in any such case, but the legal fees and expenses of such counsel shall be at the

expense of the Indemnified Party, unless (i) the employment of such counsel was authorized in writing by the Indemnifying Party in connection with the defense of such action, (ii) the Indemnifying Party shall not have employed counsel to take charge of the defense of such action within a reasonable time after receipt of notice of such claim or (iii) the Indemnified Party shall have reasonably concluded that there may be defenses available to it or them which are different from or additional to those available to the Indemnifying Party (in which case the Indemnifying Party shall not have the right to direct the defense of such action on behalf of the Indemnified Party), in any of which events such fees and expenses shall be borne by the Indemnifying Party. No Indemnifying Party, in the defense of any such claim or litigation, shall, except with the consent of each Indemnified Party, consent to the entry of any judgment or enter into any settlement unless such judgment or settlement (i) includes an unconditional release by the claimant or plaintiff to such Indemnified Party from all liability in respect to such claim or litigation, and (ii) does not include a statement as to or an admission of fault, culpability or a failure to act, by or on behalf of any Indemnified Party.

(d) If the indemnification provided for in this Section 9 is unavailable to a party that would have been an Indemnified Party under this Section 9 in respect of any Losses referred to herein, then each party that would have been an Indemnifying Party hereunder shall, in lieu of indemnifying such Indemnified Party, contribute to the amount paid or payable by such Indemnified Party as a result of such Losses in such proportion as is appropriate to reflect the relative fault of the Indemnifying Party, on the one hand, and such Indemnified Party, on the other hand, in connection with the statement or omission which resulted in such Losses, as well as any other relevant equitable considerations. The relative fault shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Indemnifying Party or such Indemnified Party and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission. The Company and each Holder agree that it would not be just and equitable if contribution pursuant to this Section 9 were determined by *pro rata* allocation or by any other method of allocation which does not take account of the equitable considerations referred to above in this Section 9(d).

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

(f) In no event shall any Holder be liable for any Losses pursuant to this Section 9 in excess of the net proceeds to such Holder of any Registrable Securities sold by such Holder.

Section 10. Rule 144. Subject to the restrictions on transfer set forth in the Letter Agreement, the Stockholders' Agreement, the SponsorLock-Up Agreement, the Preferred Subscription Agreement and the Company Lock-Up Agreement, as applicable, the Company shall, at the Company's expense, for so long as any Holder holds any Registrable Securities, use reasonable best efforts to cooperate with the Holders, as may be reasonably requested by any Holder from time to time, to facilitate any proposed sale of Registrable Securities by the requesting Holder(s) in accordance with the provisions of Rule 144, including by using reasonable best efforts (i) to comply with the current public information requirements of Rule 144 and (ii) to provide opinions of counsel as may be reasonably necessary in order for such Holder to avail itself of such rule to allow such Holder to sell such Registrable Securities without registration under the Securities Act.

Section 11. Transfer of Registration Rights. The rights and obligations of a Holder under this Agreement may be transferred or otherwise assigned to a transferee or assignee of Registrable Securities (a "Permitted Transferee"), *provided* (i) such transferee or assignee becomes a party to this Agreement or agrees in writing to be subject to the terms hereof to the same extent as if such transferee or

assignee were an original party hereunder, and (ii) the Company is given written notice by such Holder of such transfer or assignment stating the name and address of such transferee or assignee and identifying the securities with regard to which such rights and obligations are being transferred or assigned. A Permitted Transferee to whom rights are transferred pursuant to this Section 11 may not again transfer those rights to any other Permitted Transferee, other than as provided in this Section 11.

Section 12. Miscellaneous.

(a) Governing Law; Jurisdiction; Waiver of Jury Trial. This Agreement and any claim, controversy or dispute arising under or related in any way to this Agreement, the relationship of the parties, the transactions contemplated by this Agreement and/or the interpretation and enforcement of the rights and duties of the parties hereunder or related in any way to the foregoing, shall be governed by and construed in accordance with the laws of the State of Maryland without giving effect to any choice or conflict of law provision or rule (whether of the State of Maryland or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Maryland.

EACH PARTY IRREVOCABLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF ANY STATE OR FEDERAL COURT SITTING IN THE STATE OF MARYLAND FOR THE PURPOSES OF ANY SUIT, ACTION OR OTHER PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY TRANSACTION CONTEMPLATED HEREBY AND AGREES THAT ALL CLAIMS IN RESPECT OF THE SUIT, ACTION OR OTHER PROCEEDING MAY BE HEARD AND DETERMINED IN ANY SUCH COURT. EACH PARTY AGREES TO COMMENCE ANY SUCH SUIT, ACTION OR OTHER PROCEEDING IN ANY STATE OR FEDERAL COURT SITTING IN THE STATE OF MARYLAND. EACH PARTY WAIVES ANY DEFENSE OF IMPROPER VENUE OR INCONVENIENT FORUM TO THE MAINTENANCE OF ANY ACTION OR PROCEEDING SO BROUGHT AND WAIVES ANY BOND, SURETY, OR OTHER SECURITY THAT MIGHT BE REQUIRED OF ANY OTHER PARTY WITH RESPECT THERETO. ANY PARTY MAY MAKE SERVICE ON ANY OTHER PARTY BY SENDING OR DELIVERING A COPY OF THE PROCESS TO THE PARTY TO BE SERVED AT THE ADDRESS AND IN THE MANNER PROVIDED FOR THE GIVING OF NOTICES IN SECTION 12(e). NOTHING IN THIS SECTION 12(a), HOWEVER, SHALL AFFECT THE RIGHT OF ANY PARTY TO SERVE LEGAL PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR AT EQUITY. EACH PARTY AGREES THAT A FINAL JUDGMENT IN ANY ACTION OR PROCEEDING SO BROUGHT SHALL BE CONCLUSIVE AND MAY BE ENFORCED BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW OR AT EQUITY.

EACH OF THE PARTIES HEREBY WAIVES ITS RIGHT TO A JURY TRIAL WITH RESPECT TO ANY ACTION OR CLAIM ARISING OUT OF ANY DISPUTE IN CONNECTION WITH THIS AGREEMENT, ANY RIGHTS OR OBLIGATIONS HEREUNDER OR THE PERFORMANCE OF SUCH RIGHTS AND OBLIGATIONS. EACH OF THE PARTIES (i) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HERETO HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVERS, AND (ii) ACKNOWLEDGES THAT SUCH OTHER PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE WAIVERS AND CERTIFICATIONS CONTAINED HEREIN.

(b) Entire Agreement. This Agreement constitutes the entire agreement of the parties with respect to its subject matter, supersedes all prior or contemporaneous oral or written agreements, including the Prior Agreements, or discussions with respect to such subject matter, shall be binding upon and inure to the benefit of the parties hereto and thereto and their respective heirs,

representatives, successors and permitted assigns and the Prior Agreements be, and each hereby, is terminated as of the date hereof and shall hereafter have no further force or effect. Each party hereby agrees that none of the parties shall have any continuing or further obligations under the Prior Agreements.

(c) Interpretation and Usage. In this Agreement, unless there is a clear contrary intention: (i) when a reference is made to a section, an annex or a schedule, that reference is to a section, an annex or a schedule of or to this Agreement; (ii) the singular includes the plural and vice versa; (iii) reference to any agreement, document or instrument means that agreement, document or instrument as amended or modified and in effect from time to time in accordance with the terms thereof; (iv) reference to any statute, rule, regulation or other law means that statute, rule, regulation or law as amended, modified, codified, replaced or reenacted, in whole or in part, and in effect from time to time, including rules and regulations promulgated thereunder, and reference to any section or other provision of any law means that section or provision from time to time in effect and constituting the substantive amendment, modification, codification, replacement or reenactment of that section or provision; (v) "hereunder," "hereof," "hereto," and words of similar import shall be deemed references to this Agreement as a whole and not to any particular article, section or other provision of this Agreement; (vi) "including" (and with correlative meaning "include") means including without limiting the generality of any description preceding such term; (vii) references to agreements, documents or instruments shall be deemed to refer as well to all addenda, exhibits, schedules or amendments thereto; and (viii) the terms "writing," "written" and words of similar import shall be deemed to include communications and documents in e-mail, fax or any other similar electronic or documentary form.

(d) Amendment. This Agreement may not be orally amended, modified or extended, nor shall any oral waiver of any of its terms be effective. This Agreement may be amended, modified or extended, and the provisions hereof may be waived, only by an agreement in writing signed by the Company and the Holders holding a majority of the Registrable Securities then outstanding (it being understood that a modification of Schedule A, Schedule B or Schedule C hereto to reflect a transfer permitted by Section 11 shall not be deemed to require either approvals). Each such amendment, modification, extension or waiver shall be binding upon each party hereto; provided that (a) the consent of any Sponsor Holder, FWAC Sponsor Holder, Preferred Holder, and MIC Holder shall be required for any amendment, modification, extension or waiver which has an adverse effect on the rights, limitations or obligations of such Sponsor Holder, FWAC Sponsor Holder, Preferred Holder and MIC Holder, as applicable, and (b) any such amendment, modification, extension or waiver that by its terms would adversely affect a Holder or group of Holders in a disproportionate manner relative to the Holders generally shall require the written consent of the Holder (or a majority in interest based on Registrable Securities of such group of Holders) so affected. In addition, each party hereto may waive any right hereunder (solely as applicable to such party) by an instrument in writing signed by such party.

(e) Notices. Each notice, demand, request, request for approval, consent, approval, disapproval, designation or other communication (each of the foregoing being referred to herein as a notice) required or desired to be given or made under this Agreement shall be in writing (except as otherwise provided in this Agreement), and shall be effective and deemed to have been received (i) when delivered in person, (ii) when receipt is acknowledged by recipient if sent by e-mail, (iii) five (5) days after having been mailed by certified or registered United States mail, postage prepaid, return receipt requested, or (iv) the next Business Day after having been sent by a nationally recognized overnight mail or courier service, receipt requested. Notices shall be addressed as follows: (A) if to a Holder, at such Holder's address or e-mail address set forth on Schedule A, Schedule B and Schedule C hereto, or at such other address or e-mail address as such Holder shall have furnished to the Company in writing, or (B) if to any assignee or transferee of a Holder, at such address or e-mail address as such assignee or transferee shall have furnished to the Company in writing, or (C) if to the Company, at the address of its principal executive offices and addressed to the attention of the President, or at such other address or e-mail address as the Company shall have furnished to the Holders. Any notice or other communication required to be given hereunder to a Holder in connection with a registration may instead be given to a designated representative of such Holder.

(f) Counterparts. This Agreement may be executed in any number of counterparts, each of which may be executed by fewer than all of the parties hereto (*provided*, *however*, that each party executes one or more counterparts), each of which shall be enforceable against the parties actually executing such counterparts, and all of which together shall constitute one instrument. This Agreement may be executed in any number of separate counterparts (including by means of facsimile, e-mail (including .pdf or any electronic signature complying with the U.S. federal ESIGN Act of 2000, for example, www.docusign.com) or other transmission method), each of which is an original but all of which taken together shall constitute one and the same instrument.

(g) Severability. In the event that any provision of this Agreement becomes or is declared by a court of competent jurisdiction to be illegal, unenforceable or void in any respect, such provision shall be construed by modifying or limiting it so as to be valid and enforceable to the maximum extent compatible with, and possible under, applicable law. The provisions hereof are severable, and in the event any provision hereof should be held invalid or unenforceable in any respect, it shall not invalidate, render unenforceable or otherwise affect any other provision hereof.

(h) Section Titles. Section titles are for descriptive purposes only and shall not control or alter the meaning of this Agreement as set forth in the text.

(i) Successors and Assigns. This Agreement shall be binding upon the parties hereto and their respective successors and permitted assigns and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns. If any successor or permitted assignee of any Holder shall acquire Registrable Securities in any manner, whether by operation of law or otherwise, (a) such successor or permitted assignee shall be entitled to all of the benefits of a "Holder" under this Agreement and (b) such Registrable Securities shall be held subject to all of the terms of this Agreement, and by taking and holding such Registrable Securities such Person shall be conclusively deemed to have agreed to be bound by all of the terms and provisions hereof. Except as otherwise expressly provided herein, no Holder or other party hereto may assign any of its respective rights or delegate any of its respective obligations under this Agreement without the prior written consent of the other parties hereto, and any attempted assignment or delegation in violation of the foregoing shall be null and void.

(j) Remedies; No Waiver. Each party acknowledges and agrees that the other parties would be irreparably damaged in the event that the covenants set forth in this Agreement were not performed in accordance with its specific terms or were otherwise breached. It is accordingly agreed that each party hereto shall be entitled to seek an injunction to specifically enforce the terms of this Agreement solely in the courts specified in Section 12(a), in addition to any other remedy to which such party may be entitled hereunder, at law or in equity. No failure or delay by a party in exercising any right or remedy provided by law or under this Agreement shall impair such right or remedy or operate or be construed as a waiver or variation of it or preclude its exercise at any subsequent time and no single or partial exercise of any such right or remedy shall preclude any further exercise of it or the exercise of any other remedy.

(k) No Other Obligation to Register. Except as otherwise expressly provided in this Agreement, the Company shall have no obligation to the Holders to register the resale of the Registrable Securities under the Securities Act.

(l) Changes in Securities Laws. In the event that any amendment, repeal or other change in the securities laws shall render the provisions of this Agreement inapplicable, the Company shall provide the Holders with substantially similar rights to those granted under this Agreement and use its good faith efforts to cause such rights to be as comparable as possible to the rights granted to the Holders hereunder.

[*Signature Page Follows*]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

COMPANY:

MOBILE INFRASTRUCTURE CORPORATION

By: */s/ Manuel Chavez, III*
Name: Manuel Chavez, III
Title: Chief Executive Officer

[Signature Page to Registration Rights Agreement]

SPONSOR HOLDER:

FIFTH WALL ACQUISITION SPONSOR III LLC

By: */s/ Andriy Mykhaylovskyy*
Name: Andriy Mykhaylovskyy
Title: Manager

[Signature Page to Registration Rights Agreement]

FWAC SPONSOR HOLDERS:

Adeyemi Ajao

/s/ Adeyemi Ajao

Alana Beard

/s/ Alana Beard

Poonam Sharma Mathis

/s/ Poonam Sharma Mathis

Amanda Parness

/s/ Amanda Parness

[Signature Page to Registration Rights Agreement]

MIC HOLDERS:

HSCP STRATEGIC III, L.P

By: */s/ Jeffrey B. Osher*
Name: Jeffrey B. Osher
Title: Managing member of No Street Capital LLC, the managing member of Harvest Small Cap PartnersGP, LLC, general partner of HSCP Strategic III, L.P.

COLOR UP, LLC

By: */s/ Manuel Chavez III*
Name: Manuel Chavez III
Title: Chief Executive Officer

[Signature Page to Registration Rights Agreement]

PREFERRED HOLDERS:

HARVEST SMALL CAP PARTNERS MASTER, LTD.

By: */s/ Jeffrey B. Osher*
Name: Jeffrey B. Osher
Title: Managing member of No Street Capital LLC, the managing member of Harvest Small Cap Partners GP, LLC, the general partner of Harvest Small Cap Partners, L.P.

HARVEST SMALL CAP PARTNERS, L.P.

By: */s/ Jeffrey B. Osher*
Name: Jeffrey B. Osher
Title: Managing member of No Street Capital LLC, the managing member of Harvest Small Cap Partners GP, LLC, the general partner of Harvest Small Cap Partners, L.P.

HSCP STRATEGIC III, L.P.

By: */s/ Jeffrey B. Osher*
Name: Jeffrey B. Osher
Title: Managing member of No Street Capital LLC, the managing member of Harvest Small Cap Partners GP, LLC, general partner of HSCP Strategic III, L.P.

BOMBE-MIC PREF, LLC

By: */s/ Manuel Chavez, III*
Name: Manuel Chavez, III
Title: Member

[Signature Page to Registration Rights Agreement]

Schedule A

FWAC Sponsor Holders

Adeyemi Ajao
Address:
Fifth Wall
[*****]
Attention: Adeyemi Ajao
Email: [*****]

Alana Beard
Address:
Fifth Wall
[*****]
[*****]
Attention: Alana Beard
Email: [*****]

Poonam Sharma Mathis
Address:
[*****]
[*****]
Attention: Poonam Sharma
Email: [*****]

Amanda Parness
Address:
Fifth Wall
[*****]
[*****]
Attention: Amanda Parness
Email: [*****]

Schedule B

MIC Holders

COLOR UP, LLC
Address:
30 W. 5th Street,
Cincinnati, OH 45202
Email: [*****]

HSCP STRATEGIC III, L.P.
Address:
505 Montgomery, Suite 1250
San Francisco, CA 94111
Email: [*****]

Schedule C

Preferred Holders

HSCP STRATEGIC III, L.P.
HSCP STRATEGIC III, L.P.
HARVEST SMALL CAP PARTNERS MASTER, LTD.
HARVEST SMALL CAP PARTNERS, L.P.
Address:
[*****]
[*****]
Email: [*****]

BOMBE-MIC PREF, LLC
Address:
[*****]
[*****]
Email: [*****]

Exhibit 10.46

August 25, 2023

Fifth Wall Acquisition Corp. III ("Acquiror")
1 Little West 12th Street, 4th Floor
New York, NY 10014

Mobile Infrastructure Corporation (the "Company")
30 West 4th Street
Cincinnati, OH 45202

Re: Forfeiture of Founder Shares

Ladies and Gentlemen:

Reference is made to that certain Second Amended and Restated Sponsor Agreement, dated as of June 15, 2023 (the "Sponsor Agreement"), by and among Acquiror, the Company, Fifth Wall Acquisition Sponsor III LLC ("Sponsor") and the members of Acquiror's board of directors party thereto. Capitalized terms not defined herein have the meanings set forth in the Sponsor Agreement. This letter agreement (this "Letter Agreement") is being entered into in connection with the closing of the transactions contemplated by the Merger Agreement.

1. Forfeiture of Founder Shares. Immediately prior to Closing on the Closing Date, the Sponsor shall deliver to Acquiror for cancellation and for no consideration 100,000 Founder Shares, which shares shall be comprised of 50,000 First Earnout Shares and 50,000 Second Earnout Shares.

2. Further Assurances. From time to time, at the Company's request and at the Company's sole expense and without further consideration, each of the parties hereto shall execute and deliver such additional documents and take all such further action as may be reasonably necessary or reasonably requested to effect the actions and consummate the transactions contemplated by this Letter Agreement.

3. Additional Provisions. This Letter Agreement shall be subject to the provisions contained in Sections 9, 10, 12, 13, 14, 15, 16, 17 and 18 of the Sponsor Agreement, which are hereby incorporated by reference, *mutatis mutandis*.

[Continued on Next Page]

IN WITNESS WHEREOF, the parties hereto have executed this Letter Agreement as of the date first written above.

FIFTH WALL ACQUISITION SPONSOR III LLC

/s/ Andriy Mykhaylovskyy
Name: Andriy Mykhaylovskyy
Title: Manager

FIFTH WALL ACQUISITION CORP. III

/s/ Andriy Mykhaylovskyy
Name: Andriy Mykhaylovskyy
Title: Chief Financial Officer

MOBILE INFRASTRUCTURE CORPORATION

/s/ Stephanie Hogue
Name: Stephanie Hogue
Title: President and Chief Financial Officer

Exhibit 10.50

LIMITED LIABILITY COMPANY AGREEMENT

OF

MOBILE INFRA OPERATING COMPANY, LLC

a Delaware limited liability company

THE SECURITIES EVIDENCED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR THE SECURITIES LAWS OF ANY STATE AND MAY NOT BE SOLD, TRANSFERRED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF SUCH REGISTRATION, UNLESS IN THE OPINION OF COUNSEL SATISFACTORY TO THE COMPANY THE PROPOSED SALE, TRANSFER OR OTHER DISPOSITION MAY BE EFFECTED WITHOUT REGISTRATION UNDER THE SECURITIES ACT AND UNDER APPLICABLE STATE SECURITIES OR "BLUE SKY" LAWS.

Dated as of August 25, 2023

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LIMITED LIABILITY COMPANY AGREEMENT
OF MOBILE INFRA OPERATING COMPANY, LLC

THIS LIMITED LIABILITY COMPANY AGREEMENT OF MOBILE INFRA OPERATING COMPANY, LLC, dated as of August 25, 2023, is made and entered into by and among the undersigned.

WHEREAS, Mobile Infra Operating Partnership, L.P., a Maryland limited partnership (the "***Partnership***"), initially was formed pursuant to and in accordance with the Delaware Revised Uniform Limited Partnership Act by the filing of a Certificate of Limited Partnership with the SOS (as defined herein) on June 8, 2015 (the "***Formation Date***");

WHEREAS, the Partnership was converted from a Delaware limited partnership to a Maryland limited partnership by the filing of a Certificate of Limited Partnership of the Partnership and Articles of Conversion with the Maryland State Department of Assessments and Taxation (the "***SDAT***") on August 26, 2021 (the "***Maryland Conversion***");

WHEREAS, the Partnership was converted from a Maryland limited partnership to a Delaware limited liability company by the filing of Articles of Conversion with the SDAT and a Certificate of Formation of the Company and a Certificate of Conversion with the SOS (as defined below) on August 25, 2023 (the "***Delaware Conversion***");

WHEREAS, the Parties intend that each of the Maryland Conversion and the Delaware Conversion be treated as apartnership-to-partnership conversion under Revenue Ruling 95-37, 1995-1 C.B. 130, subject to the principles of Revenue Ruling84-52, 1984-1 C.B. 157; and

WHEREAS, the undersigned Persons desire to enter into this Agreement to provide for the operation of the Company and the relations of its Members.

NOW, THEREFORE, BE IT RESOLVED, that, in consideration of the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

Article 1
DEFINED TERMS

The following definitions shall be for all purposes, unless otherwise clearly indicated to the contrary, applied to the terms used in this Agreement:

"***Act***" means the Delaware Limited Liability Company Act (6 Del. C. Section 18-101, et seq.), as it may be amended from time to time, and any successor to such statute.

"***Actions***" has the meaning set forth in Section 7.7 hereof.

"***Additional Funds***" has the meaning set forth in Section 4.3.A hereof.

"***Additional Member***" means a Person who is admitted to the Company as a member pursuant to the Act and Section 4.2 and Section 12.2 hereof and who is shown as such on the books and records of the Company.

"***Adjusted Capital Account***" means, with respect to any Member, the balance in such Member's Capital Account as of the end of the relevant Fiscal Year or other applicable period, after giving effect to the following adjustments:

(i) increase such Capital Account by any amounts that such Member is obligated to restore pursuant to this Agreement upon liquidation of such Member's Interest or that such Person is deemed to be obligated to restore pursuant to Regulations Section 1.704-1(b)(2)(ii)(c) or the penultimate sentence of each of Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5); and

(ii) decrease such Capital Account by the items described in Regulations Section 1.704-1(b)(2)(ii)(d)(4), (5) and (6).

The foregoing definition of "Adjusted Capital Account" is intended to comply with the provisions of Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

"***Adjusted Capital Account Deficit***" means, with respect to any Member, the deficit balance, if any, in such Member's Adjusted Capital Account as of the end of the relevant Fiscal Year or other applicable period.

"***Adjusted Net Income***" means for each Fiscal Year or other applicable period, an amount equal to the Company's Net Income or Net Loss for such year or other period (other than any Net Income or Net Loss or items thereof allocated with respect to such year or other period prior to the allocation of Adjusted Net Income), computed without regard to the items set forth below; *provided*, that if the Adjusted Net Income for such year or other period is a negative number (*i.e.*, a net loss), then the Adjusted Net Income for that year or other period shall be treated as if it were zero:

(i) Depreciation; and

(ii) Net gain or loss realized in connection with the actual or hypothetical sale of any or all of the assets of the Company, including but not limited to net gain or loss treated as realized in connection with an adjustment to the Gross Asset Value of the Company's assets as set forth in the definition of "Gross Asset Value."

"***Adjustment Event***" has the meaning set forth in Section 19.3 hereof.

"***Adjustment Factor***" means 1.0; *provided*, *however*, that in the event that:

(i) MIC (a) declares or pays a dividend on its outstanding Shares wholly or partly in Shares or makes a distribution to all holders of its outstanding Shares wholly or partly in Shares, (b) splits or subdivides its outstanding Shares or (c) effects a reverse stock split or otherwise combines its outstanding Shares into a smaller number of Shares, the

Adjustment Factor shall be adjusted by multiplying the Adjustment Factor previously in effect by a fraction, (1) the numerator of which shall be the number of Shares issued and outstanding on the record date for such dividend, distribution, split, subdivision, reverse split or combination (assuming for such purposes that such dividend, distribution, split, subdivision, reverse split or combination has occurred as of such time) and (2) the denominator of which shall be the actual number of Shares (determined without the above assumption) issued and outstanding on the record date for such dividend, distribution, split, subdivision, reverse split or combination;

(ii) MIC distributes any rights, options or warrants to all holders of its Shares to subscribe for or to purchase or to otherwise acquire Shares, or other securities or rights convertible into, exchangeable for or exercisable for Shares (other than Shares issuable pursuant to a Qualified DRIP / COPP), at a price per share less than the Value of a Share on the record date for such distribution (each a "***Distributed Right***"), then, as of the distribution date of such Distributed Rights or, if later, the time such Distributed Rights become exercisable, the Adjustment Factor shall be adjusted by multiplying the Adjustment Factor previously in effect by a fraction (a) the numerator of which shall be the number of Shares issued and outstanding on the record date (or, if later, the date such Distributed Rights become exercisable) plus the maximum number of Shares purchasable under such Distributed Rights and (b) the denominator of which shall be the number of Shares issued and outstanding on the record date (or, if later, the date such Distributed Rights become exercisable) plus a fraction (1) the numerator of which is the maximum number of Shares purchasable under such Distributed Rights times the minimum purchase price per Share under such Distributed Rights and (2) the denominator of which is the Value of a Share as of the record date (or, if later, the date such Distributed Rights become exercisable); *provided*, *however*, that, if any such Distributed Rights expire or become no longer exercisable, then the Adjustment Factor shall be adjusted, effective retroactive to the date of distribution of the Distributed Rights (or, if applicable, the later time that the Distributed Rights become exercisable), to reflect a reduced maximum number of Shares or any change in the minimum purchase price for the purposes of the above fraction; and

(iii) MIC shall, by dividend or otherwise, distribute to all holders of its Shares evidences of its indebtedness or assets (including securities, but excluding any dividend or distribution referred to in subsection (i) or (ii) above), which evidences of indebtedness or assets relate to assets not received by MIC pursuant to a pro rata distribution by the Company, then the Adjustment Factor shall be adjusted to equal the amount determined by multiplying the Adjustment Factor in effect immediately prior to the close of business as of the applicable record date by a fraction (a) the numerator of which shall be such Value of a Share as of the record date and (b) the denominator of which shall be the Value of a Share as of the record date less the then fair market value (as determined by MIC, whose determination shall be conclusive) of the portion of the evidences of indebtedness or assets so distributed applicable to one Share.

Notwithstanding the foregoing, no adjustments to the Adjustment Factor will be made for any class or series of Interests to the extent that the Company makes or effects any correlative distribution or payment to all of the Members holding Interests of such class or series, or effects any correlative split or reverse split in respect of the Interests of such class or series. Any adjustments to the Adjustment Factor shall become effective immediately after such event, retroactive to the record date, if any, for such event. For illustrative purposes, examples of adjustments to the Adjustment Factor are set forth on Exhibit A attached hereto.

"***Affiliate***" means, with respect to any Person, any Person directly or indirectly controlling or controlled by or under common control with such Person. For the purposes of this definition, "control" when used with respect to any Person means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise, and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

"***Agreement***" means this Limited Liability Company Agreement of Mobile Infra Operating Company, LLC, as now or hereafter amended, restated, modified, supplemented or replaced.

"***Applicable Percentage***" means the proportion of a Tendering Party's Tendered Common Units that will be acquired by MIC for Shares in accordance with Section 15.1 to the Tendering Party's Tendered Common Units.

"***Approval Right Termination Date***" means the first date on which the Specified Members and any of their Affiliates (whether or not such Affiliates are or become Members pursuant to this Agreement) own less than 9.8% of the aggregate number of Shares and Common Units acquired by the initial Specified Member and its Affiliates on August 26, 2021, pursuant to that certain Equity Purchase and Contribution Agreement, dated as of January 8, 2021, by and among Mobile Infrastructure Corporation, the Company, the initial Specified Member, and certain other persons.

"***Assignee***" means a Person to whom an Interest has been Transferred in a manner permitted under this Agreement, but who has not become a Substituted Member, and who has the rights set forth in Section 11.5 hereof.

"***Assumed Tax Rate***" has the meaning set forth in Section 5.3 hereof.

"***Available Cash***" means, with respect to any period for which such calculation is being made,

(i) the sum, without duplication, of:

(1) the Company's Net Income or Net Loss (as the case may be) for such period,

(2) Depreciation and all other noncash charges to the extent deducted in determining Net Income or Net Loss for such period,

(3) the amount of any reduction in reserves of the Company referred to in clause (ii)(6) below (including, without limitation, reductions resulting because the Board determines such amounts are no longer necessary),

(4) the excess, if any, of the net cash proceeds from the sale, exchange, disposition, financing or refinancing of Company property for such period over the gain (or loss, as the case may be) recognized from such sale, exchange, disposition, financing or refinancing during such period (excluding Terminating Capital Transactions), and

(5) all other cash received (including amounts previously accrued as Net Income and amounts of deferred income) or any net amounts borrowed by the Company for such period that was not included in determining Net Income or Net Loss for such period.

(ii) less the sum, without duplication, of:

(1) all principal debt payments made during such period by the Company,

(2) capital expenditures made by the Company during such period,

(3) investments in any entity (including loans made thereto) to the extent that such investments are not otherwise described in clause (ii)(1) or clause (ii)(2) above,

(4) all other expenditures and payments not deducted in determining Net Income or Net Loss for such period (including amounts paid in respect of expenses previously accrued),

(5) any amount included in determining Net Income or Net Loss for such period that was not received by the Company during such period,

(6) the amount of any increase in reserves (including, without limitation, working capital reserves) established during such period that the Board determines are necessary or appropriate in its sole and absolute discretion,

(7) any amount distributed or paid in redemption of any Interest or Units, including, without limitation, any Cash Amount paid, and

(8) the amount of any working capital accounts and other cash or similar balances that the Board determines to be necessary or appropriate in its sole and absolute discretion.

Notwithstanding the foregoing, Available Cash shall not include (a) any cash received or reductions in reserves, or take into account any disbursements made, or reserves established, after dissolution and the commencement of the liquidation and winding up of the Company or (b) any Capital Contributions, whenever received or any payments, expenditures or investments made with such Capital Contributions.

"***Bipartisan Budget Act***" means the Bipartisan Budget Act of 2015 (P.L. 114-74).

"***Board***" has the meaning set forth in Section 7.1 hereof.

"***Business Day***" means any day except a Saturday, Sunday or other day on which commercial banks in The City of New York, New York or Cincinnati, Ohio are authorized by law to close.

"***Capital Account***" means, with respect to any Member, the capital account maintained by or at the direction of the Board for such Member on the Company's books and records in accordance with the following provisions:

(i) To each Member's Capital Account, there shall be added such Member's Capital Contributions, such Member's distributive share of Net Income and any items in the nature of income or gain that are specially allocated pursuant to Section 6.2.E, 6.2.F, 6.2.G, 6.2.H and 6.2.I or Section 6.3 hereof, and the amount of any Company liabilities assumed by such Member or that are secured by any property distributed to such Member.

(ii) From each Member's Capital Account, there shall be subtracted the amount of cash and the Gross Asset Value of any Company property distributed to such Member pursuant to any provision of this Agreement, such Member's distributive share of Net Losses and any items in the nature of expenses or losses that are specially allocated pursuant Section 6.2.E, 6.2.F, 6.2.G, 6.2.H and 6.2.I or Section 6.3 hereof, and the amount of any liabilities of such Member assumed by the Company or that are secured by any property contributed by such Member to the Company (except to the extent already reflected in the amount of such Member's Capital Contribution).

(iii) In the event any interest in the Company is Transferred in accordance with the terms of this Agreement (which Transfer does not result in the termination of the Company for U.S. federal income tax purposes), the transferee shall succeed to the Capital Account of the transferor to the extent that it relates to the Transferred interest.

(iv) In determining the amount of any liability for purposes of subsections (i) and (ii) hereof, there shall be taken into account Code Section 752(c) and any other applicable provisions of the Code and Regulations.

(v) The provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Regulations promulgated under Code Section 704, and shall be interpreted and applied in a manner consistent with such Regulations. If the Board shall determine that it is necessary or appropriate to modify the manner in which the Capital Accounts are maintained in order to comply with such Regulations, the Board may make such modification, provided that such modification is not likely to have any material effect on the amounts distributable to any Member pursuant to Article 13 hereof upon the dissolution of the Company. The Board may, in its sole discretion, (a) make any adjustments that are necessary or appropriate to maintain equality between the Capital Accounts of the Members and the amount of Company capital reflected on the Company's balance sheet, as computed for book purposes, in accordance with Regulations Section 1.704-1(b)(2)(iv)(q) and (b) make any modifications that are necessary or appropriate in the event that unanticipated events might otherwise cause this Agreement not to comply with Regulations Section 1.704-1(b) or Section 1.704-2.

"***Capital Account Limitation***" means (x) the Economic Capital Account Balance of such Member, to the extent attributable to his or her ownership of LTIP Units or Performance Units, as applicable, divided by (y) the Common Unit Economic Balance, in each case as determined as of the effective date of conversion.

"***Capital Contribution***" means, with respect to any Member, the amount of money and the initial Gross Asset Value of any Contributed Property that such Member contributes or is deemed to contribute to the Company pursuant to Article 4 hereof.

"***Capital Share***" means a share of any class or series of stock of MIC now or hereafter authorized other than a Share.

"***Cash Amount***" means an amount of cash equal to the product of (i) the Value of a Share and (ii) the Shares Amount determined as of the applicable Valuation Date.

"***Certificate***" means the Certificate of Formation of the Company filed with the SOS, as amended from time to time in accordance with the terms hereof and the Act.

"***Charity***" means an entity described in Code Section 501(c)(3) or any trust all the beneficiaries of which are such entities.

"***Charter***" means the charter of MIC, within the meaning of Section 1-101(f) of the Maryland General Corporation Law.

"***Class A Unit***" has the meaning set forth in Section 21.1 hereof.

"***Class A Unit Agreement***" means the written agreement between the Company and a recipient of Class A Units evidencing the terms and conditions of such Class A Units.

"***Closing Price***" has the meaning set forth in the definition of "Value."

"***Code***" means the Internal Revenue Code of 1986, as amended and in effect from time to time or any successor statute thereto, as interpreted by the applicable Regulations thereunder. Any reference herein to a specific section or sections of the Code shall be deemed to include a reference to any corresponding provision of future law.

"***Common Equivalent Unit***" means a Common Unit, an LTIP Unit, a Performance Unit or any other unit or fractional, undivided share of the Interests that the Board has authorized pursuant to Section 4.1, Section 4.2 or Section 4.3 hereof that is neither a Preferred Unit nor any other Unit that is specified in a Unit Designation as being other than a Common Equivalent Unit.

"***Common Member***" means any Member that is a Holder of Common Units, including any Substituted Common Member, in its capacity as such.

"***Common Stock***" means the Shares classified as common stock, $0.0001 par value per share, in the Charter.

"***Common Unit***" means a fractional, undivided share of the Interests of all Members issued pursuant to Sections 4.1 and 4.2 hereof, but does not include any Preferred Unit, LTIP Unit, Performance Unit, Class A Unit or any other Unit specified in a Unit Designation as being other than a Common Unit.

"***Common Unit Economic Balance***" means (i) the Capital Account balance of MIC, plus the amount of MIC's share of any Member Minimum Gain or Company Minimum Gain, in either case to the extent attributable to MIC's ownership of Common Units and computed on a hypothetical basis after taking into account all allocations through the date on which any allocation is made under Section 6.2.F hereof, divided by (ii) the number of MIC's Common Units.

"***Common Unit Notice of Redemption***" means the Common Unit Notice of Redemption substantially in the form of Exhibit B attached to this Agreement.

"***Company***" means the limited liability company formed and continued under the Act and pursuant to this Agreement, and any successor thereto.

"***Company Employee***" means an employee or other service provider of the Company or an employee of a Subsidiary of the Company, if any, acting in such capacity.

"***Company Equivalent Units***" shall have the meaning set forth in Section 4.7.A hereof.

"***Company Minimum Gain***" has the meaning set forth in Regulations Section 1.704-2(b)(2), and the amount of Company Minimum Gain, as well as any net increase or decrease in Company Minimum Gain, for a Fiscal Year shall be determined in accordance with the rules of Regulations Section 1.704-2(d).

"***Company Vote***" has the meaning set forth in Section 11.2.E hereof.

"***Compensatory Units***" has the meaning set forth in Section 4.2.B.

"***Consent***" means the consent to, approval of, or vote in favor of a proposed action by a Member given in accordance with Article 14 hereof. The terms "***Consented***" and "***Consenting***" have correlative meanings.

"***Consent of the Common Members***" means the Consent of a Majority in Interest of the Common Members, which Consent shall be obtained prior to the taking of any action for which it is required by this Agreement and, except as otherwise provided in this Agreement, may be given or withheld by each Common Member in its sole and absolute discretion.

"***Consent of MIC***" means the Consent of MIC, which Consent, except as otherwise specifically required by this Agreement, may be obtained prior to or after the taking of any action for which it is required by this Agreement and may be given or withheld by MIC in its sole and absolute discretion.

"***Consent of the Non-MIC Members***" means the Consent of a Majority in Interest of the Members other than (i) MIC and/or (ii) any Member fifty percent (50%) or more of whose equity is owned, directly or indirectly, by MIC, which Consent shall be obtained prior to the taking of any action for which it is required by this Agreement and, except as otherwise provided in this Agreement, may be given or withheld by each Member in its sole and absolute discretion.

"***Consent of the Members***" means the Consent of a Majority in Interest of the Members, which Consent shall be obtained prior to the taking of any action for which it is required by this Agreement and, except as otherwise provided in this Agreement, may be given or withheld by the Members in their sole and absolute discretion; *provided, however* that if any such action affects only certain classes or series of Interests, "Consent of the Members" means the Consent of a Majority in Interest of Members of the affected classes or series of Interests.

"***Constituent Person***" has the meaning set forth in Section 19.9.F hereof.

"***Contributed Property***" means each Property or other asset, in such form as may be permitted by the Act, but excluding cash, contributed or deemed contributed to the Company.

"***Controlled Entity***" means, as to any Member, (a) any corporation more than fifty percent (50%) of the outstanding voting stock of which is owned by such Member or such Member's Family Members or Affiliates, (b) any trust, whether or not revocable, of which such Member or such Member's Family Members or Affiliates are the sole beneficiaries, (c) any partnership of which such Member or its Affiliates are the managing partners and in which such Member, such Member's Family Members or Affiliates hold partnership interests representing at least twenty-five percent (25%) of such partnership's capital and profits and (d) any limited liability company of which such Partner or its Affiliates are the managers and in which such Member, such Member's Family Members or Affiliates hold membership interests representing at least twenty-five percent (25%) of such limited liability company's capital and profits.

"***Conversion Date***" has the meaning set forth in Section 19.9.B hereof.

"***Conversion Notice***" has the meaning set forth in Section 19.9.B hereof.

"***Conversion Right***" has the meaning set forth in Section 19.9.A hereof.

"***Cut-Off Date***" means the fifth (5th) Business Day after MIC's receipt of a Common Unit Notice of Redemption.

"***Debt***" means, as to any Person, as of any date of determination: (i) all indebtedness of such Person for borrowed money or for the deferred purchase price of property or services; (ii) all amounts owed by such Person to banks or other Persons in respect of reimbursement obligations under letters of credit, surety bonds and other similar instruments guaranteeing payment or other performance of obligations by such Person; (iii) all indebtedness for borrowed money or for the deferred purchase price of property or services secured by any lien on any property owned by such Person, to the extent attributable to such Person's interest in such property, even though such Person has not assumed or become liable for the payment thereof; and (iv) lease obligations of such Person that, in accordance with generally accepted accounting principles, should be capitalized.

"***Delaware Conversion***" has the meaning set forth in the Recitals hereof.

"***Delaware Courts***" has the meaning set forth in Section 15.9.B hereof.

"***Depreciation***" means, for each Fiscal Year or other applicable period, an amount equal to the federal income tax depreciation, amortization or other cost recovery deduction allowable with respect to an asset for such year or other period, except that if the Gross Asset Value of an asset differs from its adjusted basis for federal income tax purposes at the beginning of such year or other period, Depreciation shall be an amount that bears the same ratio to such beginning Gross Asset Value as the federal income tax depreciation, amortization or other cost recovery deduction for such year or other period bears to such beginning adjusted tax basis; *provided*, *however*, that if the federal income tax depreciation, amortization or other cost recovery deduction for such year or other period is zero, Depreciation shall be determined with reference to such beginning Gross Asset Value using any reasonable method selected by the Board.

"***Designated Individual***" has the meaning set forth in Section 10.3.A hereof.

"***Disregarded Entity***" means, with respect to any Person, (i) any "qualified REIT subsidiary" (within the meaning of Code Section 856(i)(2)) of such Person, (ii) any entity treated as a disregarded entity for federal income tax purposes with respect to such Person, or (iii) any grantor trust if the sole owner of the assets of such trust for federal income tax purposes is such Person.

"***Distributed Right***" has the meaning set forth in the definition of "Adjustment Factor."

"***Economic Capital Account Balance***" means, with respect to a Holder of LTIP Units or a Holder of Performance Units, as applicable, its Capital Account balance, plus the amount of its share of any Member Minimum Gain or Company Minimum Gain, in either case to the extent attributable to its ownership of LTIP Units or Performance Units, as applicable.

"***Eligible Unit***" means, as of the time any Liquidating Gain is available to be allocated to an LTIP Unit or a Performance Unit, an LTIP Unit or Performance Unit to the extent, since the date of issuance of such LTIP Unit or Performance Unit, such Liquidating Gain when aggregated with other Liquidating Gains realized since the date of issuance of such LTIP Unit or Performance Unit exceeds Liquidating Losses realized since the date of issuance of such LTIP Unit or Performance Unit, as applicable.

"***Equity Plan***" means the Plans and any other option, stock, unit, appreciation right, phantom equity or other incentive equity or equity-based compensation plan or program, including any Stock Option Plan, in each case, now or hereafter adopted by the Company or MIC, including the Plans.

"***ERISA***" means the Employee Retirement Income Security Act of 1974, as amended.

"***Estimated Tax Periods***" means the periods from January 1 to March 31, from April 1 to May 31, from June 1 to August 31, and from September 1 to December 31, which may be adjusted by the Board to the extent necessary to take into account changes in estimated tax payment due dates for U.S. federal income taxes under applicable law.

"***Exchange Act***" means the Securities Exchange Act of 1934, as amended, and the rules and regulations of the SEC promulgated thereunder and any successor statute thereto.

"***Family Members***" means, as to a Person that is an individual, such Person's spouse, ancestors, descendants (whether by blood or by adoption or step-descendants by marriage), brothers and sisters, nieces and nephews and inter vivos or testamentary trusts (whether revocable or irrevocable) of which only such Person and his or her spouse, ancestors, descendants (whether by blood or by adoption or step-descendants by marriage), brothers and sisters and nieces and nephews are beneficiaries.

"***Fiscal Year***" has the meaning set forth in Section 9.2 hereof.

"***Flow-Through Entity***" has the meaning set forth in Section 3.4.C hereof.

"***Flow-Through Members***" has the meaning set forth in Section 3.4.C hereof.

"***Forced Conversion***" has the meaning set forth in Section 19.9.C hereof.

"***Forced Conversion Notice***" has the meaning set forth in Section 19.9.C hereof.

"***Formation Date***" has the meaning set forth in the Recitals hereof.

"***Funding Debt***" means any Debt incurred by or on behalf of MIC for the purpose of providing funds to the Company.

"***Gross Asset Value***" means, with respect to any asset, the asset's adjusted basis for federal income tax purposes, except as follows:

(i) The initial Gross Asset Value of any asset contributed by a Member to the Company shall be the gross fair market value of such asset on the date of contribution, as determined by the Board and agreed to by the contributing Person.

(ii) The Gross Asset Values of all Company assets immediately prior to the occurrence of any event described in clauses (1) through (5) below shall be adjusted to equal their respective gross fair market values, as determined by the Board using such reasonable method of valuation as it may adopt, as of the following times:

(1) the acquisition of an additional interest in the Company (other than in connection with the execution of this Agreement but including, without limitation, acquisitions pursuant to Section 4.2 hereof or contributions or deemed contributions by MIC pursuant to Section 4.2 hereof) by a new or existing Member in exchange for more than a *de minimis* Capital Contribution, if the Board reasonably determines that such adjustment is necessary or appropriate to reflect the relative interests of the Members in the Company;

(2) the distribution by the Company to a Member of more than a *de minimis* amount of Company property as consideration for an interest in the Company, if the Board reasonably determines that such adjustment is necessary or appropriate to reflect the relative interests of the Members in the Company;

(3) the liquidation of the Company within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g);

(4) the grant of an interest in the Company (other than a de minimis interest) as consideration for the provision of services to or for the benefit of the Company by an existing Member acting in a member capacity, or by a new Member acting in a member capacity or in anticipation of becoming a Member of the Company (including the grant of an LTIP Unit or a Performance Unit), if the Board reasonably determines that such adjustment is necessary or appropriate to reflect the relative interests of the Members in the Company; and

(5) at such other times as the Board shall reasonably determine necessary or advisable in order to comply with Regulations Sections 1.704-1(b) and 1.704-2.

(iii) The Gross Asset Value of any Company asset distributed to a Member shall be the gross fair market value of such asset on the date of distribution, as determined by the Board.

(iv) The Gross Asset Values of Company assets shall be increased (or decreased) to reflect any adjustments to the adjusted basis of such assets pursuant to Code Section 734(b) or Code Section 743(b), but only to the extent that such adjustments are taken into account in determining Capital Accounts pursuant to Regulations Section 1.704-1(b)(2)(iv)(m); *provided*, *however*, that Gross Asset Values shall not be adjusted pursuant to this subsection (iv) to the extent that Board reasonably determines that an adjustment pursuant to subsection (ii) above is necessary or appropriate in connection with a transaction that would otherwise result in an adjustment pursuant to this subsection (iv).

(v) If the Gross Asset Value of a Company asset has been determined or adjusted pursuant to subsection (i), subsection (ii) or subsection (iv) above, such Gross Asset Value shall thereafter be adjusted by the Depreciation taken into account with respect to such asset for purposes of computing Net Income and Net Losses.

(vi) The Gross Asset Values of Company assets shall be adjusted at the times and in the manner provided in Regulations Section 1.704-1(b)(2)(iv)(s).

"***Hart-Scott-Rodino Act"*** means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended.

"***Holder***" means either (a) a Member or (b) an Assignee owning an Interest.

"***Incapacity***" or "***Incapacitated***" means: (i) as to any Member who is an individual, death, total physical disability or entry by a court of competent jurisdiction adjudicating such Member incompetent to manage his or her person or his or her estate; (ii) as to any Member that is a corporation or limited liability company, the filing of a certificate of dissolution, or its equivalent,

for the corporation or the revocation of its charter; (iii) as to any Member that is a partnership, the dissolution and commencement of winding up of the partnership; (iv) as to any Member that is an estate, the distribution by the fiduciary of the estate's entire interest in the Company; (v) as to any trustee of a trust that is a Member, the termination of the trust (but not the substitution of a new trustee); or (vi) as to any Member, the bankruptcy of such Member. For purposes of this definition, bankruptcy of a Member shall be deemed to have occurred when (a) the Member commences a voluntary proceeding seeking liquidation, reorganization or other relief of or against such Member under any bankruptcy, insolvency or other similar law now or hereafter in effect, (b) the Member is adjudged as bankrupt or insolvent, or a final and non-appealable order for relief under any bankruptcy, insolvency or similar law now or hereafter in effect has been entered against the Member, (c) the Member executes and delivers a general assignment for the benefit of the Member's creditors, (d) the Member files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the Member in any proceeding of the nature described in clause (b) above, (e) the Member seeks, consents to or acquiesces in the appointment of a trustee, receiver or liquidator for the Member or for all or any substantial part of the Member's properties, (f) any proceeding seeking liquidation, reorganization or other relief under any bankruptcy, insolvency or other similar law now or hereafter in effect has not been dismissed within one hundred twenty (120) days after the commencement thereof, (g) the appointment without the Member's consent or acquiescence of a trustee, receiver or liquidator has not been vacated or stayed within ninety (90) days of such appointment, or (h) an appointment referred to in clause (g) above is not vacated within ninety (90) days after the expiration of any such stay.

"***Indemnitee***" means (i) any Person subject to a claim or demand, or made a party or threatened to be made a party to a proceeding, by reason of its status as (a) a Director or (b) an officer or employee of the Company and (ii) such other Persons (including Affiliates of the Company) as the Board may designate from time to time (whether before or after the event giving rise to potential liability), in its sole and absolute discretion.

"***Initial Holding Period***" means as to any Qualifying Party or any of their successors-in-interest, a period ending on the day before the first six-month anniversary of such Qualifying Party's first becoming a Holder of Interests; *provided however*, that the Board may, in its sole and absolute discretion, by written agreement with a Qualifying Party, shorten or lengthen the Initial Holding Period applicable to such Qualifying Party and its successors-in-interest to a period of shorter or longer than six (6) months. For sake of clarity, (i) as applied to a Common Unit that is issued upon conversion of an LTIP Unit or a Performance Unit, pursuant to Section 19.9 or Section 20.9, respectively (and subject to the proviso in the immediately preceding sentence, if applicable), the Initial Holding Period of such Common Unit shall end on the day before the first six-month anniversary of the date that the underlying LTIP Unit or Performance Unit was first issued, (ii) as applied to a Common Unit that is issued upon the exercise of a Class A Unit pursuant to Section 21.9 (and subject to the proviso in the first sentence of this paragraph, if applicable), the Initial Holding Period of such Common Unit shall end on the day before the first six-month anniversary of the date that such Common Unit was issued and (iii) as applied to a Common Unit issued pursuant to the conversion of the Partnership into the Company, the Initial Holding Period of such Common Unit shall include the period such Qualifying Party first became a Holder of such interest in the Partnership.

"***Interest***" means an ownership interest in the Company held by a Member and includes any and all benefits to which the holder of such an Interest may be entitled as provided in this Agreement, together with all obligations of such Person to comply with the terms and provisions of this Agreement. There may be one or more classes or series of Interests. An Interest may be expressed as a number of Common Units, Preferred Units or other Units. The Interests represented by the Common Units, the Series A Preferred Units, the Series 1 Preferred Units, the Series 2 Preferred Units and each such type of Unit is a separate class of Interest for purposes of this Agreement.

"***IRS***" means the United States Internal Revenue Service.

"***Liquidating Event***" has the meaning set forth in Section 13.1 hereof

"***Liquidating Gains***" means any net gain realized in connection with the actual or hypothetical sale of all or substantially all of the assets of the Company (including upon the occurrence of any Liquidating Event or Terminating Capital Transaction), including but not limited to net gain realized in connection with an adjustment to the Gross Asset Value of Company assets under the definition of Gross Asset Value in Article 1 of this Agreement.

"***Liquidating Losses***" means any net loss realized in connection with the actual or hypothetical sale of all or substantially all of the assets of the Company (including upon the occurrence of any Liquidating Event or Terminating Capital Transaction), including but not limited to net loss realized in connection with an adjustment to the Gross Asset Value of Company assets under the definition of Gross Asset Value in Article 1 of this Agreement.

"***Liquidator***" has the meaning set forth in Section 13.2.A hereof.

"***LTIP Unit Agreement***" means any written agreement(s) between the Company and any recipient of LTIP Units evidencing the terms and conditions of any LTIP Units, including any vesting, forfeiture and other terms and conditions as may apply to such LTIP Units, consistent with the terms hereof and of the Plans (or other applicable Equity Plan governing such LTIP Units).

"***LTIP Unit Distribution Payment Date***" has the meaning set forth in Section 19.4.C hereof.

"***LTIP Units***" means the Units designated as such having the rights, powers, privileges, restrictions, qualifications and limitations set forth herein, in the Plans and under the applicable LTIP Unit Agreement. LTIP Units can be issued in one or more classes, or one or more series of any such classes bearing such relationship to one another as to allocations, distributions, and other rights as the Board shall determine in its sole and absolute discretion subject to Delaware law and this Agreement.

"***Majority in Interest of the Common Members***" means Common Members (other than (i) MIC, if MIC is a Common Member and (ii) any Common Member fifty percent (50%) or more of whose equity is owned, directly or indirectly, by MIC) holding in the aggregate Percentage Interests that are greater than fifty percent (50%) of the aggregate Percentage Interests of all such Common Members entitled to Consent to or withhold Consent from a proposed action.

"***Majority in Interest of the Non-MIC Members***" means Members (other than (i) MIC and/or (ii) any Member fifty percent (50%) or more of whose equity is owned, directly or indirectly, by MIC) holding in the aggregate Percentage Interests that are greater than fifty percent (50%) of the aggregate Percentage Interests of all such Members entitled to Consent to or withhold Consent from a proposed action.

"***Majority in Interest of the Members***" means Members holding in the aggregate Percentage Interests that are greater than fifty percent (50%) of the aggregate Percentage Interests of all Members entitled to Consent to or withhold Consent from a proposed action.

"***Management Director***" has the meaning set forth in Section 7.1.G hereof.

"***Market Price***" has the meaning set forth in the definition of "Value."

"***Maryland Conversion***" has the meaning set forth in the Recitals hereof.

"***Member***" means any Person that is admitted from time to time to the Company as a member pursuant to the Act and this Agreement and has not ceased to be a member, including any Substituted Member or Additional Member, in such Person's capacity as a member of the Company.

"***Member Minimum Gain***" means an amount, with respect to each Member Nonrecourse Debt, equal to the Company Minimum Gain that would result if such Member Nonrecourse Debt were treated as a Nonrecourse Liability, determined in accordance with Regulations Section 1.704-2(i)(3).

"***Member Nonrecourse Debt***" has the meaning set forth in RegulationsSection 1.704-2(b)(4).

"***Member Nonrecourse Deductions***" has the meaning set forth in RegulationsSection 1.704-2(i)(2), and the amount of Member Nonrecourse Deductions with respect to a Member Nonrecourse Debt for a Fiscal Year shall be determined in accordance with the rules of Regulations Section 1.704-2(i)(2).

"***MIC***" means Mobile Infrastructure Corporation, a Maryland corporation.

"***MIC Affiliate***" means any Affiliates of MIC, each of which shall be designated as a "MIC Affiliate" and shown as such in the books and records of the Company.

"***Net Income***" or "***Net Loss***" means, for each Fiscal Year or other applicable period, an amount equal to the Company's taxable income or loss for such year or other period, determined in accordance with Code Section 703(a) (for this purpose, all items of income, gain, loss or deduction required to be stated separately pursuant to Code Section 703(a)(1) shall be included in taxable income or loss), with the following adjustments:

(i) Any income of the Company that is exempt from federal income tax and not otherwise taken into account in computing Net Income (or Net Loss) pursuant to this definition of "Net Income" or "Net Loss" shall be added to (or subtracted from, as the case may be) such taxable income (or loss);

(ii) Any expenditure of the Company described in Code Section 705(a)(2)(B) or treated as a Code Section 705(a)(2)(B) expenditure pursuant to Regulations Section 1.704-1(b)(2)(iv)(i), and not otherwise taken into account in computing Net Income (or Net Loss) pursuant to this definition of "Net Income" or "Net Loss," shall be subtracted from (or added to, as the case may be) such taxable income (or loss);

(iii) In the event the Gross Asset Value of any Company asset is adjusted pursuant to subsection (ii) or subsection (iii) of the definition of "Gross Asset Value," the amount of such adjustment shall be taken into account as gain or loss from the disposition of such asset for purposes of computing Net Income or Net Loss;

(iv) Gain or loss resulting from any disposition of property with respect to which gain or loss is recognized for federal income tax purposes shall be computed by reference to the Gross Asset Value of the property disposed of, notwithstanding that the adjusted tax basis of such property differs from its Gross Asset Value;

(v) In lieu of the depreciation, amortization and other cost recovery deductions that would otherwise be taken into account in computing such taxable income or loss, there shall be taken into account Depreciation for such Fiscal Year or other applicable period;

(vi) To the extent that an adjustment to the adjusted tax basis of any Company asset pursuant to Code Section 734(b) or Code Section 743(b) is required pursuant to Regulations Section 1.704-1(b)(2)(iv)(m) to be taken into account in determining Capital Accounts as a result of a distribution other than in liquidation of a Member's interest in the Company, the amount of such adjustment shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases the basis of the asset) from the disposition of the asset and shall be taken into account for purposes of computing Net Income or Net Loss;

(vii) Notwithstanding any other provision of this definition of "Net Income" or "Net Loss," any item that is specially allocated pursuant to Article 6 hereof shall not be taken into account in computing Net Income or Net Loss. The amounts of the items of Company income, gain, loss or deduction available to be specially allocated pursuant to Section 6.2.G, 6.2.H and 6.2.I or Section 6.3 hereof shall be determined by applying rules analogous to those set forth in this definition of "Net Income" or "Net Loss;" and

(viii) To the extent any Adjusted Net Income has been allocated for a Fiscal Year or other applicable period, the terms Net Income and Net Loss for that year or other period shall thereafter refer to the remaining items of Net Income or Net Loss, as applicable.

"***New Securities***" means (i) any rights, options, warrants or convertible or exchangeable securities having the right to subscribe for or purchase Shares or Preferred Shares, excluding grants under the Stock Option Plans, or (ii) any Debt issued by MIC that provides any of the rights described in clause (i).

"***Nonrecourse Deductions***" has the meaning set forth in Regulations Section 1.704-2(b)(1), and the amount of Nonrecourse Deductions for a Fiscal Year shall be determined in accordance with the rules of Regulations Section 1.704-2(c).

"***Nonrecourse Liability***" has the meaning set forth in Regulations Sections 1.704-2(b)(3) and 1.752-1(a)(2).

"***Optionee***" means a Person to whom a stock option is granted under any Stock Option Plan.

"***Ownership Limit***" means, with respect to any Person, the applicable restriction or restrictions on the ownership and transfer of shares of MIC imposed under the Charter, as such restrictions may be modified for any Excepted Holder (as such term is defined in the Charter) pursuant to an Excepted Holder Limit (as such term is defined in the Charter).

"***Parity Preferred Unit***" means any class or series of Interests of the Company now or hereafter issued and outstanding, which, by its terms ranks on a parity with the Series A Preferred Units or Series 1 Preferred Units, as applicable, with respect to distributions or rights upon voluntary or involuntary liquidation, dissolution or winding up of the Company, or both, as the context may require.

"***Partnership Representative***" shall have the meaning set forth in Section 10.3.A hereof.

"***Percentage Interest***" means, with respect to each Member, the fraction, expressed as a percentage, the numerator of which is the aggregate number of Units of all classes and series held by such Member and the denominator of which is the total number of Units of all classes and series held by all Members; *provided, however,* that, to the extent applicable in context, the term "Percentage Interest" means, with respect to a Member, the fraction, expressed as a percentage, the numerator of which is the aggregate number of Units of a specified class or series (or specified group of classes and/or series) held by such Member and the denominator of which is the total number of Units of such specified class or series (or specified group of classes and/or series) held by all Members.

"***Performance Unit Agreement***" means any written agreement(s) between the Company and any recipient of Performance Units evidencing the terms and conditions of any Performance Units, including any vesting, forfeiture and other terms and conditions as may apply to such Performance Units, consistent with the terms hereof and of the Plans (or other applicable Equity Plan governing such Performance Units).

"***Performance Unit Distribution Payment Date***" has the meaning set forth in Section 20.4.C hereof.

"***Performance Unit Sharing Percentage***" means ten percent (10%).

"***Performance Units***" means the Units designated as such having the rights, powers, privileges, restrictions, qualifications and limitations set forth herein, in the Plans and under the applicable Performance Unit Agreement. Performance Units can be issued in one or more classes, or one or more series of any such classes bearing such relationship to one another as to allocations, distributions, and other rights as the Board shall determine in its sole and absolute discretion subject to Delaware law and this Agreement. For the avoidance of doubt, Performance Units do not include Class A Units.

"***Permitted Transfer***" has the meaning set forth in Section 11.3.A hereof.

"***Person***" means an individual or a corporation, partnership, trust, unincorporated organization, association, limited liability company or other entity.

"***Plans***" means Mobile Infrastructure Corporation and Mobile Infra Operating Company, LLC 2023 Incentive Plan and any other equity incentive plan of MIC.

"***Pledge***" has the meaning set forth in Section 11.3.A hereof.

"***Preferred Share***" means a share of stock of MIC of any class or series now or hereafter authorized or reclassified that has dividend rights, or rights upon liquidation, winding up and dissolution, that are superior or prior to the Shares.

"***Preferred Unit***" means a fractional, undivided share of the Interests that MIC has authorized pursuant to Section 4.1, Section 4.2 or Section 4.3 hereof that has distribution rights, or rights upon liquidation, winding up and dissolution, that are superior or prior to the Common Units. Preferred Units shall include, but not be limited to, Series A Preferred Units, Series 1 Preferred Units and Series 2 Preferred Units. For the avoidance of doubt, Preferred Units do not include Class A Units.

"***Properties***" means any assets and property of the Company such as, but not limited to, interests in real property and personal property, including, without limitation, fee interests, interests in ground leases, easements and rights of way, interests in limited liability companies, joint ventures or partnerships, interests in mortgages, and Debt instruments as the Company may hold from time to time and "Property" means any one such asset or property.

"***Proposed Section 83 Safe Harbor Regulation***" has the meaning set forth in Section 19.11 hereof.

"***Qualified DRIP / COPP***" means a dividend reinvestment plan or a cash option purchase plan of MIC that permits participants to acquire Shares using the proceeds of dividends paid by MIC or cash of the participant, respectively; *provided*, *however*, that if such shares are offered at a discount, such discount must (i) be designed to pass along to the stockholders of MIC the savings enjoyed by MIC in connection with the avoidance of stock issuance costs, and (ii) not exceed 5% of the value of a Share as computed under the terms of such plan.

"***Qualified Transferee***" means an "accredited investor" as defined in Rule 501 promulgated under the Securities Act.

"***Qualifying Party***" means (a) a Member, (b) an Assignee of a Member, or (c) a Person, including a lending institution as the pledgee of a Pledge, who is the transferee of an Interest in a Permitted Transfer; *provided*, *however* that a Qualifying Party shall not include MIC.

"***Record Date***" means the record date established by the Board for the purpose of determining the Members entitled to notice of or to vote at any meeting of Members or to consent to any matter, or to receive any distribution or the allotment of any other rights, or in order to make a determination of Members for any other proper purpose, which, in the case of a distribution of Available Cash pursuant to Section 5.1 hereof, shall generally be the same as the record date established by MIC for a distribution to its stockholders of some or all of its portion of such distribution or, as applicable, any Series A Distribution Record Date or Series 1 Distribution Record Date.

"***Redemption***" has the meaning set forth in Section 15.1.A hereof.

"***Redemption Right***" has the meaning set forth in Section 15.1.A hereto.

"***Register***" has the meaning set forth in Section 4.1 hereof.

"***Registered Share***" means any Share issued by MIC pursuant to an effective registration statement under the Securities Act.

"***Regulations***" means the income tax regulations under the Code, whether such regulations are in proposed, temporary or final form, as such regulations may be amended from time to time (including corresponding provisions of succeeding regulations).

"***Regulatory Allocations***" has the meaning set forth in Section 6.3.A(8) hereof.

"***REIT***" means a real estate investment trust qualifying under Code Section 856.

"***REIT Member***" means (a) MIC or any Affiliate of MIC to the extent such Person has in place an election to qualify as a REIT and, (b) any Disregarded Entity with respect to any such Person.

"***REIT Payment***" has the meaning set forth in Section 15.12 hereof.

"***REIT Requirements***" means the requirements that MIC reasonably determines it must meet in order to qualify as a REIT within the meaning of Section 856 of the Code and to avoid the imposition of any income taxes on MIC during the period of time in which it qualifies as a REIT within the meaning of Section 856 of the Code.

"***Related Party***" means, with respect to any Person, any other Person to whom ownership of shares of MIC's stock by the first such Person would be attributed under Code Section 544 (as modified by Code Section 856(h)(1)(B)) or Code Section 318(a) (as modified by Code Section 856(d)(5)).

"***Restricted Taxable Year***" shall mean any Fiscal Year during which the Board determines the Company may not satisfy the private placement safe harbor of Regulations Section 1.7704-1(h). Unless the Board otherwise notifies the Members prior to the commencement of a Fiscal Year, each Fiscal Year of the Company shall be a Restricted Taxable Year.

"***Rights***" has the meaning set forth in the definition of "Shares Amount."

"***Safe Harbors***" has the meaning set forth in Section 11.3.C hereof.

"***SDAT***" has the meaning set forth in the Recitals hereof.

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

"***Section 83 Safe Harbor***" has the meaning set forth in Section 19.11 hereof.

"***Securities Act***" means the Securities Act of 1933, as amended, and the rules and regulations of the SEC promulgated thereunder.

"***Senior Preferred Unit***" shall mean the Series A Preferred Units, the Series 1 Preferred Units, the Series 2 Preferred Units and any class or series of Interests of the Company now or hereafter authorized, issued or outstanding expressly designated by the Company to rank on parity with the Series 2 Preferred Units or the Series A Preferred Units and the Series 1 Preferred Units, as applicable, with respect to distributions and rights upon voluntary or involuntary liquidation, winding up or dissolution of the Company, as the context may require.

"***Series 1 Distribution Record Date***" with respect to any distribution payable on Series 1 Preferred Units, means the close of business on the record date fixed for the determination of holders of record of Series 1 Preferred Shares entitled to receive a distribution on such Series 1 Preferred Shares.

"***Series 1 Preferred Share***" means a share of the Series 1 Convertible Redeemable Preferred Stock, $0.0001 par value per share, of MIC.

"***Series 1 Preferred Shares Terms***" means the terms of the Series 1 Preferred Shares, as set forth in the Charter of MIC for the Series 1 Preferred Shares, as such terms may be amended or restated or incorporated into the Charter from time to time.

"***Series 1 Preferred Unit Distribution Payment Date***" shall have the meaning set forth in Section 17.2.A hereof.

"***Series 1 Preferred Unit Initial Accrual Date***" shall have the meaning set forth in Section 17.2.A hereof.

"***Series 1 Preferred Units***" means the Company's Series 1 Convertible Redeemable Preferred Units, with the rights, priorities and preferences set forth herein.

"***Series 1 Priority Return***" shall mean, with respect to any Series 1 Preferred Unit, an amount equal to 5.50% per annum on the stated value of $1,000.00 of the Series 1 Preferred Unit (equivalent to the fixed annual amount of $55.00 per Series 1 Preferred Unit), commencing on the Series 1 Preferred Unit Initial Accrual Date, subject to adjustment as specified in Section 17.2.E. For any distribution period greater than or less than a full distribution period, the amount of the Series 1 Priority Return shall be prorated and computed on the basis of a 360-day year consisting of twelve 30-day months.

"***Series 2 Distribution Record Date***" with respect to any distribution payable on Series 2 Preferred Units, means the close of business on the record date fixed for the determination of holders of record of Series 2 Preferred Shares entitled to receive a distribution on such Series 2 Preferred Shares.

"***Series 2 Preferred Share***" means a share of the Series 2 Convertible Preferred Stock, $0.0001 par value per share, of MIC.

"***Series 2 Preferred Shares Terms***" means the terms of the Series 2 Preferred Shares, as set forth in the Charter of MIC for the Series 2 Preferred Shares, as such terms may be amended or restated or incorporated into the Charter from time to time.

"***Series 2 Preferred Unit Distribution Payment Date***" shall have the meaning set forth in Section 18.2.A hereof.

"***Series 2 Preferred Units***" means the Company's Series 2 Convertible Preferred Units, with the rights, priorities and preferences set forth herein.

"***Series 2 Priority Return***" shall mean, with respect to any Series 2 Preferred Unit, an amount equal to a cumulative annual rate of 10.0% on the stated value of $1,000.00 of the Series 2 Preferred Unit (equivalent to the fixed amount of $100.00 payable in kind per Series 2 Preferred Unit) for the period beginning from, and including, the original date of issuance of such Series 2 Preferred Unit and ending on the Series 2 Preferred Unit Distribution Payment Date; provided that if the Series 2 Preferred Unit Distribution Payment Date occurs prior to the first anniversary of the original date of issuance of such Series 2 Preferred Unit, such Series 2 Preferred Unit shall receive distributions at a cumulative annual rate of 10.0% of the $1,000.00 per unit liquidation preference for a period of one year, which shall be paid in full on the Series 2 Preferred Unit Distribution Payment Date.

"***Series A Distribution Record Date***" with respect to any distribution payable on Series A Preferred Units, means the close of business on the record date fixed for the determination of holders of record of Series A Preferred Shares entitled to receive a distribution on such Series A Preferred Shares.

"***Series A Preferred Share***" means a share of the Series A Cumulative Redeemable Preferred Stock, $0.0001 par value per share, of MIC.

"***Series A Preferred Shares Terms***" means the terms of the Series A Preferred Shares, as set forth in the Charter of MIC for the Series A Preferred Shares, as such terms may be amended or restated or incorporated into the Charter from time to time.

"***Series A Preferred Unit Distribution Payment Date***" shall have the meaning set forth in Section 16.2.A hereof.

"***Series A Preferred Unit Initial Accrual Date***" shall have the meaning set forth in Section 16.2.A hereof.

"***Series A Preferred Units***" means the Company's Series A Convertible Redeemable Preferred Units, with the rights, priorities and preferences set forth herein.

"***Series A Priority Return***" shall mean, with respect to any Series A Preferred Unit, an amount equal to 5.75% per annum on the stated value of $1,000.00 of the Series A Preferred Unit (equivalent to the fixed annual amount of $57.50 per Series A Preferred Unit), commencing on the Series A Preferred Unit Initial Accrual Date, subject to adjustment as specified in Section 16.2.E. For any distribution period greater than or less than a full distribution period, the amount of the Series A Priority Return shall be prorated and computed on the basis of a 360-day year consisting of twelve 30-day months.

"***Share***" means a share of common stock, $0.0001 par value per share, of MIC (but shall not include any series or class of MIC's common stock classified after the date of this Agreement).

"***Shares Amount***" means a number of Shares equal to the product of (a) the number of Tendered Common Units and (b) the Adjustment Factor; *provided*, *however*, that, in the event that MIC issues to all holders of Shares as of a certain record date rights, options, warrants or convertible or exchangeable securities entitling MIC's stockholders to subscribe for or purchase Shares, or any other securities or property (collectively, the "***Rights***"), with the record date for such Rights issuance falling within the period starting on the date of the Common Unit Notice of Redemption and ending on the day immediately preceding the Specified Redemption Date, which Rights will not be distributed before the relevant Specified Redemption Date, then the Shares Amount shall also include such Rights that a holder of that number of Shares would be entitled to receive, expressed, where relevant hereunder, in a number of Shares determined by MIC in good faith.

"***SOS***" means the Secretary of State of the State of Delaware.

"***Specified Member***" means Bombe, Ltd. and any of its Affiliates who are or become a Member pursuant to this Agreement.

"***Special Redemption***" has the meaning set forth in Section 15.1.A hereof.

"***Specified Redemption Date***" means (i) in the case of a year that is not a Restricted Taxable Year, the tenth (10th) Business Day after the receipt by MIC of a Common Unit Notice of Redemption or (ii) in the case of a Restricted Taxable Year, the sixty-first (61st) calendar day after the receipt by MIC of a Common Unit Notice of Redemption; *provided*, *however*, that no Specified Redemption Date shall occur during the Initial Holding Period (except pursuant to a Special Redemption).

"***Stock Option Plans***" means any stock option plan now or hereafter adopted by the Company or MIC.

"***Stockholder Meeting***" means a meeting of the holders of Shares convened for the purposes of conducting a Stockholder Vote as contemplated in Section 11.2.E hereof.

"***Stockholder Vote***" has the meaning set forth in Section 11.2.E hereof.

"***Stockholder Vote Transaction***" has the meaning set forth in Section 11.2.E hereof.

"***Subsidiary***" means, with respect to any Person, any corporation or other entity of which a majority of (i) the voting power of the voting equity securities or (ii) the outstanding equity interests is owned, directly or indirectly, by such Person; *provided*, *however*, that, with respect to the Company, "Subsidiary" means solely a partnership or limited liability company (taxed, for federal income tax purposes, as a partnership or as a Disregarded Entity and not as an association or publicly traded partnership taxable as a corporation) of which the Company is a member or any "taxable REIT subsidiary" of MIC in which the Company owns shares of stock, unless MIC determines that ownership of shares of stock of a corporation or other entity (other than a "taxable REIT subsidiary") will not jeopardize MIC's status as a REIT or any MIC Affiliate's status as a "qualified REIT subsidiary" (within the meaning of Code Section 856(i)(2)), in which event the term "Subsidiary" shall include such corporation or other entity.

"***Substituted Member***" means a Person who is admitted as a Member to the Company pursuant to the Act and (i) Section 11.4 hereof or (ii) pursuant to any Unit Designation.

"***Surviving Company***" has the meaning set forth in Section 11.2.B(2) hereof.

"***Tax Distributions***" has the meaning set forth in Section 5.3 hereof.

"***Tax Distribution Amount***" has the meaning set forth in Section 5.3 hereof.

"***Tax Distribution Per Common Equivalent Unit***" means, with respect to any Member that owns one or more Common Equivalent Units, such Member's Tax Distribution Amount divided by the total number of Common Equivalent Units owned by such Member.

"***Tax Items***" has the meaning set forth in Section 6.4.A hereof.

"***Tendered Common Units***" has the meaning set forth in Section 15.1.A hereof.

"***Tendering Party***" has the meaning set forth in Section 15.1.A hereof.

"***Terminating Capital Transaction***" means any sale or other disposition of all or substantially all of the assets of the Company or a related series of transactions that, taken together, result in the sale or other disposition of all or substantially all of the assets of the Company, in any case, not in the ordinary course of the Company's business.

"***Termination Transaction***" has the meaning set forth in Section 11.2.B hereof.

"***Transaction***" has the meaning set forth in Section 19.9.F hereof.

"***Transfer***" means any sale, assignment, bequest, conveyance, devise, gift (outright or in trust), Pledge, encumbrance, hypothecation, mortgage, exchange, transfer or other disposition or act of alienation, whether voluntary, involuntary or by operation of law; *provided*, *however*, that when the term is used in Article 11 hereof, except as otherwise expressly provided, "Transfer" does not include (a) any Redemption or acquisition of Tendered Common Units by MIC, pursuant to Section 15.1, (b) any conversion of LTIP Units into Common Units pursuant to Section 19.9

hereof, (c) any conversion of Performance Units into Common Units pursuant to Section 20.9 hereof, (d) any exercise of Class A Units for Common Units pursuant to Section 21.9 hereof, or (e) any redemption of Units pursuant to any Unit Designation. The terms "Transferred" and "Transferring" have correlative meanings.

"***Unit***" means a Common Unit, an LTIP Unit, a Preferred Unit, a Performance Unit or any other unit or fractional, undivided share of the Interests that the Board has authorized pursuant to Section 4.1, Section 4.2 or Section 4.3 hereof. For avoidance of doubt, a Class A Unit does not, itself, constitute a Unit.

"***Unit Designation***" shall have the meaning set forth in Section 4.2.A hereof.

"***Units Junior to the Series 1 Preferred Units***" means any Unit representing any class or series of Interest ranking, as to distributions and rights upon voluntary or involuntary liquidation, dissolution or winding up of the Company, junior to Series 1 Preferred Units.

"***Units Junior to the Series A Preferred Units***" means any Unit representing any class or series of Interest ranking, as to distributions and rights upon voluntary or involuntary liquidation, dissolution or winding up of the Company, junior to Series A Preferred Units.

"***Unvested LTIP Units***" has the meaning set forth in Section 19.2.A hereof.

"***Unvested Performance Units***" has the meaning set forth in Section 20.2.A hereof.

"***Valuation Date***" means (a) in the case of a Fiscal Year that is not a Restricted Taxable Year, the date of receipt by MIC of (i) a Common Unit Notice of Redemption pursuant to Section 15.1 herein, or (ii) such other date as specified herein; *provided*, in each case, that if such date is not a Business Day, then the Valuation Date shall be the immediately preceding Business Day, and (b) in the case of a Fiscal Year that is a Restricted Taxable Year, the Specified Redemption Date.

"***Value***" means, on any Valuation Date with respect to a Share, the average of the daily Market Prices for ten (10) consecutive trading days immediately preceding the Valuation Date (except that the Market Price for the trading day immediately preceding the date of exercise of a stock option under any Stock Option Plans shall be substituted for such average of daily market prices for purposes of Section 4.4 hereof). The term "Market Price" on any date means, with respect to any class or series of outstanding Shares, the Closing Price for such Shares on such date. The "Closing Price" on any date means the last sale price for such Shares, regular way, or, in case no such sale takes place on such day, the average of the closing bid and asked prices, regular way, for such Shares, in either case as reported on the principal consolidated transaction reporting system with respect to securities listed on the principal national securities exchange on which such Shares are listed or admitted to trading or, if such Shares are not listed or admitted to trading on any national securities exchange, the last quoted price, or, if not so quoted, the average of the high bid and low asked prices in the over-the-counter market, as reported by the principal automated quotation system that may then be in use or, if such Shares are not quoted by any such system, the average of the closing bid and asked prices as furnished by a professional market maker making a market in such Shares selected by the board of directors of MIC or, in the event that no trading price is available for such Shares, the fair market value of the Shares, as determined in good faith by the board of directors of MIC.

In the event that the Shares Amount includes Rights that a holder of Shares would be entitled to receive, then the Value of such Rights shall be determined by MIC acting in good faith on the basis of such quotations and other information as it considers, in its reasonable judgment, appropriate.

"***Vested LTIP Units***" has the meaning set forth in Section 19.2.A hereof.

"***Vested Performance Units***" has the meaning set forth in Section 20.2.A hereof.

"***Vesting Date***" has the meaning set forth in Section 4.4.C(2) hereof.

Article 2
ORGANIZATIONAL MATTERS

Section 2.1 Formation. The Company is a limited liability company heretofore formed and continued pursuant to the provisions of the Act and upon the terms and subject to the conditions set forth in this Agreement. Except as expressly provided herein to the contrary, the rights and obligations of the Members and the administration and termination of the Company shall be governed by the Act. The Interest of each Member shall be personal property for all purposes.

Section 2.2 Name. The name of the Company is "Mobile Infra Operating Company, LLC" The Company's business may be conducted under any other name or names deemed advisable by the Board, including the name of any Member or any Affiliate thereof. The words "Limited Liability Company," "LLC" or similar words or letters shall be included in the Company's name where necessary for the purposes of complying with the laws of any jurisdiction that so requires. The Board in its sole and absolute discretion may change the name of the Company at any time and from time to time and shall notify the Members of such change in the next regular communication to the Members.

Section 2.3 Registered Office and Registered Agent; Principal Executive Office. The address of the registered office of the Company in the State of Delaware as of the date hereof is c/o The Corporation Trust Company, 1209 Orange Street, Wilmington, Delaware 19801 , and the registered agent for service of process on the Company in the State of Delaware at such registered office as of the date hereof is The Corporation Trust Company. The Board may, from time to time, designate a new registered agent and/or registered office for the Company and, notwithstanding any provision in this Agreement, may amend this Agreement and the Certificate to reflect such designation without the Consent of the Members or any other Person. The principal executive office of the Company is located at 250 East Fifth Street, Suite 2110, Cincinnati, Ohio 45202 or such other place as the Board may from time to time designate by notice to the Members. The Company may maintain offices at such other place or places within or outside the State of Delaware as the Board may from time to time designate.

Section 2.4 Power of Attorney.

A. Each Member and Assignee hereby irrevocably constitutes and appoints the Company, each Director, any Liquidator, and authorized officers, designees and attorneys-in-fact of each, and each of those acting singly, in each case with full power of substitution, as its true and lawful agent and attorney-in-fact, with full power and authority in its name, place and stead to:

(1) execute, swear to, seal, acknowledge, deliver, file and record in the appropriate public offices: (a) all certificates, documents and other instruments (including, without limitation, this Agreement and the Certificate and all amendments, supplements or restatements thereof) that the Board or the Liquidator deems appropriate or necessary to form, qualify or continue the existence or qualification of the Company as a limited liability company in the State of Delaware and in all other jurisdictions in which the Company may conduct business or own property; (b) all instruments that the Board or any Liquidator deems appropriate or necessary to reflect any amendment, change, modification or restatement of this Agreement in accordance with its terms; (c) all conveyances and other instruments or documents that the Board or the Liquidator deems appropriate or necessary to reflect the dissolution and liquidation of the Company pursuant to the terms of this Agreement, including, without limitation, a certificate of cancellation; (d) all conveyances and other instruments or documents that the Board or the Liquidator deems appropriate or necessary to reflect the distribution or exchange of assets of the Company pursuant to the terms of this Agreement; (e) all instruments relating to the admission, acceptance, withdrawal, removal or substitution of any Member pursuant to the terms of this Agreement or the Capital Contribution of any Member; and (f) all certificates, documents and other instruments relating to the determination, in accordance with the terms hereof, of the rights, preferences and privileges relating to Interests; and

(2) execute, swear to, acknowledge and file all ballots, consents, approvals, waivers, certificates and other instruments appropriate or necessary, in the sole and absolute discretion of the Board or any Liquidator, to make, evidence, give, confirm or ratify any vote, consent, approval, agreement or other action that is made or given by the Members hereunder or is consistent with the terms of this Agreement.

Nothing contained herein shall be construed as authorizing the Board or any Director or Liquidator to amend this Agreement except in accordance with Section 14.2 hereof or as may be otherwise expressly provided for in this Agreement.

B. The foregoing power of attorney is hereby declared to be irrevocable and a special power coupled with an interest, in recognition of the fact that each of the Members and Assignees will be relying upon the power of the Directors or the Liquidator to act as contemplated by this Agreement in any filing or other action by it on behalf of the Company, and it shall survive and not be affected by the subsequent Incapacity of any Member or Assignee and the Transfer of all or any portion of such Person's Interest and shall extend to such Person's heirs, successors, assigns and personal representatives. Each such Member and Assignee hereby agrees to be bound by any representation made by the Directors or the Liquidator, acting in good faith pursuant to such power of attorney; and each such Member and Assignee hereby waives any and all defenses that may be available to contest, negate or disaffirm the action of the Directors or the Liquidator, taken in good faith under such power of attorney. Each Member and Assignee shall execute and deliver to the Board or the Liquidator, within fifteen (15) days after receipt of the Board's or the Liquidator's

request therefor, such further designation, powers of attorney and other instruments as the Board or the Liquidator (as the case may be) deems necessary to effectuate this Agreement and the purposes of the Company. Notwithstanding anything else set forth in this Section 2.4.B, no Member shall incur any personal liability for any action of any Director or the Liquidator taken under such power of attorney.

Section 2.5 Term. The term of the Company commenced on the Formation Date, and shall continue indefinitely unless the Company is dissolved sooner pursuant to the provisions of Article 13 hereof or as otherwise provided by law.

Section 2.6 Interests Are Securities. All Interests shall be securities within the meaning of, and governed by, (i) Article 8 of the Delaware Uniform Commercial Code and (ii) Article 8 of the Uniform Commercial Code of any other applicable jurisdiction.

Article 3
PURPOSE

Section 3.1 Purpose and Business.

A. The purpose and nature of the Company is to conduct any business, enterprise or activity permitted by or under the Act, including, without limitation, (i) to conduct the business of ownership, construction, reconstruction, development, redevelopment, alteration, improvement, maintenance, operation, sale, leasing, transfer, encumbrance, conveyance and exchange of the Properties, (ii) to acquire and invest in any securities and/or loans relating to the Properties, (iii) to enter into any partnership, joint venture, business trust arrangement, limited liability company or other similar arrangement to engage in any business permitted by or under the Act, or to own interests in any entity engaged in any business permitted by or under the Act, (iv) to conduct the business of providing property and asset management and brokerage services, whether directly or through one or more partnerships, joint ventures, Subsidiaries, business trusts, limited liability companies or similar arrangements, and (v) to do anything necessary or incidental to the foregoing.

Section 3.2 Powers.

A. The Company shall be empowered to do any and all acts and things necessary, appropriate, proper, advisable, incidental to or convenient for the furtherance and accomplishment of the purposes and business described herein and for the protection and benefit of the Company, including, without limitation, full power and authority, directly or through its ownership interest in other entities, to enter into, perform and carry out contracts of any kind, to borrow and lend money and to issue evidence of indebtedness, whether or not secured by mortgage, deed of trust, pledge or other lien, acquire, own, manage, improve and develop real property and lease, sell, transfer and dispose of real property.

B. Notwithstanding any other provision in this Agreement, the Company shall not take, or refrain from taking, any action that, in the judgment of Board, in its sole and absolute discretion, (i) could adversely affect the ability of MIC to continue to or once again qualify as a REIT (it being understood that such requirement shall not apply for the taxable year ending December 31, 2020 and for any subsequent taxable year unless and until MIC determines it is realistically able to re-qualify as a REIT), (ii) could subject MIC to any taxes under Code Section

857 or Code Section 4981 or any other related or successor provision under the Code, or (iii) could violate any law or regulation of any governmental body or agency having jurisdiction over MIC, its securities or the Company, unless, in any such case, such action (or inaction) under clause (i), clause (ii), or clause (iii) above shall have been specifically consented to by MIC which consent may be given or withheld in its sole and absolute discretion.

Section 3.3 Nature of Relationship of Members. The Company shall be a limited liability company formed pursuant to the Act, and this Agreement shall not be deemed to create a company, venture or partnership between or among the Members or any other Persons with respect to any activities whatsoever other than the activities within the purposes of the Company as specified in Section 3.1 hereof. Except as otherwise provided in this Agreement, no Member shall have any authority to act for, bind, commit or assume any obligation or responsibility on behalf of the Company, its properties or any other Member. No Member, in its capacity as a Member under this Agreement, shall be responsible or liable for any indebtedness or obligation of another Member, nor shall the Company be responsible or liable for any indebtedness or obligation of any Member, incurred either before or after the execution and delivery of this Agreement by such Member, except as to those responsibilities, liabilities, indebtedness or obligations incurred pursuant to and as limited by the terms of this Agreement and the Act.

Section 3.4 Representations and Warranties by the Members.

A. Each Member that is an individual (including, without limitation, each Additional Member or Substituted Member as a condition to becoming an Additional Member or a Substituted Member) represents and warrants to, and covenants with, each other Member that (i) the consummation of the transactions contemplated by this Agreement to be performed by such Member will not result in a breach or violation of, or a default under, any material agreement by which such Member or any of such Member's property is bound, or any statute, regulation, order or other law to which such Member is subject, (ii) if five percent (5%) or more (by value) of the Company's interests are or will be owned by such Member within the meaning of Code Section 7704(d)(3), such Member does not, and for so long as it is a Member will not, own, directly or indirectly, (a) stock of any corporation that is a tenant of (I) MIC or any Disregarded Entity with respect to MIC, (II) the Company or (III) any partnership, venture or limited liability company of which MIC, any Disregarded Entity with respect to MIC, or the Company is a direct or indirect member or (b) an interest in the assets or net profits of any non-corporate tenant of (I) MIC or any Disregarded Entity with respect to MIC, (II) the Company or (III) any partnership, venture, or limited liability company of which MIC, any Disregarded Entity with respect to MIC, or the Company is a direct or indirect member, (iii) such Member has the legal capacity to enter into this Agreement and perform such Member's obligations hereunder, and (iv) this Agreement is binding upon, and enforceable against, such Member in accordance with its terms. Notwithstanding the foregoing, a Member that is an individual shall not be subject to the ownership restrictions set forth in clause (ii) of the immediately preceding sentence to the extent such Member obtains the written Consent of MIC prior to violating any such restrictions, which consent MIC may give or withhold in its sole and absolute discretion. Each Member that is an individual shall also represent and warrant to the Company that such Member is neither a "foreign person" within the meaning of Code Section 1445(f) nor a "foreign partner" within the meaning of Code Section 1446(e).

B. Each Member that is not an individual (including, without limitation, each Additional Member or Substituted Member as a condition to becoming an Additional Member or a Substituted Member) represents and warrants to, and covenants with, each other Member that (i) all transactions contemplated by this Agreement to be performed by it have been duly authorized by all necessary action, including, without limitation, that of its general partner(s), committee(s), trustee(s), beneficiaries, directors and/or stockholder(s) (as the case may be) as required, (ii) the consummation of such transactions shall not result in a breach or violation of, or a default under, its partnership or operating agreement, trust agreement, charter or bylaws (as the case may be), any material agreement by which such Member or any of such Member's properties or any of its partners, members, beneficiaries, trustees or stockholders (as the case may be) is or are bound, or any statute, regulation, order or other law to which such Member or any of its partners, members, trustees, beneficiaries or stockholders (as the case may be) is or are subject, (iii) if five percent (5%) or more (by value) of the Company's interests are or will be owned by such Member within the meaning of Code Section 7704(d)(3), such Member does not, and for so long as it is a Member will not, own, directly or indirectly, (a) stock of any corporation that is a tenant of (I) MIC or any Disregarded Entity with respect to MIC, (II) the Company or (III) any partnership, venture or limited liability company of which MIC, any Disregarded Entity with respect to MIC, or the Company is a direct or indirect member or (b) an interest in the assets or net profits of any non-corporate tenant of (I) MIC, or any Disregarded Entity with respect to MIC, (II) the Company or (III) any partnership, venture or limited liability company for which MIC, any Disregarded Entity with respect to MIC, or the Company is a direct or indirect member, and (iv) this Agreement is binding upon, and enforceable against, such Member in accordance with its terms. Notwithstanding the foregoing, a Member that is not an individual shall not be subject to the ownership restrictions set forth in clause (iii) of the immediately preceding sentence to the extent such Member obtains the written Consent of MIC prior to violating any such restrictions, which consent MIC may give or withhold in its sole and absolute discretion. Each Member that is not an individual shall also represent and warrant to the Company that such Member is neither a "foreign person" within the meaning of Code Section 1445(f) nor a "foreign partner" within the meaning of Code Section 1446(e).

C. Each Member (including, without limitation, each Additional Member or Substituted Member as a condition to becoming an Additional Member or Substituted Member) represents, warrants and agrees that (i) it has acquired and continues to hold its interest in the Company for its own account for investment purposes only and not for the purpose of, or with a view toward, the resale or distribution of all or any part thereof in violation of applicable laws, and not with a view toward selling or otherwise distributing such interest or any part thereof at any particular time or under any predetermined circumstances in violation of applicable laws, (ii) it is a sophisticated investor, able and accustomed to handling sophisticated financial matters for itself, particularly real estate investments, and that it has a sufficiently high net worth that it does not anticipate a need for the funds that it has invested in the Company in what it understands to be a highly speculative and illiquid investment, and (iii) without the consent of the Board, which consent may be given or withheld in the Board's sole discretion, it shall not take any action that would cause (a) the Company at any time to have more than 100 members, including for these purposes as members those Persons ("***Flow-Through Members***") indirectly owning an interest in the Company through an entity treated as a partnership, Disregarded Entity or S corporation (each such entity, a "***Flow-Through Entity***"), but only if substantially all of the value of such Person's interest in the Flow-Through Entity is attributable to the Flow-Through Entity's interest (direct or indirect) in the Company; or (b) the Interest initially issued by the Company to such Member or its predecessors to be held by more than three (3) Persons, including as equity holders of any Flow-Through Members.

D. The representations and warranties contained in Sections 3.4.A, 3.4.B and 3.4.C hereof shall survive the execution and delivery of this Agreement by each Member (and, in the case of an Additional Member or a Substituted Member, the admission of such Additional Member or Substituted Member as a Member in the Company) and the dissolution, liquidation and termination of the Company.

E. Each Member (including, without limitation, each Additional Member or Substituted Member as a condition to becoming an Additional Member or Substituted Member) hereby acknowledges that no representations as to potential profit, cash flows, funds from operations or yield, if any, in respect of the Company or MIC have been made by any Member or any employee or representative or Affiliate of any Member, and that projections and any other information, including, without limitation, financial and descriptive information and documentation, that may have been in any manner submitted to such Member shall not constitute any representation or warranty of any kind or nature, express or implied.

F. Notwithstanding the foregoing, the Board may, in its sole and absolute discretion, permit the modification of any of the representations and warranties contained in Sections 3.4.A, 3.4.B and 3.4.C above as applicable to any Member (including, without limitation any Additional Member or Substituted Member or any transferee of either), provided that such representations and warranties, as modified, shall be set forth in either (i) a Unit Designation applicable to the Units held by such Member or (ii) a separate writing addressed to the Company.

Article 4
CAPITAL CONTRIBUTIONS

Section 4.1 Capital Contributions of the Members. The Members have heretofore made Capital Contributions to the Company. Except as provided by law or in Section 4.2, 4.3, or 10.4 hereof, the Members shall have no obligation or, except with the consent of the Board, right to make any additional Capital Contributions or loans to the Company. The Board shall cause to be maintained in the principal business office of the Company, or such other place as may be determined by the Board, the books and records of the Company, which shall include, among other things, a register containing the name, address, and number, class and series of Units of each Member, and such other information as the Board may deem necessary or desirable (the "***Register***"). The Register shall not be part of this Agreement. The Board shall from time to time update the Register as necessary to accurately reflect the information therein, including as a result of any sales, exchanges or other Transfers, or any redemptions, issuances or similar events involving Units. Any reference in this Agreement to the Register shall be deemed a reference to the Register as in effect from time to time. Subject to the terms of this Agreement, the Board may take any action authorized hereunder in respect of the Register without any need to obtain the consent or approval of any other Member. No action of any Member shall be required to amend or update the Register. Except as required by law, no Member shall be entitled to receive a copy of the information set forth in the Register relating to any Member other than itself.

Section 4.2 Issuances of Additional Interests. Subject to the rights of any Holder of any Interest set forth in a Unit Designation:

A. *General*. The Board is hereby authorized to cause the Company to issue additional Interests, in the form of Units, for any Company purpose, at any time or from time to time, to the Members (including Directors) or to other Persons, and to admit such Persons as Additional Members, for such consideration and on such terms and conditions as shall be established by the Board in its sole and absolute discretion, all without the approval of any Member or any other Person. Without limiting the foregoing, the Board is expressly authorized to cause the Company to issue Units: (i) upon the conversion, redemption or exchange of any Debt, Units, or other securities issued by the Company; (ii) for less than fair market value, (iii) for no consideration, (iv) in connection with any merger of any other Person into the Company or (v) upon contribution of property or assets to the Company. Any additional Interests may be issued in one or more classes, or one or more series of any of such classes, with such designations, preferences, conversion or other rights, voting powers or rights, restrictions, limitations as to distributions, qualifications or terms or conditions of redemption (including, without limitation, terms that may be senior or otherwise entitled to preference over existing Units) as shall be determined by the Board, in its sole and absolute discretion without the approval of any Member or any other Person, and set forth in a written document thereafter attached to and made an exhibit to this Agreement, which exhibit shall be an amendment to this Agreement and shall be incorporated herein by this reference (each, a "***Unit Designation***"), without the approval of any Member or any other Person. Without limiting the generality of the foregoing, the Board shall have authority to specify: (a) the allocations of items of Company income, gain, loss, deduction and credit to each such class or series of Interests; (b) the right of each such class or series of Interests to share (on a *pari passu*, junior or preferred basis) in Company distributions; (c) the rights of each such class or series of Interests upon dissolution and liquidation of the Company; (d) the voting rights, if any, of each such class or series of Interests; and (e) the conversion, redemption or exchange rights applicable to each such class or series of Interests. Except as expressly set forth in any Unit Designation or as may otherwise be required under the Act, an Interest of any class or series other than a Common Unit shall not entitle the holder thereof to vote on, or consent to, any matter. Upon the issuance of any additional Interest, the Board shall update (or direct the update of) the Register and the books and records of the Company as appropriate to reflect such issuance.

B. *Issuances of Compensatory Units*. Without limiting the generality of the foregoing, the Board is hereby authorized to create one or more classes or series of additional Interests, in the form of Units (each such class or series of Interests is referred to as "***Compensatory Units***"), including, without limitation, LTIP Units and Performance Units, for issuance at any time or from time to time to directors, officers or employees of MIC or any Affiliate of the foregoing, and to admit such Persons as Additional Members, for such consideration and on such terms and conditions as shall be established by the Board, all without approval of any Member or any other Person. The Board shall determine, in its sole and absolute discretion without the approval of any Member or any other Person, and set forth in a Unit Designation, the designations, preferences, conversion or other rights, voting powers or rights, restrictions, limitations as to dividends or distributions, qualifications or terms or conditions of redemption of any class or series of

Compensatory Units (including, without limitation, the extent to which the value or number of each such class or series of Compensatory Units is subject to adjustment based on the financial performance of MIC). Upon the issuance of any class or series of Compensatory Units, the Board shall amend this Agreement, including the Register and the books and records of the Company as appropriate to reflect such issuance.

C. *Issuances to MIC*. No Units shall be issued to MIC unless (i) the additional Units are issued to all Members holding Common Units in proportion to their respective Percentage Interests in Common Units, (ii) (a) the additional Units are (x) Common Units issued in connection with an issuance of Shares, or (y) Company Equivalent Units (other than Common Units) issued in connection with an issuance of Preferred Shares, New Securities or other interests in MIC (other than Shares), and (b) MIC contributes to the Company the cash proceeds or other consideration received in connection with the issuance of such Shares, Preferred Shares, New Securities or other interests in MIC, (iii) the additional Units are issued upon the conversion, redemption or exchange of Debt, Units or other securities issued by the Company, or (iv) the additional Units are issued pursuant to Section 4.3.B, Section 4.3.E, Section 4.4 or Section 4.5.

D. *No Preemptive Rights.* Except as expressly specified in this Agreement or any Unit Designation, no Person, including, without limitation, any Member or Assignee, shall have any preemptive, preferential, participation or similar right or rights to subscribe for or acquire any Interest.

Section 4.3 Additional Funds and Capital Contributions.

A. *General*. The Board may, at any time and from time to time, determine that the Company requires additional funds ("***Additional Funds***") for the acquisition or development of additional Properties, for the redemption of Units or for such other purposes as the Board may determine, in its sole and absolute discretion. Additional Funds may be obtained by the Company, at the election of the Board, in any manner provided in, and in accordance with, the terms of this Section 4.3 without the approval of any Member or any other Person.

B. *Additional Capital Contributions.* The Board, on behalf of the Company, may obtain any Additional Funds by accepting Capital Contributions from any Members or other Persons. In connection with any such Capital Contribution (of cash or property), the Board is hereby authorized to cause the Company from time to time to issue additional Units (as set forth in Section 4.2 above) in consideration therefor and the Percentage Interests of the Members shall be adjusted to reflect the issuance of such additional Units.

C. Loans by Third Parties. The Board, on behalf of the Company, may obtain any Additional Funds by causing the Company to incur Debt to any Person (other than MIC (but, for this purpose, disregarding any Debt that may be deemed incurred to MIC by virtue of clause (iii) of the definition of Debt)) upon such terms as the Board determines appropriate, including making such Debt convertible, redeemable or exchangeable for Units or Shares; *provided*, *however*, that the Company shall not incur any such Debt if any Member would be personally liable for the repayment of such Debt (unless such Member otherwise agrees).

D. *MIC Loans*. The Board, on behalf of the Company, may obtain any Additional Funds by causing the Company to incur Debt to MIC if (i) such Debt is, to the extent permitted by law, on substantially the same terms and conditions (including interest rate, repayment schedule, and conversion, redemption, repurchase and exchange rights) as Funding Debt incurred by MIC, the net proceeds of which are loaned to the Company to provide such Additional Funds, or (ii) such Debt is on terms and conditions no less favorable to the Company than would be available to the Company from any third party; *provided*, *however*, that the Company shall not incur any such Debt if (a) any Member (or any Affiliate, partner, member, stockholder, principal, director, officer, adviser, beneficiary or trustee of any Member) would be personally liable for the repayment of such Debt (unless such Member or other affected Person otherwise agrees in writing) or (b) a breach or violation of, or default under, the terms of such Debt would be deemed to occur by virtue of the Transfer of any Units or Interest held by any Person other than MIC.

E. *Issuance of Securities by MIC*. MIC shall not issue any additional Shares, Capital Shares or New Securities unless MIC contributes the cash proceeds or other consideration received from the issuance of such additional Shares, Capital Shares or New Securities (as the case may be) and from the exercise of the rights contained in any such additional Capital Shares or New Securities to the Company in exchange for (x) in the case of an issuance of Shares, Common Units, or (y) in the case of an issuance of Capital Shares or New Securities, Company Equivalent Units; *provided*, *however*, that notwithstanding the foregoing, MIC may issue Shares, Capital Shares or New Securities (a) pursuant to Section 4.4 or Section 15.1.B hereof, (b) pursuant to a dividend or distribution (including any stock split) of Shares, Capital Shares or New Securities to all of the holders of Shares, Capital Shares or New Securities (as the case may be), (c) upon a conversion, redemption or exchange of Capital Shares, (d) upon a conversion, redemption, exchange or exercise of New Securities, or (e) in connection with an acquisition of Units or a property or other asset to be owned, directly or indirectly, by MIC. In the event of any issuance of additional Shares, Capital Shares or New Securities by MIC, and the contribution to the Company, by MIC, of the cash proceeds or other consideration received from such issuance (or property acquired with such proceeds), if any, if the cash proceeds actually received by MIC are less than the gross proceeds of such issuance as a result of any underwriter's discount or other expenses paid or incurred in connection with such issuance, then MIC shall be deemed to have made a Capital Contribution to the Company in the amount equal to the sum of the cash proceeds of such issuance plus the amount of such underwriter's discount and other expenses paid by MIC (which discount and expense shall be treated as an expense for the benefit of the Company for purposes of Section 7.4). In the event that MIC issues any additional Shares, Capital Shares or New Securities and contributes the cash proceeds or other consideration received from the issuance thereof to the Company, the Company is expressly authorized to issue a number of Common Units or Company Equivalent Units to MIC equal to the number of Shares, Capital Shares or New Securities so issued, divided by the Adjustment Factor then in effect, in accordance with this Section 4.3.E without any further act, approval or vote of any Member or any other Persons.

Section 4.4 Stock Option Plans and Equity Plans; Warrants

A. *Options Granted to Persons other than Company Employees*. If at any time or from time to time, in connection with any Stock Option Plan, a stock option granted for stock in MIC to a Person other than a Company Employee is duly exercised:

(1) MIC, shall, as soon as practicable after such exercise, make a Capital Contribution to the Company in an amount equal to the exercise price paid to MIC by such exercising party in connection with the exercise of such stock option.

(2) Notwithstanding the amount of the Capital Contribution actually made pursuant to Section 4.4.A(1) hereof, MIC shall be deemed to have contributed to the Company as a Capital Contribution, in lieu of the Capital Contribution actually made and in consideration of an additional Interest (expressed in and as additional Common Units), an amount equal to the Value of a Share as of the date of exercise multiplied by the number of Shares then being issued in connection with the exercise of such stock option.

(3) An equitable Percentage Interest adjustment shall be made in which MIC shall be treated as having made a cash contribution equal to the amount described in Section 4.4.A(2) hereof.

B. *Options Granted to Company Employees*. If at any time or from time to time, in connection with any Stock Option Plan, a stock option granted for stock in MIC to a Company Employee is duly exercised:

(1) MIC shall sell to the Optionee, and the Optionee shall purchase from MIC, for a cash price per share equal to the Value of a Share at the time of the exercise, the number of Shares equal to (a) the exercise price payable by the Optionee in connection with the exercise of such stock option divided by (b) the Value of a Share at the time of such exercise.

(2) MIC shall sell to the Company (or if the Optionee is an employee or other service provider of a Company Subsidiary, MIC shall sell to such Company Subsidiary), and the Company (or such subsidiary, as applicable) shall purchase from MIC, a number of Shares equal to (a) the number of Shares as to which such stock option is being exercised less (b) the number of Shares sold pursuant to Section 4.4.B(1) hereof. The purchase price per Share for such sale of Shares to the Company (or such subsidiary) shall be the Value of a Share as of the date of exercise of such stock option.

(3) The Company shall transfer to the Optionee (or if the Optionee is an employee or other service provider of a Company Subsidiary, the Company Subsidiary shall transfer to the Optionee) at no additional cost, as additional compensation, the number of Shares described in Section 4.4.B(2) hereof.

(4) MIC shall, as soon as practicable after such exercise, make a Capital Contribution to the Company of an amount equal to all proceeds received (from whatever source, but excluding any payment in respect of payroll taxes or other withholdings) by MIC in connection with the exercise of such stock option. An equitable Percentage Interest adjustment shall be made as a result of such contribution.

C. *Restricted Stock Granted to Persons other than Company Employees*. If at any time or from time to time, in connection with any Equity Plan (other than a Stock Option Plan), any Shares are issued to a Person other than a Company Employee in consideration for services performed for MIC:

(1) MIC shall issue such number of Shares as are to be issued to such Person in accordance with the Equity Plan; and

(2) On the date (such date, the "***Vesting Date***") that the Value of such shares is includible in taxable income of such Person, the following events will be deemed to have occurred: (a) MIC shall be deemed to have contributed the Value of such Shares to the Company as a Capital Contribution, and (b) the Company shall issue to MIC on the Vesting Date a number of Common Units equal to the number of newly issued Shares divided by the Adjustment Factor then in effect.

D. *Restricted Stock Granted to Company Employees.* If at any time or from time to time, in connection with any Equity Plan (other than a Stock Option Plan), any Shares are issued to a Company Employee (including any Shares that are subject to forfeiture in the event such Company Employee terminates his employment by the Company or the Company Subsidiaries) in consideration for services performed for the Company or the Company Subsidiaries:

(1) MIC shall issue such number of Shares as are to be issued to the Company Employee in accordance with the Equity Plan;

(2) On the Vesting Date, the following events will be deemed to have occurred: (a) MIC shall be deemed to have sold such shares to the Company (or if the Company Employee is an employee or other service provider of a Company Subsidiary, to such Company Subsidiary) for a purchase price equal to the Value of such shares, (b) the Company (or such Company Subsidiary) shall be deemed to have delivered the shares to the Company Employee, (c) MIC shall be deemed to have contributed the purchase price to the Company as a Capital Contribution, and (d) in the case where the Company Employee is an employee of a Company Subsidiary, the Company shall be deemed to have contributed such amount to the capital of the Company Subsidiary; and

(3) The Company shall issue to MIC on the Vesting Date a number of Common Units equal to the number of newly issued Shares divided by the Adjustment Factor then in effect in consideration for the Capital Contribution described in Section 4.4.D(2)(c) above.

E. *Future Stock Incentive Plans*. Nothing in this Agreement shall be construed or applied to preclude or restrain MIC from adopting, modifying or terminating stock incentive plans for the benefit of employees, directors or other business associates of MIC, the Company or any of their Affiliates or from issuing Shares, Capital Shares or New Securities pursuant to any such plans. MIC may implement such plans and any actions taken under such plans (such as the grant or exercise of options to acquire Shares, or the issuance of restricted Shares), whether taken with respect to or by an employee or other service provider of MIC, the Company or its Subsidiaries, in a manner determined by MIC, which may be set forth in plan implementation guidelines that MIC may establish or amend from time to time. The Members acknowledge and agree that, in the event that any such plan is adopted, modified or terminated by MIC, or for any other reason as determined by MIC, amendments to this Agreement may become necessary or advisable, any approval or Consent to any such amendments requested by MIC shall be deemed granted by the Members. The Company is expressly authorized to issue Units (i) in accordance with the terms of any such stock incentive plans, or (ii) in an amount equal to the number of Shares, Capital Shares or New Securities issued pursuant to any such stock incentive plans, without any further act, approval or vote of any Member or any other Persons.

F. *Warrants*. If at any time or from time to time a warrant granted for stock in MIC is duly exercised:

(1) MIC, shall, as soon as practicable after such exercise, make a Capital Contribution to the Company in an amount equal to the exercise price paid to MIC by such exercising party in connection with the exercise of such warrant.

(2) Notwithstanding the amount of the Capital Contribution actually made pursuant to Section 4.4.F(1) hereof, MIC shall be deemed to have contributed to the Company as a Capital Contribution, in lieu of the Capital Contribution actually made and in consideration of an additional Interest (expressed in and as additional Common Units), an amount equal to the Value of a Share as of the date of exercise multiplied by the number of Shares then being issued in connection with the exercise of such warrant.

(3) An equitable Percentage Interest adjustment shall be made in which MIC shall be treated as having made a cash contribution equal to the amount described in Section 4.4.F(2) hereof.

Section 4.5 Dividend Reinvestment Plan, Cash Option Purchase Plan, Stock Incentive Plan or Other Plan. Except as may otherwise be provided in this Article 4, all amounts received or deemed received by MIC in respect of any dividend reinvestment plan, cash option purchase plan, stock incentive or other stock or subscription plan or agreement, either (a) shall be utilized by MIC to effect open market purchases of Shares, or (b) if MIC elects instead to issue new Shares with respect to such amounts, shall be contributed by MIC to the Company in exchange for additional Common Units. Upon such contribution, the Company will issue to MIC a number of Common Units equal to the quotient of (i) the number of new Shares so issued divided by (ii) Adjustment Factor then in effect.

Section 4.6 No Interest; No Return. No Member shall be entitled to interest on its Capital Contribution or on such Member's Capital Account. Except as provided herein or by law, no Member shall have any right to demand or receive the return of its Capital Contribution from the Company.

Section 4.7 Conversion or Redemption of Capital Shares.

A. *Conversion of Capital Shares.* If, at any time, any of the Capital Shares are converted into Shares, in whole or in part, then a number of Units with preferences, conversion and other rights, restrictions (other than restrictions on transfer), rights and limitations as to dividends and other distributions and qualifications that are substantially the same as the preferences, conversion and other rights, restrictions (other than restrictions on transfer), rights and limitations as to distributions and qualifications as those of such Capital Shares ("***Company Equivalent Units***") (for the avoidance of doubt, Company Equivalent Units need not have voting rights, redemption rights or restrictions on transfer that are substantially similar to the corresponding Capital Shares) equal to the number of Capital Shares so converted shall automatically be converted into a number of Common Units equal to the quotient of (i) the number of Shares issued upon such conversion divided by (ii) the Adjustment Factor then in effect, and the Percentage Interests of the Members shall be adjusted to reflect such conversion.

B. *Redemption or Repurchase of Capital Shares or Shares*. Except as otherwise provided in Section 7.4.C, if, at any time, any Capital Shares are redeemed or otherwise repurchased (whether by exercise of a put or call, automatically or by means of another arrangement) by MIC, the Company shall, immediately prior to such redemption or repurchase of Capital Shares, redeem an equal number of Company Equivalent Units held by MIC upon the same terms and for the same price per Company Equivalent Unit as such Capital Shares are redeemed or repurchased. If, at any time, any Shares are redeemed or otherwise repurchased by MIC, the Company shall, immediately prior to such redemption or repurchase of Shares, redeem or repurchase a number of Common Units held by MIC equal to the quotient of (i) the Shares so redeemed or repurchased, divided by (ii) the Adjustment Factor then in effect, such redemption or repurchase to be upon the same terms and for the same price per Common Unit (after giving effect to application of the Adjustment Factor) as such Shares are redeemed or repurchased. Notwithstanding the foregoing, the provisions of this Section 4.7.B shall not apply in the event that such repurchase of Shares is paired with a stock split or stock dividend such that after giving effect to such repurchase and subsequent stock split or stock dividend there shall be outstanding an equal number of Shares as were outstanding prior to such repurchase and subsequent stock split or stock dividend.

Section 4.8 Excess Cash Contributions. Notwithstanding anything to the contrary set forth herein, in the event that, following any cash distribution made by the Company to the Members pursuant to Section 5.3 of this Agreement, MIC determines in its sole discretion that it does not intend to use all the cash it receives in such distribution to pay its tax liabilities or any other liabilities and that it will contribute any such unused cash back to the Company (in each case, an "***Excess Cash Contribution***"), then, in order to maintain the Adjustment Factor at 1.0 and in lieu of issuing additional Common Units or other Units to MIC in consideration for such Excess Cash Contribution, the Company may elect, at the Board's sole discretion, to effect a reverse unit split of the outstanding Units held by the Members (in each case, a "***Reverse Unit Split***"), provided, however, that in lieu of the Reverse Unit Split, the Board, in its sole discretion, may take other actions, including, without limitation, redemptions, reclassifications, combinations, subdivisions and other adjustments, in each case intended to achieve the same economic result as the Reverse Unit Split (in each case, an "***Alternative Adjustment***"). In the event that any Reverse Unit Split or Alternative Adjustment made in accordance with this Section 4.8 would result in a Member being entitled to receive a fraction of a Unit, then in lieu of holding such fractional Unit following the effectiveness of such Reverse Unit Split or Alternative Action the Company may pay such Member an amount in cash in respect of such fractional Unit. Each Member acknowledges and agrees that no consent or approval of any Member and no amendment to this Agreement shall be required in connection with any Excess Cash Contribution made or any Reverse Unit Split or Alternative Action effected in accordance with this Section 4.8, and the Board shall reflect the effects of each such Excess Cash Contribution and Reverse Unit Split or Alternative Action in the books and records of the Company and shall provide written notice to each Member holding Units of the amount of any such Excess Cash Contribution and the total number of Units held by such Member after giving effect to any such Reverse Unit Split or Alternative Action as well as the amount of cash, if any, to be paid to such Member in lieu of such Member holding a fractional interest in a

Unit after giving effect to such Reverse Unit Split or Alternative Action. The Company shall deliver to each Member holding Units the notice contemplated by the preceding sentence and any cash payment to which such Member is entitled in accordance with the second preceding sentence not later than 15 Business Days following the effectiveness of such Excess Cash Contribution.

Section 4.9 Other Contribution Provisions. In the event that any Member is admitted to the Company and is given a Capital Account in exchange for services rendered to the Company, such transaction shall be treated by the Company and the affected Member as if the Company had compensated such Member in cash and such Member had contributed the cash that the Member would have received to the capital of the Company. In addition, with the consent of the Board, one or more Members may enter into contribution agreements with the Company which have the effect of providing a guarantee of certain obligations of the Company (and/or a wholly owned Subsidiary of the Company).

Article 5
DISTRIBUTIONS

Section 5.1 Requirement and Characterization of Distributions. Subject to the terms of Sections 16.2 and 17.2 and/or the rights of any Holder of any Interest set forth in a Unit Designation, the Board may cause the Company to distribute such amounts, at such times, as the Board may, in its sole and absolute discretion, determine, to the Holders as of any Record Date:

A. *First*, with respect to any Units that are entitled to any preference in distribution, in accordance with the rights of such class(es) of Units (and, within such class(es), among the Holders pro rata in proportion to their respective Percentage Interests in each class of Units held on such Record Date); and

B. *Second*, with respect to any Units that are not entitled to any preference in distribution, in accordance with the rights of such class of Units, as applicable (and, within such class, among the Holders pro rata in proportion to their respective Percentage Interests in such class of Units held on such Record Date).

Distributions payable with respect to any Units that were not outstanding during the entire quarterly period in respect of which any distribution is made, other than any Units issued to MIC in connection with the issuance of Shares or Capital Shares by MIC, shall be prorated based on the portion of the period that such Units were outstanding. MIC shall make such reasonable efforts, as determined by it in its sole and absolute discretion and consistent with MIC's intent to qualify as a REIT, to cause the Company to distribute sufficient amounts to enable MIC, for so long as MIC has determined to qualify as a REIT, to pay stockholder dividends that will (a) satisfy the REIT Requirements (it being understood that such requirement shall not apply for the taxable year ending December 31, 2020 and for any subsequent taxable year unless and until MIC determines it is realistically able to re-qualify as a REIT) and (b) except to the extent otherwise determined by the Board, eliminate any federal income or excise tax liability of MIC. Notwithstanding anything in the foregoing to the contrary, (i) a Holder of LTIP Units will only be entitled to distributions with respect to an LTIP Unit as set forth in Article 19 hereof and (ii) a Holder of Performance Units will be entitled to distributions with respect to a Performance Unit as set forth in Article 20 hereof, and, in each case, in making distributions pursuant to this Section 5.1, the Board shall take into account the provisions of Section 19.4 hereof and Section 20.4 hereof, as applicable.

Section 5.2 Distributions in Kind. Except as expressly provided herein, no right is given to any Holder to demand and receive property other than cash as provided in this Agreement. The Board may determine, in its sole and absolute discretion, to make a distribution in kind of Company assets to the Holders, and such assets shall be distributed in such a fashion as to ensure that the fair market value is distributed and allocated in accordance with Articles 5, 6 and 13 hereof; *provided*, *however*, that the Board shall not make a distribution in kind to any Holder unless the Holder has been given 90 days prior written notice of such distribution.

Section 5.3 Tax Distributions. The Board shall cause the Company to make distributions to each Member holding Common Equivalent Units (“***Tax Distributions***”), *pro rata* in proportion to the Members’ respective ownership of Common Equivalent Units, in an amount such that the Member with the highest Tax Distribution Per Common Equivalent Unit receives an amount equal to such Member’s Tax Distribution Amount, on a quarterly basis at least five (5) days prior to the date on which any estimated tax payments are due, in order to permit each Member to timely pay its estimated tax obligations for each such Estimated Tax Period (or portion thereof). The “***Tax Distribution Amount***” for a Member for an Estimated Tax Period (or portion thereof) shall be equal to the sum of (a) the product of (i) the highest marginal combined federal, state, and local income tax rate applicable to an individual or corporation resident in New York, New York, or San Francisco, California, whichever is higher, (after giving effect to income tax deductions (if allowable) for state and local income taxes and excluding, for this purpose, any reduction in rate attributable to Code Section 199A) for such Estimated Tax Period (or portion thereof) (the “***Assumed Tax Rate***”), and (ii) the aggregate amount of taxable income or gain of the Company that is allocated or is estimated to be allocated to such Member for U.S. federal income tax purposes (including, for the avoidance of doubt, any income allocation to a Member with respect to Preferred Units held by such Member) for such Estimated Tax Period (or portion thereof) and all prior Estimated Tax Periods (to the extent no Tax Distribution has previously been made with respect to any amounts of taxable income or gain including to the extent such amounts of taxable income or gain were not taken into account in calculating the Tax Distribution Amount for which a Tax Distribution was previously made (e.g., if upon filing the Company’s final tax return for the applicable taxable year taxable income or gain of the Company is higher than estimated)) reduced, but not below zero, by any tax deduction, loss, or credit previously allocated to such Member and not previously taken into account for purposes of the calculation of the amount of any Tax Distribution Amount, plus (b) solely with respect to MIC, to the extent the amounts described in clause (a) are not sufficient to permit MIC to timely pay the income and other tax liabilities for which it remains responsible under Section 7.4.B (final sentence), any incremental amount required to permit MIC to timely pay such actual tax liabilities (with all Tax Distribution Amounts updated to reflect the final Company tax returns and MIC tax returns for each applicable taxable year). The Board may adjust the Assumed Tax Rate as it reasonably determines is necessary to take into account the effect of any changes in applicable tax law. Tax Distribution Amounts pursuant to this Section 5.3 shall be computed without regard to the effect of any special basis adjustments or resulting adjustments to taxable income made pursuant to Code Sections 734(b), 743(b), and 754. Notwithstanding the foregoing, final Tax Distributions in respect of the applicable quarterly period (or portion thereof) shall be made immediately prior to and in connection with any distributions made pursuant to Section 5.5 below. The Assumed Tax Rate

shall be the same for all Members, regardless of the actual combined income tax rate of the Member or its direct or indirect owners. The Board shall make, in its reasonable discretion, equitable adjustments (downward (but not below zero) or upward) to the Members' Tax Distributions (but in any event pro rata in proportion to the Members' respective number of Common Equivalent Units) to take into account increases or decreases in the number of Units held by each Member during the relevant period. All Tax Distributions shall be treated for all purposes under this Agreement as advances against, and shall offset and reduce dollar-for-dollar, current or subsequent distributions under Section 5.1 in respect of Common Equivalent Units.

Section 5.4 Amounts Withheld. All amounts withheld pursuant to the Code or any provisions of any state, local omon-United States tax law and Section 10.4 hereof with respect to any allocation, payment or distribution to any Holder shall be treated as amounts paid or distributed to such Holder pursuant to Section 5.1 hereof for all purposes under this Agreement.

Section 5.5 Distributions Upon Liquidation. Notwithstanding the other provisions of this Article 5, net proceeds from a Terminating Capital Transaction, and any other amounts distributed after the occurrence of a Liquidating Event, shall be distributed to the Holders in accordance with Section 13.2 hereof.

Section 5.6 Distributions to Reflect Additional Units. In the event that the Company issues additional Units pursuant to the provisions of Article 4 hereof, subject to the rights of any Holder of any Interest set forth in a Unit Designation, the Board is hereby authorized to make such revisions to this Article 5 and to Articles 6, 11 and 12 hereof as it determines are necessary or desirable to reflect the issuance of such additional Units, including, without limitation, making preferential distributions to Holders of certain classes of Units.

Section 5.7 Restricted Distributions. Notwithstanding any provision to the contrary contained in this Agreement, neither the Company nor the Board, on behalf of the Company, shall make a distribution to any Holder if such distribution would violate the Act or other applicable law.

Article 6
ALLOCATIONS

Section 6.1 Timing and Amount of Allocations of Net Income and Net Loss. Net Income and Net Loss of the Company shall be determined and allocated with respect to each Fiscal Year as of the end of each such year, provided, that the Board may in its discretion allocate Net Income and Net Loss for a shorter period as of the end of such period (and, for purposes of this Article 6, references to the term "***Fiscal Year***" may include such shorter periods). Except to the extent otherwise provided in this Article 6, and subject to Section 11.6.C hereof, an allocation to a Holder of a share of Net Income or Net Loss shall be treated as an allocation of the same share of each item of income, gain, loss or deduction that is taken into account in computing Net Income or Net Loss.

Section 6.2 Allocations of Net Income and Net Loss.

A. *In General*. Except as otherwise provided in this Article 6 and Section 11.6.C, Net Income and Net Loss allocable with respect to a class of Interests shall be allocated to each of the Holders holding such class of Interests in accordance with their respective Percentage Interest of such class.

B. *Net Income.* Except as provided in Sections 6.2.E, 6.2.F, 6.2.G, 6.2.H, 6.2.I and 6.3, Net Income (or, in the case of clauses (5) and (6) below, Adjusted Net Income) for any Fiscal Year shall be allocated in the following manner and order of priority:

(1) *First*, 100% to MIC in an amount equal to the remainder, if any, of the cumulative Net Losses allocated to MIC pursuant to clause (5) in Section 6.2.C for all prior Fiscal Years *minus* the cumulative Net Income allocated to MIC pursuant to this clause (1) for all prior Fiscal Years;

(2) *Second*, 100% to each Holder in an amount equal to the remainder, if any, of the cumulative Net Losses allocated to each such Holder pursuant to clause (4) in Section 6.2.C for all prior Fiscal Years *minus* the cumulative Net Income allocated to such Holder pursuant to this clause (2) for all prior Fiscal Years;

(3) *Third*, 100% to the Holders of Series 2 Preferred Units in an amount equal to the remainder, if any, of the cumulative Net Losses allocated to each such Holder pursuant to clause (3) in Section 6.2.C for all prior Fiscal Years *minus* the cumulative Net Income allocated to such Holder pursuant to this clause (3) for all prior Fiscal Years;

(4) *Fourth*, 100% to the Holders of Senior Preferred Units (other than Series 2 Preferred Units) in an amount equal to (A) with respect to each Holder of Series A Preferred Units, the remainder, if any, of the cumulative Net Losses allocated to such Holder pursuant to clause (2)(A) in Section 6.2.C for all prior Fiscal Years *minus* the cumulative Net Income allocated to such Holder pursuant to this clause (4)(A) for all prior Fiscal Years, and (B) with respect to each Holder of Series 1 Preferred Units, the remainder, if any, of the cumulative Net Losses allocated to such Holder pursuant to clause (2)(B) in Section 6.2.C for all prior Fiscal Years *minus* the cumulative Net Income allocated to such Holder pursuant to this clause (4)(B) for all prior Fiscal Years;

(5) *Fifth*, any remaining Adjusted Net Income (or Net Income to the extent there is insufficient Adjusted Net Income) to the Holders of Series 2 Preferred Units in an amount equal to the excess of the cumulative Series 2 Priority Return to the last day of the current Fiscal Year, over the cumulative Adjusted Net Income (or Net Income) allocated to the Holders of such units pursuant to this clause (5) for all prior Fiscal Years;

(6) *Sixth*, any remaining Adjusted Net Income (or Net Income to the extent there is insufficient Adjusted Net Income) to the Holders of Senior Preferred Units (other than Series 2 Preferred Units) in an amount equal to (A) with respect to Holders of Series A Preferred Units the excess of the cumulative Series A Priority Return to the last day of the current Fiscal Year or to the date of redemption, to the extent Series A Preferred Units are redeemed during such year, over the cumulative Adjusted Net Income (or Net Income) allocated to the Holders of such units pursuant to this clause (6)(A) for all prior Fiscal Years, and (B) with respect to Holders of Series 1 Preferred Units the excess of the cumulative Series 1 Priority Return to the last day of the current Fiscal Year or to the date of redemption, to the extent Series 1 Preferred Units are redeemed during such year, over the cumulative Adjusted Net Income (or Net Income) allocated to the Holders of such units pursuant to this clause (6)(B) for all prior Fiscal Years; and

(7) *Seventh*, 100% to the Holders of Common Units in accordance with their respective Percentage Interests in the Common Units.

To the extent the allocations of Net Income set forth above in any paragraph of this Section 6.2.B are not sufficient to entirely satisfy the allocation set forth in such paragraph, such allocation shall be made in proportion to the total amount that would have been allocated pursuant to such paragraph without regard to such shortfall.

C. *Net Loss*. Except as provided in Sections 6.2.E, 6.2.F, 6.2.G, 6.2.H, 6.2.I and 6.3, Net Losses for any Fiscal Year shall be allocated in the following manner and order of priority:

(1) *First*, 100% to the Holders of Common Units in accordance with their respective Percentage Interests in the Common Units (to the extent consistent with this clause (1)) until the Adjusted Capital Account of all such Holders is zero (ignoring for this purpose any amounts a Holder is obligated to contribute to the capital of the Company or is deemed obligated to restore pursuant to Regulations Section 1.704-1(b)(2)(ii)(c)(2) and ignoring the portion of any such Holder's Capital Account attributable to Series A Preferred Units, Series 1 Preferred Units or Series 2 Preferred Units);

(2) *Second*, 100% to the Holders of Senior Preferred Units (other than Series 2 Preferred Units) (A) with respect to each Holder of Series A Preferred Units, pro rata to each such Holder's Adjusted Capital Account (ignoring for this purpose any amounts a Holder is obligated to contribute to the capital of the Company or is deemed obligated to restore pursuant to Regulations Section 1.704-1(b)(2)(ii)(c)(2) and ignoring the portion of any such Holder's Capital Account attributable to the Series 2 Preferred Units), until the Adjusted Capital Account (as so modified) of each such Holder is zero, and (B) with respect to each Holder of Series 1 Preferred Units, pro rata to each such Holder's Adjusted Capital Account (ignoring for this purpose any amounts a Holder is obligated to contribute to the capital of the Company or is deemed obligated to restore pursuant to Regulations Section 1.704-1(b)(2)(ii)(c)(2) and ignoring the portion of any such Holder's Capital Account attributable to the Series 2 Preferred Units), until the Adjusted Capital Account (as so modified) of each such Holder is zero;

(3) *Third*, 100% to the Holders of Series 2 Preferred Units, pro rata to each such Holder's Adjusted Capital Account (ignoring for this purpose any amounts a Holder is obligated to contribute to the capital of the Company or is deemed obligated to restore pursuant to Regulations Section 1.704-1(b)(2)(ii)(c)(2)), until the Adjusted Capital Account (as so modified) of each such Holder is zero;

(4) *Fourth*, 100% to the Holders (other than MIC) to the extent of, and in proportion to, the positive balance (if any) in their Adjusted Capital Accounts; and

(5) *Fifth*, 100% to MIC.

To the extent the allocations of Net Loss set forth above in any paragraph of this Section 6.2.C are not sufficient to entirely satisfy the allocation set forth in such paragraph, such allocation shall be made in proportion to the total amount that would have been allocated pursuant to such paragraph without regard to such shortfall.

D. *Allocations to Reflect Issuance of Additional Interests*. In the event that the Company issues additional Interests to MIC or any Additional Member pursuant to Section 4.2 or 4.3, the Board shall make such revisions to this Section 6.2 or to Section 12.2.C or 13.2.A as it determines are necessary to reflect the terms of the issuance of such additional Interests, including making preferential allocations to certain classes of Interests, subject to Article 16 and Article 17 below and the terms of any Unit Designation with respect to Interests then outstanding.

E. *Special Allocations Regarding Preferred Units*. Subject to Sections 6.2.G and 6.3, if any Preferred Units are redeemed pursuant to Section 4.7.B hereof (treating a full liquidation of MIC's Interest for purposes of this Section 6.2.E as including a redemption of any then outstanding Preferred Units pursuant to Section 4.7.B hereof), for the Fiscal Year that includes such redemption (and, if necessary, for subsequent Fiscal Years) (a) gross income and gain (in such relative proportions as the Board in its discretion shall determine) shall be allocated to the holder(s) of such Preferred Units to the extent that the redemption amounts paid or payable with respect to the Preferred Units so redeemed (or treated as redeemed) exceed the aggregate Capital Account balances allocable to the Preferred Units so redeemed (or treated as redeemed) and (b) deductions and losses (in such relative proportions as the Board in its discretion shall determine) shall be allocated to the holder(s) of such Preferred Units to the extent that the aggregate Capital Account balances allocable to the Preferred Units so redeemed (or treated as redeemed) exceeds the redemption amount paid or payable with respect to the Preferred Units so redeemed (or treated as redeemed).

F. *Special Allocations with Respect to Eligible Units*. Subject to Section 6.2.E, in the event that Liquidating Gains are allocated under this Section 6.2.F, Net Income allocable under Section 6.2.B and any Net Losses allocable under Section 6.2.C shall be recomputed without regard to the Liquidating Gains so allocated. After giving effect to the special allocations set forth in Section 6.3.A hereof, and notwithstanding the provisions of Sections 6.2.B and 6.2.C above, any Liquidating Gains shall first be allocated to the Holders of Eligible Units until the Economic Capital Account Balances of such Holders, to the extent attributable to their ownership of Eligible Units, are equal to (i) the Common Unit Economic Balance, multiplied by (ii) the number of their Eligible Units. Any such allocations shall be made among the Holders of Eligible Units in proportion to the amounts required to be allocated to each under this Section 6.2.F. The parties agree that the intent of this Section 6.2.F is to make the Capital Account balances of the Holders of LTIP Units and Performance Units with respect to their LTIP Units or Performance Units, as applicable, economically equivalent to the Capital Account balance of MIC with respect to its Common Units (on a per unit basis), but only to the extent that, at the time any Liquidating Gain is to be allocated, the Company has recognized cumulative net gains with respect to its assets since the issuance of the LTIP Unit or Performance Unit, as applicable.

G. *Special Allocations Upon Liquidation.* Notwithstanding any provision in this Article 6 to the contrary but subject to Section 6.3, in the event that the Company disposes of all or substantially all of its assets in a transaction that will lead to a liquidation of the Company pursuant to Article 13 hereof, then: (i) any Liquidating Gains shall first be allocated in accordance with Section 6.2.F; and (ii) any Net Income or Net Loss realized in connection with such transaction and thereafter (recomputed without regard to the Liquidating Gains allocated pursuant to clause (i) above) shall be specially allocated for such Fiscal Year (and to the extent permitted by Code Section 761(c), for the immediately preceding Fiscal Year) among the Holders as required so as to cause liquidating distributions pursuant to Section 13.2.A hereof to be made in the same amounts and proportions as would have resulted had such distributions instead been made pursuant to Article 5 hereof. If there is an adjustment to the Gross Asset Value of the assets of the Company pursuant to subsection (ii) of the definition of Gross Asset Value, allocations of Net Income or Net Loss arising from such adjustment shall be allocated in the same manner as described in the prior sentence.

H. *Offsetting Allocations.* Notwithstanding the provisions of Sections 6.1, 6.2.B and 6.2.C, but subject to Sections 6.3 and 6.4, in the event Net Income or items thereof are being allocated to a Member to offset prior Net Loss or items thereof which have been allocated to such Member, the Board shall attempt to allocate such offsetting Net Income or items thereof which are of the same or similar character (including without limitation Section 704(b) book items versus tax items) to the original allocations with respect to such Member.

I. Notwithstanding Section 6.2.F or 6.3.A(1), the allocations under such sections shall be made only if and to the extent such allocations will not alter the amounts otherwise allocable with respect to the Series A Preferred Units, the Series 1 Preferred Units or the Series 2 Preferred Units, as applicable, under Sections 6.2 and 6.3, as determined by the Board.

Section 6.3 Additional Allocation Provisions. Notwithstanding the foregoing provisions of this Article 6:

A. Regulatory Allocations.

(1) *Minimum Gain Chargeback*. Except as otherwise provided in Regulations Section 1.704-2(f), notwithstanding the provisions of Section 6.2 hereof, or any other provision of this Article 6, if there is a net decrease in Company Minimum Gain during any Fiscal Year, each Holder shall be specially allocated items of Company income and gain for such year (and, if necessary, subsequent years) in an amount equal to such Holder's share of the net decrease in Company Minimum Gain, as determined under Regulations Section 1.704-2(g). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each Holder pursuant thereto. The items to be allocated shall be determined in accordance with Regulations Sections 1.704-2(f)(6) and 1.704-2(j)(2). This Section 6.3.A(1) is intended to qualify as a "minimum gain chargeback" within the meaning of Regulations Section 1.704-2(f) and shall be interpreted consistently therewith.

(2) *Member Minimum Gain Chargeback.* Except as otherwise provided in Regulations Section 1.704-2(i)(4) or in Section 6.3.A(1) hereof, if there is a net decrease in Member Minimum Gain attributable to a Member Nonrecourse Debt during any Fiscal Year, each Holder who has a share of the Member Minimum Gain attributable to such Member Nonrecourse Debt, determined in accordance with Regulations Section 1.704-

2(i)(5), shall be specially allocated items of Company income and gain for such year (and, if necessary, subsequent years) in an amount equal to such Holder's share of the net decrease in Member Minimum Gain attributable to such Member Nonrecourse Debt, determined in accordance with Regulations Section 1.704-2(i)(4). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each Holder pursuant thereto. The items to be so allocated shall be determined in accordance with Regulations Sections 1.704-2(i)(4) and 1.704-2(j)(2). This Section 6.3.A(2) is intended to qualify as a "chargeback of partner nonrecourse debt minimum gain" within the meaning of Regulations Section 1.704-2(i) and shall be interpreted consistently therewith.

(3) *Nonrecourse Deductions and Member Nonrecourse Deductions.* Any Nonrecourse Deductions for any Fiscal Year shall be specially allocated to the Holders in accordance with their respective Percentage Interests. Any Member Nonrecourse Deductions for any Fiscal Year shall be specially allocated to the Holder(s) who bears the economic risk of loss with respect to the Member Nonrecourse Debt to which such Member Nonrecourse Deductions are attributable, in accordance with Regulations Section 1.704-2(i).

(4) *Qualified Income Offset.* If any Holder unexpectedly receives an adjustment, allocation or distribution described in Regulations Section 1.704-1(b)(2)(ii)(d)(4), (5) or (6), items of Company income and gain shall be specially allocated, in accordance with Regulations Section 1.704-1(b)(2)(ii)(d), to such Holder in an amount and manner sufficient to eliminate, to the extent required by such Regulations, the Adjusted Capital Account Deficit of such Holder as quickly as possible; ***provided***, that an allocation pursuant to this Section 6.3.A(4) shall be made if and only to the extent that such Holder would have an Adjusted Capital Account Deficit after all other allocations provided in this Article 6 have been tentatively made as if this Section 6.3.A(4) were not in the Agreement. It is intended that this Section 6.3.A(4) qualify and be construed as a "qualified income offset" within the meaning of Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

(5) *Gross Income Allocation.* In the event that any Holder has a deficit Capital Account at the end of any Fiscal Year that is in excess of the sum of (1) the amount (if any) that such Holder is obligated to restore to the Company upon complete liquidation of such Holder's Interest (including the Holder's interest in outstanding Preferred Units and other Units) and (2) the amount that such Holder is deemed to be obligated to restore pursuant to Regulations Section 1.704-1(b)(2)(ii)(c) or the penultimate sentences of Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5), each such Holder shall be specially allocated items of Company income and gain in the amount of such excess to eliminate such deficit as quickly as possible; ***provided***, that an allocation pursuant to this Section 6.3.A(5) shall be made if and only to the extent that such Holder would have a deficit Capital Account in excess of such sum after all other allocations provided in this Article 6 have been tentatively made as if this Section 6.3.A(5) and Section 6.3.A(4) hereof were not in the Agreement.

(6) *Limitation on Allocation of Net Loss.* To the extent that any allocation of Net Loss would cause or increase an Adjusted Capital Account Deficit as to any Holder, such allocation of Net Loss shall be reallocated (x) first, among the other Holders of Common Units in accordance with their respective Percentage Interests with respect to Common Units and (y) thereafter, among the Holders of other classes of Units as determined by the Board, subject to the limitations of this Section 6.3.A(6).

(7) *Section 754 Adjustment.* To the extent that an adjustment to the adjusted tax basis of any Company asset pursuant to Code Section 734(b) or Code Section 743(b) is required, pursuant to Regulations Section 1.704-1(b)(2)(iv)(m)(2) or Regulations Section 1.704-1(b)(2)(iv)(m)(4), to be taken into account in determining Capital Accounts as the result of a distribution to a Holder in complete liquidation of its interest in the Company, the amount of such adjustment to the Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis), and such gain or loss shall be specially allocated to the Holders in accordance with their respective Percentage Interests in the event that Regulations Section 1.704-1(b)(2)(iv)(m)(2) applies, or to the Holder(s) to whom such distribution was made in the event that Regulations Section 1.704-1(b)(2)(iv)(m)(4) applies.

(8) *Curative Allocations.* The allocations set forth in Sections 6.3.A(1), (2), (3), (4), (5), (6) and (7) hereof (the "***Regulatory Allocations***") are intended to comply with certain regulatory requirements, including the requirements of Regulations Sections 1.704-1(b) and 1.704-2. Notwithstanding the provisions of Sections 6.1 and 6.2 hereof, the Regulatory Allocations shall be taken into account in allocating other items of income, gain, loss and deduction among the Holders so that to the extent possible without violating the requirements giving rise to the Regulatory Allocations, the net amount of such allocations of other items and the Regulatory Allocations to each Holder shall be equal to the net amount that would have been allocated to each such Holder if the Regulatory Allocations had not occurred.

(9) *Forfeiture Allocations.* Upon a forfeiture of any Unvested LTIP Units or Unvested Performance Units by any Member, gross items of income, gain, loss or deduction shall be allocated to such Member if and to the extent required by final Regulations promulgated after the Effective Date to ensure that allocations made with respect to all unvested Interests are recognized under Code Section 704(b).

(10) *LTIP Units and Performance Units*. For purposes of the allocations set forth in this Section 6.3.A, each issued and outstanding LTIP Unit or Vested Performance Unit will be treated as one outstanding Common Unit and each Unvested Performance Unit will be treated as the product of one outstanding Common Unit multiplied by the Performance Unit Sharing Percentage.

(11) *Allocation of Excess Nonrecourse Liabilities.* For purposes of determining a Holder's proportional share of the "excess nonrecourse liabilities" of the Company within the meaning of Regulations Section 1.752-3(a)(3), each Holder's respective interest in Company profits shall be equal to such Holder's Percentage Interest with respect to Common Units, except as otherwise determined by the Board.

Section 6.4 Tax Allocations.

A. *In General*. Except as otherwise provided in this Section 6.4, for income tax purposes under the Code and the Regulations, each Company item of income, gain, loss and deduction (collectively, "***Tax Items***") shall be allocated among the Holders in the same manner as its correlative item of "book" income, gain, loss or deduction is allocated pursuant to Sections 6.2 and 6.3 hereof.

B. *Section 704(c) Allocations.* Notwithstanding Section 6.4.A hereof, Tax Items with respect to Property that is contributed to the Company with a Gross Asset Value that varies from its basis in the hands of the contributing Member immediately preceding the date of contribution shall be allocated among the Holders for income tax purposes pursuant to Regulations promulgated under Code Section 704(c) so as to take into account such variation. The Company shall account for such variation under any method approved under Code Section 704(c) and the applicable Regulations as chosen by the Board. In the event that the Gross Asset Value of any Company asset is adjusted pursuant to the definition of "Gross Asset Value" (provided in Article 1 hereof), subsequent allocations of Tax Items with respect to such asset shall take account of the variation, if any, between the adjusted basis of such asset and its Gross Asset Value in the same manner as under Code Section 704(c) and the applicable Regulations and using the method chosen by the Board. Allocations pursuant to this Section 6.4.B are solely for purposes of federal, state and local income taxes and shall not affect, or in any way be taken into account in computing, any Member's Capital Account or share of Net Income, Net Loss, or any other items or distributions pursuant to any provision of this Agreement.

Article 7
MANAGEMENT AND OPERATIONS OF BUSINESS

Section 7.1 Management.

A. *Board Powers.* Except as otherwise expressly provided in this Agreement, including any Unit Designation, all management powers over the business and affairs of the Company are and shall be exclusively vested in the board of directors of the Company (the "***Board***") established hereby, and no Member shall have any right to participate in or exercise control or management power over the business and affairs of the Company.

In addition to the powers now or hereafter granted to the Board under any other provision of this Agreement, the Board, subject to the other provisions hereof including, without limitation, Section 3.2, Section 7.3, and the rights of any Holder of any Interest set forth in a Unit Designation, shall have full and exclusive power and authority, without the consent or approval of any Member, to do or authorize all things deemed necessary or desirable by it to conduct the business and affairs of the Company, to exercise or direct the exercise of all of the powers of the Company and to effectuate the purposes of the Company, including, without limitation:

(1) the making of any expenditures, the lending or borrowing of money or selling of assets (including, without limitation, making prepayments on loans and borrowing money to permit the Company to make distributions to the Holders in such amounts as will permit MIC (so long as MIC qualifies as a REIT) to prevent the imposition

of any federal income tax on MIC (including, for this purpose, any excise tax pursuant to Code Section 4981) and to make distributions to its stockholders and payments to any taxing authority sufficient to permit MIC to maintain REIT status or otherwise to satisfy the REIT Requirements if MIC qualifies or intends to qualify as a REIT), the assumption or guarantee of, or other contracting for, indebtedness and other liabilities, the issuance of evidences of indebtedness (including the securing of same by deed to secure debt, mortgage, deed of trust or other lien or encumbrance on the Company's assets) and the incurring of any obligations to conduct the activities of the Company;

(2) the making of tax, regulatory and other filings, or rendering of periodic or other reports to governmental or other agencies having jurisdiction over the business or assets of the Company;

(3) the taking of any and all acts to ensure that the Company will not be classified as a "publicly traded partnership" taxable as a corporation under Code Section 7704;

(4) subject to Section 11.2 hereof, the acquisition, sale, transfer, exchange or other disposition of any, all or substantially all of the assets (including the goodwill) of the Company (including, but not limited to, the exercise or grant of any conversion, option, privilege or subscription right or any other right available in connection with any assets at any time held by the Company) or the merger, consolidation, reorganization or other combination of the Company with or into another entity;

(5) the mortgage, pledge, encumbrance or hypothecation of any assets of the Company, the assignment of any assets of the Company in trust for creditors or on the promise of the assignee to pay the debts of the Company, the use of the assets of the Company (including, without limitation, cash on hand) for any purpose consistent with the terms of this Agreement and on any terms that the Board sees fit, including, without limitation, the financing of the operations and activities of MIC, the Company or any of the Company's Subsidiaries, the lending of funds to other Persons (including, without limitation, MIC and/or the Company's Subsidiaries) and the repayment of obligations of the Company, its Subsidiaries and any other Person in which the Company has an equity investment, and the making of capital contributions to and equity investments in the Company's Subsidiaries;

(6) the management, operation, leasing, landscaping, repair, alteration, demolition, replacement or improvement of any Property;

(7) the negotiation, execution and performance of any contracts, including leases (including ground leases), easements, management agreements, rights of way and other property-related agreements, conveyances or other instruments to conduct the Company's operations or implement the Board's powers under this Agreement, including contracting with contractors, developers, consultants, governmental authorities, accountants, legal counsel, other professional advisors and other agents and the payment of their expenses and compensation, as applicable, out of the Company's assets;

(8) the distribution of Company cash or other Company assets in accordance with this Agreement, the holding, management, investment and reinvestment of cash and other assets of the Company, and the collection and receipt of revenues, rents and income of the Company;

(9) the selection and dismissal of employees of the Company (if any) (including, without limitation, employees having titles or offices such as "president," "vice president," "secretary" and "treasurer"), and agents, outside attorneys, accountants, consultants and contractors of the Company and the determination of their compensation and other terms of employment or hiring;

(10) the maintenance of such insurance (including, without limitation, directors and officers insurance) for the benefit of the Company and the Members (including, without limitation, MIC);

(11) the formation of, or acquisition of an interest in, and the contribution of property to, any further limited or general partnerships, limited liability companies, joint ventures or other relationships that it deems desirable (including, without limitation, the acquisition of interests in, and the contributions of property to, any Subsidiary and any other Person in which MIC has an equity investment from time to time);

(12) the control of any matters affecting the rights and obligations of the Company, including the settlement, compromise, submission to arbitration or any other form of dispute resolution, or abandonment, of any claim, cause of action, liability, debt or damages, due or owing to or from the Company, the commencement or defense of suits, legal proceedings, administrative proceedings, arbitrations or other forms of dispute resolution, and the representation of the Company in all suits or legal proceedings, administrative proceedings, arbitrations or other forms of dispute resolution, the incurring of legal expense, and the indemnification of any Person against liabilities and contingencies to the extent permitted by law;

(13) the undertaking of any action in connection with the Company's direct or indirect investment in any Subsidiary or any other Person (including, without limitation, the contribution or loan of funds by the Company to such Persons);

(14) the determination of the fair market value of any Company property distributed in kind using such reasonable method of valuation as the Board may adopt; *provided, however,* that such methods are otherwise consistent with the requirements of this Agreement;

(15) the enforcement of any rights against any Member pursuant to representations, warranties, covenants and indemnities relating to such Member's contribution of property or assets to the Company;

(16) the exercise, directly or indirectly, through any attorney-in-fact acting under a general or limited power of attorney, of any right, including the right to vote, appurtenant to any asset or investment held by the Company;

(17) the exercise of any of the powers of the Board enumerated in this Agreement on behalf of or in connection with any Subsidiary of the Company or any other Person in which the Company has a direct or indirect interest, or jointly with any such Subsidiary or other Person;

(18) the exercise of any of the powers of the Board enumerated in this Agreement on behalf of any Person in which the Company does not have an interest, pursuant to contractual or other arrangements with such Person;

(19) the making, execution and delivery of any and all deeds, leases, notes, deeds to secure debt, mortgages, deeds of trust, security agreements, conveyances, contracts, guarantees, warranties, indemnities, waivers, releases, confessions of judgment or any other legal instruments or agreements in writing;

(20) the issuance of additional Units in connection with Capital Contributions by Additional Members and additional Capital Contributions by Members pursuant to Article 4 hereof;

(21) an election to dissolve the Company pursuant to Section 13.1.B hereof;

(22) the distribution of cash to acquire Common Units held by a Common Member in connection with a Redemption under Section 15.1 hereof;

(23) an election to acquire Tendered Common Units in exchange for Shares;

(24) the redemption of Series A Preferred Units or Series 1 Preferred Units;

(25) the maintenance of the Register from time to time to reflect accurately at all times the Capital Contributions and Percentage Interests of the Members as the same are adjusted from time to time to reflect redemptions, Capital Contributions, the issuance of Units, the admission of any Additional Member or any Substituted Member or otherwise, which shall not be deemed an amendment to this Agreement, as long as the matter or event being reflected in the Register otherwise is authorized by this Agreement;

(26) the registration of any class of securities of the Company under the Securities Act or the Exchange Act, and the listing of any debt securities of the Company on any exchange; and

(27) the authorization of the individual Directors or other agents of the Company to act on behalf of the Company and to enter into and execute, deliver and/or perform any agreement or other document in the name or on behalf of the Company.

B. *Execution of Documents.* Each of the Members agrees that, except as provided in Section 7.3 hereof and subject to the rights of any Holder of any Interest set forth in a Unit Designation, the Board may authorize the individual Directors and any officers of the Company to execute and deliver any affidavit, agreement, certificate, consent, instrument, notice, power of attorney, waiver or other writing or document in the name and on behalf of the Company and to otherwise exercise any power of the Board under this Agreement and the Act on behalf of the

Company without any further act, approval or vote of the Members or any other Persons, notwithstanding any other provision of the Act or any applicable law, rule or regulation and, in the absence of any specific action on the part of the Company to the contrary, the taking of any action or the execution of any such document or writing by a Director or officer, in the name and on behalf of the Company, as authorized by the Board, shall conclusively evidence (1) the approval thereof by the Board, (2) the Board's determination that such action, document or writing is necessary, advisable, appropriate, desirable or prudent to conduct the business and affairs of the Company, exercise the powers of the Company under this Agreement and the Act or effectuate the purposes of the Company, or any other determination by the Board required by this Agreement in connection with the taking of such action or execution of such document or writing, and (3) the authority of such Director or officer with respect thereto.

C. *Insurance*. At all times from and after the date hereof, the Board may cause the Company to obtain and maintain (i) casualty, liability and other insurance on the Properties and (ii) liability insurance for the Indemnitees hereunder.

D. *Working Capital/Reserves*. At all times from and after the date hereof, the Board may cause the Company to establish and maintain working capital and other reserves in such amounts as the Board, in its sole and absolute discretion, determines from time to time.

E. *Board Determinations.* The determination as to any of the following matters, made by or at the direction of the Board consistent with this Agreement and the Act, shall be final and conclusive and shall be binding upon the Company and every Member: the amount of assets at any time available for distribution or the redemption of Common Units; the amount and timing of any distribution; any determination to redeem Tendered Common Units; the amount, purpose, time of creation, increase or decrease, alteration or cancellation of any reserves or charges and the propriety thereof (whether or not any obligation or liability for which such reserves or charges shall have been created shall have been paid or discharged); the amount of any Member's Capital Account, Adjusted Capital Account or Adjusted Capital Account Deficit; the amount of Net Income, Net Loss or Depreciation for any period; any special allocations of Net Income or Net Loss pursuant to Sections 6.2.D, 6.2.E, 6.2.F, 6.2.G, 6.2.H, 6.2.I, 6.3, 6.4, 18.5 or 19.5; the Gross Asset Value of any Company asset; the Value of any Share; the timing and amount of any adjustment to the Adjustment Factor; any adjustment to the number of outstanding LTIP Units pursuant to Section 19.3, Performance Units pursuant to Section 20.3, or Class A Units pursuant to Section 21.2; the timing, number and redemption or repurchase price of the redemption or repurchase of any Units pursuant to Section 4.7.B; any interpretation of the terms, preferences, conversion or other rights, voting powers or rights, restrictions, limitations as to dividends or distributions, qualifications or terms or conditions of redemption of any class or series of Interest or Class A Units; the fair value, or any sale, bid or asked price to be applied in determining the fair value, of any asset owned or held by the Company or of any Interest or Class A Unit; the number of authorized or outstanding Units of any class or series; any matter relating to the acquisition, holding and disposition of any assets by the Company; or any other matter relating to the business and affairs of the Company or required or permitted by applicable law, this Agreement or otherwise to be determined by the Board.

F. *Tax Liabilities.* In exercising its authority under this Agreement and subject to Section 7.8.B, the Board may, but shall be under no obligation to, take into account the tax consequences to any Member of any action taken (or not taken) by it. The Directors and the Company shall not have liability to a Member under any circumstances as a result of any tax liability incurred by such Member as a result of an action (or inaction) by the Board pursuant to its authority under this Agreement.

G. *Board Composition.* The Board shall at all times be comprised of two (2) individuals (each, a "***Director***" and, collectively, the "***Directors***"). No Person shall have any right or authority to act for or bind the Company except as authorized by the Board or as expressly permitted in this Agreement. The Directors shall be appointed as follows: (i) for so long as MIC owns any Units, MIC shall have the right to appoint one (1) individual to the Board (the "***Management Director***"); and (ii) one (1) individual shall be appointed to the Board by the Consent of the Non-MIC Members. Each Director will serve until his or her death, disability, removal or resignation. A Director may resign at any time by delivering his or her resignation to the Board. Any such resignation shall take effect immediately upon its receipt or at such later time specified in the resignation. A Director may be removed at any time, with or without cause, by the Member or Members authorized to appoint such Director. Any replacement Management Director shall be appointed by MIC and any replacement non-Management Director shall be appointed by the Consent of the Non-MIC Members.

H. *Voting; Quorum.* The Management Director shall have the power to cast two (2) votes with respect to any matter presented to the Board or any committee of the Board to which the Management Director is appointed. The non-Management Director shall have the power to cast one (1) vote with respect to any matter presented to the Board or any committee of the Board to which the non-Management Director is appointed. The presence of the Directors entitled to cast a majority of the votes entitled to be cast by the Directors shall constitute a quorum for the transaction of business at any meeting of the Board. The affirmative vote of a majority of the votes entitled to be cast by the Directors (*i.e.*, two (2) out of three (3) votes) at a meeting at which a quorum is present shall be the action of the Board. Directors may participate in a meeting by, or conduct the meeting through the use of, any means of communication by which all persons participating in the meeting can hear each other at the same time. Participation in a meeting by these means shall constitute presence in person at the meeting. Any action required or permitted to be taken at any meeting of the Board may be taken without a meeting, if a consent in writing or by electronic transmission to such action is given by Directors entitled to cast not less than the minimum number of votes that would have been necessary to take the action at a meeting, assuming that all of the Directors were present and voting at that meeting, and such consent is filed with the minutes of proceedings of the Board. If any action is taken by the Directors by a written consent of fewer than all of the Directors, prompt notice of any such action shall be furnished to each Director who did not execute such written consent, provided that the effectiveness of such action shall not be impaired by any delay or failure to furnish such notice.

I. *Board Committees.* The Board may establish such committees with the power and authority of the Board as the Board shall determine and the Board may determine which Directors will be appointed to each such committee; *provided* that the Management Director shall be appointed to each committee. The presence of the members of the committee entitled to cast a majority of the votes entitled to be cast by the members of the committee shall constitute a quorum for the transaction of business at any meeting of the committee. The affirmative vote of a majority of the votes entitled to be cast by the members of the committee at a meeting at which a quorum

is present shall be the action of the committee. Directors may participate in a meeting by, or conduct the meeting through the use of, any means of communication by which all persons participating in the meeting can hear each other at the same time. Participation in a meeting by these means shall constitute presence in person at the meeting. Any action required or permitted to be taken at any meeting of a committee of the Board may be taken without a meeting, if a consent in writing or by electronic transmission to such action is given by members of the committee entitled to cast not less than the minimum number of votes that would have been necessary to take the action at a meeting, assuming that all of the members of the committee were present and voting at that meeting, and such consent is filed with the minutes of proceedings of the committee. If any action is taken by a written consent of fewer than all of the members of the committee, prompt notice of any such action shall be furnished to each member of the committee who did not execute such written consent, provided that the effectiveness of such action shall not be impaired by any delay or failure to furnish such notice.

J. *Officers*. The Board may appoint, elect, authorize and direct one or more officers to act on behalf of the Company. Such officers shall have such titles, authority, rights, and duties, and be subject to such limitations, as are specified in the written resolutions creating such positions or as otherwise provided by the Board. Any number of offices may be held by the same Person. Officers shall be chosen in such manner and shall hold their offices for such terms as are prescribed in the written resolutions adopted by the Board or as provided in this Agreement. Each officer shall hold office until such officer's successor is elected and qualified or until such officer's earlier resignation or removal. Any officer may resign at any time upon written notice to the Company. Any vacancy occurring in any office by death, resignation, removal or otherwise shall be filled by action of the Board. Officers shall receive such compensation, if any, as may be established from time to time by the Board. Except as otherwise provided in this Agreement, at any time, the Board may change the composition of the Company's officers or alter their duties, responsibilities or authorities, and all such officers shall be understood to serve at the will of the Board and may at any time be removed, with or without cause, by action of the Board.

Section 7.2 Certificate. The Board may file amendments to and restatements of the Certificate and do all the things to maintain the Company as a limited liability company under the laws of the State of Delaware and each other state, the District of Columbia or any other jurisdiction, in which the Company may elect to do business or own property. Subject to the terms of Section 8.5.A hereof, the Board shall not be required, before or after filing, to deliver or mail a copy of the Certificate or any amendment thereto to any Member. The Board shall use all reasonable efforts to cause to be filed such other certificates or documents for the formation, continuation, qualification and operation of a limited liability company in the State of Delaware and any other state, or the District of Columbia or other jurisdiction, in which the Company may elect to do business or own property.

Section 7.3 Restrictions on Board's Authority.

A. *Proscriptions*. The Board may not take any action in contravention of this Agreement, including, without limitation:

(1) take any action that would make it impossible to carry on the ordinary business of the Company, except as otherwise provided in this Agreement;

(2) perform any act that would subject a Member to any liability except as provided herein or under the Act; or

(3) enter into any contract, mortgage, loan or other agreement that expressly prohibits or restricts, or that has the effect of prohibiting or restricting, (a) the Board, the Directors, or the Company from performing its specific obligations under Section 15.1 hereof in full, or (b) a Common Member from exercising its rights under Section 15.1 hereof to effect a Redemption in full, except, in the case of either clause (a) or (b), (x) with the written Consent of each Member affected by the prohibition or restriction or (y) in connection with or as a result of a Termination Transaction that, in accordance with Section 11.2.B(1) and/or (2), does not require the Consent of the Non-MIC Members.

B. *Actions Requiring Consent of the Members.* Except as provided in Section 7.3.C hereof, the Board shall not, without the prior Consent of the Members, amend, modify or terminate this Agreement.

C. *Amendments without Consent*. Notwithstanding Sections 7.3.B and 14.2 hereof but subject to the terms of any Unit Designation with respect to Interests then outstanding, the Board shall have the power, without the Consent of the Members or the consent or approval of any Member or any other Person, to amend this Agreement as may be required to facilitate or implement any of the following purposes:

(1) to add to the obligations of MIC or surrender any right or power granted to MIC or any Affiliate of MIC for the benefit of the Members;

(2) to reflect the admission, substitution or withdrawal of Members, the Transfer of any Interest or the termination of the Company in accordance with this Agreement, or the adjustment of outstanding LTIP Units as contemplated by Section 19.3, Performance Units as contemplated by Section 20.3, or Class A Units as contemplated by Section 21.2, and to update the Register in connection with such admission, substitution, withdrawal, Transfer or adjustment;

(3) to reflect a change that is of an inconsequential nature or does not adversely affect the Members in any material respect, or to cure any ambiguity, correct or supplement any provision in this Agreement not inconsistent with law or with other provisions, or make other changes with respect to matters arising under this Agreement that will not be inconsistent with law or with the provisions of this Agreement;

(4) to set forth or amend the designations, preferences, conversion and other rights, voting powers, restrictions, limitations as to distributions, qualifications and terms and conditions of redemption of the Holders of any additional Interests issued pursuant to Article 4;

(5) to reflect any change to the designation or terms of the Series A Preferred Units as set forth in Article 16 or otherwise in this Agreement;

(6) to reflect any change to the designation or terms of the Series 1 Preferred Units as set forth in Article 17 or otherwise in this Agreement;

(7) to reflect any change to the designation or terms of the Series 2 Preferred Units as set forth in Article 18 or otherwise in this Agreement;

(8) to satisfy any requirements, conditions or guidelines contained in any order, directive, opinion, ruling or regulation of a federal or state agency or contained in federal or state law;

(9) if MIC qualifies or intends to qualify as a REIT, (a) to reflect such changes as are reasonably necessary for MIC to maintain its status as a REIT or to satisfy the REIT Requirements or (b) to reflect the Transfer of all or any part of an Interest among MIC and any Disregarded Entity;

(10) to modify either or both of the manner in which items of Net Income or Net Loss are allocated pursuant to Article 4 or the manner in which Capital Accounts are adjusted, computed, or maintained (but in each case only to the extent otherwise provided in this Agreement);

(11) the issuance of additional Interests in accordance with Section 4.2;

(12) as contemplated by the last sentence of Section 4.3;

(13) to reflect any other modification to this Agreement as is reasonably necessary for the business or operations of the Company or MIC and which does not violate Section 7.3.D; and

(14) to effect or facilitate a Termination Transaction that, in accordance with Section 11.2.B(1) and/or (2), does not require the Consent of the Non-MIC Members and, if the Company is the Surviving Company in any Termination Transaction, to modify Section 15.1 or any related definitions to provide that the holders of interests in such Surviving Company have rights that are consistent with Section 11.2.B(2).

D. *Actions Requiring Consent of Affected Members.* Notwithstanding Sections 7.3.B, 7.3.C (other than as set forth below in this Section 7.3.D) and 14.2 hereof, this Agreement shall not be amended, and no action may be taken by the Board, without the Consent of each Member adversely affected thereby, if such amendment or action would: (i) adversely modify in any material respect the limited liability of a Member; (ii) alter the rights of any Member to receive the distributions to which such Member is entitled, pursuant to Article 5 or Section 13.2.A hereof, or alter the allocations specified in Article 6 hereof (except, in any case, as permitted pursuant to Sections 4.2, 5.5, 7.3.C and Article 6 hereof); (iii) alter or modify the redemption rights, conversion rights, Cash Amount or Shares Amount as set forth in Section 15.1 hereof (except, in any case, as permitted pursuant to clause (13) of Section 7.3.C hereof); or (iv) amend this Section 7.3.D, or, in each case for all provisions referenced in this Section 7.3.D, amend or modify any related definitions or Exhibits (except as permitted pursuant to clause (11) of Section 7.3.C hereof). Further, no amendment may alter the restrictions on the Board's authority set forth elsewhere in this Agreement without the consent specified therein. Any such amendment or action consented to by any Member shall be effective as to that Member, notwithstanding the absence of such consent by any other Member.

Section 7.4 Compensation; Reimbursement.

A. Directors shall not receive any compensation for their services as Directors. Directors shall be indemnified by the Company pursuant to Section 7.7 and may be reimbursed for reasonable out-of-pocket expenses of attendance, if any, at each meeting of the Board or of any committee thereof and for their reasonable out-of-pocket expenses, if any, in connection with each property visit and any other service or activity they perform or engage in as Directors; but nothing herein contained shall be construed to preclude any Directors from serving the Company, MIC or any Affiliate thereof in any other capacity and receiving compensation therefor.

B. Subject to Sections 7.4.C and 15.12 hereof, the Company shall be liable for, and shall reimburse MIC on a monthly basis, or such other basis as the Board may determine in its sole and absolute discretion, for all sums expended by MIC in connection with the Company's business, including, without limitation, (i) expenses relating to the ownership of interests in and management and operation of, or for the benefit of, the Company, (ii) compensation of officers and employees, including, without limitation, payments under future compensation plans, of MIC or the Company that may provide for stock units, or phantom stock, pursuant to which employees of MIC or the Company will receive payments based upon dividends on or the value of Shares, (iii) director or manager fees and expenses of MIC or its Affiliates, and (iv) all costs and expenses of MIC being a public company, including costs of filings with the SEC, reports and other deliveries to its stockholders; *provided*, *however*, that the amount of any reimbursement shall be reduced by any interest earned by MIC with respect to bank accounts or other instruments or accounts held by it on behalf of the Company. Such reimbursements shall be in addition to any reimbursement of MIC as a result of indemnification pursuant to Section 7.7 hereof. For this avoidance of doubt, this Section 7.4.B does not apply to MIC's income tax liabilities (including income-based franchise tax liabilities), and does not apply to the amount of franchise tax liabilities (if measured by net worth, taxable capital or similar bases under applicable state or local law) to the extent the same would not have been owed by MIC but for its lack of REIT qualification and taxation in a particular taxable year, it being understood that in each such case any such tax liabilities remain the obligation of MIC itself.

C. To the extent practicable, Company expenses shall be billed directly to and paid by the Company and, subject to Section 15.12 hereof, if and to the extent any reimbursements to MIC or any of its Affiliates by the Company pursuant to this Section 7.4 constitute gross income to such Person (as opposed to the repayment of advances made by such Person on behalf of the Company), such amounts shall be treated as "guaranteed payments" within the meaning of Code Section 707(c) and shall not be treated as distributions for purposes of computing the Members' Capital Accounts.

Section 7.5 Outside Activities of MIC. MIC shall not, directly or indirectly, enter into or conduct any business, other than in connection with, (a) the ownership, acquisition and disposition of Interests, (b) the management of the business and affairs of the Company, (c) the operation of MIC as a reporting company with a class (or classes) of securities registered under the Exchange Act, (d) its operations as a REIT, if applicable, (e) the offering, sale, syndication, private placement or public offering of stock, bonds, securities or other interests, (f) financing or refinancing of any type related to the Company or its assets or activities, and (g) such activities as are incidental thereto; *provided*, *however*, that, except as otherwise provided herein, any funds

raised by MIC pursuant to the preceding clauses (e) and (f) shall be made available to the Company, whether as Capital Contributions, loans or otherwise, as appropriate; and, *provided*, *further*, that MIC may, in the sole and absolute discretion of the Board, from time to time hold or acquire assets in its own name or otherwise other than through the Company so long as MIC takes commercially reasonable measures to ensure that the economic benefits and burdens of such Property are otherwise vested in the Company, whether through assignment, mortgage loan or otherwise or, if it is not commercially reasonable to vest such economic interests in the Company, the Members shall negotiate in good faith to amend this Agreement, including, without limitation, the definition of "Adjustment Factor," to reflect such activities and the direct ownership of assets by MIC. Nothing contained herein shall be deemed to prohibit MIC from executing guarantees of Company debt. MIC and all Disregarded Entities with respect to MIC, taken as a group, shall not own any assets or take title to assets (other than temporarily in connection with an acquisition prior to contributing such assets to the Company) other than (i) interests in Disregarded Entities with respect to MIC, (ii) Interests held by MIC, (iii) a minority interest in any Subsidiary of the Company that MIC holds to maintain such Subsidiary's status as a partnership for federal income tax purposes or otherwise, and (iv) such cash and cash equivalents, bank accounts or similar instruments or accounts as such group deems reasonably necessary, taking into account Section 7.1.D hereof and the requirements necessary for MIC to qualify as a REIT, if applicable, and for MIC to carry out its responsibilities contemplated under this Agreement and the Charter. Any Affiliates of MIC may acquire Interests and shall, except as expressly provided in this Agreement, be entitled to exercise all rights of a Member relating to such Interests.

Section 7.6 Transactions with Affiliates.

A. The Company may lend or contribute funds to, and borrow funds from, Persons in which the Company has an equity investment, and such Persons may borrow funds from, and lend or contribute funds to, the Company, on terms and conditions established in the sole and absolute discretion of the Board. The foregoing authority shall not create any right or benefit in favor of any Person.

B. Except as provided in Section 7.5 hereof, the Company may transfer assets to joint ventures, limited liability companies, partnerships, corporations, business trusts or other business entities in which it is or thereby becomes a participant upon such terms and subject to such conditions consistent with this Agreement and applicable law.

C. Except as expressly permitted by this Agreement, neither MIC, any Director, nor any of its Affiliates may sell, transfer or convey any property to, or purchase any property from, the Company, directly or indirectly, except pursuant to transactions that are determined by the Board in good faith to be fair and reasonable.

D. MIC, with the approval of the Board, may propose and adopt (on behalf of the Company) employee benefit plans (including without limitation plans that contemplate the issuance of LTIP Units or Performance Units) funded by the Company for the benefit of employees of MIC, the Company, Subsidiaries of the Company or any Affiliate of any of them in respect of services performed, directly or indirectly, for the benefit of MIC, the Company or any of the Company's Subsidiaries.

Section 7.7 Indemnification.

A. To the fullest extent permitted by applicable law, the Company shall indemnify each Indemnitee from and against any and all losses, claims, damages, liabilities, joint or several, expenses (including, without limitation, reasonable attorney's fees and other reasonable legal fees and expenses), judgments, fines, settlements and other amounts arising from any and all claims, demands, actions, suits or proceedings, civil, criminal, administrative or investigative, that relate to the operations of the Company ("***Actions***") as set forth in this Agreement in which such Indemnitee may be involved, or is threatened to be involved, as a party or otherwise; *provided*, *however*, that the Company shall not indemnify an Indemnitee (i) if the act or omission of the Indemnitee was material to the matter giving rise to the Action and either was committed in bad faith or was the result of active and deliberate dishonesty; (ii) in the case of any criminal proceeding, if the Indemnitee had reasonable cause to believe that the act or omission was unlawful; or (iii) for any transaction for which such Indemnitee actually received an improper personal benefit in money, property or services or otherwise, in violation or breach of any provision of this Agreement; and *provided*, *further*, that no payments pursuant to this Agreement shall be made by the Company to indemnify or advance funds to any Indemnitee (x) with respect to any Action initiated or brought voluntarily by such Indemnitee (and not by way of defense) unless (I) approved or authorized by the Board or (II) incurred to establish or enforce such Indemnitee's right to indemnification under this Agreement, and (y) in connection with one or more Actions or claims brought by the Company or involving such Indemnitee if such Indemnitee is found liable to the Company on any portion of any claim in any such Action.

Without limitation, the foregoing indemnity shall extend to any liability of any Indemnitee, pursuant to a loan guaranty or otherwise, for any indebtedness of the Company or any Subsidiary of the Company (including, without limitation, any indebtedness which the Company or any Subsidiary of the Company has assumed or taken subject to), and the Company is hereby authorized to enter into one or more indemnity agreements consistent with the provisions of this Section 7.7 in favor of any Indemnitee having or potentially having liability for any such indebtedness. It is the intention of this Section 7.7.A that the Company shall indemnify each Indemnitee to the fullest extent permitted by law and this Agreement. The termination of any proceeding by judgment, order or settlement does not create a presumption that the Indemnitee did not meet the requisite standard of conduct set forth in this Section 7.7.A. The termination of any proceeding by conviction of an Indemnitee or upon a plea of nolo contendere or its equivalent by an Indemnitee, or an entry of an order of probation against an Indemnitee prior to judgment, does not create a presumption that such Indemnitee acted in a manner contrary to that specified in this Section 7.7.A with respect to the subject matter of such proceeding. Any indemnification pursuant to this Section 7.7 shall be made only out of the assets of the Company, and neither MIC, any Director, nor any other Holder shall have any obligation to contribute to the capital of the Company or otherwise provide funds to enable the Company to fund its obligations under this Section 7.7.

B. To the fullest extent permitted by law, expenses incurred by an Indemnitee who is a party to a proceeding or otherwise subject to or the focus of or is involved in any Action shall be paid or reimbursed by the Company as incurred by the Indemnitee in advance of the final disposition of the Action upon receipt by the Company of (i) a written affirmation by the Indemnitee of the Indemnitee's good faith belief that the standard of conduct necessary for indemnification by the Company as authorized in Section 7.7.A has been met, and (ii) a written undertaking by or on behalf of the Indemnitee to repay the amount if it shall ultimately be determined that the standard of conduct has not been met.

C. The indemnification provided by this Section 7.7 shall be in addition to any other rights to which an Indemnitee or any other Person may be entitled under any agreement, pursuant to any vote of the Members, as a matter of law or otherwise, and shall continue as to an Indemnitee who has ceased to serve in such capacity and shall inure to the benefit of the heirs, successors, assigns and administrators of the Indemnitee unless otherwise provided in a written agreement with such Indemnitee or in the writing pursuant to which such Indemnitee is indemnified.

D. The Company may, but shall not be obligated to, purchase and maintain insurance, on behalf of any of the Indemnitees and such other Persons as the Board shall determine, against any liability that may be asserted against or expenses that may be incurred by such Person in connection with the Company's activities, regardless of whether the Company would have the power to indemnify such Person against such liability under the provisions of this Agreement.

E. Any liabilities which an Indemnitee incurs as a result of acting on behalf of the Company or MIC (whether as a fiduciary or otherwise) in connection with the operation, administration or maintenance of an employee benefit plan or any related trust or funding mechanism (whether such liabilities are in the form of excise taxes assessed by the IRS, penalties assessed by the U.S. Department of Labor, restitutions to such a plan or trust or other funding mechanism or to a participant or beneficiary of such plan, trust or other funding mechanism, or otherwise) shall be treated as liabilities or judgments or fines under this Section 7.7, unless such liabilities arise as a result of (i) an act or omission of such Indemnitee that was material to the matter giving rise to the Action and either was committed in bad faith or was the result of active and deliberate dishonesty; (ii) in the case of any criminal proceeding, an act or omission that such Indemnitee had reasonable cause to believe was unlawful, or (iii) any transaction in which such Indemnitee actually received an improper personal benefit in money, property or services or otherwise, in violation or breach of any provision of this Agreement or applicable law.

F. Notwithstanding anything to the contrary in this Agreement, in no event may an Indemnitee subject any of the Holders to personal liability by reason of the indemnification provisions set forth in this Agreement, and any such indemnification shall be satisfied solely out of the assets of the Company.

G. An Indemnitee shall not be denied indemnification in whole or in part under this Section 7.7 because the Indemnitee had an interest in the transaction with respect to which the indemnification applies if the transaction was otherwise permitted by the terms of this Agreement.

H. The provisions of this Section 7.7 are for the benefit of the Indemnitees, their heirs, successors, assigns and administrators and shall not be deemed to create any rights for the benefit of any other Persons. Any amendment, modification or repeal of this Section 7.7 or any provision hereof shall be prospective only and shall not in any way affect the limitations on the Company's liability to any Indemnitee under this Section 7.7 as in effect immediately prior to such amendment, modification or repeal with respect to claims arising from or relating to matters occurring, in whole or in part, prior to such amendment, modification or repeal, regardless of when such claims may arise or be asserted.

I. It is the intent of the parties that any amounts paid by the Company to MIC or any other Person who is a Member pursuant to this Section 7.7 shall be treated as "guaranteed payments" within the meaning of Code Section 707(c) and shall not be treated as distributions for purposes of computing the Members' Capital Accounts.

J. The Company shall indemnify each Member and its Affiliates, their respective directors, officers, stockholders and any other individual acting on its or their behalf, from and against any costs (including costs of defense) incurred by it as a result of any litigation or other proceeding in which any Member is named as a defendant or any claim threatened or asserted against any Member, in either case which relates to the operations of the Company or any obligation assumed by the Company, unless such costs are the result of intentional harm or gross negligence on the part of, or a breach of this Agreement by, such Member; *provided*, *however*, that no Member shall have any personal liability with respect to the foregoing indemnification, any such indemnification to be satisfied solely out of the assets of the Company.

K. Any obligation or liability whatsoever of MIC which may arise at any time under this Agreement or any other instrument, transaction, or undertaking contemplated hereby shall be satisfied, if at all, out of the assets of MIC or the Company only. No such obligation or liability shall be personally binding upon, nor shall resort for the enforcement thereof be had to, any of MIC's directors, stockholders, officers, employees, or agents, regardless of whether such obligation or liability is in the nature of contract, tort or otherwise.

Section 7.8 Liability of the Directors and Officers.

A. Notwithstanding anything to the contrary set forth in this Agreement, the Directors and officers of the Company shall not be liable or accountable in damages or otherwise to the Company, any Members, or any Assignees for losses sustained, liabilities incurred or benefits not derived as a result of errors in judgment or mistakes of fact or law or of any act or omission if such Director or officer, as applicable, acted in good faith.

B. The Members agree that (i) the Directors are acting for the benefit of the Company, the Members and MIC's stockholders collectively and (ii) notwithstanding any duty otherwise existing at law or equity, in the event of a conflict between the interests of the Company or any Member, on the one hand, and the separate interests of MIC or its stockholders, on the other hand, the Directors may give priority to the separate interests of MIC or the stockholders of MIC (including, without limitation, with respect to tax consequences to Members, Assignees or MIC's stockholders), and, in the event of such a conflict, any action or failure to act on the part of the Directors (or MIC's directors, officers or agents) that gives priority to the separate interests of MIC or its stockholders that does not result in a violation of the contract rights of the Members under this Agreement does not violate any other duty owed by the Directors to the Company and/or the Members.

C. The Board may exercise any of the powers granted to it by this Agreement and perform any of the duties imposed upon it hereunder either directly or by or through the officers, employees or agents of the Company. Directors shall not be responsible for any misconduct or negligence on the part of any such agent appointed by the Board in good faith.

D. Any amendment, modification or repeal of this Section 7.8 or any provision hereof shall be prospective only and shall not in any way affect the limitations on the Directors' and/or MIC's and its officers' and directors' liability to the Company and the Members under this Section 7.8 as in effect immediately prior to such amendment, modification or repeal with respect to claims arising from or relating to matters occurring, in whole or in part, prior to such amendment, modification or repeal, regardless of when such claims may arise or be asserted.

E. Notwithstanding anything herein to the contrary, except for liability for fraud, willful misconduct or gross negligence, or pursuant to any express indemnities given to the Company by any Member pursuant to any other written instrument, no Member shall have any personal liability whatsoever, to the Company or to the other Members, or for the debts or liabilities of the Company or the Company's obligations hereunder, and the full recourse of the other Member(s) shall be limited to the interest of that Member in the Company. Without limitation of the foregoing, and except for liability for fraud, willful misconduct or gross negligence, or pursuant to any such express indemnity, no property or assets of any Member, other than its interest in the Company, shall be subject to levy, execution or other enforcement procedures for the satisfaction of any judgment (or other judicial process) in favor of any other Member(s) and arising out of, or in connection with, this Agreement. This Agreement is executed by the officers of MIC solely as officers of the same and not in their own individual capacities.

F. To the extent that, under applicable law, any Director or MIC has duties (including fiduciary duties) and liabilities relating thereto to the Company or the Members, the Director or MIC, as applicable, shall not be liable to the Company or to any other Member for its good faith reliance on the provisions of this Agreement. The provisions of this Agreement, to the extent that they restrict or modify the duties and liabilities of the Directors or MIC under the Act or otherwise existing under applicable law, are agreed by the Members to replace such other duties and liabilities of such Directors or MIC, as applicable.

G. Whenever in this Agreement the Board is permitted or required to make a decision in (i) its "sole and absolute discretion," "sole discretion" or "discretion" or under a grant of similar authority or latitude, the Board shall be entitled to consider only such interests and factors as it desires, and shall have no duty or obligation to give any consideration to any interest or factors affecting the Company or the Members or any of them, or (ii) in its "good faith" or under another expressed standard, the Directors shall act under such express standard and shall not be subject to any other or different standards imposed by this Agreement or any other agreement contemplated herein or by relevant provisions of law or in equity or otherwise. If any question should arise with respect to the operation of the Company, which is not otherwise specifically provided for in this Agreement or the Act, or with respect to the interpretation of this Agreement, the Board is hereby authorized to make a final determination with respect to any such question and to interpret this Agreement in such a manner as it shall deem, in its sole discretion, to be fair and equitable, and its determination and interpretations so made shall be final and binding on all parties. The Board's "sole and absolute discretion," "sole discretion" and "discretion" under this Agreement shall be exercised consistently with the duty of care and the obligation of good faith and fair dealing under the Act (as modified by the Agreement).

H. *Director Duties*. Except for contractual duties expressly provided under this Agreement, and to the extent permitted bySection 18-1101(e) of the Act, no Director shall have any duties (including any fiduciary duties) to the Company, MIC, or any Subsidiary of the Company, or any of their respective direct and indirect stockholders, or to any Member or creditor of the Company, whether or not such duties arise or exist at law or in equity, other than the implied contractual covenant of good faith and fair dealing, and each Member and Director hereby expressly waives any such duties (including any fiduciary duties). The Directors, in their capacity as such, shall have no other duty, fiduciary or otherwise, to the Company, any Member or any other Person (including any creditor of the Company or any Member or any Assignee of Interest). The provisions of this Agreement other than this Section 7.8 shall create contractual obligations of the Directors only, and no such provision shall be interpreted to expand or modify the fiduciary duties of the Directors under the Act. The provisions of this Section 7.8, to the extent that they restrict or modify the duties and liabilities of the Directors under the Act or otherwise existing at law or in equity, are agreed by the Members to replace such other duties and liabilities of the Directors. Each Director is entitled to a presumption that any act or failure to act on the part of the Director, and any decision or determination made by the Director, is presumed to satisfy the duties of a Director under the Act, modified as set forth in this Section 7.8, and no act or failure to act on the part of the Director, or decision or determination made by the Director (whether with respect to a change of control of the Company or otherwise) shall be subject to any duty, standard of conduct, burden of proof or scrutiny, whether at law or in equity, other than as set forth in this Section 7.8.

Section 7.9 Other Matters Concerning the Board.

A. The Board may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, bond, debenture or other paper or document believed by it in good faith to be genuine and to have been signed or presented by the proper party or parties.

B. The Board may consult with legal counsel, accountants, appraisers, management consultants, investment bankers, architects, engineers, environmental consultants and other consultants and advisers selected by it, and any act taken or omitted to be taken in reliance upon the opinion of such Persons as to matters that the Board reasonably believes to be within such Person’s professional or expert competence shall be conclusively presumed to have been done or omitted in good faith and in accordance with such opinion.

C. The Board shall have the right, in respect of any of its powers or obligations hereunder, to act through any of its duly authorized Directors, officers or agents and a duly appointed attorney or attorneys-in-fact (including, without limitation, Directors and officers of the Company). Each such attorney shall, to the extent provided by the Board in the power of attorney, have full power and authority to do and perform all and every act and duty that is permitted or required to be done by the Board hereunder.

D. Notwithstanding any other provision of this Agreement or any non-mandatory provision of the Act, any action of the Board on behalf of the Company or any decision of the Board to refrain from acting on behalf of the Company, undertaken in the good faith belief that such action or omission is necessary or advisable in order (i) to protect the ability of MIC to qualify or re-qualify as a REIT, (ii) for MIC otherwise to satisfy the REIT Requirements, (iii) for MIC to avoid incurring any taxes under Code Section 857 or Code Section 4981, or (iv) for any MIC

Affiliate to qualify as a "qualified REIT subsidiary" (within the meaning of Code Section 856(i)(2)) or "taxable REIT subsidiary" (within the meaning of Code Section 856(1)), is expressly authorized under this Agreement and is deemed approved by all of the Members and does not violate any duty or obligation, fiduciary or otherwise, of the Board to the Company or any other Member.

Section 7.10 Title to Company Assets. Title to Company assets, whether real, personal or mixed and whether tangible or intangible, shall be deemed to be owned by the Company as an entity, and no Member, individually or collectively with other Members or Persons, shall have any ownership interest in such Company assets or any portion thereof. Title to any or all of the Company assets may be held in the name of the Company, MIC or one or more nominees, as the Board may determine, including Affiliates of MIC. MIC hereby declares and warrants that any Company assets for which legal title is held in the name of MIC or any nominee or Affiliate of MIC shall be held by MIC or such nominee or Affiliate for the use and benefit of the Company in accordance with the provisions of this Agreement. All Company assets shall be recorded as the property of the Company in its books and records, irrespective of the name in which legal title to such Company assets is held.

Section 7.11 Reliance by Third Parties. Notwithstanding anything to the contrary in this Agreement, any Person dealing with the Company shall be entitled to assume that the Board has full power and authority, without the consent or approval of any other Member, or Person, to encumber, sell or otherwise use in any manner any and all assets of the Company and to enter into any contracts on behalf of the Company, and take any and all actions on behalf of the Company, and such Person shall be entitled to deal with the Board as if it were the Company's sole party in interest, both legally and beneficially. Each Member hereby waives any and all defenses or other remedies that may be available against such Person to contest, negate or disaffirm any action of the Board in connection with any such dealing. In no event shall any Person dealing with the Board or its representatives be obligated to ascertain that the terms of this Agreement have been complied with or to inquire into the necessity or expediency of any act or action of the Board or its representatives. Each and every certificate, document or other instrument executed on behalf of the Company by an Officer or other authorized person by or at the direction of the Board shall be conclusive evidence in favor of any and every Person relying thereon or claiming thereunder that (i) at the time of the execution and delivery of such certificate, document or instrument, this Agreement was in full force and effect, (ii) the Person executing and delivering such certificate, document or instrument was duly authorized and empowered to do so for and on behalf of the Company and (iii) such certificate, document or instrument was duly executed and delivered in accordance with the terms and provisions of this Agreement and is binding upon the Company.

Article 8
RIGHTS AND OBLIGATIONS OF MEMBERS

Section 8.1 Limitation of Liability. No Member shall have any liability under this Agreement except as expressly provided in this Agreement (including, without limitation, Section 10.4 hereof) or under the Act.

Section 8.2 Management of Business. No Member or Assignee (other than any Director who is a Member, MIC, any of its Affiliates or any officer, director, member, employee, partner, agent, representative or trustee of the Company, MIC or any of their Affiliates, in their capacities as such) shall take part in, or have any liability in respect of, the operations, management or control (within the meaning of the Act) of the Company's business, transact any business in the Company's name or have the power to sign documents for or otherwise bind the Company. The transaction of any such business by or at the direction of the Board, MIC, any of its Affiliates or any officer, director, member, employee, partner, agent, representative or trustee of the Company, MIC or any of their Affiliates, in their capacity as such, shall not affect, impair or eliminate the limitations on the liability of the Members or Assignees under this Agreement.

Section 8.3 Outside Activities of Members. Subject to any agreements entered into pursuant to Section 7.6 hereof and any other agreements entered into by a Member or any of its Affiliates with MIC, the Company or a Subsidiary (including, without limitation, any employment agreement), any Member and any Assignee, officer, director, employee, agent, trustee, Affiliate, member or stockholder of any Member shall be entitled to and may have business interests and engage in business activities in addition to those relating to the Company, including business interests and activities that are in direct or indirect competition with the Company or that are enhanced by the activities of the Company. Neither the Company nor any Member shall have any rights by virtue of this Agreement in any business ventures of any Member or Assignee (other than MIC). Subject to such agreements, none of the Members nor any other Person shall have any rights by virtue of this Agreement or the relationship established hereby in any business ventures of any other Person (other than MIC), and such Person shall have no obligation pursuant to this Agreement, subject to Section 7.6 hereof and any other agreements entered into by a Member or its Affiliates with MIC, the Company or a Subsidiary, to offer any interest in any such business ventures to the Company, any Member, or any such other Person, even if such opportunity is of a character that, if presented to the Company, any Member or such other Person, could be taken by such Person. In deciding whether to take any actions in such capacity, the Members and their respective Affiliates shall be under no obligation to consider the separate interests of the Company or its subsidiaries and to the maximum extent permitted by applicable law shall have no fiduciary duties or similar obligations to the Company or any other Members, or to any subsidiary of the Company, and shall not be liable for monetary damages for losses sustained, liabilities incurred or benefits not derived by the other Members in connection with such acts except for liability for fraud, willful misconduct or gross negligence.

Section 8.4 Return of Capital. Except pursuant to the rights of Redemption set forth in Section 15.1 hereof, no Member shall be entitled to the withdrawal or return of its Capital Contribution, except to the extent of distributions made pursuant to this Agreement or upon termination of the Company as provided herein. Except to the extent provided in Articles 5 and 6 hereof or otherwise expressly provided in this Agreement, no Member or Assignee shall have priority over any other Member or Assignee either as to the return of Capital Contributions or as to profits, losses or distributions.

Section 8.5 Rights of Members Relating to the Company.

A. In addition to other rights provided by this Agreement or by the Act, and except as limited by Section 8.5.C hereof, the Company shall deliver to each Member a copy of any information mailed or delivered electronically to all of the common stockholders of MIC as soon as practicable after such mailing.

B. The Company shall notify any Member that is a Qualifying Party, on request, of the then current Adjustment Factor and any change made to the Adjustment Factor shall be set forth in the quarterly report required by Section 9.3.B hereof immediately following the date such change becomes effective.

C. Notwithstanding any other provision of this Section 8.5, the Company may keep confidential from the Members (or any of them), for such period of time as the Board determines in its sole and absolute discretion to be reasonable, any information that (i) the Board believes to be in the nature of trade secrets or other information the disclosure of which the Board in good faith believes is not in the best interests of the Company or MIC or (ii) the Company or MIC is required by law or by agreement to keep confidential.

D. Upon written request by any Member, the Board shall cause the ownership of Units by such Member to be evidenced by a certificate for units in such form as the Board may determine with respect to any class of Units issued from time to time under this Agreement. Any officer of the Company may direct a new certificate or certificates to be issued in place of any certificate or certificates theretofore issued by the Company alleged to have been lost, destroyed, stolen or mutilated, upon the making of an affidavit of that fact by the person claiming the certificate to be lost, destroyed, stolen or mutilated. Unless otherwise determined by the Board, the owner of such lost, destroyed, stolen or mutilated certificate or certificates, or his or her legal representative, shall be required, as a condition precedent to the issuance of a new certificate or certificates, to give the Company a bond in such sums as the Board may direct as indemnity against any claim that may be made against the Company.

Section 8.6 Company Right to Call Interests. Notwithstanding any other provision of this Agreement, on and after the date on which the aggregate Percentage Interests of the Members (other than MIC) are less than one percent (1%), the Company shall have the right, but not the obligation, from time to time and at any time to redeem any and all outstanding Interests by treating any Member (other than MIC) as a Tendering Party who has delivered a Common Unit Notice of Redemption for the amount of Common Units to be specified by the Board, in its sole and absolute discretion, by notice to such Member that the Company has elected to exercise its rights under this Section 8.6. Such notice given by the Company to a Member pursuant to this Section 8.6 shall be treated as if it were a Common Unit Notice of Redemption delivered to MIC by such Member. For purposes of this Section 8.6, (a) any Member (whether or not otherwise a Qualifying Party) may, in the Board's sole and absolute discretion, be treated as a Qualifying Party that is a Tendering Party, as applicable, and (b) the provisions of Sections 15.1.F(2) and 15.1.F(3) hereof shall not apply, but the remainder of Section 15.1 hereof shall apply, mutatis mutandis.

Section 8.7 Rights as Objecting Members. No Member and no Holder of an Interest shall be entitled to exercise any of the rights of an objecting stockholder provided for under Section 262 of the Delaware General Corporation Law or any successor statute in connection with a merger of the Company.

Article 9
BOOKS, RECORDS, ACCOUNTING AND REPORTS

Section 9.1 Records and Accounting.

A. The Board shall keep or cause to be kept at the principal place of business of the Company any records and documents required to be maintained by the Act and any other books and records deemed by the Board to be appropriate with respect to the Company's business, including, without limitation, all books and records necessary to provide to the Members any information, lists and copies of documents required to be provided pursuant to Section 8.5.A, Section 9.3 or Article 13 hereof. Any records maintained by or on behalf of the Company in the regular course of its business may be kept on any information storage device, provided, that the records so maintained are convertible into clearly legible written form within a reasonable period of time.

B. The books of the Company shall be maintained, for financial and tax reporting purposes, on an accrual basis in accordance with generally accepted accounting principles, or on such other basis as the Board determines to be necessary or appropriate. To the extent permitted by sound accounting practices and principles, the Company and MIC may operate with integrated or consolidated accounting records, operations and principles.

Section 9.2 Fiscal Year. For purposes of this Agreement, "***Fiscal Year***" means the fiscal year of the Company, which shall be the same as the tax year of the Company. The tax year shall be the calendar year unless otherwise required by the Code.

Section 9.3 Reports.

A. As soon as practicable, but in no event later than one hundred five (105) days after the close of each Fiscal Year, the Company shall cause to be mailed to each Member of record as of the close of the Fiscal Year, financial statements of the Company, or of MIC if such statements are prepared solely on a consolidated basis with MIC, for such Fiscal Year, presented in accordance with generally accepted accounting principles.

B. As soon as practicable, but in no event later than sixty (60) days after the close of each calendar quarter (except the last calendar quarter of each year), the Company shall cause to be mailed to each Member of record as of the last day of the calendar quarter, a report containing unaudited financial statements of the Company for such calendar quarter, or of MIC if such statements are prepared solely on a consolidated basis with MIC, and such other information as may be required by applicable law or regulation or as the Board determines to be appropriate.

C. The Company shall have satisfied its obligations under Section 9.3.A and Section 9.3.B by posting or making available the reports required by this Section 9.3 on the website maintained from time to time by the Company or MIC, *provided*, that such reports are able to be printed or downloaded from such website.

Article 10
TAX MATTERS

Section 10.1 Preparation of Tax Returns. The Board shall arrange for the preparation and timely filing of all returns with respect to Company income, gains, deductions, losses and other items required of the Company for federal and state income tax purposes and shall use all reasonable efforts to furnish, within one hundred eighty (180) days of the close of each taxable year, the tax information reasonably required by the Members for federal and state income tax and any other tax reporting purposes. The Members shall promptly provide the Company with such information relating to the Contributed Properties as is readily available to the Members, including tax basis and other relevant information, as may be reasonably requested by the Company from time to time.

Section 10.2 Tax Elections. Except as otherwise provided herein, the Board shall, in its sole and absolute discretion, determine whether to make any available election pursuant to the Code, including, but not limited to, the election under Code Section 754, and any available tax elections under state or local tax law. The Board shall have the right to seek to revoke any such election (including, without limitation, any election under Code Section 754 or any applicable state or local tax law) upon the Board's determination in its sole and absolute discretion that such revocation is in the best interests of the Members. In the event of a transfer of all or any part of the Interest of any Member, the Company, at the option of the Board, may elect pursuant to Code Section 754 to adjust the tax basis of the Properties. Notwithstanding anything contained in Article 5 of this Agreement but subject to subsection (iv) of the definition of Gross Asset Value, any adjustments made pursuant to Code Section 754 shall affect only the successor in interest to the transferring Member and in no event shall be taken into account in establishing, maintaining or computing Capital Accounts for the other Members for any purpose under this Agreement. Each Member will furnish the Company with all information necessary to give effect to such election.

Section 10.3 Tax Matters Partner; Partner Representative.

A. For each taxable year of the Company beginning on or after January 1, 2018, the Board shall designate MIC or another Person to be the partnership representative of the Company (the "***Partnership Representative***") within the meaning of Code Section 6223 in accordance with Regulations Section 301.6223-1 and any other applicable Internal Revenue Service guidance. If the Person designated by the Board to serve as the Partnership Representative is not an individual, the Board shall also appoint an individual (the "***Designated Individual'***) through whom the Partnership Representative acts in accordance with Regulations Section 301.6223-1 and any other applicable Internal Revenue Service guidance. The Board shall also designate a new Partnership Representative if the Partnership Representative resigns or is deemed ineligible or appoint a new Designated Individual if the Designated Individual resigns or is deemed ineligible. The Board is authorized to revoke and replace from time to time the Partnership Representative or the Designated Individual in accordance with Regulations Section 301.6223-1 and any other applicable Internal Revenue Service guidance. The Board shall make all designations and appointments under similar or analogous state, local or non-U.S. laws. The Partnership Representative shall have the right and obligation to take all actions authorized and required, respectively, by the Code and Regulations (and, as applicable, analogous state, local and non-U.S. laws) for the Partnership Representative. The taking of any action and the incurring of any expense

by the Partnership Representative in connection with any applicable proceeding, except to the extent required by law, is a matter in the sole and absolute discretion of the Partnership Representative, and the provisions relating to indemnification of the Indemnitees set forth in Section 7.7 hereof shall be fully applicable to the Partnership Representative and the Designated Individual, if any, acting as such.

B. Each Member agrees that such Member shall not treat any Company-related item inconsistently on such Member's federal, state, local or non-U.S. tax return with the treatment of the item on the Company's return. Any deficiency for taxes imposed on any Member with respect to such Member's interest in the Company (including penalties, additions to tax or interest imposed with respect to such taxes and any tax deficiency imposed pursuant to Code Section 6226) will be paid by such Member. If the Company is required to pay (and actually pays) an imputed underpayment (including penalties, additions to tax or interest imposed with respect to such taxes, pursuant to Code Section 6225) with respect to a reviewed year, or bears the economic burden of imputed underpayments made by entities in which it is a member, such amounts paid will be treated as taxes paid on behalf of the appropriate Members (as determined by the Board in its reasonable discretion) and recoverable from the reviewed-year Members in accordance with Section 10.4 or by any other reasonable means determined by the Board. To the extent that the Company or the Partnership Representative, as applicable, does not make an election under Code Sections 6221(b) (if available) or 6226, the Company shall use commercially reasonable efforts to (i) make any modifications available under Code Section 6225(c), and (ii) if requested by a Member, provide to such Member information allowing such Member to file an amended federal income tax return, as described in Code Section 6225(c)(2), to the extent such amended return and payment of any related federal income taxes would reduce any taxes payable by the Company; similar principles shall apply under state, local and non-U.S. laws. Each Member shall, including any time after such Member withdraws from or otherwise ceases to be a Member, take all actions requested by the Board, including timely provision of requested information and consents in connection with implementing any elections or decisions made by the Company or the Partnership Representative (or Person acting in a similar capacity under similar or analogous state, local or non-U.S. laws) related to any tax audit or examination of the Company (including to implement any modifications to any imputed underpayment or similar amount under Code Section 6225(c), any elections under Code Sections 6221 or 6226 and any administrative adjustment request under Code Section 6227).

C. Notwithstanding anything to the contrary in this Agreement, any information, representations, certificates, forms, or documentation provided pursuant to this Section 10.3 may be disclosed to any applicable taxing authority. Each Member agrees to be bound by the provisions of this Section 10.3 at all times, including any time after such Member ceases to be a Member solely with respect to matters directly related to such Member's interest in the Company, and the provisions of Section 7.8 shall survive the winding up, liquidation and dissolution of the Company. For the avoidance of doubt, all references to Code Sections in this Section 10.3.C are to such Code Sections as amended by the Bipartisan Budget Act (and any applicable subsequent amendments thereto).

Section 10.4 Withholding. Each Member hereby authorizes the Company to withhold from or pay on behalf of or with respect to such Member any amount of federal, state, local or foreign taxes that the Board determines the Company is required to withhold or pay with respect to any amount distributable or allocable to such Member pursuant to this Agreement, including, without limitation, any taxes required to be withheld or paid by the Company pursuant to Code Section 1441, Code Section 1442, Code Section 1445 or Code Section 1446. Any amount withheld with respect to a Member pursuant to this Section 10.4 shall be treated as paid or distributed, as applicable, to such Member for all purposes under this Agreement. Any amount paid on behalf of or with respect to a Member, in excess of any such withheld amount, shall constitute a loan by the Company to such Member, which loan shall be repaid by such Member within thirty (30) days after the affected Member receives written notice from the Company that such payment must be made; *provided*, that the Member shall not be required to repay such deemed loan if either (i) the Company withholds such payment from a distribution that would otherwise be made to the Member or (ii) the Board determines, in its sole and absolute discretion, that such payment may be satisfied out of the Available Cash of the Company that would, but for such payment, be distributed to the Member. Any amounts payable by a Member hereunder shall bear interest at the base rate on corporate loans at large United States money center commercial banks, as published from time to time in the Wall Street Journal (but not higher than the maximum lawful rate) from the date such amount is due (*i.e.*, thirty (30) days after the Member receives written notice of such amount) until such amount is paid in full.

Section 10.5 Organizational Expenses. The Board may cause the Company to elect to deduct expenses, if any, incurred by it in organizing the Company ratably over a 180-month period as provided in Code Section 709.

Article 11
MEMBER TRANSFERS AND WITHDRAWALS

Section 11.1 Transfer.

A. No part of the Interest of a Member shall be subject to the claims of any creditor, to any spouse for alimony or support, or to legal process, and may not be voluntarily or involuntarily alienated or encumbered except as may be specifically provided for in this Agreement.

B. No Interest shall be Transferred, in whole or in part, except in accordance with the terms and conditions set forth in this Article 11. Any Transfer or purported Transfer of an Interest not made in accordance with this Article 11 shall be null and void *ab initio.*

C. No Transfer of any Interest may be made to a lender to the Company or any Person who is related (within the meaning of Section 1.752-4(b) of the Regulations) to any lender to the Company whose loan constitutes a Nonrecourse Liability, without the consent of the Board; *provided*, *however*, that as a condition to such Consent, the lender may be required to enter into an arrangement with the Company and MIC to redeem or exchange for the Shares Amount any Units in which a security interest is held by such lender simultaneously with the time at which such lender would be deemed to be a member in the Company for purposes of allocating liabilities to such lender under Code Section 752 (provided, that for purpose of calculating the Shares Amount in this Section 11.1.C, "Tendered Common Units" shall mean all such Units in which a security interest is held by such lender).

Section 11.2 Transfer of MIC's Interest.

A. Except as provided in this Section 11.2 and subject to the rights of any Holder of any Interest set forth in a Unit Designation, MIC shall not Transfer all or any portion of its Interests (whether by sale, disposition, statutory merger or consolidation, liquidation or otherwise) without the Consent of the Common Members. It is a condition to any Transfer of an Interest of MIC otherwise permitted hereunder (including any Transfer permitted pursuant to Section 11.2.B or 11.2.C) that: (i) coincident with such Transfer, the transferee is admitted as a Member; (ii) the transferee assumes, by operation of law or express agreement, all of the obligations of MIC under this Agreement with respect to such Transferred Interest; and (iii) the transferee has executed such instruments as may be necessary to effectuate such admission and to confirm the agreement of such transferee to be bound by all the terms and provisions of this Agreement with respect to the Interest so acquired and the admission of such transferee as a Member.

B. *Certain Transactions of MIC*. Subject to the rights of any Holder of any Interest set forth in a Unit Designation, MIC may not, without the Consent of the Non-MIC Members, transfer all of its Interests in connection with (a) a merger, consolidation or other combination of its or the Company's assets with another entity, (b) a sale of all or substantially all of its or the Company's assets not in the ordinary course of the Company's business or (c) a reclassification, recapitalization or change any of outstanding shares of MIC's stock or other outstanding equity interests other than in connection with a stock split, reverse stock split, stock dividend change in par value, increase in authorized shares, designation or issuance of new classes of equity securities or any event that does not require the approval of MIC's stockholders (each, a "***Termination Transaction***") unless:

(1) in connection with such Termination Transaction, all of the Common Members will receive, or will have the right to elect to receive (and shall be provided the opportunity to make such an election if the holders of Shares generally are also provided such an opportunity), for each Unit an amount of cash, securities and/or other property equal to the product of the Adjustment Factor and the greatest amount of cash, securities or other property paid to a holder of one Share in consideration of one Share pursuant to the terms of such Termination Transaction; *provided*, that if, in connection with such Termination Transaction, a purchase, tender or exchange offer shall have been made to and accepted by the holders of the outstanding Shares, each holder of Units shall receive, or shall have the right to elect to receive, the greatest amount of cash, securities or other property which such holder of Units would have received had it exercised its right to redemption pursuant to Article 15 hereof and received Shares in exchange for its Units immediately prior to the expiration of such purchase, tender or exchange offer and had thereupon accepted such purchase, tender or exchange offer and then such Termination Transaction shall have been consummated; or

(2) all of the following conditions are met: (w) substantially all of the assets directly or indirectly owned by the surviving entity are owned directly or indirectly by the Company or another limited liability company or limited partnership which is the survivor of a merger, consolidation or combination of assets with the Company (in each case, the "***Surviving Company***"); (x) the Common Members that held Common Units immediately prior to such Termination Transaction own a percentage interest of the Surviving Company

based on the relative fair market value of the net assets of the Company and the other net assets of the Surviving Company immediately prior to the consummation of such transaction; (y) the rights, preferences and privileges of Common Members in the Surviving Company are at least as favorable as those in effect immediately prior to the consummation of such transaction and as those applicable to any other limited partners or non-managing members of the Surviving Company (other than the holders of any preferred units therein); and (z) the rights of the Common Members include at least one of the following: (a) the right to redeem their interests in the Surviving Company for the consideration available to such persons pursuant to Section 11.2.B(1) or (b) the right to redeem their interests in the Surviving Company for cash on terms substantially equivalent to those in effect with respect to their Common Units immediately prior to the consummation of such transaction, or, if the ultimate controlling person of the Surviving Company has publicly traded common equity securities, such common equity securities, with an exchange ratio based on the determination of relative fair market value of such securities and the Shares.

C. Notwithstanding the other provisions of this Article 11 (other than Section 11.6.D hereof), MIC may Transfer all of its Interests at any time to any Person that is, at the time of such Transfer an Affiliate of MIC, including any "qualified REIT subsidiary" (within the meaning of Code Section 856(i)(2)), without the Consent of the Non-MIC Members. The provisions of Section 11.2.B, 11.3, 11.4.A and 11.5 hereof shall not apply to any Transfer permitted by this Section 11.2.C.

D. MIC may not voluntarily withdraw as a Member of the Company without the Consent of the Non-MIC Members, except in connection with a Transfer of MIC's entire Interest permitted in this Article 11 or in connection with a Termination Transaction and, in each case, upon the admission of the transferee as a successor Member of the Company pursuant to the Act and this Agreement.

E. Prior to the Approval Right Termination Date, MIC may not consummate (x) a Termination Transaction, (y) a merger, consolidation or other combination of the assets of the Company with another entity or (z) a sale of all or substantially all of the assets of the Company, in each case which transaction (a "***Stockholder Vote Transaction***") is submitted for the approval of the holders of Shares of MIC (a "***Stockholder Vote***") unless: (i) MIC first provides the Common Members with advance notice at least equal in time to the advance notice given to holders of Shares in connection with such Stockholder Vote, (ii) in connection with such advance notice, MIC provides the Common Members with written materials describing the proposed Stockholder Vote Transaction (which may consist of the proxy statement or registration statement used in connection with the Stockholder Vote) and (iii) the Stockholder Vote Transaction is approved by the holders of the Common Units (the "***Company Vote***") at the same level of approval as required for the Stockholder Vote (for example, (x) if the approval of holders of outstanding Shares entitled to cast a majority of the votes entitled to be cast on the matter is required to approve the Stockholder Vote Transaction in the Stockholder Vote, then the approval of holders of outstanding Common Units (including votes deemed to be cast by MIC) entitled to cast a majority of votes entitled to be cast on the matter will be required to approve the Stockholder Vote Transaction in the Company Vote or (y) if the approval of a majority of the votes cast by holders of outstanding Shares present at a meeting of such holders at which a quorum is present is required to approve the Stockholder Vote

Transaction in the Stockholder Vote, then the approval of a majority of the votes cast (including votes deemed to be cast by MIC) by holders of outstanding Common Units present at a meeting of such holders at which a quorum is present will be required to approve the Stockholder Vote Transaction in the Company Vote). For purposes of the Company Vote, (i) each Member holding Common Units (other than MIC or any of its Subsidiaries) shall be entitled to cast a number of votes equal to the total number of Common Units held by such Member as of the record date for the Stockholder Meeting, and (ii) MIC and its Subsidiaries shall not be entitled to vote thereon and shall instead be deemed to have cast a number of votes equal to the sum of (x) the total number of Common Units held by MIC as of the Record Date for the Stockholder Meeting divided by the Adjustment Factor then in effect plus (y) the total number of shares of unvested restricted Shares with respect to which MIC does not hold back-to-back Common Units as of the Record Date for the Stockholder Meeting, in proportion to the manner in which all outstanding Shares were voted in the Stockholder Vote (for example, "For," "Against," "Abstain" and "Not Present"). Any such Company Vote will be taken in accordance with Section 14.3 below (including Section 14.3.B thereof permitting actions to be taken by written consent without a meeting), mutatis mutandis to give effect to the foregoing provisions of this Section 11.2.E, except that, solely for purposes of determining whether a quorum is present at any meeting of the Members at which a Company Vote will occur, MIC shall be considered to be entitled to cast at such meeting all votes that MIC will be deemed to have cast in such Company Vote as provided in this Section 11.2.E.

Section 11.3 Members' Rights to Transfer.

A. *General*. Prior to the end of the Initial Holding Period, no Member shall Transfer all or any portion of its Interest to any transferee without the consent of the Board; *provided*, *however*, that any Member may, at any time, without the consent or approval of the Board, (i) Transfer all or part of its Interest to any Family Member (including a Transfer by a Family Member that is an inter vivos or testamentary trust (whether revocable or irrevocable) to a Family Member that is a beneficiary of such trust), any Charity, any Controlled Entity or any Affiliate, or (ii) pledge (a "***Pledge***") all or any portion of its Interest to a lending institution that is not an Affiliate of such Member as collateral or security for a bona fide loan or other extension of credit, and, except as provided in Section 11.1.C, Transfer such pledged Interest to such lending institution in connection with the exercise of remedies under such loan or extension of credit (any Transfer or Pledge permitted by this proviso is hereinafter referred to as a "***Permitted Transfer***"). After such Initial Holding Period, each Member, and each transferee of Units or Assignee pursuant to a Permitted Transfer, shall have the right to Transfer all or any portion of its Interest to any Person without the consent of the Board, subject to the provisions of Sections 11.1.C and 11.4 hereof and to satisfaction of each of the following conditions (in addition to the right of such Member or permitted transferee thereof to continue to make Permitted Transfers without the need to satisfy clauses (1) through (4) below):

(1) *MIC Right of First Refusal.* The transferor Member (or the Member's estate in the event of the Member's death) shall give written notice of the proposed Transfer to MIC, which notice shall state (i) the identity and address of the proposed transferee and (ii) the amount and type of consideration proposed to be received for the Transferred Units. MIC shall have ten (10) Business Days upon which to give the transferor Member notice of its election to acquire the Units on the terms set forth in such notice. If it so elects, it shall purchase the Units on such terms within ten (10) Business Days after giving notice of

such election; *provided, however*, that such closing may be deferred to the extent necessary to effect compliance with the Hart-Scott-Rodino Antitrust Act, if applicable, and any other applicable requirements of law. If it does not so elect, the transferor Member may Transfer such Units to a third party, on terms no more favorable to the transferee than the proposed terms, subject to the other conditions of this Section 11.3.

(2) *Qualified Transferee.* Any Transfer of an Interest shall be made only to a single Qualified Transferee*provided, however,* that, for such purposes, all Qualified Transferees that are Affiliates, or that comprise investment accounts or funds managed by a single Qualified Transferee and its Affiliates, shall be considered together to be a single Qualified Transferee; and provided, further, that each Transfer meeting the minimum Transfer restriction of Section 11.3.A(4) hereof may be to a separate Qualified Transferee.

(3) *Opinion of Counsel*. The transferor Member shall deliver or cause to be delivered to the Board an opinion of counsel reasonably satisfactory to it to the effect that the proposed Transfer may be effected without registration under the Securities Act and will not otherwise violate the registration provisions of the Securities Act and the regulations promulgated thereunder or violate any state securities laws or regulations applicable to the Company or the Interests Transferred; *provided*, *however*, that the Board may, in its sole discretion, waive this condition upon the request of the transferor Member. If, in the opinion of such counsel, such Transfer would require the filing of a registration statement under the Securities Act or would otherwise violate any federal or state securities laws or regulations applicable to the Company or the Units, the Board may prohibit any Transfer otherwise permitted under this Section 11.3 by a Member of Interests.

(4) *Minimum Transfer Restriction*. Any Transferring Member must Transfer not less than the lesser of (i) five hundred (500) Units or (ii) all of the remaining Units owned by such Transferring Member, without, in each case, the consent of the Board; *provided*, *however* that, for purposes of determining compliance with the foregoing restriction, all Units owned by Affiliates of a Member shall be considered to be owned by such Member.

(5) *Exception for Permitted Transfers.* The conditions of Sections 11.3.A(1) through 11.3.A(4) hereof shall not apply in the case of a Permitted Transfer.

It is a condition to any Transfer otherwise permitted hereunder (whether or not such Transfer is a Permitted Transfer or effected during or after the Initial Holding Period) that the transferee assumes by operation of law or express agreement all of the obligations of the transferor Member under this Agreement with respect to such Transferred Interest, and no such Transfer (other than pursuant to a statutory merger or consolidation wherein all obligations and liabilities of the transferor Member are assumed by a successor entity by operation of law) shall relieve the transferor Member of its obligations under this Agreement without the consent of the Board. Notwithstanding the foregoing, any transferee of any Transferred Interest shall be subject to any and all restrictions on ownership or transfer of shares of stock of MIC contained in the Charter that may limit or restrict such transferee's ability to exercise its redemption rights, including, without limitation, the Ownership Limit. Any transferee, whether or not admitted as a Substituted Member, shall take subject to the obligations of the transferor hereunder. Unless admitted as a Substituted Member, no transferee, whether by a voluntary Transfer, by operation of law or otherwise, shall have any rights hereunder, other than the rights of an Assignee as provided in Section 11.5 hereof.

B. *Incapacity*. If a Member is subject to Incapacity, the executor, administrator, trustee, committee, guardian, conservator or receiver of such Member's estate shall have all the rights of a Member, but not more rights than those enjoyed by other Members, for the purpose of settling or managing the estate, and such power as the Incapacitated Member possessed to Transfer all or any part of its interest in the Company. The Incapacity of a Member, in and of itself, shall not dissolve or terminate the Company.

C. *Adverse Tax Consequences.* Notwithstanding anything to the contrary in this Agreement, the Board shall have the authority (but shall not be required) to take any steps it determines are necessary or appropriate in its sole and absolute discretion to prevent the Company from being taxable as a corporation for federal income tax purposes. In furtherance of the foregoing, except with the consent of the Board, no Transfer by a Member of its Interests (including any redemption, any conversion of LTIP Units or Performance Units into Common Units, any exercise of Class A Units for Common Units, any other acquisition of Units by the Board or any acquisition of Units by the Company) may be made to or by any Person if such Transfer could (i) result in the Company being treated as an association taxable as a corporation, (ii) be treated as effectuated through an "established securities market" or a "secondary market (or the substantial equivalent thereof)" within the meaning of Code Section 7704 and the Regulations promulgated thereunder, (iii) result in the Company being unable to qualify for one or more of the "safe harbors" set forth in Regulations Section 1.7704-1 (or such other guidance subsequently published by the IRS setting forth safe harbors under which interests will not be treated as "readily tradable on a secondary market (or the substantial equivalent thereof)" within the meaning of Code Section 7704) (the "***Safe Harbors***") or could cause the Company to be treated as a "publicly traded partnership" or to be taxed as a corporation pursuant Code Section 7704 or successor provisions of the Code (as determined by the Board) or (iv) based on the advice of counsel to the Company or MIC, adversely affect the ability of MIC to qualify or re-qualify as a REIT or subject MIC to any additional taxes under Code Section 857 or Code Section 4981.

D. *Restrictions Not Applicable to Redemptions or Conversions.* The provisions of this Section 11.3 (other than Section 11.3.C) shall not apply to the redemption of Common Units pursuant to Section 15.1 or the redemption or conversion of any other Units pursuant to the terms of any Unit Designation.

Section 11.4 Admission of Substituted Members.

A. No Member shall have the right to substitute a transferee (including any transferees pursuant to Transfers permitted by Section 11.3 hereof) as a Member in its place. A transferee of the Interest of a Member may be admitted as a Substituted Member only with the consent of the Board. The failure or refusal by the Board to permit a transferee of any such interests to become a Substituted Member shall not give rise to any cause of action against the Company or any Director. Subject to the foregoing, an Assignee shall not be admitted as a Substituted Member until and unless it furnishes to the Board (i) evidence of acceptance, in form and substance satisfactory to the Board, of all the terms, conditions and applicable obligations of this Agreement, (ii) a counterpart signature page to this Agreement executed by such Assignee and (iii) such other documents and instruments as the Board may require in its sole discretion, to effect such Assignee's admission as a Substituted Member.

B. Concurrently with, and as evidence of, the admission of a Substituted Member, the Board shall update (or direct the update of) the Register and the books and records of the Company to reflect the name, address and number and class and/or series of Units of such Substituted Member and to eliminate or adjust, if necessary, the name, address and number of Units of the predecessor of such Substituted Member.

C. A transferee who has been admitted as a Substituted Member in accordance with this Article 11 shall have all the rights and powers and be subject to all the restrictions and liabilities of a Member under this Agreement.

Section 11.5 Assignees. If the Board does not consent to the admission of any permitted transferee under Section 11.3 hereof as a Substituted Member, as described in Section 11.4 hereof, or in the event that any Interest is deemed to have been Transferred notwithstanding the restrictions set forth in this Article 11, such transferee shall be considered an Assignee for purposes of this Agreement. An Assignee shall be entitled to all the rights of an assignee of a limited liability company interest under the Act, including the right to receive distributions from the Company and the share of Net Income, Net Losses and other items of income, gain, loss, deduction and credit of the Company attributable to the Interest assigned to such transferee and the rights to Transfer the Interest provided in this Article 11, but shall not be deemed to be a holder of Interest for any other purpose under this Agreement (other than as expressly provided in Section 15.1 hereof), and shall not be entitled to effect a Consent or vote with respect to such Interest on any matter presented to the Members for approval (such right to Consent or vote, to the extent provided in this Agreement or under the Act, fully remaining with the transferor Member). In the event that any such transferee desires to make a further Transfer of any such Interest, such transferee shall be subject to all the provisions of this Article 11 to the same extent and in the same manner as any Member desiring to make a Transfer of an Interest.

Section 11.6 General Provisions.

A. No Member may withdraw from the Company other than as a result of (i) a permitted Transfer of all of such Member's Interest in accordance with this Article 11, with respect to which the transferee becomes a Substituted Member, (ii) pursuant to a redemption (or acquisition by MIC) of all of its Interest pursuant to a redemption under Section 15.1 hereof and/or pursuant to any Unit Designation or (iii) an acquisition by MIC of all of such Member's Interest, whether or not pursuant to Section 15.1.B hereof.

B. Any Member who shall Transfer all of its Units in a Transfer (i) permitted pursuant to this Article 11 where such transferee was admitted as a Substituted Member, (ii) pursuant to the exercise of its rights to effect a redemption of all of its Units pursuant to Sections 15.1 hereof and/or pursuant to any Unit Designation or (iii) to MIC, whether or not pursuant to Section 15.1.B hereof, shall cease to be a Member.

C. If any Unit is Transferred in compliance with the provisions of this Article 11, or is redeemed by the Company, or acquired by MIC pursuant to Section 15.1 hereof, on any day other than the first day of a Fiscal Year, then Net Income, Net Losses, each item thereof and all other items of income, gain, loss, deduction and credit attributable to such Unit for such Fiscal Year shall be allocated to the transferor Member or the Tendering Party (as the case may be) and, in the case of a Transfer other than a redemption, to the transferee Member, by taking into account their varying interests during the Fiscal Year in accordance with Code Section 706(d), using the "interim closing of the books" method or another permissible method selected by the Board. Solely for purposes of making such allocations, unless the Board decides to use another method permitted under the Code, each of such items for the calendar month in which a Transfer occurs shall be allocated to the transferee Member and none of such items for the calendar month in which a Transfer or a redemption occurs shall be allocated to the transferor Member or the Tendering Party (as the case may be), if such Transfer occurs on or before the fifteenth (15th) day of the month, otherwise such items shall be allocated to the transferor. All distributions of Available Cash attributable to such Unit with respect to which the Record Date is before the date of such Transfer, assignment or redemption shall be made to the transferor Member or the Tendering Party (as the case may be) and, in the case of a Transfer other than a redemption, all distributions of Available Cash thereafter attributable to such Unit shall be made to the transferee Member.

D. Notwithstanding anything to the contrary in this Agreement and in addition to any other restrictions on Transfer herein contained, in no event may any Transfer of an Interest by any Member (including any redemption, any conversion or exercise, as applicable, of LTIP Units, Performance Units or Class A Units into Common Units, any acquisition of Units by MIC or any other acquisition of Units by the Company) be made: (i) to any person or entity who lacks the legal right, power or capacity to own an Interest; (ii) in violation of applicable law; (iii) except with the consent of the Board, of any component portion of an Interest, such as the Capital Account, or rights to distributions, separate and apart from all other components of an Interest; (iv) if MIC qualifies or intends to qualify as a REIT, in the event that such Transfer could cause either MIC or any MIC Affiliate to cease to comply with the REIT Requirements or to cease to qualify as a "qualified REIT subsidiary" (within the meaning of Code Section 856(i)(2)); (v) except with the consent of the Board, if such Transfer could, based on the advice of counsel to the Company or MIC, cause a termination of the Company for federal or state income tax purposes (except as a result of the redemption (or acquisition by MIC) of all Units held by all Members); (vi) if such Transfer could, based on the advice of legal counsel to the Company, cause the Company to be classified as other than a partnership for federal income tax purposes (except as a result of the redemption (or acquisition by MIC) of all Units held by all Members); (vii) if such Transfer would cause the Company to become, with respect to any employee benefit plan subject to Title I of ERISA, a "party-in-interest" (as defined in ERISA Section 3(14)) or a "disqualified person" (as defined in Code Section 4975(c)); (viii) if such Transfer could, based on the advice of counsel to the Company or MIC, cause any portion of the assets of the Company to constitute assets of any employee benefit plan pursuant to Department of Labor Regulations Section 2510.3-101; (ix) if such Transfer requires the registration of such Interest pursuant to any applicable federal or state securities laws; (x) except with the consent of the Board, if such Transfer (1) could be treated as effectuated through an "established securities market" or a "secondary market (or the substantial equivalent thereof)" within the meaning of Code Section 7704 and the Regulations promulgated thereunder, (2) could cause the Company to become a "publicly traded partnership," as such term is defined in Code Sections 469(k)(2) or 7704(b), (3) could be in violation of Section 3.4.C(iii), or (4) could cause the Company to fail one or more of the Safe Harbors; (xi) if such Transfer causes the Company (as opposed to MIC) to become a reporting company under the Exchange Act; or

(xii) if such Transfer subjects the Company to regulation under the Investment Company Act of 1940, the Investment Advisors Act of 1940 or ERISA, each as amended. The Board shall, in its sole discretion, be permitted to take all action necessary to prevent the Company from being classified as a "publicly traded partnership" under Code Section 7704.

E. Transfers pursuant to this Article 11 may only be made on the first day of a fiscal quarter of the Company, unless the Board otherwise consents.

Article 12
ADMISSION OF MEMBERS

Section 12.1 [Intentionally Omitted].

Section 12.2 Admission of Additional Members.

A. A Person (other than an existing Member) who makes a Capital Contribution to the Company in exchange for Units and in accordance with this Agreement, or is issued LTIP Units or Performance Units in exchange for no consideration in accordance with Section 4.2.B hereof, shall be admitted to the Company as an Additional Member only upon furnishing to the Board (i) evidence of acceptance, in form and substance satisfactory to the Board, of all of the terms and conditions of this Agreement, including, without limitation, the power of attorney granted in Section 2.4 hereof, (ii) a counterpart signature page to this Agreement executed by such Person and (iii) such other documents or instruments as may be required in the sole and absolute discretion of the Board in order to effect such Person's admission as an Additional Member. Concurrently with, and as evidence of, the admission of an Additional Member, the Board shall update the Register and the books and records of the Company to reflect the name, address and number and classes and/or series of Units of such Additional Member. For avoidance of doubt, a holder of Class A Units to the extent not already a Member shall only be admitted to the Company as an Additional Member in connection with the issuance of Common Units upon exercise of such Class A Units for Common Units following compliance with the preceding sentences of this Section 12.2.A.

B. Notwithstanding anything to the contrary in this Section 12.2, no Person shall be admitted as an Additional Member without the consent of the Board. The admission of any Person as an Additional Member shall become effective on the date upon which the name of such Person is recorded on the books and records of the Company, following the consent of the Board to such admission and the satisfaction of all the conditions set forth in Section 12.2.A.

C. If any Additional Member is admitted to the Company on any day other than the first day of a Fiscal Year, then Net Income, Net Losses, each item thereof and all other items of income, gain, loss, deduction and credit allocable among Holders for such Fiscal Year shall be allocated among such Additional Member and all other Holders by taking into account their varying interests during the Fiscal Year in accordance with Code Section 706(d), using the "interim closing of the books" method or another permissible method selected by the Board. Solely for purposes of making such allocations, each of such items for the calendar month in which an admission of any Additional Member occurs shall be allocated among all the Holders including such Additional Member, in accordance with the principles described in Section 11.6.C hereof.

All distributions of Available Cash with respect to which the Record Date is before the date of such admission shall be made solely to Members and Assignees other than the Additional Member, and all distributions of Available Cash thereafter shall be made to all the Members and Assignees including such Additional Member.

D. Any Additional Member admitted to the Company that is an Affiliate of MIC shall be deemed to be a "MIC Affiliate" hereunder and shall be reflected as such on the Register and the books and records of the Company.

Section 12.3 Amendment of Agreement and Certificate. For the admission to the Company of any Member, the Board shall take all steps necessary and appropriate under the Act to update the Register, amend the records of the Company and, if necessary, to prepare as soon as practical an amendment of this Agreement and, if required by law, shall prepare and file an amendment to the Certificate and may for this purpose exercise the power of attorney granted pursuant to Section 2.4 hereof.

Section 12.4 Limit on Number of Members. Unless otherwise permitted by the Board in its sole and absolute discretion, no Person shall be admitted to the Company as an Additional Member if the effect of such admission would be to cause the Company to have a number of Members that would cause the Company to become a reporting company under the Exchange Act.

Section 12.5 Admission. A Person shall be admitted to the Company as a Member only upon strict compliance, and not upon substantial compliance, with the requirements set forth in this Agreement for admission to the Company as a Member.

Article 13
DISSOLUTION, LIQUIDATION AND TERMINATION

Section 13.1 Dissolution. The Company shall not be dissolved by the admission of Substituted Members or Additional Members. However, the Company shall dissolve, and its affairs shall be wound up, upon the first to occur of any of the following (each a "***Liquidating Event***"):

A. an election to dissolve the Company made by the Board in its sole and absolute discretion, with the Consent of the Common Members;

B. entry of a decree of judicial dissolution of the Company pursuant to the provisions of the Act; or

C. the termination of the legal existence of the last remaining Member of the Company or the occurrence of any other event which terminates the continued membership of the last remaining Member of the Company in the Company unless the Company is continued without dissolution in a manner permitted by this Agreement or the Act.

Section 13.2 Winding Up.

A. Upon the occurrence of a Liquidating Event, the Company shall continue solely for the purposes of winding up its affairs in an orderly manner, liquidating its assets and satisfying the claims of its creditors and the Holders. After the occurrence of a Liquidating Event, no Holder shall take any action that is inconsistent with, or not necessary to or appropriate for, the winding up of the Company's business and affairs. The Board (or, in the event that there are no remaining Directors, any Person elected by a Majority in Interest of the Members (the Board or such other Person being referred to herein as the "***Liquidator***")) shall be responsible for overseeing the winding up and dissolution of the Company and shall take full account of the Company's liabilities and property, and the Company property shall be liquidated as promptly as is consistent with obtaining the fair value thereof, and the proceeds therefrom (which may, to the extent determined by the Board, in consultation with MIC, include shares of stock in MIC) shall be applied and distributed in the following order:

(1) *First*, to the satisfaction of all of the Company's debts and liabilities to creditors other than the Holders (whether by payment or the making of reasonable provision for payment thereof);

(2) *Second*, to the satisfaction of all of the Company's debts and liabilities to MIC (whether by payment or the making of reasonable provision for payment thereof), including, but not limited to, amounts due as reimbursements under Section 7.4 hereof;

(3) *Third*, to the satisfaction of all of the Company's debts and liabilities to the other Holders (whether by payment or the making of reasonable provision for payment thereof); and

(4) Fourth, to the Members in accordance with their positive Capital Account balances, determined after taking into account all Capital Account adjustments for all prior periods and the Company taxable year during which the liquidation occurs (other than those made as a result of the liquidating distribution set forth in this Section 13.2.A(4)).

The Liquidator shall not receive any additional compensation for any services performed pursuant to this Article 13, other than reimbursement of its expenses as set forth in Section 7.4.

B. Notwithstanding the provisions of Section 13.2.A hereof that require liquidation of the assets of the Company, but subject to the order of priorities set forth therein, if prior to or upon dissolution of the Company, the Liquidator determines that an immediate sale of part or all of the Company's assets would be impractical or would cause undue loss to the Holders, the Liquidator may, in its sole and absolute discretion, defer for a reasonable time the liquidation of any assets except those necessary to satisfy liabilities of the Company (including to those Holders as creditors) and/or distribute to the Holders, in lieu of cash, as tenants in common and in accordance with the provisions of Section 13.2.A hereof, undivided interests in such Company assets as the Liquidator deems not suitable for liquidation. Any such distributions in kind shall be made only if, in the good faith judgment of the Liquidator, such distributions in kind are in the best interests of the Holders, and shall be subject to such conditions relating to the disposition and management of such properties as the Liquidator deems reasonable and equitable and to any agreements governing the operation of such properties at such time. The Liquidator shall determine the fair market value of any property distributed in kind using such reasonable method of valuation as it may adopt.

C. If any Holder has a deficit balance in its Capital Account (after giving effect to all contributions, distributions and allocations for all taxable years, including the year during which such liquidation occurs), except as otherwise agreed to by such Holder, such Holder shall have no obligation to make any contribution to the capital of the Company with respect to such deficit, and such deficit shall not be considered a debt owed to the Company or to any other Person for any purpose whatsoever.

D. In the sole and absolute discretion of the Board or the Liquidator, a pro rata portion of the distributions that would otherwise be made to the Holders pursuant to this Article 13 may be:

(1) distributed to a trust established for the benefit of the Liquidator and the Holders for the purpose of liquidating Company assets, collecting amounts owed to the Company, and paying any contingent or unforeseen liabilities or obligations of the Company or of the Liquidator arising out of or in connection with the Company and/or Company activities. The assets of any such trust shall be distributed to the Holders, from time to time, in the reasonable discretion of the Liquidator, in the same proportions and amounts as would otherwise have been distributed to the Holders pursuant to this Agreement; or

(2) withheld or escrowed to provide a reasonable reserve for Company liabilities (contingent or otherwise) and to reflect the unrealized portion of any installment obligations owed to the Company, provided that such withheld or escrowed amounts shall be distributed to the Holders in the manner and order of priority set forth in Section 13.2.A hereof as soon as practicable.

Section 13.3 Deemed Contribution and Distribution. Notwithstanding any other provision of this Article 13, in the event that the Company is liquidated within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g), but no Liquidating Event has occurred, the Company's Property shall not be liquidated, the Company's liabilities shall not be paid or discharged and the Company's affairs shall not be wound up. Instead, for federal income tax purposes the Company shall be deemed to have contributed all of its assets and liabilities to a new partnership in exchange for an interest in the new partnership; and immediately thereafter, distributed Units to the Members in the new partnership in accordance with their respective Capital Accounts in liquidation of the Company, and the new partnership is deemed to continue the business of the Company. Nothing in this Section 13.3 shall be deemed to have constituted a Transfer to an Assignee as a Substituted Member without compliance with the provisions of Section 11.4 or Section 13.3 hereof.

Section 13.4 Rights of Holders. Except as otherwise provided in this Agreement and subject to the rights of any Holder of any Interest set forth in a Unit Designation, (a) each Holder shall look solely to the assets of the Company for the return of its Capital Contribution, (b) no Holder shall have the right or power to demand or receive property other than cash from the Company and (c) no Holder shall have priority over any other Holder as to the return of its Capital Contributions, distributions or allocations.

Section 13.5 Notice of Dissolution. In the event that a Liquidating Event occurs or an event occurs that would, but for an election or objection by one or more Members pursuant to Section 13.1 hereof, result in a dissolution of the Company, the Board or Liquidator shall, within thirty (30) days thereafter, provide written notice thereof to each Holder and, in the Board's or Liquidator's sole and absolute discretion or as required by the Act, to all other parties with whom the Company regularly conducts business (as determined in the sole and absolute discretion of the Board or Liquidator), and the Board or Liquidator may, or, if required by the Act, shall, publish notice thereof in a newspaper of general circulation in each place in which the Company regularly conducts business (as determined in the sole and absolute discretion of the Board or Liquidator).

Section 13.6 Cancellation of Certificate of Formation. Upon the completion of the liquidation of the Company cash and property as provided in Section 13.2 hereof, the Company shall be terminated, a certificate of cancellation shall be filed with the SOS, all qualifications of the Company as a foreign limited liability company or association in jurisdictions other than the State of Delaware shall be cancelled, and such other actions as may be necessary to terminate the Company shall be taken.

Section 13.7 Reasonable Time for Winding-Up. A reasonable time shall be allowed for the orderly winding-up of the business and affairs of the Company and the liquidation of its assets pursuant to Section 13.2 hereof, in order to minimize any losses otherwise attendant upon such winding-up, and the provisions of this Agreement shall remain in effect between and among the Members during the period of liquidation; *provided, however,* reasonable efforts shall be made to complete such winding-up within twenty-four (24) months after the adoption of a plan of liquidation of MIC, as provided in Code Section 562(b)(1)(B), if necessary, in the sole and absolute discretion of Board.

Article 14
PROCEDURES FOR ACTIONS AND CONSENTS
OF MEMBERS; AMENDMENTS; MEETINGS

Section 14.1 Procedures for Actions and Consents of Members. The actions requiring Consent of any Member pursuant to this Agreement, including Section 7.3 hereof, or otherwise pursuant to applicable law, are subject to the procedures set forth in this Article 14.

Section 14.2 Amendments. Amendments to this Agreement may be proposed by the Board or by Members holding twenty-five percent (25%) or more of the Interests held by Members and, except as set forth in Section 7.3.C and subject to Sections 7.3.D, 18.10 and 19.10 and the rights of any Holder of any Interest set forth in a Unit Designation, shall be approved by the Consent of the Members. Following such proposal, the Board shall submit to the Members entitled to vote thereon any proposed amendment that, pursuant to the terms of this Agreement, requires the consent, approval or vote of such Members. The Board shall seek the consent, approval or vote of the Members entitled to vote thereon on any such proposed amendment in accordance with Section 14.3 hereof. Upon obtaining any such Consent, or any other Consent required by this Agreement, and without further action or execution by any other Person, including any Member, (i) any amendment to this Agreement may be implemented and reflected in a writing executed solely by the Board, and (ii) the Members shall be deemed a party to and bound by such amendment of this Agreement. For the avoidance of doubt, notwithstanding anything to the contrary in this Agreement, this Agreement may not be amended without the Consent of MIC.

Section 14.3 Meetings of the Members.

A. Meetings of the Members may be called only by the Board to transact any business that the Board determines. The call shall state the nature of the business to be transacted. Notice of any such meeting shall be given to all Members entitled to act at the meeting not less than seven (7) days nor more than sixty (60) days prior to the date of such meeting. Members may vote in person or by proxy at such meeting. Unless approval by a different number or proportion of the Members is required by this Agreement, the affirmative vote of Members holding a majority of the Percentage Interests held by the Members entitled to act on any proposal shall be sufficient to approve such proposal at a meeting of the Members. Whenever the vote, consent or approval of Members is permitted or required under this Agreement, such vote, consent or approval may be given at a meeting of Members or in accordance with the procedure prescribed in Section 14.3.B hereof.

B. Any action requiring the Consent of any Member or group of Members pursuant to this Agreement or that is required or permitted to be taken at a meeting of the Members may be taken without a meeting if a consent in writing or by electronic transmission setting forth the action so taken or consented to is given by Members whose affirmative vote would be sufficient to approve such action or provide such Consent at a meeting of the Members. Such consent may be in one instrument or in several instruments, and shall have the same force and effect as the affirmative vote of such Members at a meeting of the Members. Such consent shall be filed with the Company. An action so taken shall be deemed to have been taken at a meeting held on the effective date so certified. For purposes of obtaining a Consent in writing or by electronic transmission, the Board may require a response within a reasonable specified time, but not less than fifteen (15) days, and failure to respond in such time period shall constitute a Consent that is consistent with the Board's recommendation with respect to the proposal; *provided, however,* that an action shall become effective at such time as requisite Consents are received even if prior to such specified time.

C. Each Member entitled to act at a meeting of the Members may authorize any Person or Persons to act for it by proxy on all matters in which a Member is entitled to participate, including waiving notice of any meeting, or voting or participating at a meeting. Each proxy must be signed by the Member or its attorney-in-fact. No proxy shall be valid after the expiration of eleven (11) months from the date thereof unless otherwise provided in the proxy (or there is receipt of a proxy authorizing a later date). Every proxy shall be revocable at the pleasure of the Member executing it, such revocation to be effective upon the Company's receipt of written notice of such revocation from the Member executing such proxy, unless such proxy states that it is irrevocable and is coupled with an interest.

D. The Board may set, in advance, a record date for the purpose of determining the Members (i) entitled to Consent to any action, (ii) entitled to receive notice of or vote at any meeting of the Members or (iii) in order to make a determination of Members for any other proper purpose. Such date, in any case, shall not be prior to the close of business on the day the record date is fixed and shall be not more than ninety (90) days and, in the case of a meeting of the Members, not less than five (5) days, before the date on which the meeting is to be held or Consent is to be given. If no record date is fixed, the record date for the determination of Members entitled to notice of or to vote at a meeting of the Members shall be at the close of business on the day on

which the notice of the meeting is sent, and the record date for any other determination of Members shall be the effective date of such Member action, distribution or other event. When a determination of the Members entitled to vote at any meeting of the Members has been made as provided in this section, such determination shall apply to any adjournment thereof.

E. Each meeting of Members shall be conducted by the Board or such other Person as the Board may appoint pursuant to such rules for the conduct of the meeting as the Board or such other Person deems appropriate in its sole and absolute discretion. Without limitation, meetings of Members may be conducted in the same manner as meetings of MIC's stockholders and may be held at the same time as, and as part of, the meetings of MIC's stockholders.

Article 15
GENERAL PROVISIONS

Section 15.1 Redemption Rights of Qualifying Parties.

A. After the expiration of the applicable Initial Holding Period, a Qualifying Party shall have the right (subject to the terms and conditions set forth herein) (the "***Redemption Right***") to require the Company to redeem all or a portion of the Common Units held by a Tendering Party (Common Units that have in fact been tendered for redemption being hereafter referred to as "***Tendered Common Units***") in exchange (a "***Redemption***") for the Cash Amount payable on the Specified Redemption Date. The Company may, in MIC's sole and absolute discretion, redeem Tendered Common Units at the request of the Qualifying Party prior to the end of the applicable Initial Holding Period (subject to the terms and conditions set forth herein (including the expiration of the applicable Specified Redemption Date)) (a "***Special Redemption***"); *provided*, *however*, that MIC first receives a legal opinion to the same effect as the legal opinion described in Section 15.1.G(4) of this Agreement. Any Redemption shall be exercised pursuant to a Common Unit Notice of Redemption delivered to MIC by the Qualifying Party when exercising the Redemption right (the "***Tendering Party***"). The Company's obligation to effect a Redemption, however, shall not arise or be binding against the Company until the earlier of (i) the date MIC notifies the Tendering Party that it declines to acquire some or all of the Tendered Common Units under Section 15.1.B hereof following receipt of a Common Unit Notice of Redemption and (ii) the Business Day following the Cut-Off Date. In the event of a Redemption, the Cash Amount shall be delivered as a certified or bank check payable to the Tendering Party or, in MIC's sole and absolute discretion, in immediately available funds, in each case, on or before the Specified Redemption Date.

B. Notwithstanding the provisions of Section 15.1.A hereof, on or before the close of business on theCut-Off Date, MIC may, in its sole and absolute discretion but subject to the Ownership Limit (which shall only be applicable so long as MIC qualifies as or intends to qualify as a REIT), elect to acquire some or all of the Tendered Common Units from the Tendering Party in exchange for Shares. If MIC elects to acquire some or all of the Tendered Common Units pursuant to this Section 15.1.B, MIC shall give written notice thereof to the Tendering Party on or before the close of business on the Cut-Off Date. If MIC elects to acquire any of the Tendered Common Units for Shares, MIC shall issue and deliver such Shares to the Tendering Party pursuant to the terms of this Section 15.1.B, in which case (1) MIC shall assume directly the obligation with respect thereto and shall satisfy the Tendering Party's exercise of its Redemption Right with

respect to such Tendered Common Units and (2) such transaction shall be treated, for federal income tax purposes, as a transfer by the Tendering Party of such Tendered Common Units to MIC in exchange for the Shares Amount. If MIC so elects, on the Specified Redemption Date, the Tendering Party shall sell such number of the Tendered Common Units to MIC in exchange for a number of Shares equal to the product of the Shares Amount and the Applicable Percentage. The Tendering Party shall submit (i) such information, certification or affidavit as MIC may reasonably require in connection with the application of the Ownership Limit to any such acquisition and (ii) such written representations, investment letters, legal opinions and other instruments as reasonably necessary, in MIC's view, to effect compliance with the Securities Act. In the event of a purchase of the Tendered Common Units by MIC pursuant to this Section 15.1.B, the Tendering Party shall no longer have the right to cause the Company to effect a Redemption of such Tendered Common Units and, upon notice to the Tendering Party by MIC, given on or before the close of business on the Cut-Off Date, that MIC has elected to acquire some or all of the Tendered Common Units pursuant to this Section 15.1.B, the obligation of the Company to effect a Redemption of the Tendered Common Units as to which MIC's notice relates shall not accrue or arise. A number of Shares equal to the product of the Shares Amount and the Applicable Percentage shall be delivered by MIC as duly authorized, validly issued, fully paid and non-assessable Shares and, if applicable, Rights, free of any pledge, lien, encumbrance or restriction, other than the Ownership Limit and, to the extent applicable, the Securities Act and relevant state securities or "blue sky" laws. Neither any Tendering Party whose Tendered Common Units are acquired by MIC pursuant to this Section 15.1.B, any Member, any Assignee nor any other interested Person shall have any right to require or cause MIC to register, qualify or list any Shares owned or held by such Person, whether or not such Shares are issued pursuant to this Section 15.1.B, with the SEC, with any state securities commissioner, department or agency, under the Securities Act or the Exchange Act or with any stock exchange; *provided, however,* that this limitation shall not be in derogation of any registration or similar rights granted pursuant to any other written agreement between MIC and any such Person. Notwithstanding any delay in such delivery, the Tendering Party shall be deemed the owner of such Shares and such Rights for all purposes, including, without limitation, rights to vote or consent, receive dividends, and exercise all rights, as of the Specified Redemption Date. Shares issued upon an acquisition of the Tendered Common Units by MIC pursuant to this Section 15.1.B may contain such legends regarding restrictions under the Securities Act and applicable state securities laws as MIC in good faith determines to be necessary or advisable in order to ensure compliance with such laws.

C. Notwithstanding the provisions of Section 15.1.A and 15.1.B hereof and so long as MIC qualifies as a REIT, the Tendering Parties shall have no rights under this Agreement that would otherwise be prohibited by the Ownership Limit. To the extent that any attempted Redemption or acquisition of the Tendered Common Units by MIC pursuant to Section 15.1.B hereof would be in violation of this Section 15.1.C, it shall be null and void ab initio, and the Tendering Party shall not acquire any rights or economic interests in Shares otherwise issuable by MIC under Section 15.1.B hereof or cash otherwise payable under Section 15.1.A hereof.

D. If MIC does not elect to acquire the Tendered Common Units pursuant to Section 15.1.B hereof:

(1) The Company may elect to raise funds for the payment of the Cash Amount either (a) by requiring that MIC contribute to the Company funds from the proceeds of a registered public offering by MIC of Shares sufficient to purchase the Tendered Common Units or (b) from any other sources (including, but not limited to, the sale of any Property and the incurrence of additional Debt) available to the Company. Any proceeds from a public offering that are in excess of the Cash Amount shall be for the sole benefit of MIC. MIC shall make a Capital Contribution of any such amounts to the Company for an additional Interest. Any such contribution shall entitle MIC to an equitable Percentage Interest adjustment.

(2) If the Cash Amount is not paid on or before the Specified Redemption Date, interest shall accrue with respect to the Cash Amount from the day after the Specified Redemption Date to and including the date on which the Cash Amount is paid at a rate equal to the base rate on corporate loans at large United States money center commercial banks, as published from time to time in the Wall Street Journal (but not higher than the maximum lawful rate).

E. Notwithstanding the provisions of Section 15.1.B hereof, MIC shall not, under any circumstances, elect to acquire any Tendered Common Units in exchange for Shares if such exchange would be prohibited under the Charter.

F. Notwithstanding anything herein to the contrary (but subject to Section 15.1.C hereof), with respect to any Redemption (or any tender of Common Units for Redemption if the Tendered Common Units are acquired by MIC pursuant to Section 15.1.B hereof) pursuant to this Section 15.1:

(1) All Common Units acquired by MIC pursuant to Section 15.1.B hereof shall automatically, and without further action required, be converted into and deemed to be an Interest comprised of the same number of Common Units.

(2) Subject to the Ownership Limit, no Tendering Party may effect a Redemption for less than one thousand (1,000) Common Units or, if such Tendering Party holds (as a Common Member or, economically, as an Assignee) less than one thousand (1,000) Common Units, all of the Common Units held by such Tendering Party, without, in each case, the Consent of MIC.

(3) If (i) a Tendering Party surrenders its Tendered Common Units during the period after the Record Date with respect to a distribution and before the record date established by MIC for a distribution to its stockholders of some or all of its portion of such Company distribution, and (ii) MIC elects to acquire any of such Tendered Common Units in exchange for Shares pursuant to Section 15.1.B, such Tendering Party shall pay to MIC on the Specified Redemption Date an amount in cash equal to the portion of the Company distribution in respect of the Tendered Common Units exchanged for Shares, insofar as such distribution relates to the same period for which such Tendering Party would receive a distribution in respect of such Shares.

(4) The consummation of such Redemption (or an acquisition of Tendered Common Units by MIC pursuant to Section 15.1.B hereof, as the case may be) shall be subject to the expiration or termination of the applicable waiting period, if any, under the Hart-Scott-Rodino Act.

(5) The Tendering Party shall continue to own (subject, in the case of an Assignee, to the provisions of Section 11.5 hereof) all Common Units subject to any Redemption, and be treated as a Common Member or an Assignee, as applicable, with respect to such Common Units for all purposes of this Agreement, until such Common Units are either paid for by the Company pursuant to Section 15.1.A hereof or transferred to MIC and paid for, by the issuance of the Shares, pursuant to Section 15.1.B hereof on the Specified Redemption Date. Until a Specified Redemption Date and an acquisition of the Tendered Common Units by MIC pursuant to Section 15.1.B hereof, the Tendering Party shall have no rights as a stockholder of MIC with respect to the Shares issuable in connection with such acquisition.

G. In connection with an exercise of the Redemption Right pursuant to this Section 15.1, except as otherwise agreed by MIC, in its sole and absolute discretion, the Tendering Party shall submit the following to MIC, in addition to the Common Unit Notice of Redemption:

(1) A written affidavit, dated the same date as the Common Unit Notice of Redemption, (a) disclosing the actual and constructive ownership, as determined for purposes of Code Sections 856(a)(6) and 856(h), of Shares by (i) such Tendering Party and (ii) to the best of their knowledge any Related Party and (b) representing that, after giving effect to the Redemption or an acquisition of the Tendered Common Units by MIC pursuant to Section 15.1.B hereof, neither the Tendering Party nor to the best of their knowledge any Related Party will own Shares in violation of the Ownership Limit;

(2) A written representation that neither the Tendering Party nor to the best of their knowledge any Related Party has any intention to acquire any additional Shares prior to the closing of the Redemption or an acquisition of the Tendered Common Units by MIC pursuant to Section 15.1.B hereof on the Specified Redemption Date; and

(3) An undertaking to certify, at and as a condition to the closing of (i) the Redemption or (ii) the acquisition of the Tendered Common Units by MIC pursuant to Section 15.1.B hereof on the Specified Redemption Date, that either (a) the actual and constructive ownership of Shares by the Tendering Party and to the best of their knowledge any Related Party remain unchanged from that disclosed in the affidavit required by Section 15.1.G(1) or (b) after giving effect to the Redemption or an acquisition of the Tendered Common Units by MIC pursuant to Section 15.1.B hereof, neither the Tendering Party nor to the best of their knowledge any Related Party shall own Shares in violation of the Ownership Limit.

(4) In connection with any Special Redemption, MIC shall have the right to receive an opinion of counsel reasonably satisfactory to it to the effect that the proposed Special Redemption will not cause the Company or MIC to violate any federal or state securities laws or regulations applicable to the Special Redemption, the issuance and sale of the Tendered Common Units to the Tendering Party or the issuance and sale of Shares to the Tendering Party pursuant to Section 15.1.B of this Agreement.

H. Holders of LTIP Units and Performance Units and holders of Class A Units shall not be entitled to the right of Redemption provided for in Section 15.1 of this Agreement, unless and until such LTIP Units, Performance Units or Class A Units, as applicable, have been converted into or exercised for, as applicable, Common Units (or any other class or series of Common Units entitled to such right of Redemption) in accordance with their terms.

Section 15.2 Addresses and Notice. Any notice, demand, request or report required or permitted to be given or made to a Member or Assignee under this Agreement shall be in writing and shall be deemed given or made when delivered in person or when sent by first class United States mail or by other means of written or electronic communication (including by telecopy, facsimile, electronic mail or commercial courier service) to the Member or Assignee at the address set forth in the Register or such other address of which the Member shall notify the Company in accordance with this Section 15.2.

Section 15.3 Titles and Captions. All article or section titles or captions in this Agreement are for convenience only. They shall not be deemed part of this Agreement and in no way define, limit, extend or describe the scope or intent of any provisions hereof. Except as specifically provided otherwise, references to "Articles" or "Sections" are to Articles and Sections of this Agreement.

Section 15.4 Pronouns and Plurals. Whenever the context may require, any pronouns used in this Agreement shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns, pronouns and verbs shall include the plural and vice versa.

Section 15.5 Further Action. The parties shall execute and deliver all documents, provide all information and take or refrain from taking action as may be necessary or appropriate to achieve the purposes of this Agreement.

Section 15.6 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their heirs, executors, administrators, successors, legal representatives and permitted assigns.

Section 15.7 Waiver.

A. No failure or delay by any party to insist upon the strict performance of any covenant, duty, agreement or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof shall constitute waiver of any such breach or any other covenant, duty, agreement or condition.

B. The restrictions, conditions and other limitations on the rights and benefits of the Members contained in this Agreement, and the duties, covenants and other requirements of performance or notice by the Members, are for the benefit of the Company and, except for an obligation to pay money to the Company, may be waived or relinquished by the Board, in its sole and absolute discretion, on behalf of the Company in one or more instances from time to time and at any time; *provided*, *however*, that any such waiver or relinquishment may not be made if it would have the effect of (i) creating liability for any Member, (ii) causing the Company to cease to qualify as a limited liability company, (iii) reducing the amount of cash otherwise distributable to the Members (other than any such reduction that affects all of the Members holding the same

class or series of Units on a uniform or pro rata basis, if approved by a Majority in Interest of the Members holding such class or series of Units), (iv) resulting in the classification of the Company as an association or publicly traded partnership taxable as a corporation or (v) violating the Securities Act, the Exchange Act or any state "blue sky" or other securities laws; and *provided, further*, that any waiver relating to compliance with the Ownership Limit or other restrictions in the Charter shall be made and shall be effective only as provided in the Charter.

Section 15.8 Counterparts. This Agreement may be executed in counterparts, all of which together shall constitute one agreement binding on all the parties hereto, notwithstanding that all such parties are not signatories to the original or the same counterpart. Each party shall become bound by this Agreement immediately upon affixing its signature hereto.

Section 15.9 Applicable Law; Consent to Jurisdiction; Waiver of Jury Trial.

A. This Agreement shall be construed and enforced in accordance with and governed by the laws of the State of Delaware, without regard to the principles of conflicts of law. In the event of a conflict between any provision of this Agreement and any non-mandatory provision of the Act, the provisions of this Agreement shall control and take precedence.

B. Each Member hereby (i) submits to the non-exclusive jurisdiction of any state or federal court sitting in the State of Delaware (collectively, the "***Delaware Courts***"), with respect to any dispute arising out of this Agreement or any transaction contemplated hereby to the extent such courts would have subject matter jurisdiction with respect to such dispute, (ii) irrevocably waives, and agrees not to assert by way of motion, defense, or otherwise, in any such action, any claim that it is not subject personally to the jurisdiction of any of the Delaware Courts, that its property is exempt or immune from attachment or execution, that the action is brought in an inconvenient forum, or that the venue of the action is improper, (iii) agrees that notice or the service of process in any action, suit or proceeding arising out of or relating to this Agreement or the transactions contemplated hereby shall be properly served or delivered if delivered to such Member at such Member's last known address as set forth in the Company's books and records, and (iv) irrevocably waives any and all right to trial by jury in any legal proceeding arising out of or related to this Agreement or the transactions contemplated hereby.

Section 15.10 Entire Agreement. This Agreement contains all of the understandings and agreements between and among the Members with respect to the subject matter of this Agreement and the rights, interests and obligations of the Members with respect to the Company. Notwithstanding the immediately preceding sentence, the Members hereby acknowledge and agree that the Company, without the approval of any Member, may enter into side letters or similar written agreements with Members, executed contemporaneously with the admission of such Member to the Company, affecting the terms hereof, as negotiated with such Member and which the Board in its sole discretion deems necessary, desirable or appropriate. The parties hereto agree that any terms, conditions or provisions contained in such side letters or similar written agreements with a Member shall govern with respect to such Member notwithstanding the provisions of this Agreement.

Section 15.11 Invalidity of Provisions. If any provision of this Agreement is or becomes invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not be affected thereby.

Section 15.12 Limitation to Preserve REIT Status. Notwithstanding anything else in this Agreement and if MIC qualifies as a REIT or intends to qualify as a REIT, to the extent that the amount to be paid, credited, distributed or reimbursed by the Company to any REIT Member or its officers, trustees, employees or agents, whether as a reimbursement, fee, expense or indemnity (a "***REIT Payment***"), would constitute gross income to the REIT Member for purposes of Code Section 856(c)(2) or Code Section 856(c)(3), then, notwithstanding any other provision of this Agreement, the amount of such REIT Payments, as selected by the Board in its discretion from among items of potential distribution, reimbursement, fees, expenses and indemnities, shall be reduced for any Fiscal Year so that the REIT Payments, as so reduced, for or with respect to such REIT Member shall not exceed the lesser of:

A. an amount equal to the excess, if any, of (a) four and nine-tenths percent (4.9%) of the REIT Member's total gross income (but excluding the amount of any REIT Payments and any amounts excluded from gross income pursuant to Code Section 856(c)) for the Fiscal Year that is described in subsections (A) through (I) of Code Section 856(c)(2) over (b) the amount of gross income (within the meaning of Code Section 856(c)(2)) derived by the REIT Member from sources other than those described in subsections (A) through (I) of Code Section 856(c)(2) (but not including the amount of any REIT Payments and any amounts excluded from gross income pursuant to Code Section 856(c)); or

B. an amount equal to the excess, if any, of (a) twenty-four percent (24%) of the REIT Member's total gross income (but excluding the amount of any REIT Payments and any amounts excluded from gross income pursuant to Code Section 856(c)) for the Fiscal Year that is described in subsections (A) through (I) of Code Section 856(c)(3) over (b) the amount of gross income (within the meaning of Code Section 856(c)(3)) derived by the REIT Member from sources other than those described in subsections (A) through (I) of Code Section 856(c)(3) (but not including the amount of any REIT Payments and any amounts excluded from gross income pursuant to Code Section 856(c)); *provided*, *however*, that REIT Payments in excess of the amounts set forth in clauses (a) and (b) above may be made if MIC, as a condition precedent, obtains an opinion of tax counsel that the receipt of such excess amounts should not adversely affect the REIT Member's ability to qualify as a REIT. To the extent that REIT Payments may not be made in a Fiscal Year as a consequence of the limitations set forth in this Section 15.12, such REIT Payments shall carry over and shall be treated as arising in the following Fiscal Year if such carry over does not adversely affect the REIT Member's ability to qualify as a REIT, *provided*, *however*, that any such REIT Payment shall not be carried over more than three Fiscal Years, and any such remaining payments shall no longer be due and payable. The purpose of the limitations contained in this Section 15.12 is to prevent any REIT Member from failing to qualify as a REIT under the Code by reason of such REIT Member's share of items, including distributions, reimbursements, fees, expenses or indemnities, receivable directly or indirectly from the Company, and this Section 15.12 shall be interpreted and applied to effectuate such purpose.

Section 15.13 No Partition. No Member nor any successor-in-interest to a Member shall have the right while this Agreement remains in effect to have any property of the Company partitioned, or to file a complaint or institute any proceeding at law or in equity to have such property of the Company partitioned, and each Member, on behalf of itself and its successors and assigns hereby waives any such right. It is the intention of the Members that the rights of the parties hereto and their successors-in-interest to Company property, as among themselves, shall be governed by the terms of this Agreement, and that the rights of the Members and their respective successors-in-interest shall be subject to the limitations and restrictions as set forth in this Agreement.

Section 15.14 No Third-Party Rights Created Hereby. The provisions of this Agreement are solely for the purpose of defining the interests of the Holders, *inter se*; and no other person, firm or entity (*i.e.*, a party who is not a signatory hereto or a permitted successor to such signatory hereto including, without limitation, a creditor of the Company or any Member or other third party having dealings with the Company) shall have any right, power, title or interest by way of subrogation or otherwise, in and to the rights, powers, title and provisions of this Agreement. No creditor or other third party having dealings with the Company (other than as expressly provided herein with respect to Indemnitees) shall have the right to enforce the right or obligation of any Member to make Capital Contributions or loans to the Company or to pursue any other right or remedy hereunder or at law or in equity. None of the rights or obligations of the Members herein set forth to make Capital Contributions or loans to the Company shall be deemed an asset of the Company for any purpose by any creditor or other third party, nor may any such rights or obligations be sold, transferred or assigned by the Company or pledged or encumbered by the Company to secure any debt or other obligation of the Company or any of the Members.

Section 15.15 No Rights as Stockholders. Nothing contained in this Agreement shall be construed as conferring upon the Holders of Units any rights whatsoever as stockholders of MIC, including without limitation any right to receive dividends or other distributions made to stockholders of MIC or to vote or to consent or receive notice as stockholders in respect of any meeting of stockholders for the election of directors of MIC or any other matter.

Article 16
SERIES A CONVERTIBLE REDEEMABLE PREFERRED UNITS

Section 16.1 Designation.

A series of Units in the Company designated as the "Series A Convertible Redeemable Preferred Units" (the "***Series A Preferred Units***") is hereby established. The number of Series A Preferred Units shall be 2,862.

Section 16.2 Distributions.

A. *Payment of Distributions.* MIC, as holder of the Series A Preferred Units, will be entitled to receive, when, as and if authorized by the Board, out of Available Cash, cumulative cash distributions per Series A Preferred Unit in an amount equal to the Series A Priority Return accrued thereon, at the applicable rate, in accordance with this Section 16.2. Such distributions shall accrue and be cumulative from and including April 1, 2020 (the "***Series A Preferred Unit Initial Accrual Date***") and will be payable at the then applicable rate (each a "***Series A Preferred Unit Distribution Payment Date***") (i) for the period from the Series A Preferred Unit Initial

Accrual Date to June 30, 2021, on or about July 12, 2021, (ii) except as provided in clause (iii), for each monthly distribution period thereafter, monthly in equal amounts in arrears on or about the 12th calendar day of each calendar month, commencing on or about August 12, 2021, and (iii) to the extent that any Series A Preferred Unit is redeemed pursuant to Section 4.7.B after a Series A Distribution Record Date with respect to any distribution and before the payment date (determined in accordance with clause (i) or (ii)) of such distribution, in the event of a redemption of any Series A Preferred Unit, on the redemption date of such Unit; *provided*, *however*, if any Series A Preferred Unit Distribution Payment Date is not a Business Day, then the distribution which would otherwise be payable on such date shall be paid on the next succeeding Business Day with the same force and effect as if paid on such Series A Preferred Unit Distribution Payment Date, and no interest or other sum shall accrue on the amount so payable from such Series A Preferred Unit Distribution Payment Date to such next succeeding Business Day. Distributions will be payable on Series A Preferred Units outstanding at the close of business on the applicable Series A Distribution Record Date. Each distribution is payable to holders of record of outstanding Series A Preferred Units as of the applicable Series A Distribution Record Date or date of redemption of such Series A Preferred Unit, as applicable. Notwithstanding any provision to the contrary contained herein, the distribution payable on each Series A Preferred Unit outstanding on any Series A Distribution Record Date shall be equal to the distribution paid with respect to each other Series A Preferred Unit that is outstanding on such date.

B. *Distributions Cumulative*. Distributions on the Series A Preferred Units will be cumulative from and including the Series A Preferred Unit Initial Accrual Date, or, with respect to the special distribution right referred to in Section 16.2.E below, from, and including, the first date on which the dividend rate payable on the Series A Preferred Shares is increased in accordance with the Series A Preferred Shares Terms. Distributions will accumulate from the Series A Preferred Unit Initial Accrual Date or the most recent Series A Preferred Unit Distribution Payment Date to which accrued distributions have been paid, whether or not the terms and provisions set forth in Section 16.2.D hereof at any time prohibit the current payment of distributions, whether or not the Company has Available Cash or earnings and whether or not such distributions are authorized.

C. *Restrictions on Distributions*. No distributions on the Series A Preferred Units shall be authorized, declared, paid or set apart for payment at such time as the terms and provisions of any agreement of MIC, including any agreement relating to its indebtedness, prohibits the authorization, declaration, payment or setting apart for payment of dividends on the Series A Preferred Shares or provides that such authorization, declaration, payment or setting apart for payment would constitute a breach thereof, or a default thereunder, or if such declaration or payment shall be restricted or prohibited by law.

D. Priority as to Distributions.

(1) When dividends are not paid in full upon the Series A Preferred Units or any other class or series of Parity Preferred Units, or a sum sufficient for such payment is not set apart, all distributions declared upon the Series A Preferred Units and any Parity Preferred Units shall be declared ratably in proportion to the respective amounts of distributions accumulated, accrued and unpaid on the Series A Preferred Units and accumulated, accrued and unpaid on such Parity Preferred Units (which shall not include any accumulation in respect of unpaid distributions for prior distribution periods if such Parity Preferred Units do not have a cumulative distributions).

(2) Except as set forth in Section 16.2.D(1), unless full cumulative distributions equal to the full amount of all accumulated, accrued and unpaid distributions on the Series A Preferred Units have been, or are concurrently therewith, declared and paid, or declared and set apart for payment, for all past distribution periods, no distributions (other than distributions paid in Units Junior to the Series A Preferred Units or options, warrants or rights to subscribe for or purchase Units Junior to the Series A Preferred Units) shall be declared and paid or declared and set apart for payment by the Company and no other distribution of cash or other property may be declared and made, directly or indirectly, by the Company with respect to any Units Junior to the Series A Preferred Units or Parity Preferred Units, nor shall any Units Junior to the Series A Preferred Units or Parity Preferred Units be redeemed, purchased or otherwise acquired (other than a redemption, purchase or other acquisition of Common Units made in connection with a redemption, purchase or other acquisition by MIC of Shares in connection with an equity incentive or benefit plan of MIC) for any consideration (or any monies be paid to or made available for a sinking fund for the redemption of any shares of any such stock), directly or indirectly, by the Company (except by conversion into or exchange for Units Junior to the Series A Preferred Units, or options, warrants or rights to subscribe for or purchase any Units Junior to the Series A Preferred Units), nor shall any other cash or other property be paid or distributed to or for the benefit of holders of any Units Junior to the Series A Preferred Units or Parity Preferred Units.

E. *Special Distribution Rate; Distribution Stopper.* If, at any time, and for such period of time as, the dividend rate payable on the Series A Preferred Shares is increased in accordance with the Series A Preferred Shares Terms, the Series A Priority Return shall be increased to 7.50% per annum on the stated value of $1,000.00 per Series A Preferred Unit (equivalent to the fixed annual amount of $75.00 per Series A Preferred Unit). If, at any time, and for such period of time as, the current payment of dividends on the Series A Preferred Shares is suspended and such suspended amounts are accumulating, in accordance with the Series A Preferred Shares Terms, then a commensurate suspension of distributions and accumulation shall occur on the Series A Preferred Units.

F. *No Further Rights.* Notwithstanding anything in this Section 16.2, after full cumulative distributions on the outstanding Series A Preferred Units have been paid with respect to a distribution period, MIC, as holder of the Series A Preferred Units, will not be entitled to any further distributions with respect to that distribution period. Any distribution payment made on the Series A Preferred Units shall first be credited against the earliest accrued but unpaid distribution due with respect to such Series A Preferred Units which remains payable.

Section 16.3 Liquidation Preference.

A. *Distributions*. Upon any liquidation, dissolution or winding up of the affairs of the Company, voluntary or involuntary, distributions on the Series A Preferred Units shall be made in accordance with Article 13 hereof.

B. *No Further Rights.* After payment of the full amount of the liquidating distributions to which they are entitled, MIC, as holder of the Series A Preferred Units, will have no right or claim to any of the remaining assets of the Company.

C. *Consolidation, Merger or Certain Other Transactions.* The consolidation or merger of the Company with one or more entities or a sale or transfer of all or substantially all of the Company's assets shall not be deemed to be a liquidation, dissolution or winding up, voluntary or involuntary, of the Company.

Section 16.4 Rank.

The Series A Preferred Units shall, with respect to distribution rights and rights upon voluntary or involuntary liquidation, dissolution or winding up of the Company, rank (i) senior to the Common Units and to all other Units, now or hereafter issued and outstanding, the terms of which provide that such Units rank, as to distribution rights and upon liquidation, dissolution or winding up, junior to the Series A Preferred Units; (ii) on a parity with the Series 1 Preferred units and all other Parity Preferred Units; and (iii) junior to any class or series of Units the terms of which specifically provide that such Units shall rank senior to the Series A Preferred Units.

Section 16.5 Voting Rights.

MIC shall not have any voting or consent rights in respect of its interest represented by the Series A Preferred Units.

Section 16.6 Transfer Restrictions.

The Series A Preferred Units shall not be transferable except upon the redemption thereof in accordance with Section 4.7.B or to a successor Member in accordance with Section 11.2.

Section 16.7 Conversion Rights.

The Series A Preferred Units shall not be convertible into any other class or series of Interest or any other property of the Company other than in the event that the Series A Preferred Shares are converted into Shares in accordance with the Series A Preferred Shares Terms, in which case, on the Conversion Date (as defined in the Series A Preferred Shares Terms), each Series A Preferred Unit shall automatically convert into a number of Common Units equal to the number of Shares issued upon conversion of each Series A Preferred Share so converted. If MIC relies upon the Series A Preferred Shares Terms to avoid the issuance of any fractional Shares in connection with a conversion of Series A Preferred Shares into Shares, the Company may take any consistent action with respect to the corresponding conversion of Series A Preferred Units to Common Units.

Section 16.8 No Sinking Fund.

No sinking fund shall be established for the retirement or redemption of Series A Preferred Units.

Article 17
SERIES 1 CONVERTIBLE REDEEMABLE PREFERRED UNITS

Section 17.1 Designation.

A series of Units in the Company designated as the "Series 1 Convertible Redeemable Preferred Units" (the "***Series 1 Preferred Units***") is hereby established. The number of Series 1 Preferred Units shall be 39,811.

Section 17.2 Distributions.

A. *Payment of Distributions.* MIC, as holder of the Series 1 Preferred Units, will be entitled to receive, when, as and if authorized by the Board out of Available Cash, cumulative cash distributions per Series 1 Preferred Unit in an amount equal to the Series 1 Priority Return accrued thereon, at the applicable rate, in accordance with this Section 17.2. Such distributions shall accrue and be cumulative from and including April 1, 2020 (the "***Series 1 Preferred Unit Initial Accrual Date***") and will be payable at the then applicable rate (each a "***Series 1 Preferred Unit Distribution Payment Date***") (i) for the period from the Series 1 Preferred Unit Initial Accrual Date to June 30, 2021, on or about July 12, 2021, (ii) except as provided in clause (iii), for each monthly distribution period thereafter, monthly in equal amounts in arrears on or about the 12th calendar day of each calendar month, commencing on or about August 12, 2021, and (iii) to the extent that any Series 1 Preferred Unit is redeemed pursuant to Section 4.7.B after a Series 1 Distribution Record Date with respect to any distribution and before the payment date (determined in accordance with clause (i) or (ii)) of such distribution, in the event of a redemption of any Series 1 Preferred Unit, on the redemption date of such Unit; *provided*, *however*, if any Series 1 Preferred Unit Distribution Payment Date is not a Business Day, then the distribution which would otherwise be payable on such date shall be paid on the next succeeding Business Day with the same force and effect as if paid on such Series 1 Preferred Unit Distribution Payment Date, and no interest or other sum shall accrue on the amount so payable from such Series 1 Preferred Unit Distribution Payment Date to such next succeeding Business Day. Distributions will be payable on Series 1 Preferred Units outstanding at the close of business on the applicable Series 1 Distribution Record Date. Each distribution is payable to holders of record of outstanding Series 1 Preferred Units as of the applicable Series 1 Distribution Record Date or date of redemption of such Series 1 Preferred Unit, as applicable. Notwithstanding any provision to the contrary contained herein, the distribution payable on each Series 1 Preferred Unit outstanding on any Series 1 Distribution Record Date shall be equal to the distribution paid with respect to each other Series 1 Preferred Unit that is outstanding on such date.

B. *Distributions Cumulative*. Distributions on the Series 1 Preferred Units will be cumulative from and including the Series 1 Preferred Unit Initial Accrual Date, or, with respect to the special distribution right referred to in Section 17.2.E below, from, and including, the first date on which the dividend rate payable on the Series 1 Preferred Shares is increased in accordance with the Series 1 Preferred Shares Terms. Distributions will accumulate from the Series 1 Preferred Unit Initial Accrual Date or the most recent Series 1 Preferred Unit Distribution Payment Date to which accrued distributions have been paid, whether or not the terms and provisions set forth in Section 17.2.D hereof at any time prohibit the current payment of distributions, whether or not the Company has Available Cash or earnings and whether or not such distributions are authorized.

C. *Restrictions on Distributions*. No distributions on the Series 1 Preferred Units shall be authorized, declared, paid or set apart for payment at such time as the terms and provisions of any agreement of MIC, including any agreement relating to its indebtedness, prohibits the authorization, declaration, payment or setting apart for payment of dividends on the Series 1 Preferred Shares or provides that such authorization, declaration, payment or setting apart for payment would constitute a breach thereof, or a default thereunder, or if such declaration or payment shall be restricted or prohibited by law.

D. Priority as to Distributions.

(1) When dividends are not paid in full upon the Series 1 Preferred Units or any other class or series of Parity Preferred Units, or a sum sufficient for such payment is not set apart, all distributions declared upon the Series 1 Preferred Units and any Parity Preferred Units shall be declared ratably in proportion to the respective amounts of distributions accumulated, accrued and unpaid on the Series 1 Preferred Units and accumulated, accrued and unpaid on such Parity Preferred Units (which shall not include any accumulation in respect of unpaid distributions for prior distribution periods if such Parity Preferred Units do not have a cumulative distributions).

(2) Except as set forth in Section 17.2.D(1), unless full cumulative distributions equal to the full amount of all accumulated, accrued and unpaid distributions on the Series 1 Preferred Units have been, or are concurrently therewith, declared and paid, or declared and set apart for payment, for all past distribution periods, no distributions (other than distributions paid in Units Junior to the Series 1 Preferred Units or options, warrants or rights to subscribe for or purchase Units Junior to the Series 1 Preferred Units) shall be declared and paid or declared and set apart for payment by the Company and no other distribution of cash or other property may be declared and made, directly or indirectly, by the Company with respect to any Units Junior to the Series 1 Preferred Units or Parity Preferred Units, nor shall any Units Junior to the Series 1 Preferred Units or Parity Preferred Units be redeemed, purchased or otherwise acquired (other than a redemption, purchase or other acquisition of Common Units made in connection with a redemption, purchase or other acquisition by MIC of Shares in connection with an equity incentive or benefit plan of MIC) for any consideration (or any monies be paid to or made available for a sinking fund for the redemption of any shares of any such stock), directly or indirectly, by the Company (except by conversion into or exchange for Units Junior to the Series 1 Preferred Units, or options, warrants or rights to subscribe for or purchase any Units Junior to the Series 1 Preferred Units), nor shall any other cash or other property be paid or distributed to or for the benefit of holders of any Units Junior to the Series 1 Preferred Units or Parity Preferred Units.

E. *Special Distribution Rate; Distribution Stopper.* If, at any time, and for such period of time as, the dividend rate payable on the Series 1 Preferred Shares is increased in accordance with the Series 1 Preferred Shares Terms, the Series 1 Priority Return shall be increased to 7.00% per annum on the stated value of $1,000.00 per Series 1 Preferred Unit (equivalent to the fixed annual amount of $70.00 per Series 1 Preferred Unit). If, at any time, and for such period of time as, the current payment of dividends on the Series 1 Preferred Shares is suspended and such suspended amounts are accumulating, in accordance with the Series 1 Preferred Shares Terms, then a commensurate suspension of distributions and accumulation shall occur on the Series 1 Preferred Units.

F. *No Further Rights.* Notwithstanding anything in this Section 17.2, after full cumulative distributions on the outstanding Series 1 Preferred Units have been paid with respect to a distribution period, MIC, as holder of the Series 1 Preferred Units, will not be entitled to any further distributions with respect to that distribution period. Any distribution payment made on the Series 1 Preferred Units shall first be credited against the earliest accrued but unpaid distribution due with respect to such Series 1 Preferred Units which remains payable.

Section 17.3 Liquidation Preference.

A. *Distributions*. Upon any liquidation, dissolution or winding up of the affairs of the Company, voluntary or involuntary, distributions on the Series 1 Preferred Units shall be made in accordance with Article 13 hereof.

B. *No Further Rights.* After payment of the full amount of the liquidating distributions to which they are entitled, MIC, as holder of the Series 1 Preferred Units, will have no right or claim to any of the remaining assets of the Company.

C. *Consolidation, Merger or Certain Other Transactions.* The consolidation or merger of the Company with one or more entities or a sale or transfer of all or substantially all of the Company's assets shall not be deemed to be a liquidation, dissolution or winding up, voluntary or involuntary, of the Company.

Section 17.4 Rank.

The Series 1 Preferred Units shall, with respect to distribution rights and rights upon voluntary or involuntary liquidation, dissolution or winding up of the Company, rank (i) senior to the Common Units and to all other Units, now or hereafter issued and outstanding, the terms of which provide that such Units rank, as to distribution rights and upon liquidation, dissolution or winding up, junior to the Series 1 Preferred Units; (ii) on a parity with the Series A Preferred Units and all other Parity Preferred Units; and (iii) junior to any class or series of Units the terms of which specifically provide that such Units shall rank senior to the Series 1 Preferred Units.

Section 17.5 Voting Rights.

MIC shall not have any voting or consent rights in respect of its interest represented by the Series 1 Preferred Units.

Section 17.6 Transfer Restrictions.

The Series 1 Preferred Units shall not be transferable except upon the redemption thereof in accordance with Section 4.7.B or to a successor Member in accordance with Section 11.2.

Section 17.7 Conversion Rights.

The Series 1 Preferred Units shall not be convertible into any other class or series of Interest or any other property of the Company other than in the event that the Series 1 Preferred Shares are converted into Shares in accordance with the Series 1 Preferred Shares Terms, in which case, on the Conversion Date (as defined in the Series 1 Preferred Shares Terms), each Series 1 Preferred Unit shall automatically convert into a number of Common Units equal to the number of Shares issued upon conversion of each Series 1 Preferred Share so converted. If MIC relies upon the Series 1 Preferred Shares Terms to avoid the issuance of any fractional Shares in connection with a conversion of Series 1 Preferred Shares into Shares, the Company may take any consistent action with respect to the corresponding conversion of Series 1 Preferred Units to Common Units.

Section 17.8 No Sinking Fund.

No sinking fund shall be established for the retirement or redemption of Series 1 Preferred Units.

Article 18
SERIES 2 CONVERTIBLE PREFERRED UNITS

Section 18.1 Designation.

A series of Units in the Company designated as the "Series 2 Convertible Preferred Units" (the "***Series 2 Preferred Units***") is hereby established. The number of Series 2 Preferred Units shall be 60,000.

Section 18.2 Distributions.

A. *Payment of Distributions.* MIC, as holder of the Series 2 Preferred Units, will be entitled to receive, when, as and if authorized by the Board, distributions payable in kind in additional Series 2 Preferred Units at a cumulative annual rate of 10.0% of the $1,000.00 per unit liquidation preference of the Series 2 Preferred Units for the period beginning from, and including, the original date of issuance of such Series 2 Preferred Unit and ending on the Series 2 Preferred Unit Distribution Payment Date; provided that if the Series 2 Preferred Unit Distribution Payment Date occurs prior to the first anniversary of the original date of issuance of such Series 2 Preferred Unit, such Series 2 Preferred Unit shall receive distributions at a cumulative annual rate of 10.0% of the $1,000.00 per unit liquidation preference for a period of one year, which shall be paid in full on the Series 2 Preferred Unit Distribution Payment Date. Distributions shall be payable in kind only on a single payment date and shall not be payable in cash. Distributions shall be payable on the date (and immediately preceding the time) that the Series 2 Preferred Units convert into Common Units in accordance with Section 18.7 (the "Series 2 Preferred Unit Distribution Payment Date"); provided, that if the Series 2 Preferred Unit Distribution Payment Date is not a Business Day, then the distribution which would otherwise have been payable on such Series 2 Preferred Unit Distribution Payment Date may be paid on the preceding or succeeding Business Day with the same force and effect as if paid on such Series 2 Preferred Unit Distribution Payment Date and no interest, additional distributions or other sums shall accrue thereon. Distributions will be payable on Series 2 Preferred Units outstanding at the close of business on the Series 2 Distribution Record Date. Notwithstanding any provision to the contrary contained herein, the distribution payable on each Series 2 Preferred Unit outstanding on the Series 2 Distribution Record Date shall be equal to the distribution paid with respect to each other Series 2 Preferred Unit that is outstanding on such date.

B. *Amount of Distributions.* The number of Series 2 Preferred Units to be issued in payment of such distribution in kind with respect to each outstanding Series 2 Preferred Unit shall be determined by dividing (1) the amount of such distribution per unit by (2) the $1,000.00 liquidation preference per Series 2 Preferred Unit.

C. *Restrictions on Distributions*. No distributions on the Series 2 Preferred Units shall be authorized, declared, paid or set apart for payment if such declaration, payment or setting apart for payment shall be restricted or prohibited by law.

D. *No Further Rights.* Notwithstanding anything in this Section 18.2, after full cumulative distributions on the outstanding Series 2 Preferred Units have been paid with respect to a distribution period, MIC, as holder of the Series 2 Preferred Units, will not be entitled to any further distributions with respect to that distribution period.

Section 18.3 Liquidation Preference.

A. *Distributions*. Upon any liquidation, dissolution or winding up of the affairs of the Company, voluntary or involuntary, distributions on the Series 2 Preferred Units shall be made in accordance with Article 13 hereof.

B. *No Further Rights.* After payment of the full amount of the liquidating distributions to which they are entitled, MIC, solely in its capacity as holder of the Series 2 Preferred Units, will have no right or claim to any of the remaining assets of the Company.

C. *Consolidation, Merger or Certain Other Transactions.* None of a consolidation or merger of the Company with or into another entity, a merger of another entity with or into the Company, a statutory share exchange by the Company or a sale, lease or conveyance of all or substantially all of the Company's property or business shall be considered a liquidation, dissolution or winding up of the Company.

Section 18.4 Rank.

The Series 2 Preferred Units shall, with respect to distribution rights and rights upon voluntary or involuntary liquidation, dissolution or winding up of the Company, rank (i) senior to the Series 1 Preferred Units, the Series A Preferred Units, the Common Units and to all other Units, now or hereafter issued and outstanding, the terms of which provide that such Units rank, as to distribution rights and upon liquidation, dissolution or winding up, junior to the Series 2 Preferred Units; (ii) on a parity with any class or series of Units the terms of which specifically provide that such Units shall rank on parity with the Series 2 Preferred Units; and (iii) junior to any class or series of Units the terms of which specifically provide that such Units shall rank senior to the Series 2 Preferred Units.

Section 18.5 Voting Rights.

MIC shall not have any voting or consent rights in respect of its interest represented by the Series 2 Preferred Units.

Section 18.6 Transfer Restrictions.

The Series 2 Preferred Units shall not be transferable except upon the redemption thereof in accordance with Section 4.7.B or to a successor Member in accordance with Section 11.2.

Section 18.7 Mandatory Conversion.

In the event that the Series 2 Preferred Shares are converted into Shares in accordance with the Series 2 Preferred Shares Terms, the outstanding Series 2 Preferred Units shall automatically convert into a number of Common Units equal to the number of Shares issued upon conversion of each Series 2 Preferred Share so converted. If MIC relies upon the Series 2 Preferred Shares Terms to avoid the issuance of any fractional Shares in connection with a conversion of Series 2 Preferred Shares into Shares, the Company may take any consistent action with respect to the corresponding conversion of Series 2 Preferred Units to Common Units.

Section 18.8 No Sinking Fund.

No sinking fund shall be established for the retirement or redemption of Series 2 Preferred Units.

Section 18.9 Allocations.

It is the intent of the parties that the conversion feature of the Series 2 Preferred Units shall constitute a "noncompensatory option" within the meaning of Regulations Section 1.721-2(f). Accordingly, upon conversion, Net Income, Net Loss and other allocations (such as those governed by Article 6 hereof) shall be allocated to holders of Series 2 Preferred Units in accordance with the principles of Regulations Section 1.704-1(b)(2)(iv)(s) as applied by the Board in good faith, and the remainder of the provisions in this Agreement (including without limitation Article 6 hereof) shall be applied by giving due regard to the allocations in this Section 18.9.

Article 19
LTIP UNITS

Section 19.1 Designation.

A class of Units in the Company designated as the "LTIP Units" is hereby established. The number of LTIP Units that may be issued is not limited by this Agreement.

Section 19.2 Vesting.

A. *Vesting, Generally*. LTIP Units may, in the sole discretion of the Board, be issued subject to vesting, forfeiture and additional restrictions on Transfer pursuant to the terms of the applicable LTIP Unit Agreement. The terms of any LTIP Unit Agreement may be modified by the Board from time to time in its sole discretion, subject to any restrictions on amendment imposed by the relevant LTIP Unit Agreement or by the Plans or any other applicable Equity Plan. LTIP Units that were fully vested and nonforfeitable when issued or that have vested and are no longer subject to forfeiture under the terms of an LTIP Unit Agreement are referred to as "***Vested LTIP Units***"; all other LTIP Units are referred to as "***Unvested LTIP Units***."

B. *Forfeiture*. Upon the forfeiture of any LTIP Units in accordance with the applicable LTIP Unit Agreement (including any forfeiture effected through repurchase), the LTIP Units so forfeited (or repurchased) shall immediately, and without any further action, be treated as cancelled and no longer outstanding for any purpose. Unless otherwise specified in the applicable LTIP Unit Agreement, no consideration or other payment shall be due with respect to any LTIP Units that have been forfeited, other than any distributions declared with respect to a Record Date and with respect to such units prior to the effective date of the forfeiture. Except as otherwise provided in this Agreement (including without limitation Section 6.3.A(9)), the Plans (or other applicable Equity Plan) and the applicable LTIP Unit Agreement, in connection with any forfeiture (or repurchase) of such units, the balance of the portion of the Capital Account of the Holder of LTIP Units that is attributable to all of his or her LTIP Units shall be reduced by the amount, if any, by which it exceeds the target balance contemplated by Section 6.2.F, calculated with respect to such Holder's remaining LTIP Units, if any.

Section 19.3 Adjustments. The Company shall maintain at all times a one-to-one correspondence between LTIP Units and Common Units for conversion, distribution and other purposes, including without limitation complying with the following procedures; *provided*, that the foregoing is not intended to alter any of (a) the special allocations pursuant to Section 6.2.F hereof, (b) differences between distributions to be made with respect to LTIP Units and Common Units pursuant to Section 13.2 and Section 19.4.B hereof in the event that the Capital Accounts attributable to the LTIP Units are less than those attributable to Common Units due to insufficient special allocation pursuant to Section 6.2.F or (c) any related provisions. If an Adjustment Event occurs, then the Board shall take any action reasonably necessary, including any amendment to this Agreement or any LTIP Unit Agreement and/or any update to the Register, adjusting the number of outstanding LTIP Units or subdividing or combining outstanding LTIP Units, in any case, to maintain a one-for-one conversion and economic equivalence ratio between Common Units and LTIP Units. The following shall be "***Adjustment Events***": (i) the Company makes a distribution on all outstanding Common Units in Units, (ii) the Company subdivides the outstanding Common Units into a greater number of units or combines the outstanding Common Units into a smaller number of units, (iii) the Company issues any Units in exchange for its outstanding Common Units by way of a reclassification or recapitalization of its Common Units or (iv) any other non-recurring event or transaction that would, as determined by the Board in its sole discretion, have the similar effect of unjustly diluting or expanding the rights conferred by outstanding LTIP Units or Performance Units. If more than one Adjustment Event occurs, any adjustment to the LTIP Units need be made only once using a single formula that takes into account each and every Adjustment Event as if all Adjustment Events occurred simultaneously. For the avoidance of doubt, the following shall not be Adjustment Events: (x) the issuance of Units in a financing, reorganization, acquisition or other similar business transaction, (y) the issuance of Units pursuant to any employee benefit or compensation plan or distribution reinvestment plan, or (z) the issuance of any Units to MIC in respect of a Capital Contribution to the Company of proceeds from the sale of securities by MIC. If the Company takes an action affecting the Common

Units other than actions specifically described above as "Adjustment Events" and in the opinion of the Board such action would require an action to maintain the one-to-one correspondence described above, the Board shall have the right to take such action, to the extent permitted by law, in such manner and at such time as the Board, in its sole discretion, may determine to be reasonably appropriate under the circumstances to preserve the one-to-one correspondence described above. If an amendment is made to this Agreement adjusting the number of outstanding LTIP Units as herein provided, the Company shall promptly file in the books and records of the Company an officer's certificate setting forth a brief statement of the facts requiring such adjustment, which certificate shall be conclusive evidence of the correctness of such adjustment absent manifest error. Promptly after filing of such certificate, the Company shall mail a notice to each Holder of LTIP Units setting forth the adjustment to his or her LTIP Units and the effective date of such adjustment.

Section 19.4 Distributions.

A. *Operating Distributions*. Except as otherwise provided in this Agreement, in any LTIP Unit Agreement or by the Board with respect to any particular class or series of LTIP Units, Holders of LTIP Units shall be entitled to receive, if, when and as authorized by the Board out of funds or other property legally available for the payment of distributions, regular, special, extraordinary or other distributions (other than distributions upon the occurrence of a Liquidating Event or proceeds from a Terminating Capital Transaction) which may be made from time to time, in an amount per unit equal to the amount of any such distributions that would have been payable to such holders if the LTIP Units had been Common Units (if applicable, assuming such LTIP Units were held for the entire period to which such distributions relate).

B. *Liquidating Distributions*. Holders of LTIP Units shall also be entitled to receive, if, when and as authorized by the Board out of funds or other property legally available for the payment of distributions, distributions upon the occurrence of a Liquidating Event or representing proceeds from a Terminating Capital Transaction in an amount per LTIP Unit equal to the amount of any such distributions payable on one Common Unit, whether made prior to, on or after the LTIP Unit Distribution Payment Date, provided that the amount of such distributions shall not exceed the positive balances of the Capital Accounts of the holders of such LTIP Units to the extent attributable to the ownership of such LTIP Units.

C. Distributions Generally. Distributions on the LTIP Units, if authorized, shall be payable on such dates and in such manner as may be authorized by the Board (any such date, an "***LTIP Unit Distribution Payment Date***"). Absent a contrary determination by the Board, the LTIP Unit Distribution Payment Date shall be the same as the corresponding date relating to the corresponding distribution on the Common Units. The record date for determining which Holders of LTIP Units are entitled to receive a distribution shall be the Record Date.

Section 19.5 Allocations. Holders of LTIP Units shall be allocated Net Income and Net Loss in amounts per LTIP Unit equal to the amounts allocated per Common Unit. The allocations provided by the preceding sentence shall be subject to Sections 6.2.B and 6.2.C and in addition to any special allocations required by Section 6.2.F. The Board is authorized in its discretion to delay or accelerate the participation of the LTIP Units in allocations of Net Income and Net Loss under this Section 19.5, or to adjust the allocations made under this Section 19.5, so that the ratio of (a)

the total amount of Net Income or Net Loss allocated with respect to each LTIP Unit in the taxable year in which that LTIP Unit's LTIP Unit Distribution Payment Date falls (excluding special allocations under Section 6.2.F), to (b) the total amount distributed to that LTIP Unit with respect to such period, is more nearly equal to the ratio of (i) the Net Income and Net Loss allocated with respect to MIC's Common Units in such taxable year to (ii) the amounts distributed to MIC with respect to such Common Units and such taxable year.

Section 19.6 Transfers. Subject to the terms and limitations contained in an applicable LTIP Unit Agreement and the Plans (or any other applicable Equity Plan), and except as expressly provided in this Agreement with respect to LTIP Units, a Holder of LTIP Units shall be entitled to transfer his or her LTIP Units to the same extent, and subject to the same restrictions, as Holders of Common Units are entitled to transfer their Common Units pursuant to Article 11.

Section 19.7 Redemption. The Redemption Right provided to Qualifying Parties under Section 15.1 shall not apply with respect to LTIP Units unless and until they are converted to Common Units as provided in Section 19.9 below.

Section 19.8 Legend. Any certificate evidencing an LTIP Unit shall bear an appropriate legend, as determined by the Board, indicating that additional terms, conditions and restrictions on transfer, including without limitation under any LTIP Unit Agreement and the Plans (or any other applicable Equity Plan), apply to the LTIP Unit.

Section 19.9 Conversion to Common Units.

A. A Qualifying Party holding LTIP Units shall have the right (the "***Conversion Right***"), at his or her option, at any time to convert all or a portion of his or her Vested LTIP Units into Common Units, taking into account all adjustments (if any) made pursuant to Section 19.3; *provided, however,* that a Qualifying Party may not exercise the Conversion Right for less than one thousand (1,000) Vested LTIP Units or, if such Qualifying Party holds less than one thousand (1,000) Vested LTIP Units, all of the Vested LTIP Units held by such Qualifying Party, to the extent not subject to the limitation on conversion under Section 19.9.B below. Qualifying Parties shall not have the right to convert Unvested LTIP Units into Common Units until they become Vested LTIP Units; *provided, however,* that in anticipation of any event that will cause his or her Unvested LTIP Units to become Vested LTIP Units (and subject to the timing requirements set forth in Section 19.9.B below), such Qualifying Party may give the Company a Conversion Notice conditioned upon and effective as of the time of vesting and such Conversion Notice, unless subsequently revoked by the Qualifying Party in writing prior to such vesting event, shall be accepted by the Company subject to such condition. In all cases, the conversion of any LTIP Units into Common Units shall be subject to the conditions and procedures set forth in this Section 19.9.

B. A Qualifying Party may convert his or her Vested LTIP Units into an equal number of fully paid and non-assessable Common Units, giving effect to all adjustments (if any) made pursuant to Section 19.3. Notwithstanding the foregoing, in no event may a Qualifying Party convert a number of Vested LTIP Units that exceeds the Capital Account Limitation. In order to exercise his or her Conversion Right, a Qualifying Party shall deliver a notice (a "***Conversion Notice***") in the form attached as Exhibit C to the Company (with a copy to MIC) not less than three (3) nor more than ten (10) days prior to a date (the "***Conversion Date***") specified in such

Conversion Notice; *provided, however,* that if the Company has not given to the Qualifying Party notice of a proposed or upcoming Transaction (as defined below) at least thirty (30) days prior to the effective date of such Transaction, then the Qualifying Party shall have the right to deliver a Conversion Notice until the earlier of (x) the tenth (10^{th}) day after such notice from the Company of a Transaction or (y) the third (3^{rd}) Business Day immediately preceding the effective date of such Transaction. A Conversion Notice shall be provided in the manner provided in Section 15.2. Each Qualifying Party seeking to convert Vested LTIP Units covenants and agrees with the Company that all Vested LTIP Units to be converted pursuant to this Section 19.9 shall be free and clear of all liens. Notwithstanding anything herein to the contrary, if the Initial Holding Period with respect to the Common Units into which the Vested LTIP Units are convertible has elapsed, a Qualifying Party may deliver a Notice of Redemption pursuant to Section 15.1.A relating to such Common Units in advance of the Conversion Date; *provided, however,* that the redemption of such Common Units by the Company shall in no event take place until on or after the Conversion Date. For clarity, it is noted that the objective of this paragraph is to put a Qualifying Party in a position where, if he or she so wishes, the Common Units into which his or her Vested LTIP Units will be converted can be redeemed by the Company pursuant to Section 15.1.A simultaneously with such conversion, with the further consequence that, if MIC elects to assume the Company's redemption obligation with respect to such Units under Section 15.1.B by delivering to such Qualifying Party Shares rather than cash, then such Qualifying Party can have such Shares issued to him or her simultaneously with the conversion of his or her Vested LTIP Units into Common Units. MIC shall cooperate with a Qualifying Party to coordinate the timing of the different events described in the foregoing sentence.

C. The Company, at any time at the election of the Board, may cause any number of Vested LTIP Units to be converted (a "***Forced Conversion***") into an equal number of Common Units, giving effect to all adjustments (if any) made pursuant to Section 19.3; *provided*, *however*, that the Board may not cause a Forced Conversion of any LTIP Units that would not at the time be eligible for conversion at the option of such Qualifying Party pursuant to Section 19.9.B. In order to exercise its right of Forced Conversion, the Company shall deliver a notice (a "***Forced Conversion Notice***") in the form attached hereto as Exhibit D to the applicable Holder of LTIP Units not less than 10 nor more than 60 days prior to the Conversion Date specified in such Forced Conversion Notice. A Forced Conversion Notice shall be provided in the manner provided in Section 15.2.

D. A conversion of Vested LTIP Units for which the Holder thereof has given a Conversion Notice or the Company has given a Forced Conversion Notice shall occur automatically after the close of business on the applicable Conversion Date without any action on the part of such Holder of LTIP Units, other than the surrender of any certificate or certificates evidencing such Vested LTIP Units, as of which time such Holder of LTIP Units shall be credited on the books and records of the Company as of the opening of business on the next day with the number of Common Units into which such LTIP Units were converted. After the conversion of LTIP Units as aforesaid, the Company shall deliver to such Holder of LTIP Units, upon his or her written request, a certificate of the Company certifying the number of Common Units and remaining LTIP Units, if any, held by such person immediately after such conversion. The Assignee of any Member pursuant to Article 11 hereof may exercise the rights of such Member pursuant to this Section 19.9 and such Member shall be bound by the exercise of such rights by the Assignee.

E. For purposes of making future allocations under Section 6.2.F and applying the Capital Account Limitation, the portion of the Economic Capital Account Balance of the applicable Holder of LTIP Units that is treated as attributable to his or her LTIP Units shall be reduced, as of the date of conversion, by the product of the number of LTIP Units converted and the Common Unit Economic Balance.

F. If the Company or MIC shall be a party to any transaction (including without limitation a merger, consolidation, unit exchange, self-tender offer for all or substantially all Common Units or other business combination or reorganization, or sale of all or substantially all of the Company's assets, but excluding any transaction which constitutes an Adjustment Event) in each case as a result of which Common Units shall be exchanged for or converted into the right, or the Holders shall otherwise be entitled, to receive cash, securities or other property or any combination thereof (each of the foregoing being referred to herein as a "***Transaction***"), then the Company shall, immediately prior to the Transaction, exercise its right to cause a Forced Conversion with respect to the maximum number of LTIP Units then eligible for conversion, taking into account any allocations that occur in connection with the Transaction or that would occur in connection with the Transaction if the assets of the Company were sold at the Transaction price or, if applicable, at a value determined by the Board in good faith using the value attributed to the Common Units in the context of the Transaction (in which case the Conversion Date shall be the effective date of the Transaction and the conversion shall occur immediately prior to the effectiveness of the Transaction). In anticipation of such Forced Conversion and the consummation of the Transaction, the Company shall use commercially reasonable efforts to cause each Holder of LTIP Units to be afforded the right to receive in connection with such Transaction in consideration for the Common Units into which his or her LTIP Units will be converted the same kind and amount of cash, securities and other property (or any combination thereof) receivable upon the consummation of such Transaction by a Holder of the same number of Common Units, assuming such Holder is not a Person with which the Company consolidated or into which the Company merged or which merged into the Company or to which such sale or transfer was made, as the case may be (a "***Constituent Person***"), or an affiliate of a Constituent Person. In the event that Holders of Common Units have the opportunity to elect the form or type of consideration to be received upon consummation of the Transaction, prior to such Transaction the Company shall give prompt written notice to each Holder of LTIP Units of such opportunity, and shall use commercially reasonable efforts to afford the Holder of LTIP Units the right to elect, by written notice to the Company, the form or type of consideration to be received upon conversion of each LTIP Unit held by such Holder into Common Units in connection with such Transaction. If a Holder of LTIP Units fails to make such an election, such Holder (and any of his or her transferees) shall receive upon conversion of each LTIP Unit held by him or her (or by any of his or her transferees) the same kind and amount of consideration that a Holder of Common Units would receive if such Holder of Common Units failed to make such an election. Subject to the rights of the Company and MIC under any LTIP Unit Agreement and the relevant terms of the Plan or any other applicable Equity Plan, the Company shall use commercially reasonable effort to cause the terms of any Transaction to be consistent with the provisions of this Section 19.9.F and to enter into an agreement with the successor or purchasing entity, as the case may be, for the benefit of any Holder of LTIP Units whose LTIP Units will not be converted into Common Units in connection with the Transaction that will (i) contain provisions enabling the Qualifying Parties that remain outstanding after such Transaction to convert their LTIP Units into securities as comparable as reasonably possible under the circumstances to the Common Units and (ii) preserve as far as reasonably possible under the circumstances the distribution, special allocation, conversion, and other rights set forth in the Agreement for the benefit of the Holder of LTIP Units.

Section 19.10 Voting. Members holding LTIP Units shall have the same voting rights as Members holding Common Units, with the LTIP Units and Performance Units voting together as a single class with the Common Units and having one vote per LTIP Unit and Holders of LTIP Units shall not be entitled to approve, vote on or consent to any other matter. The foregoing voting provision will not apply if, at or prior to the time when the action with respect to which such vote would otherwise be required will be effected, all outstanding LTIP Units shall have been converted or provision is made for such conversion to occur as of or prior to such time into Common Units.

Section 19.11 Tax Treatment. The LTIP Units and Performance Units are intended to be treated for tax purposes as "profits interests" within the meaning of Rev. Proc. 93-27, 1993-2 C.B. 343, and Rev. Proc. 2001-43, 2001-2 C.B. 191. The receipt and issuance of the LTIP Units and Performance Units are intended to be treated as a non-taxable event for the Company and the Holder of LTIP Units or Performance Units to whom such Units are issued. Each Member authorizes the Board to elect to apply the safe harbor (the "***Section 83 Safe Harbor***") set forth in proposed Regulations Section 1.83-3(1) and proposed IRS Revenue Procedure published in Notice 2005-43 (together, the "***Proposed Section 83 Safe Harbor Regulation***") (under which the fair market value of an Interest that is Transferred in connection with the performance of services is treated as being equal to the liquidation value of the interest), or in similar Regulations or guidance, if such Proposed Section 83 Safe Harbor Regulation or similar Regulations are promulgated as final or temporary Regulations. If the Board determines that the Company should make such election, the Board is hereby authorized to amend this Agreement without the consent of any other Member to provide that (i) the Company is authorized and directed to elect the Section 83 Safe Harbor, (ii) the Company and each of its Members (including any Person to whom an Interest, including an LTIP Unit or Performance Unit, is Transferred in connection with the performance of services) will comply with all requirements of the Section 83 Safe Harbor with respect to all Interests Transferred in connection with the performance of services while such election remains in effect and (iii) the Company and each of its Members will take all actions necessary, including providing the Company with any required information, to permit the Company to comply with the requirements set forth or referred to in the applicable Regulations for such election to be effective until such time (if any) as the Board determines, in its sole discretion, that the Company should terminate such election. The Board is further authorized to amend this Agreement to modify Article 6 to the extent the Board determines in its discretion that such modification is necessary or desirable as a result of the issuance of any applicable law, Regulations, notice or ruling relating to the tax treatment of the transfer of Interests in connection with the performance of services. Notwithstanding anything to the contrary in this Agreement, each Member expressly confirms that it will be legally bound by any such amendment.

Article 20
PERFORMANCE UNITS

Section 20.1 Designation.

A class of Units in the Company designated as the "Performance Units" is hereby established. The number of Performance Units that may be issued is not limited by this Agreement.

Section 20.2 Vesting.

A. *Vesting, Generally*. Performance Units may, in the sole discretion of the Board, be issued subject to vesting, forfeiture and additional restrictions on Transfer pursuant to the terms of the applicable Performance Unit Agreement. The terms of any Performance Unit Agreement may be modified by the Board from time to time in its sole discretion, subject to any restrictions on amendment imposed by the relevant Performance Unit Agreement or by the Plan or any other applicable Equity Plan. Performance Units that were fully vested and nonforfeitable when issued or that have vested and are no longer subject to forfeiture under the terms of a Performance Unit Agreement are referred to as "***Vested Performance Units***"; all other Performance Units are referred to as "***Unvested Performance Units***."

B. *Forfeiture*. Upon the forfeiture of any Performance Units in accordance with the applicable Performance Unit Agreement (including any forfeiture effected through repurchase), the Performance Units so forfeited (or repurchased) shall immediately, and without any further action, be treated as cancelled and no longer outstanding for any purpose. Unless otherwise specified in the applicable Performance Unit Agreement, no consideration or other payment shall be due with respect to any Performance Units that have been forfeited, other than any distributions declared with respect to a Record Date and with respect to such units prior to the effective date of the forfeiture. Except as otherwise provided in this Agreement (including without limitation Section 6.3.A(9)), the Plans (or other applicable Equity Plan) and the applicable Performance Unit Agreement, in connection with any forfeiture (or repurchase) of such units, the balance of the portion of the Capital Account of the Holder of Performance Units that is attributable to all of his or her Performance Units shall be reduced by the amount, if any, by which it exceeds the target balance contemplated by Section 6.2.F, calculated with respect to such Holder's remaining Performance Units, if any.

Section 20.3 Adjustments. The Company shall maintain at all times a one-to-one correspondence between Performance Units and Common Units for conversion, distribution and other purposes, including without limitation complying with the following procedures; *provided*, that the foregoing is not intended to alter any of (a) the special allocations pursuant to Section 6.2.F hereof, (b) differences between distributions to be made with respect to Performance Units and Common Units pursuant to Section 13.2, Section 20.4.A and Section 20.4.B hereof in the event that the Capital Accounts attributable to the Performance Units are less than those attributable to Common Units due to insufficient special allocation pursuant to Section 6.2.F or (c) any related provisions. If an Adjustment Event (as defined in Section 19.3, taking into account events that are not considered Adjustment Events thereunder) occurs, then the Board shall take any action reasonably necessary, including any amendment to this Agreement or any Performance Unit Agreement and/or any update to the Register, adjusting the number of outstanding Performance Units or subdividing or combining outstanding Performance Units, in any case, to maintain a one-for-one conversion and economic equivalence ratio between Common Units and Performance Units. If more than one Adjustment Event occurs, any adjustment to the Performance Units need be made only once using a single formula that takes into account each and every Adjustment Event as if all Adjustment Events occurred simultaneously. If the Company takes an action affecting the Common Units other than actions specifically described in Section 19.3 as Adjustment Events and in the opinion of the Board such action would require an action to maintain the one-to-one correspondence described above, the Board shall have the right to take such action, to the extent

permitted by law, in such manner and at such time as the Board, in its sole discretion, may determine to be reasonably appropriate under the circumstances to preserve the one-to-one correspondence described above. If an amendment is made to this Agreement adjusting the number of outstanding Performance Units as herein provided, the Company shall promptly file in the books and records of the Company an officer's certificate setting forth a brief statement of the facts requiring such adjustment, which certificate shall be conclusive evidence of the correctness of such adjustment absent manifest error. Promptly after filing of such certificate, the Company shall mail a notice to each Holder of Performance Units setting forth the adjustment to his or her Performance Units and the effective date of such adjustment.

Section 20.4 Distributions.

A. *Operating Distributions*. Except as otherwise provided in this Agreement, in any Performance Unit Agreement or by the Board with respect to any particular class or series of Performance Units, Holders of Performance Units shall be entitled to receive, if, when and as authorized by the Board out of funds or other property legally available for the payment of distributions, regular, special, extraordinary or other distributions (other than distributions upon the occurrence of a Liquidating Event or proceeds from a Terminating Capital Transaction) which may be made from time to time, in an amount per Performance Unit equal to (i) in the case of Unvested Performance Units, the product of the distribution made to holders of Common Units per Common Unit multiplied by the Performance Unit Sharing Percentage, and (ii) in the case of a Vested Performance Units, the distribution made to holders of Common Units per Common Unit, in each case, if applicable, assuming such Performance Units were held for the entire period to which such distributions relate.

B. *Liquidating Distributions*. Holders of Performance Units shall also be entitled to receive, if, when and as authorized by the Board out of funds or other property legally available for the payment of distributions, distributions upon the occurrence of a Liquidating Event or representing proceeds from a Terminating Capital Transaction in an amount per Performance Unit equal to the amount of any such distributions payable on one Common Unit, whether made prior to, on or after the Performance Unit Distribution Payment Date, provided that the amount of such distributions shall not exceed the positive balances of the Capital Accounts of the holders of such Performance Units to the extent attributable to the ownership of such Performance Units.

C. *Distributions Generally*. Distributions on the Performance Units, if authorized, shall be payable on such dates and in such manner as may be authorized by the Board (any such date, a "***Performance Unit Distribution Payment Date***"). Absent a contrary determination by the Board, the Performance Unit Distribution Payment Date shall be the same as the corresponding date relating to the corresponding distribution on the Common Units, and the record date for determining which Holders of Performance Units are entitled to receive distributions shall be the Record Date.

Section 20.5 Allocations.

A. Holders of Vested Performance Units shall be allocated Net Income and Net Loss in amounts per Performance Unit equal to the amounts allocated per Common Unit. The allocations provided by the preceding sentence shall be subject to Sections 6.2.B and 6.2.C and in addition to any special allocations required by Section 6.2.F.

B. The holder of such Unvested Performance Units shall be allocated Net Income and Net Loss in amounts per Unvested Performance Unit equal to the amounts allocated per Vested Performance Unit; *provided, however,* that for purposes of allocations of Net Income and Net Loss pursuant to Sections 6.2.B, 6.2.C and 6.3, the term Percentage Interest when used with respect to an Unvested Performance Unit shall be treated as a fraction of one outstanding Common Unit equal to one Common Unit multiplied by the Performance Unit Sharing Percentage.

C. The Board is authorized in its discretion to delay or accelerate the participation of the Performance Units in allocations of Net Income and Net Loss under this Section 20.5, or to adjust the allocations made under this Section 20.5, so that the ratio of (a) the total amount of Net Income or Net Loss allocated with respect to each Performance Unit in the taxable year in which that Performance Unit's Performance Unit Distribution Payment Date falls (excluding special allocations under Section 6.2.F), to (b) the total amount distributed to that Performance Unit with respect to such period, is more nearly equal to the ratio of (i) the Net Income and Net Loss allocated with respect to MIC's Common Units in such taxable year to (ii) the amounts distributed to MIC with respect to such Common Units and such taxable year.

Section 20.6 Transfers. Subject to the terms and limitations contained in an applicable Performance Unit Agreement and the Plans (or any other applicable Equity Plan), and except as expressly provided in this Agreement with respect to Performance Units, a Holder of Performance Units shall be entitled to transfer his or her Performance Units to the same extent, and subject to the same restrictions, as Holders of Common Units are entitled to transfer their Common Units pursuant to Article 11.

Section 20.7 Redemption. The Redemption Right provided to Qualifying Parties under Section 15.1 shall not apply with respect to Performance Units unless and until they are converted to Common Units as provided in Section 20.9 below.

Section 20.8 Legend. Any certificate evidencing a Performance Unit shall bear an appropriate legend, as determined by the Board, indicating that additional terms, conditions and restrictions on transfer, including without limitation under any Performance Unit Agreement and the Plans (or any other applicable Equity Plan), apply to the Performance Unit.

Section 20.9 Conversion to Common Units.

A. A Qualifying Party holding Performance Units shall have the Conversion Right, at his or her option, at any time to convert all or a portion of his or her Vested Performance Units into Common Units, taking into account all adjustments (if any) made pursuant to Section 20.3; *provided, however,* that a Qualifying Party may not exercise the Conversion Right for less than one thousand (1,000) Vested Performance Units or, if such Qualifying Party holds less than one thousand (1,000) Vested Performance Units, all of the Vested Performance Units held by such Qualifying Party, to the extent not subject to the limitation on conversion under Section 20.9.B below. Qualifying Parties shall not have the right to convert Unvested Performance Units into Common Units until they become Vested Performance Units; *provided, however,* that in

anticipation of any event that will cause his or her Unvested Performance Units to become Vested Performance Units (and subject to the timing requirements set forth in Section 20.9.B below), such Qualifying Party may give the Company a Conversion Notice conditioned upon and effective as of the time of vesting and such Conversion Notice, unless subsequently revoked by the Qualifying Party in writing prior to such vesting event, shall be accepted by the Company subject to such condition. In all cases, the conversion of any Performance Units into Common Units shall be subject to the conditions and procedures set forth in this Section 20.9.

B. A Qualifying Party may convert his or her Vested Performance Units into an equal number of fully paid and non-assessable Common Units, giving effect to all adjustments (if any) made pursuant to Section 20.3. Notwithstanding the foregoing, in no event may a Qualifying Party convert a number of Vested Performance Units that exceeds the Capital Account Limitation. In order to exercise his or her Conversion Right, a Qualifying Party shall deliver a Conversion Notice in the form attached as Exhibit C to the Company (with a copy to MIC) not less than three (3) nor more than ten (10) days prior to the Conversion Date specified in such Conversion Notice; *provided*, *however*, that if the Company has not given to the Qualifying Party notice of a proposed or upcoming Transaction (as defined in Section 19.9) at least thirty (30) days prior to the effective date of such Transaction, then the Qualifying Party shall have the right to deliver a Conversion Notice until the earlier of (x) the tenth (10th) day after such notice from the Company of a Transaction or (y) the third (3rd) Business Day immediately preceding the effective date of such Transaction. A Conversion Notice shall be provided in the manner provided in Section 15.2. Each Qualifying Party seeking to convert Vested Performance Units covenants and agrees with the Company that all Vested Performance Units to be converted pursuant to this Section 20.9 shall be free and clear of all liens. Notwithstanding anything herein to the contrary, if the Initial Holding Period with respect to the Common Units into which the Vested Performance Units are convertible has elapsed, a Qualifying Party may deliver a Notice of Redemption pursuant to Section 15.1.A relating to such Common Units in advance of the Conversion Date; *provided, however,* that the redemption of such Common Units by the Company shall in no event take place until on or after the Conversion Date. For clarity, it is noted that the objective of this paragraph is to put a Qualifying Party in a position where, if he or she so wishes, the Common Units into which his or her Vested Performance Units will be converted can be redeemed by the Company pursuant to Section 15.1.A simultaneously with such conversion, with the further consequence that, if MIC elects to assume the Company's redemption obligation with respect to such Common Units under Section 15.1.B by delivering to such Qualifying Party Shares rather than cash, then such Qualifying Party can have such Shares issued to him or her simultaneously with the conversion of his or her Vested Performance Units into Common Units. MIC shall cooperate with a Qualifying Party to coordinate the timing of the different events described in the foregoing sentence.

C. The Company, at any time at the election of the Board, may cause any number of Vested Performance Units to be subject to a Forced Conversion into an equal number of Common Units, giving effect to all adjustments (if any) made pursuant to Section 20.3; *provided, however,* that the Company may not cause a Forced Conversion of any Performance Units that would not at the time be eligible for conversion at the option of such Qualifying Party pursuant to Section 20.9.B. In order to exercise its right of Forced Conversion, the Company shall deliver a Forced Conversion Notice in the form attached hereto as Exhibit D to the applicable Holder of Performance Units not less than ten (10) nor more than sixty (60) days prior to the Conversion Date specified in such Forced Conversion Notice. A Forced Conversion Notice shall be provided in the manner provided in Section 15.2.

D. A conversion of Vested Performance Units for which the Holder thereof has given a Conversion Notice or the Company has given a Forced Conversion Notice shall occur automatically after the close of business on the applicable Conversion Date without any action on the part of such Holder of Performance Units, other than the surrender of any certificate or certificates evidencing such Vested Performance Units, as of which time such Holder of Performance Units shall be credited on the books and records of the Company as of the opening of business on the next day with the number of Common Units into which such Performance Units were converted. After the conversion of Performance Units as aforesaid, the Company shall deliver to such Holder of Performance Units, upon his or her written request, a certificate of the Company certifying the number of Common Units and remaining Performance Units, if any, held by such person immediately after such conversion. The Assignee of any Member pursuant to Article 11 hereof may exercise the rights of such Member pursuant to this Section 20.9 and such Member shall be bound by the exercise of such rights by the Assignee.

E. For purposes of making future allocations under Section 6.2.F and applying the Capital Account Limitation, the portion of the Economic Capital Account Balance of the applicable Holder of Performance Units that is treated as attributable to his or her Performance Units shall be reduced, as of the date of conversion, by the product of the number of Performance Units converted and the Common Unit Economic Balance.

F. If the Company or MIC shall be a party to any Transaction, then the Company shall, immediately prior to the Transaction, exercise its right to cause a Forced Conversion with respect to the maximum number of Performance Units then eligible for conversion, taking into account any allocations that occur in connection with the Transaction or that would occur in connection with the Transaction if the assets of the Company were sold at the Transaction price or, if applicable, at a value determined by the Board in good faith using the value attributed to the Common Units in the context of the Transaction (in which case the Conversion Date shall be the effective date of the Transaction and the conversion shall occur immediately prior to the effectiveness of the Transaction). In anticipation of such Forced Conversion and the consummation of the Transaction, the Company shall use commercially reasonable efforts to cause each Holder of Performance Units to be afforded the right to receive in connection with such Transaction in consideration for the Common Units into which his or her Performance Units will be converted the same kind and amount of cash, securities and other property (or any combination thereof) receivable upon the consummation of such Transaction by a Holder of the same number of Common Units, assuming such Holder is not a Constituent Person, or an affiliate of a Constituent Person. In the event that Holders of Common Units have the opportunity to elect the form or type of consideration to be received upon consummation of the Transaction, prior to such Transaction the Company shall give prompt written notice to each Holder of Performance Units of such opportunity, and shall use commercially reasonable efforts to afford the Holder of Performance Units the right to elect, by written notice to the Company, the form or type of consideration to be received upon conversion of each Performance Unit held by such Holder into Common Units in connection with such Transaction. If a Holder of Performance Units fails to make such an election, such Holder (and any of its transferees) shall receive upon conversion of each Performance Unit held by him or her (or by any of his or her transferees) the same kind and amount of consideration

that a Holder of Common Units would receive if such Holder of Common Units failed to make such an election. Subject to the rights of the Company and MIC under any Performance Unit Agreement and the relevant terms of the Plan or any other applicable Equity Plan, the Company shall use commercially reasonable effort to cause the terms of any Transaction to be consistent with the provisions of this Section 20.9.F and to enter into an agreement with the successor or purchasing entity, as the case may be, for the benefit of any Holder of Performance Units whose Performance Units will not be converted into Common Units in connection with the Transaction that will (i) contain provisions enabling the Qualifying Parties that remain outstanding after such Transaction to convert their Performance Units into securities as comparable as reasonably possible under the circumstances to the Common Units and (ii) preserve as far as reasonably possible under the circumstances the distribution, special allocation, conversion, and other rights set forth in the Agreement for the benefit of the Holder of Performance Units.

Section 20.10 Voting. Members holding Performance Units shall have the same voting rights as Members holding Common Units, with the Performance Units and LTIP Units voting together as a single class with the Common Units and having one vote per Performance Unit and Holders of Performance Units shall not be entitled to approve, vote on or consent to any other matter. The foregoing voting provision will not apply if, at or prior to the time when the action with respect to which such vote would otherwise be required will be effected, all outstanding Performance Units shall have been converted or provision is made for such conversion to occur as of or prior to such time into Common Units.

Article 21
CLASS A UNITS

Section 21.1 Designation.

A class of securities of the Company designated as the "***Class A Units***" is hereby established. The number of Class A Units that may be issued is not limited by this Agreement. For avoidance of doubt, a Class A Unit shall only represent the right to acquire such number of Common Units upon the exercise of such Class A Unit as is provided for under the terms of the applicable Class A Unit Agreement entered between the Company and holder of such Class A Unit, and a Class A Unit shall not constitute a "Common Equivalent Unit" or a "Common Unit".

Section 21.2 Adjustments. The number of Common Units purchasable upon exercise of a Class A Unit and the exercise price at which such Common Units may be purchased shall be adjusted solely as set forth in the applicable Class A Unit Agreement.

Section 21.3 Distributions. Except as otherwise provided in the applicable Class A Unit Agreement with respect to such Class A Units, holders of Class A Units shall not be entitled to receive payment of regular, special, extraordinary or other distributions (including, for avoidance of doubt, distributions upon the occurrence of a Liquidating Event or proceeds from a Terminating Capital Transaction) unless and until such Class A Units are exercised for Common Units in accordance with the terms of the applicable Class A Unit Agreement. After the issuance of Common Units upon the exercise of such Class A Units, the Holder of such Common Units shall be entitled to distributions in accordance with the terms of the Common Units.

Section 21.4 Liquidation Preference.

A. *Distributions*. Except as otherwise provided in the applicable Class A Unit Agreement with respect to such Class A Units, upon any liquidation, dissolution or winding up of the affairs of the Company, voluntary or involuntary, no distributions shall be made on the Class A Units pursuant to Article 13 hereof or otherwise unless and until such Class A Units have been exercised for Common Units in accordance with the terms of the applicable Class A Unit Agreement. After the issuance of Common Units upon the exercise of such Class A Units, the Holder of such Common Units shall be entitled to distributions in accordance with the terms of the Common Units. Notice of any liquidation, dissolution or winding up of the affairs of the Company, voluntary or involuntary, shall be required only to the extent provided in the applicable Class A Unit Agreement.

B. *No Further Rights.* Other than payment of the full amount of any liquidating distributions to which a former holder of Class A Units may be entitled under the applicable Class A Unit Agreement or in respect of Common Units received upon exercise of such former holder's Class A Units, no holder or former holder of Class A units shall have any right or claim to any of the remaining assets of the Company.

C. *Consolidation, Merger or Certain Other Transactions.* The consolidation or merger of the Company with one or more entities or a sale or transfer of all or substantially all of the Company's assets shall not be deemed to be a liquidation, dissolution or winding up, voluntary or involuntary, of the Company.

Section 21.5 Voting Rights. A holder of Class A Units shall not have any voting or consent rights in respect of its Class A Units unless and until such Class A Units have been exercised for Common Units in accordance with the terms of the applicable Class A Unit Agreement. After the issuance of Common Units upon the exercise of such Class A Units, a Holder of such Common Units will be entitled to voting rights in accordance with the terms of the Common Units.

Section 21.6 Transfers and Redemptions. Except as expressly provided in the applicable Class A Unit Agreement, a holder of Class A Units shall not be entitled to transfer his or her Class A Units. Notwithstanding the foregoing sentence, a holder of Class A Units shall not be entitled to transfer (directly or indirectly), and shall not transfer (directly or indirectly), its Class A Units if doing so would constitute a "measurement event" under Regulations Sections 1.761-3(c)(1)(iii)(A) and 1.761-3(c)(2)(i). The Redemption Right provided to Qualifying Parties under Section 15.1 shall not apply with respect to Class A Units unless and until such Class A Units have been exercised for Common Units in accordance with the terms of the applicable Class A Unit Agreement.

Section 21.7 Characterization and Allocations.

A. *Characterization*. It is the intent of the parties that each Class A Unit shall constitute a "noncompensatory option" within the meaning of Regulations Section 1.761-3(b)(2), and one which is not treated as a "partnership interest" for federal tax purposes on the date of any "measurement event" (all within the meaning of Regulations Section 1.761-3), unless and until such Class A Unit has been exercised for a Common Unit in accordance with the terms of the applicable Class A Unit Agreement.

B. *Allocations*. Net Income, Net Loss and other allocations (such as those governed by Article 6 hereof) shall be allocated to holders of Class A Units in accordance with the principles of Regulations Section 1.704-1(b)(2)(iv)(s) as applied by the Board in good faith, and the remainder of the provisions in this Agreement (including without limitation Article 6 hereof) shall be applied by giving due regard to the allocations in this Section 21.7.B.

Section 21.8 Legend. Any certificate evidencing a Class A Unit shall bear an appropriate legend, as determined by the Board, indicating that additional terms, conditions and restrictions on Transfer, including without limitation under any Class A Unit Agreement, apply to the Class A Unit.

Section 21.9 Exercise for Common Units. A holder of Class A Units shall have the right to exercise its Class A Units for Common Units solely in such manner, at such price and on such other terms as are set forth in the applicable Class A Unit Agreement.

[REMAINDER OF PAGE LEFT BLANK INTENTIONALLY]

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

MEMBERS:

Mobile Infrastructure Corporation,
a Maryland corporation

By: */s/ Stephanie Hogue*
Name: Stephanie Hogue
Title: President, Chief Financial Officer, Treasurer and Secretary

COLOR UP, LLC,
a Delaware limited liability company

By: */s/ Manuel Chavez III*
Name: Manuel Chavez III
Title: Chief Executive Officer

HSCP Strategic III, L.P.,
a Delaware limited partnership

By: */s/ Jeffrey B. Osher*
Name: Jeffrey B. Osher
Title: Managing Member

/s/ Manuel Chavez
Manuel Chavez III

/s/ Stephanie L. Hogue
Stephanie L. Hogue

/s/ Jeffrey B. Osher
Jeffrey B. Osher

/s/ Lorrence T. Kellar
Lorrence T. Kellar

/s/ Danica Holley
Danica Holley

/s/ Damon Jones
Damon Jones

/s/ Shawn Nelson
Shawn Nelson

[Signature Page to LLC Agreement of Mobile Infra Operating Company, LLC]

EXHIBIT A

EXAMPLES REGARDING ADJUSTMENT FACTOR

For purposes of the following examples, it is assumed that (a) the Adjustment Factor in effect on _____ is 1.0 and (b) on_____ (the "Record Date" for purposes of these examples), prior to the events described in the examples, there are 100 Shares issued and outstanding.

Example 1

On the Record Date, MIC declares a dividend on its outstanding Shares in Shares. The amount of the dividend is one Share paid in respect of each Share owned. Pursuant to Paragraph (i) of the definition of "Adjustment Factor," the Adjustment Factor shall be adjusted on the Record Date, effective immediately after the stock dividend is declared, as follows:

1.0 * 200/100 = 2.0

Accordingly, the Adjustment Factor after the stock dividend is declared is 2.0.

Example 2

On the Record Date, MIC distributes options to purchase Shares to all holders of its Shares. The amount of the distribution is one option to acquire one Share in respect of each Share owned. The strike price is $4.00 a share. The Value of a Share on the Record Date is $5.00 per share. Pursuant to Paragraph (ii) of the definition of "Adjustment Factor," the Adjustment Factor shall be adjusted on the Record Date, effective immediately after the options are distributed, as follows:

1.0 * (100 + 100)/(100 + 100 * $4.00/$5.00) = 1.1111

Accordingly, the Adjustment Factor after the options are distributed is 1.1111. If the options expire or become no longer exercisable, then the retroactive adjustment specified in Paragraph (ii) of the definition of "Adjustment Factor" shall apply.

Example 3

On the Record Date, MIC distributes assets to all holders of its Shares. The amount of the distribution is one asset with a fair market value (as determined by MIC) of $1.00 in respect of each Share owned. It is also assumed that the assets do not relate to assets received by MIC pursuant to a pro rata distribution by the Company. The Value of a Share on the Record Date is $5.00 a share. Pursuant to Paragraph (iii) of the definition of "Adjustment Factor," the Adjustment Factor shall be adjusted on the Record Date, effective immediately after the assets are distributed, as follows:

1.0 * $5.00/($5.00 - $1.00) = 1.25

Accordingly, the Adjustment Factor after the assets are distributed is 1.25.

EXHIBIT B

COMMON UNIT NOTICE OF REDEMPTION

To: Mobile Infrastructure Corporation

_____

_____

_____

The undersigned Common Member or Assignee hereby irrevocably tenders for redemption Common Units in Mobile Infra Operating Company, LLC, in accordance with the terms of the Limited Liability Company Agreement of Mobile Infra Operating Company, LLC, dated as of , 2023 (as amended from time to time the "Agreement"), and the Redemption Right referred to therein. The undersigned Common Member or Assignee:

(a) undertakes (i) to surrender such Common Units and any certificate therefor at the closing of the Redemption and (ii) to furnish to the Company, prior to the Specified Redemption Date, the documentation, instruments and information required under Section 15.1.A and 15.1.G of the Agreement;

(b) directs that the certified check representing the Cash Amount, or the Shares Amount, as applicable, deliverable upon the closing of such Redemption be delivered to the address specified below;

(c) represents, warrants, certifies and agrees that:

(i) the undersigned Common Member or Assignee is a Qualifying Party,

(ii) the undersigned Common Member or Assignee has, and at the closing of the Redemption will have, good, marketable and unencumbered title to such Common Units, free and clear of the rights or interests of any other person or entity,

(iii) the undersigned Common Member or Assignee has, and at the closing of the Redemption will have, the full right, power and authority to tender and surrender such Common Units as provided herein, and

(iv) the undersigned Common Member or Assignee has obtained the consent or approval of all persons and entities, if any, having the right to consent to or approve such tender and surrender; and

(d) acknowledges that he will continue to own such Common Units until and unless either (1) such Common Units are acquired by MIC pursuant to Section 15.1.B of the Agreement or (2) such redemption transaction closes.

All capitalized terms used herein and not otherwise defined shall have the same meaning ascribed to them respectively in the Agreement.

Dated: _____

Name of Common Member or Assignee:

_____

_____

(Signature of Common Member or Assignee)

_____

(Street Address)

_____

(City) (State) (Zip Code)

Signature Guaranteed by:

Issue Check Payable to: _____

Please insert social security or identifying number: _____

_____

EXHIBIT C

NOTICE OF ELECTION BY MEMBER TO CONVERT LTIP/PERFORMANCE UNITS INTO COMMON UNITS

The undersigned Holder of LTIP/Performance Units hereby irrevocably (i) elects to convert the number of LTIP/Performance Units in Mobile Infra Operating Company, LLC (the "Company") set forth below into Common Units in accordance with the terms of the Limited Liability Company Agreement of the Company, as amended from time to time; and (ii) directs that any cash in lieu of Common Units that may be deliverable upon such conversion to be deliverable upon such conversion be delivered to the address specified below. The undersigned hereby represents, warrants, and certifies that the undersigned (a) has title to such LTIP/Performance Units, free and clear of the rights or interests of any other person or entity other than the Company; (b) has the full right, power, and authority to cause the conversion of such LTIP/Performance Units as provided herein; and (c) has obtained the consent or approval of all persons or entities, if any, having the right to consent or approve such conversion.

Name of LTIP/Performance Unit Holder: _____

Please Print Name as Registered with Company

Number of LTIP/Performance Units to be Converted:

Date of this Notice: _____

_____

(Signature of LTIP/Performance Unit Holder)

_____

(Street Address)

_____

(City) (State) (Zip Code)

Signature Medallion Guaranteed by:

Issue Check Payable to: _____

Please insert social security _____

or identifying number: _____

EXHIBIT D

NOTICE OF ELECTION BY COMPANY TO FORCE CONVERSION OF LTIP/PERFORMANCE UNITS INTO COMMON UNITS

Mobile Infra Operating Company, LLC (the "Company") hereby irrevocably (i) elects to cause the number of LTIP/Performance Units held by the LTIP/Performance Unit Holder set forth below to be converted into Common Units in accordance with the terms of the Limited Liability Company Agreement of the Company, as amended from time to time.

Name of LTIP/Performance Unit Holder: _____

Please Print Name as Registered with Company

Number of LTIP/Performance Units to be Converted: _____

Date of this Notice: _____

Exhibit 16.1

August 31, 2023

Office of the Chief Accountant
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549
United States of America

Ladies and Gentlemen:

We have read Mobile Infrastructure Corporation (formerly known as Fifth Wall Acquisition Corp. III) statements included under Item 4.01 of its Form 8-K dated August 31, 2023. We agree with the statements concerning our Firm under Item 4.01, in which we were informed of our dismissal on August 25, 2023. We are not in a position to agree or disagree with other statements contained therein.

Very truly yours,

/s/ WithumSmith+Brown, PC

New York, New York

Exhibit 21.1

Subsidiaries of Mobile Infrastructure Corporation

Name of Subsidiary	Jurisdiction of Incorporation or Organization
1W7 Carpark, LLC	Ohio
222 Sheridan Bricktown Garage, LLC	Delaware
222 W 7th Holdco, LLC	Delaware
2nd Street Miami Garage, LLC	Delaware
Chapman Properties, LLC	Tennessee
Cleveland Lincoln Garage, LLC	Delaware
Denver 1725 Champa Street Garage, LLC	Delaware
Mabley Place Garage II, LLC	Delaware
Mabley Place Garage, LLC	Delaware
MCI 1372 Street, LLC	Delaware
Minneapolis City Parking, LLC	Delaware
Minneapolis Venture, LLC	Delaware
Mobile Infra Holdings, LLC	Nevada
Mobile Infra Operating Company, LLC	Delaware
Mobile Intermediate Holdings, LLC	Delaware
MVP Acquisitions, LLC	Delaware
MVP Bridgeport Fairfield Garage, LLC	Delaware
MVP Cincinnati Race Street Garage, LLC	Delaware
MVP Clarksburg Lot, LLC	Nevada
MVP Denver 1935 Sherman, LLC	Delaware
MVP Denver Sherman, LLC	Delaware
MVP Detroit Center Garage, LLC	Delaware

MVP Detroit Center Garage Manager, LLC	Delaware
MVP Fort Worth Taylor, LLC	Nevada
MVP Hawaii Marks Garage, LLC	Delaware
MVP Houston Preston Lot, LLC	Delaware
MVP Houston Saks Garage, LLC	Nevada
MVP Houston San Jacinto Lot, LLC	Delaware
MVP Indianapolis City Park Garage, LLC	Delaware
MVP Indianapolis Meridian Lot, LLC	Delaware
MVP Indianapolis Washington Street Lot, LLC	Delaware
MVP Louisville Station Broadway, LLC	Delaware
MVP Milwaukee Arena Lot, LLC	Delaware
MVP Milwaukee Clybourn, LLC	Nevada
MVP Milwaukee Old World, LLC	Nevada
MVP Milwaukee Wells, LLC	Nevada
MVP New Orleans Rampart, LLC	Delaware
MVP PF Memphis Poplar 2013, LLC	Nevada
MVP PF St. Louis 2013, LLC	Nevada
MVP Preferred Parking, LLC	Delaware
MVP Raider Park Garage, LLC	Delaware
MVP REIT II St. Louis Cardinal Lot Investment, LLC	Delaware
MVP St. Louis Broadway, LLC	Delaware
MVP St. Louis Cardinal Lot, DST	Delaware
MVP St. Louis Cerre, LLC	Delaware
MVP St. Louis Washington, LLC	Delaware
MVP St. Paul Holiday Garage, LLC	Delaware
St. Louis Broadway Group, LLC	Delaware
St. Louis Seventh & Cerre, LLC	Delaware

West 9th Street Properties II, LLC	Ohio
White Front Garage Partners, LLC	Delaware

Exhibit 99.1

Mobile Infrastructure Corporation Completes Public Listing Following Merger with Fifth Wall Acquisition Corp. III

- Mobile Infrastructure Corporation, the only publicly listed exclusive owner of parking assets, goes public via merger with Fifth Wall Acquisition Corp. III
- Mobile Infrastructure's proprietary, purpose-built asset management platform positions the company to be a leader in the optimization of parking assets
- The merger with a Fifth Wall sponsored SPAC uniquely positions Mobile Infrastructure to capitalize on a partnership with the global leader in property technology investments
- Mobile Infrastructure's Up-C structure will position the company to be highly acquisitive across key urban markets in the United States
- A revenue model has been implemented to allow the company to realize increased contribution margins mirroring asset performance

August 28, 2023 10:44 AM Eastern Daylight Time

CINCINNATI—(BUSINESS WIRE)—Mobile Infrastructure Corporation (NYSE American: BEEP), one of the largest institutional-quality, mobility-focused parking asset owners in the U.S., and Fifth Wall Acquisition Corp. III, a special purpose acquisition company ("SPAC") sponsored by an affiliate of Fifth Wall, the largest venture capital firm focused on technology for the built world, announced the completion of its business combination. The transaction valued the equity of Mobile at $15.00 per share versus its published 2022 Net Asset Value ("NAV") of $14.76 per share.

"Public listing is an important milestone in our growth trajectory. The merger structure and domain expertise of Fifth Wall creates alignment with shareholders and clear avenues for open-ended growth."

Mobile Infrastructure Corporation's common stock commenced trading on the New York Stock Exchange American under the ticker "BEEP" on August 28, 2023.

Manuel Chavez, CEO and Chairman of Mobile Infrastructure stated, "Public listing is an important milestone in our growth trajectory. The merger structure and domain expertise of Fifth Wall creates alignment with shareholders and clear avenues for open-ended growth."

Transaction Highlights

Concurrent with Mobile Infrastructure's public listing, a PIPE investment provided an additional $46 million of capital that will be used for deleveraging certain debt facilities and general corporate purposes.

No Street Capital and its affiliates invested an additional $40 million through the PIPE. Jeff Osher, Founder of No Street Capital and Mobile Infrastructure board member, stated, "When we made our initial investment in Mobile Infrastructure two years ago, we saw a unique opportunity to partner with an experienced, trustworthy management team to strategically build one of the largest portfolios of parking assets in the country. As Mobile Infrastructure's largest shareholder, I believe the combination of steady asset acquisition, portfolio optimization through active management, and healthy operating leverage, is a strategy that will create significant shareholder value in 2024 and beyond."

Other notable features of the merger structure were outlined in SEC filings, making this a unique transaction among SPAC targets. SPACs often have promote and warrant features that benefit the SPAC sponsors but create significant dilution to target shareholders. FWAC's structure had no warrants, the majority of the SPAC's promote shares have been cancelled, and it elected to align its remaining promote shares with management incentive programs, which trigger at prices significantly higher than the transaction closing price. Finally, to further align management with shareholders, the CEO and President have elected to receive the majority of their 2022 and 2023 compensation in equity.

Brad Greiwe, Co-Founder and Managing Partner at Fifth Wall, commented, "We are excited to have completed the merger with Mobile Infrastructure in a transaction that very clearly aligns the interests of all stakeholders. With multiple compelling dynamics in the parking industry, we firmly believe that Mobile Infrastructure has the right team, model and technology to leverage its experience and platform to create shareholder value."

Focus on Growth and Acquisitions

To maximize the company's growth opportunities, Mobile Infrastructure has converted to anUp-C structure, which is unique in its ability to offer favorable tax treatment to parking asset sellers. An Up-C structure is comparable to an UPREIT structure often utilized by real estate investment trusts, allowing sellers to realize tax deferrals, while converting partnership units into common stock at a timing that is suitable for the seller.

On the growth prospects for Mobile Infrastructure, Mr. Chavez noted, "We intend to be highly acquisitive with a robust acquisition pipeline already in place, enabling our growth and the uplisting of the company as we execute on our acquisition plan. Considering an addressable market of 1 billion parking stalls across the United States, we believe Mobile Infrastructure has an open-ended acquisition market as the only pure play public acquirer of parking infrastructure assets."

Realizing Operational Enhancements

In early 2022, the company moved its headquarters from Las Vegas, Nevada to Cincinnati, Ohio. As of 2021, Cincinnati was the fifth largest economy in the Midwest and a one-day drive to approximately 50% of the US population. At that time, Mobile Infrastructure published a letter to shareholders outlining several key objectives, including increasing revenues, expanding market presence, and enhancing the balance sheet.

Stephanie Hogue, President and CFO of Mobile, remarked, “With over 60% of our property level net operating income in the Midwest, Cincinnati was the perfect location to rebuild Mobile Infrastructure’s operational and personnel infrastructure from the ground up. Unlike the industry’s traditional passive net lease strategy, we are on the ground talking to operators to reposition assets when needed, target strategic acquisitions, and recycle capital when an asset is inconsistent with our growth strategy. Our propriety platform provides a unique competitive advantage by allowing us to dynamically monitor and budget asset level performance. Our team uses our real-time data signals to optimize pricing, utilization, and ultimately, revenue per available stall across each of our assets.”

Key financial highlights for the company in the first half of 2023:

- Total Revenue growth of 3.6% to $14.3 million compared to the first half of 2022.
- First half year-over-year property level Net Operating Income growth of 11.3%, defined as Total Revenues less Property Taxes and Property Operating Expense, as reported in the company’s public filings.

Mr. Chavez stated, “Parking tends to see a multiyear lag on operational improvements, as disparate revenue channels, operators, and technologies create a time delay in realizing operational improvements. As such, our primary focus since 2021 has been the development of an industry-leading platform, capable of enhancing revenue per available stall across a scaled portfolio. I have never seen a more innovative time in the industry and we could not be more positive about the future of parking assets going forward.”

About Mobile Infrastructure Corporation

Mobile Infrastructure is the only publicly traded company in the United States focused exclusively on the ownership and optimization of parking assets across the United States. Mobile invests primarily in parking lots and garages and relies on in house expertise and technologies to optimize asset utilization. Mobile is an industry leader in positioning central business district parking facilities as micro-mobility hubs. As of June 30, 2023, Mobile owned 43 parking facilities located in 21 separate markets throughout the United States, with more than 15,000 parking spaces. For more information, please visit **www.mobileit.com.**

About Fifth Wall Acquisition Corp. III

Fifth Wall Acquisition Corp. III is a blank check company incorporated for the purpose of effecting a merger, capital stock exchange, asset acquisition, stock purchase, reorganization or similar business combination with one or more businesses.

Forward-Looking Statements

This press release contains forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995, as amended. These statements relate to, among other things, the declaring and reaffirming of the combined company's business strategy and objectives, the combined company's future financial performance and results of operations, the successful expansion of the combined company, and the combined company's ability to grow and to capitalize the market opportunity.

These forward-looking statements are based on the combined company's current expectations, estimates, and projections about its business and industry, management's beliefs, and certain assumptions made by the combined company and its management, all of which are subject to change. Forward-looking statements generally can be identified by the use of forward-looking terminology such as "future," "believe," "expect," "may," "will," "intend," "estimate," "continue," or similar expressions or the negative of those terms or expressions. Such statements involve risks and uncertainties, which could cause actual results to vary materially from those expressed in or indicated by the forward-looking statements. Factors that may cause actual results to differ materially include, but are not limited to, the following: the risks and uncertainties related to the inability of the combined company to realize the anticipated benefits of the merger, risks related to the combined company's ability to execute on its business strategy, attain its investment strategy or increase the value of its portfolio, act on its pipeline of acquisitions, attract and retain users, develop new offerings, enhance existing offerings, compete effectively, and manage growth and costs, the impact of global macroeconomic events, inflation, and the COVID-19 pandemic, the possibility that the combined company may be adversely affected by other economic, business, and/or competitive factors, the ability of the combined company to leverage its relationship with investors and grow its customer base, the ability of the combined company to continuously meet the NYSE American LLC's listing standards, risks associated with the change of the terms of the combined company's credit facility, risks associated with lack of cash on hand of the combined company, as well as the other risk factors described in the joint proxy statement/prospectus filed with the Securities and Exchange Commission (the "SEC") on July 11, 2023, under "Risk Factors" section of Form 10 information included in the combined company's Current Report on Form 8-K to be filed with the SEC in connection with the consummation of the merger, and any subsequent quarterly filings on Form 10-Q filed with the SEC (available at www.sec.gov).

The combined company cautions you not to place undue reliance on forward-looking statements, which speak only as of the date hereof. The combined company assumes no obligation to update any forward-looking statements in order to reflect events or circumstances that may arise after the date of this release, except as required by law.

UNAUDITED PRO FORMA CONDENSED COMBINED FINANCIAL INFORMATION

Defined terms included below have the same meaning as terms defined and included elsewhere in this Current Report on Form8-K. Unless the context otherwise requires, all references in this subsection to "we," "us" or "our" refer to the business of MIC and its subsidiaries prior to Closing, which will be the business of New MIC and its subsidiaries following Closing.

We are providing the following unaudited pro forma condensed combined financial information to aid you in your analysis of the financial aspects of the Merger. The unaudited pro forma condensed combined financial information should be read in conjunction with the accompanying notes.

Introduction

The following unaudited pro forma condensed combined balance sheet as of June 30, 2023 gives effect to the Merger as if it was completed on June 30, 2023. The unaudited pro forma condensed combined statements of operations for the six months ended June 30, 2023 and the year ended December 31, 2022 give pro forma effect to the Merger as if it was completed on January 1, 2022. The unaudited pro forma condensed combined balance sheet does not purport to represent, and is not necessarily indicative of, what the actual financial condition of the combined company would have been had the Merger taken place on June 30, 2023, nor is it indicative of the financial condition of the combined company as of any future date. These unaudited pro forma financial statements do not include the impact of any synergies that may be achieved through the transactions nor any strategies that management may consider in order to continue to efficiently manage its operations. The unaudited pro forma condensed combined financial information has been prepared in accordance with Article 11 of Regulation S-X and is for informational purposes only. It is subject to several uncertainties and assumptions as described in the accompanying notes.

Company Descriptions

MIC was a Maryland corporation formed on May 4, 2015 that focused, and New MIC now focuses, on acquiring, owning and leasing parking facilities and related infrastructure, including parking lots, parking garages and other parking structures throughout the United States. MIC targeted, and New MIC now targets, both parking garage and surface lot properties primarily in top 50 MSAs, with proximity to key demand drivers, such as commerce, events and venues, government and institutions, hospitality and multifamily central business districts.

FWAC was incorporated as a Cayman Islands exempted company on February 19, 2021 (inception). FWAC was formed for the purpose of effecting a merger, share exchange, asset acquisition, share purchase, reorganization or similar business combination with one or more businesses. FWAC was, and New MIC now is, an early stage and emerging growth company and, as such, FWAC was, and New MIC now is, subject to all of the risk associated with early stage and emerging growth companies.

Merger Description

The Merger was accounted for as a reverse recapitalization in accordance with GAAP, with MIC identified as the accounting acquirer, in accordance with FASB ASC 805. Accordingly, for accounting purposes, the financial statements of New MIC represent a continuation of the financial statements of MIC with the acquisition being treated as the equivalent of MIC issuing stock for the net assets of FWAC. The net assets of MIC are stated at historical cost, with no goodwill or other intangible assets recorded.

The identification of MIC as the accounting acquirer is based primarily on evaluation of the following facts and circumstances, which are consistent under a number of scenarios in generating net proceeds from the Merger:

- Following the Merger, the business affairs of New MIC are controlled by a board of directors that initially consist of eight individuals, seven of which were board members of MIC and one that was designated by FWAC.

- Following the Merger, the management of New MIC is led by MIC's Chief Executive Officer, Manuel Chavez, III, and Chief Financial Officer, Stephanie Hogue.
- MIC is significantly larger than FWAC in terms of revenue, total assets (excluding cash) and employees.

The following unaudited pro forma financial information sets forth:

- The historical consolidated balance sheet as of June 30, 2023 and consolidated statement of operations for the year ended June 30, 2023, derived from the unaudited consolidated financial statements of MIC;
- The historical consolidated balance sheet as of June 30, 2023 and consolidated statement of operations for the year ended June 30, 2023, derived from the unaudited consolidated financial statements of FWAC;
- Transaction accounting adjustments to give effect to the Merger, on the unaudited pro forma condensed combined statements of operations for the six-months ended June 30, 2023 and year ended December 31, 2022, as if the Merger occurred on January 1, 2022.

The following summarizes the pro forma ownership of common stock in New MIC and the pro forma ownership of New MIC Common Stock assuming the conversion of (i) 100% of the Common Units outstanding at the Merger for shares of New MIC Common Stock and (ii) 14,530 LTIP Units held by the non-management members of the MIC board of directors and Shawn Nelson (who retired from the MIC board of directors effective December 31, 2022) following the Merger:

Excluding PIPE Investment:

	Share Ownership in New MIC(1)(10) (Percentage of Outstanding Shares)
FWAC Shareholders (other than the Sponsor and FWAC Directors)	3%
Sponsor (including FWAC Directors)(5)	8%
MIC Public Stockholders (other than the MIC Directors and Officers)	59%
MIC Directors and Officers(6)	30%
Total	100%

	Share Ownership in New MIC Assuming Conversion of Common Units(2)(11) (Percentage of Outstanding Shares)
FWAC Shareholders (other than the Sponsor and FWAC Directors)	2%
Sponsor (including FWAC Directors)(5)	4%
MIC Public Stockholders (other than the MIC Directors and Officers)	29%
MIC Directors and Officers(7)	66%
Total	100%

Including PIPE Investment:

	Share Ownership in New MIC(3)(10) (Percentage of Outstanding Shares)
FWAC Shareholders (other than the Sponsor and FWAC Directors)	1%
Sponsor (including FWAC Directors)(5)	4%
MIC Public Stockholders (other than the MIC Directors and Officers)	29%
MIC Directors and Officers (including Preferred PIPE Investment)(8)	66%
Total	100%

	Share Ownership in New MIC Assuming Conversion of Common Units(4)(11) (Percentage of Outstanding Shares)
FWAC Shareholders (other than the Sponsor and FWAC Directors)	1%
Sponsor (including FWAC Directors)(5)	2%
MIC Public Stockholders (other than the MIC Directors and Officers)	19%
MIC Directors and Officers (including Preferred PIPE Investment)(9)	77%
Total	100%

(1) As of immediately following the consummation of the Merger. Excludes 13,787,466 shares of New MIC Common Stock issuable upon the conversion of the Series 2 Preferred Stock on the earlier of a change of control of New MIC and December 31, 2023 in accordance with the Preferred Subscription Agreement and the terms of the Series 2 Preferred Stock. Percentages may not add to 100% due to rounding. Unless the context indicates otherwise, all information in this section is adjusted to give effect to the Exchange Ratio. The "Exchange Ratio" is the quotient of (a) 25,453,918.5 shares of New MIC Common Stock divided by (b) the aggregate issued and outstanding shares of MIC Common Stock on a fully diluted basis as of immediately prior to the First Effective Time using the treasury method of accounting.

(2) As of immediately following the consummation of the Merger. Excludes 13,787,466 shares of New MIC Common Stock issuable upon the conversion of the Series 2 Preferred Stock on the earlier of a change of control of New MIC and December 31, 2023 in accordance with the Preferred Subscription Agreement and the terms of the Series 2 Preferred Stock. Assumes the conversion of 13,795,826 Common Units beneficially owned by Color Up and HS3 and 14,530 LTIP Units held by the non-management members of the MIC board of directors and Shawn Nelson (who retired from the MIC board of directors effective December 31, 2022), in each case, as of the date of this Report (in each case, as adjusted to give effect to the Exchange Ratio). The Common Units are redeemable for cash or shares of New MIC Common Stock on a one-for-one basis, at New MIC's discretion. The table above assumes the conversion of all Common Units into shares of New MIC Common Stock on a one-for-one basis. Percentages may not add to 100% due to rounding. Unless the context indicates otherwise, all information in this section is adjusted to give effect to the Exchange Ratio.

(3) As of immediately following the consummation of the Merger, but gives effect to the conversion of the Series 2 Preferred Stock into shares of New MIC Common Stock on the earlier of a change of control of New MIC and December 31, 2023. Percentages may not add to 100% due to rounding. Unless the context indicates otherwise, all information in this section is adjusted to give effect to the Exchange Ratio.

(4) As of immediately following the consummation of the Merger, but gives effect to the conversion of the Series 2 Preferred Stock into shares of New MIC Common Stock on the earlier of a change of control of New MIC and December 31, 2023. Assumes the conversion of 13,795,826 Common Units beneficially owned by Color Up and HS3 and 14,530 LTIP Units held by the non-management members of the MIC board of directors and Shawn Nelson (who retired from the MIC board of directors effective December 31, 2022), in each case, as of the date of this Report (in each case, as adjusted to give effect to the Exchange Ratio). The Common Units are redeemable for cash or shares of New MIC Common Stock on a one-for-one basis, at New MIC's discretion. The table above assumes the conversion of all Common Units into shares of MIC Common Stock on a one-for-one basis. Percentages may not add to 100% due to rounding. Unless the context indicates otherwise, all information in this section is adjusted to give effect to the Exchange Ratio.

(5) Gives effect to the cancellation for no consideration of 4,755,000 FWAC Class B Shares held by the Sponsor in accordance with the terms of the Sponsor Agreement and excludes the 1,900,000 FWAC Class B held by the Sponsor which are subject to certain vesting restrictions and, in certain circumstances, forfeiture, in each case pursuant to the Sponsor Agreement.

(6) Includes 3,937,247 shares of New MIC Common Stock held by Color Up.

(7) Includes 3,937,247 shares of New MIC Common Stock held by Color Up. Excludes (i) 638,298 shares of New MIC Common Stock issuable upon conversion of Common Units issuable upon the exercise of Class A Units held by HS3, (ii) 2,250,000 shares of New MIC Common Stock issuable upon conversion of 2,250,000 Common Units issuable upon conversion (assuming vesting) of 2,250,000 Performance Units granted to Mr. Chavez and Ms. Hogue, (iii) 606,683 shares of New MIC Common Stock issuable upon conversion of 606,683 Common Units issuable upon conversion (assuming vesting) of 606,683 LTIP Units granted to Mr. Chavez and Ms. Hogue and (iv) 32,010 shares of New MIC Common Stock issuable upon conversion of 32,010 Common Units issuable upon the conversion (assuming vesting) of 32,010 LTIP Units granted to the non-management members of the MIC board of directors.

(8) Includes 3,937,247 shares of New MIC Common Stock held by Color Up and 13,787,466 shares of New MIC Common Stock issuable upon the conversion of the Series 2 Preferred Stock on the earlier of a change of control of New MIC and December 31, 2023 in accordance with the Preferred Subscription Agreement and the terms of the Series 2 Preferred Stock. Shares of New MIC Common Stock issuable pursuant to the terms of the Series 2 Preferred Stock, assuming there are no subsequent issuances of New MIC Common Stock prior to conversion and as measured on a standalone basis, will constitute approximately 51% of New MIC Common Stock (assuming 100% of the outstanding FWAC Class A Shares issued in connection with FWAC's initial public offering on May 27, 2021 (the "Public Shares") are redeemed in connection with the Merger) and 52% of New MIC Common Stock (assuming no Public Shares are redeemed in connection with the Merger).

(9) Includes 3,937,247 shares of New MIC Common Stock held by Color Up and 13,787,466 shares of New MIC Common Stock issuable upon the conversion of the Series 2 Preferred Stock on the earlier of a change of control of New MIC and December 31, 2023 in accordance with the Preferred Subscription Agreement and the terms of the Series 2 Preferred Stock. Shares of New MIC Common Stock issuable pursuant to the Series 2 Preferred Stock, assuming there are no subsequent issuances of New MIC Common Stock prior to conversion and as measured on a standalone basis, will constitute approximately 34% of the New MIC Common Stock. Excludes (i) 638,298 shares of New MIC Common Stock issuable upon conversion of Common Units issuable upon the exercise of Class A Units held by HS3, (ii) 2,250,000 shares of New MIC Common Stock issuable upon conversion of 2,250,000 Common Units issuable upon conversion (assuming vesting) of 2,250,000 Performance Units granted to Mr. Chavez and Ms. Hogue and (iii) 606,683 shares of New MIC Common Stock issuable upon conversion of 606,683 Common Units issuable upon conversion (assuming vesting) of 606,683 LTIP Units granted to Mr. Chavez and Ms. Hogue and (iv) 32,010 shares of New MIC Common Stock issuable upon conversion of 32,010 Common Units issuable upon the conversion (assuming vesting) of 32,010 LTIP Units granted to the non-management members of the MIC Board.

(10) Excludes (i) 2,553,192 shares of New MIC Common Stock issuable upon the exercise of the New MIC Warrant and (ii) any shares of MIC Common Stock issued in connection with the conversion or redemption of the MIC Preferred Stock. The New MIC Warrant, by its terms, may be exercised by Color Up, the sole holder of the New MIC Warrant, immediately following the Closing. Color Up has informed MIC that it currently does not expect to exercise the New MIC Warrant in connection with the closing of the Merger; however, Color Up retains the legal right to exercise the New MIC Warrant following the Closing.

(11) Excludes (i) 2,553,192 shares of New MIC Common Stock issuable upon the exercise of the New MIC Warrant, (ii) 638,298 shares of New MIC Common Stock issuable upon conversion of 638,298 Common Units issuable upon exercise of 638,298 Class A Units held by HS3, (iii) 2,250,000 shares of New MIC Common Stock issuable upon conversion of 2,250,000 Common Units issuable upon conversion (assuming vesting) of 2,250,000 Performance Units granted to Mr. Chavez and Ms. Hogue, (iv) 606,683 shares of New MIC Common Stock issuable upon conversion of 606,683 Common Units issuable upon conversion (assuming vesting) of 606,683 LTIP Units granted to Mr. Chavez and Ms. Hogue, (v) any shares of MIC Common Stock issued in connection with the redemption of the MIC Preferred Stock and (vi) 39,123 LTIP Units held by the non-management directors and Shawn Nelson (who retired from the MIC board of directors effective as of December 31, 2022). In connection with the conversion of the MIC Preferred Stock by the holders thereof or the redemption of the New MIC Preferred Stock by MIC, in each case, such shares of New MIC Preferred Stock may be converted or redeemed by New MIC for cash or shares of New MIC Common Stock at the sole election of New MIC. The New MIC Warrant, by its terms, may be exercised by Color Up, the sole holder of the New MIC Warrant, immediately following the Closing. Color Up has informed New MIC that it currently does not expect to exercise the New MIC Warrant in connection with the closing of the Merger; however, Color Up retains the legal right to exercise the New MIC Warrant following the Closing.

This unaudited pro forma financial information should be read in conjunction with:

- MIC's unaudited consolidated interim financial statements and the related notes thereto as of and for thesix-months ended June 30, 2023, incorporated by reference in this Report;
- MIC's audited consolidated financial statements and the related notes thereto as of and for the years ended December 31, 2022 and 2021, incorporated by reference in this Report;
- FWAC's unaudited consolidated interim financial statements and the related notes thereto as of and for the three-months ended June 30, 2023, incorporated by reference in this Report; and
- FWAC's audited consolidated financial statements and the related notes thereto as of and for the year ended December 31, 2022 and for the period from February 19, 2021 (inception) through December 31, 2021, incorporated by reference in this Report.

Unaudited Pro Forma Condensed Combined Balance Sheet
June 30, 2023
(amounts in thousands, except per share data)

	MIC (Historical)	FWAC (Historical)	Transaction Accounting Adjustments	Pro Forma Combined
ASSETS				
Investments in real estate				
Land and improvements	166,225	—	—	166,225
Buildings and improvements	272,916	—	—	272,916
Construction in progress	1,420	—	—	1,420
Intangible assets	10,131	—	—	10,131
	450,692	—	—	450,692
Accumulated depreciation and amortization	(35,295)	—	—	(35,295)
Total investments in real estate, net	415,397	—	—	415,397
Fixed assets, net	200	—	—	200
Assets held for sale	—	—	—	—
Cash	2,029	55	4,769**(a)**	23,746
			(13,420)**(b)**	
			— **(n)**	
			(470)**(d)**	
			(15,000)**(e)**	
			46,000**(l)**	
			(217)**(a)**	
Cash – restricted	4,144	—	—	4,144
Prepaid expenses	348	87	—	435
Accounts receivable, net	1,941	—	—	1,941
Due from related parties	—	—	—	—
Deferred offering costs	5,109	—	(5,109)**(c)**	—
Other assets	218	—	—	218
Investments held in Trust Account	—	4,769	(4,769)**(a)**	—
Total assets	429,386	4,910	11,784	446,080
LIABILITIES AND EQUITY				
Liabilities				
Notes payable, net	145,675	—	—	145,675
Credit Agreement, net	73,120	—	(15,000)**(e)**	58,120
Accounts payable and accrued expenses	16,036	3,729	—	25,281
			(9,127)**(b)**	
			14,643**(k)**	
Accrued preferred distributions	10,005	—	— **(d)**	14,605
			4,600**(l)**	
Indemnification liability	2,596	—	—	2,596
Liabilities held for sale	—	—	—	—
Security deposits	166	—	—	166
Due to related parties	470	—	(470)**(d)**	—
Deferred revenue	486	—	—	486
Deferred underwriting commissions	—	—	—	—
Total liabilities	248,554	3,729	(5,354)	246,929
Class A ordinary shares subject to possible redemption, $0.0001 par value; 27,500,000 at redemption value of approximately $10.033 and $10.000 per share as of December 31, 2022	—	4,769	(4,769)**(g)**	—
Equity				
New MIC common stock, $0.0001 par value	—	—	0**(g)**	1
			1**(h)**	
Preferred shares, $0.0001 par value; 1,000,000 shares authorized; none issued and outstanding as of December 31, 2022	—	—	—	—
Class A ordinary shares, $0.0001 par value; 200,000,000 shares authorized; 907,000 shares issued and outstanding (excluding 27,500,000 shares subject to possible redemption) as of December 31, 2022	—	0	(0)**(g)**	—
Class B ordinary shares, $0.0001 par value; 20,000,000 shares authorized; 6,875,000 shares issued and outstanding as of December 31, 2022	—	1	(1)**(g)**	—
Preferred stock Series A, $0.0001 par value, 50,000 shares authorized, 2,862 shares issued and outstanding (stated liquidation value of $2,862,000 as of December 31, 2022)	—	—	—	—
Preferred stock Series 1, $0.0001 par value, 97,000 shares authorized, 39,811 shares issued and outstanding (stated liquidation value of $39,811,000 as of December 31, 2022)	—	—	—	—
Preferred stock Series 2, $0.0001 par value, 46,000 shares authorized, 46,000 shares issued and outstanding (stated liquidation value of $46,000,000)	—	—	46,000**(l)**	46,000
Non-voting, non-participating convertible stock, $0.0001 par value, 1,000 shares authorized, no shares issued and outstanding	—	—	—	—
Common stock, $0.0001 par value, 98,999,000 shares authorized, 7,762,375 shares issued and outstanding as of December 31, 2022	0	—	— **(h)**	—
Warrants issued and outstanding – 1,702,128 warrants as of December 31, 2022	3,319	—	—	3,319
Additional paid-in capital	191,676	—	(4,293)**(b)**	155,401
			4,769**(g)**	
			(1)**(h)**	
			(13,193)**(i)**	
			(217)**(a)**	
			(3,588)**(j)**	
			(14,643)**(k)**	
			(5,109)**(c)**	
Accumulated deficit	(112,433)	(3,588)	6,912**(i)**	(110,121)
			(4,600)**(l)**	
			3,588**(j)**	

Total Mobile Infrastructure Corporation Stockholders' Equity	82,562	(3,588)	15,626	94,600
Non-controlling interest	98,270	—	6,281**(i)**	104,551
Total equity	180,832	(3,588)	21,907	199,151
Total liabilities and equity	429,386	4,910	11,784	446,080

Unaudited Pro Forma Condensed Consolidated Statements of Income and Comprehensive Income
For the Six Months Ended June 30, 2023
(amounts in thousands, except per share data)

	MIC (Historical)	FWAC (Historical)	Transaction Accounting Adjustments	Pro Forma Combined
Revenues				
Base rental income	4,031	—	—	4,031
Management income	—	—	—	—
Percentage rental income	10,286	—	—	10,286
Total revenues	14,317	—	—	14,317
Operating expenses				
Property taxes	3,498	—	—	3,498
Property operating expense	1,051	—	—	1,051
General and administrative	5,063	2,381	—	7,444
General and administrative - related party	—	105	—	105
Professional fees, net of reimbursement of insurance proceeds	795	—	—	795
Organizational, offering and other costs	117	—	—	117
Depreciation and amortization	4,256	—	—	4,256
Total operating expenses	14,780	2,486	—	17,266
Other income (expense)				
Interest expense	(7,276)	—	596**(bb)**	(6,680)
Gain on sale of real estate	660	—	—	660
PPP loan forgiveness	—	—	—	—
Other income	30	—	—	30
Gain on consolidation of DST	—	—	—	—
Settlement of deferred management internalization	—	—	—	—
Income from investments held in Trust Account	—	5,600	(5,600)**(aa)**	—
Transaction expenses	—	—	—	—
Total other income (expense)	(6,586)	5,600	(5,004)	(5,990)
Net loss	(7,049)	3,114	(5,004)	(8,939)
Less net loss attributable to non-controlling interest	(3,784)	—	(803)**(cc)**	(4,587)
Net loss attributable to common stockholders	(3,265)	3,114	(4,201)	(4,352)
Preferred stock distributions declared - Series A	(108)	—	—	(108)
Preferred stock distributions declared - Series 1	(1,392)	—	—	(1,392)
Preferred stock dividends - Series 2	—	—	—	—
Net loss attributable to common stockholders	(4,765)	3,114	(4,201)	(5,852)
Pro Forma Net Loss Per New MIC common stock				
Basic and diluted				(0.45)
Pro Forma Weighted-Average New MIC common stock				
Basic and diluted (#)				13,089,848

Unaudited Pro Forma Condensed Consolidated Statements of Income and Comprehensive Income
For the Year Ended December 31, 2022
(amounts in thousands, except per share data)

	MIC (Historical)	FWAC (Historical)	Transaction Accounting Adjustments	Pro Forma Combined
Revenues				
Base rental income	8,345	—	—	8,345
Management income	427	—	—	427
Percentage rental income	20,329	—	—	20,329
Total revenues	29,101	—	—	29,101
Operating expenses				
Property taxes	6,885	—	—	6,885
Property operating expense	2,947	—	—	2,947
General and administrative	8,535	2,452	4,085**(dd)**	15,072
General and administrative - related party	—	210	—	210
Professional fees, net of reimbursement of insurance proceeds	2,690	—	—	2,690
Organizational, offering and other costs	5,592	—	—	5,592
Depreciation and amortization	8,248	—	—	8,248
Total operating expenses	34,897	2,662	4,085	41,644
Other income (expense)				
Interest expense	(12,912)	—	829**(bb)**	(12,083)
Loss on sale of real estate	(52)	—	—	(52)
PPP loan forgiveness	328	—	—	328
Other income	106	—	—	106
Gain on consolidation of DST	—	—	—	—
Settlement of deferred management internalization	—	—	—	—
Income from investments held in Trust Account	—	2,937	(2,937)**(aa)**	—
Transaction expenses	—	—	—	—
Total other income (expense)	(12,530)	2,937	(2,108)	(11,701)
Net loss	(18,326)	275	(6,193)	(24,244)
Less net loss attributable to non-controlling interest	(10,207)	—	(2,233)**(cc)**	(12,440)
Net loss attributable to common stockholders	(8,119)	275	(3,959)	(11,804)
Preferred stock distributions declared - Series A	(216)	—	—	(216)
Preferred stock distributions declared - Series 1	(2,784)	—	—	(2,784)
Preferred stock dividends - Series 2	—	—	(4,600)**(ee)**	(4,600)
Net loss attributable to common stockholders	(11,119)	275	(8,559)	(19,404)
Pro Forma Net Loss Per New MIC common stock				
Basic and diluted				(1.48)
Pro Forma Weighted-Average New MIC common stock				
Basic and diluted (#)				13,089,848

NOTE 1 — DESCRIPTION OF THE MERGER

Subject to the terms of the Merger Agreement, the consideration for the Merger is funded through a combination of cash from FWAC, proceeds from the PIPE Investment and rollover equity from the MIC stockholders. As a result of the Merger, MIC stockholders collectively hold a majority of the equity of New MIC. The Merger is structured as a customary Up-C transaction, whereby New MIC directly or indirectly owns equity in the Operating Company and holds direct voting rights in the Operating Company. Pursuant to and in connection with the Merger, the following transactions have occurred:

The Domestication

Pursuant to the Merger Agreement, prior to the consummation of the Merger FWAC transferred by way of continuation from the Cayman Islands to the State of Maryland and domesticated by means of a corporate conversion to a Maryland corporation in accordance with Title 3, Subtitle 9 of the Maryland General Corporation Law, and Part XII of the Cayman Islands Companies Act. Concurrently with the Domestication, FWAC filed articles of incorporation with the Maryland State Department of Assessments and Taxation and adopted bylaws.

At the effective time of the Domestication, (a) each then issued and outstanding FWAC Class A Share converted automatically, on aone-for-one basis, into one share of New MIC Common Stock and (b) each then issued and outstanding FWAC Class B Share converted automatically, on a one-for-one basis, into one share of New MIC Common Stock.

The Conversion

Pursuant to the Merger Agreement, concurrently with the consummation of the Merger, the Operating Partnership converted from a Maryland limited partnership to a Delaware limited liability company. In connection with the Conversion, each outstanding unit of partnership interest of the Operating Partnership converted automatically, on a one-for-one basis, into an equal number of identical membership units of the Operating Company.

The Merger

Following the Domestication, (a) Merger Sub (a wholly-owned subsidiary of FWAC) merged with and into MIC in accordance with the Maryland General Corporation Law, with MIC continuing as the surviving entity and (b) immediately following the effectiveness of the First Merger, the First-Step Surviving Company merged with and into FWAC in accordance with the Maryland General Corporation Law, with FWAC continuing as the surviving entity.

Merger Consideration

Consideration; Conversion of Securities

- Each share of MIC Common Stock (excluding shares owned by any Mobile Company) issued and outstanding immediately prior to the First Effective Time was converted into the right to receive such number of shares of New MIC Common Stock equal to the Exchange Ratio and was automatically cancelled;
- Each share of MIC Preferred Stock issued and outstanding immediately prior to the First Effective Time was converted into the right to receive the applicable New MIC Series 1 Preferred Stock or New MIC Series A Preferred Stock and was automatically cancelled; and

- The First-Step Surviving Company assumed each MIC Common Stock Warrant remaining outstanding and unexpired immediately prior to the First Effective Time and each such MIC Common Stock Warrant became a warrant to purchase that number of shares of New MIC Common Stock equal to the product of (a) the number of shares of MIC Common Stock that would have been issuable upon the exercise of such MIC Common Stock Warrant and (b) the Exchange Ratio, at an exercise price per share equal to the quotient determined by dividing the per share exercise price of such MIC Common Stock Warrant as of immediately prior to the Closing by the Exchange Ratio.

Additional LTIP Consideration

Certain individuals shall be entitled to receive restricted stock, units or other equity interests in MIC or the Operating Company in such amounts as determined by the compensation committee of the MIC board of directors, to be issued by New MIC or the Operating Company, as applicable, as soon as reasonably practicable after the filing of an effective registration statement on Form S-8.

PIPE Investment

On June 15, 2023, the Preferred PIPE Investors each entered into a Preferred Subscription Agreement with FWAC pursuant to which, among other things, the Preferred PIPE Investors agreed to subscribe for and purchase, and FWAC agreed to issue and sell to the Preferred PIPE Investors, a total of 46,000 shares of Series 2 Preferred Stock at $1,000 per share for an aggregate purchase price of $46,000,000, on the terms and subject to the conditions set forth therein. On the earlier of (a) a change of control of New MIC and (b) thirty (30) days after the date that the New MIC Common Stock first becomes listed on Nasdaq or the NYSE; provided that (x) there has been no suspension or removal from listing during such thirty (30)-day period and (y) such date shall, in no case, occur prior to December 31, 2023, the Series 2 Preferred Stock will convert into approximately 12,534,060 shares of New MIC Common Stock. The Series 2 Preferred Stock is entitled to receive dividends at a cumulative annual rate of 10% during the period between the initial issuance of such shares and the conversion thereof into shares of New MIC Common Stock; provided that if the date of distribution occurs prior to the first anniversary of the original date of issuance of such share, the holder of such share of Series 2 Preferred Stock shall receive dividends at a cumulative annual rate of 10% of the $1,000.00 per share liquidation preference for a period of one year, and will be paid in full on the conversion date. Dividends will be paid in kind and also convert into shares of New MIC Common Stock on the earlier of (a) a change of control of New MIC and (b) thirty (30) days after the date that the New MIC Common Stock first becomes listed on Nasdaq or the NYSE; provided that (x) there has been no suspension or removal from listing during such thirty (30)-day period and (y) such date shall, in no case, occur prior to December 31, 2023. The Series 2 Preferred Stock converts at a conversion price of $3.67 per share of New MIC Common Stock, subject to appropriate adjustment in relation to certain events, such as recapitalizations, stock dividends, stock splits, stock combinations, reclassifications or similar events affecting the Series 2 Preferred Stock, as set forth in the Charter.

NOTE 2 — BASIS OF PRESENTATION

The unaudited pro forma condensed combined balance sheet as of June 30, 2023 assumes that the Merger was completed on June 30, 2023. The unaudited pro forma condensed combined statement of operations for the six-months ended June 30, 2023 and the year ended December 31, 2022 gives pro forma effect to the Merger as if it had occurred on January 1, 2022.

The Merger was accounted for as a reverse recapitalization in accordance with GAAP, with MIC identified as the accounting acquirer. Accordingly, for accounting purposes, the financial statements of New MIC represent a continuation of the financial statements of MIC with the acquisition being treated as the equivalent of MIC issuing stock for the net assets of FWAC. The net assets of MIC are stated at historical cost, with no goodwill or other intangible assets recorded. These unaudited pro forma financial statements do not include the impact of any synergies that may be achieved through the transactions nor any strategies that management may consider in order to continue to efficiently manage its operations.

The pro forma adjustments reflecting the consummation of the Merger are based on certain estimates and assumptions. The unaudited pro forma adjustments may be revised as additional information becomes available. Therefore, it is likely that the actual adjustments will differ from the pro forma adjustments and it is possible the difference may be material. MIC believes that assumptions made provide a reasonable basis for presenting all of the significant effects of the Merger contemplated based on information available to MIC at the time and that the pro forma adjustments give appropriate effect to those assumptions and are properly applied in the pro forma financial information.

NOTE 3 — ADJUSTMENTS TO UNAUDITED PRO FORMA CONDENSED COMBINED FINANCIAL STATEMENTS

Adjustments to Unaudited Pro Forma Condensed Combined Balance Sheet as of June 30, 2023

The Merger accounting adjustments included in the unaudited pro forma condensed combined balance sheet as of June 30, 2023 are as follows:

(a) Reflects the reclassification of cash and cash equivalents held in the trust account of FWAC maintained by Continental Stock Transfer & Trust Company (the "Trust Account") that were available for merger consideration, transaction expenses, and the operating activities in conjunction with the Merger. The adjustment also reflects the redemption of 27,058,698 FWAC Class A Shares in May 2023 in connection with the extension of the Amended and Restated Memorandum and Articles of Association of FWAC (the "Memorandum and Articles of Association") and 22,017 FWAC Class A Shares in August 2023 in connection with the vote on the Merger.

(b) Represents the payment of certain transaction costs which are directly related to and incremental to the Merger and are reflected as an adjustment to additional paid-in capital. MIC has not currently identified any costs that are not considered directly related to or incremental to the Merger, but any such costs would be reflected in the unaudited pro forma condensed combined income statements.

(c) Represents the derecognition of MIC's deferred offering costs through additionalpaid-in capital at Closing.

(d) Represents approximately $0.5 million for the settlement of certain related-party balances.

(e) Represents a pay-down on $15.0 million of the outstanding balance on the Credit Agreement.

(f) This adjustment represents the amounts attributed to redemptions by the FWAC public shareholders, including the redemption of 27,058,698 FWAC Class A Shares in May 2023 in connection with the extension of the Memorandum and Articles of Association and 22,017 FWAC Class A Shares in August 2023 in connection with the vote on the Merger.

(g) Reflects the issuance of New MIC Common Stock before redemptions as well as the conversion of FWAC Class A Shares and FWAC Class B Shares.

(h) Reflects cancellation of 7,762,375 shares of MIC Common Stock.

(i) Reflects the reset of noncontrolling interest to the post-Merger ownership.

(j) Reflects the elimination of FWAC's historical accumulated deficit balance as of June 30, 2023 such that the remaining accumulated deficit is that of MIC.

(k) Reflects the fair value of 1.9 million FWAC Class B Shares that convert to MIC Common Stock if the5-day VWAP share price of MIC Common Stock exceeds $13.00 prior to December 31, 2026 and $16.00 prior to December 31, 2028. For purposes of these unaudited pro forma combined financial statements and footnotes, we have recorded a preliminary estimate of this liability. New MIC will engage a third-party valuation specialist to determine the final fair value to be recorded related to the FWAC Class B Shares.

(l) Reflects the issuance of 46,000 shares of Series 2 Preferred Stock and balance of paid in kind dividends.

Adjustments to Unaudited Pro Forma Condensed Combined Statement of Operations

The adjustments included in the unaudited pro forma condensed combined statement of operations for the six months ended June 30, 2023 are as follows:

(aa) Reflects the elimination of FWAC's income from investments held in the Trust Account.

(bb) Reflects the decrease in interest expense as a result of paying down amounts outstanding under Credit Agreement, as described in e above. The adjustment was calculated using actual coupon interest on the Credit Agreement for the six months ended June 30, 2023.

(cc) Reflects the adjustment for the portion of net income attributable to non-controlling interests, as described in i above.

Adjustments to Unaudited Pro Forma Condensed Combined Statement of Operations

The adjustments included in the unaudited pro forma condensed combined statement of operations for the year ended December 31, 2022 are as follows:

(aa) Reflects the elimination of FWAC's income from investments held in the Trust Account.

(bb) Reflects the decrease in interest expense as a result of paying down amounts outstanding under Credit Agreement, as described in e above. The adjustment was calculated using actual coupon interest on the Credit Agreement for the year ended December 31, 2022.

MIC entered into its Credit Agreement in March 2022. During the second quarter of 2022, MIC used proceeds from the Credit Agreement to pay-off $56.1 million of then outstanding principal on mortgage loans. As described above, the unaudited pro forma condensed combined financial statements contemplate that MIC will pay-down some of the outstanding balance on the Credit Agreement. However, since there was no Credit Agreement until March 2022, and therefore no interest, there is an adjustment in 2022 to each scenario to reflect a decrease in interest expense as though MIC used proceeds from the Merger to pay-down $15.0 million of the $56.1 million of debt as of January 1, 2022.

(cc) Reflects the adjustment for the portion of net income attributable to non-controlling interests, as described in i above.

(dd) The $4.1 million adjustment reflects the non-cash compensation cost recognized for certain LTIP Units that were granted to MIC's Chief Executive Officer and Chief Financial Officer on August 23, 2022 pursuant to their respective employment agreements. These LTIP Units will vest in full only upon the occurrence of a liquidity event prior to August 25, 2024; provided, that the executive remains continuously employed by New MIC, the Operating Company or an affiliate thereof through the one year anniversary of the liquidity event. The grant date fair value of the awards was determined to be $4.1 million and is recognized over the 2022 pro forma period which assumes the Merger closes on January 1, 2022.

(ee) Reflects the recognition of dividends on Series 2 Preferred Stock at a cumulative annual rate of 10% of the $1,000.00 per share liquidation preference, which dividends will be paid in full on the conversion date.