

LOAN AGREEMENT

DATED AS OF SEPTEMBER 12 2024

Between:

**MELCOR REIT LIMITED PARTNERSHIP
as Borrower**

- and -

**MELCOR REAL ESTATE INVESTMENT TRUST
as Covenantor and Guarantor**

- and -

**MELCOR DEVELOPMENTS LTD.
as Lender**

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LOAN AGREEMENT

THIS AGREEMENT made as of the 12th day of September, 2024

BETWEEN:

MELCOR REIT LIMITED PARTNERSHIP, a limited partnership formed and existing under the laws of the Province of Alberta, as borrower

(hereinafter referred to as the "**Borrower**")

AND:

MELCOR REAL ESTATE INVESTMENT TRUST, a trust under the laws of the Province of Alberta, as covenantor and guarantor

(hereinafter referred to as the "**REIT**")

AND:

MELCOR DEVELOPMENTS LTD., a corporation organized and existing under the laws of the Province of Alberta, as lender

(hereinafter referred to as the "**Lender**")

WHEREAS the Borrower has requested, and the Lender has agreed, to establish an unsecured loan in the principal amount equal to the Convertible Debenture Repayment Amount, on and subject to the terms and conditions herein set forth.

NOW THEREFORE THIS LOAN AGREEMENT WITNESSES that for good and valuable consideration, the receipt and sufficiency of which are acknowledged by each of the parties, the parties agree as follows:

ARTICLE 1 INTERPRETATION

Definitions

1.1 In this Agreement, unless there is something in the subject matter or context inconsistent therewith:

"**Advance**" has the meaning attributed to such term in Section 2.1;

"**Agreement**", "**this Agreement**", "**hereto**", "**hereby**", "**hereunder**", "**hereof**", "**herein**" and similar expressions refer to this loan agreement, as amended, modified, supplemented, restated or replaced from time to time, and not to any particular Article, Section, subsection, paragraph, clause, subdivision or other portion hereof, and include any and every supplemental agreement; and the expressions "**Article**", "**Section**", "**subsection**" and "**paragraph**" followed by a number mean and refer to the specified Article, Section, subsection or paragraph of this Agreement;

"**Applicable Law**" means, at any time, with respect to any Person, all laws, rules, statutes, regulations, treaties, orders, judgments and decrees applicable at such time to such Person;

"**Asset Management Agreement**" means the amended and restated asset management agreement between the Lender and the REIT dated May 26, 2022, pursuant to which the Lender provides asset management services to the REIT;

“Asset Sale” shall mean the sale, transfer or other disposition (including any casualty or condemnation) by the Borrower (or any Person the Borrower holds securities of) of any real property, asset related to real property or shares, joint venture interests or other securities of any Person holding real property or other assets related to real property;

“Arrangement Agreement” means the arrangement agreement between the Lender, Melcor REIT GP Inc. and the REIT dated September 12, 2024, including the schedules thereto, as amended, supplemented or otherwise modified from time to time in accordance with its terms;

“ATB” means ATB Financial in its capacity as administrative agent under the Senior Credit Agreement;

“Business Day” means any day (other than Saturday, Sunday or a statutory holiday) when banks are open in Edmonton, Alberta;

“Cash Proceeds” shall mean, with respect to any Asset Sale, cash, cash equivalents or marketable securities received by or on behalf of the Borrower from such Asset Sale, including any insurance or condemnation or expropriation proceeds and cash proceeds received by way of deferred payment pursuant to a note receivable or otherwise;

“Change of Control” means the acquisition by any Person, or group of Persons acting jointly or in concert, other than the Lender or any Persons acting jointly or in concert with the Lender, of voting control or direction over an aggregate of 50% or more of the outstanding trust units of the REIT (on a fully-diluted basis including assuming the conversion or exchange of units of the Borrower which are convertible or exchangeable into trust units of the REIT);

“Convertible Debenture Repayment Amount” means the aggregate principal amount of all Convertible Debentures outstanding on the Redemption Date or Debenture Maturity Date, as applicable (excluding, for certainty, all accrued but unpaid interest thereon), payable in connection with the redemption or repayment, as applicable, in full of the Convertible Debentures on such date;

“Convertible Debentures” means the \$46.0 million aggregate principal amount of 5.10% convertible unsecured subordinated debentures having a maturity date of December 31, 2024, which were issued by the REIT on October 29, 2019 under the Supplemental Indenture and which are governed by the terms of the Convertible Indenture;

“Convertible Indenture” means the trust indenture entered into between the REIT and Valiant Trust Company dated December 3, 2014, as supplemented by a first supplemental indenture between the REIT, Valiant Trust Company and AST Trust Company dated September 25, 2015, as supplemented by a second supplemental indenture between the REIT and AST Trust Company dated December 3, 2017, as supplemented by a third supplemental indenture between the REIT and AST Trust Company dated October 29, 2019, as supplemented by a fourth supplemental indenture between the REIT, Odyssey Trust Company and TSX Trust Company dated May 10, 2022;

“Deadline” means 4:00 p.m. (Edmonton, Alberta time) on December 17, 2024;

“Debenture Maturity Date” means December 31, 2024;

“Debenture Take-out Proposal” means any offer, proposal, inquiry or expression of interest (written or oral) from any Person or group of Persons relating to, whether in a single transaction or a series of related transactions, a loan (whether secured or unsecured), either to the REIT or the Borrower, the proceeds of which will be used to, directly or indirectly, repay in full the Convertible Debentures;

“Designated Cross Trustee” means Naomi Stefura;

“Event of Default” has the meaning attributed to such term in Section 6.1;

“Loan” means the principal amount of the Advance outstanding hereunder, together with all interest accrued and unpaid under this Agreement;

“Maturity Date” means that date which is three (3) years from the date of the Advance;

“Net Cash Proceeds” mean with respect to any Asset Sale or property casualty loss, the Cash Proceeds therefrom, net of, without duplication, (i) costs of sale (including payment of the outstanding principal amount of, premium or penalty, if any, and interest on any indebtedness (other than the Loan) required to be repaid under the terms thereof as a result of such Asset Sale), (ii) taxes paid or reasonably estimated to be payable in the year such Asset Sale occurs or in the following year as a result thereof, (iii) appropriate amounts required to be reserved for post-closing adjustments in connection with such Asset Sale, and (iv) deductions for indebtedness secured by any assets forming part of such Asset Sale, provided that such indebtedness is repaid as a result of such Asset Sale;

“Offering Proceeds Note” means the promissory note, in the principal amount of \$46.0 million issued by the Borrower to the REIT and dated October 29, 2019;

“Person” means any individual, partnership, limited partnership, joint venture, syndicate, sole proprietorship, or corporation with or without share capital, body corporate, unincorporated association, trust, trustee, executor, administrator or other legal personal representative, government or governmental authority or entity, however designated or constituted;

“Property Management Agreement” means the amended and restated agreement between the REIT and the Lender dated May 26, 2022, pursuant to which the Lender provides property management services to the REIT;

“Proposed Transaction” means the transaction provided for in the Arrangement Agreement and the plan of arrangement attached thereto;

“Redemption Date” has the meaning ascribed thereto in the Supplemental Indenture;

“Senior Credit Agreement” means the amended and restated credit agreement between the Borrower, as borrower, ATB, as administrative agent, lead arranger, syndication agent, sole bookrunner and lender, and Canadian Western Bank, as lender, dated May 27, 2024, as amended by a first amending agreement dated August 29, 2024;

“Superior Proposal Agreement” means an agreement between the REIT and a Person, other than the Lender, the subject matter is a transaction which satisfies the definition of “Superior Proposal” in the Arrangement Agreement;

“Supplemental Indenture” means the third supplemental indenture to the Convertible Indenture between the REIT and AST Trust Company dated October 29, 2019;

“Termination Date” means the date on which this Agreement is terminated in accordance with Section 8.1; and

“Utilization Request” means a written request from the REIT to the Lender requesting the making of the Advance.

Interpretation

- 1.2 The division of this Agreement into Articles, Sections, subsections and paragraphs, the provision of a table of contents and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.
- 1.3 Any reference in this Agreement to “**Dollars**”, “**dollars**” or “**\$**” shall be deemed to be a reference to lawful money of Canada.
- 1.4 Whenever any payment to be made hereunder shall be due, any period of time would begin or end, any calculation is to be made or any other action is to be taken on or as of, a day other than a Business Day, such payment shall be made, such period of time shall begin or end, such calculation shall be made and such other actions shall be taken, as the case may be, unless otherwise specifically provided for herein, on or as of the next succeeding Business Day.
- 1.5 This Agreement shall be governed by, construed and enforced in accordance with the laws of the Province of Alberta and the federal laws of Canada applicable therein and shall be treated in all respects as an Alberta contract. The Borrower and the REIT hereby irrevocably attorn to the exclusive jurisdiction of the Courts of the Province of Alberta in the City of Edmonton.
- 1.6 In this Agreement, any Event of Default that has been remedied, cured or waived shall be deemed to not be “continuing”.
- 1.7 In this Agreement, unless the context otherwise requires, words importing the singular include the plural and vice versa and words importing gender include all genders. In this Agreement the words “including” or “includes” mean “including without limitation” and “includes without limitation”, respectively.
- 1.8 Time shall be of the essence in all respects in this Agreement.

ARTICLE 2 TERMS OF THE LOAN

The Advance

- 2.1 Subject solely to the conditions set out in Section 3.1, the Lender agrees to make an unsecured loan to the Borrower in an amount equal to the Convertible Debenture Repayment Amount by way of one advance made in accordance with this Agreement (the “**Advance**”). The Advance shall be made no later than two (2) Business Days following the date of receipt by the Lender of the Utilization Request in accordance with the terms hereof, provided that, unless otherwise agreed by the Lender in its sole discretion, the Lender shall not be required to make the Advance until the date that is two (2) Business Days prior to the Redemption Date or Debenture Maturity Date, as applicable.

Non-Revolving

- 2.2 The Advance is a non-revolving facility, and any repayment or prepayment of the Advance shall not be re-borrowed.

Interest and Maturity

- 2.3 Following the Advance, accrued interest shall be payable semi-annually in arrears on June 30 and December 31 in each year, payable after as well as before maturity and after as well as before default, demand and judgment, with interest on amounts in default at the same rate, compounded semi-annually.

- 2.4 Interest shall accrue on the amount of the Loan from the date of the Advance at the fixed rate of twelve percent (12.0%) per annum.
- 2.5 Except as otherwise provided herein, the outstanding amount of the Loan, together with all accrued and unpaid interest, will be immediately due and payable by the Borrower to the Lender on the Maturity Date.
- 2.6 The Borrower shall be entitled to pre-pay, without penalty, fee or premium, on two Business Days' notice, all amounts owing hereunder.

Use of Proceeds

- 2.7 The Borrower shall use the proceeds of the Advance to repay in full the Offering Proceeds Note. The REIT covenants and agrees to use the proceeds from the repayment of the Offering Proceeds Note to redeem or repay, as applicable, the Convertible Debentures and pay any accrued and unpaid interest and any other amounts relating to the Convertible Debentures, in order to discharge the REIT's obligations thereunder in full.

Computations

- 2.8 The rates of interest under this Agreement are nominal rates, and not effective rates or yields. Unless otherwise stated, wherever in this Agreement reference is made to a rate of interest "per annum" or a similar expression is used, such interest shall be calculated on the basis of a year of 365 or 366 (as the case may be) days for the actual number of days occurring in the period for which any such interest is payable. For the purposes of the *Interest Act* (Canada) and disclosure thereunder, whenever any interest to be paid hereunder or in connection herewith is to be calculated on the basis of a 365 or 366 (as the case may be) day year, the yearly rate of interest to which the rate used in such calculation is equivalent is the rate so used multiplied by the actual number of days in the calendar year in which the same is to be ascertained and divided by 365 or 366 (as the case may be).

Time and Place of Payments

- 2.9 All payments made by the Borrower pursuant to this Agreement shall be made before 4:00 p.m. (Edmonton, Alberta time) on the day specified for payment. Any payment received after 4:00 p.m. (Edmonton, Alberta time) on the day specified for such payment shall be deemed to have been received before 4:00 p.m. (Edmonton, Alberta time) on the immediately following Business Day. All payments shall be made to the Lender to the account and office of the Lender, as specified by the Lender.

Mandatory Prepayments

- 2.10 Following the date of the Advance and thereafter while any amount remains outstanding under the Loan, no later than five (5) Business Days following receipt by the Borrower of Net Cash Proceeds, the Borrower shall pay to the Lender, as a prepayment against the Loan, an amount equal to 50% of such Net Cash Proceeds.

REIT Guarantee

- 2.11 The REIT hereby unconditionally guarantees to the Lender the due and punctual payment by the Borrower of all amounts owing hereunder by the Borrower to the extent that should Borrower default in the due and punctual payment of any such amount, the REIT shall pay such amounts to the Lender on demand. The guarantee of the Borrower's obligations hereunder is a continuing guarantee and shall be irrevocable and remain in full force and effect until amounts owing hereunder by the Borrower have been paid or satisfied in full. The REIT's guarantee of the

Borrower's obligations hereunder is a principal obligation and not merely the obligation of a surety and the Lender shall not be required to proceed against the Borrower or exhaust any remedies it may have against the Borrower but shall be entitled to demand and receive payment and performance from the REIT when any payment or performance is due under this Agreement.

ARTICLE 3 LENDER'S CONDITIONS PRECEDENT

Lender's Conditions Precedent to Advance

3.1 The obligation of the Lender to make the Advance under this Agreement is subject to and conditional upon the earlier of the following events occurring:

- (a) a Proposed Transaction is not consummated for any reason whatsoever (other than as a result of the REIT entering into a Superior Proposal Agreement) on or before the Deadline; and
- (b) the date on which the Borrower, the REIT and the Lender agree in writing to deliver a Redemption Notice to the holders of the Convertible Debentures pursuant to Section 2.1(c) of the Supplemental Indenture,

provided in either case the following conditions precedent are satisfied, fulfilled or otherwise met on the date of the Advance:

- (c) no Event of Default has occurred and is continuing;
- (d) ATB shall have provided its written consent to this Agreement and the making of the Advance to the Borrower, such consent to be in form and content to the satisfaction of the Lender acting reasonably;
- (e) the Lender shall have received a Utilization Request requesting the Advance; and
- (f) the Borrower and/or the REIT has paid to the debenture trustee an amount equal to the accrued but unpaid interest payable on the Debentures on the Redemption Date or Debenture Maturity Date, as applicable.

Waiver

3.2 The conditions in Section 3.1 are inserted for the benefit of the Lender and, other than the condition set out in Section 3.1(e), may be waived by the Lender, in whole or in part, with or without conditions.

ARTICLE 4 REPRESENTATIONS AND WARRANTIES

Representations and Warranties of the Borrower and the REIT

4.1 The Borrower and the REIT hereby jointly and severally represent and warrant to the Lender as of the date hereof and at the date of the Advance (if any) that:

- (a) each has been duly formed under the laws of its jurisdiction of formation and is validly existing;
- (b) each has full power and capacity to enter into this Agreement and to execute and deliver all documents as are required hereunder to be executed and delivered by it in accordance

with the terms hereof, and it has taken all necessary corporate or trust action, as applicable, to duly authorize the entering into, execution, delivery and performance of this Agreement;

- (c) each has duly authorized, executed and delivered this Agreement; and
- (d) this Agreement will create legal, valid and binding obligations of the Borrower and the REIT enforceable against it in accordance with its terms.

4.2 The Lender shall not be entitled to assert as a breach any inaccuracy in any representation or warranty of the REIT or the Borrower contained herein if, as of the date of this Agreement, the Lender or its representatives had knowledge of the inaccuracy or breach of such representation or warranty.

ARTICLE 5 COVENANTS

Covenants of the Borrower and the REIT

- 5.1 Each of the Borrower and the REIT covenant and agree with the Lender as follows:
- (a) it will maintain its existence;
 - (b) it will comply and conduct its business in such a manner so as to comply in all material respects with Applicable Law; and
 - (c) in the event that the Lender ceases to be the manager of the REIT pursuant to the Asset Management Agreement and/or the Property Management Agreement after the Advance, the Borrower and the REIT shall provide to the Lender such financial statements (annual and quarterly), management discussion and analysis of financial condition and results of operation and financial forecasts as are required to be provided to the lenders pursuant to the Senior Credit Agreement (or any replacement thereof).

Covenants of the Lender

- 5.2 The Lender covenants and agrees with the Borrower and the REIT that the Lender will not, and will cause its representatives to not, take or fail to take any action, including in its capacity as a unitholder of the REIT, manager of the REIT, or as a counterparty to the REIT in the various contractual arrangements between the Lender and the REIT, to frustrate, obstruct the completion of or otherwise prevent or delay the transactions contemplated by this Agreement, or, to cause an Event of Default hereunder.

ARTICLE 6 DEFAULT AND ENFORCEMENT

Events of Default

- 6.1 The occurrence of any one or more of the following events shall constitute an “**Event of Default**” hereunder:
- (a) the Borrower fails to make any interest payment payable hereunder when due, and such failure continues after the expiry of fifteen (15) days following written notice of such failure by the Lender to the Borrower;

- (b) the Borrower fails to make any payment of any principal amount of the Loan payable hereunder when due, and such failure continues after the expiry of seven (7) days following written notice of such failure by the Lender to the Borrower;
- (c) the Borrower defaults in observing or performing any covenant of this Agreement and such default continues unremedied or waived after the expiry of thirty (30) days following written notice of such default by the Lender to the Borrower;
- (d) this Agreement ceases to be in full force and effect;
- (e) the institution by the Borrower of proceedings to be adjudicated a bankrupt or insolvent or the seeking by it of liquidation, reorganization (by way of voluntary arrangement, scheme of arrangement or otherwise) or relief under any Applicable Law relating to bankruptcy, insolvency, reorganization or relief of debtors, or the filing by it of any such petition or to the appointment under any such Applicable Law of a receiver, administrator, receiver-manager, liquidator, assignee or trustee of all or substantially all of the Borrower's property, or the making by it of a general assignment for the benefit of creditors, or the admission by it in writing of its inability to pay its debts generally as they become due or any proceedings are commenced by a Person other than the Borrower for the bankruptcy, insolvency, administration, reorganization (by way of voluntary arrangement, scheme of arrangement or otherwise), winding-up, liquidation or dissolution of the Borrower; provided that the foregoing shall not apply to any proceedings which are frivolous or vexatious and/or are discharged, stayed or dismissed within ninety (90) days of commencement;
- (f) any representation or warranty given by the Borrower in this Agreement shall prove to be incorrect and such incorrectness continues unremedied or waived after the expiry of thirty (30) days following written notice of such incorrectness by the Lender to the Borrower; or
- (g) the occurrence of an event of default which is continuing under any mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any funded financial indebtedness for money borrowed by the Borrower, which event of default results in the acceleration of such indebtedness prior to its express maturity and is not rescinded or cured within 60 days after such acceleration, and the principal amount of such indebtedness, together with the principal amount of any other such indebtedness under which there has been a similar event of default or the maturity of which has been so accelerated and remains undischarged after such 60 day period at that time, exceeds \$30,000,000.00, individually or in aggregate.

Acceleration on Default

- 6.2 If any Event of Default shall occur and be continuing, the Lender may declare, upon written notice to the Borrower, the entire unpaid amount of the Loan to be forthwith due and payable, whereupon the principal amount of the Loan and such interest shall become and be immediately due and payable.

Waiver of Default

- 6.3 If an Event of Default shall have occurred, the Lender shall have the power to waive such Event of Default if, in the Lender's opinion, the same shall have been cured or adequate provision made therefor, upon such terms and conditions as the Lender may consider advisable, provided that no delay or omission of the Lender to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or acquiescence therein and provided further that no act or omission of the Lender shall extend to or be taken in any manner whatsoever to affect any subsequent Event of Default hereunder or the rights resulting therefrom.

Enforcement by the Lender

- 6.4 If an Event of Default shall have occurred, but subject to Section 6.3, the Lender may in its sole discretion proceed to enforce the rights of the Lender by any action, suit, remedy or proceeding authorized or permitted by this Agreement or by Applicable Law; and may file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Lender lodged, filed or otherwise recorded in any bankruptcy, administration, insolvency, winding-up or other judicial proceedings relating to the Borrower.

Application of Moneys

- 6.5 Any moneys arising from any enforcement by the Lender under this Agreement shall be held by the Lender and applied by it as follows:
- (a) first, in payment or reimbursement to the Lender of the reasonable costs and expenses, incurred in the enforcement of this Agreement;
 - (b) second, in or towards payment of all accrued but unpaid interest hereunder;
 - (c) third, in or towards repayment of the principal amount of the Loan; and
 - (d) fourth, the surplus of such moneys shall be paid to the Borrower or as the Borrower may direct.

Remedies Cumulative

- 6.6 No remedy herein conferred upon or reserved to the Lender is intended to be exclusive of any other remedy.

ARTICLE 7 NOTICES

Notice to the Borrower

- 7.1 Any notice to the Borrower and/or the REIT under the provisions of this Agreement shall be valid and effective if delivered personally, by email or courier or, if given by registered mail, postage prepaid, addressed to the Borrower at 900, 10310 Jasper Avenue NW, Edmonton, Alberta T5J 1Y8, Email: [REDACTED], Attention: Richard Kirby, and shall be deemed to have been given on the date of personal delivery if on a Business Day and otherwise on the next Business Day, on the date of sending if by courier or email if so delivered or sent prior to 5:00 p.m. (Edmonton time) on a Business Day and otherwise on the next Business Day, or on the fifth Business Day after such letter has been mailed, as the case may be. The Borrower may from time to time notify the Lender of a change in address which thereafter, until changed by further notice, shall be the address of the Borrower for all purposes of this Agreement.

Notice to the Lender

- 7.2 Any notice to the Lender under the provisions of this Agreement shall be valid and effective if delivered personally, by email, courier or, if given by registered mail, postage prepaid, addressed to the Lender at 900, 10310 Jasper Avenue NW, Edmonton, Alberta T5J 1Y8, Email: [REDACTED], Attention: Naomi Stefura, and shall be deemed to have been given on the date of personal delivery if on a Business Day and otherwise on the next Business Day, on the date of sending if by courier or by email if so delivered prior to 5:00 p.m. (Edmonton time) on a Business Day and otherwise on the next Business Day or on the fifth Business Day after such letter has been mailed, as the case may be. The Lender may from time to time notify the Borrower of a

change in address which thereafter, until changed by further notice, shall be the address of the Lender for all purposes of this Agreement.

- 7.3 Where the REIT or Borrower is required to notify, inform or otherwise provide information to the Lender hereunder, notification shall be deemed to have been made if the Designated Cross Trustee has knowledge of the information that would otherwise have been required to be contained in the notice delivered to the Lender.

ARTICLE 8 TERMINATION

Termination

- 8.1 This Agreement shall automatically terminate and be of no further force or effect immediately upon:
- (a) the REIT entering into a Superior Proposal Agreement if the Advance has not been made;
 - (b) the consummation of a Proposed Transaction if the Advance has not been made;
 - (c) the REIT and/or the Borrower, having first complied with Article 9, executing a definitive agreement with respect to a Debenture Take-out Proposal;
 - (d) the date that is sixty (60) days after the date the REIT enters into a Superior Proposal Agreement, provided the Advance has been made;
 - (e) the date that the REIT undergoes a Change of Control, whether or not the Advance has been made; and
 - (f) repayment in full of the outstanding Loan,

and thereafter the parties shall have no further obligation, liability or debt to each other hereunder. For clarity, if any amount of the Loan remains outstanding as of the Termination Date, the Loan (including all accrued and unpaid interest) shall be fully due and repaid on such Termination Date.

ARTICLE 9 RIGHT TO MATCH

- 9.1 If the Borrower and/or the REIT receives a *bona fide* Debenture Take-out Proposal that the Borrower and/or the REIT is prepared to accept, the Borrower and/or REIT may enter into a definitive agreement with respect to such Debenture Take-out Proposal, if and only if:
- (a) the Person making the Debenture Take-out Proposal was not restricted from making such Debenture Take-out Proposal pursuant to any existing confidentiality, standstill or similar restriction to which the Borrower or the REIT is party;
 - (b) such Debenture Take-out Proposal did not arise, directly or indirectly, as a result of a violation by the REIT, directly or indirectly, of any other agreement between the Lender, the Borrower and/or the REIT in any material respect;
 - (c) the Borrower and the REIT shall have provided the Lender with (i) written notice (the "**Debenture Take-out Proposal Notice**") of the intention of the Borrower and/or the REIT to enter into such definitive agreement and (ii) a copy of the proposed definitive agreement for the Debenture Take-out Proposal and all schedules and exhibits thereto;

- (d) at least five (5) Business Days (the “**Matching Period**”) have elapsed from the date that is the later of the date on which the Lender received the Debenture Take-out Proposal Notice and the date on which the Lender received a copy of all the other material set forth in Section 9.1(c); and
 - (e) prior to or concurrently with entering into a definitive agreement with respect to such Debenture Take-out Proposal, the Borrower and the REIT terminate this Agreement pursuant to Section 8.1(c).
- 9.2 During the Matching Period, or such longer period as the REIT may approve in writing for such purpose, the Lender shall have the right, but not the obligation, to offer in writing to amend the terms of this Agreement to match the Debenture Take-out Proposal (a “**Matching Amendment**”). If the Lender issues a Matching Amendment, the Parties shall amend this Agreement to give effect to the Matching Amendment and shall take and cause to be taken all such actions as are necessary to give effect to the foregoing.
- 9.3 Each successive material amendment to any Debenture Take-out Proposal from the same Person shall constitute a new Debenture Take-out Proposal for the purposes of this Article 9 and the Lender shall be afforded the rights set forth in this Article 9 with respect to such new Debenture Take-out Proposal, including the five (5) Business Day Matching Period.

ARTICLE 10 MISCELLANEOUS

Amendments and Waivers

- 10.1 No amendment to any provision of this Agreement shall be effective unless it is in writing and has been signed by the Lender, the Borrower and the REIT.

Survival

- 10.2 All covenants made in this Agreement shall survive the execution and delivery of this Agreement, and shall continue in full force and effect so long as the Loan remains outstanding.

Benefits of Agreement

- 10.3 This Agreement is entered into for the sole protection and benefit of the parties hereto and their successors and assigns, and no other Person shall be a direct or indirect beneficiary of, or shall have any direct or indirect cause of action or claim in connection with, this Agreement.

Binding Effect; No Assignment

- 10.4 This Agreement shall become effective when it shall have been executed by the parties hereto. Neither the Borrower and the REIT nor the Lender shall have the right to transfer and/or assign any of its rights and/or obligations hereunder or any interest herein without the prior written consent of the Lender or Borrower and the REIT, respectively.

Entire Agreement

- 10.5 This Agreement reflects the entire agreement between the parties hereto with respect to the matters set forth herein and supersedes any prior agreements, commitments, drafts, communication, discussions and understandings, oral or written, with respect thereto.

Severability

10.6 Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under all Applicable Laws. If, however, any provision of any of this Agreement shall be prohibited by or invalid under any such Applicable Law in any jurisdiction, it shall, as to such jurisdiction, be deemed modified to conform to the minimum requirements of such Applicable Law, or, if for any reason it is not deemed so modified, it shall be ineffective and invalid only to the extent of such prohibition or invalidity without affecting the remaining provisions of this Agreement, or the validity or effectiveness of such provision in any other jurisdiction.

Time of Essence

10.7 Time shall be of the essence of this Agreement.

Counterparts and facsimile

10.8 This Agreement may be executed in counterparts and such executed counterparts may be delivered by electronic transmission of an authorized signature (including in pdf or via DocuSign) and each such counterpart shall be deemed to form part of one and the same document.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF the parties hereto have executed this Agreement under the hands of their proper officers duly authorized in that behalf.

MELCOR REAL ESTATE INVESTMENT TRUST

Per: (signed) "Andrew Melton"
Andrew Melton
Chief Executive Officer and Trustee

Per: (signed) "Naomi Stefura"
Naomi Stefura
Chief Financial Officer

**MELCOR REIT LIMITED PARTNERSHIP, by its
general partner, MELCOR REIT GP INC.**

Per: (signed) "Andrew Melton"
Andrew Melton
Director

Per: (signed) "Naomi Stefura"
Naomi Stefura
Chief Financial Officer

MELCOR DEVELOPMENTS LTD.

Per: (signed) "Naomi Stefura"
Naomi Stefura
Chief Operating Officer and Chief Financial Officer

Per: (signed) "Timothy Melton"
Timothy Melton
Chief Executive Officer