

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

**Form 10-K**

(Mark One)

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

For the fiscal year ended December 31, 2019

OR

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

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission file number: 001-38424

**Lazydays Holdings, Inc.**

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of  
incorporation or organization)

6130 Lazy Days Blvd.  
Seffner, Florida

(Address of principal executive offices)

82-4183498

(I.R.S. Employer  
Identification No.)

33584

(Zip Code)

Registrant's telephone number, including area code: (813) 246-4999

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

<u>Title of Each Class</u>	<u>Trading Symbol(s)</u>	<u>Name of Each Exchange on Which Registered</u>
Common Stock, par value \$0.0001 per share	LAZY	NASDAQ Capital Market

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

None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes  No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes  No

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

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

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

Large accelerated filer   
Non-accelerated filer

Accelerated filer   
Smaller reporting company   
Emerging growth company

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

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

The aggregate market value of the 5,268,069 voting and non-voting shares of common stock held by non-affiliates of the registrant as of June 28, 2019 (based on the last reported sales price of such stock on the Nasdaq Capital Market on such date, the last business day of the registrant's quarter ended June 30, 2019, of \$5.00 per share) was approximately \$26.3 million.

As of March 18, 2020, the registrant had 8,506,666 shares of common stock outstanding.

Certain portions of the registrant's definitive proxy statement pursuant to Regulation 14A of the Securities Exchange Act of 1934 for its 2020 annual meeting of stockholders, which will be filed with the Securities and Exchange Commission within 120 days after the end of the year covered by this report, are incorporated by reference into Part III of this report.

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## PART I

### Item 1. *Business*

*As used in this report, the terms “Lazydays,” the “Company,” “Holdco,” “we,” “us,” and “our” refer to Lazydays Holdings, Inc. and its consolidated subsidiaries unless otherwise expressly stated or the context otherwise requires.*

#### Overview

Andina Acquisition Corp. II (“Andina”) was originally formed for the purpose of effecting a business combination with one or more businesses or entities. On March 15, 2018, the initial business combination was consummated. As a result, the business of Lazy Days’ R.V. Center, Inc. and its subsidiaries became the Company’s business. Accordingly, Lazydays Holdings, Inc. is now a holding company operating through our direct and indirect subsidiaries.

#### Company History

Andina was formed as an exempted company incorporated in the Cayman Islands on July 1, 2015 for the purpose of entering into a merger, share exchange, asset acquisition, share purchase, recapitalization, reorganization or other similar business combination with one or more target businesses.

From the consummation of the initial public offering (“IPO”) of Andina until October 27, 2017, Andina was searching for a suitable target business to acquire. On October 27, 2017, a merger agreement was entered into by and among Andina, Andina II Holdco Corp., a Delaware corporation and wholly owned subsidiary of Andina (“Holdco”), Andina II Merger Sub Inc., a Delaware corporation and wholly owned subsidiary of Holdco (“Merger Sub”), Lazy Days’ R.V. Center, Inc. (“Lazydays RV”) and solely for certain purposes set forth in the merger agreement, A. Lorne Weil (the “Merger Agreement”). The Merger Agreement provided for a business combination transaction by means of (i) the merger of Andina with and into Holdco, with Holdco surviving and becoming a new public company (the “Redomestication Merger”) and (ii) the merger of Lazy Days’ R.V. Center, Inc. with and into Merger Sub with Lazy Days’ R.V. Center, Inc. surviving and becoming a direct wholly owned subsidiary of Holdco (the “Transaction Merger” and together with the Redomestication Merger, the “Mergers”). On March 15, 2018, Holdco held an extraordinary general meeting of the shareholders, at which the Andina shareholders approved the Mergers and other related proposals. On the same date, the Mergers were closed. In connection with the Mergers, the business of Lazy Days’ R.V. Center, Inc. and its subsidiaries became the business of Holdco. As a result of the Mergers, the Company’s stockholders and the shareholders of Andina became stockholders of Holdco and the Company changed the name of Holdco to “Lazydays Holdings, Inc.”

#### Our Business

The Company operates Recreational Vehicle (“RV”) dealerships and offers a comprehensive portfolio of products and services for RV owners and outdoor enthusiasts. The Company generates revenue by providing RV owners and outdoor enthusiasts a full spectrum of products: RV sales, RV-parts and services, financing and insurance products, third-party protection plans, after-market parts and accessories, and RV camping facilities. The Company provides these offerings through its Lazydays branded dealerships. Lazydays is known nationally as The RV Authority<sup>®</sup>, a registered trademark that has been consistently used by the Company in its marketing and branding communications since 2013.

The Company believes, based on industry research and management’s estimates, it operates one of the world’s largest RV dealerships, measured in terms of on-site inventory, located on 126 acres outside Tampa, Florida. The Company also has dealerships located at The Villages, Florida; Tucson, Arizona; Minneapolis, Minnesota; Knoxville, Tennessee; and Loveland and Denver, Colorado. Lazydays also has a dedicated Service Center location near Houston, Texas which opened in February 2020. Lazydays offers one of the largest selections of leading RV brands in the nation featuring more than 3,000 new and pre-owned RVs. The Company has more than 400 service bays across all locations and has RV parts and accessories stores at all locations. Lazydays also has access to two on-site campgrounds with over 700 RV campsites. The Company employs over 900 people at its eight dealership and service locations. The Company’s locations are staffed with knowledgeable local team members, providing customers access to extensive RV expertise. The Company believes its locations are strategically located in key RV markets. Based on information collected by the Company from reports prepared by Statistical Surveys, these key RV markets (Florida, Colorado, Arizona, Minnesota, Tennessee and Texas) account for a significant portion of new RV units sold on an annual basis in the U.S. The Company’s dealerships in these key markets attract customers from all states, except Hawaii.

The Company attracts new customers primarily through Lazydays dealership locations as well as digital and traditional marketing efforts. Once the Company acquires customers through a transaction, those customers become part of the Company’s customer database where the Company leverages customized customer relationship management (“CRM”) tools and analytics to actively engage, market and sell its products and services.

## Recent Developments

In February 2020, the Company announced the opening of its first dedicated service center in Waller, Texas, a suburb northwest of Houston. On March 6, 2020, the Company amended its existing debt agreement with Manufacturers and Traders Trust Company (“M&T Bank”) to finance the previously incurred development expenditures with the addition of a \$6.1 million mortgage. The mortgage shall bear interest at (a) LIBOR plus an applicable margin of 2.25% or (b) the Base Rate plus a margin of 1.25%. The mortgage requires monthly payments of principal of \$0.03 million and matures on March 15, 2021 when all remaining principal and accrued interest payments become due.

## Company Strengths

**The Iconic Brand.** With over forty years of history dating back to 1976, Lazydays is an iconic, industry leading brand that we believe is synonymous with the RV lifestyle, and is known nationally as The RV Authority<sup>®</sup>, a registered trademark. The trademark has been consistently used by the Company in its marketing and branding communications since 2013. Based on a research report prepared by Russell Research in November / December 2017, Lazydays is the second most well-known R.V. dealership brand among a national audience of non-Lazydays customers surveyed. According to the report, over 85% of Lazydays customers and over 80% of prospective customers surveyed believe that Lazydays is among the category leaders in the industry. The Company’s consistent quality, breadth and depth of offerings, as well as its comprehensive range of RV lifestyle resources, have resulted in the Company’s customers having loyalty to and trust in the Lazydays brands.

**Comprehensive RV Products and Services.** The Company is a provider of a comprehensive portfolio of RV products, services, third-party protection plans, and resources for RV enthusiasts. The Company represents the top manufacturers in the industry with more than 3,000 RVs available nationwide. Lazydays provides an extensive service and repair offering nationwide for all RV brands with more than 400 service bays staffed by certified technicians. The Company’s offerings are based on more than four decades of experience and feedback from RV enthusiasts.

**Customer Experience.** Lazydays’ target customers are RV enthusiasts who are seeking a lifestyle centered around the RV. Lazydays believes it has built its reputation on providing an outstanding customer experience with exceptional service and product expertise. One of the Company’s primary goals is to create “Customers for Life” by offering a unique purchasing experience that combines a large selection of RV inventory, the Company’s unique scenic facilities with multiple amenities, and its customer focused, process-oriented approach to servicing the customer. Building a welcoming atmosphere that caters to the RV enthusiast community is an intangible element critical to the Company’s success, and the Company’s philosophy is thoroughly ingrained in and continually reinforced throughout its corporate culture at every level. The Company believes that its customer-focused business model has resulted in a loyal, stable and growing customer base as well as a strong reputation within the RV community.

**Employee Service and Commitment.** Lazydays believes its commitment to ongoing training and talent development has been instrumental in providing employees an outstanding workplace experience and growth opportunities. As a result of this commitment, the Lazydays team of experienced professionals is able to provide an exceptional level of service that we believe is very difficult to replicate and is a significant competitive advantage.

In 2005, Lazydays' employees formed the Lazydays Employee Foundation (the "Foundation"), a 501(c)(3) non-profit organization focused on making a positive impact in the lives of at-risk children. The Foundation is run exclusively by employees as volunteers and members of the Foundation's board of directors, and their mission is to measurably change the lives of children by instilling hope, inspiring dreams and empowering them with education. Since its inception, the Foundation has donated more than \$2 million to help disadvantaged children in Florida, Arizona, Colorado and Minnesota. The Foundation recently donated approximately \$0.4 million to help create the first long term care facility in the Tampa Bay area for girls rescued from human trafficking. Lazydays' employees also volunteer on small building projects, perform repair work for group homes or homeless shelters, cook and feed the needy, and engage in life enriching activities with at-risk youth. The Foundation received the 2016 Olin Mott Golden Heart award and was also recognized with A Kid's Place Guardian Angel Award. In 2017, the Foundation was awarded the national Arthur J. Decio Humanitarian Award for outstanding civic and community outreach in the RV industry.

**Leading Market Position and Scale.** Lazydays believes it is one of the largest RV retailers in the United States. As per a research report prepared by Russell Research in November / December 2017, Lazydays is the second most well-known RV brand among the national audience. We believe the Company's scale and its long-term stability make it attractive to the Company's original equipment manufacturers ("OEMs"), suppliers, financiers and business partners. The Company believes its strong relationship with OEMs and suppliers enables the Company to negotiate attractive product pricing and availability. The Company also aligns with its OEMs on product development in which the Company leverages its customer base to provide feedback on new products. The Company believes its scale and strong relationship with its financing and insurance partners enables it to offer extensive financing products and insurance plans that fit almost every customer's needs.

**Consistent Processes and Procedures.** Lazydays utilizes a system of process documentation and implementation called the "Lazydays Way." Lazydays believes that the Lazydays Way allows it to implement and maintain very efficient and consistent operating procedures across all of its dealerships.

**Variable Cost Structure and Capital Efficient Model.** Lazydays' decentralized and flat management structure coupled with incentive programs focused on profitability have allowed Lazydays to achieve a highly variable cost structure. The Company's digital marketing and analytics capabilities provide it with significant flexibility and meaningfully improve its marketing productivity and efficiency via targeted marketing programs. The Company believes its operating model leads to strong and stable margins through economic cycles, resulting in what it believes to be high cash flow generation, low capital expenditure requirements and strong returns on invested capital.

**Experienced Team.** Lazydays' management team has extensive dealership and industry experience. The Company offers highly competitive compensation tightly tied to performance, which has allowed the Company to attract and retain its highly capable team.

#### Lazydays Product and Service Offerings

##### New and Used Vehicles

*New Vehicles:* Lazydays offers a comprehensive selection of new RVs across almost the entire range of price points, classes and floor plans, from entry level travel trailers to Class A diesel pushers, at its dealership locations and on its website. Lazydays has formed strategic alliances with leading RV manufacturers. The core brands that the Company sells, representing 89.1% of the new vehicles that were sold by the Company in 2019, are manufactured by Tiffin Motorhomes, Thor Industries, Inc., Winnebago Industries, Inc., and Forest River, Inc.

*Used Vehicles:* Lazydays sells a comprehensive selection of used RVs at its dealership locations. The primary source of used RVs is through trade-ins associated with the sale of new and used RVs. Lazydays is also very active in the used RV market and its extensive RV knowledge and experience allows Lazydays to buy used RVs at attractive prices. Used RVs are generally reconditioned by the Company's service operation prior to sale. Used RVs that do not meet the Company's standards for retail sale are wholesaled.

#### Dealership Finance and Insurance

*Vehicle financing:* Lazydays arranges for financing for vehicle purchases through third-party financing sources in exchange for a commission. Lazydays does not directly finance its customers' purchases, and its exposure to loss in connection with these financing arrangements generally is limited to the commissions that it receives. For the year ended December 31, 2019 and the year ended December 31, 2018, the Company arranged financing transactions for a majority of the new and used units sold.

*Protection Plans:* Lazydays offers a variety of third-party protection plans and services to the purchasers of its RVs as part of the delivery process, including extended vehicle service contracts, tire and wheel protection, guaranteed auto protection (known as "GAP", this protection covers the shortfall between a customer's loan balance and insurance payoff in the event of a casualty) and property insurance. These products are underwritten and administered by independent third parties. Lazydays is primarily compensated on a straight commission basis. The Company may be charged back ("charge-backs") for financing fees, insurance or vehicle service contract commissions in the event of early termination of the contracts by the customers.

#### Parts and Services and Other

*Repair and Maintenance :* In addition to preparing RVs for delivery to customers, Lazydays' service and repair operations, with over 400 service bays, provide onsite general RV maintenance and repair services at all of the Company's dealership locations. Lazydays employs over 240 highly skilled technicians, with many of them being certified with the Recreational Vehicle Industry Association ("RVIA") or the National RV Dealers Association ("RVDA"). The Company is equipped to offer comprehensive services and perform OEM warranty repairs for most RV components.

*Installation of parts and accessories :* Lazydays' full-service repair facilities enable Lazydays to install all parts and accessories sold at its dealership locations, including, among other items, towing and hitching products, satellite systems, braking systems, leveling systems and appliances. While other RV dealerships may be able to install RV parts and accessories and other retailers may be able to sell certain parts and accessories, Lazydays believes its ability to both sell and install necessary parts and accessories affords the Company a competitive advantage over online retailers and big box retailers that do not have service centers designed to accommodate RVs, and other RV dealerships that do not offer a comprehensive inventory of parts and accessories.

*Collision repair :* Lazydays offers collision repair services in all markets and the Company's Tampa and The Villages, Florida, Tucson, Arizona, Loveland, Colorado, Knoxville, Tennessee, Minneapolis, Minnesota locations are equipped with full body paint booths. Lazydays' facilities are equipped to offer a wide selection of collision repair services, including fiberglass front and rear cap replacement, windshield replacement, interior remodel solutions and paint work. The Company can perform collision repair services for a wide array of insurance carriers.

*Parts and Accessories Store :* With sizable parts and accessories inventory, in addition to fully stocked onsite retail and accessory stores and access through the Lazydays' networks for hard to find parts, Lazydays provides new and pre-owned RV buyers the option of dealer installed accessories, such as tow hitches, satellite dishes and specialized suspension systems that can be included in each buyer's financing or aftermarket through the Lazydays retail store footprint. The Company believes that its Tampa, Florida Accessories & More store is among the largest aftermarket parts and accessories stores in the state of Florida.

*RV Campground:* Lazydays also operates the Lazydays RV Resort at its Tampa, Florida location. Also known as the Lazydays RV Campground, the Lazydays RV Resort includes amenities designed to allow guests to relax, unwind, and enjoy fun activities as a family. The resort offers 300 RV sites with full 50-amp hookups, a full-time activities coordinator, sports courts, trolley service to and from the Lazydays dealership, and a screened and heated pool. The resort also operates on-site restaurants.

## **Growth Strategy**

***Grow the Company's Customer Base*** . Lazydays believes its strong brands, market position, ongoing investment in its service platform, broad product portfolio and full array of RV offerings will continue to provide the Company with competitive advantages in targeting and capturing a larger share of consumers including the growing number of new RV enthusiasts that will enter the market. The Company continuously works to attract new customers to its dealership locations through targeted integrated digital and traditional marketing efforts, attractive offerings and access to its wide array of resources for RV enthusiasts. The Company has focused specifically on marketing to the fast-growing RV demographics of Baby Boomers, Generation X and Millennials. The Company also markets to these segments through RV lifestyle focused partnership and sponsorship efforts.

***Dealership Location Acquisitions*** . The RV dealership industry is highly fragmented with many independent RV dealers. The Company has used, and plans to continue to use, acquisitions of independent dealers as an alternative to new dealership location openings to expand its business and grow the Company's customer base. Lazydays believes its experience and scale allow it to operate acquired locations efficiently. During 2019, Lazydays acquired Alliance Coach, Inc. located at The Villages, Florida. Lazydays intends to continue to pursue acquisitions that will grow its customer base and present attractive risk-adjusted returns and significant value-creation opportunities.

***Greenfield Dealership and Service Locations*** . Lazydays may establish dealership and/or service locations in new and existing markets to expand its customer base. Target markets and locations are identified by employing proprietary data and analytical tools. The Company believes there is ample white space for additional development opportunities. The Company intends to open greenfield sites that will grow its customer base and present attractive risk-adjusted returns and significant value-creation opportunities. The Company commenced development of a greenfield dealership near Nashville, Tennessee during 2019, and opened its first dedicated service center in Waller, TX, a suburb northwest of Houston, in February 2020.

***Service and Collision*** . Lazydays believes that its service and repair capabilities represent a significant opportunity for incremental revenue growth, especially as the Company grows geographically. Lazydays frequently welcomes customers who travel from across the country to have their vehicles serviced by Lazydays' team of service and repair professionals. As a result, the service and repair department serves as a means of attracting potential customers to the Lazydays facilities and offers greater additional sales opportunities for Lazydays.

***Parts and Accessories Store "Accessories & More"*** . Aftermarket RV parts and accessories are typically under-represented at RV dealerships. The Company believes that parts and accessories are an important part of the RV lifestyle and serve to engage customers with the Lazydays brand outside of the typical RV buying and servicing cycle. The Company understands that RV owners need a reliable resource for RV necessities and products that make their camping experience more enjoyable. Lazydays stores have expansive offerings and provide access to RV product experts to assist RV owners in their RV lifestyle needs. Lazydays believes that the "Accessories & More" offering encompasses all of the needs of the RV consumer.

***Leverage the Company's scale and cost structure to improve operating efficiency.*** As Lazydays grows, it is positioned to leverage its scale to achieve competitive operating margins. The Company manages its new and used RV inventories so that its dealerships' supply and assortment of vehicles are in line with seasonal sales trends and minimize the Company's carrying costs. In addition, the Company leverages its scale to reduce costs related to purchasing certain equipment, supplies, and services through national vendor relationships.



## Customers and Markets

The RV industry is characterized by RV enthusiasts' investment in, and steadfast commitment to, the RV lifestyle. The estimated number of U.S. households that own an RV is approximately 9 million.

Owners invest in insurance, extended service contracts, parts and accessories, roadside assistance and regular maintenance to protect and maintain their RVs. They typically invest in new accessories and the necessary installation costs as they upgrade their RVs. They also spend on services and resources as they plan, engage in, and return from their road trips. Furthermore, based on industry research and management's estimates, the Company believes that RV owners typically trade-in to buy another RV every four to five years.

Per the RV Industry Association's (RVIA) December 2019 survey of manufacturers, total RV wholesale shipments ended 2019 with 406,070 units, down (16.0%) compared to 483,672 units in 2018. Towable RVs were down (15.6%) at 359,441 units; motorhome shipments were down (19.0%) at 46,629 units, compared to 2018 shipment totals. Per the RVIA survey, 2019 shipments were the fourth highest of all time. Generally, used RVs are sold at a lower price level than comparable new RVs and the sale of used RVs has historically been more stable through business cycles than the sale of new vehicles.

Lazydays believes RV trips remain one of the least expensive types of vacation, allowing RV owners to travel more while spending less. RV trips offer savings on a variety of vacation costs, including, among others, airfare, lodging, pet boarding and dining. While fuel costs are a component of the overall vacation cost, the Company believes fluctuations in fuel prices are not a significant factor affecting a family's decision to take RV trips. Based on RVIA information, the average annual mileage use of an RV is between 3,000 and 5,000 miles. In addition, Lazydays' customer research indicates that customers are attracted to RV ownership based on the comfortable and convenient travel it provides.

## Competition

The Company believes that the principal competitive factors in the RV industry are breadth and depth of product selection, value pricing, convenient dealership locations, quality technical services, customer service, and overall experience. The Company competes directly and/or indirectly with RV dealers, RV service providers, and RV parts and accessories retailers. One of the Company's direct competitors, Camping World Holdings, Inc., is publicly listed on the New York Stock Exchange. Additional competitors may enter the businesses in which the Company currently operates.

## Lazydays RV Dealerships

The Company operates eight Lazydays dealership and service locations across six states. The Company's dealership and service locations are strategically located in key RV markets. Based on information collected by the Company from reports prepared by Statistical Surveys, these key RV markets of Florida, Colorado, Arizona, Minnesota, Tennessee and Texas account for a significant portion of new RV units sold on an annual basis in the U.S. The Company's dealerships in these key markets attract customers from all states, except Hawaii. Generally, the Company's dealership locations provide RV repair and installation services, collision repair, parts, and accessories for RVs and RV enthusiasts, and all of the Company's locations sell new and used RVs. The Company believes its dealership strategy of offering a comprehensive range of RV parts, services, accessories, products, and new and used RVs, generates powerful cross-selling opportunities.

## ***Dealership Design and Layout***

The Company's operating dealership locations range in size from approximately 14,000 to 384,000 square feet and are situated on 11 to 126 acres. The Company's dealership locations feature service centers staffed with expert, in-house trained product specialists and are equipped with merchandise demonstrations to assist in educating customers about RV performance products. The Company's dealership locations also provide opportunities to promote a more interactive and consultative selling environment. The Lazydays staff is trained to cross-sell and explain the benefits of the Company's breadth of available services, third party protection plans and products to which the Company's customers have become accustomed, such as extended service contracts, emergency roadside assistance products, club memberships, discount camping and travel assistance.

The Company regularly refreshes its dealership locations to enhance the customers' shopping experience and maximize product and service offerings. New products and services are introduced to capitalize on the advances of the RV industry and to satisfy needs of the Company's customers. Store dress, promotional signage and directional signage are also periodically refreshed to further enhance the Lazydays customer shopping experience at Lazydays dealership locations.

### ***Expansion Opportunities and Site Selection***

The Company's disciplined expansion and acquisition strategy focuses on growing its geographic footprint and customer base. The Company believes it has developed a rigorous and flexible process that employs exclusive data and analytical tools to identify target markets for acquisitions and new dealership and service center openings. The Company evaluates acquisition opportunities or selects sites for new locations based on criteria such as local demographics, traffic patterns, proximity to RV parks and campgrounds, proximity to major interstates, analytics from the Company's customer database, RV sales and registrations, product availability and availability of attractive acquisition and/or lease terms. Members of the Lazydays development team spend considerable time evaluating markets and prospective sites.

### ***Dealership Management and Training***

The Company's Vice President, National General Manager oversees all dealership operations. He has over 39 years of experience in the RV industry and has been employed by Lazydays for over 6 years.

Each dealership location employs a General Manager (the "GM") that has responsibility for the daily operations of the dealership. Areas of responsibility include inventory management, hiring, associate training and development, maintenance of the facilities, customer service and customer satisfaction. A GM's management team includes a sales manager, a parts and accessories manager, a service manager, and a finance and insurance manager to help oversee the operations of each dealership location department. A typical Lazydays dealership location employs approximately 30 to 100 full-time equivalent employees.

The Company employs a Vice President, Operations and Supply Chain, and a centralized inventory management team to oversee the Company's RV inventory and provide consistency and controls in the forecasting, ordering, purchasing and distribution of RV inventory.

The Company employs a Vice President of Service who has responsibility for the service operations of the dealership locations. His responsibilities include ensuring efficiency, logistics, and scheduling of service operations to deliver a premium customer experience.

The Company is constantly seeking to add top talent by partnering with local school districts, trade schools, military bases and community organizations. The interview process identifies current and future candidates with the goal of hiring talented people that are customer focused. The Company identifies hard to fill positions and has taken a proactive approach to creating viable candidates with its Tech U and Sales U programs. Through its Tech U and Sales U programs, the Company enrolls students with technical aptitude and provides them training to successfully complete industry certification courses and prepare them for a career as an RV technician or a successful sales partner.

Once hired, the Company continues to provide extensive training programs and opportunities for its employees, including, among others, new-hire training and orientations, institutionalized monthly e-learning and training modules, and certification programs for the Company's RV technicians.

## Product Sourcing and Distribution

### Sourcing

#### New and Used RVs

The Company generally acquires new RVs for retail sale directly from the applicable manufacturer. Lazydays has strategic contractual arrangements with many of the leading RV manufacturers. Lazydays maintains a central inventory management and purchasing group to manage and maintain adequate inventory levels and assortment. RVs are transported directly from a manufacturer's facility to Lazydays dealership locations via various third-party transportation companies.

Lazydays' strategy is to partner with financially sound manufacturers that make quality products, have adequate manufacturing capacity and distribution, and maintain an appropriate product mix.

Lazydays' supply arrangements with OEMs are typically governed by dealer agreements, which are customary in the RV industry. The Company's dealer agreements with OEMs are generally made on a location-by-location basis. The terms of these dealer agreements are typically subject to Lazydays, among other things, meeting all the requirements and conditions of the dealer agreement, maintaining certain sales objectives, performing services and repairs for owners of the manufacturer's RVs that are still under manufacturer warranty, carrying the manufacturer's parts and accessories needed to service and repair the manufacturer's RVs in stock at all times, actively advertising and promoting the manufacturer's RVs and indemnifying the manufacturer under certain circumstances. Lazydays' dealer agreements generally designate a specific geographic territory, exclusive to Lazydays, provided that Lazydays meets the material obligations of the dealer agreement. Wholesale pricing is generally established on a model year basis and is subject to change at the manufacturer's sole discretion. In certain cases, the manufacturer may also establish a suggested retail price, below which the Company cannot advertise that manufacturer's RVs.

Lazydays generally acquires used RVs from customers, primarily through trade-ins, as well as through private sales, auctions, and other sources, and the Company generally reconditions used RVs acquired for retail sale in its service operation. Used RVs that Lazydays does not sell at Lazydays dealership locations generally are sold at wholesale prices through auctions.

Lazydays finances the purchase of substantially all of the Company's new RV inventory from OEMs through a floor plan facility. Used vehicles may also be financed from time to time through the floor plan facility. For more information on the floor plan facility, see "Management's Discussion and Analysis of Financial Condition and Results of Operations — M&T Credit Facility" below.

#### Parts and Accessories

The purchasing activities for the Company's parts and accessories departments are focused on RV maintenance products, outdoor lifestyle products, RV parts and accessories, such as, among other things, generators and electrical, satellite receivers and GPS systems, towing and hitching products and RV appliances, essential supplies and other products and services necessary or desirable for the RV lifestyle. The Company maintains central purchasing functions to manage inventory, product-planning, allocate merchandise to the Company's dealership locations and oversee the replenishment of basic merchandise. The Company has no long-term purchase commitments. The Company leverages its scale to reduce costs related to purchasing certain equipment, supplies, and services through long-standing, continuous relationships with its largest vendors.

## Marketing and Advertising

The Company markets its product offerings through integrated marketing campaigns across all digital and traditional marketing disciplines, with an emphasis on digital. The Company's marketing efforts include its website, paid and organic search efforts, email, social media, online blog and video content, television, radio, billboards, direct mail, and RV shows and rallies. Lazydays also has exclusive partnership and sponsorship relationships with various RV lifestyle properties. The Company currently has a segmented marketing database of over 3.9 million RV owners and prospects. Lazydays' principal marketing strategy is to leverage its unique brand positioning, extensive product selection, exclusive benefits, and high quality customer experience among RV owners. As per a research report prepared by Russell Research in November / December 2017, over 70% of Lazydays customers and over 60% of prospective customers surveyed strongly agree that Lazydays provides a high quality customer experience.

The Company's total website traffic for the year ended December 31, 2019 was approximately 9.4 million visitors with approximately 5.1 million unique visitors. The Lazydays website features over 3,000 new and preowned RVs, as well as information regarding Lazydays' RV financing and insurance products, service capabilities, parts and accessories offerings, and other RV lifestyle content.

The Company measures its marketing productivity and effectiveness on an ongoing basis to optimize marketing efforts.

#### Customer Service

Lazydays strives to exceed expectations by providing the best overall customer experience throughout every interaction with the Company. The Company believes customer service and access to a live person is a critical component of Lazydays' digital marketing, sales, and service operations, and to achieving a best-in-class customer experience. The Company's sales and customer service centers are multi-channel, full-service contact centers. RV enthusiasts can visit Lazydays' locations, call, email, internet chat, text and use social media to contact Lazydays regarding products, services, protection plans, concerns and anything else related to the RV lifestyle. RV enthusiasts can also speak with Lazydays' customer service specialists for help with aftermarket accessory orders, installations, scheduling, answers to questions, and to make purchases for any product and installation services offered through the Lazydays website.

Lazydays' contact center specialists are extensively trained to assist customers with complex orders and provide a level of service that leads to long-term customer relationships. In addition, Lazydays' quality assurance team monitors contacts daily and provides the leadership team with tools to maintain sales and service standards. With low turnover, the Company retains employees longer than the industry average, which the Company believes allows its callers to be assisted by experienced contact center agents who are familiar with the RV lifestyle and Lazydays' services, protection plans and products.

#### Management Information Systems

The Company utilizes multiple computer systems to support its operations, including a third-party dealer management system ("DMS"), point-of-sale registers ("POS"), enterprise resource planning system, supply chain, CRM system, marketing database and other business intelligence tools. In addition, the Company utilizes proprietary systems and data warehouses to provide analytical views of its data.

To support the applications, the Company has multiple data centers and cloud services with advanced servers, storage and networking capabilities, giving the Company the ability to scale quickly to meet demand. The Company has a secure wide area network that facilitates communication within and between its offices and provides both voice and data services. The Company's business critical systems are replicated in real time and all systems are protected with on and off-site backups.

The Company utilizes information technology and analytics to actively market and sell multiple products and services to its customers, including list segmentation and merge and purge programs, to select prospects for email and direct mail solicitations and other direct marketing efforts. Comprehensive information on each customer, including a profile of the purchasing activities, is utilized to drive future sales. In addition, the Company's website has been designed to display inventory and also to capture and route leads to our contact centers.

The Company's management information systems and electronic data processing systems consist of an extensive range of retail, financial and merchandising systems, including purchasing, inventory distribution and logistics, sales reporting, accounts payable and merchandise management. The Company's POS and dealer management systems report comprehensive data in near real time to the Company's data warehouses, including detailed sales volume, inventory information by product, merchandise transfers and receipts, special orders, supply orders and returns of product purchases to vendors. The Company can capture associated sales and reference to specific promotional campaigns. Lazydays management monitors the performance of each dealership location to evaluate inventory levels, determine markdowns and analyze gross profit margins by product.

#### Trademarks and Other Intellectual Property

The Company owns a variety of registered trademarks and service marks related to its brands and its services, protection plans, products and resources, including Lazydays, Lazydays The RV Authority<sup>®</sup>, Lazydays RV Accessories & More, Crown Club, and Exit 10, among others. The Company also owns numerous domain names, including Lazdays.com, LazydaysRVSale.com, LazydaysEvents.com, LazydaysService.com, RVPlace.com, and RVListings.com, among many others. The Company believes that its trademarks and other intellectual property have significant value and are important to its marketing efforts. The Company is not aware of any material pending claims of infringement or other challenges to the Company's right to use its intellectual property in the United States or elsewhere.

#### Government Regulation

The Company's operations are subject to varying degrees of federal, state and local regulation, including the Company's RV sales, vehicle financing, outbound telemarketing, email, direct mail, roadside assistance programs, extended vehicle service contracts and insurance activities. These laws and regulations include consumer protection laws, so-called "lemon laws," privacy laws, escheatment laws, anti-money laundering laws, environmental laws and other extensive laws and regulations applicable to new and used vehicle dealers, as well as a variety of other laws and regulations. These laws also include federal and state wage and hour, anti-discrimination and other employment practices laws.

#### ***Motor Vehicle Laws and Regulations***

The Company's operations are subject to the National Traffic and Motor Vehicle Safety Act, Federal Motor Vehicle Safety Standards promulgated by the United States Department of Transportation and the rules and regulations of various state motor vehicle regulatory agencies. The Company is also subject to federal and state consumer protection and unfair trade practice laws and regulations relating to the sale, transportation and marketing of motor vehicles. Federal, state and local laws and regulations also impose upon vehicle operators' various restrictions on the weight, length and width of motor vehicles that may be operated in certain jurisdictions or on certain roadways. Certain jurisdictions also prohibit the sale of vehicles exceeding length restrictions. Federal and state authorities also have various environmental control standards relating to air, water, noise pollution and hazardous waste generation and disposal.

The Company's financing activities with customers are subject to federal truth-in-lending, consumer leasing and equal credit opportunity laws and regulations as well as state and local motor vehicle finance laws, leasing laws, installment finance laws, usury laws and other installment sales and leasing laws and regulations, some of which regulate finance and other fees and charges that may be imposed or received in connection with motor vehicle retail installment sales.

The Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act"), which was signed into law on July 21, 2010, established the Bureau of Consumer Financial Protection ("BCFP"), an independent federal agency funded by the United States Federal Reserve with broad regulatory powers and limited oversight from the United States Congress. Although automotive dealers are generally excluded, the Dodd-Frank Act could lead to additional, indirect regulation of automotive dealers, in particular, their sale and marketing of finance and insurance products, through its regulation of automotive finance companies and other financial institutions.

### ***Insurance Laws and Regulations***

As a marketer of insurance programs, the Company is subject to state rules and regulations governing the business of insurance including, without limitation, laws governing the administration, underwriting, marketing, solicitation and/or sale of insurance programs. The insurance carriers that underwrite the programs that the Company sells are required to file their rates for approval by state regulators. Additionally, certain state laws and regulations govern the form and content of certain disclosures that must be made in connection with the sale, advertising or offering of any insurance program to a consumer. The Company is required to maintain certain licenses to market insurance programs.

### ***Marketing Laws and Regulations***

The Federal Trade Commission (the “FTC”) and each of the states have enacted consumer protection statutes designed to ensure that consumers are protected from unfair and deceptive marketing practices. Lazydays reviews all of its marketing materials for compliance with applicable FTC regulations and state marketing laws.

### ***Environmental, Health and Safety Laws and Regulations***

The Company’s operations involve the use, handling, storage and contracting for recycling and/or disposal of materials such as motor oil and filters, transmission fluids, antifreeze, refrigerants, paints, thinners, batteries, cleaning products, lubricants, degreasing agents, tires and propane. Consequently, the Company’s business is subject to a variety of federal, state and local requirements that regulate the environment and public health and safety.

Most of the Lazydays dealership locations utilize aboveground storage tanks, and to a lesser extent underground storage tanks, primarily for petroleum-based products. Storage tanks are subject to periodic testing, containment, upgrading and removal requirements under the Resource Conservation and Recovery Act and its state law counterparts. Clean-up or other remedial action may be necessary in the event of leaks or other discharges from storage tanks or other sources. In addition, water quality protection programs under the federal Water Pollution Control Act (commonly known as the Clean Water Act), the Safe Drinking Water Act and comparable state and local programs govern certain discharges from some of the Company’s operations. Similarly, air emissions from the Company’s operations, such as RV painting, are subject to the federal Clean Air Act and related state and local laws. Certain health and safety standards promulgated by the Occupational Safety and Health Administration of the United States Department of Labor and related state agencies also apply to certain of the Company’s operations.

Although the Company incurs costs to comply with applicable environmental, health and safety laws and regulations in the ordinary course of its business, the Company does not presently anticipate that these costs will have a material adverse effect on its business, financial condition or results of operations. The Company does not have any material known environmental commitments or contingencies.

### **Insurance**

The Company utilizes insurance to provide for the potential liabilities for workers’ compensation, product liability, general liability, business interruption, property liability, director and officers’ liability, cyber, environmental issues, vehicle liability and employee health-care benefits. Liabilities associated with the risks that are retained by the Company are estimated, in part, by considering historical claims experience, demographic factors, severity factors and other assumptions. The Company’s results could be adversely affected by claims and other expenses related to such plans and policies if future occurrences and claims differ from these assumptions and historical trends.

### **Employees**

As of December 31, 2019, Lazydays had approximately 935 employees, including approximately 922 full-time employees. None of the Lazydays employees are represented by a labor union or are party to a collective bargaining agreement, and Lazydays has not had any labor-related work stoppages. The Company believes that its employee relations are in good standing.

### **Seasonality**

The Company’s overall operations generally experience modestly higher vehicle sales in the first half of each year due in part to consumer buying patterns and the warmer climate during the winter months at the Company’s largest location in Tampa, Florida.

### **Principal Executive Offices**

Our principal executive offices are located at 6130 Lazy Days Boulevard, Seffner, Florida 33584 and our telephone number is (813) 246-4999.

### **Available Information**

Our Internet website is [www.lazydays.com](http://www.lazydays.com). Our reports filed or furnished pursuant to Sections 13(a) and 15(d) of the Securities Exchange Act of 1934, as amended, are available, free of charge, under the Investor Relations – Finance Information tab of our website as soon as reasonably practicable after we electronically file such material with, or furnish it to, the Securities and Exchange Commission (“SEC”). You may also read and copy any materials we file with the SEC at the SEC’s Internet website located at [www.sec.gov](http://www.sec.gov).

## **Item 1A. Risk Factors**

The following are certain risks to which our business operations are subject. Any of these risks could materially adversely affect our business, financial condition, or results of operations. These risks could also cause our actual results to differ materially from those indicated in the forward-looking statements contained herein and elsewhere. The risks described below are not the only risks we face. Additional risks not currently known to us or those we currently deem to be immaterial may also materially and adversely affect our business operations.

### **Risks Related to Lazydays' Business**

***The Company's business is affected by the availability of financing to it and its customers.***

The Company's business is affected by the availability of financing to it and its customers. Generally, RV dealers, including the Company, finance their purchases of inventory with financing provided by lending institutions. On March 15, 2018, the Company entered into a \$200 million credit agreement with M&T Bank which included a new floor plan facility which increased the committed floor plan financing to \$175.0 million. As of December 31, 2019, the Company had \$144.1 million outstanding under its M&T floor plan facility and \$14.9 million outstanding under the M&T term loan. As of December 31, 2019, substantially all of the invoice cost of new RV inventory and 30.3% of book value of used RV inventory was financed under the floor plan facility. A decrease in the availability of this type of wholesale financing or an increase in the cost of such wholesale financing could prevent the Company from carrying adequate levels of inventory, which may limit product offerings and could lead to reduced sales and revenues.

Furthermore, many of the Company's customers finance their RV purchases. Although consumer credit markets are generally favorable, consumer credit market conditions continue to influence demand, especially for RVs, and may continue to do so. There continues to be fewer lenders, more stringent underwriting and loan approval criteria, and greater down payment requirements than in the past. If credit conditions or the credit worthiness of the Company's customers worsen, and adversely affect the ability of consumers to finance potential purchases on acceptable terms and interest rates, it could result in a decrease in the sales of the Company's products and have a material adverse effect on the Company's business, financial condition and results of operations.

***Fuel shortages, or high prices for fuel, could have a negative effect on the Company's business.***

Gasoline or diesel fuel is required for the operation of RVs. There can be no assurance that the supply of these petroleum products will continue uninterrupted, that rationing will not be imposed or that the price of or tax on these petroleum products will not significantly increase in the future. Shortages of gasoline and diesel fuel have had a material adverse effect on the RV industry as a whole in the past and any such shortages or substantial increases in the price of fuel could have a material adverse effect on the Company's business, financial condition or results of operations.

***The Company's success will depend to a significant extent on the well-being, as well as the continued popularity and reputation for quality, of the Company's manufacturers, particularly Tiffin Motorhomes, Thor Industries, Inc., Winnebago Industries, Inc., and Forest River, Inc.***

Tiffin Motorhomes, Thor Industries, Inc., Winnebago Industries, Inc., and Forest River, Inc. supplied approximately 33.9%, 20.2%, 20.5%, and 14.7%, respectively, of the Company's purchases of new RV inventory during the year ended December 31, 2019. The Company depends on its manufacturers to provide it with products that compare favorably with competing products in terms of quality, performance, safety and advanced features. Any adverse change in the production efficiency, product development efforts, technological advancement, marketplace acceptance, reputation, marketing capabilities or financial condition of the Company's manufacturers could have a substantial adverse impact on the Company's business. Any difficulties encountered by any of the Company's manufacturers resulting from economic, financial, or other factors could adversely affect the quality and amount of products that they are able to supply to the Company and the services and support they provide to the Company.

The interruption or discontinuance of the operations of the Company's manufacturers could cause the Company to experience shortfalls, disruptions, or delays with respect to needed inventory. Although the Company believes that adequate alternate sources would be available that could replace any manufacturer as a product source, those alternate sources may not be available at the time of any interruption, alternative products may not be available at comparable quality and prices and alternative products may not be equally appealing to the Company's customers.

***Any change, non-renewal, unfavorable renegotiation or termination of the Company's supply arrangements for any reason could have a material adverse effect on product availability and cost and the Company's financial performance.***

The Company's supply arrangements with manufacturers are typically governed by dealer agreements, which are customary in the RV industry. The Company's dealer agreements with manufacturers are generally made on a location-by-location basis, and each retail location typically enters into multiple dealer agreements with multiple manufacturers. The terms of the Company's dealer agreements are typically subject to:

- the Company meeting all of the requirements and conditions of the manufacturer's applicable programs;
- the Company meeting certain retail sales objectives;
- the Company performing services and repairs for all owners of the manufacturer's RVs (regardless from whom the RV was purchased) that are still under warranty and the Company carrying the manufacturer's parts and accessories needed to service and repair the manufacturer's RVs in stock at all times;
- the Company actively advertising and promoting the manufacturer's RVs; and
- the Company indemnifying the manufacturer under certain circumstances.

The Company's dealer agreements designate a specific geographic territory for the Company, exclusive to the Company, provided that the Company is able to meet the material obligations of the applicable dealer agreement.

In addition, many of the Company's dealer agreements contain contractual provisions concerning minimum advertised product pricing for current model year units. Wholesale pricing is generally established on a model year basis and is subject to change in the manufacturer's sole discretion. In certain cases, the manufacturer may also establish a suggested retail price, below which the Company cannot advertise that manufacturer's RVs. Any change, non-renewal, unfavorable renegotiation or termination of these dealer agreements for any reason could have a material adverse effect on product availability and cost and the Company's financial performance.

***The Company's business is impacted by general economic conditions in its markets, and ongoing economic and financial uncertainties may cause a decline in consumer spending that may adversely affect its business, financial condition and results of operations.***

The Company depends on consumer discretionary spending and, accordingly, the Company may be adversely affected if its customers reduce, delay or forego their purchases of the Company's products, services, and protection plans as a result of:

- job losses;
- bankruptcies;
- higher consumer debt and interest rates;
- reduced access to credit;
- higher energy and fuel costs;
- relative or perceived cost, availability and comfort of RV use versus other modes of travel, such as air travel and rail;
- falling home prices;
- lower consumer confidence;
- uncertainty or changes in tax policies and tax rates;
- uncertainty due to national or international security or health concerns;
- volatility in the stock market; or
- Epidemic and pandemic outbreaks or other global health emergencies.



Decreases in the number of customers, average spend per customer or retention and renewal rates for the Company's consumer services and plans would negatively affect the Company's financial performance. A prolonged period of depressed consumer spending could have a material adverse effect on the Company's business. In addition, adverse economic conditions may result in an increase in the Company's operating expenses due to, among other things, higher costs of labor, energy, equipment and facilities. Due to recent fluctuations in the U.S. economy, the Company's sales, operating and financial results for a particular period are difficult to predict, making it difficult to forecast results for future periods. Additionally, the Company is subject to economic fluctuations in local markets that may not reflect the general economic conditions of the broader U.S. economy. Any of the foregoing factors could have a material adverse effect on the Company's business, financial condition and results of operations.

***The Company depends on its ability to attract and retain customers.***

The Company's future success depends in large part upon the Company's ability to attract and retain customers for its products, services, protection plans, and resources. The extent to which the Company achieves growth in its customer base materially influences the Company's profitability. Any number of factors could affect the Company's ability to grow its customer base. These factors include consumer preferences and general economic conditions, the Company's ability to maintain its retail locations, weather conditions, the availability of alternative products, significant increases in gasoline prices, the disposable income of consumers available for discretionary expenditures and the external perception of the Company's brands. Any significant decline in the Company's customer base, the rate of growth of its customer base or customer demand could have a material adverse effect on its business, financial condition and results of operations.

***Competition in the market for services, protection plans and products targeting the RV lifestyle or RV enthusiast could reduce the Company's revenues and profitability.***

The market for services, protection plans and products targeting the RV lifestyle or RV enthusiast is highly fragmented and competitive. Competition in the RV market is driven by price, product and service features, technology, performance, reliability, quality, availability, variety, delivery and customer service. In addition to competing with other dealers of new and used RVs, the Company competes directly or indirectly with major national insurance and warranty companies, providers of roadside assistance and providers of extended service contracts.

Additional competitors may enter the businesses in which the Company currently operates. If any of the Company's competitors successfully provides a broader, more efficient or attractive combination of services, protection plans and products to the Company's target customers, the Company's business results could be materially adversely affected. The Company's inability to compete effectively with existing or potential competitors could have a material adverse effect on the Company's business, financial condition and results of operations.

Some of the Company's existing competitors have, and some of the Company's future competitors may have, greater financial, personnel, and other resources, more well-established brands or reputations and broader customer bases than the Company and, as a result, these competitors may be in a stronger position to respond quickly to potential acquisitions and other market opportunities and changes in customer preferences. Some of these competitors may have customer bases that are more geographically balanced than the Company's and, therefore, may be less affected by an economic downturn in a particular region or market. Competitors with greater resources also may be able to offer lower prices, additional products or services or other incentives that the Company cannot match or does not offer. Industry consolidations may also create competitors with broader and more geographic coverage.

***The Company's expansion into new, unfamiliar markets presents increased risks that may prevent it from being profitable in these new markets. Delays in opening or acquiring new retail locations could have a material adverse effect on the Company's business, financial condition and results of operations.***

In August of 2019, the Company acquired Alliance Coach at the Villages, Florida. In February 2020, the Company announced that it opened its first dedicated service center in Waller, Texas. The Company intends to continue to expand in part by acquiring or building new retail or service locations in new markets. As a result, the Company may have less familiarity with local consumer preferences and could encounter difficulties in attracting customers due to a reduced level of consumer familiarity with the Company's brands. Other factors that may impact the Company's ability to acquire or open new retail locations in new markets and operate them profitably, many of which are beyond the Company's control, include:

- the Company's ability to identify suitable acquisition opportunities at purchase prices or terms that are attractive or acceptable to the Company or new locations, including the Company's ability to gather and assess demographic and marketing data to determine consumer demand for the Company's products in the locations the Company selects;
- the Company's ability to negotiate favorable lease agreements;
- the Company's ability to secure product lines;

- the availability of construction materials and labor for new retail locations and the occurrence of significant construction delays or cost overruns;
- the Company's ability to accurately assess the profitability of potential acquisitions or new locations;
- the Company's ability to secure required governmental permits and approvals;
- the Company's ability to hire and train skilled operating personnel, especially management personnel;
- the Company's ability to provide a satisfactory product mix that is responsive to the needs of its customers living in the geographic areas where new retail locations are built or acquired;
- the Company's ability to supply new retail locations with inventory in a timely manner;
- the Company's competitors building or leasing retail locations near the Company's retail locations or in locations the Company has identified as targets;
- regional economic and other factors in the geographic areas in which the Company expands; and
- general economic and business conditions affecting consumer confidence and spending and the overall strength of the Company's business.

Once the Company decides on a new market and identifies a suitable acquisition or location opportunity, any delays in acquiring or opening or developing new retail locations could impact the Company's financial results. It is possible that events, such as delays in the acquisitions process or construction delays caused by permitting or licensing issues, material shortages, labor issues, weather delays or other acts of God, discovery of contaminants, accidents, deaths or injuries could delay planned openings or force the Company to abandon planned openings altogether.

As the Company grows, the Company will face the risk that its existing resources and systems, including management resources, accounting and finance personnel and operating systems, may be inadequate to support its growth. There can be no assurance that the Company will be able to retain the personnel or make the changes in its systems that may be required to support its growth. Failure to secure these resources and implement these systems on a timely basis could have a material adverse effect on the Company's results of operations. In addition, hiring additional personnel and implementing changes and enhancements to the Company's systems will require capital expenditures and other increased costs that could also have a material adverse impact on the Company's results of operations.

The Company's expansion into new markets may also create new challenges including an increase in information to be processed by the Company's information management systems and diversion of management attention from existing operations. To the extent that the Company is not able to meet these additional challenges, the Company's sales could decrease, and the Company's operating expenses could increase, which could have a material adverse effect on the Company's business, financial condition and results of operations.

Finally, the size, timing, and integration of any future new retail location openings or acquisitions may cause substantial fluctuations in the Company's results of operations from quarter to quarter. Consequently, the Company's results of operations for any quarter may not be indicative of the results that may be achieved for any subsequent quarter or for a full fiscal year. These fluctuations could have a material adverse effect on the Company's business, financial condition and results of operations.

As a result of the above factors, there can be no assurance that the Company will be able to operate retail locations in new markets on a profitable basis. The failure to operate retail locations in new markets on a profitable basis could have a material adverse effect on the Company's business, financial condition and results of operations.

***Unforeseen expenses, difficulties, and delays encountered in connection with expansion through acquisitions could inhibit the Company's growth and negatively impact its profitability.***

The Company's success will depend, in part, on the ability of the Company to make successful acquisitions and to integrate the operations of acquired retail locations, including centralizing certain functions to achieve cost savings and pursuing programs and processes that promote cooperation and the sharing of opportunities and resources among the Company's retail locations and consumer services and plans. Unforeseen expenses, difficulties and delays encountered in connection with rapid expansion through acquisitions could inhibit the Company's growth, which could have a negative impact on the Company's profitability.

Additionally, the Company may be unable to identify suitable acquisition candidates or consummate acquisitions. Increased competition for acquisition candidates or increased asking prices by acquisition candidates may increase purchase prices for acquisitions to levels beyond the Company's financial capability or to levels that would be unlikely to provide the returns required by the Company's acquisition criteria. Acquisitions also may become more difficult or less attractive in the future as the Company continues to focus on acquiring what it believes are the most attractive dealers. The Company may incur expenses associated with sourcing, evaluating and negotiating acquisitions (including those that are not completed), and the Company also may pay fees and expenses associated with obtaining financing for acquisitions and with investment banks and others finding acquisitions for the Company. In addition, the Company may encounter difficulties in integrating the operations of acquired dealers with its own operations or managing acquired dealers and stores profitably without substantial costs, delays, or other operational or financial problems. The Company may not be able to achieve the anticipated operating and cost synergies or long-term strategic benefits of its acquisitions within the anticipated timing or at all. For at least the first year after a substantial acquisition and possibly longer, the benefits from the acquisition may be offset by the costs incurred in integrating the business and operations. The Company may also assume liabilities in connection with acquisitions that the Company would otherwise not be exposed to.

The Company's ability to continue to grow through the acquisition of additional retail locations will depend upon various factors, including the following:

- the availability of suitable acquisition candidates at attractive purchase prices;
- the ability to compete effectively for available acquisition opportunities;
- the availability of cash on hand, borrowed funds or shares of common stock with a sufficient market price to finance acquisitions;
- the ability to obtain any requisite third party or governmental approvals; and
- the absence of one or more third parties attempting to impose unsatisfactory restrictions on the Company in connection with their approval of acquisitions.

As a part of the Company's acquisition strategy, the Company has engaged and will continue to engage in acquisition discussions with various dealerships. In connection with these acquisition discussions, the Company and each potential acquisition candidate exchange confidential operational and financial information, conduct due diligence inquiries, and consider the structure, terms, and conditions of the potential acquisition. Potential acquisition discussions may take place over a long period of time and involve difficult business integration and other issues, including in some cases, management succession, employee transitions and related matters. As a result of these and other factors, potential acquisitions that may from time to time appear likely to occur may not be consummated. In addition, the Company may have disagreements with potential acquisition targets, which could lead to litigation. Any of these factors or outcomes could result in a material adverse effect on the Company's business, financial condition and results of operations.

***Failure to maintain the strength and value of the Company's brands could have a material adverse effect on the Company's business, financial condition and results of operations.***

The Company's success depends on the value and strength of the Lazydays brands. The Lazydays name and Lazydays' brands are integral to the Company's business as well as to the implementation of the Company's strategies for expanding its business. Maintaining, enhancing, promoting and positioning the Company's brands, particularly in new markets where the Company has limited brand recognition, will depend largely on the success of the Company's marketing efforts and its ability to provide high quality products, services, protection plans, and resources and a consistent, high quality customer experience. The Company's brands could be adversely affected if the Company fails to achieve these objectives, if the Company fails to comply with local laws and regulations, if the Company is subject to publicized litigation or if the Company's public image or reputation were to be tarnished by negative publicity. Some of these risks are not within the Company's control, such as the effects of negative publicity regarding the Company's manufacturers, suppliers or third party providers of services or negative publicity related to members of management. Any of these events could result in decreases in revenues. Further, maintaining, enhancing, promoting and positioning the Company's brand image may require the Company to make substantial investments in areas such as marketing, dealership operations, community relations, store graphics and employee training, which could adversely affect the Company's cash flow and profitability. Furthermore, efforts to maintain, enhance or promote the Company's brand image may ultimately be unsuccessful. These factors could have a material adverse effect on the Company's business, financial condition and results of operations.

***The Company's failure to successfully procure and manage its inventory to reflect consumer demand in a volatile market and anticipate changing consumer preferences and buying trends could have a material adverse effect on the Company's business, financial condition and results of operations.***

The Company's success depends upon the Company's ability to successfully manage the Company's inventory and to anticipate and respond to product trends and consumer demands in a timely manner. The Company's products appeal to consumers who are, or could become, RV owners. The preferences of these consumers cannot be predicted with certainty and are subject to change. Further, the retail consumer industry, by its nature, is volatile and sensitive to numerous economic factors, including consumer preferences, competition, market conditions, general economic conditions and other factors outside of the Company's control. The Company may order products in advance of the following selling season. Extended lead times for the Company's purchases may make it difficult for the Company to respond rapidly to new or changing product trends, increases or decreases in consumer demand or changes in prices. If the Company misjudges either the market for the Company's products or its consumers' purchasing habits in the future, the Company's revenues may decline significantly, the Company may not have sufficient inventory to satisfy consumer demand or sales orders, or the Company may be required to discount excess inventory; all of which could have a material adverse effect on the Company's business, financial condition and results of operations.

***The Company's same store sales may fluctuate and may not be a meaningful indicator of future performance.***

The Company's same store sales may vary from quarter to quarter. A number of factors affect and will continue to affect the Company's same store sales results, including:

- changes or anticipated changes to regulations related to the products the Company offers;
- consumer preferences and buying trends;
- overall economic trends;
- the Company's ability to identify and respond effectively to local and regional trends and customer preferences;
- the Company's ability to provide quality customer service that will increase its conversion of shoppers into paying customers;
- competition in the regional market of a store;
- atypical weather patterns;
- changes in the Company's product mix;
- changes to local or regional regulations affecting the Company's stores;
- changes in sales of consumer services and plans and retention and renewal rates for the Company's annually renewing consumer services and plans; and
- changes in pricing and average unit sales.

An unanticipated decline in revenues or same store sales could have a material adverse effect on the Company's business, financial condition and results of operations.

***The cyclical nature of the Company's business has caused its sales and results of operations to fluctuate. These fluctuations may continue in the future, which could result in operating losses during downturns.***

The RV industry is cyclical and is influenced by many national and regional economic and demographic factors, including:

- terms and availability of financing for retailers and consumers;
- overall consumer confidence and the level of discretionary consumer spending;
- population and employment trends;
- income levels; and
- general economic conditions, such as inflation, including as a result of tariffs, deflation, increasing interest rates and recessions.

As a result of the foregoing factors, the Company's sales and results of operations have fluctuated, and the Company expects that they will continue to fluctuate in the future.

***The Company's business is seasonal, and this leads to fluctuations in sales and revenues.***

The Company has experienced, and expects to continue to experience, variability in revenue, net income and cash flows as a result of seasonality in its business. Because the Company's largest dealership is located in the southern United States, demand for services, protection plans, products and resources generally increases during the winter season when people move south for the winter or vacation in warmer climates, while sales and profits are generally lower during the summer months. In addition, unusually severe weather conditions in some geographic areas may impact demand.

For the years ended December 31, 2019 and 2018, the Company generated 53% and 56% (excluding the impact of acquisitions) of its annual revenue in the first and second fiscal quarters, respectively, which include the peak winter months. The Company incurs additional expenses in the first and second fiscal quarters due to higher purchase volumes, increased staffing in the Company's retail locations and program costs. If, for any reason, the Company miscalculates the demand for its products or its product mix during the first and second fiscal quarters, the Company's sales in these quarters could decline, resulting in higher labor costs as a percentage of sales, lower margins and excess inventory, which could have a material adverse effect on the Company's business, financial condition and results of operations.

Due to the Company's seasonality, the possible adverse impact from other risks associated with its business, including atypical weather, consumer spending levels and general business conditions, is potentially greater if any such risks occur during the Company's peak sales seasons.

***The Company's business may be adversely affected by unfavorable conditions in its local markets, even if those conditions are not prominent nationally.***

The Company's performance is subject to local economic, competitive, weather and other conditions prevailing in geographic areas where it operates. Since a large portion of the Company's sales are generated in Florida, the Company's results of operations depend substantially on general economic conditions and consumer spending habits in the Southeastern United States. In the event that this geographic area experiences a downturn in economic conditions, it could have a material adverse effect on the Company's business, financial condition and results of operations. The Company may not be able to expand geographically, and any geographic expansion may not adequately insulate the Company from the adverse effects of local or regional economic conditions.

***The Company may not be able to satisfy its debt obligations upon the occurrence of a change in control under its credit facility.***

A change in control is an event of default under the credit facility. Upon the occurrence of a change in control, M&T Bank will have the right to declare all outstanding obligations under the credit facility immediately due and payable and to terminate the availability of future advances to the Company. There can be no assurance that the Company's lenders will agree to an amendment of the credit facility or a waiver of any such event of default. There can be no assurance that the Company will have sufficient resources available to satisfy all of its obligations under the credit facility if no waiver or amendment is obtained. In the event the Company was unable to satisfy these obligations, it could have a material adverse impact on the Company's business, financial condition and results of operations.

***The Company's ability to operate and expand its business and to respond to changing business and economic conditions will depend on the availability of adequate capital.***

On March 15, 2018, the Company entered into a \$200 million facility with M&T Bank, which includes a \$175 million floor plan facility, a \$20 million term loan and a \$5 million line of credit (collectively, the "M&T Facility"). As of December 31, 2019, the Company had \$14.9 million outstanding under the term loan and \$144.1 million outstanding under the floor plan facility. As of December 31, 2019, the Company had no borrowings outstanding under the \$5.0 million line of credit and approximately \$4.8 million of availability due to outstanding letters of credit.

The operation of the Company's business, the rate of the Company's expansion and the Company's ability to respond to changing business and economic conditions depend on the availability of adequate capital, which in turn depends on cash flow generated by the Company's business and, if necessary, the availability of equity or debt capital. The Company also requires sufficient cash flow to meet its obligations under its existing debt agreements. The M&T Term Loan requires the Company to pay monthly principal installments of \$0.242 million plus accrued interest through the maturity date. At the maturity date, the Company will pay a principal balloon payment of \$11.3 million plus accrued interest. For the years ended December 31, 2019 and 2018, the Company made principal payments of \$2.9 million and \$2.2 million, respectively, under its credit agreement with M&T Bank. For the years ended December 31, 2019 and 2018, the Company paid total cash interest of \$0.8 million and \$0.7 million, respectively, and paid total floor plan interest of \$4.6 million and \$3.2 million, respectively, under its credit agreement with M&T Bank.

The Company is dependent to a significant extent on its ability to finance its new and certain of its used RV inventory under the credit facility. Floor plan financing arrangements allow the Company to borrow money to purchase new RVs from the manufacturer or used RVs on trade-in or at auction and pay off the loan when the Company sells the financed RV. The Company may need to increase the capacity of its existing credit facility in connection with its acquisition of dealerships and overall growth. In the event that the Company is unable to obtain such incremental financing, the Company's ability to complete acquisitions could be limited.

The Company cannot ensure that its cash flow from operations or cash available under its credit facility will be sufficient to meet its needs. If the Company is unable to generate sufficient cash flows from operations in the future, and if availability under its credit facility is not sufficient, the Company may have to obtain additional financing. If the Company obtains additional capital through the issuance of equity, the interests of existing stockholders of the Company may be diluted. If the Company incurs additional indebtedness, such indebtedness may contain significant financial covenants and other negative covenants that may significantly restrict the Company's ability to operate. The Company cannot ensure you that it could obtain additional financing on favorable terms or at all.

***The documentation governing the Company's credit facility contain restrictive covenants that may impair the Company's ability to access sufficient capital and operate its business.***

The documentation governing the Company's credit facility contains various provisions that limit the Company's ability to, among other things:

- incur additional indebtedness;
- incur certain liens;
- consolidate or merge;
- alter the business conducted by the Company and its subsidiaries;
- make investments, loans, advances, guarantees and acquisitions;
- sell assets, including capital stock of its subsidiaries;
- enter into certain sale and leaseback transactions;
- pay dividends on capital stock or redeem, repurchase or retire capital stock or certain other indebtedness;
- engage in transactions with affiliates; and
- enter into agreements restricting its subsidiaries' ability to pay dividends to Holdco.

In addition, the restrictive covenants contained in the documentation governing the credit facility require the Company to maintain specified financial ratios. See "Management's Discussion and Analysis of Financial Condition and Results of Operations — Liquidity and Capital Resources" below. The Company's ability to comply with those financial ratios may be affected by events beyond its control, and its failure to comply with these ratios could result in an event of default.

The restrictive covenants contained in the documentation governing the credit facility may affect the Company's ability to operate and finance its business as it deems appropriate. The Company's inability to meet obligations as they become due or to comply with various financial covenants contained in the instruments governing its current or future indebtedness could constitute an event of default under the instruments governing the Company's indebtedness.

If there were an event of default under the instruments governing the Company's indebtedness, the holders of the affected indebtedness could declare all of the affected indebtedness immediately due and payable, which, in turn, could cause the acceleration of the maturity of all of the Company's other indebtedness. The Company may not have sufficient funds available, or the Company may not have access to sufficient capital from other sources, to repay any accelerated debt. Even if the Company could obtain additional financing, the terms of such financing may not be favorable to the Company. In addition, substantially all of the Company's assets are subject to liens securing the obligations under the credit facility. If amounts outstanding under the credit facility were accelerated, the Company's lenders could foreclose on these liens and the Company could lose substantially all of its assets. Any event of default under the instruments governing the Company's indebtedness could have a material adverse effect on the Company's business, financial condition and results of operations.

***Uncertainty relating to LIBOR calculation process and potential phasing out of LIBOR may adversely affect us.***

The United Kingdom's Financial Conduct Authority, which regulates the London Inter-bank Offered Rate ("LIBOR"), has announced that it intends to stop encouraging or requiring banks to submit LIBOR rates after 2021, and it is unclear if LIBOR will cease to exist or if new methods of calculating LIBOR will evolve. We currently have the option to determine our interest rate using a formula that includes either the LIBOR rate or an alternate base rate. If LIBOR ceases to exist or the methods of calculating LIBOR change from their current form, we may no longer have the ability to elect the LIBOR rate under our M&T Floor Plan Line of Credit or M&T Term Loan. This could adversely impact our future indebtedness, interest costs and our ability to borrow additional funds.

***Natural disasters, whether or not caused by climate change, unusual weather conditions, epidemic outbreaks, terrorist acts and political events could disrupt business and result in lower sales and otherwise adversely affect the Company's financial performance.***

The occurrence of one or more natural disasters, such as tornadoes, hurricanes, fires, floods, hail storms and earthquakes, unusual weather conditions, epidemic and pandemic outbreaks such as Coronavirus, Ebola, Zika virus or measles or other global health emergencies, terrorist attacks or disruptive political events in certain regions where the Company's stores are located could adversely affect the Company's business and result in lower sales. Severe weather, such as heavy snowfall or extreme temperatures, may discourage or restrict customers in a particular region from traveling to the Company's dealerships or utilizing the Company's products, thereby reducing the Company's sales and profitability. Natural disasters including tornadoes, hurricanes, floods, hail storms and earthquakes may damage the Company's stores or other operations, which may materially adversely affect the Company's financial results. Any of these events could have a material adverse effect on the Company's business, financial condition and results of operations.

***The Company depends on its relationships with third party providers of services, protection plans, products and resources and a disruption of these relationships or of these providers' operations could have an adverse effect on the Company's business and results of operations.***

The Company's business depends in part on developing and maintaining productive relationships with third party providers of products, services, protection plans, and resources that the Company markets to its customers. Additionally, the Company relies on certain third party providers to support its products, services, protection plans, and resources, including insurance carriers for the Company's property and casualty insurance and extended service contracts, banks and captive financing companies for vehicle financing and refinancing. The Company cannot accurately predict when, or the extent to which, it will experience any disruption in the supply of products from its vendors or services from its third party providers. Any such disruption could negatively impact the Company's ability to market and sell its products, services, protection plans, and resources, which could have a material adverse effect on the Company's business, financial condition and results of operations.

With respect to the insurance programs that the Company offers, the Company is dependent on the insurance carriers that underwrite the insurance to obtain appropriate regulatory approvals and maintain compliance with insurance regulations. If such carriers do not obtain appropriate state regulatory approvals or comply with such changing regulations, the Company may be required to use an alternative carrier or change its insurance products or cease marketing certain insurance related products in certain states, which could have a material adverse effect on the Company's business, financial condition and results of operations. If the Company is required to use an alternative insurance carrier or change its insurance related products, it may materially increase the time required to bring an insurance related product to market. Any disruption in the Company's service offerings could harm the Company's reputation and result in customer dissatisfaction.

Additionally, the Company provides financing to qualified customers through a number of third party financing providers. If one or more of these third party providers ceases to provide financing to the Company's customers, provides financing to fewer customers or no longer provides financing on competitive terms, or if the Company is unable to replace the current third party providers upon the occurrence of one or more of the foregoing events, it could have a material adverse effect on the Company's business, financial condition and results of operations.

***A portion of the Company's revenue is from financing, insurance and extended service contracts, which depend on third party lenders and insurance companies. The Company cannot ensure these third parties will continue to provide RV financing and other products.***

A portion of the Company's revenue comes from the fees the Company receives from lending institutions and insurance companies for arranging financing and insurance coverage for the Company's customers. The lending institution pays the Company a fee for each loan that it arranges. If these lenders were to lend to the Company's customers directly rather than through the Company, the Company would not receive a fee. In addition, if customers prepay financing the Company arranged within a specified period (generally within six months of making the loan), the Company is required to rebate (or "chargeback") all or a portion of the commissions paid to the Company by the lending institution. The Company's revenues from financing fees and vehicle service contract fees are recorded net of a reserve for estimated future chargebacks based on historical operating results. Lending institutions may change the criteria or terms they use to make loan decisions, which could reduce the number of customers for whom the Company can arrange financing, or may elect to not continue to provide these products with respect to RVs. The Company's customers may also use the internet or other electronic methods to find financing alternatives. If any of these events occur, the Company could lose a significant portion of its income and profit.

Furthermore, new and used vehicles may be sold and financed through retail installment sales contracts entered into between the Company and third-party purchasers. Prior to entering into a retail installment sales contract with a third-party purchaser, the Company typically has a commitment from a third-party lender for the assignment of such retail installment sales contract, subject to final review, approval and verification of the retail installment sales contract, related documentation and the information contained therein. Retail installment sales contracts are typically assigned by the Company to third-party lenders simultaneously with the execution of the retail installment sales contracts. Contracts in transit represent amounts due from third-party lenders from whom pre-arranged assignment agreements have been determined, and to whom the retail installment sales contract have been assigned. The Company recognizes revenue when the applicable new or used vehicle is delivered and the Company has assigned the retail installment sales contract to a third-party lender and collectability is reasonably assured. Funding from the third-party lender is provided upon receipt, final review, approval and verification of the retail installment sales contract, related documentation and the information contained therein. Retail installment sales contracts are typically funded within ten days of the initial approval of the retail installment sales contract by the third-party lender. Contracts in transit are included in current assets and totaled \$11.5 million and \$12.3 million as of December 31, 2019 and December 31, 2018, respectively. Any defaults on these retail installment sales contracts could have a material adverse effect on the Company's business, financial condition and results of operations.

***If the Company is unable to retain senior executives and attract and retain other qualified employees, the Company's business might be adversely affected.***

The Company's success depends in part on its ability to attract, hire, train and retain qualified managerial, sales and marketing personnel. Competition for these types of personnel is high. The Company may be unsuccessful in attracting and retaining the personnel it requires to conduct its operations successfully and, in such an event, the Company's business could be materially and adversely affected. The Company's success also depends to a significant extent on the continued service and performance of the Company's senior management team, including its Chairman and Chief Executive Officer, William Murnane. The loss of any member of the Company's senior management team could impair its ability to execute its business plan and could therefore have a material adverse effect on the Company's business, results of operations and financial condition. The Company does not currently maintain key man life insurance policies on any member of its senior management team or other key employees. The Company entered into an employment agreement with William Murnane, the Company's Chief Executive Officer and Chairman, which became effective upon the consummation of the Mergers. The Company has entered into an employment offer letter with Nicholas Tomashot, the Company's Chief Financial Officer. The Company does not have any other employment agreements currently in place with other senior executives.

***The Company's business depends on its ability to meet its labor needs.***

The Company's success depends in part upon its ability to attract, motivate and retain a sufficient number of qualified employees, including market managers, general managers, sales managers, department managers and sales associates. Qualified individuals of the requisite caliber may be scarce in some areas. If the Company is unable to hire and retain sales associates capable of consistently providing a high level of customer service, as demonstrated by, among other qualities, their enthusiasm for the Company's culture and knowledge of the Company's products, the Company's business could be materially adversely affected. Although none of the Company's employees is currently covered by collective bargaining agreements, the Company's employees may elect to be represented by labor unions in the future. If Company employees were to so elect, the Company's labor costs could increase. Additionally, competition for qualified employees could require the Company to pay higher wages to attract the required number of employees. An inability to recruit and retain a sufficient number of qualified employees in the future may delay any planned openings or expansions of new dealerships. Any such delays, any material increases in employee turnover rates at existing stores or any increases in labor costs could have a material adverse effect on the Company's business, financial condition or results of operations.

***The Company primarily leases its retail locations. If the Company is unable to maintain those leases or locate alternative sites for retail locations in its target markets and on terms that are acceptable to it, the Company's revenues and profitability could be adversely affected.***

The Company leases most of the real properties where it has operations, including, as of December 31, 2019, six of the eight Lazydays retail locations operating in six states. The Company's leases, at inception, generally provide for fixed monthly rentals with escalation clauses and range from five to twenty years. There can be no assurance that the Company will be able to maintain its existing retail locations as leases expire, extend the leases or be able to locate alternative sites in its target markets and on favorable terms. Any failure to maintain its existing retail locations, extend the leases or locate alternative sites on favorable or acceptable terms could have a material adverse effect on the Company's business, financial condition and results of operations.



***The Company's business is subject to numerous federal, state and local regulations.***

The Company's operations are subject to varying degrees of federal, state and local regulation, including regulations with respect to the Company's RV sales, RV financing, marketing, direct mail, roadside assistance programs and insurance activities. New regulatory efforts may be proposed from time to time that may affect the way the Company operates its businesses. For example, in the past a principal source of leads for the Company's direct response marketing efforts was new vehicle registrations provided by motor vehicle departments in various states. Currently, all states restrict access to motor vehicle registration information.

The Company is also subject to federal and state consumer protection and unfair trade practice laws and regulations relating to the sale, transportation and marketing of motor vehicles. Federal, state and local laws and regulations also impose upon vehicle operators various restrictions on the weight, length and width of motor vehicles that may be operated in certain jurisdictions or on certain roadways. Certain jurisdictions also prohibit the sale of vehicles exceeding length restrictions. Federal and state authorities also have various environmental control standards relating to air, water, noise pollution and hazardous waste generation and disposal which affect the Company's business and operations.

Further, certain federal and state laws and regulations affect the Company's activities. Areas of the Company's business affected by such laws and regulations include, but are not limited to, labor, advertising, consumer protection, real estate, promotions, quality of services, intellectual property, tax, import and export, anti-corruption, anti-competition, environmental, health and safety. Compliance with these laws and others may be onerous and costly, at times, and may be inconsistent from jurisdiction to jurisdiction which further complicates compliance efforts.

The Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act"), which was signed into law on July 21, 2010, established the Bureau of Consumer Financial Protection ("BCFP"), an independent federal agency with broad regulatory powers and limited oversight from the United States Congress. Although automotive dealers are generally excluded, the Dodd-Frank Act could lead to additional, indirect regulation of automotive dealers, in particular, their sale and marketing of finance and insurance products, through its regulation of automotive finance companies and other financial institutions

In addition, the Patient Protection and Affordable Care Act (the "Affordable Care Act"), which was signed into law on March 23, 2010, may increase the Company's annual employee health care costs that it funds and has increased the Company's cost of compliance and compliance risk related to offering health care benefits. Efforts to modify, repeal or otherwise invalidate all, or certain provisions of, the Affordable Care Act and/or adopt a replacement healthcare reform law may impact the Company's employee healthcare costs. If healthcare costs rise, the Company may experience increased operating costs, which may adversely affect the Company's business, financial condition and results of operations.

Furthermore, the Company's property and casualty insurance programs that it offers through third party insurance carriers are subject to state laws and regulations governing the business of insurance, including, without limitation, laws and regulations governing the administration, underwriting, marketing, solicitation or sale of insurance products. The Company's third party insurance carriers are required to apply for, renew, and maintain licenses issued by state, federal or foreign regulatory authorities. Such regulatory authorities have relatively broad discretion to grant, renew and revoke such licenses. Accordingly, any failure by such parties to comply with the then current licensing requirements, which may include any determination of financial instability by such regulatory authorities, could result in such regulatory authorities denying third party insurance carriers' initial or renewal applications for such licenses, modifying the terms of licenses or revoking licenses that they currently possess, which could severely inhibit the Company's ability to market these insurance products. Additionally, certain state laws and regulations govern the form and content of certain disclosures that must be made in connection with the sale, advertising or offer of any insurance program to a consumer. The Company reviews all marketing materials it disseminates to the public for compliance with applicable insurance regulations. The Company is required to maintain certain licenses and approvals in order to market insurance products.

The Company has instituted various comprehensive policies and procedures to address compliance. However, there can be no assurance that employees, contractors, vendors or the Company's agents will not violate such laws and regulations or the Company's policies and procedures.

***Regulations applicable to the sale of extended service contracts could materially impact the Company's business and results of operations.***

The Company offers extended service contracts that may be purchased as a supplement to the original purchaser's warranty as well as other voluntary products to protect the consumer's investment. These products are subject to complex federal and state laws and regulations. There can be no assurance that regulatory authorities in the jurisdictions in which these products are offered will not seek to regulate or restrict these products. Failure to comply with applicable laws and regulations could result in fines or other penalties including orders by state regulators to discontinue sales of the warranty products in one or more jurisdictions. Such a result could materially and adversely affect the Company's business, results of operations and financial condition.

Third parties bear the majority of the administration and liability obligations associated with these extended service contracts upon purchase by the customer. State laws and regulations, however, may limit or condition the Company's ability to transfer these administration and liability obligations to third parties, which could in turn impact the way revenue is recognized from these products. Failure to comply with these laws could result in fines or other penalties, including orders by state regulators to discontinue sales of these product offerings as currently structured. Such a result could materially and adversely affect the Company's business, financial condition and results of operations.

***If state dealer laws are repealed or weakened, the Company's dealerships will be more susceptible to termination, non-renewal or renegotiation of dealer agreements.***

State dealer laws generally provide that a manufacturer may not terminate or refuse to renew a dealer agreement unless it has first provided the dealer with written notice setting forth good cause and stating the grounds for termination or non-renewal. Some state dealer laws allow dealers to file protests or petitions or attempt to comply with the manufacturer's criteria within a specified notice period to avoid the termination or non-renewal. Manufacturers have been lobbying and continue to lobby for the repeal or revision of state dealer laws. Although the lobbying efforts have been unsuccessful to date, if dealer laws are repealed in the states in which the Company operates, or manufacturers convince legislators to pass legislation in those states allowing termination or non-renewal of dealerships without cause, manufacturers may be able to terminate the Company's dealer agreements without providing advance notice, an opportunity to cure or a showing of good cause. Without the protection of state dealer laws, it may also be more difficult for the Company to renew its dealer agreements upon expiration.

The ability of a manufacturer to grant additional dealer agreements is based on a number of factors which the Company cannot control. If manufacturers grant new dealer agreements in areas near the Company's existing markets, such new dealer agreements could have a material adverse effect on the Company's business, financial condition and results of operations.

***The Company's failure to comply with certain environmental regulations could adversely affect the Company's business, financial condition and results of operations.***

The Company's operations involve the use, handling, storage and contracting for recycling and/or disposal of materials such as motor oil and filters, transmission fluids, antifreeze, refrigerants, paints, thinners, batteries, cleaning products, lubricants, degreasing agents, tires and propane. Consequently, the Company's business is subject to federal, state and local requirements that regulate the environment and public health and safety. The Company may incur significant costs to comply with such requirements. The Company's failure to comply with these regulations and requirements could cause the Company to become subject to fines and penalties or otherwise have an adverse impact on the Company's business. In addition, the Company has indemnified certain of its landlords for any hazardous waste which may be found on or about property the Company leases. If any such hazardous waste were to be found on property that the Company occupies, a significant claim giving rise to the Company's indemnity obligation could have a negative effect on the Company's business, financial condition and results of operations.

***Climate change legislation or regulations restricting emission of "greenhouse gases" could result in increased operating costs and reduced demand for the RVs the Company sells.***

The United States Environmental Protection Agency has adopted rules under existing provisions of the federal Clean Air Act that require a reduction in emissions of greenhouse gases from motor vehicles. The adoption of any laws or regulations requiring significant increases in fuel economy requirements or new federal or state restrictions on vehicles and automotive fuels in the United States could adversely affect demand for those vehicles and could have a material adverse effect on the Company's business, financial condition and results of operations.

***The Company may be unable to enforce its intellectual property rights and/or the Company may be accused of infringing the intellectual property rights of third parties which could have a material adverse effect on the Company's business, financial condition and results of operations.***

The Company owns a variety of registered trademarks and service marks. The Company believes that its trademarks have significant value and are important to its marketing efforts. If the Company is unable to continue to protect the trademarks and service marks for its proprietary brands, if such marks become generic or if third parties adopt marks similar to the Company's marks, the Company's ability to differentiate its products and services may be diminished. In the event that the Company's trademarks or service marks are successfully challenged by third parties, the Company could lose brand recognition and be forced to devote additional resources to advertising and marketing new brands for its products.

From time to time, the Company may be compelled to protect its intellectual property, which may involve litigation. Such litigation may be time-consuming, expensive and distract the Company's management from running the day-to-day operations of its business, and could result in the impairment or loss of the involved intellectual property. There is no guarantee that the steps the Company takes to protect its intellectual property, including litigation when necessary, will be successful. The loss or reduction of any of the Company's significant intellectual property rights could diminish the Company's ability to distinguish its products and services from competitors' products and services and retain its market share for its proprietary products and services. The Company's inability to effectively protect the Company's proprietary intellectual property rights could have a material adverse effect on the Company's business, results of operations and financial condition.

Other parties also may claim that the Company infringes on their proprietary rights. Such claims, whether or not meritorious, may result in the expenditure of significant financial and managerial resources, injunctions against the Company or the payment of damages. These claims could have a material adverse effect on the Company's business, financial condition and results of operations.

***If the Company is unable to protect, maintain or upgrade its information technology systems or if the Company is unable to convert to alternate systems in an efficient and timely manner, the Company's operations may be disrupted or become less efficient.***

The Company depends on a variety of information technology systems for the efficient operation of its business. The Company relies on hardware, telecommunications and software vendors to maintain and periodically upgrade many of these information technology systems so that the Company can continue to operate its business. Various components of the Company's information technology systems, including hardware, networks, and software, are licensed to the Company by third party vendors. The Company relies extensively on its information technology systems to process transactions, summarize results and efficiently manage its business. Additionally, because the Company accepts debit and credit cards for payment, the Company is subject to the Payment Card Industry Data Security Standard (the "PCI Standard"), issued by the Payment Card Industry Security Standards Council. The PCI Standard contains various compliance guidelines with respect to the Company's security surrounding the physical and electronic storage, processing and transmission of cardholder data. The Company is currently in compliance with the PCI Standard, however, complying with the PCI Standard and implementing related procedures, technology and information security measures requires significant resources and ongoing attention to compliance. Costs and potential problems and interruptions associated with the implementation of new or upgraded systems and technology such as those necessary to maintain compliance with the PCI Standard or with respect to maintenance or support of existing systems could also disrupt or reduce the efficiency of the Company's operations. Any material interruptions or failures in the Company's payment-related systems could have a material adverse effect on the Company's business, financial condition and results of operations.

***Any disruptions to the Company's information technology systems or breaches of the Company's network security could interrupt its operations, compromise its reputation, expose it to litigation, government enforcement actions and costly response measures and could have a material adverse effect on the Company's business, financial condition and results of operations.***

The Company relies on the integrity, security and successful functioning of its information technology systems and network infrastructure across the Company's operations. The Company uses information technology systems to, among other things, support its consumer services and plans, manage procurement, manage its supply chain, track inventory information at its retail locations, communicate customer information and aggregate daily sales, margin and promotional information. The Company also uses information systems to report and audit its operational results.

In connection with sales, the Company transmits encrypted confidential credit and debit card information. Although the Company is currently in compliance with the PCI Standard, there can be no assurance that in the future the Company will be able to remain compliant with the PCI Standard or other industry recommended or contractually required practices. Even if the Company continues to be compliant with such standards, it still may not be able to prevent security breaches.

The Company also has access to, collects or maintains private or confidential information regarding its customers, associates and suppliers, as well as the Company's business. The protection of the Company's customer, associate, supplier and company data is critical to the Company. The regulatory environment surrounding information security and privacy is increasingly demanding, with the frequent imposition of new and constantly changing requirements across the Company's business and operations. In addition, the Company's customers have a high expectation that the Company will adequately protect their personal information from cyber-attacks and other security breaches. The Company has procedures in place to safeguard its customer's data and information. However, a significant breach of customer, employee, supplier, or company data could attract a substantial amount of negative media attention, damage the Company's relationships with its customers and suppliers, harm the Company's reputation and result in lost sales, fines and/or lawsuits.

An increasingly significant portion of the Company's sales depends on the continuing operation of its information technology and communications systems, including but not limited to its point-of-sale system and its credit card processing systems. The Company's information technology, communication systems and electronic data may be vulnerable to damage or interruption from earthquakes, acts of war or terrorist attacks, floods, fires, tornadoes, hurricanes, power loss and outages, computer and telecommunications failures, computer viruses, loss of data, unauthorized data breaches, usage errors by the Company's associates or the Company's contractors or other attempts to harm the Company's systems, including cyber-security attacks, hacking by third parties, computer viruses or other breaches of cardholder data. Some of the Company's information technology and communication systems are not fully redundant and the Company's disaster recovery planning cannot account for all eventualities. The occurrence of a natural disaster, intentional sabotage or other unanticipated problems could result in lengthy interruptions in the Company's information technology and communications systems. Any errors or vulnerabilities in the Company's information technology and communications systems, or damage to or failure of its information technology and communications systems, could result in interruptions in the Company's services and non-compliance with certain regulations or expose the Company to risk of litigation and liability, which could have a material adverse effect on the Company's business, financial condition and results of operations.

***Increases in the minimum wage or overall wage levels could adversely affect the Company's financial results.***

From time to time, legislative proposals are made to increase the federal minimum wage in the United States, as well as the minimum wage in a number of individual states. As federal or state minimum wage rates increase, the Company may be required to increase not only the wage rates of the Company's minimum wage employees, but also the wages paid to the Company's other hourly employees as well. Any increase in the cost of the Company's labor could have an adverse effect on the Company's operating costs, financial condition and results of operations.

***The Company may be subject to product liability claims if people or property are harmed by the products the Company sells and may be adversely impacted by manufacturer safety recalls.***

Some of the products the Company sells may expose the Company to product liability claims relating to personal injury, death, or environmental or property damage, and may require product recalls or other actions. Although the Company maintains liability insurance, the Company cannot be certain that its insurance coverage will be adequate for liabilities actually incurred or that insurance will continue to be available to the Company on economically reasonable terms, or at all. In addition, some of the Company's agreements with its vendors and sellers do not indemnify the Company from losses attributable to product liability. In addition, even if a product liability claim is not successful or is not fully pursued, the negative publicity surrounding a product recall or any assertion that the products sold by the Company caused property damage or personal injury could damage the Company's brand image and its reputation with existing and potential consumers and have a material adverse effect on the Company's business, financial condition and results of operations.

***The Company may be named in litigation, which may result in substantial costs and reputational harm and divert management's attention and resources.***

The Company faces legal risks in its business, including claims from disputes with its employees and its former employees and claims associated with general commercial disputes, product liability and other matters. Risks associated with legal liability often are difficult to assess or quantify and their existence and magnitude can remain unknown for significant periods of time. While the Company maintains director and officer insurance, as well as general and product liability insurance, the amount of insurance coverage may not be sufficient to cover a claim and the continued availability of this insurance cannot be assured. Regardless of their subject matter or merits, class action lawsuits may result in significant costs to the Company, which costs may not be covered by insurance, may divert the attention of management or may otherwise have an adverse effect on the Company's business, brand image, financial condition and results of operations. Negative publicity from litigation, whether or not resulting in a substantial cost to the Company, could materially damage the Company's reputation. The Company may in the future be the target of litigation and any such litigation may result in substantial costs and reputational harm and divert management's attention and resources. Costs, harm to the Company's reputation and diversion of management's attention and resources could have a material adverse effect on the Company's business, financial condition and results of operations.

***The Company's risk management policies and procedures may not be fully effective in achieving their purposes.***

The Company's policies, procedures, controls and oversight to monitor and manage its enterprise risks may not be fully effective in achieving their purpose and may leave the Company exposed to identified or unidentified risks. Past or future misconduct by the Company's employees or vendors could result in violations of law by the Company, regulatory sanctions and/or serious reputational or financial harm to the Company. The Company monitors its policies, procedures and controls; however, there can be no assurance that its policies, procedures and controls will be sufficient to prevent all forms of misconduct. The Company reviews its compensation policies and practices as part of the Company's overall enterprise risk management program, but it is possible that its compensation policies could incentivize inappropriate risk taking or misconduct. If such inappropriate risks or misconduct occurs, it is possible that it could have a material adverse effect on the Company's business, financial condition and results of operations.

***The Company could incur asset impairment charges for goodwill, intangible assets or other long-lived assets.***

The Company has a significant amount of goodwill, intangible assets and other long-lived assets. At least annually, the Company reviews goodwill, trademarks and tradenames for impairment. Long-lived assets, identifiable intangible assets and goodwill are also reviewed for impairment whenever events or changes in circumstances indicate the carrying amount of an asset may not be recoverable from future cash flows. These events or circumstances could include a significant change in the business climate, legal factors, operating performance indicators, competition, sale or disposition of a significant portion of the business or other factors. If the carrying value of a long-lived asset is considered impaired, an impairment charge is recorded for the amount by which the carrying value of the long-lived asset exceeds its fair value. The Company's determination of future cash flows, future recoverability and fair value of the Company's long-lived assets includes significant estimates and assumptions. Changes in those estimates and/or assumptions or lower than anticipated future financial performance may result in the identification of an impaired asset and a non-cash impairment charge, which could be material. Any such charge could adversely affect the Company.

**Risks Related to Our Stock**

***Future resales of the shares of common stock of the Company issued to the stockholders and the investors in the PIPE Investment may cause the market price of the Company's securities to drop significantly, even if the Company's business is doing well.***

Under the Merger Agreement, the stockholders, the option holders, and the bonus payment recipients received, among other things, an aggregate of: (i) 2,857,189 shares of Company common stock; and (ii) \$86.8 million. On May 15, 2018, as a result of a working capital adjustment, the Company received \$0.6 million from the working capital escrow funds resulting in a net purchase price of \$86.2 million. On March 15, 2019, the indemnity escrow period set forth in the Merger Agreement expired and as a result certain stockholders, option holders and the bonus payment recipients received, an aggregate of (i) 142,857 shares of Company common stock; and (ii) \$5.7 million of cash. Pursuant to the Merger Agreement, certain of the stockholders were restricted from selling any of the Company common stock that they received as a result of the Transaction Merger during the nine month period after the closing date of the Mergers, for certain stockholders, and during the twelve month period after the closing date of the Merger for certain stockholders subject to certain exceptions. These lock-up restrictions have now lapsed.

The Company has entered into a registration rights agreement pursuant to which certain stockholders have been granted certain demand and "piggy-back" registration rights with respect to their securities. Additionally, the investors who simultaneously with the closing of the Mergers purchased convertible preferred stock, common stock and warrants for an aggregate purchase price of \$94.8 million (the "PIPE Investment") were certain granted registration rights pursuant to which the Company filed a registration statement covering the resale of granted securities. This resale registration statement is currently effective.

Furthermore, the stockholders and investors in the PIPE Investment may sell Company common stock pursuant to Rule 144 under the Securities Act, if available, rather than under a registration statement. In these cases, the resales must meet the criteria and conform to the requirements of that rule.

Subject to the effectiveness of any registration statement the Company files pursuant to the above-referenced registration rights or upon satisfaction of the requirements of Rule 144 under the Securities Act, the stockholders and investors in the PIPE Investment may sell large amounts of Company common stock in the open market or in privately negotiated transactions, which could have the effect of increasing the volatility in the Company's stock price or putting significant downward pressure on the price of the Company's common stock.

***Nasdaq may delist the Company's common stock on its exchange, which could limit investors' ability to make transactions in the Company's common stock and subject the Company to additional trading restrictions.***

The Company's common stock is listed on the Nasdaq Stock Market. There is no assurance that the Company will be able to maintain the listing of its common stock in the future.

If the Company's common stock is delisted from trading on Nasdaq, the Company could face significant material adverse consequences, including:

- a limited availability of market quotations for its securities;
- a limited amount of news and analyst coverage for the Company; and
- a decreased ability to issue additional securities or obtain additional financing in the future.

***The Company's outstanding convertible preferred stock, warrants and options may have an adverse effect on the market price of its common stock.***

As of December 31, 2019, we had outstanding (i) stock options issued to the board of directors and employees to purchase 3,798,818 shares of common stock at exercise prices ranging from \$4.50 to \$11.10 per share, (ii) pre-funded warrants to purchase up to 1,339,499 shares of common stock that were issued in the PIPE Investment, (iii) warrants to purchase 2,522,458 shares of our common stock at \$11.50 per share issued in the PIPE Investment, (iv) warrants to purchase 2,155,000 shares of our common stock at \$11.50 per share held by Andina public shareholders, and (v) 600,000 shares of Series A Preferred Stock which are convertible up to 6,550,064 shares of common stock, taking into account the accrued dividends which we may elect to pay in cash or shares of common stock. We may also issue additional equity awards under our Amended and Restated 2018 Long-Term Incentive Plan (the "Amended 2018 Plan"). The sale, or even the possibility of sale, of the shares of common stock underlying the warrants, stock options and Series A Preferred Stock and the shares issuable under our incentive plan could have an adverse effect on the market price of the common stock or on our ability to obtain future financing. If and to the extent these warrants and stock options are exercised or the Series A Preferred Stock is converted to common stock, you may experience dilution to your holdings.

***The Company is an "emerging growth company" and it cannot be certain if the reduced disclosure requirements applicable to emerging growth companies will make the Company's common stock less attractive to investors.***

We are an "emerging growth company," as defined in the Jumpstart our Business Startups Act of 2012, or the JOBS Act, and we will take advantage of certain exemptions from various reporting requirements that are applicable to other public companies. These exemptions include not being required to comply with the auditor attestation requirements of Section 404 of the Sarbanes-Oxley Act of 2002 ("Sarbanes-Oxley"), reduced disclosure obligations regarding executive compensation in our periodic reports and proxy statements, and exemptions from the requirements of holding a nonbinding advisory vote on executive compensation and stockholder approval of any golden parachute payments not previously approved. Investors may find our common stock less attractive because we rely, or may rely, on these exemptions. In addition, under the JOBS Act, "emerging growth companies" can delay adopting new or revised accounting standards until such time as those standards apply to private companies. If some investors find our common stock less attractive as a result, the price of our common stock may be reduced, there may be a less active trading market for our common stock and the price of our common stock may be more volatile.

We could remain an "emerging growth company" until the last day of 2020, although a variety of circumstances could cause us to lose that status earlier. For as long as we take advantage of the reduced reporting obligations, the information that we provide stockholders may be different from information provided by other public companies.

***Stockholders may become diluted as a result of issuance of options under existing or future incentive plans, the issuance of stock under the ESPP or the issuance of common stock as a result of acquisitions or otherwise.***

The Company's Amended 2018 Plan allows the Company to issue common stock underlying stock options or other forms of stock-based compensation to employees and directors totaling 4,424,566 shares of Company common stock. As of December 31, 2019, there were 3,798,818 options outstanding, which if vested in the future may be exercised for 3,798,818 shares of Company common stock and there were 625,748 shares of common stock available to be issued under equity incentive awards pursuant to the Amended 2018 Plan. The effect of the issuance of common stock or other instruments, such as stock options, convertible into common stock under the Amended 2018 Plan or future plans may be dilutive to current common stockholders.

On May 20, 2019, the Company's stockholders approved the 2019 Employee Stock Purchase Plan (the "ESPP"). The ESPP reserved 900,000 shares of common stock for purchase by participants in the ESPP. Participants in the plan may purchase shares of common stock at a purchase price which will not be less than the lesser of 85% of the fair market value per share of the common stock on the first day of the purchase period or the last day of the purchase period. On December 2, 2019, the Company issued 35,058 shares of common stock pursuant to the ESPP. As a result, as of December 31, 2019, there were 864,942 shares available for issuance.

The Company may issue additional securities in the future if it needs to raise capital for operations or growth initiatives, including acquisitions. For example, the Company may currently issue 1,900,000 shares of common stock in an acquisition transaction pursuant to the Form S-4 filed with the SEC on August 31, 2018, as amended and supplemented from time to time. In the event a transaction was consummated which utilized these shares, the impact may be dilutive to current common stockholders.

***The price of the Company's common stock may be volatile for a variety of reasons.***

The price of the Company's common stock may be volatile, and could decline, for a variety of reasons including the Company's operating performance, ability to retain key employees, ability to meet covenants, and ability to successfully execute its growth strategy amongst other factors. The Company's stock price may also be impacted by external factors including the general economic and political environment, actions of competitors including their quarterly performance, litigation, the perception of the industry as a whole, and changes in laws or regulations, including accounting standards. As a result, these factors may adversely impact the market price of the Company's common stock, regardless of the Company's operational or financial performance. Additionally, the impact of volatility may be greater if the Company's public float and volume is smaller than some of its competitors.

***The conversion of the Series A Preferred Stock into Company common stock may dilute the value for the other holders of Company common stock.***

The Series A Preferred Stock is convertible into Company common stock. As a result of the conversion of any issued and outstanding Series A Preferred Stock, the existing holders of Company common stock will own a smaller percentage of the outstanding Company common stock. Further, additional Company common stock may be issuable pursuant to certain other features of the Series A Preferred Stock, with such issuances being further dilutive to existing holders of Company common stock.

If the Series A Preferred Stock is converted into Company common stock, holders of such converted Company common stock will be entitled to the same dividend and distribution rights as other holders of Company common stock. As such, another dilutive effect resulting from the conversion of any shares of Series A Preferred Stock will be a dilution to dividends and distributions receivable on account of Company common stock.

***The holders of Series A Preferred Stock own a large portion of the voting power of the Company common stock and have the right to nominate two members to the Company's board of directors. As a result, these holders may influence the composition of the board of directors of the Company and future actions taken by the board of directors of the Company.***

The holders of the Series A Preferred Stock are entitled to vote upon all matters upon which holders of the Company common stock have the right to vote and are entitled to the number of votes equal to the number of full shares of Company common stock into which such shares of Series A Preferred Stock could be converted at the then applicable conversion rate. Accordingly, as of December 31, 2019, the holders of the Series A Preferred Stock held approximately 43.7% of the voting power of the Company on an as-converted basis, taking into account the accrued dividends which we may elect to pay in cash or shares of common stock. As a result, the holders of the Series A Preferred Stock may have the ability to influence future actions by the Company requiring stockholder approval.

***The holders of the Series A Preferred Stock have certain rights that may not allow the Company to take certain actions.***

Pursuant to the Certificate of Designations governing the Series A Preferred Stock, the holders of the Series A Preferred Stock must consent to the Company taking certain actions, including among others, the increase in the number of directors constituting the Company's board of directors above eight members, the incurrence of certain indebtedness and the sale of certain assets. The holders of the Series A Preferred Stock are not obligated to consent to any specific action and there can be no assurance that the holders will consent to any action the Company's board of directors determines is in the best interests of its stockholders as a whole.

Additionally, the holders of the Series A Preferred Stock have been granted a right of first refusal on certain debt financings. Pursuant to this right, the holders of the Series A Preferred Stock have 15 business days to determine whether they want to undertake a covered debt financing. This may delay the Company's ability to undertake a debt financing and may cause certain third parties to be less willing to engage in any debt financing with the Company.

***Our stock repurchase program could increase the volatility of the price of our common stock.***

In November 2019, our Board of Directors approved a stock repurchase program authorizing us to repurchase up to a maximum of \$4.0 million of our shares of common stock through December 31, 2020. Repurchases may be made at management's discretion from time to time in the open market, through privately negotiated transactions or pursuant to a trading plan subject to market conditions, applicable legal requirements and other factors. There can be no assurance that we will buy shares of our common stock or the timeframe for repurchases under our stock repurchase program or that any repurchases will have a positive impact on our stock price or earnings per share. Important factors that could cause us to discontinue or decrease our share repurchases include, among others, unfavorable market conditions, the market price of our common stock, the nature of other investment or strategic opportunities presented to us from time to time, the rate of dilution of our equity compensation programs, our ability to make appropriate, timely and beneficial decisions as to when, how and whether to purchase shares under the stock repurchase program, and the availability of funds necessary to continue purchasing stock.

***The Company's amended and restated certificate of incorporation provides to the fullest extent permitted by law that the Court of Chancery of the State of Delaware will be the exclusive forum for certain legal actions between the Company and its stockholders, which could limit the Company's stockholders' ability to obtain a judicial forum viewed by the stockholders as more favorable for disputes with the Company or the Company's directors, officers or employees.***

The Company's amended and restated certificate of incorporation provides to the fullest extent permitted by law that unless the Company consents in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware will be the sole and exclusive forum for any derivative action or proceeding brought on behalf of the Company, any action asserting a claim of breach of a fiduciary duty owed by any of the Company's directors, officers or other employees to the Company or the Company's stockholders, any action asserting a claim arising pursuant to any provision of the Delaware General Corporation Law ("DGCL"), or any action asserting a claim governed by the internal affairs doctrine. The choice of forum provision may limit a stockholder's ability to bring a claim in a judicial forum that it finds favorable for disputes with the Company or the Company's directors, officers or other employees, which may discourage such lawsuits against the Company or the Company's directors, officers and other employees. Alternatively, if a court were to find the choice of forum provision contained in the Company's amended and restated certificate of incorporation to be inapplicable or unenforceable in an action, the Company may incur additional costs associated with resolving such action in other jurisdictions. The exclusive forum provision in the Company's amended and restated certificate of incorporation does not apply to actions arising under the federal securities laws and will not preclude or contract the scope of exclusive federal or concurrent jurisdiction for actions brought under the federal securities laws including the Securities Exchange Act of 1934, as amended, or the Securities Act of 1933, as amended, or the respective rules and regulations promulgated thereunder.

**Item 1B. Unresolved Staff Comments**

None.

**Item 2. Properties**

Although we own the property in our Arizona location, we typically lease all the real estate properties where we have operations. Our real property leases generally provide for fixed monthly rents with annual escalation clauses and multiple renewal terms of 5 or 20 years each. The leases are typically “triple net” requiring us to pay real estate taxes, insurance and maintenance costs.

The table below sets forth certain information concerning our leased dealership locations.

<b>Location</b>	<b>Acres</b>	<b>Square Feet</b>	<b>Term (years)</b>	<b>Initial Expiration</b>
FL	126	384,000	20	2035
FL	6	3,600	5	2022
FL	30	66,650	5	2024
CO	28	129,300	5	2020
CO	11	14,150	5	2020
CO	6	18,699	5	2020
MN	20	68,101	20	2038
TN	22	68,544	10	2028

**Item 3. Legal Proceedings**

The Company is a party to multiple legal proceedings that arise in the ordinary course of its business. The Company does not believe that the ultimate resolution of these matters will have a material adverse effect on its business, results of operations, financial condition or cash flows. However, the results of these matters cannot be predicted with certainty and an unfavorable resolution of one or more of these matters could have a material adverse effect on the Company’s business, results of operations, financial condition and/or cash flows.

**Item 4. Mine Safety Disclosures**

None.



## PART II

### Item 5. *Market for Registrant’s Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities*

Currently, our shares of common stock are listed on the Nasdaq Capital Market under the symbol “LAZY” and our warrants are quoted on the OTC Pink marketplace under the symbol “LAZYW”.

The following table sets forth the high and low sales prices for our warrants since March 16, 2018, the day after we consummated the mergers.

Period*	Warrants	
	High	Low
<b>2019</b>		
Fourth Quarter	\$ 0.11	\$ 0.10
Third Quarter	0.09	0.09
Second Quarter	0.11	0.07
First Quarter	0.45	0.30
<b>2018</b>		
Fourth Quarter	1.00	0.40
Third Quarter	1.60	1.15
Second Quarter	1.85	0.80
First Quarter	-	-

\*Prior to the consummation of the Mergers, our fiscal year was November 30. We changed our fiscal year end to December 31<sup>st</sup> in connection with the Mergers and the period covered in this table is stated on a December 31<sup>st</sup> year end.

Any over-the-counter market quotations of the warrants reflect inter-dealer prices, without retail mark-up, mark-down or commission and may not necessarily represent actual transactions.

#### *Stock Repurchases*

Period	Total Number of Shares Purchased	Average Price Paid per Share	Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs	Approximate Dollar Value of Shares that May Yet Be Purchased Under the Plans or Programs
October 1, 2019 - October 31, 2019	-	\$ -	-	\$ 4,000
November 1, 2019 - November 30, 2019	700	\$ 4.53	700	\$ 3,997
December 1, 2019 - December 31, 2019	77,300	\$ 4.05	78,000	\$ 3,686

- (1) On November 7, 2019, we announced that our Board of Directors authorized a stock repurchase program authorizing us to repurchase up to \$4.0 million of our shares of Common Stock. The program is effective through December 31, 2020.

As of March 18, 2020, there were 52 holders of record of our shares of common stock, 4 holders of record of our shares of Series A Preferred Stock and 30 holders of record of our warrants.

We have not paid any cash dividends on our common stock and do not plan to pay any cash dividends on our common stock in the foreseeable future. Our board of directors will determine our future dividend policy on the basis of many factors, including results of operations, capital requirements, and general business conditions, subject to any restrictions under our credit facility and the Certificate of Designations for the Series A Preferred Stock.

### Item 6. *Selected Financial Data*

Information requested by this Item is not applicable as the Company has elected scaled disclosure requirements available to smaller reporting companies with respect to this Item.

### Item 7. *Management’s Discussion and Analysis of Financial Condition and Results of Operations*

The following discussion and analysis of the Company’s financial condition and results of operations should be read in conjunction with Part I, including matters set forth in the “Risk Factors” section of this Form 10-K, and our Consolidated Financial Statements and notes thereto, included in Part II, Item 8 of this Form 10-K.

## Forward Looking Statements

Certain statements in this Annual Report on Form 10-K (including but not limited to this Item 7 – “Management’s Discussion and Analysis of Financial Condition and Results of Operations”) constitute “forward-looking statements” within the meaning of the Private Securities Litigation Reform Act of 1995. All statements other than statements of historical facts included in this Annual Report on Form 10-K, including, without limitation, statements regarding the Company’s future financial position, business strategy, budgets, projected costs and plans and objectives of management for future operations, are “forward-looking” statements. Forward-looking statements generally can be identified by the use of forward-looking terminology such as “may,” “will,” “expect,” “anticipate,” “intend,” “plan,” “believe,” “seek,” “estimate” or “continue” or the negative of such words or variations of such words and similar expressions. These statements are not guarantees of future performance and involve certain risks, uncertainties and assumptions, which are difficult to predict. Therefore, actual outcomes and results may differ materially from what is expressed or forecasted in such forward-looking statements and the Company can give no assurance that such forward-looking statements will prove to be correct. Important factors that could cause actual results to differ materially from those expressed or implied by the forward-looking statements, or “cautionary statements,” include, but are not limited to:

- The Company’s business is affected by the availability of financing to it and its customers;
- Fuel shortages, or high prices for fuel, could have a negative effect on the Company’s business;
- The Company’s success will depend to a significant extent on the well being, as well as the continued popularity and reputation for quality, of the Company’s manufacturers, particularly, Thor Industries, Inc., Tiffin Motorhomes, Winnebago Industries, Inc., and Forest River, Inc.
- Any change, non-renewal, unfavorable renegotiation or termination of the Company’s supply arrangements for any reason could have a material adverse effect on product availability and cost and the Company’s financial performance.
- The Company’s business is impacted by general economic conditions in its markets, and ongoing economic and financial uncertainties may cause a decline in consumer spending that may adversely affect its business, financial condition and results of operations.
- The Company depends on its ability to attract and retain customers.
- Competition in the market for services, protection plans and products targeting the RV lifestyle or RV enthusiast could reduce the Company’s revenues and profitability.
- The Company’s expansion into new, unfamiliar markets presents increased risks that may prevent it from being profitable in these new markets. Delays in opening or acquiring new retail locations could have a material adverse effect on the Company’s business, financial condition and results of operations.
- Unforeseen expenses, difficulties, and delays encountered in connection with expansion through acquisitions could inhibit the Company’s growth and negatively impact its profitability.
- Failure to maintain the strength and value of the Company’s brands could have a material adverse effect on the Company’s business, financial condition and results of operations.
- The Company’s failure to successfully procure and manage its inventory to reflect consumer demand in a volatile market and anticipate changing consumer preferences and buying trends could have a material adverse effect on the Company’s business, financial condition and results of operations.
- The Company’s same store sales may fluctuate and may not be a meaningful indicator of future performance.
- The cyclical nature of the Company’s business has caused its sales and results of operations to fluctuate. These fluctuations may continue in the future, which could result in operating losses during downturns.
- The Company’s business is seasonal and this leads to fluctuations in sales and revenues.
- The Company’s business may be adversely affected by unfavorable conditions in its local markets, even if those conditions are not prominent nationally.

- The Company may not be able to satisfy its debt obligations upon the occurrence of a change in control under its credit facility.
- The Company's ability to operate and expand its business and to respond to changing business and economic conditions will depend on the availability of adequate capital.
- The documentation governing the Company's credit facility contain restrictive covenants that may impair the Company's ability to access sufficient capital and operate its business.
- Uncertainty relating to the LIBOR calculation process and potential phasing out of LIBOR may adversely affect the Company.
- Natural disasters, whether or not caused by climate change, unusual weather conditions, epidemic outbreaks, terrorist acts and political events could disrupt business and result in lower sales and otherwise adversely affect the Company's financial performance.
- The Company depends on its relationships with third party providers of services, protection plans, products and resources and a disruption of these relationships or of these providers' operations could have an adverse effect on the Company's business and results of operations.
- A portion of the Company's revenue is from financing, insurance and extended service contracts, which depend on third party lenders and insurance companies. The Company cannot ensure these third parties will continue to provide RV financing and other products.
- If the Company is unable to retain senior executives and attract and retain other qualified employees, the Company's business might be adversely affected.
- The Company's business depends on its ability to meet its labor needs.
- The Company primarily leases its retail locations. If the Company is unable to maintain those leases or locate alternative sites for retail locations in its target markets and on terms that are acceptable to it, the Company's revenues and profitability could be adversely affected.
- The Company's business is subject to numerous federal, state and local regulations.
- Regulations applicable to the sale of extended service contracts could materially impact the Company's business and results of operations.
- If state dealer laws are repealed or weakened, the Company's dealerships will be more susceptible to termination, non-renewal or renegotiation of dealer agreements.
- The Company's failure to comply with certain environmental regulations could adversely affect the Company's business, financial condition and results of operations.
- Climate change legislation or regulations restricting emission of "greenhouse gases" could result in increased operating costs and reduced demand for the RVs the Company sells.
- The Company may be unable to enforce its intellectual property rights and/or the Company may be accused of infringing the intellectual property rights of third parties which could have a material adverse effect on the Company's business, financial condition and results of operations.
- If the Company is unable to protect, maintain or upgrade its information technology systems or if the Company is unable to convert to alternate systems in an efficient and timely manner, the Company's operations may be disrupted or become less efficient.
- Any disruptions to the Company's information technology systems or breaches of the Company's network security could interrupt its operations, compromise its reputation, expose it to litigation, government enforcement actions and costly response measures and could have a material adverse effect on the Company's business, financial condition and results of operations.

- Increases in the minimum wage or overall wage levels could adversely affect the Company’s financial results.
- The Company may be subject to product liability claims if people or property are harmed by the products the Company sells and may be adversely impacted by manufacturer safety recalls.
- The Company may be named in litigation, which may result in substantial costs and reputational harm and divert management’s attention and resources.
- The Company’s risk management policies and procedures may not be fully effective in achieving their purposes.
- The Company could incur asset impairment charges for goodwill, intangible assets or other long-lived assets.
- Future resales of the shares of common stock of the Company issued to the stockholders and the investors in the PIPE Investment may cause the market price of the Company’s securities to drop significantly, even if the Company’s business is doing well.
- Nasdaq may delist the Company’s common stock on its exchange, which could limit investors’ ability to make transactions in the Company’s common stock and subject the Company to additional trading restrictions.
- The Company’s outstanding convertible preferred stock, warrants and options may have an adverse effect on the market price of its common stock.
- The Company is an “emerging growth company” and it cannot be certain if the reduced disclosure requirements applicable to emerging growth companies will make the Company’s common stock less attractive to investors.
- Stockholders may become diluted as a result of issuance of options under existing or future incentive plans, the issuance of stock under the ESPP or the issuance of Common Stock as a result of acquisitions or otherwise.
- The price of the Company’s Common Stock may be volatile for a variety of reasons.
- The conversion of the Series A Preferred Stock into Company common stock may dilute the value for the other holders of Company common stock.
- The holders of Series A Preferred Stock own a large portion of the voting power of the Company common stock and have the right to nominate two members to the Company’s board of directors. As a result, these holders may influence the composition of the board of directors of the Company and future actions taken by the board of directors of the Company.
- The holders of the Series A Preferred Stock have certain rights that may not allow the Company to take certain actions.
- The Company’s stock repurchase program could increase the volatility of the price of the Company’s Common Stock.
- The Company’s amended and restated certificate of incorporation provides to the fullest extent permitted by law that the Court of Chancery of the State of Delaware will be the exclusive forum for certain legal actions between the Company and its stockholders, which could limit the Company’s stockholders’ ability to obtain a judicial forum viewed by the stockholders as more favorable for disputes with the Company or the Company’s directors, officers or employees.

## **Business Overview**

The amounts set forth below are in thousands unless otherwise indicated except for unit (including the average selling price per unit), share, and per share data.

### **Our Business**

The Company operates RV dealerships and offers a comprehensive portfolio of products and services for RV owners and outdoor enthusiasts. The Company generates revenue by providing RV owners and outdoor enthusiasts a full spectrum of products: RV sales, RV repair and services, financing and insurance products, third-party protection plans, after-market parts and accessories, and RV camping. The Company provides these offerings through its Lazydays branded dealerships. Lazydays is known nationally as The RV Authority<sup>®</sup>, a registered trademark that has been consistently used by the Company in its marketing and branding communications since 2013. In this Annual Report on Form 10-K, the Company refers to Lazydays Holdings, Inc. as “Lazydays,” the “Company,” “Holdco,” “we,” “us,” “our,” and similar words.

The Company believes, based on industry research and management’s estimates, it operates the world’s largest RV dealership, measured in terms of on-site inventory, located on 126 acres outside Tampa, Florida. The Company also has dealerships located at The Villages, Florida; Tucson, Arizona; Minneapolis, Minnesota; Knoxville, Tennessee; and Loveland and Denver, Colorado. Lazydays offers one of the largest selections of RV brands in the nation featuring more than 3,000 new and pre-owned RVs. The Company has over 400 service bays across all locations and has RV parts and accessories stores at all locations. Lazydays also has availability to two on-site campgrounds with over 700 RV campsites. The Company employs over 900 people at the seven facilities. The Company’s dealership locations are staffed with knowledgeable local team members, providing customers access to extensive RV expertise. The Company believes its dealership locations are strategically located in key RV markets. Based on information collected by the Company from reports prepared by Statistical Surveys, these key RV markets account for a significant portion of new RV units sold on an annual basis in the U.S. The Company’s dealerships in these key markets attract customers from every state except Hawaii.

The Company attracts new customers primarily through Lazydays dealership locations as well as digital and traditional marketing efforts. Once the Company acquires customers, those customers become part of the Company’s customer database where the Company leverages CRM tools and analytics to actively engage, market and sell its products and services.

### **How The Company Generates Revenue**

The Company derives its revenues from sales of new units, sales of pre-owned units, and other revenue. Other revenue consists of RV parts, service and repairs, commissions earned on sales of third-party financing and insurance products, visitor fees at the Tampa campground and food facilities, and miscellaneous revenues. During the years ended December 31, 2019 and 2018, the Company derived its revenues from these categories in the following percentages:

	<b>Combined Successor and Predecessor</b>	
	<b>For the Years Ended December 31,</b>	
	<b>2019</b>	<b>2018</b>
New vehicles	54.8%	54.9%
Pre-owned vehicles	33.2%	33.6%
Other	12.0%	11.5%
	<u>100.0%</u>	<u>100.0%</u>

New and pre-owned RV sales accounted for approximately 88% and 89% of total revenues for the years ended December 31, 2019 and 2018. These revenue contributions have remained relatively consistent year over year.

### **Key Performance Indicators**

*Gross Profit and Gross Margins (excluding depreciation and amortization).* Gross profit is total revenue less total costs applicable to revenue excluding depreciation and amortization. The vast majority of the cost applicable to revenues is related to the cost of vehicles. New and pre-owned vehicles have accounted for 96% and 97% of the cost of revenues for the years ended December 31, 2019 and 2018, respectively. Gross margin is gross profit as a percentage of revenue.

The Company’s gross profit is variable in nature and generally follows changes in revenue. For the years ended December 31, 2019 and 2018, gross profit was \$132.2 million and \$131.7 million, respectively, and gross margin was 20.5% and 21.6% for the years then ended. Last-in, first-out (“LIFO”) adjustments did not have a material impact on the variance in the Company’s gross margin during the periods presented. The margin decreases were driven by reduced per vehicle margins due to competitive pricing in the industry, primarily during the second half of 2019.

During the years ended December 31, 2019 and 2018, gross margins were also impacted by other revenue, including finance and insurance revenues and parts, service, and accessories revenue. The Company’s margins on these lines of business typically carry higher gross margin percentages than new and pre-owned vehicle sales. These combined revenues were 12.0% and 11.5%, respectively, of total revenues during the years ended December 31, 2019 and 2018.

*SG&A as a percentage of Gross Profit.* Selling, general and administrative (“SG&A”) expenses as a percentage of gross profit allows the Company to monitor its expense control over a period of time. SG&A consists primarily of wage-related expenses, selling expenses related to commissions and advertising, lease expenses and corporate overhead expenses.

Historically, salaries, commissions and benefits represent the largest component of the Company’s total selling, general and administrative expense and averages approximately 50-53% of selling, general and administrative expenses, stock-based compensation, depreciation and amortization, and transaction costs. During the years ended December 31, 2019 and December 31, 2018, salaries, commissions, and benefits represented 50% and 53%, respectively, of these operating expenses.

The Company calculates SG&A expenses as a percentage of gross profit by dividing SG&A expenses for the period by total gross profit. For the years ended December 31, 2019 and 2018, SG&A, excluding transaction costs, depreciation and amortization, and stock-based compensation expense as a percentage of gross profit was 78.0% and 73.5%, respectively. These increases are driven by the decreased gross margins discussed above as well as overhead associated with new dealerships.

In addition, as the Company executes its growth strategy, the Company may acquire property, plant, and equipment and intangible assets, and the related depreciation and amortization expense may negatively impact our net income or loss in future periods.

*Adjusted EBITDA.* Adjusted EBITDA is not a U.S. Generally Accepted Accounting Principle (“GAAP”) financial measure, but it is one of the primary non-GAAP measures management uses to evaluate the financial performance of the business. Adjusted EBITDA is also frequently used by analysts, investors, and other interested parties to evaluate companies in the recreational vehicle industry. The Company uses Adjusted EBITDA and Adjusted EBITDA Margin to supplement GAAP measures of performance as follows:

- as a measurement of operating performance to assist in comparing the operating performance of the Company’s business on a consistent basis, and remove the impact of items not directly resulting from the Company’s core operations;
- for planning purposes, including the preparation of the Company’s internal annual operating budget and financial projections;
- to evaluate the performance and effectiveness of the Company’s operational strategies; and
- to evaluate the Company’s capacity to fund capital expenditures and expand the business.

The Company defines Adjusted EBITDA as net income (loss) excluding depreciation and amortization of property and equipment, non-floor plan interest expense, amortization of intangible assets, income tax expense, stock-based compensation, transaction costs and other supplemental adjustments which for the periods presented includes LIFO adjustments, severance costs and other one-time charges and gain on sale of property and equipment. The Company believes Adjusted EBITDA, when considered along with other performance measures, is a useful measure as it reflects certain operating drivers of the business, such as sales growth, operating costs, selling and administrative expense and other operating income and expense. The Company believes Adjusted EBITDA can provide a more complete understanding of the underlying operating results and trends and an enhanced overall understanding of financial performance and prospects for the future. While Adjusted EBITDA is not a recognized measure under GAAP, management uses this financial measure to evaluate and forecast business performance. Adjusted EBITDA is not intended to be a measure of liquidity or cash flows from operations, or a measure comparable to net income as it does not take into account certain requirements such as non-recurring gains and losses which are not deemed to be a normal part of the underlying business activities.

The Company’s use of Adjusted EBITDA may not be comparable to other companies within the industry. The Company compensates for these limitations by using Adjusted EBITDA as only one of several measures for evaluating business performance. In addition, capital expenditures, which impact depreciation and amortization, interest expense, and income tax expense, are reviewed separately by management. The Company’s measure of Adjusted EBITDA is not necessarily comparable to similarly titled captions of other companies due to different methods of calculation. For a reconciliation of Adjusted EBITDA to net income (loss), a reconciliation of Adjusted EBITDA Margin to net (loss) income margin, and a further discussion of how the Company utilizes this non-GAAP financial measure, see “Non-GAAP Financial Measures” below.

## Results of Operations

The following table sets forth information comparing the components of net loss for the years ended December 31, 2019 and 2018.

### Summary Financial Data

(in thousands)

	<b>Successor</b>	<b>Combined Successor and Predecessor</b>
	<b>Year Ended December 31, 2019</b>	<b>Year Ended December 31, 2018</b>
<b>Revenues</b>		
New and pre-owned vehicles	\$ 567,058	\$ 538,129
Other	77,854	70,065
Total revenue	<u>644,912</u>	<u>608,194</u>
<b>Cost of revenues (excluding depreciation and amortization expense)</b>		
New and pre-owned vehicles	490,676	459,163
Adjustments to LIFO reserve	2,445	1,424
Other	19,612	15,941
Total cost of revenues (excluding depreciation and amortization)	<u>512,733</u>	<u>476,528</u>
Gross profit (excluding depreciation and amortization)	132,179	131,666
Transaction costs	865	3,898
Depreciation and amortization expense	10,813	9,416
Stock-based compensation expense	4,864	8,758
Selling, general, and administrative expenses	103,509	96,824
Income from operations	12,128	12,770
<b>Other income/expenses</b>		
Gain on sale of property and equipment	11	2
Interest expense	(10,328)	(10,020)
Total other expense	<u>(10,317)</u>	<u>(10,018)</u>
Income before income tax expense	1,811	2,752
Income tax expense	(1,097)	(3,036)
Net income (loss)	<u>\$ 714</u>	<u>\$ (284)</u>

## **Revenue**

Revenue increased by approximately \$36.7 million, or 6.0%, to \$644.9 million from \$608.2 million for the years ended December 31, 2019 and 2018, respectively.

### *New Vehicles and Pre-Owned Vehicles Revenue*

Revenue from new and pre-owned vehicles sales increased by approximately \$29.0 million, or 5.4%, to \$567.1 million from \$538.1 million for the years ended December 31, 2019 and 2018, respectively.

Revenue from new vehicle sales increased by approximately \$19.6 million, or 5.9%, to \$353.2 million from \$333.6 million for the years ended December 31, 2019 and 2018, respectively. This was due to an increase in the number of new vehicle units sold from 4,319 to 4,652 which was driven by the acquisitions of three dealerships located in Tennessee, Minnesota, and The Villages, Florida (“New Locations”) since August 2018. This increase was offset by a decrease in the average unit selling price from \$76,800 for the year ended December 31, 2018 as compared to \$75,500 for the year ended December 31, 2019.

Revenue from pre-owned vehicle sales increased by approximately \$9.2 million, or 4.5%, to \$213.8 million from \$204.6 million for the years ended December 31, 2019 and 2018, respectively. This was due to a 38% increase in wholesale revenue. Excluding the effect of wholesale sales, additionally there was an increase in the average revenue per unit sold from approximately \$64,900 in 2018 to \$65,500 per unit in 2019, offset by a slight decrease in units sold from 2,977 to 2,939 in 2019.

### *Other Revenue*

Other revenue consists of sales of parts, accessories, and related services. It also consists of finance and insurance revenues as well as campground and miscellaneous revenues. Other revenue increased by approximately \$7.8 million, or 11.1%, to \$77.9 million from \$70.1 million for the years ended December 31, 2019 and 2018, respectively.

As a component of other revenue, sales of parts, accessories and related services increased by approximately \$4.7 million, or 15.2%, to \$35.6 million from \$30.9 million for the years ended December 31, 2019 and 2018, respectively, primarily due to the Company’s New Locations.

Finance and insurance revenue increased by approximately \$4.3 million, or 13.3%, to \$36.7 million from \$32.4 million for the years ended December 31, 2019 as compared to December 31, 2018, respectively, due to finance and insurance revenue at the Company’s New Locations. In addition, the Company has had improved penetration rates and per unit revenue on its finance and insurance products.

Campground and other revenue, which includes RV rental revenue, campground, restaurant, and consignment revenue decreased by approximately \$1.2 million, or 17.9%, to \$5.5 million from \$6.7 million for the year ended December 31, 2019 as compared to December 31, 2018, respectively. The decrease is primarily due to the Company phasing out its rental operations over 2019.

### **Gross Profit (excluding depreciation and amortization)**

Gross profit consists of gross revenues less cost of sales and services and excludes depreciation and amortization. Gross profit increased by approximately \$0.5 million, or 0.4%, to \$132.2 million from \$131.7 million for the years ended December 31, 2019 and 2018, respectively. This increase was due to increased sales related to the Company’s New Locations. Gross margin was 20.5% and 21.6% for the years ended December 31, 2019 and 2018, respectively. The decrease was due to competitive pricing on new vehicles during the second half of 2019, and a decline in pre-owned motorized sales.

### *New and Pre-Owned Vehicles Gross Profit*

New and pre-owned vehicle gross profit decreased \$2.6 million, or 3.3%, to \$76.4 million from \$79.0 million for the years ended December 31, 2019 and 2018, respectively. The decrease is primarily attributable to the decreased gross margin on new vehicles from late model year pricing competition.

### *Other Gross Profit*

Other gross profit increased by \$4.1 million, or 7.6% to \$58.2 million from \$54.1 million for the years ended December 31, 2019 and 2018 primarily due to increased finance and insurance revenues from the Company’s New Locations as well as increased penetration rates on the Company’s finance and insurance products.



### ***Selling, General and Administrative Expenses***

Selling, general, and administrative (“SG&A”) expenses, excluding transaction costs, stock-based compensation expense, and depreciation and amortization expense, increased 6.9% to \$103.5 million during the year ended December 31, 2019, from \$96.8 million during the year ended December 31, 2018. The increase in SG&A expenses was related to overhead associated with the New Locations acquired since August 2018. Stock-based compensation, a non-cash expense, decreased by \$3.9 million as a result of the graded vesting of the awards with market conditions which were issued to members of management in 2018, with the majority of the expense being recorded in the early portion of the derived service period.

### ***Interest Expense***

Interest expense increased by approximately \$0.3 million to \$10.3 million from \$10.0 million for the years ended December 31, 2019 and 2018, respectively. This was due to the increase in floor plan interest due to the increase in the outstanding floor plan balance from acquisitions. In addition, interest increased as a result of the interest expense from the sale leaseback transaction in Minnesota and notes payable associated with the acquisition of the New Locations since August 2018.

### ***Income Taxes***

Income tax expense decreased to \$1.1 million during the year ended December 31, 2019 from income tax expense of \$3.0 million during the same period of 2018, due to the decrease in book income. While book income decreased from December 31, 2018 to December 31, 2019, non-deductible expenses such as stock-based compensation resulted in significant increases to the Company’s effective tax rate. As book income approaches zero, the impact of each non-deductible item has a larger impact on the effective tax rate.

### **Non-GAAP Financial Measures**

The Company uses certain non-GAAP financial measures, such as EBITDA and Adjusted EBITDA, to enable it to analyze its performance and financial condition, as described in “Key Performance Indicators”, above. The Company utilizes these financial measures to manage the business on a day-to-day basis and believes that they are relevant measures of performance. The Company believes that these supplemental measures are commonly used in the industry to measure performance. The Company believes these non-GAAP measures provide expanded insight to measure revenue and cost performance, in addition to the standard GAAP-based financial measures.

The presentation of non-GAAP financial information should not be considered in isolation or as a substitute for, or superior to, the financial information prepared and presented in accordance with GAAP. You should read this discussion and analysis of the Company’s financial condition and results of operations together with the consolidated financial statements of the Company and the related notes thereto also included herein.

EBITDA is defined as net income (loss) excluding depreciation and amortization of property and equipment, interest expense, net, amortization of intangible assets, and income tax expense.

Adjusted EBITDA is defined as net income (loss) excluding depreciation and amortization of property and equipment, non-floor plan interest expense, amortization of intangible assets, income tax expense, stock-based compensation, transaction costs and other supplemental adjustments which for the periods presented includes LIFO adjustments, severance costs and other one time charges, and gain or loss on sale of property and equipment.

Reconciliations from Net Income (Loss) per the Consolidated Statements of Operations to EBITDA and Adjusted EBITDA for the years ended December 31, 2019 and 2018 are shown in the tables below.

	Successor		Combined Successor and Predecessor	
	Years Ended December 31,			
	2019		2018	
<b>EBITDA and Adjusted EBITDA</b>				
Net income (loss)	\$	714	\$	(284)
Interest expense, net		10,328		10,020
Depreciation and amortization of property and equipment		6,848		6,641
Amortization of intangible assets		3,965		2,775
Income tax expense		1,097		3,036
Subtotal EBITDA		<u>22,952</u>		<u>22,188</u>
Floor plan interest		(4,412)		(4,265)
LIFO adjustment		2,445		1,424
Transaction costs		865		3,898
Gain on sale of property and equipment		(11)		(2)
Impairment of retired rental units		439		-
Severance costs/Other		773		353
Stock-based compensation		4,864		8,758
Adjusted EBITDA	\$	<u>27,915</u>	\$	<u>32,354</u>

During 2019, the Company retired the RV rental units and moved the rental units to used inventory for sale. Upon transfer to used inventory, the carrying value of these units was adjusted to market value for similar units acquired by the Company for resale.

	Successor		Combined Successor and Predecessor	
	Years Ended December 31,			
	2019		2018	
<b>EBITDA margin and Adjusted EBITDA margin</b>				
Net income (loss)		0.1%		0.0%
Interest expense, net		1.6%		1.6%
Depreciation and amortization of property and equipment		1.1%		1.1%
Amortization of intangible assets		0.6%		0.5%
Income tax expense		0.2%		0.5%
Subtotal EBITDA margin		<u>3.6%</u>		<u>3.6%</u>
Floor plan interest		-0.7%		-0.7%
LIFO adjustment		0.4%		0.2%
Transaction costs		0.1%		0.6%
Gain on sale of property and equipment		0.0%		0.0%
Impairment of retired rental units		0.1%		0.0%
Severance costs/Other		0.1%		0.1%
Stock-based compensation		0.8%		1.4%
Adjusted EBITDA margin		<u>4.3%</u>		<u>5.3%</u>

Note: Figures in the table may not recalculate exactly due to rounding.

## Liquidity and Capital Resources

### Cash Flow Summary

(\$ in thousands)	Combined Successor and Predecessor	
	Years Ended December 31,	
	2019	2018
Net income (loss)	\$ 714	\$ (284)
Non cash adjustments	13,958	18,357
Changes in operating assets and liabilities	24,250	(23,416)
Net cash provided (used in) by operating activities	38,922	(5,343)
Net cash used in investing activities	(19,406)	(96,570)
Net cash (used in) provided by financing activities	(14,661)	113,741
Net increase in cash	\$ 4,855	\$ 11,828

#### *Net Cash from Operating Activities*

The Company generated cash from operating activities of approximately \$38.9 million during the year ended December 31, 2019, compared to cash used in operating activities of approximately \$5.3 million for the year ended December 31, 2018. Net income increased by approximately \$1.0 million for the year ended December 31, 2019 compared to the year ended December 31, 2018. Adjustments for non-cash expenses, included in net income, decreased \$4.4 million to \$14.0 million for the year ended December 31, 2019. During the year ended December 31, 2019, there was approximately \$24.3 million of cash provided by changes in operating assets and liabilities as compared to \$23.4 million of cash used due to changes in operating assets and liabilities during the year ended December 31, 2018. The fluctuations in assets and liabilities were primarily due to the decrease in inventory of \$21.5 million during the year ended December 31, 2019, excluding the impact of the August 2019 acquisition in The Villages, Florida, as the Company managed same store inventories down from highs as of December 31, 2018.

#### *Net Cash from Investing Activities*

The Company used cash in investing activities of approximately \$19.4 million during the year ended December 31, 2019, compared to approximately \$96.6 million for the year ended December 31, 2018. During 2019, the company used net cash of approximately \$2.6 million for the purchase of Alliance Coach, Inc. in The Villages, Florida. In addition, the Company made purchases of property and equipment of approximately \$16.9 million which included land and development purchases near Houston, Texas and Nashville, Tennessee. During 2018, the Company used net cash of approximately \$92.3 million for the acquisition of Lazy Days' R.V. Center, Inc., Shorewood RV Center, and Tennessee RV. In addition, there were purchases of property and equipment of approximately \$4.3 million.

#### *Net Cash from Financing Activities*

The Company used cash in financing activities of approximately \$14.7 million during the year ended December 31, 2019, compared to net cash provided by financing activities of approximately \$113.7 million for the year ended December 31, 2018. During the year ended December 31, 2019, the Company made net repayments on the M&T Floor Plan Line of Credit of \$11.2 million. During the year ended December 31, 2018, the Company raised net proceeds of \$90.4 million through the PIPE offering through the issuance of common stock, Series A Convertible Preferred Stock, and warrants. The Company paid dividends of \$2.6 million during the year ended December 31, 2018 on the Series A Convertible Preferred Stock. During the year ended December 31, 2018, the Company also received net proceeds of approximately \$20.0 million from the proceeds of a new term loan with M&T Bank which was offset by the repayment of approximately \$8.8 million of long-term debt with Bank of America. During 2018, the Company repaid \$2.2 million of the new term loan with M&T Bank. The Company also repaid \$96.7 million in floor plan notes payable to Bank of America and received net proceeds of \$123.6 million from the new floor plan loan with M&T Bank. The Company also made net repayments to Bank of America of \$12.3 million during the Predecessor Period (as defined below) prior to the Merger. In addition, the Company entered into a new sales leaseback transaction which resulted in proceeds from the resulting financing liability of approximately \$5.6 million.

#### **Funding Needs and Sources**

The Company has historically satisfied its liquidity needs through cash from operations and various borrowing arrangements. Cash requirements consist principally of scheduled payments of principal and interest on outstanding indebtedness (including indebtedness under its existing floor plan credit facility), the acquisition of inventory, capital expenditures, salary and sales commissions and lease expenses. The company expects that it has adequate cash on hand, cash from operations and borrowing capacity to meet its liquidity needs through 2020.

As of December 31, 2019, the Company had liquidity of approximately \$31.5 million in cash and had working capital of approximately \$36.9 million.

Capital expenditures include expenditures to extend the useful life of current facilities, purchases of new capital assets and construction, and to expand operations. For the years ended December 31, 2019 and 2018, the Company invested approximately \$16.9 million and \$4.3 million in capital expenditures, respectively.

The Company maintains sizable inventory in order to meet the expectations of its customers and believes that it will continue to require working capital consistent with past experience. Historically, the Company has funded its operations with internally generated cash flow and borrowings. Changes in working capital are driven primarily by levels of business activity. The Company maintains a floor plan credit facility to finance its vehicle inventory. At times, the Company has made repayments on its existing floor plan credit facility using excess cash flow from operations.

### **M&T Credit Facility**

On March 15, 2018, the Company replaced its existing debt agreements with Bank of America with a \$200 million Senior Secured Credit Facility (the "M&T Facility"). The M&T Facility includes a \$175 million M&T floor plan line of credit ("M&T Floor Plan Line of Credit"), a \$20 million M&T term loan ("M&T Term Loan"), and a \$5 million M&T revolver ("M&T Revolver"). The M&T Facility will mature on March 15, 2021. The M&T Facility requires the Company to meet certain financial covenants and is secured by substantially all of the assets of the Company.

The M&T Floor Plan Line of Credit may be used to finance new vehicle inventory, but only \$45.0 million may be used to finance pre-owned vehicle inventory and \$4.5 million may be used to finance rental units. Principal becomes due upon the sale of the respective vehicle. The M&T Floor Plan Line of Credit shall accrue interest at either (a) the fluctuating 30-day London Interbank Offered Rate ("LIBOR") rate plus an applicable margin which ranges from 2.00% to 2.30% based upon the Company's total leverage ratio (as defined in the M&T Facility) or (b) the Base Rate plus an applicable margin ranging from 1.00% to 1.30% based upon the Company's total leverage ratio (as defined in the M&T Facility). The Base Rate is defined in the agreement as the highest of M&T's prime rate, the Federal Funds rate plus 0.50% or one-month LIBOR plus 1.00%. In addition, the Company will be charged for unused commitments at a rate of 0.15%.

The M&T Term Loan will be repaid in equal monthly principal installments of \$0.242 million plus accrued interest through the maturity date. At the maturity date, the Company will pay a principal balloon payment of \$11.3 million plus any accrued interest. The M&T Term Loan shall bear interest at (a) LIBOR plus an applicable margin of 2.25% to 3.00% based on the total leverage ratio (as defined in the agreement) or (b) the Base Rate plus a margin of 1.25% to 2.00% based on the total leverage ratio (as defined in the agreement).

The M&T Revolver allows the Company to draw up to \$5.0 million. The M&T Revolver shall bear interest at (a) 30-day LIBOR plus an applicable margin of 2.25% to 3.00% based on the total leverage ratio (as defined in the M&T Facility) or (b) the Base Rate plus a margin of 1.25% to 2.00% based on the total leverage ratio (as defined in the M&T Facility). The M&T Revolver is also subject to the unused commitment fees at rates varying from 0.25% to 0.50% based on the total leverage ratio (as defined in the M&T Facility).

As of December 31, 2019, there was \$144.1 million outstanding under the M&T Floor Plan Line of Credit and \$14.9 million outstanding under the M&T Term Loan.

### **Off-Balance Sheet Arrangements**

As of December 31, 2019, there were no off-balance sheet arrangements as defined in Item 303(a)(4)(ii) of Regulation S-K.

### **Inflation**

Although the Company cannot accurately anticipate the effect of inflation on its operations, it believes that inflation has not had, and is not likely in the foreseeable future to have, a material impact on its results of operations.

## **Cyclicality**

Unit sales of RV vehicles historically have been cyclical, fluctuating with general economic cycles. During economic downturns, the RV retailing industry tends to experience similar periods of decline and recession as the general economy. The Company believes that the industry is influenced by general economic conditions and particularly by consumer confidence, the level of personal discretionary spending, fuel prices, interest rates and credit availability.

## **Seasonality and Effects of Weather**

The Company's operations generally experience modestly higher volumes of vehicle sales in the first half of each year due in part to consumer buying trends and the hospitable warm climate during the winter months at our largest location in Tampa, Florida.

The Company's largest RV dealership is located near Tampa, Florida, which is in close proximity to the Gulf of Mexico. A severe weather event, such as a hurricane, could cause severe damage to property and inventory and decrease the traffic to our dealerships. Although the Company believes that it has adequate insurance coverage, if the Company were to experience a catastrophic loss, the Company may exceed its policy limits, and/or may have difficulty obtaining similar insurance coverage in the future.

## **Critical Accounting Policies and Estimates**

The Company prepares its consolidated financial statements in accordance with GAAP, and in doing so, it has to make estimates, assumptions and judgments affecting the reported amounts of assets, liabilities, revenues and expenses, as well as the related disclosure of contingent assets and liabilities. The Company bases its estimates, assumptions and judgments on historical experience and on various other factors it believes to be reasonable under the circumstances. Different assumptions and judgments would change estimates used in the preparation of the consolidated financial statements, which, in turn, could change the results from those reported. The Company evaluates its critical accounting estimates, assumptions and judgments on an ongoing basis.

We believe that, of our significant accounting policies (see Note 2 of the financial statements included in this Form 10-K), the following policies are the most critical:

### Basis of Presentation

#### *Predecessor and Successor Periods*

As a result of the Mergers, Holdco is the acquirer for accounting purposes and Lazydays R.V. Center, Inc. is the acquiree and the accounting predecessor. The financial statement presentation distinguishes the results into two distinct periods, the period up to March 15, 2018 (the "Acquisition Date") ("Predecessor Periods") and the period including and after that date (the "Successor Period"). The Mergers were accounted for as a business combination using the acquisition method of accounting and the Successor Period financial statements reflect a new basis of accounting that is based on the fair value of the net assets acquired.

As a result of the application of the acquisition method of accounting as of the effective time of the Transaction Merger, the accompanying consolidated financial statements include a black line division which indicates that the Predecessor and Successor reporting entities shown are presented on a different basis and are, therefore, not directly comparable.

The historical financial information of Andina, which was a special purpose acquisition company prior to the business combination, has not been reflected in the Predecessor Period financial statements as these historical amounts have been considered immaterial. Accordingly, no other activity in the Company was reported in the Predecessor Period other than the activity of Lazydays RV.

### Use of Estimates in the Preparation of Financial Statements

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates. Significant estimates include the assumptions used in the valuation of the net assets acquired in business combinations, goodwill and other intangible assets, provision for charge-backs, inventory write-downs, the allowance for doubtful accounts and stock-based compensation.

## Revenue Recognition

In May 2014, the Financial Accounting Standards Board (“FASB”) issued accounting standard updates which clarified principles for recognizing revenue arising from contracts with customers (Accounting Standards Codification (“ASC”) 606 (“ASC 606”). The core principle of the revenue standard is that an entity recognizes revenue to depict the transfer of promised goods or services to clients in an amount that reflects the consideration to which the entity expects to be entitled in exchange for those goods or services. The new guidance applies a five-step model for revenue measurement and recognition and also requires increased disclosures including the nature, amount, timing, and uncertainty of revenue and cash flows related to contracts with clients.

The Company adopted the new revenue recognition standard at the beginning of the first quarter of fiscal 2019 using the modified retrospective method of adoption and applied the guidance to those contracts that were not completed as of December 31, 2018. Based on the evaluation, the Company did not identify customer contracts which will require different recognition under the new guidance.

Revenues are recognized when control of the promised goods or services is transferred to the customers at the expected amount the Company is entitled to for such goods and services. Taxes collected on revenue producing transactions are excluded from revenue in the consolidated statements of operations.

Revenue from the sale of vehicle contracts is recognized at a point in time on delivery, transfer of title and completion of financing arrangements.

Revenue from the sale of parts, accessories, and related service is recognized as services and parts are delivered or as a customer approves elements of the completion of service. Revenue from the sale of parts, accessories, and related service is recognized in other revenue in the accompanying consolidated statements of operations.

Revenue from the rental of vehicles is recognized pro rata over the period of the rental agreement. The rental agreements are generally short-term in nature. Revenue from rentals is included in other revenue in the accompanying consolidated statements of operations. Campground revenue is also recognized over the time period of use of the campground.

The Company receives commissions from the sale of insurance and vehicle service contracts to customers. In addition, the Company arranges financing for customers through various financial institutions and receives commissions. The Company may be charged back (“charge-backs”) for financing fees, insurance or vehicle service contract commissions in the event of early termination of the contracts by the customers. The revenues from financing fees and commissions are recorded at the time of the sale of the vehicles and an estimated allowance for future charge-backs is established based on historical operating results and the termination provision of the applicable contracts. The estimates for future chargebacks require judgment by management, and as a result, there may be an element of risk associated with these revenue streams.

## Cumulative Redeemable Convertible Preferred Stock

The Company’s Series A Preferred Stock (See Note 15 – Preferred Stock) is cumulative redeemable convertible preferred stock. Accordingly, it is classified as temporary equity and is shown net of issuance costs and the relative fair value of warrants issued in conjunction with the issuance of the Series A Preferred Stock. Unpaid preferred dividends are accumulated, compounded at each quarterly dividend date and presented within the carrying value of the Series A Preferred Stock until a dividend is declared by the Board of Directors.

## Stock Based Compensation

The Company accounts for stock-based compensation for employees and directors in accordance with Accounting Standards Codification (“ASC”) 718, Compensation (“ASC 718”). ASC 718 requires all share-based payments to employees, including grants of employee stock options, to be recognized in the statement of operations based on their fair values. Under the provisions of ASC 718, stock-based compensation costs are measured at the grant date, based on the fair value of the award, and are recognized as expense over the employee’s requisite or derived service period. In accordance with ASC 718, excess tax benefits realized from the exercise of stock-based awards are classified as cash flows from operating activities. All excess tax benefits and tax deficiencies (including tax benefits of dividends on share-based payment awards) are recognized as income tax expense or benefit in the consolidated statements of operations.

## **Item 7A. *Quantitative and Qualitative Disclosures About Market Risk***

Information requested by this Item is not applicable as the Company has elected scaled disclosure requirements available to smaller reporting companies with respect to this Item.

**Item 8. Financial Statements and Supplementary Data**

**Lazydays Holdings, Inc.**

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REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Shareholders and Board of Directors of  
Lazydays Holdings, Inc. and Subsidiaries

**Opinion on the Financial Statements**

We have audited the accompanying consolidated balance sheets of Lazydays Holdings, Inc. and Subsidiaries (the “Company”) as of December 31, 2019 and December 31, 2018, the related consolidated statements of operations, consolidated statements of stockholders’ equity and consolidated statements of cash flows for the year ended December 31, 2019 (Successor), for the period from March 15, 2018 to December 31, 2018 (Successor), and for the period from January 1, 2018 to March 14, 2018 (Predecessor), and the related notes (collectively referred to as the “financial statements”). In our opinion, the financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2019 and December 31, 2018, and the results of its operations and its cash flows for the year ended December 31, 2019 (Successor), for the period from March 15, 2018 to December 31, 2018 (Successor) and for the period from January 1, 2018 to March 14, 2018 (Predecessor), in conformity with accounting principles generally accepted in the United States of America.

**Basis for Opinion**

These financial statements are the responsibility of the Company’s management. Our responsibility is to express an opinion on the Company’s financial statements based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) (“PCAOB”) and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. As part of our audits we are required to obtain an understanding of internal control over financial reporting but not for the purpose of expressing an opinion on the effectiveness of the Company’s internal control over financial reporting. Accordingly, we express no such opinion.

Our audits included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

*/s/ Marcum LLP*  
Marcum LLP

We have served as the Company’s auditor since 2017

Melville, NY  
March 20, 2020



**LAZYDAYS HOLDINGS, INC. AND SUBSIDIARIES**  
**CONSOLIDATED BALANCE SHEETS**  
(Dollar amounts in thousands except for share and per share data)

	<u>As of</u> <u>December 31,</u> <u>2019</u>	<u>As of</u> <u>December 31,</u> <u>2018</u>
<b>ASSETS</b>		
Current assets		
Cash	\$ 31,458	\$ 26,603
Receivables, net of allowance for doubtful accounts of \$382 and \$687 at December 31, 2019 and December 31, 2018, respectively	16,025	16,967
Inventories	160,864	167,378
Income tax receivable	326	2,630
Prepaid expenses and other	2,999	3,166
Total current assets	211,672	216,744
Property and equipment, net	86,876	78,043
Goodwill	38,979	36,762
Intangible assets, net	68,854	70,189
Other assets	255	358
Total assets	\$ 406,636	\$ 402,096

See the accompanying notes to the consolidated financial statements

**LAZYDAYS HOLDINGS, INC. AND SUBSIDIARIES**  
**CONSOLIDATED BALANCE SHEETS, CONTINUED**  
(Dollar amounts in thousands except for share and per share data)

	As of December 31, 2019	As of December 31, 2018
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
Current liabilities		
Accounts payable, accrued expenses and other current liabilities	\$ 23,855	\$ 22,599
Income taxes payable	-	-
Dividends payable	-	1,210
Floor plan notes payable, net of debt discount	143,949	143,469
Financing liability, current portion	936	714
Long-term debt, current portion	5,993	4,408
Total current liabilities	<u>174,733</u>	<u>172,400</u>
Long term liabilities		
Financing liability, non-current portion, net of debt discount	63,557	60,533
Long term debt, non-current portion, net of debt discount	15,573	19,013
Deferred tax liability	16,450	18,717
Total liabilities	<u>270,313</u>	<u>270,663</u>
Commitments and Contingencies		
Series A Convertible Preferred Stock; 600,000 shares, designated, issued, and outstanding as of December 31, 2019 and December 31, 2018; liquidation preference of \$65,910 and \$61,210 as of December 31, 2019 and December 31, 2018, respectively	60,893	54,983
Stockholders' Equity		
Preferred stock, \$0.0001 par value; 5,000,000 shares authorized;	-	-
Common stock, \$0.0001 par value; 100,000,000 shares authorized; 8,506,666 and 8,471,608 shares issued and 8,428,666 and 8,471,608 shares outstanding at December 31, 2019 and December 31, 2018, respectively	-	-
Additional paid-in capital	79,186	80,606
Treasury stock, 78,000 shares, at cost	(314)	
Accumulated deficit	(3,442)	(4,156)
Total stockholders' equity	<u>75,430</u>	<u>76,450</u>
Total liabilities and stockholders' equity	<u>\$ 406,636</u>	<u>\$ 402,096</u>

See the accompanying notes to the consolidated financial statements

**LAZYDAYS HOLDINGS, INC. AND SUBSIDIARIES**  
**CONSOLIDATED STATEMENTS OF OPERATIONS**  
(Dollar amounts in thousands except for share and per share data)

	Successor		Predecessor
	For the year ended December 31, 2019	March 15, 2018 to December 31, 2018	January 1, 2018 to March 14, 2018
<b>Revenues</b>			
New and pre-owned vehicles	\$ 567,058	\$ 419,018	\$ 119,111
Other	77,854	55,237	14,828
Total revenues	<u>644,912</u>	<u>474,255</u>	<u>133,939</u>
<b>Cost applicable to revenues (excluding depreciation and amortization shown below)</b>			
New and pre-owned vehicles (including adjustments to the LIFO reserve of \$2,445, \$1,276 and \$148, respectively)	493,121	358,757	101,830
Other	19,612	12,894	3,047
Total cost applicable to revenue	<u>512,733</u>	<u>371,651</u>	<u>104,877</u>
Transaction costs	865	3,460	438
Depreciation and amortization	10,813	8,204	1,212
Stock-based compensation	4,864	8,618	140
Selling, general, and administrative expenses	103,509	74,624	22,200
Income from operations	<u>12,128</u>	<u>7,698</u>	<u>5,072</u>
<b>Other income/expenses</b>			
Gain on sale of property and equipment	11	1	1
Interest expense	(10,328)	(8,001)	(2,019)
Total other expense	<u>(10,317)</u>	<u>(8,000)</u>	<u>(2,018)</u>
Income (loss) before income tax expense	1,811	(302)	3,054
Income tax expense	(1,097)	(2,318)	(718)
Net income (loss)	<u>\$ 714</u>	<u>\$ (2,620)</u>	<u>\$ 2,336</u>
Dividends on Series A Convertible Preferred Stock	(5,910)	(3,845)	
Deemed dividend on Series A Convertible Preferred Stock	-	(3,392)	
Net loss attributable to common stock and participating securities	<u>\$ (5,196)</u>	<u>\$ (9,857)</u>	
<b>Successor EPS:</b>			
Basic and diluted loss per share	<u>\$ (0.53)</u>	<u>\$ (1.02)</u>	
Weighted average shares outstanding - basic and diluted	<u>9,781,870</u>	<u>9,668,250</u>	

See the accompanying notes to the consolidated financial statements

**LAZYDAYS HOLDINGS, INC. AND SUBSIDIARIES  
(SUCCESSOR)**

**CONSOLIDATED STATEMENT OF STOCKHOLDERS' EQUITY**

**FOR THE PERIODS FROM MARCH 15, 2018 THROUGH DECEMBER 31, 2018 AND FOR THE YEAR ENDED DECEMBER 31, 2019**

	Common Stock		Treasury Stock		Additional Paid-In capital	Accumulated deficit	Total Stockholders' Equity
	Shares	Amount	Shares	Amount			
Balance at March 15, 2018	1,872,428	\$ -	-	\$ -	\$ 6,139	\$ (1,536)	\$ 4,603
Conversion of Andina rights into shares of Lazydays Holdings, Inc.	615,436	-	-	-	-	-	-
Reclassification shares of Andina common stock subject to redemption	472,571	-	-	-	4,910	-	4,910
Issuance of common stock and warrants in PIPE transaction, net	2,653,984	-	-	-	32,718	-	32,718
Issuance of shares in acquisition of Lazy Days' R.V. Center, Inc.	2,857,189	-	-	-	29,400	-	29,400
Beneficial conversion feature of Series A convertible preferred stock	-	-	-	-	3,392	-	3,392
Deemed dividend related to immediate accretion of beneficial conversion	-	-	-	-	(3,392)	-	(3,392)
Issuance of warrants issued to Series A preferred stockholders and placement agent	-	-	-	-	2,666	-	2,666
Stock-based compensation	-	-	-	-	8,618	-	8,618
Dividends on Series A preferred stock	-	-	-	-	(3,845)	-	(3,845)
Net loss	-	-	-	-	-	(2,620)	(2,620)
Balance at December 31, 2018	<u>8,471,608</u>	<u>\$ -</u>	<u>-</u>	<u>\$ -</u>	<u>\$ 80,606</u>	<u>\$ (4,156)</u>	<u>\$ 76,450</u>
Stock-based compensation	-	-	-	-	4,864	-	4,864
Repurchase of unit purchase options	-	-	-	-	(500)	-	(500)
Repurchase of treasury stock	-	-	78,000	(314)	-	-	(314)
Shares issued pursuant to the Employee Stock Purchase Plan	35,058	-	-	-	126	-	126
Dividends on Series A preferred stock	-	-	-	-	(5,910)	-	(5,910)
Net income	-	-	-	-	-	714	714
Balance at December 31, 2019	<u>8,506,666</u>	<u>\$ -</u>	<u>78,000</u>	<u>\$ (314)</u>	<u>\$ 79,186</u>	<u>\$ (3,442)</u>	<u>\$ 75,430</u>

See the accompanying notes to the consolidated financial statements

**LAZYDAYS HOLDINGS, INC. AND SUBSIDIARIES**  
**(PREDECESSOR)**  
**CONSOLIDATED STATEMENT OF STOCKHOLDERS' EQUITY**  
**JANUARY 1, 2018 THROUGH MARCH 14, 2018**  
**(Dollar amounts in thousands except for share and per share data)**

	Preferred Stock		Common Stock		Treasury Stock		Additional Paid-In Capital	Retained Earnings	Total
	Shares	Amount	Shares	Amount	Shares	Amount			
Balance at January 1, 2018	-	\$ -	3,333,166	\$ 3	165	\$ (11)	\$ 49,756	\$ 1,085	\$ 50,833
Net income	-	-	-	-	-	-	-	2,336	2,336
Stock-based compensation	-	-	-	-	-	-	140	-	140
Balance at March 14, 2018	-	\$ -	3,333,166	\$ 3	165	\$ (11)	\$ 49,896	\$ 3,421	\$ 53,309

See the accompanying notes to the consolidated financial statements

**LAZYDAYS HOLDINGS, INC. AND SUBSIDIARIES**  
**CONSOLIDATED STATEMENTS OF CASH FLOWS**  
(Dollar amounts in thousands)

	Successor		Predecessor
	For the year ended December 31, 2019	March 15, 2018 to December 31, 2018	January 1, 2018 to March 14, 2018
<b>Cash Flows From Operating Activities</b>			
Net income (loss)	\$ 714	\$ (2,620)	\$ 2,336
Adjustments to reconcile net income to net cash provided by operating activities:			
Stock based compensation	4,864	8,618	140
Bad debt expense	339	816	-
Depreciation and amortization of property and equipment	6,848	5,583	1,058
Amortization of intangible assets	3,965	2,621	154
Amortization of debt discount	220	377	136
Gain on sale of property and equipment	(11)	(1)	(1)
Deferred income taxes	(2,267)	(1,774)	630
Changes in operating assets and liabilities:			
Receivables	629	(2,686)	5,143
Inventories	21,477	(18,896)	1,435
Prepaid expenses and other	291	(479)	44
Income tax receivable/payable	2,304	(593)	(3,573)
Other assets	103	(157)	18
Accounts payable, accrued expenses and other current liabilities	(554)	(6,135)	2,463
<b>Total Adjustments</b>	<b>38,208</b>	<b>(12,706)</b>	<b>7,647</b>
<b>Net Cash Provided By (Used In) Operating Activities</b>	<b>38,922</b>	<b>(15,326)</b>	<b>9,983</b>
<b>Cash Flows From Investing Activities</b>			
Cash paid for acquisitions	(2,568)	(101,478)	-
Cash acquired in the purchase of Lazy Days' R.V. Center, Inc.	-	9,188	-
Proceeds from sales of property and equipment	37	41	-
Purchases of property and equipment	(16,875)	(3,627)	(694)
<b>Net Cash Used In Investing Activities</b>	<b>(19,406)</b>	<b>(95,876)</b>	<b>(694)</b>
<b>Cash Flows From Financing Activities</b>			
Net (repayments)/borrowings under M&T bank floor plan	(11,151)	123,619	-
Repayment of Bank of America floor plan	-	(96,740)	-
Net repayments under floor plan with Bank of America	-	-	(12,272)
Repayments under long term debt with Bank of America	-	(8,820)	(310)
Borrowings under long term debt with M&T bank	-	20,000	-
Repayment of long term debt with M&T bank	(2,900)	(2,176)	-
Net proceeds from the issuance of Series A preferred stock and warrants	-	57,650	-
Net proceeds from the issuance of common stock and warrants	-	32,719	-
Proceeds from financing liability	3,972	5,584	-
Repayments of financing liability	(730)	(430)	(144)
Payment of dividends on Series A preferred stock	(1,210)	(2,635)	-
Repurchase of Unit Purchase Options	(500)	-	-
Repurchase of treasury stock	(314)	-	-
Proceeds from shares issued pursuant to the Employee Stock Purchase Plan	126	-	-
Repayments of notes payable to Andina related parties	-	(761)	-
Repayments of acquisition notes payable	(1,930)	(183)	-
Payment of contingent liability - RV America acquisition	-	-	(667)
Loan issuance costs	(24)	(693)	-
<b>Net Cash (Used In) Provided by Financing Activities</b>	<b>(14,661)</b>	<b>127,134</b>	<b>(13,393)</b>
<b>Net Increase (Decrease) In Cash</b>	<b>4,855</b>	<b>15,932</b>	<b>(4,104)</b>
<b>Cash - Beginning</b>	<b>26,603</b>	<b>10,671</b>	<b>13,292</b>
<b>Cash - Ending</b>	<b>\$ 31,458</b>	<b>\$ 26,603</b>	<b>\$ 9,188</b>

See the accompanying notes to the consolidated financial statements

**LAZYDAYS HOLDINGS, INC. AND SUBSIDIARIES**  
**CONSOLIDATED STATEMENTS OF CASH FLOWS, CONTINUED**  
(Dollar amounts in thousands)

	<b>Successor</b>		<b>Predecessor</b>
	<b>For the year ended December 31, 2019</b>	<b>March 15, 2018 to December 31, 2018</b>	<b>January 1, 2018 to March 14, 2018</b>
<b>Supplemental Disclosures of Cash Flow Information:</b>			
Cash paid during the period for interest	\$ 10,120	\$ 7,541	\$ 2,182
Cash paid during the period for income taxes net of refunds received	\$ 1,061	\$ 4,706	\$ 3,587
<b>Non-Cash Investing and Financing Activities</b>			
Rental vehicles transferred to inventory, net	\$ 2,792	\$ 598	\$ 89
Conversion of Andina redeemable common stock to common stock of Lazydays Holdings, Inc.	\$ -	\$ 4,910	\$ -
Fixed assets purchased with accounts payable	\$ 1,546	\$ 818	\$ -
Rental equipment purchased under floor plan	\$ -	\$ -	\$ 2,911
Accrued dividends on Series A Preferred Stock	\$ 5,910	\$ 1,210	\$ -
Beneficial conversion feature on Series A Preferred Stock	\$ -	\$ 3,392	\$ -
Warrants issued to Series A Preferred stockholders and investment bank	\$ -	\$ 2,666	\$ -
Common stock issued to former stock holders of Lazy Days' R.V. Center, Inc.	\$ -	\$ 29,400	\$ -
Notes payable incurred in acquisitions	\$ 3,045	\$ 5,820	\$ -
Net assets acquired in acquisitions	\$ 5,613	\$ 21,034	\$ -
Net assets acquired in the acquisition of Lazy Days' R.V. Center, Inc.	\$ -	\$ 106,391	\$ -

See the accompanying notes to the consolidated financial statements



**LAZYDAYS HOLDINGS, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**(Dollar amounts in thousands, except per share amounts)**

**NOTE 1 – BUSINESS ORGANIZATION AND NATURE OF OPERATIONS**

Lazydays Holdings, Inc. (“Holdings”), a Delaware corporation, which was originally formed on October 24, 2017, as a wholly owned subsidiary of Andina Acquisition Corp. II (“Andina”), an exempted company incorporated in the Cayman Islands on July 1, 2015 for the purpose of entering into a merger, share exchange, asset acquisition, share purchase, recapitalization, reorganization or other similar business combination with one or more business targets. On October 27, 2017, a merger agreement was entered into by and among Andina, Andina II Holdco Corp. (“Holdco”), a Delaware corporation and wholly-owned subsidiary of Andina, Andina II Merger Sub Inc., a Delaware corporation, and a wholly-owned subsidiary of Holdco (“Merger Sub”), Lazy Days’ R.V. Center, Inc. (and its subsidiaries), a Delaware corporation (“Lazydays RV”), and solely for certain purposes set forth in the merger agreement, A. Lorne Weil (the “Merger Agreement”). The Merger Agreement provided for a business combination transaction by means of (i) the merger of Andina with and into Holdco, with Holdco surviving, changing its name to Lazydays Holdings, Inc. and becoming a new public company (the “Redomestication Merger”) and (ii) the merger of Lazydays RV with and into Merger Sub with Lazydays RV surviving and becoming a direct wholly-owned subsidiary of Holdings (the “Transaction Merger” and together with the Redomestication Merger, the “Mergers”). On March 15, 2018, the Mergers were consummated.

Lazydays RV has subsidiaries that operate recreational vehicle (“RV”) dealerships in seven locations including two in the state of Florida, two in the state of Colorado, one in the state of Arizona, one in the state of Tennessee and one in the state of Minnesota. Lazydays RV also has a dedicated service center location near Houston, Texas which opened in February 2020. Through its subsidiaries, Lazydays RV sells and services new and pre-owned recreational vehicles, and sells related parts and accessories. It also offers to its customers such ancillary services as extended service contracts, overnight campground and restaurant facilities. The Company also arranges financing for vehicle sales through third-party financing sources.

**NOTE 2 – SIGNIFICANT ACCOUNTING POLICIES**

Basis of Presentation and Principles of Consolidation

*Successor*

The consolidated financial statements for the year ended December 31, 2019 and the period from March 15, 2018 to December 31, 2018 include the accounts of Holdings, Lazydays RV and its wholly owned subsidiary LDRV Holdings Corp. LDRV Holdings Corp is the sole owner of Lazydays Land Holdings, LLC, Lazydays Tampa Land Holdings, LLC, Lazydays RV America, LLC, Lazydays RV Discount, LLC, Lazydays Mile Hi RV, LLC, Lazydays of Minneapolis LLC, LDRV of Tennessee LLC, Lone Star Acquisition LLC, Lone Star Diversified LLC, LDRV Acquisition Corp of Nashville LLC, and LDRV of Nashville LLC (collectively, the “Company”, “Lazydays” or “Successor”). All significant inter-company accounts and transactions have been eliminated in consolidation.

*Predecessor*

The consolidated financial statements for the period from January 1, 2018 to March 14, 2018 include the accounts of Lazydays RV and its wholly owned subsidiary LDRV Holdings Corp. LDRV Holdings Corp is the sole owner of Lazydays Arizona, LLC, Lazydays Land Holdings, LLC, Lazydays Tampa Land Holdings, LLC, Lazydays RV America, LLC, Lazydays RV Discount, LLC, and Lazydays Mile Hi RV, LLC (collectively, the “Predecessor”). All significant inter-company accounts and transactions have been eliminated in consolidation.

*Predecessor and Successor Periods*

As a result of the Mergers, Holdings is the acquirer for accounting purposes and Lazydays RV is the acquiree and the accounting predecessor. The financial statement presentation distinguishes the results into two distinct periods, the period up to March 14, 2018, the day before the mergers were consummated (the “Acquisition Date”) (“Predecessor Periods”) and the period including and after that date (the “Successor Period”). The Mergers were accounted for as a business combination using the acquisition method of accounting and the Successor financial statements reflect a new basis of accounting that is based on the fair value of the net assets acquired.

As a result of the application of the acquisition method of accounting as of the effective time of the Transaction Merger, the accompanying consolidated financial statements include a black line division which indicates that the Predecessor and Successor reporting entities shown are presented on a different basis and are, therefore, not directly comparable.

The historical financial information of Andina, which was a special purpose acquisition company prior to the business combination, has not been reflected in the Predecessor financial statements as these historical amounts have been considered immaterial. Accordingly, no other activity in the Company was reported in the Predecessor Period other than the activity of Lazydays RV.

#### Use of Estimates in the Preparation of Financial Statements

The preparation of financial statements in conformity with generally accepted accounting principles in the United States of America (“GAAP”) requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates. Significant estimates include the assumptions used in the valuation of the net assets acquired in business combinations, goodwill and other intangible assets, provision for charge-backs, inventory write-downs, the allowance for doubtful accounts and stock-based compensation.

#### Cash and Cash Equivalents

The Company considers all short-term, highly liquid investments purchased with a maturity date of three months or less to be cash equivalents. The carrying amount approximates fair value because of the short-term maturity of these instruments. Cash consists of business checking accounts with its banks, the first \$250 of which is insured by the Federal Deposit Insurance Corporation. There are no cash equivalents as of December 31, 2019 and 2018.

#### Revenue Recognition

In May 2014, the Financial Accounting Standards Board (“FASB”) issued accounting standard updates which clarified principles for recognizing revenue arising from contracts with customers (Accounting Standards Codification (“ASC”) 606 (“ASC 606”). The core principle of the revenue standard is that an entity recognizes revenue to depict the transfer of promised goods or services to clients in an amount that reflects the consideration to which the entity expects to be entitled in exchange for those goods or services. The new guidance applies a five-step model for revenue measurement and recognition and also requires increased disclosures including the nature, amount, timing, and uncertainty of revenue and cash flows related to contracts with clients.

The Company adopted the new revenue recognition standard at the beginning of the first quarter of fiscal 2019 using the modified retrospective method of adoption and applied the guidance to those contracts that were not completed as of December 31, 2018. Based on the evaluation, the Company did not identify customer contracts which will require different recognition under the new guidance.

Revenues are recognized when control of the promised goods or services is transferred to the customers at the expected amount the Company is entitled to for such goods and services. Taxes collected on revenue producing transactions are excluded from revenue in the consolidated statements of operations. The following table represents the Company’s disaggregation of revenue:

	Successor		Predecessor
	Year ended December 31, 2019	March 15, 2018 to December 31, 2018	January 1, 2018 to March 14, 2018
New vehicles revenue	\$ 353,228	\$ 259,730	\$ 73,831
Preowned vehicle revenue	213,830	159,288	45,280
Parts, accessories, and related services	35,607	24,791	6,121
Finance and insurance revenue	36,698	25,588	6,861
Campground, rental, and other revenue	5,549	4,858	1,846
	\$ 644,912	\$ 474,255	\$ 133,939

Revenue from the sale of vehicle contracts is recognized at a point in time on delivery, transfer of title and completion of financing arrangements.

Revenue from the sale of parts, accessories, and related service is recognized as services and parts are delivered or as a customer approves elements of the completion of service. Revenue from the sale of parts, accessories, and related service is recognized in other revenue in the accompanying consolidated statements of operations.

Revenue from the rental of vehicles is recognized pro rata over the period of the rental agreement. The rental agreements are generally short-term in nature. Revenue from rentals is included in other revenue in the accompanying consolidated statements of operations. Campground revenue is also recognized over the time period of use of the campground.

The Company receives commissions from the sale of insurance and vehicle service contracts to customers. In addition, the Company arranges financing for customers through various financial institutions and receives commissions. The Company may be charged back (“charge-backs”) for financing fees, insurance or vehicle service contract commissions in the event of early termination of the contracts by the customers. The revenues from financing fees and commissions are recorded at the time of the sale of the vehicles and an allowance for future charge-backs is established based on historical operating results and the termination provision of the applicable contracts. The estimates for future chargebacks require judgment by management, and as a result, there is an element of risk associated with these revenue streams. The Company recognized finance and insurance revenues, less the addition to the charge-back allowance, which is included in other revenue as follows:

	Successor		Predecessor
	Year ended December 31, 2019	March 15, 2018 to December 31, 2018	January 1, 2018 to March 14, 2018
Gross finance and insurance revenues	\$ 41,169	\$ 27,926	\$ 7,483
Additions to charge-back allowance	(4,471)	(2,338)	(622)
Net Finance Revenue	\$ 36,698	\$ 25,588	\$ 6,861

The Company has an accrual for charge-backs which totaled \$4,221 and \$3,252 at December 31, 2019 and December 31, 2018, respectively, and is included in “Accounts payable, accrued expenses, and other current liabilities” in the accompanying consolidated balance sheets.

Deposits on vehicles received in advance are accounted for as a liability and recognized into revenue upon completion of each respective transaction. These contract liabilities are included in Note 9 – Accounts Payable, Accrued Expenses, and Other Current Liabilities as customer deposits. During the year ended December 31, 2019, substantially all of the contract liabilities as of December 31, 2018 were recognized in revenue.

#### Occupancy Costs

As a retail merchandising organization, the Company has elected to classify occupancy costs as selling, general and administrative expense in the consolidated statements of operations.

#### Shipping and Handling Fees and Costs

The Company reports shipping and handling costs billed to customers as a component of revenues, and related costs are reported as a component of costs applicable to revenues. For the year ended December 31, 2019, shipping and handling included as a component of revenue were \$2,284. For the period from March 15, 2018 to December 31, 2018, shipping and handling included as a component of revenue were \$1,896. For the period from January 1, 2018 to March 14, 2018 shipping and handling costs included as a component of revenue were \$603.

#### Receivables

The Company sells to customers and arranges third-party financing, as is customary in the industry. Interest is not normally charged on receivables. Management establishes an allowance for doubtful accounts based on its historic loss experience and current economic conditions. Losses are charged to the allowance when management deems further collection efforts will not produce additional recoveries.

#### Inventories

Vehicle and parts inventories are recorded at the lower of cost or net realizable value, with cost determined by the last-in, first-out (“LIFO”) method. Cost includes purchase costs, reconditioning costs, dealer-installed accessories, and freight. For vehicles accepted in trades, the cost is the fair value of such used vehicles at the time of the trade-in. Retail parts, accessories, and other inventories primarily consist of retail travel and leisure specialty merchandise. The current replacement costs of LIFO inventories exceeded their recorded values by \$3,719 and \$1,275 as of December 31, 2019 and 2018, respectively.

#### Property and Equipment

Property and equipment are stated at cost less accumulated depreciation and amortization. Expenditures for maintenance and repairs are charged to expense in the period incurred. Improvements and additions are capitalized. Depreciation of property and equipment is provided using the straight-line method over the estimated useful lives of the assets. Leasehold improvements are amortized using the straight-line method over the lesser of the useful life of the asset or the term of the lease.

#### *Successor*

Useful lives range from 2 to 39 years for buildings and improvements and from 2 to 12 years for vehicles and equipment.

#### *Predecessor*

Useful lives range from 15 to 20 years for buildings and improvements and from 2 to 7 years for vehicles and equipment.

## Goodwill and Intangible Assets

The Company's goodwill, trade names and trademarks are deemed to have indefinite lives, and accordingly are not amortized, but are evaluated at least annually for impairment and more often whenever changes in facts and circumstances may indicate that the carrying value may not be recoverable. Application of the goodwill impairment test requires judgment, including the identification of reporting units, assigning assets and liabilities to reporting units, assigning goodwill to reporting units, and determining fair value. Significant judgment is required to estimate the fair value of reporting units which includes estimating future cash flows, determining appropriate discount rates, consideration of the Company's aggregate fair value, and other assumptions. Changes in these estimates and assumptions could materially affect the determination of fair value and/or goodwill impairment.

When testing goodwill for impairment, the Company may assess qualitative factors for some or all of our reporting units to determine whether it is more likely than not (that is, a likelihood of more than 50 percent) that the fair value of the reporting unit is less than the carrying amount, including goodwill. Alternatively, the Company may bypass this qualitative assessment for some or all our reporting units and perform a detailed quantitative test of impairment (Step 1). If the Company performs the detailed quantitative impairment test and the carrying amount of the reporting unit exceeds its fair value, the Company would perform an analysis, (Step 2) to measure such impairment. At December 31, 2019, the Company performed a qualitative assessment to identify and evaluate events and circumstances to conclude whether it is more likely than not that the fair value of the Company's reporting units is less than their carrying amounts. Based on the Company's qualitative assessments, the Company concluded that a positive assertion can be made that it is more likely than not that the fair value of the reporting units exceeded their carrying values and no impairments were identified at December 31, 2019.

The Company's manufacturer and customer relationships are amortized over their estimated useful lives on a straight-line basis.

#### *Successor*

The estimated useful lives are 7 to 12 years for both the manufacturer and customer relationships.

#### *Predecessor*

The estimated useful lives were 13 to 18 years for the manufacturer relationships.

#### Vendor Allowances

As a component of the Company's consolidated procurement program, the Company frequently enters into contracts with vendors that provide for payments of rebates. These vendor payments are reflected in the carrying value of the inventory when earned or as progress is made toward earning the rebates and as a component of costs of sales as the inventory is sold. Certain of these vendor contracts provide for rebates that are contingent upon the Company meeting specified performance measures such as a cumulative level of purchases over a specified period of time. Such contingent rebates are given accounting recognition at the point at which achievement of the specified performance measures is deemed to be probable and reasonably estimable.

#### Financing Costs

Debt financing costs are recorded as a debt discount and are amortized over the term of the related debt. Amortization of debt discount included in interest expense was \$220 for the year ended December 31, 2019 and \$377 for the period from March 15, 2018 to December 31, 2018. Amortization of debt discount included in interest expense was \$136 for the period from January 1, 2018 to March 14, 2018.

#### Impairment of Long-Lived Assets

The Company evaluates the carrying value of long-lived assets whenever events or changes in circumstances indicate that intangible asset's carrying amount may not be recoverable. Such circumstances could include, but are not limited to (1) a significant decrease in the market value of an asset, (2) a significant adverse change in the extent or manner in which an asset is used, or (3) an accumulation of costs significantly in excess of the amount originally expected for the acquisition of an asset. The Company measures the carrying amount of the asset against the estimated undiscounted future cash flows associated with it. Should the sum of the expected future net cash flows be less than the carrying amount of the asset being evaluated, an impairment loss would be recognized for the amount by which the carrying value of the asset exceeds its fair value. The evaluation of asset impairment requires the Company to make assumptions about future cash flows over the life of the asset being evaluated. These assumptions require significant judgment and actual results may differ from assumed and estimated amounts. Management believes no impairment of long-lived assets existed as of December 31, 2019 and 2018.

#### Fair Value of Financial Instruments

The carrying amounts of financial instruments approximate fair value as of December 31, 2019 and 2018 because of the relatively short maturities of these instruments. The carrying amount of the Company's bank debt approximates fair value as of December 31, 2019 and 2018 because the debt bears interest at a rate that approximates the current market rate at which the Company could borrow funds with similar maturities.

#### Cumulative Redeemable Convertible Preferred Stock

The Company's Series A Preferred Stock (See Note 15 – Preferred Stock) is cumulative redeemable convertible preferred stock. Accordingly, it is classified as temporary equity and is shown net of issuance costs and the relative fair value of warrants issued in conjunction with the issuance of the Series A Preferred Stock. Unpaid preferred dividends are accumulated, compounded at each quarterly dividend date and presented within the carrying value of the Series A Preferred Stock until a dividend is declared by the Board of Directors.

#### Stock Based Compensation

The Company accounts for stock-based compensation for employees and directors in accordance with ASC 718, Compensation. ASC 718 requires all share-based payments to employees, including grants of employee stock options, to be recognized in the statement of operations based on their fair values. Under the provisions of ASC 718, stock-based compensation costs are measured at the grant date, based on the fair value of the award, and are recognized as expense over the employee's requisite or derived service period. In accordance with ASC 718, excess tax benefits realized from the exercise of stock-based awards are classified as cash flows from operating activities. All excess tax benefits and tax deficiencies (including tax benefits of dividends on share-based payment awards) are recognized as income tax expense or benefit in the consolidated statements of operations.

#### Earnings Per Share

The Company computes basic and diluted earnings/(loss) per share (“EPS”) by dividing net earnings/(loss) by the weighted average number of shares of common stock outstanding during the period.

The Company is required, in periods in which it has net income, to calculate EPS using the two-class method. The two-class method is required because the Company’s Series A Preferred Stock have the right to receive dividends or dividend equivalents should the Company declare dividends on its common stock. Under the two-class method, earnings for the period are allocated on a pro-rata basis to the common and preferred stockholders. The weighted-average number of common and preferred shares outstanding during the period is then used to calculate basic EPS for each class of shares.

In periods in which the Company has a net loss, basic loss per share is calculated by dividing the loss attributable to common stockholders by the weighted-average number of common shares outstanding during the period. The two-class method is not used, because the preferred stock does not participate in losses.

The following table summarizes net loss attributable to common stockholders used in the calculation of basic and diluted loss per common share:

	<b>Successor</b>	
	<b>Year ended December 31, 2019</b>	<b>March 15, 2018 to December 31, 2018</b>
<b>(Dollars in thousands - except per share and per share amounts)</b>		
Distributed earnings allocated to common stock	\$ -	\$ -
Undistributed loss allocated to common stock	(5,196)	(9,857)
Net loss allocated to common stock	(5,196)	(9,857)
Net earnings allocated to participating securities	-	-
Net loss allocated to common stock and participating securities	\$ (5,196)	\$ (9,857)
Weighted average shares outstanding for basic earnings per common share	9,781,870	9,668,250
Dilutive effect of warrants and options	-	-
Weighted average shares outstanding for diluted earnings per common share	9,781,870	9,668,250
Basic loss per common share	\$ (0.53)	\$ (1.02)
Diluted loss per common share	\$ (0.53)	\$ (1.02)

During the Successor Period for the year ended December 31, 2019 and the period from March 15, 2018 to December 31, 2018, the denominator of the basic and dilutive EPS was calculated as follows:

	<u>Year ended December 31, 2019</u>	<u>March 15, 2018 to December 31, 2018</u>
Weighted average outstanding common shares	8,442,371	8,471,608
Weighted average shares held in escrow	-	(142,857)
Weighted average prefunded warrants	1,339,499	1,339,499
Weighted shares outstanding - basic and diluted	<u>9,781,870</u>	<u>9,668,250</u>

For the Successor Period for the year ended December 31, 2019 and the period from March 15, 2018 to December 31, 2018, the following common stock equivalent shares were excluded from the computation of the diluted loss per share, since their inclusion would have been anti-dilutive:

	<u>Year ended December 31, 2019</u>	<u>March 15, 2018 to December 31, 2018</u>
Shares underlying Series A Convertible Preferred Stock	5,962,733	5,962,733
Shares underlying warrants	4,677,458	4,677,458
Stock options	3,798,818	3,658,421
Shares issuable under the Employee Stock Purchase Plan	49,300	-
Shares underlying unit purchase options	-	657,142
Share equivalents excluded from EPS	<u>14,488,309</u>	<u>14,955,754</u>

#### Advertising Costs

Advertising and promotion costs are charged to operations in the period incurred. Advertising and promotion costs totaled \$12,083 for the year ended December 31, 2019 and \$8,663 for the period from March 15, 2018 to December 31, 2018 (Successor Period). Advertising and promotion charges were \$2,624 for the Predecessor period from January 1, 2018 to March 14, 2018.

#### Income Taxes

The Company accounts for income taxes under ASC 740 Income Taxes. Under this method, deferred tax assets and liabilities are determined based on the difference between the financial reporting and tax bases of assets and liabilities using enacted tax rates that will be in effect in the year in which the differences are expected to reverse. The Company records a valuation allowance to offset deferred tax assets if based on the weight of available evidence, it is more-likely-than-not that some portion, or all, of the deferred tax assets will not be realized. The effect on deferred taxes of a change in tax rates is recognized as income or loss in the period that includes the enactment date.

ASC 740 also clarifies the accounting for uncertainty in income taxes recognized in an enterprise's financial statements and prescribes a recognition threshold and measurement process for financial statement recognition and measurement of a tax position taken or expected to be taken in a tax return.

Tax benefits claimed or expected to be claimed on a tax return are recorded in the Company's financial statements. A tax benefit from an uncertain tax position is only recognized if it is more likely than not that the tax position will be sustained on examination by the taxing authorities, based on the technical merits of the position. The tax benefits recognized in the financial statements from such a position are measured based on the largest benefit that has a greater than fifty percent likelihood of being realized upon ultimate resolution. Uncertain tax positions have had no impact on the Company's financial condition, results of operations or cash flows. The Company does not expect any significant changes in its unrecognized tax benefits within twelve months of the reporting date.

The Company's policy is to classify assessments, if any, for tax related interest and penalties as income tax expense in the consolidated statements of operations.

#### Seasonality

The Company's operations generally experience modestly higher vehicle sales in the first half of each year during the winter months at the Company's largest location in Tampa, Florida.

#### Vendor Concentrations

The Company purchases its new recreational vehicles and replacement parts from various manufacturers. During the year ended December 31, 2019, four major manufacturers accounted for 33.9%, 20.5%, 20.2% and 14.7% of RV purchases. During the Successor period from March 15, 2018 to December 31, 2018, four major manufacturers accounted for 30.5%, 27.4%, 17.3% and 16.8% of RV purchases. During the Predecessor Period from January 1, 2018 to March 14, 2018, four major manufacturers accounted for 36.1%, 21.4%, 18.2%, and 16.1% of RV purchases.

The Company is subject to dealer agreements with each manufacturer. The manufacturer is entitled to terminate the dealer agreement if the Company is in material breach of the agreement terms.

#### Geographic Concentrations

Revenues generated by customers of the Florida locations and the Colorado locations, which generate greater than 10% of revenues, were as follows:

	<u>Successor</u>		<u>Predecessor</u>
	<u>Year ended December 31, 2019</u>	<u>March 15, 2018 to December 31, 2018</u>	<u>January 1, 2018 to March 14, 2018</u>
Florida	68%	71%	81%
Colorado	14%	19%	11%

These geographic concentrations increase the exposure to adverse developments related to competition, as well as economic, demographic, weather and other changes in these regions.

#### Reclassifications

Certain amounts in prior periods have been reclassified to conform to the current period presentation. These reclassifications had no effect on the previously reported net (loss) income.

#### Leases

For operating leases, rent is recognized on a straight-line basis over the expected lease term, including cancellable option periods where the Company is reasonably assured to exercise the options. Differences between amounts paid and amounts expensed are recorded as deferred rent. Capital leases are recorded as an asset and an obligation at an amount equal to the present value of the future minimum lease payments during the lease term. Sale-leasebacks are transactions through which assets are sold at fair value and subsequently leased back from the buyer. Failed sale-leaseback transactions result in retention of the "sold" assets within property and equipment, with a financing lease obligation equal to the amount of proceeds received recorded as a financing liability, on the accompanying consolidated balance sheets.



### Subsequent Events

Management of the Company has analyzed the activities and transactions subsequent to December 31, 2019 through the date these consolidated financial statements were issued to determine the need for any adjustments to or disclosures within the financial statements.

On March 6, 2020, the Company amended its existing debt agreement with Manufacturers and Traders Trust Company (“M&T Bank”) to finance the previously incurred development expenditures with the addition of a \$6.1 million mortgage. The mortgage shall bear interest at (a) LIBOR plus an applicable margin of 2.25% or (b) the Base Rate plus a margin of 1.25. The mortgage requires monthly payments of principal of \$0.03 million and matures on March 15, 2021 when all remaining principal and interest payments become due.

On March 10, 2020, the Company entered into an agreement for the sale of land to LD Murfreesboro TN Landlord, LLC for approximately \$5 million. The Company has entered a lease agreement with the buyer with lease payments to commence upon completion of planned construction expected to total \$17 million including land, the cost of which will be paid for by LD Murfreesboro TN Landlord, LLC.

### Recently Issued Accounting Standards

The Company qualifies as an emerging growth company pursuant to the provision of the Jumpstart Our Business Startups (“JOBS”) Act. Section 107 of the JOBS Act provides that an emerging growth company can delay the adoption of certain new accounting standards until those standards would otherwise apply to private companies. The Company has elected to take advantage of the extended transition period provided by the JOBS Act for complying with new or revised accounting standards.

In February 2016, the FASB issued Accounting Standards Update (“ASU”) No. 2016-02, “Leases (Topic 842)” (“ASU 2016-02”). ASU 2016-02 requires an entity to recognize assets and liabilities arising from a lease for both financing and operating leases. ASU 2016-02 will also require new qualitative and quantitative disclosures to help investors and other financial statement users better understand the amount, timing, and uncertainty of cash flows arising from leases. The new standard requires a modified-retrospective approach to adoption and is effective for interim and annual periods beginning after December 15, 2020 for emerging growth companies. In July 2018, the FASB further amended this standard to allow for a new transition method that offers the option to use the effective date as the date of initial application. We intend to elect this alternative transition method and therefore will not adjust comparative-period financial information. In addition, we intend to elect the package of practical expedients permitted under the transition guidance of the new standard to not reassess prior conclusions related to contracts that are or that contain leases, lease classification and initial direct costs. We do not expect that this standard will have a material impact on our Consolidated Statements of Operations. The primary effect of adoption will be the requirement to record the present value of lease liabilities for current operating leases and corresponding right-of-use (ROU) assets. Upon early adoption on January 1, 2020, we estimate we will have additional liabilities ranging from \$15 million to \$20 million with corresponding ROU assets of a similar amount for lease agreements in effect as of December 31, 2019. The actual impact will depend on our lease portfolio at the time of adoption. We are currently documenting processes and establishing internal controls to properly track, record and account for our lease portfolio. The new standard also provides practical expedients for the ongoing accounting. We also currently expect to elect the practical expedient to not separate lease and non-lease components for most of our asset classes.

In January 2017, the FASB issued ASU No. 2017-04, “Simplifying the Test for Goodwill Impairment” (“ASU 2017-04”). ASU 2017-04 eliminates Step 2 from the goodwill impairment test. Under the amendments in ASU 2017-04, an entity should recognize an impairment charge for the amount by which the carrying amount of a reporting unit exceeds its fair value; however, the loss recognized should not exceed the total amount of goodwill allocated to that reporting unit. This standard will be effective for fiscal years beginning after December 15, 2020. Early adoption is permitted. The Company is currently evaluating the impact the adoption of this guidance will have on its consolidated financial statements and disclosures.

### NOTE 3 – BUSINESS COMBINATIONS

#### Lazy Days’ R.V. Center, Inc.

On March 15, 2018, the Company consummated the Mergers. Under the Merger Agreement, upon consummation of the Redomestication Merger, (i) each ordinary share of Andina was exchanged for one share of common stock of Holdings (“Holdings Shares”), except that holders of ordinary shares of Andina sold in its initial public offering (“public shares”) were entitled to elect instead to receive a pro rata portion of Andina’s trust account, as provided in Andina’s charter documents, (ii) each Andina IPO right (4,310,000 at March 15, 2018 prior to the Mergers) entitled the holder to receive one-seventh of a Holdings Share and (iii) each Andina warrant (4,310,000 at March 15, 2018) entitled the holder to purchase one-half of one Holdings Share at a price of \$11.50 per whole share. Upon consummation of the Transaction Merger, the Lazydays RV’s stockholders received their pro rata portion of: (i) 2,857,189 Holdings Shares; and (ii) \$86,741 in cash, subject to adjustments based on the Predecessor’s finalization of working capital and debt as of closing and also subject to any such Holdings Shares and cash that was issued and paid to the Predecessor’s option holders and participants under the transaction incentive plan (the “Transaction Incentive Plan”). During the Successor period, the Company received \$563 as a result of the settlement of the working capital adjustment and the amount was reflected as an adjustment to goodwill.

Cash	\$	9,188
Receivables		14,768
Inventories		124,354
Prepaid expenses and other		4,754
Property and equipment		73,642
Intangible assets		68,200
Other assets		200
Total assets acquired		<u>295,106</u>
Accounts payable, accrued expenses and other current liabilities		26,988
Floor plan notes payable		95,663
Financing liability		56,000
Deferred tax liability		20,491
Long-term debt		8,781
Total liabilities assumed		<u>207,923</u>
Net assets acquired	\$	<u>87,183</u>

The fair value of the consideration paid was as follows:

Purchase Price:		
Cash consideration paid	\$	86,178
Common stock issued to former stockholders, option holders, and bonus recipients of Lazy Days’ R.V. Center, Inc.		29,400
	\$	<u>115,578</u>

The common stock was valued at \$10.29 per share, the closing price of Andina’s common stock on the date of the Mergers.

Goodwill represents the excess of the purchase price over the estimated fair value assigned to tangible and identifiable intangible assets acquired and liabilities assumed from the Predecessor. Goodwill associated with the Mergers is detailed below:

		<b>As of</b>
		<b>March 15, 2018</b>
Total consideration	\$	115,578
Less net assets acquired		87,183
Goodwill	\$	<u>28,395</u>

The following table summarizes the Company's allocation of the purchase price to the identifiable intangible assets acquired as of the date of the closing of the Mergers.

	<b>Gross Asset Amount at Acquisition Date</b>	<b>Weighted Average Amortization Period in Years</b>
Trade Names, Service Marks and Domain Names	\$ 30,100	Indefinite
Customer Lists	\$ 9,100	12 years
Dealer Agreements	\$ 29,000	12 Years
Total intangible assets	<u>\$ 68,200</u>	

Trade names and trademarks are indefinite-lived assets and are not subject to amortization. The value of trade names, trademarks, and customer relationships was determined utilizing the relief from royalty method. The Company determined the fair value of the manufacturer relationships utilizing a discounted cash flow model.

Direct transaction related costs consist of costs incurred in connection with the Mergers. These costs totaled \$2,730 for the period from March 15, 2018 to December 31, 2018 which primarily consisted of the business combination expenses of Andina that were contingent upon the completion of the Mergers. These costs total \$381 for the period from January 1, 2018 to March 14, 2018.

#### Acquisitions of Dealerships

On August 7, 2018, the Company consummated its asset purchase agreement with Shorewood RV Center ("Shorewood"). The Company simultaneously entered into a real estate purchase agreement with the owners of Shorewood for the land and building at the Shorewood location. The purchase price consisted of cash and a note payable to the seller of Shorewood, subject to a final working capital adjustment. The note payable is a three year note which matures on August 7, 2021, which requires monthly payments of \$52 in principal and interest. The note bears interest at 4.75% per year. As part of the acquisition, the Company acquired the inventory of Shorewood and has added the inventory to the M&T Floor Plan Line of Credit (as defined in Note 10). The Company entered into a sales arrangement with a third party for the assets purchased in the real estate purchase agreement and simultaneously leased the property back from the third party.

On December 6, 2018, the Company consummated its asset purchase agreement with Tennessee Sales and Service, LLC ("Tennessee RV"). The purchase price consisted of cash and a note payable to the seller of Tennessee RV. The note payable is a four year note which matures on December 6, 2022, which requires monthly payments of \$94 in principal and interest. The note bears interest at 5.0% per year. As part of the acquisition, the Company acquired the inventory of Tennessee RV and has added the inventory to the M&T Floor Plan Line of Credit.

On August 1, 2019, the Company consummated its asset purchase agreement with Alliance Coach Inc. ("Alliance"). The purchase price consisted of cash and a note payable to the seller of Alliance. The note payable is a two year note which matures on August 1, 2021, which requires monthly payments of \$134 in principal and interest. The note bears interest at 5.0% per year. As part of the acquisition, the Company acquired the inventory of Alliance and has added the inventory to the M&T Floor Plan Line of Credit.

The Company accounted for the asset purchase agreements as business combinations using the purchase method of accounting as it was determined that Shorewood RV Center, Tennessee RV and Alliance constituted a business. As a result, the Company determined its allocation of the fair value of the assets acquired and the liabilities assumed for Shorewood RV Center, Tennessee RV and its preliminary allocation for Alliance as follows:

	<u>2019</u>	<u>2018</u>
Inventories	\$ 12,171	\$ 23,530
Accounts receivable and prepaid expenses	53	378
Property and equipment	77	6,175
Intangible assets	2,630	4,610
Total assets acquired	<u>14,931</u>	<u>34,693</u>
Accounts payable, accrued expenses and other current liabilities	243	719
Floor plan notes payable	11,434	21,163
Total liabilities assumed	<u>11,677</u>	<u>21,882</u>
Net assets acquired	<u>\$ 3,254</u>	<u>\$ 12,811</u>

The fair value of consideration paid was as follows:

Purchase Price:	<u>2019</u>	<u>2018</u>
Cash consideration paid	\$ 2,568	\$ 15,300
Amounts due (from) to former owners	(107)	24
Note payable issued to former owners	3,045	5,820
	<u>\$ 5,506</u>	<u>\$ 21,144</u>

Goodwill represents the excess of the purchase price over the estimated fair value assigned to tangible and identifiable intangible assets acquired and liabilities assumed from the Shorewood RV Center, Tennessee RV and Alliance. Goodwill associated with the transaction is detailed below:

	2019	2018
Total consideration	\$ 5,506	\$ 21,144
Less net assets acquired	3,254	12,811
Goodwill	\$ 2,252	\$ 8,333

The following table summarizes the Company's allocation of the purchase price to the identifiable intangible assets acquired as of the date of the closings during 2018.

	Gross Asset Amount at Acquisition Date	Weighted Average Amortization Period in Years
Customer Lists	\$ 210	7-8 years
Dealer Agreements	\$ 4,400	7-8 years

The following table summarizes the Company's preliminary allocation of the purchase price to the identifiable intangible assets acquired as of the date of the closing during 2019.

	Gross Asset Amount at Acquisition Date	Weighted Average Amortization Period in Years
Customer Lists	\$ 230	7 years
Dealer Agreements	\$ 2,400	7 years

The Company recorded approximately \$91.2 million in revenue and \$3.9 million in net income prior to income taxes during the year ended December 31, 2019 related to these acquisitions. The Company recorded approximately \$9.0 million in revenue and (\$0.1 million) in net loss prior to income taxes during the period from March 15, 2018 to December 31, 2018 related to these acquisitions.

#### Pro Forma Information

The following unaudited pro forma financial information summarizes the combined results of operations for the Company as though the Mergers and the purchase of Shorewood RV Center, Tennessee RV and Alliance had been consummated on January 1, 2018.

	For the year ended December 31,	
	2019	2018
Revenue	\$ 676,900	\$ 715,965
Income before income taxes	\$ 1,960	\$ 8,234
Net (loss) income	\$ 832	\$ 3,776

The Company adjusted the combined (loss) income of Lazydays RV with Andina, Shorewood, Tennessee RV and Alliance and adjusted net (loss) income to eliminate business combination expenses as well as the incremental depreciation and amortization associated with the purchase price allocation for Andina, Shorewood, and Tennessee RV and the preliminary purchase price allocation for Alliance to determine pro forma net (loss) income.

Goodwill that is deductible for tax purposes was determined to be \$15,406.

#### NOTE 4 – RECEIVABLES, NET

Receivables consist of the following:

	<b>Successor</b>	
	<b>As of</b>	<b>As of</b>
	<b>December 31, 2019</b>	<b>December 31, 2018</b>
Contracts in transit and vehicle receivables	\$ 11,544	\$ 12,291
Manufacturer receivables	3,539	3,823
Finance and other receivables	1,324	1,540
	<u>16,407</u>	<u>17,654</u>
Less: Allowance for doubtful accounts	(382)	(687)
	<u>\$ 16,025</u>	<u>\$ 16,967</u>

Contracts in transit represent receivables from financial institutions for the portion of the vehicle and other products sales price financed by the Company's customers through financing sources arranged by the Company. Manufacturer receivables are due from the manufacturers for incentives, rebates, and other programs. These incentives and rebates are treated as a reduction of cost of revenues.

#### NOTE 5 – INVENTORIES

Inventories consist of the following:

	<b>Successor</b>	
	<b>As of</b>	<b>As of</b>
	<b>December 31, 2019</b>	<b>December 31, 2018</b>
New recreational vehicles	\$ 124,096	\$ 129,361
Pre-owned recreational vehicles	36,639	34,905
Parts, accessories and other	3,848	4,387
	<u>164,583</u>	<u>168,653</u>
Less: excess of current cost over LIFO	(3,719)	(1,275)
	<u>\$ 160,864</u>	<u>\$ 167,378</u>

During 2019, the Company retired the RV rental units and moved the rental units to used inventory for sale. Upon transfer to used inventory, the carrying value of these units was adjusted to market value for similar units acquired by the Company for resale.

## NOTE 6 – PROPERTY AND EQUIPMENT, NET

Property and equipment consist of the following:

	Successor	
	As of December 31, 2019	As of December 31, 2018
Land	\$ 22,496	\$ 15,555
Building and improvements including leasehold improvements	62,206	55,761
Furniture and equipment	6,747	5,044
Company vehicles and rental units	747	4,856
Construction in progress	5,603	2,359
	<u>97,799</u>	<u>83,575</u>
Less: Accumulated depreciation and amortization	(10,923)	(5,532)
	<u>\$ 86,876</u>	<u>\$ 78,043</u>

Depreciation and amortization expense is set forth in the table below:

	Successor		Predecessor
	Year ended December 31, 2019	March 15, 2018 to December 31, 2018	January 1, 2018 to March 14, 2018
Depreciation	\$ 6,848	\$ 5,583	\$ 1,058

## NOTE 7 – INTANGIBLE ASSETS

Intangible assets and the related accumulated amortization are summarized as follows:

	As of December 31, 2019			As of December 31, 2018		
	Gross Carrying Amount	Accumulated Amortization	Net Asset Value	Gross Carrying Amount	Accumulated Amortization	Net Asset Value
Amortizable intangible assets:						
Manufacturer relationships	\$ 35,800	\$ 5,180	\$ 30,620	\$ 33,400	\$ 2,015	\$ 31,385
Customer relationships	9,540	1,406	8,134	9,310	606	8,704
	<u>45,340</u>	<u>6,586</u>	<u>38,754</u>	<u>42,710</u>	<u>2,621</u>	<u>40,089</u>
Non-amortizable intangible assets:						
Trade names and trademarks	30,100	-	30,100	30,100	-	30,100
	<u>\$ 75,440</u>	<u>\$ 6,586</u>	<u>\$ 68,854</u>	<u>\$ 72,810</u>	<u>\$ 2,621</u>	<u>\$ 70,189</u>

Amortization expense is set forth in the table below:

	Successor		Predecessor
	January 1, 2019 to December 31, 2019	March 15, 2018 to December 31, 2018	January 1, 2018 to March 14, 2018
Amortization	\$ 3,965	\$ 2,621	\$ 154

Estimated future amortization expense is as follows:

Years ending	
2020	\$ 4,187
2021	4,187
2022	4,187
2023	4,187
2024	4,187
Thereafter	17,819
	<u>\$ 38,754</u>

As of December 31, 2019, the weighted average remaining amortization period was 9.6 years.



## NOTE 8 – FINANCING LIABILITY

On December 23, 2015, the Predecessor sold certain land, building and improvements for \$56,000 and is leasing back the property from the purchaser over a non-cancellable period of 20 years. The lease contains renewal options at lease termination, with three options to renew for 10 additional years each and contains a right of first offer in the event the property owner intends to sell any portion or all of the property to a third party. These rights and obligations constitute continuing involvement, which resulted in failed sale-leaseback (financing) accounting. The financing liability has an implied interest rate of 7.3%. At the conclusion of the 20-year lease period, the financing liability residual will be \$11,000, which will correspond to the carrying value of the land.

On August 7, 2018, the Successor sold certain land, building and improvements for \$5,350 and is leasing back the property from the purchaser over a non-cancellable period of 20 years (See Note 3 – Business Combinations). The lease contains renewal options at lease termination, with three options to renew for 10 additional years each and contains a right of first offer in the event the property owner intends to sell any portion or all of the property to a third party. These rights and obligations constitute continuing involvement, which resulted in failed sale-leaseback (financing) accounting. The financing liability has an implied interest rate of 7.9%. At the conclusion of the 20-year lease period, the financing liability residual will be \$1,780, which will correspond to the carrying value of the land. As part of the lease, the Company could have drawn up to \$5,000 from the lessor through September 30, 2019 to pay for certain improvements on the premises. As of December 31, 2019, the Company drew \$4,206 to make such improvements. Repayments on advances are made over the term of the lease and are factored into the calculation of the outstanding financing liability. Annual payments are made at a rate of the amount of the outstanding advance multiplied by an advance rate of 8%.

The financing liabilities, net of debt discount, is summarized as follows:

	As of December 31, 2019	As of December 31, 2018
Financing liability	\$ 64,568	\$ 61,324
Debt discount	(75)	(77)
Financing liability, net of debt discount	64,493	61,247
Less: current portion	936	714
Financing liability, non-current portion	\$ 63,557	\$ 60,533

The future minimum payments required by the arrangements are as follows:

Years ending December 31,	Principal	Interest	Total Payments
2020	936	4,700	5,636
2021	1,124	4,626	5,750
2022	1,327	4,537	5,864
2023	1,549	4,433	5,982
2024	1,790	4,311	6,101
Thereafter	45,062	33,498	78,560
	\$ 51,788	\$ 56,105	\$ 107,893

For the year ended December 31, 2019, the Company made interest payments of \$4,655 and principal payments of \$730. For the period from March 15, 2018 to December 31, 2018, the Successor made interest payments of \$3,236 and principal payments of \$430. For the period from January 1, 2018 to March 14, 2018, the Predecessor made interest payments of \$1,020 and principal payments of \$144.

## NOTE 9 – ACCOUNTS PAYABLE, ACCRUED EXPENSES AND OTHER CURRENT LIABILITIES

Accounts payable, accrued expenses and other current liabilities consist of the following:

	As of December 31 2019	As of December 31, 2018
Accounts payable	\$ 11,231	\$ 10,642
Other accrued expenses	3,392	3,577
Customer deposits	2,267	2,511
Accrued compensation	2,388	2,164
Accrued charge-backs	4,221	3,252
Accrued interest	356	453
Total	\$ 23,855	\$ 22,599



## NOTE 10 – DEBT

### Successor Debt

#### M&T Financing Agreement

On March 15, 2018, the Company terminated and replaced the Bank of America (“BOA”) credit facility with a \$200,000 Senior Secured Credit Facility with M&T Bank (the “M&T Facility”). The M&T Facility includes a Floor Plan Facility (the “M&T Floor Plan Line of Credit”), a Term Loan (the “M&T Term Loan”), and a Revolving Credit Facility (the “M&T Revolver”). The M&T Facility will mature on March 15, 2021. The M&T Facility requires the Company to meet certain financial and other covenants and is secured by substantially all of the assets of the Company. The costs of the M&T Facility were recorded as a debt discount.

On March 15, 2018, the Company repaid \$96,740 outstanding under the BOA floor plan notes payable and \$8,820 outstanding under the BOA term loan with the proceeds of the M&T Facility.

As of December 31, 2019, the payment of dividends by the Company (other than from proceeds of revolving loans) was permitted under the M&T Facility, so long as at the time of payment of any such dividend, no event of default existed under the M&T Facility, or would result from the payment of such dividend, and so long as any such dividend was permitted under the M&T Facility. As of December 31, 2019, the maximum amount of cash dividends that the Company could make from legally available funds to its stockholders was limited to an aggregate of \$4,446 pursuant to a trailing twelve month calculation as defined in the M&T Facility.

The \$175,000 M&T Floor Plan Line of Credit may be used to finance new vehicle inventory, but only \$45,000 may be used to finance pre-owned vehicle inventory and \$4,500 may be used to finance rental units. Principal becomes due upon the sale of the related vehicle. The M&T Floor Plan Line of Credit shall accrue interest at either (a) the fluctuating 30-day London Interbank Offered Rate (“LIBOR”) rate plus an applicable margin which ranges from 2.00% to 2.30% based upon the Company’s total leverage ratio (as defined in the M&T Facility) or (b) the Base Rate plus an applicable margin ranging from 1.00% to 1.30% based upon the Company’s total leverage ratio (as defined in the M&T Facility). The Base Rate is defined in the M&T Facility as the highest of M&T’s prime rate, the Federal Funds rate plus 0.50% or one-month LIBOR plus 1.00%. In addition, the Company will be charged for unused commitments at a rate of 0.15%. The interest rate in effect as of December 31, 2019 was 3.80%. Principal payments become due upon the sale of the vehicle. Additionally, principal payments are required to be made once the vehicle reaches a certain number of days on the lot. The average outstanding principal balance was \$114,008 and the related floor plan interest expense was \$4,412.

The M&T Floor Plan Line of Credit consists of the following as of December 31, 2019 and 2018:

	<b>As of</b>	<b>As of</b>
	<b>December 31, 2019</b>	<b>December 31, 2018</b>
Floor plan notes payable, gross	\$ 144,133	\$ 143,885
Debt discount	(184)	(416)
Floor plan notes payable, net of debt discount	<u>\$ 143,949</u>	<u>\$ 143,469</u>

The \$20,000 M&T Term Loan will be repaid in equal monthly principal installments of \$242 plus accrued interest through the maturity date of March 15, 2021. At the maturity date, the Company will pay a principal balloon payment of \$11,300 plus any accrued interest. The M&T Term Loan shall bear interest at (a) LIBOR plus an applicable margin of 2.25% to 3.00% based on the total leverage ratio (as defined in the M&T Facility) or (b) the Base Rate plus a margin of 1.25% to 2.00% based on the total leverage ratio (as defined in the M&T Facility). The interest rate in effect at December 31, 2019 was 4.25%.

Long-term debt consists of the following as of December 31, 2019 and 2018:

	As of December 31, 2019			As of December 31, 2018		
	Gross Principal Amount	Debt Discount	Total Debt, Net of Debt Discount	Gross Principal Amount	Debt Discount	Total Debt, Net of Debt Discount
Term loan	\$ 14,925	\$ (47)	\$ 14,878	\$ 17,825	\$ (42)	\$ 17,783
Acquisition notes payable (See Note 3)	6,688	-	6,688	5,638	-	5,638
Total long-term debt	21,613	(47)	21,566	23,463	(42)	23,421
Less: current portion	5,993	-	5,993	4,408	-	4,408
Long term debt, non-current	\$ 15,620	\$ (47)	\$ 15,573	\$ 19,055	\$ (42)	\$ 19,013

Future maturities of long term debt are as follows:

#### Future Maturities of Long Term Debt

	Years ending December 31,
2020	5,993
2021	14,526
2022	1,094
Total	\$ 21,613

The \$5,000 M&T Revolver allows the Company to draw up to \$5,000. The M&T Revolver shall bear interest at (a) 30-day LIBOR plus an applicable margin of 2.25% to 3.00% based on the total leverage ratio (as defined in the M&T Facility) or (b) the Base Rate plus a margin of 1.25% to 2.00% based on the total leverage ratio (as defined in the M&T Facility). The M&T Revolver is also subject to unused commitment fees at rates varying from 0.25% to 0.50% based on the total leverage ratio (as defined in the M&T Facility). During the Successor period ended December 31, 2019, there were no outstanding borrowings under the M&T Revolver. The M&T Revolver also includes a \$1,000 Letter of Credit Sublimit which decreases the availability of the line. As of December 31, 2019, there were \$162 outstanding letters of credit. As a result, there was \$4,838 available under the M&T Revolver.

#### Predecessor Debt

On February 27, 2017, the Predecessor and BOA amended the floor plan notes payable asset-based borrowing facility to (a) increase the aggregate availability from \$120 million to \$140 million; (b) modify certain financial covenants; (c) decrease the interest rate applicable to the facility over time until it reaches LIBOR plus 2.25% for the period from November 1, 2017 until the maturity date (November 18, 2018) of the facility; and (d) amend or modify other terms and conditions.

The entire facility could be used to finance new vehicle inventory but only up to \$40.0 million could be used to finance pre-owned vehicle inventory, of which a maximum of \$5.0 million could be used to finance rental units. Principal was due upon the sale of the respective vehicle. The BOA floor plan notes payable was repaid with the transition to the M&T Floor Plan Line of Credit on March 15, 2018.

On November 18, 2015, the Company entered into a credit agreement with Bank of America for an aggregate commitment amount of \$20,000, which includes two facilities (the "BOA Credit Agreement"). The first of two facilities under the BOA Credit Agreement was a \$13,000 term note payable ("Term Loan") which was collateralized by accounts receivable, inventory and equipment. The principal balance on the Term Loan was repaid on March 15, 2018 when the Company switched lenders to M&T Bank.

The second of the two facilities under the BOA Credit Agreement was a \$7,000 revolving line of credit. The revolving line of credit carried interest at LIBOR plus 3.5% per annum and had no minimum payment requirements. The revolver was no longer available upon the change to M&T bank on March 15, 2018.

**NOTE 11 – INCOME TAXES**

The components of the Company's income tax expense (benefit) are as follows:

	Successor		Predecessor
	Year ended December 31, 2019	March 15, 2018 to December 31, 2018	January 1, 2018 to March 14, 2018
Current:			
Federal	\$ 2,699	\$ 3,483	\$ 85
State	664	609	3
	3,363	4,092	88
Deferred:			
Federal	(1,746)	(1,738)	460
State	(520)	(36)	170
	(2,266)	(1,774)	630
<b>Income tax expense</b>	<b>\$ 1,097</b>	<b>\$ 2,318</b>	<b>\$ 718</b>

A reconciliation of income taxes calculated using the statutory federal income tax rate (21% in 2019 and 2018) to the Company's income tax expense is as follows:

	Successor				Predecessor	
	Year Ended December 31, 2019		March 15, 2018 to December 31, 2018		January 1, 2018 to March 14, 2018	
	Amount	%	Amount	%	Amount	%
Income taxes at statutory rate	\$ 380	21.0%	\$ (59)	21.0%	\$ 635	21.0%
Non-deductible expense	43	2.4%	35	-12.4%	10	0.3%
State income taxes, net of federal tax effect	(75)	-4.2%	500	-177.4%	110	3.6%
Transaction costs	(61)	-3.4%	623	-221.3%	578	18.9%
Stock-based compensation and officer compensation	824	43.0%	1,248	-442.7%	(241)	-7.9%
Long-term incentive plan	-	0.0%	-	0.0%	(412)	-13.5%
Effect of increase in statutory rate for current year	-	0.0%	-	0.0%	-	0.0%
Tax rate adjustments	-	0.0%	-	0.0%	-	0.0%
Other credits and changes in estimate and true ups	(14)	1.8%	(29)	10.6%	38	1.3%
<b>Income tax expense</b>	<b>\$ 1,097</b>	<b>60.6%</b>	<b>\$ 2,318</b>	<b>-822.2%</b>	<b>\$ 718</b>	<b>23.7%</b>

Due to limitations on the deductibility of compensation under Section 162(m) stock-based compensation expense attributable to certain employees has been treated as a permanent difference in the calculation of tax expense for the Successor Period. The Company does not expect that these expenses will be deductible on the estimated exercise date of the awards. As such, no deferred tax asset has been established related to these amounts.

Deferred tax assets and liabilities were as follows:

	As of December 31, 2019	As of December 31, 2018
Deferred tax assets:		
Accounts receivable	\$ 96	\$ 173
Accrued charge-backs	1,063	821
Other accrued liabilities	166	407
Goodwill	-	-
Financing liability	16,247	15,463
Transaction costs	-	-
Stock based compensation	894	676
Other, net	262	192
	<u>18,728</u>	<u>17,732</u>
Deferred tax liabilities:		
Prepaid expenses	(271)	(370)
Goodwill	(370)	(115)
Inventories	(4,702)	(4,939)
Property and equipment	(15,457)	(16,027)
Intangible assets	(14,378)	(14,998)
	<u>(35,178)</u>	<u>(36,449)</u>
Net deferred tax (liabilities)/assets	<u>\$ (16,450)</u>	<u>\$ (18,717)</u>

No significant increases or decreases in the amounts of unrecognized tax benefits are expected in the next 12 months.

The Company is subject to U.S. federal income tax and income tax in the states of Florida, Arizona, Colorado, Minnesota, and Tennessee. The Company is no longer subject to the examination by Federal and state taxing authorities for years prior to 2016 with the exception of Florida which has completed its examinations through December 31, 2017 with no additional taxes due. The Company recognizes interest and penalties related to income tax matters in income tax (benefit) expense. Interest and penalties recorded in the statements of operations for the periods presented were insignificant.

#### NOTE 12 – RELATED PARTY TRANSACTIONS

On March 15, 2018, the non-executive Chairman of the Board of Andina was repaid aggregate outstanding notes payable totaling \$661. In addition, \$100 was repaid to other employees of Andina who held notes payable with the Company.

On March 15, 2018, in connection with the Mergers, the Company paid Hydra Management, LLC, an affiliate of A. Lorne Weil, an initial shareholder of Andina and the father of B. Luke Weil, a member of the Company's Board of Directors, \$500 as compensation for advisory services in connection with the Mergers.

On December 18, 2019, pursuant to the Company's stock repurchase program, the Company repurchased 75,000 shares of common stock from B. Luke Weil for \$302 including broker fees. (See Note 16-Stockholders' Equity)

#### NOTE 13 – EMPLOYEE BENEFIT PLANS

The Company has a 401(k) plan with profit sharing provisions (the "Plan"). The Plan covers substantially all employees. The Plan allows employee contributions to be made on a salary reduction basis under Section 401(k) of the Internal Revenue Code. Under the 401(k) provisions, the Company makes discretionary matching contributions to employees' 401(k). The Company made contributions to the Plan of \$785 for the year ended December 31, 2019 and \$676 during the period from March 15, 2018 to December 31, 2018. The Predecessor made contributions to the Plan of \$179 during the period from January 1, 2018 to March 14, 2018.

## NOTE 14 - COMMITMENTS AND CONTINGENCIES

### Employment Agreements

The Company entered into employment agreements with the Chief Executive Officer (“CEO”) and the former Chief Financial Officer (“CFO”) of the Company effective as of the consummation of the Mergers. The employment agreements with the CEO and the former CFO provide for initial base salaries of \$540 and \$325, respectively, subject to annual discretionary increases. In addition, each executive is eligible to participate in any employee benefit plans adopted by the Company from time to time and is eligible to receive an annual cash bonus based on the achievement of performance objectives. The CEO’s target bonus is 100% of his base salary and the former CFO’s target bonus was 75% of her base salary. The employment agreements also provide that each executive is to be granted an option to purchase shares of common stock of the Company (See Note 16 – Stockholders’ Equity).

The employment agreements provide that if the CEO is terminated for any reason, he is entitled to receive any accrued benefits, including any earned but unpaid portion of base salary through the date of termination, subject to withholding and other appropriate deductions. In addition, in the event the executive resigns for good reason or is terminated without cause (all as defined in the employment agreement) prior to January 1, 2022, subject to entering into a release, the Company will pay the executive severance equal to (i) two times base salary and average bonus for the CEO and (ii) one times base salary and average bonus for the former CFO.

On April 30, 2018, the former CFO announced her voluntary resignation from the Company, effective May 11, 2018.

In May 2018, the Company entered into an offer letter with the new Chief Financial Officer (the “new CFO”) of the Company. The offer letter provides for an initial base salary of \$325 per year subject to annual discretionary increases. In addition, the executive is eligible to participate in any employee benefit plans adopted by the Company from time to time and is eligible to receive an annual cash bonus based on the achievement of performance objectives. The new CFO’s target bonus is 75% of his annual base salary (with a potential to earn a maximum of up to 150% of his target bonus). The offer letter also provides that the executive is to be granted an option to purchase shares of common stock of the Company. He is also being provided with a relocation allowance of \$100 which the new CFO will be required to repay if he resigns from the Company or is terminated by the Company for cause within two years of his start date. If he is terminated without cause, he will receive twelve months of his base salary as severance. If he is terminated following a change in control, he is also eligible to receive a pro-rated bonus, if the board of directors determines that the performance objectives have been met. He also was granted an option to purchase shares of common stock of the Company (See Note 16- Stockholders’ Equity).

### Director Compensation

The Company’s non-employee members of the board of directors will receive annual cash compensation of \$50 for serving on the board of directors, \$5 for serving on a committee of the board of directors (other than the Chairman of each of the committees) and \$10 for serving as the Chairman of any of the committees of the board of directors.

### Legal Proceedings

The Company is a party to multiple legal proceedings that arise in the ordinary course of business. The Company has certain insurance coverage and rights of indemnification. The Company does not believe that the ultimate resolution of these matters will have a material adverse effect on the Company’s business, results of operations, financial condition, or cash flows. However, the results of these matters cannot be predicted with certainty and an unfavorable resolution of one or more of these matters could have a material adverse effect on the Company’s business, results of operations, financial condition, and/or cash flows.

The Company records legal expenses as incurred in its consolidated statements of operations.

### Operating Leases

The Company leases various land, office and dealership equipment under non-cancellable operating leases. These leases have terms ranging from 3 years to 10 years and expire through 2028.

Rent expense associated with operating leases was as follows:

	<u>Successor</u>		<u>Predecessor</u>
	<u>Year ended December 31, 2019</u>	<u>March 15, 2018 to December 31, 2018</u>	<u>January 1, 2018 to March 14, 2018</u>
Rent expense	\$ 4,232	\$ 2,426	\$ 626

Future minimum rent payments under operating leases are as follows:

	Years ending December 31,	
	2020	3,757
	2021	2,247
	2022	1,872
	2023	1,717
	2024	1,081
	Thereafter	2,898
<b>Total</b>		<b>\$ 13,572</b>

#### Transaction Incentive Plan

On January 30, 2017, the Company's Board of Directors approved the Company's Transaction Incentive Plan, which provided incentives to eight directors and employees of the Company upon the consummation of a qualifying sale transaction. The Transaction Incentive Plan expires on October 31, 2020. To the extent the proceeds received in a qualifying sale transaction exceed certain specified thresholds (the "Excess Amount"), participants in the Transaction Incentive Plan who met the specified service requirements were entitled to a cash and stock award on the closing date of the qualifying sale transaction equal to their awarded percentage of the Excess Amount. The cash and stock awards were paid from the consideration of the qualifying sale transaction. The Mergers (see Note 3 – Business Combination) represented a qualifying sale transaction that resulted in the payment to plan participants of an aggregate of \$1,510 of cash (including amounts held in escrow) and 51,896 shares of Holdings' common stock with a value of \$534 based on the March 15, 2018 closing price of \$10.29 per Andina share. As of the date of the Mergers, an additional \$250 was set to be paid in cash and stock upon the release of amounts held in escrow under the Merger Agreement. On May 15, 2018, \$40 was released from escrow pursuant to the working capital adjustment. As of March 21, 2019, the remaining amounts were released from escrow.

#### **NOTE 15 – PREFERRED STOCK**

Simultaneous with the closing of the Mergers, the Company consummated a private placement with institutional investors for the sale of convertible preferred stock, common stock, and warrants for an aggregate purchase price of \$94,800 (the "PIPE Investment"). At the closing, the Company issued an aggregate of 600,000 shares of Series A Preferred Stock for gross proceeds of \$60,000. The investors in the PIPE Investment were granted certain registration rights as set forth in the securities purchase agreements. The holders of the Series A Preferred Stock include 500,000 shares owned by funds managed by a member of the Company's Board of Directors.

The Series A Preferred Stock ranks senior to all outstanding stock of the Company. Holders of the Series A Preferred Stock are entitled to vote on an as-converted basis together with the holders of the Common Stock, and not as a separate class, at any annual or special meeting of stockholders. Each share of Series A Preferred Stock is convertible at the holder's election at any time, at an initial conversion price of \$10.0625 per share, subject to adjustment (as applicable, the "Conversion Price"). Upon any conversion of the Series A Preferred Stock, the Company will be required to pay each holder converting shares of Series A Preferred Stock all accrued and unpaid dividends, in either cash or shares of common stock, at the Company's option. The Conversion Price will be subject to adjustment for stock dividends, forward and reverse splits, combinations and similar events, as well as for certain dilutive issuances.

Dividends on the Series A Preferred Stock accrue at an initial rate of 8% per annum (the "Dividend Rate"), compounded quarterly, on each \$100 of Series A Preferred Stock (the "Issue Price") and are payable quarterly in arrears. Accrued and unpaid dividends, until paid in full in cash, will accrue at the then applicable Dividend Rate plus 2%. The Dividend Rate will be increased to 11% per annum, compounded quarterly, in the event that the Company's senior indebtedness less unrestricted cash during any trailing twelve-month period ending at the end of any fiscal quarter is greater than 2.25 times earnings before interest, taxes, depreciation and amortization ("EBITDA"). The Dividend Rate will be reset to 8% at the end of the first fiscal quarter when the Company's senior indebtedness less unrestricted cash during the trailing twelve-month period ending at the end of such quarter is less than 2.25 times EBITDA.

If, at any time following the second anniversary of the issuance of the Series A Preferred Stock, the volume weighted average price of the Company's common stock equals or exceeds \$25.00 per share (as adjusted for stock dividends, splits, combinations and similar events) for a period of thirty consecutive trading days, the Company may elect to force the conversion of any or all of the outstanding Series A Preferred Stock at the Conversion Price then in effect. From and after the eighth anniversary of the issuance of the Series A Preferred Stock, the Company may elect to redeem all, but not less than all, of the outstanding Series A Preferred Stock in cash at the Issue Price plus all accrued and unpaid dividends. From and after the ninth anniversary of the issuance of the Series A Preferred Stock, each holder of Series A Preferred Stock has the right to require the Company to redeem all of the holder's outstanding shares of Series A Preferred Stock in cash at the Issue Price plus all accrued and unpaid dividends.

In the event of any liquidation, merger, sale, dissolution or winding up of the Company, holders of the Series A Preferred Stock will have the right to (i) payment in cash of the Issue Price plus all accrued and unpaid dividends, or (ii) convert the shares of Series A Preferred Stock into common stock and participate on an as-converted basis with the holders of common stock.

So long as the Series A Preferred Stock is outstanding, the holders thereof, by the vote or written consent of the holders of a majority in voting power of the outstanding Series A Preferred Stock, shall have the right to designate two members to the board of directors.

In addition, five-year warrants to purchase 596,273 shares of common stock at an exercise price of \$11.50 per share were issued in conjunction with the issuance of the Series A Preferred Stock. The warrants may be exercised for cash or, at the option of the holder, on a "cashless basis" pursuant to the exemption provided by Section 3(a)(9) of the Securities Act. The warrants may be called for redemption in whole and not in part, at a price of \$0.01 per share of common stock, if the last reported sales price of the Company's common stock equals or exceeds \$24.00 per share for any 20 trading days within a 30-day trading period ending on the third business day prior to the notice of redemption to warrant holders, if there is a current registration statement in effect with respect to the shares underlying the warrants.

The Series A Preferred Stock, while convertible into common stock, is also redeemable at the holder's option and, as a result, is classified as temporary equity in the consolidated balance sheets. An analysis of its features determined that the Series A Preferred Stock was more akin to equity. While the embedded conversion option ("ECO") was subject to an anti-dilution price adjustment, since the ECO was clearly and closely related to the equity host, it was not required to be bifurcated and it was not accounted for as a derivative liability under ASC 815, Derivatives and Hedging.

After factoring in the relative fair value of the warrants issued in conjunction with the Series A Preferred Stock, the effective conversion price is \$9.72 per share, compared to the market price of \$10.29 per share on the date of issuance. As a result, a \$3,392 beneficial conversion feature was recorded as a deemed dividend in the consolidated statement of income because the Series A Preferred Stock is immediately convertible, with a credit to additional paid-in capital. The relative fair value of the warrants issued with the Series A Preferred Stock of \$2,035 was recorded as a reduction to the carrying amount of the preferred stock in the consolidated balance sheet. In addition, aggregate offering costs of \$2,981 consisting of cash and the value of five-year warrants to purchase 178,882 shares of common stock at an exercise price of \$11.50 per share issued to the placement agent were recorded as a reduction to the carrying amount of the preferred stock. The \$632 value of the warrants was determined utilizing the Black-Scholes option pricing model using a term of 5 years, a volatility of 39%, a risk-free interest rate of 2.61%, and a 0% rate of dividends.

The discount associated with the Series A Preferred Stock was not accreted during the Successor period because redemption was not currently deemed to be probable.

On June 19, 2018, the Company's Board of Directors declared a dividend payment on the Series A Preferred Stock of \$1,425 for the period from March 15, 2018 to March 31, 2018 and for the period from April 1, 2018 to June 30, 2018. The dividend was paid on July 2, 2018 to the holders. On September 20, 2018, the Company's Board of Directors declared a dividend payment on the Series A Preferred Stock of \$1,210 for the period from July 1, 2018 to September 30, 2018. The dividend was paid to the holders of Series A Preferred Stock on October 1, 2018. On December 14, 2018, the Company's Board of Directors declared a dividend payment on the Series A Preferred Stock of \$1,210 for the period from October 1, 2018 to December 31, 2018. The dividend was paid to the holders of Series A Preferred Stock on January 2, 2019. For the year ended December 31, 2019, the Company did not declare a dividend payment. As a result, as of December 31, 2019, \$5,910 of dividends were accrued and included in the carrying amount of the Series A Convertible Preferred Stock in the accompanying consolidated balance sheets.

## **NOTE 16 – STOCKHOLDERS' EQUITY**

### *Successor*

#### Authorized Capital

The Company is authorized to issue 100,000,000 shares of common stock, \$0.0001 par value, and 5,000,000 shares of preferred stock, \$0.0001 par value. The holders of the Company's common stock are entitled to one vote per share. The holders of Series A Preferred Stock are entitled to the number of votes equal to the number of shares of common stock into which the holder's shares are convertible. These holders of Series A Preferred Stock also participate in dividends if they are declared by the Board. See Note 15 – Preferred Stock for additional information associated with the Series A Preferred Stock.

### 2018 Long-Term Incentive Equity Plan

On March 15, 2018, the Company adopted the 2018 Long-Term Incentive Equity Plan (the “2018 Plan”). The 2018 Plan reserves up to 13% of the shares of common stock outstanding on a fully diluted basis. The 2018 Plan is administered by the Compensation Committee of the board of directors, and provides for awards of options, stock appreciation rights, restricted stock, restricted stock units, warrants or other securities which may be convertible, exercisable or exchangeable for or into common stock. Due to the fact that the fair market value per share immediately following the closing of the Mergers was greater than \$8.75 per share, the number of shares authorized for awards under the 2018 Plan was increased by a formula (as defined in the 2018 Plan) not to exceed 18% of shares of common stock then outstanding on a fully diluted basis. On May 20, 2019, the Company’s stockholders approved the adoption of the Lazydays Holdings, Inc. Amended and Restated 2018 Long Term Incentive Plan (the “Incentive Plan”). The Incentive Plan amends and restates the previously adopted 2018 Plan in order to replenish the pool of shares of common stock available under the Incentive Plan by adding an additional 600,000 shares of common stock and making certain changes in light of the Tax Cuts and Jobs Act and its impact on Section 162(m) of the Internal Revenue Code of 1986, as amended. As of December 31, 2019, there were 625,748 shares of common stock available to be issued under the Incentive Plan.

### 2019 Employee Stock Purchase Plan

On May 20, 2019, the Company’s stockholders approved the 2019 Employee Stock Purchase Plan (the “ESPP”). The ESPP reserved 900,000 shares of common stock for purchase by participants in the ESPP. Participants in the plan may purchase shares of common stock at a purchase price which will not be less than the lesser of 85% of the fair market value per share of the common on the first day of the purchase period or the last day of the purchase period. On December 2, 2019, the Company issued 35,058 shares of common stock pursuant to the ESPP. As a result, as of December 31, 2019, there were 864,942 shares available for issuance. During the year ended December 31, 2019, the Company recorded \$65 of stock based compensation expense related to the ESPP.

### Stock Repurchase Program

On November 6, 2019, the Board of Directors of Lazydays authorized the repurchase of up to \$4.0 million of the Company’s common stock through December 31, 2020.

Repurchases may be made at management’s discretion from time to time on the open market, through privately negotiated transactions or a trading plan in accordance with Rule 10b-18 of the Securities Exchange Act of 1934, as amended, and pursuant to applicable Securities and Exchange Commission requirements. The repurchase program may be suspended for periods or discontinued at any time.

During the year ended December 31, 2019, the Company repurchased 78,000 shares of common stock for \$314 which are included in treasury stock in the consolidated balance sheets.

### Common Stock

On March 15, 2018, the Company had 1,872,428 shares of common stock outstanding prior to the consummation of the Mergers.

On March 15, 2018, Andina rights holders converted their existing rights at a ratio of one share of common stock for seven Andina rights. As a result, 615,436 shares of common stock of the Company were issued to former Andina rights holders.

On March 15, 2018, holders of 472,571 shares of Andina common stock, which had been subject to redemption prior to the Mergers, were reclassified from temporary equity to stockholders’ equity at their carrying value of \$4,910.

On March 15, 2018, 2,857,189 shares of common stock at a price per share of \$10.29 were issued to the former stockholders of Lazydays RV in conjunction with the Mergers for a total value of \$29,400.

On December 2, 2019, 35,058 shares of common stock at a price per share of \$3.587 were issued to the participants of the ESPP for a value of \$126.

Simultaneous with the Mergers, in addition to the Series A Preferred Stock and warrants issued in the PIPE Investment, the Company sold 2,653,984 shares of common stock, perpetual non-redeemable pre-funded warrants to purchase 1,339,499 shares of common stock at an exercise price of \$0.01 per share, and five-year warrants to purchase 1,630,927 shares of common stock at an exercise price of \$11.50 per share for gross proceeds of \$34,783. The Company incurred offering costs of \$2,065 which was recorded as a reduction to additional paid-in capital in the consolidated balance sheet.

The five-year warrants may be exercised for cash or, at the option of the holder, on a “cashless basis” pursuant to the exemption provided by Section 3(a) (9) of the Securities Act by surrendering the warrants for that number of shares of common stock as determined under the warrants. These warrants may be called for redemption in whole and not in part, at a price of \$0.01 per share if the last reported sales price of the Company’s common stock equals or exceeds \$24.00 per share for any 20 trading days within a 30-day trading period ending on the third business day prior to the notice of redemption to warrant holders, if there is a current registration statement in effect with respect to the common stock underlying the warrants. In addition, five-year warrants to purchase 116,376 shares of common stock at an exercise price of \$11.50 per share were issued to the placement agent.

### Unit Purchase Options

On November 24, 2015, Andina sold options to purchase an aggregate of 400,000 units (collectively, the “Unit Purchase Options”) to an investment bank and its designees for \$100. The Unit Purchase Options were exercisable at \$10.00 per unit as a result of the Mergers described in Note 3 – Business Combination and they were set to expire on November 24, 2020. The Unit Purchase Options represented the right to purchase an aggregate of 457,142 shares of common stock (which included 57,142 shares of common stock issuable for the rights included in the units, as well as warrants to purchase 200,000 shares of common stock for \$11.50 per share). The Unit Purchase Options granted to the holders “demand” and “piggy back” registration rights for periods of five and seven years, respectively, with respect to the securities directly and indirectly issuable upon exercise of the Unit Purchase Options. The Unit Purchase Options were exercisable



for cash or on a “cashless” basis, at the holder’s option, such that the holder could have used the appreciated value of the Unit Purchase Options (the difference between the exercise price of the Unit Purchase Option and the market price of the Unit Purchase Options and the underlying shares of common stock) to exercise the Unit Purchase Options without the payment of any cash. The Company had no obligation to net cash settle the exercise of the Unit Purchase Options or the underlying rights or warrants. During January 2019, the Company exchanged \$500 for all of the Unit Purchase Options, and as a result, the Unit Purchase Options and any obligation to issue any underlying securities were cancelled.

## Warrants

As of March 15, 2018, holders of Andina warrants exchanged their existing 4,310,000 warrants with Andina with 4,310,000 warrants to purchase 2,155,000 shares of Company common stock at an exercise price of \$11.50 per share and a contractual life of five years from the date of the Mergers. If a registration statement covering 2,000,000 of the shares issuable upon exercise of the public warrants is not effective, warrant holders may, until such time as there is an effective registration statement and during any period when the Company shall have failed to maintain an effective registration statement, exercise warrants on a cashless basis. The warrants may be called for redemption in whole and not in part, at a price of \$0.01 per warrant, if the last reported sales price of the Company's common stock equals or exceeds \$24.00 per share for any 20 trading days within a 30-day trading period ending on the third business day prior to the notice of redemption to warrant holders, if there is a current registration statement in effect with respect to the shares underlying the warrants. Of the warrants to purchase 2,155,000 shares of common stock originally issued by Andina, 155,000 are not redeemable and are exercisable on a cashless basis at the holder's option.

Additionally, warrants to purchase 2,522,458 shares of common stock were issued with the PIPE Investment, including warrants issued to the investment bank but excluding prefunded warrants.

The Company had the following activity related to shares underlying warrants:

	<b>Shares Underlying Warrants</b>	<b>Weighted Average Exercise Price</b>
Warrants outstanding January 1, 2019	4,677,458	\$ 11.50
Granted	-	-
Cancelled or Expired	-	-
Exercised	-	-
Warrants outstanding December 31, 2019	4,677,458	\$ 11.50

The table above excludes perpetual non-redeemable prefunded warrants to purchase 1,339,499 shares of common stock with an exercise price of \$0.01 per share.

## Stock Options

Stock option activity is summarized below:

	<b>Shares Underlying Options</b>	<b>Weighted Average Exercise Price</b>	<b>Weighted Average Remaining Contractual Life</b>	<b>Aggregate Intrinsic Value</b>
Options outstanding at January 1, 2019	3,658,421	\$ 11.10		
Granted	505,000	7.55		
Cancelled or terminated	(364,603)	11.10		
Exercised	-	-		
Options outstanding at December 31, 2019	3,798,818	\$ 10.63	3.4	\$ -
Options vested at December 31, 2019	28,152	\$ 11.10	3.2	\$ -

### *Awards with Market Conditions*

On March 16, 2018, the Company granted five-year incentive stock options to purchase 3,573,113 shares of common stock at an exercise price of \$11.10 per share to employees pursuant to the 2018 Plan, including 1,458,414 shares underlying the CEO's stock options and 583,366 shares underlying the former CFO's stock options. A set percentage of the stock options shall vest upon the volume weighted average price ("VWAP") of the common stock, as defined in the option agreements, being equal to or greater than a specified price per share for at least thirty (30) out of thirty-five (35) consecutive trading days, as follows and are exercisable only to the extent that they are vested: 30% of the options shall vest upon exceeding \$13.125 per share; an additional 30% of the options shall vest upon exceeding \$17.50 per share; an additional 30% of the options shall vest upon exceeding \$21.875 per share; and an additional 10% of the options shall vest upon exceeding \$35.00 per share; provided that the option holder remains continuously employed by the Company (and/or any of its subsidiaries) from the grant date through (and including) the relevant date of vesting. On May 7, 2018, the Company hired a new CFO who received stock options to purchase 583,366 shares of common stock under the same terms as the former CFO. On June 15, 2018, the former CFO forfeited her existing 583,366 options.

The fair value of the awards issued on March 16, 2018 of \$15,004 was determined using a Monte Carlo simulation based on a 5-year term, a risk-free rate of 2.62%, an annual dividend yield of 0%, and an annual volatility of 42.8%. The expense is being recognized over the derived service period of each vesting tranche which was determined to be 0.74 years, 1.64 years, 2.24 years, and 3.13 years.

The fair value of the awards issued on May 7, 2018 of \$2,357 was determined using a Monte Carlo simulation based on a 5-year term, a risk-free rate of 2.74%, an annual volatility of 54.70%, and an annual dividend yield of 0%. The expense is being recognized over the derived service period of each vesting tranche which was determined to be 0.97 years, 1.75 years, 2.15 years, and 2.96 years.

The expense recorded for awards with market conditions was \$4,556 for the period from January 1, 2019 to December 31, 2019 and \$8,541 during the Successor period from March 15, 2018 to December 31, 2018, which is included in operating expenses in the consolidated statements of operations.

### *Awards with Service Conditions*

On March 16, 2018, the Company granted five-year stock options to purchase an aggregate of 99,526 shares at an exercise price of \$11.10 per share to the non-employee directors of the Company, pursuant to the 2018 Plan. These options vest over three years with one-third vesting on each of the respective anniversary dates.

On March 23, 2018, stock options to purchase 14,218 shares of common stock that had been issued to one non-employee director were canceled, while new five-year options to purchase 15,123 shares of common stock at an exercise price of \$10.40 per share were issued to certain investment funds pursuant to an arrangement between the same non-employee director and the investment adviser to the funds. The new options vest over three years with one-third vesting on each of the respective anniversary dates. On May 31, 2018, the same non-employee director resigned and options to purchase 15,123 shares of common stock were forfeited.

The \$350 fair value of these awards was determined using the Black-Scholes option pricing model based on a 3.5 year expected life, a risk-free rate of 2.42%, an annual dividend yield of 0%, and an annual volatility of 39%. The expense is being recognized over the three-year vesting period. The expected life was determined using the simplified method as the awards were determined to be plain-vanilla options.

During the year ended December 31, 2019, stock options to purchase 505,000 shares of common stock were issued to employees. The options have exercise prices ranging from \$4.50 to \$8.50. The options had a five year life and a four year vesting period. The fair value of the awards of \$957 was determined using the Black-Scholes option pricing model based on the following range of assumptions:

	<b>Year ended</b>
	<b>December 31, 2019</b>
Risk free interest rate	1.70%-2.51%
Expected term (years)	3.75
Expected volatility	52%-55%
Expected dividends	0.00%

The expense recorded for these awards was \$243 for the year ended December 31, 2019 and \$77 during the Successor Period from March 15, 2018 to December 31, 2018, which is included in operating expenses in the consolidated statements of operations.

As of December 31, 2019, total unrecorded compensation cost related to non-vested awards was \$2,178 which is expected to be amortized over a weighted average service period of approximately 1.8 years. For year ended December 31, 2019, the weighted average grant date fair value of awards issued during the period was \$1.89 per share. The weighted average grant date fair value of awards issued during the Successor Period from March 15, 2018 to December 31, 2018 was \$4.16 per share.

## *Predecessor*

### Authorized Capital

As of December 31, 2017, the Company was authorized to issue 4,500,000 shares of common stock, \$0.001 par value, and 150,000 shares of preferred stock, \$0.001 par value. The holders of the Company's common stock were entitled to one vote per share. The preferred stock was designated as follows: 10,000 shares to Senior Preferred Stock; and 140,000 shares undesignated. The holders of Senior Preferred Stock were entitled to the number of votes equal to the number of shares of common stock into which the holder's shares are convertible. On March 2, 2017, the Company issued a notice of redemption to the holders of all of the then designated, issued and outstanding shares of Senior Preferred Stock, after which the holders surrendered all 10,000 shares of Senior Preferred Stock for conversion into 2,333,331 shares of common stock.

### Stock Options

The Company's 2010 Equity Incentive Plan ("2010 Plan") provided for the issuance of incentive stock options, non-statutory stock options, rights to purchase common stock, stock appreciation rights, restricted stock, restricted stock units, performance shares and performance units to employees, directors, and consultants of the Company and its affiliates. The common stock that may have been issued pursuant to awards was not to exceed 100,000 shares in the aggregate, provided that, no more than 14,000 shares were to be incentive stock options. On January 30, 2017, the Company cancelled the 2010 Plan.

On January 30, 2017, the Company's Board of Directors approved the Company's 2017 Equity Incentive Plan ("2017 Plan"), which provides for the issuance of incentive stock options, non-statutory stock options, rights to purchase common stock, stock appreciation rights, restricted stock, restricted stock units, performance shares and performance units to employees, directors and consultants of the Company and its affiliates. The common stock that could be issued pursuant to awards was not to exceed 333,333 shares in the aggregate, provided that, no more than ten percent (10%) of such shares would be incentive stock options. The 2017 Plan was originally set to terminate on January 30, 2027. The 2017 Plan required the exercise price of stock options to be greater than or equal to the fair value of the Company's common stock on the date of grant.

On January 30, 2017, holders of options to purchase an aggregate of 75,561 shares of common stock under the 2010 Plan with exercise prices of both \$68.80 and \$137.60 per share agreed to cancel their option awards in exchange for new awards under the Company's Transaction Incentive Plan (see Note 14 – Commitments and Contingencies – Transaction Incentive Plan for details of the Transaction Incentive Plan awards). As a result of the option cancellation, the Company derecognized aggregate compensation expense of \$14 related to the cancelled options that were invested at the time of the cancellation.

On January 30, 2017, the Company granted ten-year, non-statutory stock options to purchase an aggregate of 216,667 shares of common stock with an aggregate grant date fair value of \$1,562 under the 2017 Plan to two Company executives with an exercise price of \$26.00 per share. The options vested in equal installments of 25% on each of the next four anniversary dates from the date of grant. Upon a change of control, vesting of all then unvested shares would be accelerated. During April 2017, concurrent with the declaration of the stockholder dividend, the exercise prices of the options were reduced to \$21.77 per share, resulting in a \$269 increase in the fair value of the options. The \$1,831 fair value of the options, as modified, was being recognized ratably over the vesting term of the options.

On June 12, 2017, the Company granted a ten-year, non-statutory stock option to purchase an aggregate of 66,666 shares of common stock under the 2017 Plan to a Company executive with an exercise price of \$26.00 per share. The options vested in equal installments of 25% on each of the next four anniversary dates from the date of grant. Upon a change of control, vesting of all then unvested shares was accelerated. The estimated aggregate grant date fair value of \$466 was being recognized ratably over the vesting term of the options.

On March 15, 2018, as a result of the consummation of the Mergers (see Note 3 – Business Combination), the vesting of the existing options accelerated, and the option holders of the Predecessor became entitled to receive an aggregate of \$2,636, of which \$1,500 was distributable in cash and \$530 was distributable in the form of 51,529 shares of common stock. An additional amount will be paid to the option holders in cash and stock upon the release of the amounts held in escrow under the Merger Agreement. These payments were allocated from the purchase consideration due to the sellers being associated with the business combination. On May 15, 2018, \$109 was released from escrow as part of the working capital adjustment. As of March 21, 2019, the remaining amounts were released from escrow.

**Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure**

None.

**Item 9A. Controls and Procedures**

**Evaluation of Disclosure Controls and Procedures**

As of the end of the period covered by this Annual Report on Form 10-K, the Company conducted an evaluation, under the supervision and with the participation of management, including the Chief Executive Officer and Chief Financial Officer, of the disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act). Based on the evaluation of these disclosure controls and procedures, the Chief Executive Officer and Chief Financial Officer concluded that, as of December 31, 2019, the disclosure controls and procedures were effective to ensure that the information required to be disclosed by the Company in reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms.

**Management's Annual Report on Internal Control Over Financial Reporting**

Our management is responsible for establishing and maintaining adequate internal control over financial reporting, as such term is defined in Exchange Act Rules 13a-15(f) and 15d-15(f). Our internal control over financial reporting was designed to provide reasonable assurance to our management and board of directors regarding the preparation and fair presentation of published consolidated financial statements. Internal control over financial reporting is promulgated under the Exchange Act as a process designed by, or under the supervision of, our principal executive and principal financial officers and effected by our board of directors, management and other personnel, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. Internal control over financial reporting, no matter how well designed, has inherent limitations and may not prevent or detect misstatements. Therefore, even effective internal control over financial reporting can only provide reasonable assurance with respect to the financial statement preparation and presentation.

Our management has conducted, with the participation of our CEO and CFO, an assessment, including testing of the effectiveness, of our internal control over financial reporting as of December 31, 2019. Management's assessment of internal control over financial reporting was based on assessment criteria established in the *2013 Internal Control—Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission ("COSO"). Based on such evaluation, management concluded that our internal control over financial reporting was effective as of December 31, 2019.

**Changes in Internal Control Over Financial Reporting**

There were no significant changes in our internal control over financial reporting during the most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

**Item 9B. Other Information**

None

## PART III

### **Item 10. *Directors, Executive Officers and Corporate Governance***

We have adopted a Code of Business Conduct applicable to all of our directors, officers and employees. A copy of the Code of Business Conduct is available on our corporate website at [www.lazydays.com](http://www.lazydays.com) by clicking on the link “Investor Relations” on our homepage and then clicking on the link “Governance” and then clicking on the link “Documents—Code of Business Conduct.” You also may obtain a printed copy of the Code of Business Conduct by sending a written request to: Investor Relations, Lazydays Holdings, Inc., 6130 Lazy Days Boulevard, Seffner, Florida 33584. In addition, the Code of Business Conduct is available in print to any stockholder who requests it by contacting Investor Relations at [investors@lazydays.com](mailto:investors@lazydays.com) or 855-629-3995. In the event that we amend or waive any of the provisions of the Code of Business Conduct that relate to any element of the code of ethics definition enumerated in Item 406(b) of Regulation S-K, we intend to disclose the same on our Investor Relations website.

The other information required by this item will be contained in, and is incorporated by reference from, the proxy statement for our 2020 annual meeting of stockholders, which will be filed with the SEC pursuant to Regulation 14A within 120 days after the end of the year covered by this report.

### **Item 11. *Executive Compensation***

The information required by this item will be contained in, and is incorporated by reference from, the proxy statement for our 2020 annual meeting of stockholders, which will be filed with the SEC pursuant to Regulation 14A within 120 days after the end of the fiscal year covered by this report.

### **Item 12. *Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters***

The information required by this item will be contained in, and is incorporated by reference from, the proxy statement for our 2020 annual meeting of stockholders, which will be filed with the SEC pursuant to Regulation 14A within 120 days after the end of the fiscal year covered by this report.

### **Item 13. *Certain Relationships and Related Transactions, and Director Independence***

The information required by this item will be contained in, and is incorporated by reference from, the proxy statement for our 2020 annual meeting of stockholders, which will be filed with the SEC pursuant to Regulation 14A within 120 days after the end of the fiscal year covered by this report.

### **Item 14. *Principal Accounting Fees and Services***

The information required by this item will be contained in, and is incorporated by reference from, the proxy statement for our 2020 annual meeting of stockholders, which will be filed with the SEC pursuant to Regulation 14A within 120 days after the end of the fiscal year covered by this report.

PART IV

**Item 15. Exhibits and Financial Statement Schedules**

<b>Exhibit Number</b>	<b>Description</b>
2.1	<a href="#"><u>Agreement and Plan of Merger, dated as of October 27, 2017, by and among Andina Acquisition Corp. II, Andina II Holdco Corp., Andina II Merger Sub Inc., Lazy Days' R.V. Center, Inc. and A. Lorne Weil (included as Annex A to the Proxy Statement/Prospectus/Information Statement and incorporated herein by reference).</u></a>
3.1	<a href="#"><u>Form of Amended and Restated Certificate of Incorporation of Lazydays Holdings, Inc. (included as Annex B to the Proxy Statement/Prospectus/Information Statement and incorporated herein by reference).</u></a>
3.2	<a href="#"><u>Form of Bylaws of Lazydays Holdings, Inc. (included as Annex B to the Proxy Statement/Prospectus/Information Statement and incorporated herein by reference).</u></a>
3.3	<a href="#"><u>Certificate of Designations of Series A Preferred Stock of Lazydays Holdings, Inc. (included as Annex D to the Proxy Statement/Prospectus/Information Statement and incorporated herein by reference).</u></a>
4.1	<a href="#"><u>Specimen Common Stock Certificate of Lazydays Holdings, Inc. (filed as Exhibit 4.5 to the Registration Statement on Form S-4 (SEC File No. 333-221723) and incorporated herein by reference).</u></a>
4.2	<a href="#"><u>Form of Unit Purchase Option (incorporated by reference to Exhibit 4.5 of Andina's Form S-1/A filed on November 6, 2015).</u></a>
4.3	<a href="#"><u>Warrant Agreement between Continental Stock Transfer &amp; Trust Company and Andina (incorporated by reference to Exhibit 4.7 of Andina's Form S-1/A filed on November 6, 2015).</u></a>
4.4	<a href="#"><u>Form of Specimen Series A Preferred Stock Certificate (filed as Exhibit 4.4 to the Registration Statement on Form S-1 (SEC File No. 333-224063) filed with the SEC on March 30, 2018 and incorporated herein by reference).</u></a>
4.5	<a href="#"><u>Form of Common Stock purchase warrant (filed as Exhibit 4.5 to the Registration Statement on Form S-1 (SEC File No. 333-224063) filed with the SEC on March 30, 2018 and incorporated herein by reference).</u></a>
4.6	<a href="#"><u>Form of Pre-Funded Common Stock Purchase warrant (filed as Exhibit 4.6 to the Registration Statement on Form S-1 (SEC File No. 333-224063) filed with the SEC on March 30, 2018 and incorporated herein by reference).</u></a>
4.7	<a href="#"><u>Description of Registrant's Securities.*</u></a>
10.1	<a href="#"><u>Registration Rights Agreement between Andina and certain security holders of Andina (incorporated by reference to Exhibit 10.1 of Andina's Current Report on Form 8-K filed on December 1, 2015).</u></a>
10.2	<a href="#"><u>2018 Long-Term Incentive Plan+ (included as Annex C to the Proxy Statement/Prospectus/Information Statement and incorporated herein by reference).</u></a>
10.3	<a href="#"><u>Employment Agreement between Lazydays Holdings, Inc. and William Murnane+ (filed as Exhibit 10.11 to the Registration Statement on Form S-4 (SEC File No. 333-221723) and incorporated herein by reference).</u></a>
10.5.1	<a href="#"><u>Form of Securities Purchase Agreement (Preferred) (filed as Exhibit 10.13.1 to the Registration Statement on Form S-4 (SEC File No. 333-221723) and incorporated herein by reference).</u></a>

Exhibit Number	Description
10.5.2	<a href="#"><u>Form of Securities Purchase Agreement (Unit) (filed as Exhibit 10.13.2 to the Registration Statement on Form S-4 (SEC File No. 333-221723) and incorporated herein by reference).</u></a>
10.6	<a href="#"><u>Lease Agreement by and between Cars MTI-4 L.P., as Landlord, and LDRV Holdings Corp., as Tenant (filed as Exhibit 10.14 to the Registration Statement on Form S-4 (SEC File No. 333-221723) and incorporated herein by reference).</u></a>
10.7	<a href="#"><u>Lease Agreement between Chambers 3640, LLC, as Landlord, and Lazydays Mile HI RV, LLC, as Tenant (filed as Exhibit 10.15 to the Registration Statement on Form S-4 (SEC File No. 333-221723) and incorporated herein by reference).</u></a>
10.8	<a href="#"><u>Lease Agreement between 6701 Marketplace Drive, LLC, as Landlord, and Lazydays RV America, LLC, as Tenant (filed as Exhibit 10.16 to the Registration Statement on Form S-4 (SEC File No. 333-221723) and incorporated herein by reference).</u></a>
10.9	<a href="#"><u>Lease Agreement between DS Real Estate, LLC, as Landlord, and Lazydays RV Discount, LLC, as Tenant (filed as Exhibit 10.17 to the Registration Statement on Form S-4 (SEC File No. 333-221723) and incorporated herein by reference).</u></a>
10.10	<a href="#"><u>Credit Agreement, dated March 15, 2018, among LDRV Holdings Corp., Lazydays RV America, LLC, Lazydays RV Discount, LLC and Lazydays Mile HI RV, LLC, and various other affiliated entities thereafter parties thereto, as Borrowers, Manufacturers and Traders Trust Company, as Administrative Agent, Swingline Lender, Issuing Bank and Lender, and various other financial institutions who may become lender parties thereto (filed as Exhibit 10.10 to the Form 8-K filed on March 21, 2018).</u></a>
10.11	<a href="#"><u>Security Agreement, dated March 15, 2018, by and between LDRV Holdings Corp., Lazydays RV America, LLC, Lazydays RV Discount, LLC, and Lazydays Mile HI RV, LLC, as Borrowers, Lazydays Holdings Inc., Lazy Days' R.V. Center, Inc., Lazydays RV America, LLC, and Lazydays Land Holdings, LLC, as Guarantors, and Manufacturers and Traders Trust Company, as administrative agent under the Credit Agreement of even date therewith (filed as Exhibit 10.11 to the Form 8-K filed on March 21, 2018).</u></a>
10.12	<a href="#"><u>Guaranty Agreement, dated March 15, 2018, by certain parties named therein (filed as Exhibit 10.12 to the Form 8-K filed on March 21, 2018).</u></a>
10.13	<a href="#"><u>Form of Registration Rights Agreement between Lazydays Holdings, Inc. and the PIPE investors (filed as Exhibit 10.13 to the Registration Statement on Form S-1 (SEC File No. 333-224063) filed with the SEC on March 30, 2018 and incorporated herein by reference).</u></a>
10.14	<a href="#"><u>Form of Registration Rights Agreement between Lazydays Holdings, Inc. and the PIPE investors (filed as Exhibit 10.14 to the Registration Statement on Form S-1 (SEC File No. 333-224063) filed with the SEC on March 30, 2018 and incorporated herein by reference).</u></a>
10.15	<a href="#"><u>Employment Offer Letter between Lazydays Holdings, Inc. and Nicholas Tomashot+ (filed as Exhibit 10.15 to Amendment No. 2 to the Registration Statement on Form S-1 (SEC File No. 333-224063) filed with the SEC on May 22, 2018 and incorporated herein by reference).</u></a>
10.16	<a href="#"><u>Second Amendment to Credit Agreement, dated as of December 6, 2018, by and among the Borrowers named therein, the Guarantors named therein and Manufacturers and Traders Trust Company. (filed as Exhibit 10.1 to Current Report on Form 8-K filed with the SEC on December 12, 2018 and incorporated herein by reference).</u></a>
10.17	<a href="#"><u>Lazydays Holdings, Inc. 2019 Employee Stock Purchase Plan (filed as Exhibit 10.1 to the Form 8-K filed on May 23, 2019)</u></a>
10.18	<a href="#"><u>Lazydays Holdings, Inc. Amended and Restated 2018 Long Term Incentive Plan (filed as exhibit 10.2 to the Form 8-K filed on May 23, 2019)</u></a>
10.19	<a href="#"><u>Third Amendment and Joinder to Credit Agreement, dated as of March 6, 2020, by and among the Existing Borrowers named therein, Lone Star Acquisition LLC, authorized to conduct business in the State of Texas as Lone Star Land of Houston, LLC, Lone Star Diversified, LLC, the Guarantors named therein, Manufacturers and Traders Trust Company and the lenders party to the credit agreement. *</u></a>
21.1	<a href="#"><u>Subsidiaries of the Company.*</u></a>
23.1	<a href="#"><u>Consent of Marcum LLP.*</u></a>
31.1	<a href="#"><u>Certification of Chief Executive Officer pursuant to Rule 13a-14 and Rule 15d-14(a), promulgated under the Securities Exchange Act of 1934, as amended.*</u></a>



Exhibit Number	Description
31.2	<a href="#">Certification of Chief Financial Officer pursuant to Rule 13a-14 and Rule 15d-14(a), promulgated under the Securities Exchange Act of 1934, as amended.*</a>
32.1	<a href="#">Certification pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (Chief Executive Officer).**</a>
32.2	<a href="#">Certification pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (Chief Financial Officer).**</a>
101.INS	XBRL Instance Document.*
101.SCH	XBRL Taxonomy Extension Schema Document.*
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document.*
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document.*
101.LAB	XBRL Taxonomy Extension Label Linkbase Document.*
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document.*

\* Filed herewith.

\*\* Furnished herewith.

+ Management compensatory plan or arrangement.

**Item 16. Form 10-K Summary**

None.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

**LAZYDAYS HOLDINGS, INC.**

*/s/ William P. Murnane*

William P. Murnane

*Chief Executive Officer and Chairman*

Date: March 20, 2020

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated.

Signature	Title	Date
<i>/s/ William P. Murnane</i> William P. Murnane	Chief Executive Officer and Chairman (Principal Executive Officer)	March 20, 2020
<i>/s/ Nicholas J. Tomashot</i> Nicholas Tomashot	Chief Financial Officer (Principal Financial Officer and Principal Accounting Officer)	March 20, 2020
<i>/s/ Jerry Comstock</i> Jerry Comstock	Director	March 20, 2020
<i>/s/ James J. Fredlake</i> James J. Fredlake	Director	March 20, 2020
<i>/s/ Jordan Gnat</i> Jordan Gnat	Director	March 20, 2020
<i>/s/ Erika Serow</i> Erika Serow	Director	March 20, 2020
<i>/s/ Christopher S. Shackelton</i> Christopher S. Shackelton	Director	March 20, 2020
<i>/s/ B. Luke Weil</i> B. Luke Weil	Director	March 20, 2020



**DESCRIPTION OF THE REGISTRANT'S SECURITIES  
REGISTERED PURSUANT TO SECTION 12  
OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED**

As of December 31, 2019, Lazydays Holdings, Inc. (the "Company," "Lazydays," "Registrant," "we," "us," or "our") had one class of securities registered under Section 12 of the Securities Exchange Act of 1934, as amended: our common stock.

The following is a description of the material terms of our common stock and preferred stock as set forth in our Amended and Restated Certificate of Incorporation (the "Certificate of Incorporation"), our Bylaws (the "Bylaws"), and our Certificate of Designations of Series A Preferred Stock (the "Certificate of Designation"), which govern the rights of our common stock and preferred stock. This description is only a summary. You should read it together with the Certificate of Incorporation, Bylaws, and Certificate of Designation, which are included as exhibits to the Company's Annual Report on Form 10-K for the year ended December 31, 2019 and incorporated by reference herein.

**General**

Our Certificate of Incorporation provides for the issuance of 100,000,000 shares of common stock, par value \$0.0001 per share, and 5,000,000 shares of preferred stock, par value \$0.0001 per share. As of December 31, 2019, we had 8,428,666 shares of common stock outstanding and 600,000 shares of Series A Preferred Stock outstanding.

**Common Stock**

The holders of our common stock are entitled to one vote for each share held of record on all matters to be voted on by stockholders. There is no cumulative voting with respect to the election of directors, with the result that the holders of more than 50% of our shares voted for the election of directors can elect all of the directors.

Holders of our common stock do not have any conversion, preemptive or other subscription rights and there are no sinking fund or redemption provisions applicable to our common stock.

We have not paid any cash dividends on our common stock and do not plan to pay any cash dividends on our common stock in the foreseeable future. Our board of directors ("Board") will determine our future dividend policy on the basis of many factors, including results of operations, capital requirements, and general business conditions, subject to any restrictions under our credit facility and the Certificate of Designations for the Series A Preferred Stock.

Our Board currently consists of seven (7) directors who are divided into three classes. Directors in each class serve a three-year term. The terms of each class expire at successive annual meetings so that the stockholders elect one class of directors at each annual meeting. The current classification of our Board is: (i) Class A – has two (2) directors with a term expiring at the 2022 annual meeting of stockholders; (ii) Class B – has two (2) directors with a term expiring at the 2020 annual meeting of stockholders; and (iii) Class C – has three (3) directors with a term expiring at the 2021 annual meeting of stockholders.

Mr. Fredlake was originally designated to our Board by Lazy Days' R.V. Center, Messrs. Gnat and Weil were originally designated to our Board by Andina, Messrs. Shackelton and Comstock were originally designated to our Board by certain of the preferred stock investors in the PIPE Investment, and Mr. Murnane was originally designated to our Board by mutual agreement of Andina and Lazydays. Each of our directors was elected by the stockholders prior to the business combination on March 15, 2018, except for Ms. Serow who was nominated by the Nominating Committee and appointed to the Board subsequent to the closing of the business combination. The holders of preferred stock are allowed to designate up to two (2) members to the Board.

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## Preferred Stock

Our Certificate of Incorporation authorizes the issuance of 5,000,000 shares of blank check preferred stock with such designations, rights and preferences as may be determined from time to time by our Board. Any designated series of preferred stock shall have such powers, designations, preferences and relative, participation or optional or other special rights and qualifications, limitations or restrictions as shall be expressed in the resolution adopted by the Board. Once designated by our Board, each series of preferred stock will have specific financial and other terms that will be described in a prospectus supplement. The description of the preferred stock that is set forth in any prospectus supplement is not complete without reference to the documents that govern the preferred stock. These include our Certificate of Incorporation and any certificates of designation that our Board may adopt. Prior to the issuance of shares of each series of preferred stock, the Board is required by the Delaware General Corporation Law (“DGCL”) and our Certificate of Incorporation to adopt resolutions and file a certificate of designations with the Secretary of State of the State of Delaware. The certificate of designations fixes for each class or series the designations, powers, preferences, rights, qualifications, limitations and restrictions, including, but not limited to, some or all of the following: (i) entitled to voting powers, full or limited; (ii) subject to redemption at such time or times and at such price or prices as our Board may establish; (iii) entitled to receive dividends (which may be cumulative or non-cumulative) at such rates, on such conditions, and at such times, and payable in preference to, or in such relation to, the dividends payable on any other class or classes or any other series as our Board may establish; (iv) entitled to such rights upon the dissolution of us, or upon any distribution of our assets, as our Board may establish; or (v) convertible into, or exchangeable for, shares of any other class or classes of stock, or of any other series of the same or any other class or classes of stock, of ours at such price or prices or at such rates of exchange and with such adjustments as our Board may establish.

### *Series A Preferred Stock*

In connection with the PIPE Investment on March 15, 2018, we designated 600,000 shares as Series A Preferred Stock.

The material terms of the Series A Preferred Stock are as follows:

The Series A Preferred Stock ranks senior to all outstanding capital stock of the Company. Except as required by law or by the Certificate of Designation, holders of the Series A Preferred Stock will be entitled to vote on an as-converted basis together with the holders of our common stock, and not as a separate class, at any annual or special meeting of Company stockholders. However, the Certificate of Designation provides holders of the Series A Preferred Stock with a separate vote requiring the vote or consent of a majority of the Series A Preferred Stock (unless otherwise waived by a majority of the Series A Preferred Stock) relating to certain actions, including: (i) the liquidation, dissolution or winding up of the Company if the holders of Series A Preferred Stock will not have the option to receive the full liquidation preference; (ii) any amendment or repeal of the Certificate of Incorporation or Bylaws that adversely modifies the rights, preferences, privileges or voting powers of the Series A Preferred Stock; (iii) any authorization or issuance of a new class of securities having rights, preferences or privileges senior to or on parity with the Series A Preferred Stock; (iv) any increase or decrease in the authorized number of Series A Preferred Stock; (v) any increase in the number of members of the Board above eight (8); (vi) certain issuances of senior indebtedness or certain incurrences of floor plan financing; (vii) any sale or agreement to license any material asset or material portion of the assets of the Company or any subsidiary other than in the ordinary course of business; (viii) the making of capital expenditures during any four consecutive fiscal quarters in excess of 25% of earnings before interest, taxes, depreciation, and amortization (“EBITDA”) for such four (4) fiscal quarters; (ix) any change by the Company or any subsidiary in its principal line of business or entry into an additional line of business; and (x) the appointment of any Chief Executive Officer, other than William Murnane.

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The Series A Preferred Stock will be convertible into shares of our common stock at the holder's election at any time, and such holder will receive such number of shares of common stock as is equal to the product obtained by multiplying the conversion rate then in effect by the number of shares of Series A Preferred Stock being converted, plus cash in lieu of fractional shares. The conversion rate is calculated as the quotient obtained by dividing the liquidation preference then in effect by the conversion price. Currently, the conversion rate is 9.9378882 calculated by dividing the liquidation preference currently in effect of \$100 by the initial conversion price of \$10.0625. The conversion price will be subject to adjustment for stock dividends, forward and reverse splits, combinations and similar events, as well as for certain dilutive issuances. The liquidation preference and initial conversion price are set forth in the Certificate of Designation and were determined based on the valuation of the securities of Andina taking into account the impact of the Mergers and the rights and preferences of the Series A Preferred Stock. As a result, the 600,000 shares of Series A Preferred Stock are convertible into 5,962,733 shares of common stock (this excludes accrued dividends which the Company may elect to pay in cash or shares of common stock).

Dividends on the Series A Preferred Stock will accrue at an initial rate of 8% per annum (the "Dividend Rate"), compounded quarterly, and be payable quarterly in arrears on January 1, April 1, July 1 and October 1 of each year (unless any such day is not a business day, in which event such preferred dividends shall be payable on the next succeeding business day, without accrual to the actual payment date). If we do not declare and pay dividends on any dividend payment date, such accrued and unpaid dividends, until paid in full in cash, will accrue at the then applicable Dividend Rate plus 2%. The Dividend Rate will be increased to 11% per annum, compounded quarterly, in the event our senior indebtedness less unrestricted cash during any trailing twelve month period ending at the end of any fiscal quarter is greater than 2.25 times EBITDA (as defined in the Certificate of Designations of the Series A Preferred Stock) for such preceding twelve (12)-month period. The Dividend Rate will be reset to 8% at the end of the first fiscal quarter when our senior indebtedness less unrestricted cash during the trailing twelve month period ending at the end of such quarter is less than 2.25 times EBITDA for such preceding twelve (12)-month period.

If, at any time following the second anniversary of the issuance of the Series A Preferred Stock, the volume weighted average price of our common stock equals or exceeds \$25.00 (as adjusted for stock dividends, splits, combinations and similar events) for a period of thirty consecutive trading days, we may force the conversion of any or all of the outstanding Series A Preferred Stock at the conversion price then in effect. From and after the eighth anniversary of the issuance of the Series A Preferred Stock, we may elect to redeem all, but not less than all, of the outstanding Series A Preferred Stock in cash at the stated value thereof plus all accrued and unpaid dividends. From and after the ninth anniversary of the issuance of the Series A Preferred Stock, each holder of Series A Preferred Stock has the right to require us to redeem all of such holder's outstanding shares of Series A Preferred Stock in cash at the stated value thereof plus all accrued and unpaid dividends.

In the event of any liquidation, merger, sale, dissolution or winding up of the Company, holders of the Series A Preferred Stock will have the right to (i) payment in cash equal to the liquidation preference thereof plus all accrued and unpaid dividends, or (ii) convert the shares of Series A Preferred Stock into our common stock and participate on an as-converted basis with our holders of common stock.

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So long as the Series A Preferred Stock is outstanding, the holders thereof, by the vote or written consent of the holders of a majority in voting power of the outstanding Series A Preferred Stock, shall have the right to designate two members to our Board.

The holders of Series A Preferred Stock may elect in writing to the Company to be subject to a beneficial ownership limitation, initially set at 9.99% (but which may subsequently be set at a higher or lower percentage by the electing holder) of the shares of common stock then outstanding after giving effect to the issuance of shares of common stock upon conversion of the Series A Preferred Stock held by such holder. If a holder of the Series A Preferred Stock has elected to be subject to a beneficial ownership limitation, the Company shall not effect any conversion of the Series A Preferred Stock and the holder shall not have any right to convert any portion of the Series A Preferred Stock if after giving effect to such conversion, the holder would beneficially own in excess of its then applicable beneficial ownership limitation.

The securities purchase agreement entered into in connection with the sale of the Series A Preferred Stock also includes the following rights:

- Subject to applicable securities laws and regulations, any purchaser that continues to hold Series A Preferred Stock convertible into 5% or more of the then issued and outstanding shares of our common stock shall also have a preemptive right to purchase its pro rata share of all equity securities that we may, from time to time, propose to sell and issue after the consummation of the Mergers (subject to certain exceptions).
- If we seek to consummate any debt financings (other than (i) non-distressed floor plan financings on customary terms and conditions and with an interest rate of not greater than 5% per annum, (ii) the replacement or refinancing of existing indebtedness where the replaced or refinanced indebtedness does not exceed the existing amount of indebtedness and are not on terms materially worse than the indebtedness being replaced or refinanced, and (iii) advances or other extensions of credit under a revolving credit facility or floor plan credit facility) after the consummation of the Mergers, Coliseum Capital Management, LLC shall be entitled to a right of first refusal to provide the funding necessary for such debt financings provided that it still holds an aggregate of at least \$10 million of the Series A Preferred Stock. Coliseum Capital Management, LLC will have a period of 15 business days to notify us of its intention to exercise its right.
- If we receive in excess of \$1 million as a result of indemnification claims made in respect of certain breaches of representations and warranties of Lazy Days' R.V. Center, Inc. under the Merger Agreement, the holders of the Series A Preferred Stock shall have a right to require us to utilize such amounts in excess of the \$1 million to redeem their shares of Series A Preferred Stock for the liquidation preference of such shares.

There are no sinking fund provisions applicable to our shares of Series A Preferred Stock.

#### **Provisions of Delaware Law, the Certificate of Incorporation and Bylaws**

Provisions of the Delaware General Corporation Law (the "DGCL"), the Certificate of Incorporation, the Bylaws and other relevant documents described below could make it more difficult to acquire us by means of a tender offer, a proxy contest or otherwise, or to remove incumbent officers and directors. These provisions, summarized below, are expected to discourage types of coercive takeover practices and inadequate takeover bids and to encourage persons seeking to acquire control of us to first negotiate with us. We believe that the benefits of increased protection of our potential ability to negotiate with the proponent of an unfriendly or unsolicited proposal to acquire or restructure us outweigh the disadvantages of discouraging takeover or acquisition proposals because, among other things, negotiation of these proposals could result in an improvement of their terms.

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*Delaware Anti-Takeover Statute.* We have elected to be subject to Section 203 of the DGCL, an anti-takeover statute. In general, Section 203 prohibits a publicly held Delaware corporation from engaging in a “business combination” with an “interested stockholder” for a period of three years following the time the person became an interested stockholder, unless (with certain exceptions) the business combination or the transaction in which the person became an interested stockholder is approved in a prescribed manner. Generally, a “business combination” includes a merger, asset or stock sale, or other transaction resulting in a financial benefit to the interested stockholder. Generally, an “interested stockholder” is a person who, together with affiliates and associates, owns (or within three years prior to the determination of interested stockholder status did own) 15 percent or more of a corporation’s voting stock. The existence of this provision would be expected to have an anti-takeover effect with respect to transactions not approved in advance by the Board of Directors, including discouraging attempts that might result in a premium over the market price for the shares of Common Stock.

*Limitation of Liability and Indemnification of Officers and Directors.* The DGCL authorizes corporations to limit or eliminate the personal liability of directors to corporations and their stockholders for monetary damages for breaches of directors’ fiduciary duties as directors. The Certificate of Incorporation and Bylaws include provisions that indemnify, to the fullest extent allowable under the DGCL, the personal liability of directors or officers for monetary damages for actions taken as a director or officer of the Company, or for serving at our request as a director or officer or in another position at another corporation or enterprise, as the case may be. The Bylaws also provide that we must indemnify and advance expenses to our directors and officers, subject to our receipt of an undertaking from the indemnitee as may be required under the DGCL and such terms and conditions as are deemed appropriate by the Board. We are also expressly authorized to carry directors’ and officers’ insurance to protect the Company and our directors, officers, employees and agents from certain liabilities.

The limitation of liability and indemnification provisions in the Certificate of Incorporation and the Bylaws may discourage stockholders from bringing a lawsuit against directors for breach of their fiduciary duties. These provisions may also have the effect of reducing the likelihood of derivative litigation against directors and officers, even though such an action, if successful, might otherwise benefit us and our stockholders. We may be adversely affected to the extent that, in a class action or direct suit, we pay the costs of settlement and damage awards against directors and officers pursuant to these indemnification provisions.

*Authorized but Unissued Shares of Common Stock.* Our authorized but unissued shares of common stock will be available for future issuance without approval by the holders of common stock. We may use additional shares for a variety of corporate purposes, including future public offerings to raise additional capital, employee benefit plans and as consideration for or to finance future acquisitions, investments or other purposes. The existence of authorized but unissued shares of common stock could render more difficult or discourage an attempt to obtain control of us by means of a proxy contest, tender offer, merger or otherwise.

*Undesignated Preferred Stock.* Our Certificate of Incorporation and Bylaws authorize 5,000,000 shares of undesignated preferred stock and 600,000 of these shares have been designated as Series A Preferred Stock. As a result, our Board of Directors may, without the approval of holders of common stock, issue 4,400,000 shares of preferred stock with super voting, special approval, dividend or other rights or preferences that could impede the success of any attempt to acquire us. These and other provisions may have the effect of deferring, delaying or discouraging hostile takeovers or changes in control or management of the Company.

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*Classified Board.* As discussed above, our Board currently consists of seven (7) directors who are divided into three classes. Pursuant to the Certificate of Incorporation, directors in each class serve a three-year term. The terms of each class expire at successive annual meetings so that the stockholders elect one class of directors at each annual meeting. The classified board provisions in the Certificate of Incorporation could make it more difficult to acquire us by means of a proxy contest or to remove incumbent directors.

*Exclusive Forum.* Unless the Company consents in writing to the selection of an alternative forum, the sole and exclusive forum for (i) any derivative action or proceeding brought on behalf of the Company, (ii) any action asserting a claim of breach of a fiduciary duty owed by any director, officer or other employee of the Company to the Company or the Company's stockholders, (iii) any action asserting a claim arising pursuant to any provision of the DGCL or the Certificate of Incorporation or Bylaws, or (iv) any action asserting a claim governed by the internal affairs doctrine shall be the Court of Chancery of the State of Delaware (or if the Court of Chancery does not have jurisdiction, another state court located within the State of Delaware, or if no state court located within the State of Delaware has jurisdiction, the federal district court for the District of Delaware) in all cases subject to the court's having personal jurisdiction over the indispensable parties named as defendants. Section 27 of the Securities Exchange Act of 1934, as amended, provides for exclusive federal jurisdiction over suits brought to enforce any duty or liability created by the Exchange Act or the rules and regulations thereunder, and as such the exclusive jurisdiction clauses set forth above would not apply to such suits. Furthermore, Section 22 of the Securities Act of 1933, as amended, provides for concurrent jurisdiction for federal and state courts over all suits brought to enforce any duty or liability created by the Securities Act or the rules and regulations thereunder, and as such the exclusive jurisdiction clauses set forth above would not apply to such suits.

### **Listing**

Our shares of common stock are listed on the NASDAQ Capital Market under the symbol "LAZY." We cannot assure you that our common stock will continue to be listed on the NASDAQ Capital Market as we might not meet certain continued listing standards in the future. Our shares of Series A Preferred Stock are currently not listed or traded on any exchange or marketplace and we do not intend to apply for listing or quotation of our Series A Preferred Stock on any exchange or marketplace in the future.

### **Transfer Agent**

The transfer agent for our shares of common stock is Continental Stock Transfer & Trust Company, 1 State Street, 30th Floor, New York, New York 10004.

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Execution Version

**THIRD AMENDMENT AND JOINDER  
TO CREDIT AGREEMENT**

THIS THIRD AMENDMENT AND JOINDER TO CREDIT AGREEMENT (“Amendment”) is dated to be effective as of the 6<sup>th</sup> day of March, 2020 (“Effective Date”), by and between: (a) MANUFACTURERS AND TRADERS TRUST COMPANY, a New York banking corporation, as Administrative Agent (“Administrative Agent”); (b) the undersigned lenders (the “Lenders”) which are parties to the “Credit Agreement” (as defined below); (c) LDRV HOLDINGS CORP., a Delaware corporation (“LDRV”), LAZYDAYS RV AMERICA, LLC, LAZYDAYS RV DISCOUNT, LLC, LAZYDAYS MILE HI RV, LLC, LAZYDAYS OF MINNEAPOLIS LLC, LDRV OF TENNESSEE LLC, LAZYDAYS OF CENTRAL FLORIDA, LLC, each a Delaware limited liability company (together with LDRV, each an “Existing Borrower” and, collectively, the “Existing Borrowers”); (d) LONE STAR ACQUISITION LLC, a Delaware limited liability company, authorized to conduct business in the State of Texas as LONE STAR LAND OF HOUSTON, LLC (“Mortgage Loan Borrower”); (e) LONE STAR DIVERSIFIED, LLC, a Delaware limited liability company (“Diversified”); and (f) LAZYDAYS HOLDINGS, INC., a Delaware corporation (“Pubco Guarantor”), LAZY DAYS’ R.V. CENTER, INC., a Delaware corporation (“Parent Guarantor”), and LAZYDAYS LAND HOLDINGS, LLC, a Delaware limited liability company (together with Pubco Guarantor and Parent Guarantor, collectively, the “Existing Guarantors”). The Mortgage Loan Borrower and Diversified are referred to collectively as the “Additional Loan Parties,” The Mortgage Loan Borrower, Diversified, and the Existing Borrowers, each in its capacity as a guarantor of various Obligations as described below, together with the Existing Guarantors, are collectively referred to as the “Guarantors”. The Existing Borrowers, the Mortgage Loan Borrower, and Diversified, in its capacity as a Borrower, are collectively referred to in this Amendment as the “Borrowers.” The Borrowers and the Guarantors are collectively referred to in this Amendment as the “Obligors.” The Administrative Agent and the Lenders are collectively referred to in this Amendment as the “Credit Parties.” The Obligors and the Credit Parties are collectively referred to as the “Parties.”

**RECITALS**

The Administrative Agent, the Lenders party thereto, and the Existing Borrowers have entered into a Credit Agreement dated as of March 15, 2018 (“Original Credit Agreement”), as amended pursuant to the First Amendment to Credit Agreement dated as of June 30, 2018 and the Second Amendment to Credit Agreement dated as of December 6, 2018, and modified pursuant to the Joinder Agreement and Counterpart dated August 7, 2018 by Lazydays of Minneapolis LLC as an additional co-Borrower, pursuant to the Joinder Agreement and Counterpart dated as of December 6, 2018 by LDRV of Tennessee LLC, as an additional co-Borrower, and pursuant to the Joinder Agreement and Counterpart dated as of August 1, 2019 by Lazydays of Central Florida, LLC, as an additional co-Borrower (the Original Credit Agreement, as so amended and modified, collectively, the “Credit Agreement”), and the various other “Credit Documents,” as such term is defined in the Credit Agreement. All terms used in this Amendment without definition shall have the respective meanings given such terms in the Credit Agreement.

The Existing Guarantors have executed and delivered to the Credit Parties a Guaranty Agreement dated as of March 15, 2018 (the “Original Guaranty Agreement”) and various other Credit Documents in connection with the Credit Agreement.

Pursuant to Section 5.15.3 of the Credit Agreement, the Additional Loan Parties which are wholly owned subsidiaries of LDRV are required to become parties to the Credit Agreement and the Credit Documents, as further set forth herein, and each of them has determined that the execution, delivery and performance of this Agreement and each of the other Credit Documents executed in connection herewith will directly benefit them, and are within their respective limited liability company powers, purposes, and the best interests.

The Existing Borrowers and Guarantors have also requested that the Lenders provide a mortgage loan credit facility in the aggregate principal amount of acquisition, construction, and permanent mortgage financing for a property acquired by the Mortgage Loan Borrower.

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The Parties hereto have entered into this Agreement in order to provide for an additional mortgage loan credit facility to be provided by the Lenders to the Mortgage Loan Borrower and guaranteed by the Existing Borrowers, the Existing Guarantors, and Diversified, the joinder of the Additional Loan Parties into the various credit facilities in their respective capacities as provided herein and in the Credit Documents to amend certain definitions and covenants, and to make certain other modifications to the Credit Agreement upon the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the premises, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties hereby agree as follows.

### AGREEMENT

Section 1. Acknowledgment And Reaffirmation Of Obligations. Each of the Obligors acknowledges and affirms that: (a) the Credit Documents are the valid and binding obligation of each of them that is a signatory thereto; (b) the Credit Documents are enforceable in accordance with all stated terms; and (c) none of them has any defenses, claims of offset, or counterclaims against the enforcement of the Credit Documents in accordance with all stated terms.

Section 2. Joinder as of Additional Loan Parties: Mortgage Loans. Each of the Additional Loan Parties, by executing and delivering this Amendment, hereby joins and becomes a party to the Credit Agreement and all of the other Credit Documents as a Borrower and/or Guarantor as follows:

- (a) The Mortgage Loan Borrower is the sole Borrower under the Mortgage Loans and related Obligations, and a Guarantor with respect to all other Loans and Obligations; and
- (b) Diversified is a Borrower under the Revolving Credit Loans, L/C Obligations, Swingline Loans, Term Loans, and related Obligations, jointly and severally liable with all of the Existing Borrowers under such Loans and a Guarantor with respect to all other Obligations, including but not limited to the Floor Plan Loans, Mortgage Loans, and related Obligations.

Each of the Additional Loan Parties in the above-described capacities, hereby assumes and agrees to fully pay, observe, perform and be bound by jointly and severally with all of the Existing Borrowers and Existing Guarantors, all existing and future respective Obligations of a Borrower and/or a Guarantor, as applicable, and all other respective duties, obligations, agreements and covenants of a Borrower and/or Guarantor, as applicable under each of the Credit Documents as fully a party thereto as if it were an original signatory thereof. Each reference to a "Borrower" or "Guarantor" in the Credit Documents shall be deemed to include each Additional Loan Party in the above-described capacities as well as the Existing Borrowers and Existing Guarantors. The "Obligations" shall include (without limitation) all existing and hereafter arising obligations, indebtedness and liabilities of a Borrower and/or a Guarantor, as applicable under and in connection with the Mortgage Loans and the Mortgage Loan Facility.

Each of the Additional Loan Parties hereby grants to Administrative Agent and the Lenders, all of the rights, powers and authorities granted to the Administrative Agent and the Lenders under the Credit Agreement and the other applicable Credit Documents by and in respect of the Existing Borrowers and Existing Guarantors, as the case may be, and makes all grants, pledges, and agreements applicable to an Existing Borrower or Existing Guarantor under the Credit Agreement and the Security Documents. Each of the Additional Loan Parties agrees to execute and deliver to the Administrative Agent all Security Documents and other Credit Documents as are required of a Borrower under the Loans to which it is a party as a Borrower (as provided above); provided that, for the avoidance of doubt the Mortgage Loan Borrower is intended to be the sole Borrower of the Mortgage Loans and not a Borrower of any other Loan.

Section 3. Guaranty Agreements. (a) Contemporaneously herewith and in addition to this Agreement, the Additional Loan Parties have each executed and delivered to the Credit Parties a Guaranty Agreement dated as of even date herewith in connection with the Obligations as to which it, respectively, is not a Borrower (as set forth in Section 2), and the Existing Borrowers have executed and delivered to the Credit Parties a Guaranty Agreement dated as of even date herewith in connection with the Mortgage Loans, as defined below (each such Guaranty Agreement, together with the Original Guaranty Agreement, collectively, the "Guaranty Agreement").

(b) Each Existing Guarantor hereby reaffirms its obligations under its Original Guaranty Agreement to pay and perform the “Guaranteed Obligations,” which henceforth shall include, without limitation, all liabilities, obligations and agreements of the Mortgage Loan Borrower under the Mortgage Loan Facility, the Mortgage Loans, and the Mortgage Loan Notes. Each Existing Guarantor agrees that it is, and shall continue to be, directly and primarily liable for the Guaranteed Obligations, as so amended, and that the Guaranty Agreement shall remain in full force and effect as so amended.

Section 4. Amendment And Modification of Credit Agreement. Effective as of December 31, 2019, the Credit Agreement is hereby amended and modified as follows:

Section 4.1. Additional Definitions. Section 1.0 l of the Credit Agreement is hereby amended to add the definitions set forth below:

“*Amortization Commencement Date*” means the first day of the Permanent Loan Period, which shall be the Interest Payment Date in the calendar month immediately following the end of the Construction Loan Period.

“*Amortization Period*” shall be 20 years, and shall mean the approximate number of years, starting on the Amortization Commencement Date, needed to result in the full repayment of the aggregate principal amount of the Mortgage Loans, if all regularly scheduled payments are made at the required intervals over that period. The Amortization Period may be longer than the remaining term of the Mortgage Loans and shall not compromise the enforceability of the Mortgage Loan Maturity Date.

“*Benchmark Replacement*” means the sum of:(a) the alternate benchmark rate (which may include Term SOFR) that has been selected by the Administrative Agent in consultation with the Borrowers giving due consideration to (i) any selection or recommendation of a replacement rate or the mechanism for determining such a rate by the Relevant Governmental Body or (ii) any evolving or then-prevailing market convention for determining a rate of interest as a replacement to LIBOR for U.S. dollar-denominated syndicated credit facilities, and (b) the Benchmark Replacement Adjustment; provided that, if the Benchmark Replacement as so determined would be less than zero, the Benchmark Replacement will be deemed to be zero for the purposes of this Agreement.

“*Benchmark Replacement Adjustment*” means, with respect to any replacement of LIBOR with an Unadjusted Benchmark Replacement for each applicable Interest Period (or one-month term in the case the calculation of Daily LIBOR), the spread adjustment or method for calculating or determining such spread adjustment (which may be a positive or negative value or zero), that has been selected by the Administrative Agent, giving due consideration to (i) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of LIBOR with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body or (ii) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of LIBOR with the applicable Unadjusted Benchmark Replacement for U.S. dollar- denominated syndicated credit facilities at such time.

“*Benchmark Replacement Conforming Changes*” means, with respect to any Benchmark Replacement, any technical, administrative or operational changes (including, without limitation, changes to the definition of “Base Rate,” the definition of “Interest Period timing and frequency of determining rates and making payments of interest and other administrative matters) that the Administrative Agent decides may be appropriate to reflect the adoption and implementation of such Benchmark Replacement and to permit the administration thereof by the Administrative Agent in a manner substantially consistent with market practice (or, if the Administrative Agent decides that adoption of any portion of such market practice is not administratively feasible or if the Administrative Agent determines that no market practice for the administration of the Benchmark Replacement exists, in such other manner of administration as the Administrative Agent decides is reasonably necessary in connection with the administration of this Agreement).

*“Benchmark Replacement Date”* means the earlier to occur of the following events with respect to LIBOR:

(a) in the case of clauses (a) or (b) of the definition of “Benchmark Transition Event,” the later of (i) the date of the public statement or publication of information referenced therein, and (ii) the date on which the administrator of LIBOR permanently or indefinitely ceases to provide LIBOR; or

(b) in the case of clause (c) of the definition of “Benchmark Transition Event,” the date of the public statement or publication of information referenced therein.

*“Benchmark Transition Event”* means the occurrence of one or more of the following events with respect to LIBOR:

(a) a public statement or publication of information by or on behalf of the administrator of LIBOR announcing that such administrator has ceased or will cease to provide LIBOR, permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide LIBOR;

(b) a public statement or publication of information by the regulatory supervisor for the administrator of LIBOR, the U.S. Federal Reserve System, an insolvency official with jurisdiction over the administrator for LIBOR, a resolution authority with jurisdiction over the administrator for LIBOR or a court or an entity with similar insolvency or resolution authority over the administrator for LIBOR, which states that the administrator of LIBOR has ceased or will cease to provide LIBOR permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide LIBOR; or

(c) a public statement or publication of information by the regulatory supervisor for the administrator of LIBOR announcing that LIBOR is no longer representative.

*“Benchmark Transition Start Date”* means (a) in the case of a Benchmark Transition Event, the earlier of (i) the applicable Benchmark Replacement Date and (ii) if such Benchmark Transition Event is a public statement or publication of information of a prospective event, the 180th day prior to the expected date of such event as of such public statement or publication of information (or if the expected date of such prospective event is fewer than 180 days after such statement or publication, the date of such statement or publication) and (b) in the case of an Early Opt-in Election, the date specified by the Administrative Agent, by notice to the Borrowers and the Lenders.

*“Benchmark Unavailability Period”* means, if a Benchmark Transition Event and its related Benchmark Replacement Date have occurred with respect to LIBOR and solely to the extent that LIBOR has not been replaced with a Benchmark Replacement, the period (x) beginning at the time that such Benchmark Replacement Date has occurred if, at such time, no Benchmark Replacement has replaced LIBOR for all purposes hereunder in accordance with this Section and (y) ending at the time that a Benchmark Replacement has replaced LIBOR for all purposes hereunder pursuant to this Section.

*“Capital Expenditures”* means for any Person for any period of determination thereof, (a) all net expenses incurred during such period by such Person in connection with capital replacements, additions, renewals or improvements to any of the capital assets of such Person which are required to be capitalized on the books and accounts of such Person in accordance with GAAP, and (b) the amount of Capital Lease Obligations paid by such Person during such period; provided, however, Capital Expenditures shall not include (i) expenditures for fixed assets acquired in connection with a Permitted Acquisition, (ii) the acquisition of any Permitted Company Vehicles if such Permitted Company Vehicles are financed with Floor Plan Loans; (iii) the acquisition of Eligible Rental Floor Plan Units, (iv) amounts spent on property acquisition or development to be funded by lessors on real property leases, or (v) amounts spent on acquired or developed assets which are in the process of being financed or are financed within nine (9) months of having been acquired or developed.

*“Construction Loan Addendum”* means the Construction Loan Addendum to this Agreement in the form attached hereto as Exhibit L between the Mortgage Loan Borrower, the other Borrowers parties to the Credit Agreement, the Administrative Agent and the Lenders.

*“Construction Loan Disbursement Procedures”* means the procedures set forth on the Construction Loan Addendum.

*“Construction Loan Period”* means that period of time commencing on the date of the Mortgage Loan Notes and ending on the earlier of completion of construction or one (1) year from the date of the Mortgage Loan Notes, during which the Administrative Agent and the Lenders may advance funds to the Mortgage Loan Borrower pursuant to this Agreement (including the Construction Loan Addendum) and the other Credit Documents.

*“Diversified”* means Lone Star Diversified, LLC, a Delaware limited liability company.

*“Early Opt-in Election”* means the occurrence of:

(a) (i) a determination by the Administrative Agent, or (ii) a notification by the Required Lenders to the Administrative Agent (with a copy to the Borrowers) that the Required Lenders have determined, that other similarly situated U.S. dollar-denominated syndicated credit facilities being executed at such time, or that include language similar to that contained in this Section, are being executed or amended, as applicable, to incorporate or adopt a new benchmark interest rate to replace LIBOR, and

(b) (i) the election by the Administrative Agent and the Required Lenders to declare that an Early Opt-in Election has occurred and the provision, as applicable, by the Administrative Agent of written notice of such election to the Borrower and the Lenders.

“*Federal Reserve Bank of New York’s Website*” means the website of the Federal Reserve Bank of New York at <http://www.newyorkfed.org>, or any successor source.

“*Mortgage*” means the Deed of Trust and Assignment of Rents and Leases from the Mortgage Loan Borrower to the trustees named therein for the benefit of the Administrative Agent for the Lenders, encumbering the real property and improvements located in Harris County, Texas, generally located at the southwest quadrant of Highway 290 and Stokes Road in Waller, Texas, and more particularly described therein, as further described on “Exhibit A11 to the Construction Loan Addendum.

“*Mortgage Loan Borrower*” means Lone Star Acquisition LLC, a Delaware corporation, authorized to do business in the State of Texas as Lone Star Land of Houston, LLC.

“*Mortgage Loan Commitment*” means, as to any Lender, the amount initially set forth opposite its name in the grid set forth below (which grid shall be added to and incorporated by reference into Schedule 1.01.1 of the Credit Agreement), and thereafter on any relevant Assignment And Assumption, as such amount may be adjusted from time to time in accordance with this Agreement, and “*Mortgage Loan Commitments*” means the aggregate Mortgage Loan Commitments of all of the Lenders.

Lender	Mortgage Loan Commitment	Mortgage Loan Commitment Percentage
Manufacturers and Traders Trust Company	\$ 4,602,000	75%
BMO Harris Bank N.A.	\$ 1,534,000	25%
<b>TOTAL</b>	<b>\$ 6,136,000</b>	<b>100%</b>

“*Mortgage Loan Commitment Percentage*” means, as to any Lender, the percentage initially set forth opposite its name on the grid provided in the definition of “Mortgage Loan Commitment” in the column labeled “*Mortgage Loan Commitment Percentage*” and thereafter on any relevant Assignment And Assumption, as the same may be adjusted from time to time pursuant to this Agreement.

“*Mortgage loan Facility*” means at any time (a) during the Construction Loan Period, (i) the aggregate amount of undrawn Mortgage Loan Commitments at such time, plus (ii) the aggregate principal amount of the Mortgage Loans of all Lenders advanced and outstanding at such time, and (b) upon and after the expiration of the Construction Loan Period, and upon the Mortgage Loan Commitments having been fully drawn, the aggregate principal amount of the Mortgage Loans of all Lenders outstanding at such time,



“*Mortgage Loan Guarantors*” means, collectively, (i) Pubco Guarantor, Parent Guarantor, Lazydays Land Holdings, LLC, and Diversified, (ii) all Borrowers other than the Mortgage Loan Borrower, and (iii) all of the Domestic Subsidiaries from time to time of Pubco Guarantor other than the Mortgage Loan Borrower.

“*Mortgage Loan Maturity Date*” means March 15, 2021.

“*Mortgage Loan Notes*” means, collectively, the promissory notes of the Mortgage Loan Borrower evidencing the Mortgage Loans in the form of Exhibit M attached hereto, together with all amendments and replacements thereof.

“*Mortgage loans*” means collectively the construction line of credit/permanent mortgage extended by the Lenders to the Mortgage Loan Borrower in accordance with the provisions of Section 2.06A of this Agreement and the other Credit Documents.

“*Mortgage Loans Maximum Borrowing Amount*” means Six Million One Hundred Thirty-Six Thousand Dollars (\$6,136,000.00).

“*Mortgage Property Support Documentation*” means the deliveries, documents, and due diligence described on Schedule 1.05 attached hereto.

“*Permanent Loan Period*” means the period from and including the Amortization Commencement Date to the Mortgage Loan Maturity Date, during which the Mortgage Loan Borrower shall repay the outstanding principal amount of the Mortgage Loans, with interest as set forth in this Agreement.

“*Relevant Governmental Body*” means the Federal Reserve Board and/or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the Federal Reserve Board and/or the Federal Reserve Bank of New York or any successor thereto.

“*SOFR*” with respect to any day means the secured overnight financing rate published for such day by the Federal Reserve Bank of New York, as the administrator of the benchmark, (or a successor administrator) on the Federal Reserve Bank of New York’s Website.

“*Term SOFR*” means the forward-looking term rate based on SOFR that has been selected or recommended by the Relevant Governmental Body.

“*Unadjusted Benchmark Replacement*” means the Benchmark Replacement excluding the Benchmark Replacement Adjustment.

Section 4.2. Amended and Restated Definitions. Section 1.01 of the Credit Agreement is hereby amended to amend and restate in their entirety, the respective definitions set forth below:

**“Base Rate” means, for any day, the fluctuating rate per annum equal to the highest of (a) the Prime Rate for such day, (b) the Federal Funds Rate in effect on such day plus fifty (50) Basis Points, and (c) the one-month LIBOR Rate, determined on a daily basis, plus one hundred (100) Basis Points; provided that to the extent such highest rate as calculated above shall, at any time, be less than zero percent (0.00%), such rate shall be deemed to be zero percent (0.00%) for all purposes herein. Any change in the Base Rate shall be effective on the opening of business on the day of such change.**

**“Guarantors” means collectively: (a) the Mortgage Loan Guarantors with respect to the Mortgage Loans and Obligations in connection with the Mortgage Loans; (b) Pubco Guarantor, Parent Guarantor, and Lazydays Land Holdings, LLC, a Delaware limited liability company, with respect to all Obligations; (c) the Mortgage Loan Borrower with respect to all Obligations other than the Mortgage Loans and related Obligations (as to which it is the Borrower), (d) Diversified with respect to all Obligations other than the Revolving Loans, L/C Obligations, the Term Loans, the Swingline Loans, and related Obligations (as to which it is a Borrower), and (e) all of the Domestic Subsidiaries from time to time of Pubco Guarantor other than Domestic Subsidiaries which join into this Agreement as a Borrower.**

**“Guaranty Agreements” means, collectively, each of the guaranty agreements of the Guarantors guaranteeing the payment and performance of any or all of the Obligations.**

**“LJBOR Rate” means (a) with respect to the Term Loans and Revolving Credit Loans, for any LIBOR Borrowing for any Interest Period selected by the Borrower Representative, LIBOR for a term comparable to such Interest Period determined two (2) Business Days prior to the first day of such Interest Period, and (b) with respect to the Mortgage Loans, for any LIBOR Borrowing for any one month Interest Period, LIBOR for a term comparable to such one-month Interest Period, determined two (2) Business Days prior to the first day of such Interest Period.**

**“Loans” means, collectively, the Floor Plan Loans including the M&T Advances, Revolving Credit Loans, the Swingline Loans, the Term Loans, and the Mortgage Loans.**

**“Maturity Dates” means collectively (a) the Floor Plan Line of Credit Termination Date, (b) the Revolving Credit Termination Date, (c) the Swingline Termination Date, (d) the Term Loan Maturity Date, and (e) the Mortgage Loan Maturity Date.**

**“Notes” means, collectively, the Floor Plan Loan Notes, the Revolving Credit Notes, the Swingline Note, the Term Loan Notes, and the Mortgage Loan Notes.**

**“Total Credit Exposure” means, as to any Lender at any time, the unused Commitments, the Floor Plan Loan Exposure, the Revolving Credit Exposure, outstanding Term Loans and Mortgage Loans of such Lender at such time.**

Section 4.3. Amendments to Definitions. Section 1.01 of the Credit Agreement is hereby amended by amending the following definitions as set forth below:

(a) The definition of “*Applicable Margin*” is hereby amended to replace the introductory clause of such definition with the following:

“*Applicable Margin*” means the following:

(a) With respect to the Loans, fees, and other Obligations listed in the pricing grid below, the following percentages corresponding to the Total Leverage Ratio in effect as of the most recent Calculation Date:

The definition of “*Applicable Margin*” is also hereby amended to add at the end of the existing definition the following:

(b) With respect to the Mortgage Loans, the “*Applicable Margin*” means 2.25% with respect to LIBOR Borrowings and 1.25% with respect to Adjusted Base Rate Borrowings.

(b) The definition of “*Commitment Percentages*” shall be amended to replace the references to “*Term Loan Commitment Percentage*” and “*Term Loan Commitment Percentages*” with respective references to “*Term Loan Commitment Percentage and Mortgage Loan Commitment Percentage*” and “*Term Loan Commitment Percentages and Mortgage Loan Commitment Percentages*”.

(c) The definition of “*Commitments*” shall be amended to replace the references to “*Term Loan Commitment*” and “*Term Loan Commitments*” with respective references to “*Term Loan Commitment, Mortgage Loan Commitment*” and “*Term Loan Commitments, Mortgage Loan Commitments*”.

(d) The definition of “*Consolidated EBITDAR*” is hereby amended to add the following sentence at the end of such definition:

For the avoidance of doubt, for the determination of “*net rents*” in clause (a)(ii) above in this definition, real property leases shall be deemed operating leases rather than capital leases regardless of their treatment under GAAP, as further set forth in Section 1.04 of this Agreement.

(e) The definition of “*Consolidated Fixed Charges*” is hereby amended to add the following at the end thereof:

For the avoidance of doubt, for purposes of this definition, “*scheduled principal payments*” shall not include any balloon payment upon maturity of the Mortgage Loans.

(f) The definition of “*Consolidated Fixed Charge Coverage Ratio*” is hereby amended and restated as set forth below:

“*Consolidated Fixed Charge Coverage Ratio*” means, as of the date of determination for any Measurement Period, the ratio for such Measurement Period of (a) Consolidated EBITDA of Pubco Guarantor and its Subsidiaries for such period minus (i) the aggregate amount of all Non-Financed Capital Expenditures of Pubco Guarantor and its Subsidiaries for such period, (ii) Cash Taxes For Pubco Guarantor and its Subsidiaries on a consolidated basis paid for such period, (iii) all dividends, and distributions, other Restricted Payments paid in cash by Pubco Guarantor or any Subsidiary on a consolidated basis, excluding (A) repurchases of Capital Stock of Pubco Guarantor in an aggregate amount not to exceed Four Million Dollars (\$4,000,000) over the life of the Loans and (B) a one-time cash dividend payment by Pubco Guarantor to the Preferred Stockholders on account of its Series A Preferred Stock in the amount of Four Million Three Hundred Thousand Dollars (\$4,300,000) to be paid prior to September 30, 2020, to (b) Consolidated Fixed Charges for such period.

For the avoidance of doubt, the Capital Stock repurchases and cash dividend payment described in clauses “(A)” and “(B)” above shall be included in and reported on the Compliance Certificates delivered to the Lenders pursuant to Section 5.09.5. as part of the required Consolidated Fixed Charge Coverage Ratio calculation.

(g) The definition of “Credit Documents” shall include, without limitation, this Amendment, the Mortgage Loan Notes, the Mortgage, the Construction Loan Addendum, and the Mortgaged Property Support Documentation.

(h) The definition of “Interest Period” is hereby amended by adding at the end thereof the following:

Notwithstanding the foregoing, with respect to the Mortgage Loans (without necessity for election by the Borrower), the applicable LIBOR Rate shall be set for each successive one-month Interest Period, commencing with the first draw under the Mortgage Loans, and the LIBOR Rate shall be adjusted at the end of each such Interest Period to reflect the then-current LIBOR for the following Interest Period.

(i) The definition of “LIBOR” is hereby amended to replace the reference to “ICE Benchmark Association” with a reference to “ICE Benchmark Administration Limited”.

(j) The definition of “Minimum Borrowing Amount” is hereby amended to add at the end thereof the following:

and (e) with respect to Mortgage Loan advances, \$50,000.00 (or, if less, the remaining amount available for drawing under the Mortgage Loan).

(k) The definition of “Permitted Acquisition” is hereby amended to add the following sentence at the end of such definition:

“*Permitted Acquisition*” also includes the acquisition of real estate related to the development of an RV dealership or service center and (w) any such acquisition shall be subject to the foregoing conditions and requirements set forth in clauses (a) - (d) in this definition (regardless of whether it is within the definition of “Investment”), (x) each new Subsidiary formed or acquired in connection with such Permitted Acquisition shall, at the time it becomes a subsidiary, execute and/or deliver all such certifications, opinions, resolutions and Credit Documents as are required pursuant to Section 5.15 hereof, (y) if financed by the Lenders, shall be subject to satisfaction of all of the requirements of the Administrative Agent with respect to real estate collateral, including but not limited to execution and/or delivery of real estate mortgages, a lender’s policy of title insurance, ALTA survey, environment reports, and appraisals, in each case as are reasonably required by, and satisfactory to, the Administrative Agent and Required Lenders; and (z) in any case, shall be subject to receipt of such Mortgage Property Support Documentation as is reasonably required by, and satisfactory to Administrative Agent and Required Lenders.

(l) The definition of “Principal Payment Date” is hereby amended to add at the end thereof the following:

Notwithstanding the foregoing, with respect to the Mortgage Loans, the “*Principal Payment Date*” shall be the same date as the Interest Payment Date.

Section 4.4. thereof with the following: Accounting Principles. Section 1.04 is hereby amended to replace the last sentence

Notwithstanding the foregoing, all obligations of any Person that are or would have been treated as operating leases for purposes of GAAP prior to the issuance by the Financial Accounting Standards Board on February 25, 2016 of an Accounting Standards Update (the "ASU") and all obligations of any Persons under leases of real property shall be accounted for as operating leases for purposes of all financial definitions and calculations for purposes of this Agreement (whether or not such operating lease obligations were in effect on such date) notwithstanding the fact that such obligations are required in accordance with the ASU (on a prospective or retroactive basis or otherwise) to be treated as Capital Lease Obligations in the financial statements to be delivered pursuant to Section 5.09 hereof; provided that, the financial statements required under Section 5.09 of this Agreement shall set forth a reconciliation between calculations of such ratio or requirement made before and after giving effect to such change in GAAP.

Section 4.5. Mandatory Prepayments. Section 2.06.3 is hereby amended to replace the last sentence of the second paragraph thereof with the following:

Mandatory Prepayments on account of Dispositions, insurance proceeds and condemnation recoveries, issuance of Indebtedness (excluding Indebtedness permitted to be issued pursuant to Section 6.03 hereof), issuance or sale of equity interests in the Mortgage Loan Borrower, Net Extraordinary Receipt Payments by the Mortgage Loan Borrower and/or Diversified shall be applied in accordance with Section 2.06A of this Agreement. All other Mandatory Prepayments shall be applied first, to outstanding amounts under the Term Loans to reduce the applicable remaining amortization payments in inverse order of maturity until such outstanding have been reduced to zero; second, to outstanding amounts under the Mortgage Loans to reduce the applicable remaining amortization payments in inverse order of maturity until such outstanding have been reduced to zero, third, to outstanding Revolving Credit Loans without a concurrent reduction in Revolving Credit Commitments, and fourth, to cash collateralize outstanding Letters of Credit.

Section 4.6. Addition of Section 2.06A /Mortgage Loans. The following section 2.06A is hereby added to the Credit Agreement (immediately following the end of Section 2.06 (and its subsections):

*Section 2.06A. Mortgage Loans.* During the Construction Loan Period and subject to the terms and conditions set forth in this Agreement (including the Construction Loan Addendum) and the other Credit Documents, each Lender severally agrees to extend a construction/permanent mortgage loan (each such loan, a "Mortgage Loan") in multiple advances to the Mortgage Loan Borrower in in the originally stated principal amount of each Lender's respective Mortgage Loan Commitment; provided that, (a) the maximum aggregate amount of advances of proceeds of the Mortgage Loans shall not exceed the Mortgage Loan Maximum Borrowing Amount, (b) repayments of the Mortgage Loans shall not be readvanced, and (c) an Authorized Officer of the Mortgage Loan Borrower shall have provided the Administrative Agent with not less than ten (10) Business Days prior written notice of the Mortgage Loan Borrower's request for the advance of proceeds of the Mortgage Loans and satisfied such other conditions and provided such documentation as is required pursuant to the Construction Loan Addendum. Principal amounts advanced and outstanding as Mortgage Loans shall be repaid with interests as set forth in Section 2.07.

*2.06.1A. Mortgage Loan Notes.* The obligations of the Mortgage Loan Borrower to repay the Mortgage Loans to each of the Lenders shall be evidenced by a Mortgage Loan Note to be issued to each Lender in the stated principal amount of such Lender's respective Mortgage Loan Commitment.

*2.06.2A. Payment.* The Mortgage Loan Borrower unconditionally promises to pay to the Administrative Agent for the ratable accounts of the Lenders the principal amount advanced and outstanding under the Mortgage Loans, plus all accrued and unpaid interest thereon (at the rates per annum set forth in Section 2.07 hereof) in installments as follows: (a) during the Construction Period, all accrued and unpaid interest, in amounts that may vary, shall be paid monthly on each Interest Payment Date, beginning on the first Interest Payment Date following the date of the Mortgage Loan Notes and continuing through and including the Amortization Commencement Date; and (b) during the Permanent Loan Period, consecutive monthly installments of principal, each in the amount that would result in the outstanding principal amount of the Mortgage Loans, as of the Amortization Commencement Date, being repaid in full over the course of the Amortization Period, together with an equal number of installments of interest payable in arrears in amounts that may vary, due and payable on the first Interest Payment Date following the Amortization Commencement Date and continuing on each Interest Payment Date thereafter, plus ONE (1) FINAL INSTALLMENT, due and payable on the Mortgage Loan Maturity Date, in an amount equal to the outstanding principal balance of the Mortgage Loans, together with all other amounts outstanding under the Mortgage Loan Notes and under the Credit Agreement and other Credit Documents with respect to the Mortgage Loans, including accrued interest, costs, expenses, and other sums and charges.

*2.06.3 A. Mandatory Prepayments.* The Mortgage Loan Borrower promises to pay, or cause to be paid, to the Administrative Agent for the accounts of the Lenders the Mandatory Prepayments required pursuant to Section 2.06.3 of this Agreement. In addition, the Mortgage Loan Borrower promises to make such prepayments required pursuant to the Construction Loan Addendum and the Mortgage.

*2.06.4 A. Voluntary Prepayments.* The Mortgage Loan Borrower may, upon notice to the Administrative Agent, at any time or from time to time voluntarily prepay the Mortgage Loans in whole or in part without premium or penalty except for the charges set forth in Section 2.07; provided that (a) such notice must be received by the Administrative Agent not later than 11:00 a.m. (i) three (3) Business Days prior to any date of any prepayment; and (b) any voluntary prepayment of the Mortgage Loans shall be in a principal amount of not less than One Million Dollars (\$1,000,000). The Administrative Agent will promptly notify each Lender of its receipt of each such notice, and of the amount of such Mortgage Loan Commitment Percentage of such prepayment. If such notice is given by the Mortgage Loan Borrower, the Mortgage Loan Borrower shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein. Any prepayment of a LIBOR Borrowing at the Adjusted LIBOR Rate shall be accompanied by all accrued interest on the amount prepaid, together with any additional amounts required pursuant to Section 2.07.3. Each such prepayment shall be applied to the Mortgage Loans in accordance with the Mortgage Loan Commitment Percentages of the Lenders.

*Section 2.06.5A. Permitted Purposes Of Mortgage Loans.* The proceeds of the Mortgage Loans shall be used by the Mortgage Loan Borrower to finance the land acquisition and construction of a new service facility outside of Houston, Texas (generally known as the southwest quadrant of Highway 290 and Stokes Road in Waller, TX and more particularly described on the Mortgage). Advances under the Mortgage Loans for the purposes of construction shall be made in accordance with the Construction Loan Addendum.

Section 4.7. Amendment to Section 2.07 (Interest Terms Applicable to the Loans).

(a) Section 2.07.1 is hereby amended and restated in its entirety as set forth below:

2.07.1 *Adjusted Base Rate.* Swingline Loans advanced and outstanding shall bear interest at the Adjusted Base Rate. Absent a timely election by the Borrower Representative of a LIBOR Borrowing in accordance with Section 2.07.2 of this Agreement, the unpaid balances of the Floor Plan Loans (including M&T Advances), Revolving Credit Loans, and Term Loans, including any balances of any Adjusted LIBOR Rate Borrowings for which the applicable Interest Period has expired without an effective continuation, shall be deemed automatically to bear interest at the Adjusted Base Rate. Changes in the Adjusted Base Rate shall be made when and as changes in the Base Rate occur. Each election by the Borrower Representative of an Adjusted Base Rate Borrowing shall be in the Minimum Borrowing Amount, or any multiple thereof. Payments on account of Adjusted Base Rate Borrowings shall be due and payable in arrears monthly on the Interest Payment Date in each consecutive month.

(b) Section 2.07.2 (captioned "*LIBOR Borrowing Option*") is hereby amended such that subsection "(c)" below (captioned "*Interest Rate Applicable to Mortgage Loans*") shall be added to such Section immediately following subsection "(b)" (captioned "*Election of Adjusted Daily LIBOR Borrowing*"):

(c) *Interest Rate Applicable to Mortgage Loans.*

i. *Adjusted LIBOR Rate.* Subject to the terms of this Section (including subsection "(ii)" (captioned "*Availability*"), interest shall accrue on principal balances advanced and outstanding on account of the Mortgage Loans at the Adjusted LIBOR Rate for successive one-month Interest Periods determined for the first draw under the Mortgage Loans and continuing thereafter as redetermined and reset for each consecutive Interest Period. Interest payments shall be due and payable in arrears on the Interest Payment Date at the end of each such Interest Period.

ii. *Availability.* If prior to the commencement of any Interest Period for a LIBOR Borrowing: (1) the Administrative Agent is advised that the Required Lenders have determined that a Change In Law or a change in market conditions has made it impractical for the Lenders to offer pricing based on the Adjusted LIBOR Rate; or (2) the Administrative Agent determines (which determination shall be conclusive absent manifest error) that adequate and reasonable means do not exist for ascertaining the LIBOR Rate for such Interest Period; or (3) the Administrative Agent is advised by the Required Lenders that the LIBOR Rate applicable to such Interest Period will not adequately and fairly reflect the cost to the Lenders of making or maintaining the proposed LIBOR Borrowing for such Interest Period; then the Administrative Agent shall give notice thereof to the Mortgage Loan Borrower and the Lenders as promptly as practicable thereafter and, until the Administrative Agent notifies the Mortgage Loan Borrower and the Lenders that the circumstances giving rise to such notice no longer exist, (x) any request to convert any borrowing to, or continue any borrowing as, a LIBOR Borrowing shall be ineffective and (y) any requested LIBOR Borrowing shall bear interest at the Adjusted Base Rate.

Section 4.8. Amendment to Section 2.07.3 /Breakage Costs. Section 2.07.3 of the Credit Agreement is hereby amended by replacing clause (I) therein with the following:

(I) any repayment or prepayment of any LIBOR Borrowings (including any payment resulting from the acceleration of the Loans in accordance with the terms of this Agreement or from an assignment required by Section 2.11 of this Agreement) or any conversion of LIBOR Borrowings for any reason occurs on a date which is not a Business Day and, with respect to any LIBOR Borrowing on account of a Revolving Credit Loan, Term Loan, or Mortgage Loan is not the last day of an Interest Period.

Section 4.9. Additional Amendment to Section 2.07. Section 2.07 of the Credit Agreement is hereby amended by adding the following subsections 2.07.10 and 2.07.11 as set forth below:

*2.07.10. Effect of Benchmark Transition Event.*

(a) *Benchmark Replacement*. Notwithstanding anything to the contrary herein or in any other Credit Document, upon the occurrence of a Benchmark Transition Event or an Early Opt-in Election, as applicable, the Administrative Agent and the Borrowers may amend this Agreement to replace LIBOR with a Benchmark Replacement. Any such amendment with respect to a Benchmark Transition Event will become effective at 5:00 p.m. on the fifth (5th ) Business Day after the Administrative Agent has posted (or otherwise made available) such proposed amendment to all Lenders and the Borrowers so long as the Administrative Agent has not received, by such time, written notice of objection to sue amendment from Lenders comprising the Required Lenders. Any such amendment with respect to an Early Opt-in Election will become effective on the date that Lenders comprising the Required Lenders have delivered to the Administrative Agent written notice that such Required Lenders accept such amendment. No replacement of LIBOR with a Benchmark Replacement pursuant to this Section titled "Effect of Benchmark Transition Event" ("this Section") will occur prior to the applicable Benchmark Transition Start Date. The Borrowers shall pay all out-of-pocket costs (including reasonable attorney fees) incurred by the Administrative Agent in connection with any amendment and related actions contemplated in this Section.

(b) *Benchmark Replacement Conforming Changes*. In connection with the implementation of a Benchmark Replacement, the Administrative Agent will have the right to make Benchmark Replacement Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Credit Document, any amendments implementing such Benchmark Replacement Conforming Changes will become effective without any further action or consent of any other party to this Agreement. Administrative Agent shall not be liable to any party hereto for any Benchmark Replacement Conforming Changes it makes in good faith.

(c) *Notices; Standards for Decisions and Determinations*. The Administrative Agent will endeavor to promptly notify the Borrowers and the Lenders of (i) any occurrence of a Benchmark Transition Event or an Early Opt-in Election, as applicable, and its related Benchmark Replacement Date and Benchmark Transition Start Date, (ii) the implementation of any Benchmark Replacement, (iii) the effectiveness of any Benchmark Replacement Conforming Changes and (iv) the commencement or conclusion of any Benchmark Unavailability Period. Any determination, decision or election that may be made by the Administrative Agent or Lenders pursuant to this Section, including, without limitation, any determination with respect to a tenor, rate or adjustment, or of the occurrence or non-occurrence of an event, circumstance or date, and any decision to take or refrain from taking any action, will be conclusive and binding on all parties hereto absent manifest error, and may be made in its or their sole discretion and without consent from any other party hereto (except, in each case, as expressly required pursuant to this Section) and shall not be a basis of any claim of liability of any kind or nature by any party hereto, all such claims being hereby waived individually by each party hereto.



(d) *Benchmark Unavailability Period.* Upon the Borrower's receipt of notice of the commencement of a Benchmark Unavailability Period, the Borrowers may revoke (as applicable) any request for a LIBOR Borrowing of, conversion to, or continuation of Loan to be made, converted or continued at the Adjusted LIBOR Rate during any Benchmark Unavailability Period and, failing that, the Borrowers will be deemed to have converted any such request (as applicable) into a request for a borrowing of or conversion to a loan that shall accrue interest at Adjusted Base Rate. During any Benchmark Unavailability Period, the component of Base Rate based upon LIBOR will not be used in any determination of Adjusted Base Rate.

2.07.11. *Disclosure Regarding the Availability of LIBOR.* Each of the Borrowers acknowledges and understands that (i) (USD) LIBOR is established, issued and regulated by third parties, and that its continuing existence and ongoing viability as a source and basis for establishing contractual interest rates is entirely outside the control of M&T Bank, (ii) regulatory agencies in the United States and worldwide have advised that LIBOR may be discontinued after 2021, or possibly sooner, (iii) in order to address the possibility of LIBOR discontinuance, the terms of any Loans or proposed loan(s) referenced herein may include provisions (modeled after recommendations issued by the Federal Reserve's Alternative Reference Rates Committee, or otherwise) that contemplate the replacement of LIBOR as a basis for establishing the applicable interest rate for such loans, and (iv) should the actual discontinuance of LIBOR occur, any replacement index may be materially different than LIBOR, and necessitate substantive changes (arising from such differences) to the manner in which the applicable interest rate for the proposed loan(s) is calculated and applied. Notwithstanding the above, each of the Borrowers have knowingly and voluntarily requested and/or accepted a LIBOR pricing proposal from M&T Bank, accepting any inherent risks associated with the utilization and any subsequent discontinuance of LIBOR, and hereby waives any claims or defenses against the Bank in connection therewith.

Section 4.10. Amendment to Section 5.13 /Inspection Rights. Section 5.13 of the Credit Agreement is hereby amended by adding at the end thereof the following additional sentence:

Without limitation to the foregoing the Mortgage Loan Borrower, Diversified, and the other Loan Parties hereby agree to permit the Credit Parties and their designees to visit and inspect the property that is encumbered by the Mortgage in accordance with the terms of the Construction Loan Addendum and the Mortgage.

Section 4.11. Amendment to Section 8.05 (Application of Funds). Section 8.05 of the Credit Agreement is hereby amended by adding at the end thereof the following:

Notwithstanding the foregoing, any amounts received on account of the Mortgage or the property encumbered thereby shall be applied to the Mortgage Loans and related Obligations in the order set forth in the Mortgage, or if not so specified, in the order specified in sections 8.05.1 -8.05.5 with respect to the other Obligations.

Section 4.12 Schedule 1.05 (captioned “Mortgage Property Support Documentation”) is hereby added to the Credit Agreement.

Section 4.13. The following Exhibits (attached hereto) are hereby added to the Credit Agreement: Exhibit L, “Construction Loan Addendum” and Exhibit M, “Mortgage Loan Notes”.

Section 5. Representations And Warranties. As an inducement to the Credit Parties to enter into this Amendment and to agree to the amendments and modifications set forth herein, each of the Obligor makes the following representations and warranties to the Credit Parties:

Section 5.1. Authority And Good Standing. Each of the Obligor: (a) is in good standing in the jurisdiction of its organization; (b) is duly licensed or qualified and in good standing in all jurisdictions where the property owned or leased by it or the nature of the business transacted by it makes such licensing or qualification necessary, and (c) has the power to enter into this Amendment and to perform all of its obligations hereunder. The execution, delivery, and performance of its obligations under this Amendment, the Credit Agreement, and the other Credit Documents have been authorized by all necessary organizational action of each of the Obligor.

Section 5.2. No Consent. No consent, approval, exemption, order or authorization of, or a registration or filing with any Governmental Authority or any other Person is required by any Law or any agreement (other than the Credit Documents) in connection with the execution and delivery of this Amendment and carrying out of the Credit Agreement and the Credit Documents, as amended.

Section 5.3. No Conflict. The execution and delivery of this Amendment by the Additional Loan Parties and performance by the Additional Loan Parties of their respective obligations under the Credit Agreement do not and will not (a) contravene the terms of any Additional Loan Party’s Organization Documents; (b) conflict with or result in any breach or contravention of, or the creation of any Lien under, require any payment to be made under, or require any notice or consent (that has not been given or obtained) under (i) any contractual obligation to which such Additional Loan Party is a party or affecting such Additional Loan Party or the properties of such Additional Loan Party or any of its Subsidiaries, (ii) any Organization Document of any Additional Loan Party, any Existing Borrower, or any Guarantor, or (iii) any order, injunction, writ or decree of any Governmental Authority or any arbitral award to which any such Additional Loan Party or its property is subject, or (c) violate any Law.

Section 5.4. Enforceability. This Amendment and each of the other Credit Documents to which each of the Obligor is a party have been duly executed and delivered by each Obligor and constitute legal, valid and binding obligations of each of the Obligor enforceable in accordance with their respective terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium and similar Laws affecting creditors’ rights generally and general principles of equity.

Section 5.5. Accuracy Of Information. All information and data submitted by or on behalf of the Obligor in connection with this Amendment and the amendments and other transactions contemplated herein is true, accurate and complete in all material respects as of the date made and contains no knowingly false, incomplete or misleading statements.

Section 5.6. Pending Proceedings. There are no actions, suits, proceedings or investigations pending or, to the knowledge of any of the Obligor threatened, against any Obligor or any assets of any Obligor, the adverse determination of which, individually or in the aggregate, could be reasonably expected to result in any Material Adverse Change. No judgments have been entered against any of the Obligor which would result in an Event of Default under Section 7.05 of the Credit Agreement.

Section 5.7. Events of Default. As of the Effective Date, no Defaults or Events of Default exist.

Section 6. Designation of Borrower Representative: Notices. Each of the Additional Loan Parties each hereby designates and appoints the Borrower Representative as its representative and agent to act on its behalf as set forth in Section 2.18.1 of the Credit Agreement, with full power and authority to issue, execute, deliver and acknowledge as appropriate, loan notices, interest rate elections, notices of various events and occurrences required by the Credit Agreement and certificates including Compliance Certificates, and to give instructions with respect to the disbursement of the proceeds of the Loans (other than the Mortgage Loans which shall be requested by the Mortgage Loan Borrower), give and receive all other notices and consents hereunder or under any of the other Credit Documents and take all other actions (including in respect of compliance with covenants) on its behalf under the Credit Documents. This power-of attorney is coupled with an interest and cannot be revoked, modified or amended without the prior written consent of the Required Lenders. All notices to the Additional Loan Parties shall be given as set forth in Section 10.10 of the Credit Agreement with respect to a Borrower.

Section 7. Further Assurances. Each of the Obligors agrees to execute and deliver to the Administrative Agent such documents as may, from time to time, be reasonably requested by the Administrative Agent in order to amend and modify the Credit Agreement and the other Credit Documents as contemplated by this Amendment.

Section 8. No Novation; No Refinance; No Impairment of Security Interest. It is the intent of each of the Parties hereto that nothing contained in this Amendment shall be deemed to effect or accomplish or otherwise constitute a novation of any of the Loans or the Credit Documents or of any of the obligations owed by any of the Obligors to the Credit Parties or to be a refinance of any of the Obligations. This Amendment shall not release, limit or impair in any way the effectiveness and priority of the security interests, mortgages, pledges, assignments, and other Liens in the Collateral granted, described, and provided in the Credit Agreement and the other Credit Documents for the benefit of the Secured Parties as security for the Obligations, all of which security interests, mortgages, pledges, assignments, and other Liens shall continue unimpaired in full force and effect and are hereby ratified and confirmed.

Section 9. Limited Amendment. Except to the extent amended pursuant to Section 2 of this Amendment, all of the terms, covenants, conditions, and provisions of the Credit Agreement and the other Credit Documents shall remain in full force and effect and are hereby ratified and confirmed by each of the Obligors which is a party thereto. Nothing herein shall constitute a waiver of any provision of the Credit Agreement or any of the other Credit Documents, and each of the Obligors hereby ratifies and confirms all of the Credit Documents to which it is a party, after giving effect to the amendments set forth herein. No failure or delay by any of the Credit Parties in the exercise or enforcement of any of their rights under the Credit Agreement or any other Credit Document shall be a waiver of such right or remedy nor shall a single or partial exercise or enforcement thereof preclude any other or further exercise or enforcement thereof or the exercise or enforcement of any other right or remedy. Any such consent or waiver must be specific and in writing to be binding upon the Credit Parties and no such consent or waiver shall constitute, unless specifically so expressed in writing by the Administrative Agent, a future consent to, or waiver of, performance or exact performance by the Obligors. No consent, amendment, or waiver shall constitute a course of dealing.

Section 10. Enforceability. This Amendment shall inure to the benefit of and be enforceable against each of the Parties and their respective successors and assigns.

Section 11. Reimbursement of Administrative Agent's Expenses. The Borrowers agree to reimburse to the Administrative Agent promptly upon receipt of an invoice therefor, all Credit Party Expenses incurred by the Administrative Agent in connection with the negotiation and preparation of this Amendment, and all other expenses incurred by the Administrative Agent as of that date in connection with the consummation of the transactions and matters described herein,

Section 12. Choice Of Law; Consent To Jurisdiction; Agreement As To Venue. This Amendment shall be construed, performed and enforced and its validity and enforceability determined in accordance with the Laws of the State of New York ("Governing State"). Sections 10.20 (captioned "Jurisdiction"), 10.21 (captioned "Venue"), and 10.22 (captioned "Service of Process) of the Credit Agreement are incorporated herein by reference and each of the Obligors hereby agrees to all such terms.

Section 13. **RELEASE**. **IN ORDER TO INDUCE THE ADMINISTRATIVE AGENT AND THE LENDERS TO ENTER INTO THIS AMENDMENT, EACH OF THE OBLIGORS FOREVER RELEASES AND DISCHARGES THE ADMINISTRATIVE AGENT AND THE LENDERS AND EACH OF THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, ATTORNEYS, AND AGENTS (COLLECTIVELY, THE "RELEASED PARTIES") FROM ANY AND ALL CLAIMS, CAUSES OF ACTION, SUITS AND DAMAGES (INCLUDING CLAIMS FOR ATTORNEYS' FEES AND COSTS), ARISING OUT OF A COMMISSION OR OMISSION OF THE ADMINISTRATIVE AGENT OR THE LENDERS EXISTING OR OCCURRING ON OR PRIOR TO THE EFFECTIVE DATE, WHICH ANY OF THE OBLIGORS, JOINTLY OR SEVERALLY, EVER HAD OR MAY NOW HAVE AGAINST ANY OF THE RELEASED PARTIES FOR ANY SUCH CLAIMS ARISING OUT OF OR RELATED IN ANY WAY TO THE OBLIGATIONS, THE CREDIT DOCUMENTS, THIS AMENDMENT, OR THE ADMINISTRATION THEREOF, WHETHER KNOWN OR UNKNOWN, INCLUDING BUT NOT LIMITED TO ANY AND ALL SUCH CLAIMS BASED UPON OR RELYING ON ANY ALLEGATIONS OR ASSERTIONS OF DURESS, ILLEGALITY, UNCONSCIONABILITY, BAD FAITH, BREACH OF CONTRACT, REGULATORY VIOLATIONS, NEGLIGENCE, MISCONDUCT, OR ANY OTHER TORT, CONTRACTOR REGULATORY CLAIM OF ANY KIND OR NATURE. THIS RELEASE IS INTENDED TO BE FINAL AND IRREVOCABLE AND IS NOT SUBJECT TO THE SATISFACTION OF ANY CONDITIONS OF ANY KIND.**

Section 14. Texas Property Code Waiver. Each of the Loan Parties hereby waives for the benefit of the Credit Parties any and all rights under Sections 51.003, 51.004, and 51.005 of the Texas Property Code, as amended.

Section 15. Counterparts And Delivery. This Amendment may be executed and delivered 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. Delivery of an executed counterpart of a signature page to this Amendment electronically or via facsimile shall be just as effective as the delivery of a manually executed counterpart of this Amendment.

Section I 6. USA Patriot Act Notice. The Administrative Agent hereby notifies the Additional Loan Parties that pursuant to the requirements of the USA Patriot Act it is required to obtain, verify and record information that identifies each Additional Loan Party, which information includes the name and address of each Additional Loan Party and other information that will allow the Administrative Agent and the other Secured Parties to identify the Additional Loan Parties in accordance with the USA Patriot Act. Each Additional Loan Party agrees to, promptly following a request by the Administrative Agent, provide all such other documentation and information that the Administrative Agent reasonably requests in order to comply with its ongoing obligations under applicable “know your customer” and anti money laundering rules and regulations, including the USA Patriot Act.

Section 17. Waiver of Jury Trial. All Parties to this Amendment waive the right to a trial by jury in any action brought to enforce or construe this Amendment or which otherwise arises out of or relates to this Amendment or the transactions contemplated herein.

[Signatures Begin On The Following Page]

**Signature Page To Third Amendment and Joinder to Credit Agreement - Continued:**

**ADMINISTRATIVE AGENT:**

MANUFACTURERS AND TRADERS TRUST COMPANY,  
A New York Banking Corporation,  
In its Capacity As Administrative Agent

By: */s/ Brendan Kelly*

\_\_\_\_\_  
Brendan Kelly,  
Vice President

**LENDER:**

MANUFACTURERS AND TRADERS TRUST COMPANY,  
As A Lender

By: */s/ Brendan Kelly*

\_\_\_\_\_  
Brendan Kelly,  
Vice President

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**Signature Page To Third Amendment and Joinder to Credit Agreement - Continued:**

**LENDER:**

BMO HARRIS BANK N.A.,  
As A Lender

By /s/ Jonathan Terrell,  
Jonathan Terrell,  
Vice President

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## SCHEDULE 1.05

### **Mortgage Property Support Documentation**

“Mortgage Property Support Documentation” means the following, all in form and substance satisfactory to the Administrative Agent:

- (a) Mortgages and Assignment of Leases and Rents. Fully executed, notarized, and recordable mortgages and deeds of trust (as applicable based on relevant state law and customary practice) granted by one or more of the Borrowers as security for the Obligations (collectively, “Mortgages”) and, an Assignment of Leases and Rents (either as a separate document or incorporated into the Mortgage (as required by the Administrative Agent)) for each property to be collateral security for the Obligations (each such property, “Real Property”) pursuant to the terms of the Credit Documents.
- (b) Mortgage Policies. Fully paid American [or Texas, California, as/if applicable] Land Title Association Lender’s Extended Coverage title insurance policies in form and substance reasonably acceptable to Administrative Agent (the “Mortgage Policies”), with endorsements and in amounts acceptable to the Administrative Agent, issued by title insurers acceptable to the Administrative Agent (“Title Insurance Company”), insuring the Mortgages to be valid first and subsisting Liens on the Real Property described therein, free and clear of all defects (including, but not limited to, mechanics’ and materialmen’s Liens) and encumbrances, excepting only Permitted Liens (as defined in the respective Mortgage), and providing for such other affirmative insurance and endorsements to title and such coinsurance and direct access reinsurance as the Administrative Agent may deem necessary or desirable. Further, each Loan Party agrees to provide or obtain any customary affidavits and indemnities as may be required or necessary to obtain Mortgage Policies satisfactory to the Administrative Agent and the Title Insurance Company.
- (c) Survey. Current American Land Title Association/American Congress on Surveying and Mapping form surveys, for which all necessary fees (where applicable) have been paid, in form and substance satisfactory to and satisfactory to each of the Administrative Agent and the Title Insurance Company by a land surveyor duly registered and licensed in the States in which the Real Property described in such surveys is located, showing all buildings and other improvements, any off-site improvements, the location of any easements, parking spaces, rights of way, building set-back lines and other dimensional regulations and the absence of encroachments, either by such improvements or on to such Real Property, and other defects, other than encroachments and other defects acceptable to the Administrative Agent and the Title Insurance Company or satisfactory “same as survey” title coverage.
- (d) Flood Hazard Documentation. For all Real Property subject to a Mortgage, (i) “Life of Loan” Federal Emergency Management Agency Standard Flood Hazard determinations, (ii) if applicable, notices, in the form required by federal Flood Laws, as to special flood hazard area status and flood disaster assistance duly executed by the Borrowers or any other applicable Loan Party, and, (iii) if any building on an improved Real Property encumbered by a Mortgage is located in a Special Flood Hazard Area, or if otherwise required based on such determinations and notices, a flood insurance policy on terms reasonably satisfactory to the Administrative Agent and each Lender, as determined at least 10 Business Days prior to the signing of any Mortgage.

- (e) Insurance. Evidence of casualty, liability and other insurance required by the terms of the Mortgages and the Credit Documents.
- (f) Appraisal. An appraisal of the Real Property described in each of the Mortgages complying with the requirements of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989, as amended (“FIRREA”) in all respects which appraisals shall be in form and substance reasonably satisfactory to the Administrative Agent and prepared by a third-party appraiser compliant with FIRREA requirements and acceptable to the Administrative Agent.
- (g) Legal Opinions. To the extent requested by the Administrative Agent, favorable opinions of counsel to the Loan Parties for each jurisdiction in which the Real Property is located in form and substance reasonably acceptable to Administrative Agent and its counsel.
- (h) Property and Environmental Reports. Satisfactory third-party engineering, soils, environmental reports/reviews, property condition reports, if applicable and other reports, in form and substance acceptable to the Administrative Agent, from professional firms acceptable to Administrative Agent, including, but not limited to Phase I environmental assessments.
- (i) Environmental Indemnity Agreement. The Administrative Agent shall have received an Environmental Indemnity Agreement, in form and substance satisfactory to the Administrative Agent, executed by all Borrowers and Guarantors and covering all Real Property.
- (j) Leased Real Property Documents. To the extent requested by the Administrative Agent with respect to real property covered by ground leases, all lease agreements between the applicable leasing entity and each of the lessors of the leased Mortgaged Properties (as applicable) and estoppel and consent agreements executed by each of the lessors of the leased Mortgaged Properties (as applicable), along with (i) a memorandum of lease in recordable form with respect to such leasehold interest, executed and acknowledged by the owner of the affected Real Property, as lessor, or (ii) evidence that the applicable lease with respect to such leasehold interest or a memorandum thereof has been recorded in all places necessary or desirable, in the Administrative Agent’s reasonable judgment, to give constructive notice to third-party purchasers of such leasehold interest, or (iii) if such leasehold interest was acquired or subleased from the holder of a recorded leasehold interest, the applicable assignment or sublease document, executed and acknowledged by such holder, in each case in form sufficient to give such constructive notice upon recordation and otherwise in form and substance reasonably satisfactory to the Administrative Agent.
- (k) Estoppels and SNDA. To the extent requested by the Administrative Agent, as to owned Mortgage Properties, copies of the leases (as applicable), along with (i) estoppel certificates, from the lessees for such Mortgaged Properties and (ii) subordination and attornment agreements, or subordination, non-disturbance and attornment agreements, as applicable based on the affiliate or non-affiliate status of the lessee, in each case form and substance reasonably satisfactory to the Administrative Agent from those tenants of such Mortgaged Properties.
- (l) Other Real Property Information. The Administrative Agent shall have received such other certificates, documents and information as are reasonably requested by the Lenders, each in form and substance reasonably satisfactory to the Administrative Agent.



Execution Version

**CONSTRUCTION LOAN ADDENDUM**

**THIS CONSTRUCTION LOAN ADDENDUM** (this "Addendum") is made to be effective as of the 6th day of March, 2020 by and among each lender from time to time a party to this Addendum (individually, a "Lender" and collectively, the "Lenders"), **MANUFACTURERS AND TRADERS TRUST COMPANY**, a New York banking corporation (in its capacity as Administrative Agent and its successors and assigns in such capacity, "Administrative Agent"), and **LONE STAR ACQUISITION LLC**, a Delaware limited liability company authorized to do business in the State of Texas as Lone Star Land of Houston, LLC ("Mortgage Loan Borrower"), and the other Borrowers which are parties to the Credit Agreement (as hereinafter defined). This is an addendum to the Credit Agreement dated as of March 15, 2018 (as amended, modified, extended, renewed, restated, supplemented or replaced from time to time, the "Credit Agreement") by and among the Mortgage Loan Borrower, the other Borrowers which are parties thereto, the Administrative Agent and the Lenders which are parties thereto, who agree as follows:

**ARTICLE 1 – THE MORTGAGE LOANS**

1.1 Definitions; General Information and Exhibits. This Addendum includes the Exhibits listed below, all of which Exhibits are attached hereto and made a part hereof for all purposes. Mortgage Loan Borrower, the other Borrowers, and Lenders agree that if any Exhibit to be attached to this Addendum contains blanks, the same shall be completed correctly and in accordance with this Addendum prior to or at the time of the execution and delivery thereof.

Exhibit "A"	-	Legal Description of the Land
Exhibit "B"	-	Definitions
Exhibit "C"	-	Conditions Precedent to the Initial Advance
Exhibit "D"	-	Budget
Exhibit "E"	-	Plans
Exhibit "F"	-	Advances
Exhibit "F-1"	-	Draw Request
Exhibit "G"	-	Survey Requirements
Exhibit "H"	-	Lease Agreement

The Exhibits contain other terms, provisions and conditions applicable to the Loan. Capitalized terms used in this Addendum shall have the meanings assigned to them throughout this Addendum and in Exhibit "B", and any terms used herein without definition shall have the meaning given each such respective term in the Credit Agreement. This Addendum and the other Credit Documents, which must be in form, detail and substance satisfactory to Administrative Agent and Lenders, evidence the agreements of the Mortgage Loan Borrower, the other Borrowers, Administrative Agent and Lenders with respect to the Loan. The Mortgage Loan Borrower and the other Borrowers shall comply with all of the Credit Documents.

1.2 Description of Mortgage Loans; Purpose. The Mortgage Loans are in the aggregate principal amount of Six Million One Hundred Thirty-Six Thousand Dollars (\$6,136,000.00). The proceeds of the Mortgage Loans shall be used by Mortgage Loan Borrower as follows: (a) to pay, in part, the cost of acquisition of the Land, (b) the remainder to pay the cost of the construction of the Improvements on the Land, and (c) to pay other fees, costs and expenses relating to the Property if and to the extent that such costs are specifically provided for in the Budget.

1.3 Commitment to Lend. Mortgage Loan Borrower agrees to borrow from each Lender, and each Lender severally agrees to make advances to or on behalf of Mortgage Loan Borrower of its pro rata share of the proceeds of the Mortgage Loans in amounts at any one time outstanding not to exceed such Lender's Mortgage Loan Commitment Percentage and (except for Administrative Agent with respect to Administrative Agent Advances), on the terms and subject to the conditions set forth in this Addendum and Exhibit "C" and Exhibit "F" attached to this Addendum. Lenders' Mortgage Loan Commitments shall expire and terminate automatically (a) if the Mortgage Loans are prepaid in full, (b) upon the occurrence, and during the continuance, of a Default and the election by Administrative Agent and/or the Required Lenders to terminate Lenders' Mortgage Loan Commitments in accordance with Section 4.2 of this Addendum, and (c) on the Maturity Date. The Mortgage Loans are not revolving. Any amount repaid may not be reborrowed.

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1.4 Budget. The Budget is attached to this Addendum as Exhibit "D". The amounts listed in the Budget as the (a) "Total Costs" are the maximum costs anticipated by Mortgage Loan Borrower for each item specified; (b) "Total Budget" is the maximum cost anticipated by Mortgage Loan Borrower for the Project; (c) "Loan Proceeds" are the maximum amounts to be advanced under the Mortgage Loans (up to the aggregate principal amount of the Mortgage Loans and (d) "Up-Front Equity" is the dollar amount shown on the Budget (in the column captioned "Total Equity" to be paid by Mortgage Loan Borrower towards the Total Costs prior to the Initial Advance of the Loan. Loan Proceeds shall be advanced subject to the terms, covenants, conditions and provisions of this Addendum, including without limitation, the provisions of Exhibit "C" and Exhibit "F" to this Addendum. Mortgage Loan Borrower shall not amend the Budget, or otherwise reallocate Mortgage Loans funds from one Budget line item to another, without the prior written approval of Administrative Agent in its reasonable discretion. The Mortgage Loan Borrower acknowledges that Draw Requests which include such changes (including Permitted Changes) to the Budget, may require additional time for review, analysis, and approval prior to funding of a Draw Request by the Lenders. The Budget has been prepared by Mortgage Loan Borrower, and Mortgage Loan Borrower represents to Administrative Agent and Lenders that, to the best of Mortgage Loan Borrower's information and belief, the Budget includes all material costs incident to the Mortgage Loans and the Project through the Completion of Construction (collectively, the "Aggregate Cost") after taking into account the requirements of this Addendum, including "hard" and "soft" costs, fees and expenses. Unless approved by Administrative Agent in its reasonable discretion, no advance shall be made (a) for any cost not set forth in the Budget, (b) from any line item in the Budget that, when added to all prior advances from that line item, would exceed the lesser of (i) the actual cost incurred by Mortgage Loan Borrower for such line item, or (ii) the sum shown in the Budget for such line item, (c) from any contingency line item in the Budget, or (d) to pay interest on the Mortgage Loans after commencement of operations in the Improvements, if and to the extent that there is sufficient net operating income from the Property to pay such interest. Advances from any line item in the Budget for purposes other than those for which amounts are initially allocated to such line item, or changes in the relative amounts allocated to particular line items in the Budget may only be made as Administrative Agent in its reasonable discretion deems necessary or advisable.

1.5 Mortgage Loan Borrower's Deposit. If at any time Administrative Agent reasonably determines that the sum of: (a) any unadvanced portion of the Mortgage Loans to which Mortgage Loan Borrower is entitled, plus (b) the portions of the Aggregate Cost that are to be paid by Mortgage Loan Borrower from other funds that, to Administrative Agent's reasonable satisfaction, are available, set aside and committed, is or will be insufficient to pay the actual unpaid Aggregate Cost, Mortgage Loan Borrower shall, within fifteen (15) Business Days after written notice from Administrative Agent, deposit with Administrative Agent the amount of the deficiency ("Mortgage Loan Borrower's Deposit") in an interest-bearing account of Administrative Agent's selection and Mortgage Loan Borrower's approval with interest earned thereon to be part of Mortgage Loan Borrower's Deposit. In particular, and not in limitation of the foregoing, in the event that Administrative Agent shall determine at any time, that the sums allocated under the Mortgage Loans for the payment of interest and debt service, and available for advance to Mortgage Loan Borrower, shall be insufficient to fully support the Project through Completion of Construction, then Mortgage Loan Borrower shall be required to make a Mortgage Loan Borrower's Deposit in an amount, sufficient in the reasonable estimation of Administrative Agent, to pay such interest and debt service, as and when the same shall be due. In the alternative, Mortgage Loan Borrower may request that Lenders cease funding under the Mortgage Loans until Mortgage Loan Borrower shall have invested additional equity into the Project through the payment of Project-related expenses approved by Administrative Agent so that the then unadvanced proceeds of the Mortgage Loans to which Mortgage Loan Borrower shall be entitled shall be sufficient to pay the actual unpaid Aggregate Cost of the Project, as reasonably determined by Administrative Agent. Such Mortgage Loan Borrower's Deposit is hereby pledged to Administrative Agent and Lenders as additional security for the Mortgage Loans, and Mortgage Loan Borrower hereby grants and conveys to Administrative Agent for the ratable benefit of Administrative Agent and Lenders a security interest in all funds so deposited with Administrative Agent, as additional security for the Loan. Administrative Agent may advance all or a portion of any Mortgage Loan Borrower's Deposit prior to advancing any additional Loan Proceeds. Following and during the continuance of any Default, Administrative Agent may (but shall have no obligation to) apply all or any part of any Mortgage Loan Borrower's Deposit against the unpaid Mortgage Loan Obligations in such order as Administrative Agent determines.

## 1.6 Evidence of Debt.

(a) Amounts advanced by each Lender under the Mortgage Loans shall be evidenced by one or more accounts or records maintained by such Lender and by Administrative Agent in the ordinary course of business. The accounts or records maintained by Administrative Agent and each Lender shall be conclusive absent manifest error of the amount of the Mortgage Loans made by Lenders to Mortgage Loan Borrower and the interest and payments thereon. Any failure to so record or any error in doing so shall not, however, limit or otherwise affect the obligation of Mortgage Loan Borrower hereunder to pay any amount owing with respect to the Mortgage Loan Obligations. In the event of any conflict between the accounts and records maintained by any Lender and the accounts and records of Administrative Agent in respect of such matters, the accounts and records of Administrative Agent shall control in the absence of manifest error.

(b) In addition to the accounts and records referred to above, each Lender may attach schedules to its Mortgage Loan Note and endorse thereon the date, amount and maturity of the applicable Note and payments with respect thereto. In the event of any conflict between the accounts and records maintained by Administrative Agent and the accounts and records of any Lender in respect of such matters, the accounts and records of Administrative Agent shall control in the absence of manifest error.

## 1.7 Advances.

(a) Following receipt of a Draw Request, Administrative Agent shall promptly provide each Lender with a copy of the Draw Request in the form of Exhibit "F-1", the related AIA Document G-702 and G-703, the related written certification by Mortgage Loan Borrower's architect and, if available, the related written certification of the Construction Inspector. Administrative Agent shall notify each Lender two (2) Business Days prior to the advance Funding Date of its pro rata share of the amount Administrative Agent has determined shall be advanced in connection therewith ("Advance Amount"). In the case of an advance of Loan Proceeds, each Lender shall make the funds for its pro rata share of the Advance Amount available to Administrative Agent not later than 11:00 a.m. Administrative Agent's Time on the Funding Date thereof. After Administrative Agent's receipt of the Advance Amount from Lenders, Administrative Agent shall make Loan Proceeds in an amount equal to the Advance Amount (or, if less, such portion of the Advance Amount that shall have been paid to Administrative Agent by Lenders in accordance with the terms hereof) available to Mortgage Loan Borrower on the applicable Funding Date by advancing such funds to Mortgage Loan Borrower in accordance with the provisions of Exhibit "F". Mortgage Loan Borrower's acceptance of an Advance Amount that is less than the amount otherwise due to Mortgage Loan Borrower pursuant to the terms of this Addendum shall not prejudice any of Mortgage Loan Borrower's rights or remedies against a Lender or Lenders as a result of such Lender or Lenders failure to fund in accordance with the terms of this Addendum.

(b) Unless Administrative Agent shall have received notice from a Lender prior to 12:00 p.m. (Administrative Agent's Time) on such advance Funding Date that such Lender will not make available to Administrative Agent such Lender's pro rata share of such Advance Amount, Administrative Agent may assume that such Lender has made such pro rata share available on such date in accordance with Subsection (a) above and may, in reliance upon such assumption, make available to Mortgage Loan Borrower a corresponding amount. In such event, if a Lender has not in fact made its pro rata share of the Advance Amount available to Administrative Agent, then the applicable Lender and Mortgage Loan Borrower severally agree to pay to Administrative Agent forthwith on demand such corresponding amount in immediately available funds with interest thereon, for each day from and including the date such amount is made available to Mortgage Loan Borrower to but excluding the date of payment to Administrative Agent, at (i) in the case of a payment to be made by such Lender, the greater of the Federal Funds Rate and a rate determined by Administrative Agent in accordance with banking industry rules on interbank compensation, plus any administrative, processing or similar fees customarily charged by Administrative Agent in connection with the foregoing, and (ii) in the case of a payment to be made by Mortgage Loan Borrower, at the Adjusted LIBOR Rate. If Mortgage Loan Borrower and such Lender shall pay such interest to Administrative Agent for the same or an overlapping period, Administrative Agent shall promptly remit to Mortgage Loan Borrower the amount of such interest paid by Mortgage Loan Borrower for such period. If such Lender pays its pro rata share of the applicable Advance Amount to Administrative Agent, then the amount so paid shall constitute such Lender's pro rata share of such Advance Amount. Any payment by Mortgage Loan Borrower shall be without prejudice to any claim Mortgage Loan Borrower may have against a Lender that shall have failed to make such payment to Administrative Agent.

(c) A written notice of Administrative Agent to any Lender or to Mortgage Loan Borrower with respect to any amount owing under this Section shall be conclusive, absent manifest error.

(d) If any Lender makes available to Administrative Agent funds for any advance to be made by such Lender as provided in the foregoing provisions of this Section, and such funds are not made available to Mortgage Loan Borrower by Administrative Agent because the conditions to the applicable advance set forth in Exhibit "F" are not satisfied or waived in accordance with the terms hereof, Administrative Agent shall return such funds (in like funds as received from such Lender) to such Lender, without interest.

(e) The obligations of Lenders hereunder to make advances and to make indemnification or reimbursement payments are several and not joint. The failure of any Lender to make any advance, to fund any such participation, or to make any indemnification or reimbursement payment on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender.

(f) Nothing herein shall be deemed to obligate any Lender to obtain the funds for any advance in any particular place or manner or to constitute a representation by any Lender that it has obtained or will obtain the funds for any advance in any particular place or manner.

#### 1.8 Administrative Agent Advances.

(a) Administrative Agent is authorized, from time to time, in Administrative Agent's sole discretion to make, authorize or determine advances of Loan Proceeds, or otherwise expend funds, on behalf of Lenders ("Administrative Agent Advances"), (i) to pay any costs, fees and expenses as described in Section 6.5 herein, (ii) when the applicable conditions precedent set forth in Exhibit "C" and Exhibit "F" have been satisfied to the extent required by Administrative Agent, and (iii) when Administrative Agent reasonably deems necessary or desirable to preserve or protect the collateral for the Mortgage Loans or any portion thereof (including those with respect to property taxes, insurance premiums, completion of construction, operation, management, improvements, maintenance, repair, sale and disposition) (A) after the occurrence and during the continuance of a Default, and (B) subject to Section 5.1, after acquisition of all or a portion of the Mortgage Loan collateral by foreclosure or otherwise.

(b) Administrative Agent Advances shall constitute obligatory advances of Lenders under this Addendum, shall be repayable on demand and secured by the collateral for the Mortgage Loans, and if unpaid by Lenders as set forth below shall bear interest at the rate applicable to such amount under the Mortgage Loans or if no longer applicable, at the Adjusted Base Rate. Administrative Agent shall notify each Lender in writing of each Administrative Agent Advance. Upon receipt of notice from Administrative Agent of its making of an Administrative Agent Advance, each Lender shall make the amount of such Lender's pro rata share of the outstanding principal amount of the Administrative Agent Advance available to Administrative Agent, in same day funds, to such account of Administrative Agent as Administrative Agent may designate, (i) on or before 3:00 p.m. (Administrative Agent's Time) on the day Administrative Agent provides Lenders with notice of the making of such Administrative Agent Advance if Administrative Agent provides such notice on or before 12:00 p.m. (Administrative Agent's Time), or (ii) on or before 12:00 p.m. (Administrative Agent's Time) on the Business Day immediately following the day Administrative Agent provides Lenders with notice of the making of such advance if Administrative Agent provides notice after 12:00 p.m. (Administrative Agent's Time).

## 1.9 Defaulting Lender.

(a) Administrative Agent shall notify in writing (such written notice being referred to as the “Default Notice”) the Mortgage Loan Borrower (for Mortgage Loan advances) and each non-Defaulting Lender if any Lender is a Defaulting Lender. Each non-Defaulting Lender shall have the right, but in no event or under any circumstance the obligation, to fund such Defaulting Lender Amount, *provided* that within twenty (20) days after the date of the Default Notice (the “Election Period”), such non-Defaulting Lender or Lenders (each such Lender, an “Electing Lender”) irrevocably commit(s) by notice in writing (an “Election Notice”) to Administrative Agent, the other Lenders and Mortgage Loan Borrower to fund the Defaulting Lender Amount and to assume the Defaulting Lender’s obligations with respect to the advancing of the entire undisbursed portion of the Defaulting Lender’s principal obligations under this Addendum (such entire undisbursed portion of the Defaulting Lender’s principal obligations under this Addendum, including its portion of the Payment Amount that is the subject of the default, is hereinafter referred to as the “Defaulting Lender Obligation”). If Administrative Agent receives more than one Election Notice within the Election Period, then the commitment to fund the Defaulting Lender Amount and the Defaulting Lender Obligation shall be apportioned pro rata among the Electing Lenders in the proportion that the amount of each such Electing Lender’s Mortgage Loan Commitment bears to the total Mortgage Loan Commitments of all Electing Lenders. If the Defaulting Lender fails to pay the Defaulting Lender Payment Amount within the Election Period, the Electing Lender or Lenders, as applicable, shall be automatically obligated to fund the Defaulting Lender Amount and Defaulting Lender Obligation (and Defaulting Lender shall no longer be entitled to fund such Defaulting Lender Amount and Defaulting Lender Obligation) within three (3) Business Days following the expiration of the Election Period to reimburse Administrative Agent or make payment to the Mortgage Loan Borrower, as applicable. Notwithstanding anything to the contrary contained herein, if Administrative Agent has funded the Defaulting Lender Amount, Administrative Agent shall be entitled to reimbursement for its portion of the Defaulting Lender Payment Amount pursuant to Section 1.7(b).

(b) Administrative Agent shall not be obligated to transfer to a Defaulting Lender any payments made by or on behalf of Mortgage Loan Borrower to Administrative Agent for the Defaulting Lender’s benefit; nor shall a Defaulting Lender be entitled to the sharing of any payments hereunder or under any Mortgage Loan Note until all Defaulting Lender Payment Amounts are paid in full. Amounts payable to a Defaulting Lender shall be paid by Administrative Agent to reimburse Administrative Agent and any Electing Lender pro rata for all Defaulting Lender Payment Amounts. Solely for the purposes of voting or consenting to matters with respect to the Credit Documents, a Defaulting Lender shall be deemed not to be a “Lender” and such Defaulting Lender’s Mortgage Loan Commitment shall be deemed to be zero. A Defaulting Lender shall have no right to participate in any discussions among and/or decisions by Lenders hereunder and/or under the other Credit Documents. Further, any Defaulting Lender shall be bound by any amendment to, or waiver of, any provision of, or any action taken or omitted to be taken by Administrative Agent and/or the non-Defaulting Lenders under, any Credit Document which is made subsequent to the Defaulting Lender’s becoming a Defaulting Lender. This Section shall remain effective with respect to a Defaulting Lender until such time as the Defaulting Lender shall no longer be in default of any of its obligations under this Addendum by curing such default by payment of all Defaulting Lender Payment Amounts (i) within the Election Period, or (ii) after the Election Period with the consent of the non-Defaulting Lenders. Such Defaulting Lender nonetheless shall be bound by any amendment to or waiver of any provision of, or any action taken or omitted to be taken by Administrative Agent and/or the non-Defaulting Lenders under any Credit Document which is made subsequent to that Lender’s becoming a Defaulting Lender and prior to such cure or waiver. The operation of this subsection or the subsection above alone shall not be construed to increase or otherwise affect the Mortgage Loan Commitment of any non-Defaulting Lender, or relieve or excuse the performance by Mortgage Loan Borrower of its duties and obligations hereunder or under any of the other Credit Documents. Furthermore, nothing contained in this Section shall release or in any way limit a Defaulting Lender’s obligations as a Lender hereunder and/or under any other of the Credit Documents. Further, a Defaulting Lender shall indemnify and hold harmless Administrative Agent and each of the non-Defaulting Lenders from any claim, loss, or costs incurred by Administrative Agent and/or the non-Defaulting Lenders as a result of a Defaulting Lender’s failure to comply with the requirements of this Addendum, including, without limitation, any and all additional losses, damages, costs and expenses (including, without limitation, attorneys’ fees) incurred by Administrative Agent and any non-Defaulting Lender as a result of and/or in connection with (i) a non-Defaulting Lender’s acting as an Electing Lender, (ii) any enforcement action brought by Administrative Agent against a Defaulting Lender, and (iii) any action brought against Administrative Agent and/or Lenders. The indemnification provided above shall survive any termination of this Addendum.

(c) In connection with the adjustment of the amounts of the Mortgage Loan Commitments of the Defaulting Lender and Electing Lender(s) upon the expiration of the Election Period as aforesaid, Mortgage Loan Borrower, Administrative Agent and Lenders shall execute such modifications to the Credit Documents as shall, in the reasonable judgment of Administrative Agent, be necessary or desirable in connection with the adjustment of the amounts of Mortgage Loan Commitments in accordance with the foregoing provisions of this Section. For the purpose of voting or consenting to matters with respect to the Credit Documents such modifications shall also reflect the removal of voting rights of the Defaulting Lender and increase in voting rights of Electing Lenders to the extent an Electing Lender has funded the Defaulting Lender Amount and assumed the Defaulting Lender Obligation. The Defaulting Lender shall be subject to all provisions applicable to Defaulting Lenders (including replacement of same) set forth in the Credit Agreement.

(d) In the event that no Lender elects to commit to fund the Defaulting Lender Amount and Defaulting Lender Obligations within the Election Period, Administrative Agent shall, upon the expiration of the Election Period, so notify Mortgage Loan Borrower and each Lender.

1.10 Several Obligations; No Liability, No Release. Notwithstanding that certain of the Credit Documents now or hereafter may have been or will be executed only by or in favor of Administrative Agent in its capacity as such, and not by or in favor of Lenders, any and all obligations on the part of Administrative Agent (if any) to make any advances of the Mortgage Loans or reimbursements for other Payment Amounts shall constitute the several (and not joint) obligations of the respective Lenders on a ratable basis, according to their respective pro rata shares. Except as may be specifically provided in this Addendum, no Lender shall have any liability for the acts of any other Lender. No Lender shall be responsible to Mortgage Loan Borrower or any other Person for any failure by any other Lender to fulfill its obligations to make advances of the Mortgage Loans or reimbursements for other Payment Amounts, nor to take any other action on its behalf hereunder or in connection with the financing contemplated herein. The failure of any Lender to pay to Administrative Agent its pro rata share of a Payment Amount shall not relieve any other Lender of any obligation hereunder to pay to Administrative Agent its pro rata share of such Payment Amounts as and when required herein, but no Lender shall be responsible for the failure of any other Lender to so fund its pro rata share of the Payment Amount. In furtherance of the foregoing, Lenders shall comply with their obligation to pay Administrative Agent their pro rata share of such Payment Amounts regardless of (a) the occurrence of any Default hereunder or under any Credit Document; (b) any failure of consideration, absence of consideration, misrepresentation, fraud, or any other event, failure, deficiency, breach or irregularity of any nature whatsoever in the Credit Documents; or (c) any bankruptcy, insolvency or other like event with regard to Mortgage Loan Borrower or any other Loan Party (which payment, to the extent required, shall be treated as a participation). The obligation of Lenders to pay such Payment Amounts are in all regards independent of any claims between Administrative Agent and any Lender. Nothing herein shall be deemed or construed to excuse any failure by a Lender to fund its pro rata share of any Payment Amount in accordance with the terms of this Addendum, or to be a waiver of any right or remedy of Mortgage Loan Borrower against such Defaulting Lender as a result thereof.

## **ARTICLE 2 - ADDITIONAL COVENANTS AND ADDENDUMS**

2.1 Construction of the Improvements. Mortgage Loan Borrower shall commence construction of the Improvements on or before the Construction Commencement Date, and shall prosecute the construction of the Improvements with reasonable diligence and continuity, in a good and workmanlike manner, and in accordance with sound building and engineering practices, all applicable Laws and governmental requirements, the Plans and the Credit Documents. Mortgage Loan Borrower shall not permit cessation of work for a period in excess of thirty (30) consecutive days, except for Excusable Delays. Mortgage Loan Borrower shall complete construction of each aspect of the Improvements free and clear of all liens (except liens created by the Credit Documents and the Permitted Encumbrances, as defined in the Mortgage), and shall obtain a certificate of occupancy and all other permits, licenses and approvals required for the occupancy, use and operation of each such aspect of the Improvements from all applicable governmental authorities as required by applicable Laws, on or before the Completion Date required therefor. Mortgage Loan Borrower shall promptly correct, following Mortgage Loan Borrower's receipt of notice and reasonable documentation thereof, (a) any material defect in the Improvements, (b) any material departure from the Plans, Law or governmental requirements, or (c) any encroachment by any Improvements or structure on any building setback line, easement, property line or restricted area.

2.2 Plans and Changes. No construction shall be undertaken on the Land except in a manner that is consistent with the Plans in all material respects. Mortgage Loan Borrower assumes full responsibility for the compliance of the Plans and the Property with all Laws, governmental requirements and sound building and engineering practices. No plans or specifications, or any changes thereto shall be included as part of the Plans until approved by Administrative Agent, Construction Inspector, all applicable Governmental Authorities and all other necessary parties required by the terms of the Credit Documents. Without Administrative Agent's prior written consent, which consent will not be unreasonably withheld, Mortgage Loan Borrower shall not change or modify the Plans, agree to any change order, or allow or approve any extra work by any contractor or any subcontractor, except that Mortgage Loan Borrower may make Permitted Changes if: (a) Mortgage Loan Borrower notifies Administrative Agent in writing of the change or extra work with appropriate supporting documentation and information; (b) to the extent necessary, Mortgage Loan Borrower obtains the approval of the applicable contractor, architect and all sureties; (c) the structural integrity, quality and standard of workmanship of the Improvements is not impaired by such change or extra work; (d) no substantial change in architectural appearance is effected by such change or extra work in any material respect; (e) no default in any obligation to any Person or violation of any Law or governmental requirement would result from such change or extra work; (f) Mortgage Loan Borrower complies with Section 1.5 of this Addendum to cover any excess cost resulting from the change or extra work; and (g) Completion of Construction of the Improvements by the Completion Date will not be affected; *provided, however*, in any event, any change to the Budget will require Administrative Agent approval. Administrative Agent shall not be obligated to review a proposed change or request for extra work unless it has received all documents reasonably necessary to review such change, including the change order, cost estimates, plans and specifications, and evidence that all required approvals other than that of Administrative Agent have been obtained.

2.3 Contracts. Without Administrative Agent's prior written approval, as to parties, terms, and all other matters, Mortgage Loan Borrower shall not (a) enter into any Material Contract for the performance of any work or the supplying of any labor, materials or services for the design or construction of the Improvements, (b) enter into any management, maintenance or other contract pertaining to the Property not described in clause (a) that is not unconditionally terminable by Mortgage Loan Borrower or any successor thereto without penalty or payment on not more than sixty (60) days' notice to the other party thereunder, or (c) modify or amend, in any material respect, or terminate any Material Contract. Mortgage Loan Borrower shall use commercially reasonable efforts to ensure that all such contracts executed after the date hereof shall provide that all rights and liens of the applicable contractor, architect, engineer, supplier, surveyor or other party and any right to remove removable Improvements are subordinate to Lender's rights and liens, shall require all subcontracts and purchase orders to contain a provision subordinating the subcontractors' and mechanics' and materialmen's liens and any right to remove removable Improvements to Lender's rights and liens, and shall provide in such contracts that no change order shall be effective without the prior written consent of Administrative Agent. Mortgage Loan Borrower shall not default (beyond any applicable grace and/or cure period) under any Material Contract, Mortgage Loan Borrower shall not permit any Material Contract to terminate by reason of any failure of Mortgage Loan Borrower to perform thereunder, and Mortgage Loan Borrower shall promptly notify Administrative Agent of any material default thereunder (beyond any applicable grace and/or cure period) of which Mortgage Loan Borrower becomes aware. Mortgage Loan Borrower will deliver to Administrative Agent the names and addresses of all Persons with whom each contractor has contracted or intends to contract under a Material Contract for the construction of the Improvements or for the furnishing of labor or materials therefor.

2.4 Assignment of Contracts and Plans. As additional security for the Mortgage Loan Obligations, Mortgage Loan Borrower hereby transfers and assigns to Administrative Agent for the ratable benefit of Administrative Agent and Lenders and grants a security interest in all of Mortgage Loan Borrower's right, title and interest, but not its liability, in, under, and to all construction, architectural and design contracts, and the Plans, and agrees that all of the same are covered by the security agreement provisions of the Mortgage. Mortgage Loan Borrower agrees to deliver to Administrative Agent from time to time upon Administrative Agent's request such consents to the foregoing assignment from parties contracting with Mortgage Loan Borrower as Administrative Agent may reasonably require. Neither this assignment nor any action by Administrative Agent or Lenders shall constitute an assumption by Administrative Agent or Lenders of any obligation under any contract or with respect to the Plans, Mortgage Loan Borrower hereby agrees to perform all of its obligations under any contract, and Mortgage Loan Borrower shall continue to be liable for all obligations of Mortgage Loan Borrower with respect thereto. During the continuance of any Default hereunder, Administrative Agent shall have the right at any time, (but shall have no obligation) to take in its name or in the name of Mortgage Loan Borrower such action as Administrative Agent may reasonably determine to be necessary to cure any default under any contract or with respect to the Plans or to protect the rights of Mortgage Loan Borrower, Administrative Agent or Lenders with respect thereto. The Administrative Agent agrees to promptly notify the Mortgage Loan Borrower of any such action. Subsequent to the occurrence and during the continuance of any Default, Mortgage Loan Borrower irrevocably constitutes and appoints Administrative Agent as its attorney-in-fact, which power of attorney is coupled with an interest and irrevocable, to enforce in its name or in Administrative Agent's and Lender's name all rights of Mortgage Loan Borrower under any contract or with respect to the Plans. Administrative Agent shall incur no liability if any action so taken by it or on its behalf shall prove to be inadequate or invalid. Mortgage Loan Borrower and all other Loan Parties shall, jointly and severally, indemnify and hold Administrative Agent and Lenders harmless against and from, and shall pay upon reasonable documentation thereof, any loss, cost, liability or reasonable expense (including, but not limited to, reasonable consultants' fees and expenses and reasonable attorneys' fees and expenses) incurred in connection with Mortgage Loan Borrower's failure to perform such contracts or any action taken by Administrative Agent or Lenders as a result of such failure. Administrative Agent may use the Plans for any purpose relating to the Improvements. Mortgage Loan Borrower represents and warrants to Administrative Agent and Lenders that the copy of any contract furnished or to be furnished to Administrative Agent is and shall be a true and complete copy thereof, that the copies of the Plans delivered to Administrative Agent are and shall be true and complete copies of the Plans, that there have been no material modifications thereof which are not fully set forth in the copies delivered, and that its interest therein is not subject to any claim, setoff, or encumbrance except any created by the Credit Documents.

2.5 Storage of Materials. Mortgage Loan Borrower shall cause all materials supplied for, or intended to be utilized in, the construction of the Improvements, but not yet affixed to or incorporated into the Improvements or the Land, to be stored on the Land or offsite upon such terms and conditions as Administrative Agent reasonably deems acceptable and with adequate safeguards to prevent loss, theft, damage or commingling with materials for other projects. Unless otherwise agreed to by Administrative Agent, in the exercise of its reasonable discretion, Mortgage Loan Borrower shall not purchase or order materials for delivery more than ninety (90) days prior to the scheduled incorporation of such materials into the Improvements.

2.6 Construction Inspector. Administrative Agent shall retain the services of a Construction Inspector, whose duties may include, among others, reviewing the Plans and any proposed changes to the Plans, performing construction cost analyses, observing and inspecting work in place and reviewing Draw Requests. The duties of Construction Inspector run solely to Administrative Agent for the ratable benefit of Lenders, and Construction Inspector shall have no obligations or responsibilities whatsoever to Mortgage Loan Borrower and Mortgage Loan Borrower's architect, engineer, contractor or any of their agents or employees. Unless prohibited by applicable Law, all reasonable fees, costs, and expenses of Construction Inspector shall be paid by Mortgage Loan Borrower upon reasonable documentation thereof. Mortgage Loan Borrower shall reasonably cooperate with Construction Inspector and will furnish to Construction Inspector such information and other material as Construction Inspector reasonably considers necessary or useful in performing its duties.

2.7 Inspection. Administrative Agent and its agents, including Construction Inspector, may enter upon the Property to inspect the Property, the Project and any related materials at any reasonable time, unless Administrative Agent reasonably deems such inspection is of an emergency nature, in which event Mortgage Loan Borrower shall provide Administrative Agent with immediate access to the Property. Upon the occurrence and during the continuance of any Event of Default, the Administrative Agent and its agents, including Construction Inspector, may enter upon the Property to inspect the Property, the Project, and related materials at any time. Mortgage Loan Borrower will also permit Administrative Agent and its agents, including Construction Inspector, to photograph the Property during normal business hours and at any other reasonable time. Mortgage Loan Borrower will furnish to Administrative Agent and its agents, including Construction Inspector, for inspection and copying, all Plans, shop drawings, specifications, books and records, and other documents and information that Administrative Agent may reasonably request from time to time.

2.8 Notice to Administrative Agent. Mortgage Loan Borrower shall promptly within five (5) Business Days after Mortgage Loan Borrower actually becomes aware of the occurrence of any of the following events, notify Administrative Agent in writing thereof, specifying in each case the action Mortgage Loan Borrower has taken or will take with respect thereto: (a) any Default hereunder or under any of the other Credit Documents; (b) any violation of any Law by Mortgage Loan Borrower or any other Loan Party, or any claim or assertion by any Governmental Authority that the Property or Improvements fail to comply with any Law; (c) any investigation by any Governmental Authority, or any notice of any violation, in any material respect, of any Law or governmental requirement; (d) any litigation, arbitration or proceeding instituted or threatened against Mortgage Loan Borrower or any other Loan Party or the Property which is not adequately covered by insurance, and any material development therein; (e) any actual or threatened condemnation of any portion of the Property, any negotiations with respect to any such taking, or any material loss of or substantial damage to the Property; (f) any material labor controversy pending or to the knowledge of Mortgage Loan Borrower threatened against Mortgage Loan Borrower or any contractor, and any material development in any labor controversy; (g) any notice received by Mortgage Loan Borrower with respect to the cancellation, material alteration or non-renewal of any insurance coverage maintained with respect to the Property; (h) any failure by Mortgage Loan Borrower or any contractor, subcontractor or supplier to perform any material obligation under any Material Contract, any event or condition which would permit termination of a Material Contract or suspension of work thereunder, or any notice given by Mortgage Loan Borrower or any contractor with respect to any of the foregoing; (i) any lien filed against the Property or any stop notice served on Mortgage Loan Borrower in connection with construction of the Improvements; (j) any required permit, license, certificate or approval material to the construction of the Improvements or the ownership, operation or leasing of the Property lapses or ceases to be in full force and effect, or (k) any Material Adverse Effect in the financial condition, results of operations, business or properties of Mortgage Loan Borrower or any other Loan Party.



2.9 Other Information. Mortgage Loan Borrower shall furnish to Administrative Agent from time to time upon Administrative Agent's reasonable request (a) copies of any or all Material Contracts entered into by contractors or subcontractors and the names and addresses of all Persons with whom Mortgage Loan Borrower or any contractor has contracted or to Mortgage Loan Borrower's knowledge intends to contract for the construction of the Improvements or the furnishing of labor or materials in connection therewith under a Material Contract; (b) copies of any or all contracts, bills of sale, statements, receipts or other documents under which Mortgage Loan Borrower claims title to any materials, fixtures or articles of personal property of a material nature incorporated or to be incorporated into the Improvements or subject to the lien of the Mortgage; (c) a list of all unpaid bills for labor and materials under any Material Contract with respect to construction of the Improvements and copies of all invoices therefor; (d) budgets of Mortgage Loan Borrower and revisions thereof showing the estimated costs and expenses to be incurred in connection with the completion of construction of the Improvements; (e) current or updated detailed Project schedules or construction schedules; (f) the Accounts Payable List with each Draw Request for soft costs; and (g) such other information relating to Mortgage Loan Borrower, the Loan Parties, the Improvements, the Property, the Mortgage Loans, the construction of the Improvements or any security for the Mortgage Loans as Administrative Agent may reasonably request.

2.10 Reports and Testing. Mortgage Loan Borrower shall, upon Administrative Agent's reasonable request, (a) promptly deliver to Administrative Agent copies of all reports, studies, inspections and tests made on the Land, the Improvements or any materials to be incorporated into the Improvements; (b) make such tests of materials to be incorporated into the Improvements as Administrative Agent reasonably requires and (c) make such additional tests on the Land and the Improvements as Administrative Agent reasonably requires after the occurrence or discovery of an event or condition from which it can be reasonably determined that cause exists for additional tests. Mortgage Loan Borrower shall promptly notify Administrative Agent of any report, study, inspection or test that indicates any material adverse condition relating to the Land, the Improvements or any such materials of which Mortgage Loan Borrower becomes aware.

2.11 Advertising by Lenders. At Administrative Agent's request and Lenders' expense, Administrative Agent may erect and maintain in a location approved by Mortgage Loan Borrower on the Property, in compliance with applicable Law, one advertising sign provided by Administrative Agent indicating that the construction financing for the Property has been provided by Lenders.

2.12 Appraisal. Administrative Agent may obtain from time to time, an appraisal of all or any part of the Property prepared in accordance with written instructions from Administrative Agent by a third-party appraiser engaged directly by Administrative Agent. Each such appraiser and appraisal shall be satisfactory to Administrative Agent (including satisfaction of applicable regulatory requirements). The reasonable cost of any such appraisal, including any costs for internal review thereof performed as a condition of closing of the Mortgage Loans, upon completion of construction, at any time required in connection with the requirements of Laws (including compliance with requirements of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989, as amended ("FIRREA")), and at any time upon the occurrence and during the continuance of any Default or Event of Default, shall be borne by Mortgage Loan Borrower, and such cost shall be due and payable by Mortgage Loan Borrower on demand and shall be secured by the Credit Documents. Administrative Agent shall provide a copy of each such appraisal to each Lender upon receipt, and shall provide a copy of each such appraisal to Mortgage Loan Borrower provided that Mortgage Loan Borrower has paid to Administrative Agent the cost of such appraisal and has executed in favor of Lenders a waiver and indemnification agreement regarding the use of such appraisal in Administrative Agent's standard form.

2.13 Reporting Compliance. Mortgage Loan Borrower agrees to comply with any and all reporting requirements applicable to the Mortgage Loans which are set forth in any law, statute, ordinance, rule, regulation, order or determination of any Governmental Authority, including The International Investment Survey Act of 1976, The Agricultural Foreign Investment Disclosure Act of 1978, The Foreign Investment in Real Property Tax Act of 1980 and the Tax Reform Act of 1984 and further agrees upon request of Administrative Agent to furnish Administrative Agent with reasonable evidence of such compliance.

2.14 Payment of Withholding Taxes. Mortgage Loan Borrower shall not use, or knowingly permit any contractor or subcontractor to use, any portion of the proceeds of any Loan advance to pay the wages of employees unless a portion of the proceeds or other funds are also used to make timely payment to or deposit with (a) the United States of all amounts of tax required to be deducted and withheld with respect to such wages under the Code, and (b) any state and/or local Governmental Authority or agency having jurisdiction of all amounts of tax required to be deducted and withheld with respect to such wages under any applicable state and/or local Laws.

2.15 Deposit Accounts: Income from Property. Mortgage Loan Borrower shall maintain with Administrative Agent all deposit accounts of Mortgage Loan Borrower related to the Property, including all operating accounts, any reserve or escrow accounts, and any accounts from which Mortgage Loan Borrower may from time to time authorize Administrative Agent to debit payments due on the Loan. Mortgage Loan Borrower hereby grants to Administrative Agent for the benefit of Lenders a security interest in all right, title and interest of Mortgage Loan Borrower in and to each of the foregoing accounts. Mortgage Loan Borrower shall first apply all income derived from the Property to which Borrower is entitled, including all income from Lease(s), to pay when due all costs and expenses associated with the ownership, maintenance, operation and leasing of the Property, including all amounts then required to be paid under the Credit Documents, before using or applying such income for any other purpose. No such income shall be distributed or paid to any member of Mortgage Loan Borrower unless specifically permitted under the terms of the Credit Agreement and the Mortgage; provided, however, until Completion of Construction, no withdrawal of any proceeds of Up-Front Equity, proceeds of sale of any part of the Property or other capital, or payments on account of any indebtedness owed to its sole member shall occur unless specifically permitted by the terms of this Agreement, and provided that no such distribution, payment, or withdrawal shall occur at any time during the existence of a Default.

2.16 Controlled Substances. Without limiting the provisions of other Sections of this Addendum, Mortgage Loan Borrower shall not, and shall take commercially reasonable efforts to not suffer or permit any Person to violate any Laws affecting the Property, including the Controlled Substances Act, which could result in the commencement of any proceedings under the Civil Asset Forfeiture Reform Act. Upon learning of any conduct contrary to this Section, Mortgage Loan Borrower shall promptly take all actions reasonably expected under the circumstances to terminate any such use of the Property, including: (a) to give timely notice to any appropriate law enforcement agency of information that led Mortgage Loan Borrower to know such conduct had occurred, and (b) in a timely fashion to revoke or make a good faith attempt to revoke permission for those engaging in such conduct to use the Property or to take reasonable actions in consultation with a law enforcement agency to discourage or prevent illegal use of the Property.

#### 2.17 Property Agreements.

(a) Mortgage Loan Borrower hereby represents and warrants to Administrative Agent and Lenders that (i) each of the Property Agreements is in full force and effect, (ii) there is no default under any provision thereof, and (iii) all conditions to the effectiveness thereof required to be satisfied as of the date hereof have been fully satisfied, including the payment of all fees, deposits, costs and expenses required thereby. Mortgage Loan Borrower hereby covenants and agrees (i) to observe and perform in all material respects all obligations imposed on Mortgage Loan Borrower in connection with each of the Property Agreements; (ii) not to release, forego, alter, amend, or modify, in any material respects, its rights to any one or more of the Property Agreements without Administrative Agent's prior written consent; (iii) not to execute any contract, agreement, understanding, license, lease, sublease or other document or instrument which does not comply fully with the terms of the Property Agreements or which materially impairs any of Mortgage Loan Borrower's rights with regard thereto without Administrative Agent's prior written consent; and (iv) to promptly deliver to Administrative Agent true and correct copies of all notices or other documents or communications received or given by Mortgage Loan Borrower concerning any claimed violation or default or any threatened termination or enforcement action relating in any way to any Property Agreement.

Mortgage Loan Borrower shall deliver promptly to Administrative Agent such reports and information as Administrative Agent may from time to time reasonably request relating to the Property Agreements.

(b) As additional security for the Mortgage Loan Obligations, Mortgage Loan Borrower hereby transfers and assigns to Administrative Agent for the ratable benefit of Administrative Agent and Lenders for collateral purposes and grants a security interest in all of Mortgage Loan Borrower's right, title and interest, but not its liability, in, under, and to each of the Property Agreements, and agrees that the same are covered by the security agreement provisions of the Mortgage. Mortgage Loan Borrower agrees to utilize reasonable and diligent efforts to deliver to Administrative Agent from time to time upon Administrative Agent's request such consents to the foregoing assignment from parties contracting with Mortgage Loan Borrower as Administrative Agent may reasonably require. Neither this assignment nor any action by Administrative Agent or Lenders shall constitute an assumption by Administrative Agent or Lenders of any obligation under any of the Property Agreements. Administrative Agent shall have the right at any time (but shall have no obligation) to take in its name or in the name of Mortgage Loan Borrower such action as Administrative Agent may reasonably determine to be necessary to cure any default under any of the Property Agreements or to protect the rights of Mortgage Loan Borrower, Administrative Agent or Lenders with respect thereto. Subsequent to the occurrence and during the continuance of any Default, Mortgage Loan Borrower irrevocably constitutes and appoints Administrative Agent as its attorney-in-fact, which power of attorney is coupled with an interest and irrevocable, to enforce in its name or in Administrative Agent's and Lender's name all rights of Mortgage Loan Borrower under any Property Agreement. Administrative Agent shall incur no liability if any action so taken by it or on its behalf shall prove to be inadequate or invalid. Mortgage Loan Borrower and the other Loan Parties shall, jointly and severally, indemnify and hold Administrative Agent and Lenders harmless against and from any loss, cost, liability or expense (including, but not limited to, consultants' fees and expenses and reasonable attorneys' fees and expenses) incurred in connection with their failure to perform or any action taken by Administrative Agent or Lenders as a result of such failure (excluding, however, any action constituting fraud, gross negligence or willful misconduct on the part of Administrative Agent or any Lender as determined by a court of competent jurisdiction by a final and unappealable judgment).

### ARTICLE 3 – ADDITIONAL REPRESENTATIONS AND WARRANTIES

To induce Lenders to make the Loan, Mortgage Loan Borrower hereby represents and warrants to Administrative Agent and Lenders that except as otherwise disclosed to Administrative Agent in writing (a) Mortgage Loan Borrower has complied, in all material respects, with any and all Laws and regulations concerning its organization, existence and the transaction of its business, and Mortgage Loan Borrower has the right and limited liability company power to own the fee simple interest in the Land, subject to the Permitted Encumbrances, and to develop the Improvements as contemplated in this Addendum and the other Credit Documents; (b) Mortgage Loan Borrower is authorized to execute, deliver and perform all of its obligations under the Credit Documents to which it is a party; (c) the Credit Documents to which Mortgage Loan Borrower is a party are valid and binding obligations of Mortgage Loan Borrower, subject to applicable bankruptcy, insolvency, reorganization, moratorium or similar Laws affecting the rights of creditors generally and to the effect of general principles of equity, whether applied by a court of law or equity; (d) Mortgage Loan Borrower is not in violation of any Law, regulation or ordinance, or any order of any court or Governmental Authority, and no provision of the Credit Documents violates any applicable Law, any covenants or restrictions affecting the Property, any order of any court or Governmental Authority or any contract or agreement binding on Mortgage Loan Borrower or the Property; (e) to the extent required by applicable Law, Mortgage Loan Borrower and the Loan Parties have filed all required tax returns and reports and have paid all taxes and governmental charges thereby shown to be owing; (f) the Plans are complete in all material respects, contain all material details and are adequate for the construction of the Improvements, are satisfactory to Mortgage Loan Borrower, have been approved, by all applicable Governmental Authorities to the extent approval is required by applicable Laws, have been accepted by each contractor that is party to a Material Contract to the extent that such acceptance is required, and, comply in all material respects with the Credit Documents and all applicable Laws, restrictive covenants, and governmental requirements, rules, and regulations; (g) the Land is not part of a larger tract of land owned by Mortgage Loan Borrower or any of its Affiliates or any Loan Party, and except as may be provided in any Permitted Encumbrances, the Property is not otherwise included under any unity of title or similar covenant with other lands not encumbered by the Mortgage, and constitutes, or will constitute, a separate tax lot or lots with a separate tax assessment or assessments for the Land and Improvements, independent of those for any other lands or improvements; (h) to Mortgage Loan Borrower's knowledge, the Land and Improvements comply with all applicable Laws and governmental requirements, including all subdivision and platting requirements, without reliance on any adjoining or neighboring property, except as may be provided in any Permitted Encumbrance; (i) to Mortgage Loan Borrower's knowledge, the Plans do, and the Improvements when constructed will, comply with all legal requirements regarding access and facilities for handicapped or disabled persons; (j) Mortgage Loan Borrower has not directly or indirectly conveyed, assigned or otherwise disposed of or transferred (or agreed to do so) any development rights, air rights or other similar rights, privileges or attributes with respect to the Property, including those arising under any zoning or land use ordinance or other Law or governmental requirement except as may otherwise have been disclosed to Administrative Agent or as provided in any Permitted Encumbrances or as may otherwise be permitted by the terms of the Credit Documents; (k) to Mortgage Loan Borrower's knowledge, the construction schedule for the Project is realistic and the Completion Date is a reasonable estimate of the time required to complete the Project; (l) all financial statements delivered to Administrative Agent with respect to Mortgage Loan Borrower are true, correct, and complete in all material respects, and to Mortgage Loan Borrower's knowledge, there has been no event or condition that could reasonably be expected to result in a Material Adverse Change in Mortgage Loan Borrower's or any Loan Party's financial conditions from the financial conditions of Mortgage Loan Borrower or any Loan Party indicated in such financial statements; (m) all utility services necessary for the development of the Land and the construction of the Improvements and the operation thereof for their intended purpose are available within reasonable proximity to the boundaries of the Land, including electric and natural gas facilities, telephone service, water supply, storm and sanitary sewer facilities; (n) except for construction, design and engineering contracts executed in accordance with this Addendum and as otherwise provided for in the Credit Documents, Mortgage Loan Borrower has made no contract or arrangement of any kind the performance of which by the other party thereto would give rise to a lien on the Property other than the Permitted Encumbrances; (o) to Mortgage Loan Borrower's knowledge, the current and anticipated use of the Property complies with all applicable zoning ordinances, regulations and restrictive covenants affecting the Land without the existence of any variance, non-complying use, nonconforming use or other special exception which has not been duly obtained, all use restrictions of any Governmental Authority having jurisdiction have been satisfied, and to the knowledge of Mortgage Loan Borrower no violation of any Law or regulation exists with respect thereto, except as may have been expressly disclosed in any Environmental Report (as defined in the Environmental Agreement); and (p) Mortgage Loan Borrower has obtained, or will obtain on or before the date the same shall be required, all bonds required in connection with completion of the Improvements.

#### ARTICLE 4 – ADDITIONAL DEFAULTS AND REMEDIES

4.1 Defaults. In addition to the Defaults and Events of Default set forth in the Credit Agreement, the occurrence of any one of the following shall be a default under this Addendum (“Default”):

(a) The cessation of the construction of the Improvements continues for more than thirty (30) consecutive calendar days, except for Excusable Delays;

(c) The construction of the Improvements, or any materials for which an advance has been requested, fails to materially comply with the Plans, the Credit Documents, any Laws or governmental requirements, or any applicable restrictive covenants and, if correctable in the reasonable opinion of Administrative Agent, is not corrected within thirty (30) calendar days after notice thereof from Administrative Agent, unless (i) the nature of the failure is such that it cannot be cured within the thirty (30) calendar day period, (ii) Borrower institutes corrective action within the thirty (30) day period, and (iii) Borrower diligently pursues such action until the failure is remedied and completes the cure within an additional period of thirty (30) days;

(d) Construction of the Improvements shall not be commenced on or before the Construction Commencement Date, or once commenced, is abandoned, or Administrative Agent and Construction Inspector reasonably determine that Completion of Construction of the Improvements will not be achieved on or before the Completion Date and Mortgage Loan Borrower fails to demonstrate to the reasonable satisfaction of Administrative Agent that construction can be accelerated and completed by the Completion Date, or Mortgage Loan Borrower fails to cause Completion of Construction of the Improvements to occur in accordance with this Addendum on or before the Completion Date required therefor;

(e) Any required permit, license, certificate or approval material to the construction of the Improvements or Mortgage Loan Borrower’s ownership, development, operation or leasing of the Property lapses or ceases to be in full force and effect and is not reinstated or reissued within fifteen (15) Business Days to the extent still required;

(f) A Mortgage Loan Borrower's Deposit is not made with Administrative Agent within five (5) Business days after Administrative Agent's request therefor in accordance with Section 1.5;

(g) Construction is enjoined or Mortgage Loan Borrower, Administrative Agent or any Lender is enjoined or prohibited from performing any of its respective obligations under any of the Credit Documents for a period in excess of thirty (30) days;

(h) Mortgage Loan Borrower enters into any Lease, other than its lease with Diversified (or another Loan Party), without the prior written consent of the Administrative Agent;

(i) A lien for the performance of work or the supply of materials which is established against the Property, or any stop notice served on Mortgage Loan Borrower, the general contractor, Administrative Agent or a Lender, remains unsatisfied, unbonded or otherwise effectively stayed for a period of twenty (20) Business Days after the date of perfection or service;

(j) Any judicial or nonjudicial forfeiture or seizure proceeding is commenced by a Governmental Authority and remains pending and not effectively stayed with respect to the Property or any part thereof, on the grounds that the Property or any part thereof had been used to commit or facilitate the commission of a criminal offense by any Person, including any tenant, pursuant to any Law, including the Controlled Substances Act or the Civil Asset Forfeiture Reform Act.

(k) At any time during the term of the Loan, Mortgage Loan Borrower or any other Loan Party fails to comply with, or breaches any of the covenants or conditions set forth in this Addendum, or any default or event of default shall occur under any of the Property Agreements with regard to any material obligation imposed upon or binding against Mortgage Loan Borrower or such Loan Party, which default or event of default shall continue beyond any applicable grace or cure period, or without the prior express written consent of Administrative Agent, any of the Property Agreements shall be terminated or shall become of no further force or effect, for any reason whatsoever, or shall be modified or amended in any material and adverse manner.

4.2 Remedies. Upon the occurrence and during the continuance of any Default, Administrative Agent may with the consent of, and shall at the direction of, the Required Lenders, without notice, exercise any and all rights and remedies afforded by this Agreement, the other Credit Documents, Law (including the rights and remedies of a secured party under the UCC), equity or otherwise, including (a) declaring any and all Obligations immediately due and payable; (b) reducing any claim to judgment; or (c) obtaining appointment of a receiver (to which Mortgage Loan Borrower and all other Loan Parties hereby consent) and/or judicial or nonjudicial foreclosure under the Mortgage; *provided, however*, that during the continuance of any Default, Administrative Agent at its election may (but shall not be obligated to) with the consent of, and shall at the direction of, the Required Lenders, without notice, do any one or more of the following: (x) terminate Lenders' Mortgage Loan Commitments to lend and any obligation to disburse any Mortgage Loan Borrower's Deposit hereunder; (y) so long as the same is not prohibited by Law, in its own name on behalf of the Lenders or in the name of Mortgage Loan Borrower, enter into possession of the Property, perform all work necessary to complete construction of the Improvements substantially in accordance with the Plans (as modified as deemed necessary by Administrative Agent), the Credit Documents, and all applicable Laws, governmental requirements and restrictive covenants, and continue to employ Mortgage Loan Borrower's architect, engineer and any contractor pursuant to the applicable contracts or otherwise; or (z) set-off and apply, to the extent thereof and to the maximum extent permitted by Law, any and all deposits, funds, or assets at any time held and any and all other indebtedness at any time owing by Administrative Agent or any Lender to or for the credit or account of Mortgage Loan Borrower against any Mortgage Loan Obligations.

Mortgage Loan Borrower hereby appoints Administrative Agent as Mortgage Loan Borrower's attorney-in-fact, which power of attorney is irrevocable and coupled with an interest, with full power of substitution if Administrative Agent so elects, to do any of the following in its name upon the occurrence and during the continuance of any Default: (i) use such sums as are necessary, including any Loan Proceeds and any Mortgage Loan Borrower's Deposit, make such changes or corrections in the Plans, and employ such architects, engineers, and contractors as may be required or as Lenders may otherwise consider desirable for the purpose of completing construction of the Improvements substantially in accordance with the Plans (as modified as deemed necessary by Administrative Agent), the Credit Documents, and all applicable Laws, governmental requirements and restrictive covenants; (ii) execute all applications and certificates in the name of Mortgage Loan Borrower which may be required for completion of construction of the Improvements; (iii) endorse the name of Mortgage Loan Borrower on any checks or drafts representing proceeds of any insurance policies, or other checks or instruments payable to Mortgage Loan Borrower with respect to the Property; (iv) do every act with respect to the construction of the Improvements that Mortgage Loan Borrower may do; (v) prosecute or defend any action or proceeding incident to the Property, (vi) pay, settle, or compromise all bills and claims so as to clear title to the Property; and (vii) take over and use all or any part of the labor, materials, supplies and equipment contracted for, owned by, or under the control of Mortgage Loan Borrower, whether or not previously incorporated into the Improvements. Any amounts expended by Administrative Agent on its own behalf or on behalf of Lenders to construct or complete the Improvements or in connection with the exercise of its remedies herein shall be deemed to have been advanced to Mortgage Loan Borrower hereunder as a demand obligation owing by Mortgage Loan Borrower to Administrative Agent or Lenders as applicable and shall constitute a portion of the Mortgage Loan Obligations, regardless of whether such amounts exceed any limits for Mortgage Loan Obligations otherwise set forth herein. Neither Administrative Agent nor Lenders shall have any liability to Mortgage Loan Borrower or any other Loan Party for the sufficiency or adequacy of any such actions taken by Administrative Agent.

No delay or omission of Administrative Agent or Lenders to exercise any right, power or remedy accruing upon the happening of a Default shall impair any such right, power or remedy or shall be construed to be a waiver of any such Default or any acquiescence therein. No delay or omission on the part of Administrative Agent or Lenders to exercise any option for acceleration of the maturity of the Mortgage Loan Obligations or any other Obligations, or for foreclosure of the Mortgage following any Default as aforesaid, or any other option granted to Administrative Agent and Lenders hereunder in any one or more instances, or the acceptances by Administrative Agent or Lenders of any partial payment on account of the Mortgage Loan Obligations, shall constitute a waiver of any such Default, and each such option shall remain continuously in full force and effect. No remedy herein conferred upon or reserved to Administrative Agent and/or Lenders is intended to be exclusive of any other remedies provided for in any Mortgage Loan Note or any of the other Credit Documents, and each and every such remedy shall be cumulative, and shall be in addition to every other remedy given hereunder, or under any Mortgage Loan Note or any of the other Credit Documents, or now or hereafter existing at Law or in equity or by statute. Every right, power and remedy given to Administrative Agent and Lenders by this Addendum, any Mortgage Loan Note or any of the other Credit Documents shall be concurrent, and may be pursued separately, successively or together against Mortgage Loan Borrower, the Loan Parties, or the Property or any part thereof, or any personal property granted as security under the Credit Documents, and every right, power and remedy given by this Addendum, any Mortgage Loan Note or any of the other Credit Documents may be exercised from time to time as often as may be deemed expedient by the Required Lenders.

Regardless of how a Lender may treat payments received from the exercise of remedies under the Credit Documents for the purpose of its own accounting, for the purpose of computing the Mortgage Loan Obligations, payments shall be applied as elected by Lenders. No application of payments arising from the exercise by Lenders of remedies under the Credit Documents will cure any Default, or prevent acceleration, or continued acceleration, of amounts payable under the Credit Documents, or prevent the exercise, or continued exercise, of rights or remedies of Administrative Agent and Lenders hereunder or thereunder or at Law or in equity.

## ARTICLE 5 – ADMINISTRATIVE AGENT

### 5.1 Releases; Acquisition and Transfers of Collateral.

(a) Lenders hereby irrevocably authorize Administrative Agent to transfer or release any lien on, or after foreclosure or other acquisition of title by Administrative Agent on behalf of Lenders to transfer or sell, any Loan collateral (i) upon the termination of the Mortgage Loan Commitments and payment and satisfaction in full of all Mortgage Loan Obligations, (ii) constituting a release, transfer or sale of a lien or Loan collateral if Mortgage Loan Borrower will certify to Administrative Agent that the release, transfer or sale is permitted under this Addendum or the other Credit Documents (and Administrative Agent may rely conclusively on any such certificate, without further inquiry); or (iii) after foreclosure or other acquisition of title if approved by the Required Lenders.

(b) If all or any portion of the Loan collateral is acquired by foreclosure or by deed in lieu of foreclosure, Administrative Agent shall take title to the collateral in its name or by an Affiliate of Administrative Agent, but for the benefit of all Lenders in their pro rata shares on the date of the foreclosure sale or recordation of the deed in lieu of foreclosure (the "Acquisition Date"). Administrative Agent and all Lenders hereby expressly waive and relinquish any right of partition with respect to any collateral so acquired. After any collateral is acquired, Administrative Agent shall appoint and retain one or more Persons (individually and collectively, "Property Manager") experienced in the management, leasing, sale and/or disposition of similar properties.

After consulting with the Property Manager, Administrative Agent shall prepare a written plan for completion of construction (if required), operation, management, improvement, maintenance, repair, sale and disposition of the Loan collateral and a budget for the aforesaid, which may include a reasonable management fee payable to Administrative Agent (the "Business Plan"). Administrative Agent will deliver the Business Plan not later than the sixtieth (60th) day after the Acquisition Date to each Lender with a written request for approval of the Business Plan. If the Business Plan is approved by the Required Lenders, Administrative Agent and the Property Manager shall adhere to the Business Plan until a different Business Plan is approved by the Required Lenders. Administrative Agent may propose an amendment to the Business Plan as it deems appropriate, which shall also be subject to Required Lender approval. If the Business Plan (as may be amended) proposed by Administrative Agent is not approved by the Required Lenders, (or if sixty (60) days have elapsed following the Acquisition Date without a Business Plan being proposed by Administrative Agent), any Lender may propose an alternative Business Plan, which Administrative Agent shall submit to all Lenders for their approval. If an alternative Business Plan is approved by the Required Lenders, Administrative Agent may appoint one of the approving Lenders to implement the alternative Business Plan. Notwithstanding any other provision of this Addendum, unless in violation of an approved Business Plan or otherwise in an emergency situation, Administrative Agent shall, subject to Subsection (a) of this Section, have the right but not the obligation to take any action in connection with the Loan collateral (including those with respect to property taxes, insurance premiums, completion of construction, operation, management, improvement, maintenance, repair, sale and disposition), or any portion thereof.

(c) Upon request by Administrative Agent or Mortgage Loan Borrower at any time, Lenders will confirm in writing Administrative Agent's authority to sell, transfer or release any such liens of particular types or items of Loan collateral pursuant to this Section; provided, however, that (i) Administrative Agent shall not be required to execute any document necessary to evidence such release, transfer or sale on terms that, in Administrative Agent's opinion, would expose Administrative Agent to liability or create any obligation or entail any consequence other than the transfer, release or sale without recourse, representation or warranty, and (ii) such transfer, release or sale shall not in any manner discharge, affect or impair the obligations of Mortgage Loan Borrower other than those expressly being released.

5.2 Application of Payments. Except as otherwise provided below with respect to Defaulting Lenders, aggregate principal and interest payments, payments for Indemnified Liabilities, proceeds from foreclosure or sale of the collateral, and net operating income from the collateral during any period it is owned by Administrative Agent on behalf of the Lenders ("Payments") shall be apportioned pro rata among Lenders and payments of any fees (other than fees designated for Administrative Agent's separate account) shall, as applicable, be apportioned pro rata among Lenders. Notwithstanding anything to the contrary in this Addendum, all Payments due and payable to Defaulting Lenders shall be due and payable to and be apportioned pro rata among Administrative Agent and Electing Lenders. Such apportionment shall be in the proportion that the Defaulting Lender Payment Amounts paid by them bears to the total Defaulting Lender Payment Amounts of such Defaulting Lender. Such apportionment shall be made until Administrative Agent and Lenders have been paid in full for the Defaulting Lender Payment Amounts. All pro rata Payments shall be remitted to Administrative Agent and all such payments not constituting payment of specific fees, and all proceeds of the Loan collateral received by Administrative Agent (notwithstanding anything contained in the Mortgage, to the contrary), shall be applied first, to pay any fees, indemnities, costs, expenses and reimbursements then due to Administrative Agent from Mortgage Loan Borrower; second, to pay any fees, costs, expenses and reimbursements then due to Lenders from Mortgage Loan Borrower; third, to pay pro rata interest and Late Payment Charges due in respect of the Mortgage Loan Obligations and Administrative Agent Advances; fourth, to pay or prepay pro rata principal of, the Mortgage Loan Obligations and Administrative Agent Advances, and to pay or cash collateralize the Hedge Obligations, ratably among the Lenders, Administrative Agent, and Swap Providers; and last, the balance, if any, after all of the Mortgage Loan Obligations have been indefeasibly paid in full, to the Mortgage Loan Borrower or as otherwise required by applicable Laws.



Cash collateralization of the Hedge Obligations shall be at the discretion of the Administrative Agent, with funds to be placed on deposit with the Administrative Agent, and on terms on which the Administrative Agent and the Mortgage Loan Borrower may agree. Amounts used to cash collateralize the Hedge Obligations pursuant to clause fourth above, shall be applied to satisfy drawings under the Hedge Obligations as they occur. If any amounts remain on deposit as cash collateral after all Hedge Obligations have been terminated, such remaining amount shall be applied to other Mortgage Loan Obligations, if any, in the order set forth above.

5.3 Benefit. The terms and conditions of this Article are inserted for the sole benefit of Administrative Agent and Lenders; the same may be waived in whole or in part, with or without terms or conditions, without prejudicing Administrative Agent's or Lenders' rights to later assert them in whole or in part.

## ARTICLE 6 - GENERAL TERMS AND CONDITIONS

6.1 Consents; Indemnity. Except where otherwise expressly provided in the Credit Documents, in any instance where the approval, consent or the exercise of Administrative Agent's or Lenders' judgment is required, the granting or denial of such approval or consent and the exercise of such judgment shall be (a) within the reasonable discretion of Administrative Agent or Lenders; and (b) deemed to have been given only by a specific writing intended for the purpose given and executed by Administrative Agent or Lenders. Notwithstanding any approvals or consents by Administrative Agent or Lenders, neither Administrative Agent nor any Lender has any obligation or responsibility whatsoever for the adequacy, form or content of the Plans, the Budget, any appraisal, any contract, any change order, any lease, or any other matter incident to the Property or the construction of the Improvements. Administrative Agent's or Lenders' acceptance of an assignment of the Plans for the benefit of Administrative Agent and Lenders shall not constitute approval of the Plans. Any inspection, appraisal or audit of the Property or the books and records of Mortgage Loan Borrower, or the procuring of documents and financial and other information, by or on behalf of Administrative Agent shall be for Administrative Agent's and Lenders' protection only, and shall not constitute an assumption of responsibility to Mortgage Loan Borrower, any other Loan Party or anyone else with regard to the condition, value, construction, maintenance or operation of the Property, or relieve Mortgage Loan Borrower of any of its obligations. Mortgage Loan Borrower has selected all surveyors, architects, engineers, the general contractor, materialmen and all other Persons furnishing services or materials to the Project (except for those Persons hired by Administrative Agent pursuant to Section 4.2). Neither Administrative Agent nor any Lender has any duty to supervise or to inspect the Property or the construction of the Improvements nor any duty of care to Mortgage Loan Borrower, any other Loan Party, or any other Person to protect against, or to inform Mortgage Loan Borrower, any other Loan Party or any other Person of the existence of any negligent, faulty, inadequate or defective design or construction of the Improvements. Neither Administrative Agent nor any Lender shall be liable or responsible for, and Mortgage Loan Borrower and the other Loan Parties shall, jointly and severally, indemnify Administrative Agent and each Agent- Related Person and each Lender and their respective Affiliates, directors, officers, agents, attorneys and employees (collectively, the "Indemnitees") from and against, and shall pay upon reasonable documentation thereof: (a) any claim, action, loss or cost (including reasonable attorney's fees and costs) arising from or relating to (i) any defect in the Property or the Improvements, (ii) the performance or default of Mortgage Loan Borrower, or Mortgage Loan Borrower's surveyors, architects, engineers or contractors, (iii) any failure to construct, complete, protect or insure the Improvements, (iv) the payment of costs of labor, materials, or services supplied for the construction of the Improvements, (v) the protection and preservation of the collateral for the Mortgage Loans (including those with respect to property taxes, insurance premiums, completion of construction, operation, management, improvements, maintenance, repair, sale and disposition), or (vi) the performance of any obligation of Mortgage Loan Borrower whatsoever; (b) any and all liabilities, obligations, losses, damages, penalties, claims, demands, actions, judgments, suits, costs, expenses and disbursements (including reasonable attorneys' fees and costs) of any kind or nature whatsoever which may at any time be imposed on, incurred by or asserted against any such Indemnitee in any way relating to or arising out of or in connection with (i) the enforcement of any Credit Document or any other agreement, letter or instrument delivered in connection with the transactions contemplated thereby or the consummation of the transactions contemplated thereby, or (ii) any claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory (including any investigation of, preparation for, or defense of any pending or threatened (in writing) claim, investigation, litigation or proceeding) and regardless of whether any Indemnitee is a party thereto; (c) any and all claims, demands, actions or causes of action arising out of or relating to the use of Information or other materials obtained through internet, Intralinks or other similar information transmission systems in connection with this Addendum; and (d) any and all liabilities, losses, costs or expenses (including reasonable attorneys' fees and costs) that any Indemnitee suffers or incurs as a result of the assertion of any foregoing claim, demand, action, cause of action or proceeding, or as a result of the preparation of any defense in connection with any foregoing claim, demand, action, cause of action or proceeding, in all cases, whether or not an Indemnitee is a party to such claim, demand, action, cause of action or proceeding and whether it is defeated, successful or withdrawn (all of the foregoing, collectively, the "Indemnified Liabilities"); provided, however, that such indemnity shall not, as to any Indemnitee, be available to the extent that such liabilities, obligations, losses, damages, penalties, claims, demands, actions, judgments, suits, costs, expenses or disbursements are determined by a court of competent jurisdiction, by a final and non-appealable judgment, to have resulted from the fraudulent acts or omissions, gross negligence or willful misconduct of such Indemnitee, as determined by a court of competent jurisdiction by a final and unappealable judgment. No advance or acceptance of any document or instrument, shall be construed as a representation or warranty, express or implied, to any party by Administrative Agent or Lenders. Inspection shall not constitute an acknowledgment or representation by Administrative Agent, any Lender or the Construction Inspector that there has been or will be compliance with the Plans, the Credit Documents, or applicable Laws, governmental requirements and restrictive covenants, or that the construction is free from defective materials or workmanship. Inspection, whether or not followed by notice of Default, shall not constitute a waiver of any Default then existing, or a waiver of Administrative Agent's and Lenders' right thereafter to insist that the Improvements be constructed in accordance with the Plans, the Credit Documents, and all applicable Laws, governmental requirements and restrictive covenants. Administrative Agent's failure to inspect shall not constitute a waiver of any of Administrative Agent's or Lenders' rights under the Credit Documents or at Law or in equity.

6.2 Miscellaneous. This Addendum may be executed in several counterparts, and by different parties hereto in different counterparts, all of which are identical, and all of which counterparts together shall constitute one and the same instrument. The Credit Documents are for the sole benefit of Administrative Agent, Lenders and Mortgage Loan Borrower and are not for the benefit of any third party. A determination that any provision of this Addendum is unenforceable or invalid shall not affect the enforceability or validity of any other provision and the determination that the application of any provision of this Addendum to any Person or circumstance is illegal or unenforceable shall not affect the enforceability or validity of such provision as it may apply to other Persons or circumstances. Time shall be of the essence with respect to Mortgage Loan Borrower's obligations under the Credit Documents. This Addendum, and its validity, enforcement and interpretation, shall be governed by the laws of the Governing State (without regard to any conflict of Laws principles) and applicable United States federal Law.

6.3 Payments Set Aside. To the extent that any payment by or on behalf of Mortgage Loan Borrower is made to Administrative Agent or any Lender, or Administrative Agent or any Lender exercises its right of set-off, and such payment or the proceeds of such set-off or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by Administrative Agent or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law, to a depository (including Administrative Agent, any Lender or its or their Affiliates) for returned items or insufficient collected funds, or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such set-off had not occurred, and (b) each Lender severally agrees to pay to Administrative Agent upon demand its applicable share of any amount so recovered from or repaid by Administrative Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the Federal Funds Rate from time to time in effect.

6.4 Survival. This Addendum shall continue in full force and effect until the all of the Mortgage Loan Obligations are paid in full and all of Administrative Agent's and Lenders' obligations under this Addendum are terminated; provided that all representations and warranties and all provisions herein for indemnity of the Indemnitees, Administrative Agent and Lenders (and any other provisions herein specified to survive) shall survive payment in full, satisfaction or discharge of the Mortgage Loan Obligations, the resignation or removal of Administrative Agent or replacement of any Lender, and any release or termination of this Addendum or of any other Credit Documents.

6.5 Costs and Expenses. Without limiting any Credit Document and to the extent not prohibited by applicable Laws, the Mortgage Loan Borrower and the other Loan Parties shall pay when due, shall reimburse to Administrative Agent on demand and shall indemnify Administrative Agent from, upon reasonable documentation thereof, all reasonable out-of-pocket fees, costs, and expenses paid or incurred by Administrative Agent in connection with the negotiation, preparation and execution of this Addendum and the other Credit Documents (and any amendments, approvals, consents, waivers and releases requested, required, proposed or done from time to time). Without limiting any Credit Document and to the extent not prohibited by applicable Laws, Mortgage Loan Borrower shall pay when due, shall reimburse to Administrative Agent on demand and shall indemnify Administrative Agent from, upon reasonable documentation thereof, all reasonable out-of-pocket fees, costs, and expenses paid or incurred by Administrative Agent in connection with the disbursement or administration of the Mortgage Loans, including (a) all reasonable and documented fees and expenses of Administrative Agent's counsel; (b) reasonable and documented fees and charges of each Construction Inspector, inspector and engineer; (c) appraisal, re-appraisal and survey costs to the extent required by the terms of the Credit Documents; (d) title insurance charges and premiums; (e) title search or examination costs, including abstracts, abstractors' certificates and uniform commercial code searches; (f) judgment and tax lien searches for the Mortgage Loan Borrower and the other Loan Parties; (g) escrow fees; (h) fees and costs of environmental investigations, site assessments and remediations required by the terms of the Credit Documents; (i) recordation taxes, documentary taxes, transfer taxes and mortgage taxes; and (j) filing and recording fees. Mortgage Loan Borrower and the other Loan Parties shall, jointly and severally, pay, upon reasonable documentation thereof, all reasonable costs and expenses incurred by Administrative Agent and/or Lenders for the collection of the Mortgage Loans or the enforcement of the obligations of Mortgage Loan Borrower or the other Loan Parties, or the exercise of any enforcement or collection remedies, including without limitation reasonable and documented attorneys' fees, whether or not involving probate, appellate, administrative or bankruptcy proceedings. The obligations of the Mortgage Loan Borrower and the other Loan Parties under this Section shall survive the delivery of the Credit Documents, the making of advances, the payment in full of the Obligations, the release or reconveyance of any of the Credit Documents, the foreclosure of the Mortgage or conveyance in lieu of foreclosure, any bankruptcy or other debtor relief proceeding, and any other event whatsoever.

6.6 Further Assurances; No Merger. The Mortgage Loan Borrower and the other Loan Parties will, upon Administrative Agent's reasonable request, (a) promptly correct any defect, error or omission in any Credit Document; (b) execute, acknowledge, deliver, procure, record or file such further instruments and do such further acts as Administrative Agent reasonably deems necessary or proper to carry out the purposes of the Credit Documents and to identify and subject to the liens and security interest of the Credit Documents any property intended to be covered thereby, including any renewals, additions, substitutions, replacements, or appurtenances to the Property; (c) execute, acknowledge, deliver, procure, file or record any document or instrument Administrative Agent reasonably deems necessary or proper to protect the liens or the security interest under the Credit Documents against the rights or interests of third persons; and (d) provide such certificates, documents, reports, information, affidavits and other instruments and do such further acts reasonably deemed necessary or proper by Administrative Agent or any Lender to comply with the requirements of any Governmental Authority having jurisdiction over Administrative Agent or such Lender.

As a material inducement to Administrative Agent and Lenders to enter into this Addendum, Mortgage Loan Borrower acknowledges and agrees that each of its Indemnification Agreements (as that term is defined below) (a) is a continuing, separate agreement that shall survive the termination of this Addendum, the payment and performance in full of the Obligations, the release or reconveyance of any of the Credit Documents, the foreclosure of the Mortgage or conveyance in lieu of foreclosure, any proceeding under any Debtor Relief Law, and any other event whatsoever, and (b) shall not be merged with any judgment or judgments with respect to the Obligations. The term "Indemnification Agreements" means the collective reference to each provision of this Addendum or any of the Credit Documents for indemnification of Administrative Agent and/or the Lenders, their respective parents, Affiliates and/or respective officers, directors, shareholders, employees, attorneys, other professionals, and agents and to each of the agreements of Mortgage Loan Borrower to pay or reimburse Administrative Agent and/or the Lenders for reasonable costs and expenses (including, reasonable attorneys' fees) of collection or otherwise.

6.7 Inducement to Lenders. The representations, warranties, covenants and agreements contained in this Addendum and the other Credit Documents (a) are made to induce Lenders to make the Loan and extend any other credit to or for the account of Mortgage Loan Borrower pursuant hereto, and Administrative Agent and Lenders are relying thereon, and will continue to rely thereon, and (b) shall survive any foreclosure, any conveyance (or assignment) in lieu of foreclosure, or any proceedings under any Debtor Relief Law involving Mortgage Loan Borrower, the other Loan Parties, or the Property.

6.8 Commercial Purpose. The Mortgage Loan Borrower warrants that the Mortgage Loans are being made solely to acquire or carry on a business or commercial enterprise, and/or Mortgage Loan Borrower is a business or commercial organization. Mortgage Loan Borrower further warrants that all of the proceeds of the Mortgage Loans shall be used for commercial purposes and stipulates that the Mortgage Loans shall be construed for all purposes as a commercial loan, and is made for other than personal, family, household or agricultural purposes.

**6.9 WAIVER OF JURY TRIAL.** EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING OR ACTION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS ADDENDUM OR ANY OTHER CREDIT DOCUMENT EXECUTED IN CONNECTION HEREWITH OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY).

**EACH PARTY HERETO HEREBY:**

**(a) CERTIFIES THAT NO REPRESENTATIVE, AGENT, OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER;**

**(b) ACKNOWLEDGES THAT THIS WAIVER AND THE PROVISIONS OF THIS SECTION WERE A MATERIAL INDUCEMENT FOR THE PARTIES ENTERING INTO THE CREDIT DOCUMENTS;**

**(c) CERTIFIES THAT THIS WAIVER IS KNOWINGLY, WILLINGLY, AND VOLUNTARILY MADE;**

**(d) AGREES AND UNDERSTANDS THAT THIS WAIVER CONSTITUTES A WAIVER OF TRIAL BY JURY OF ALL CLAIMS AGAINST ALL PARTIES TO SUCH PROCEEDING OR ACTION, INCLUDING CLAIMS AGAINST PARTIES WHO ARE NOT PARTIES TO THIS OR ANY OTHER AGREEMENT, AND FURTHER AGREES THAT SUCH PARTY SHALL NOT SEEK TO CONSOLIDATE ANY SUCH PROCEEDING OR ACTION WITH ANY OTHER PROCEEDING OR ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED;**

**(e) AGREES THAT THE MORTGAGE LOAN BORROWER, THE OTHER LOAN PARTIES, ADMINISTRATIVE AGENT AND LENDER ARE EACH HEREBY AUTHORIZED TO FILE A COPY OF THIS SECTION IN ANY PROCEEDING OR ACTION AS CONCLUSIVE EVIDENCE OF THIS WAIVER OF JURY TRIAL; AND**

**(f) REPRESENTS AND WARRANTS THAT SUCH PARTY HAS BEEN REPRESENTED IN THE SIGNING OF THIS AGREEMENT AND IN THE MAKING OF THIS WAIVER BY INDEPENDENT LEGAL COUNSEL, OR HAS HAD THE OPPORTUNITY TO BE REPRESENTED BY INDEPENDENT LEGAL COUNSEL SELECTED OF ITS OWN FREE WILL, AND THAT IT HAS HAD THE OPPORTUNITY TO DISCUSS THIS WAIVER WITH COUNSEL.**

**6.10 Entire Agreement.** The Credit Documents constitute the entire understanding and agreement between and among the Mortgage Loan Borrower, the other Loan Parties, Administrative Agent and Lenders with respect to the transactions arising in connection with the Loans, and supersede all prior written or oral understandings and agreements between and among the Mortgage Loan Borrower, the other Loan Parties, Administrative Agent and Lenders with respect to the matters addressed in the Credit Documents. For the avoidance of doubt, this Addendum is incorporated by reference into the Credit Agreement. In particular, and without limitation, the terms of any commitment letter, letter of intent or quote letter by Administrative Agent or any Lender to make the Loan are merged into the Credit Documents. Neither Administrative Agent nor any Lender has made any commitments to extend the term of any of the Mortgage Loans past its stated maturity date or to provide the Mortgage Loan Borrower or any other Loan Party with financing except as set forth in the Credit Documents. Except as incorporated in writing into the Credit Documents, there are not, and were not, and no Persons are or were authorized by Administrative Agent or any Lender to make, any representations, understandings, stipulations, agreements or promises, oral or written, with respect to the matters addressed in the Credit Documents.

THE WRITTEN CREDIT DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES.

[Signatures appear on following pages]

**Signature Page to Construction Loan Addendum:**

IN WITNESS WHEREOF, THIS CONSTRUCTION LOAN ADDENDUM IS EXECUTED AND DELIVERED UNDER SEAL as of the date first above written.

WITNESS OR ATTEST:

**MORTGAGE LOAN BORROWER:**

LONE STAR ACQUISITION, LLC,  
A Delaware limited liability company,  
Authorized to do business in Texas under the name  
LONE STAR LAND OF HOUSTON, LLC

By: LDRV Holdings Corp.,  
a Delaware corporation, its Manager

\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF \_\_\_\_\_, COUNTY OF \_\_\_\_\_, TO WIT:

I HEREBY CERTIFY, that on this day of \_\_\_\_\_, 2020, before me, the undersigned Notary Public of said State, personally appeared \_\_\_\_\_, and who acknowledged himself/herself to be the \_\_\_\_\_ of LDRV Holdings Corp. which is the Manager of Lone Star Acquisition, LLC, a Delaware limited liability company authorized to do business in Texas under the name Lone Star Land of Houston, LLC, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he/she executed the same for the purposes therein contained as the duly authorized \_\_\_\_\_ of LDRV Holdings Corp., as Manager of said limited liability company.

WITNESS my hand and Notarial Seal.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

**Signature Page to Construction Loan Addendum:**

WITNESS OR ATTEST:

\_\_\_\_\_

**BORROWERS:**

LDRV HOLDINGS CORP.,  
a Delaware corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

LAZYDAYS RV AMERICA, LLC,  
LAZYDAYS RV DISCOUNT, LLC,  
LAZYDAYS MILE HI RV, LLC,  
LAZYDAYS OF MINNEAPOLIS LLC,  
LDRV OF TENNESSEE LLC,  
LAZYDAYS OF CENTRAL FLORIDA, LLC, and  
LONE STAR DIVERSIFIED, LLC,  
Each a Delaware limited liability company

By: LDRV Holdings Corp.,  
a Delaware corporation, its Manager

\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF \_\_\_\_\_, COUNTY OF \_\_\_\_\_, TO WIT:

I HEREBY CERTIFY, that on this \_\_\_\_\_ day of \_\_\_\_\_, 2020, before me, the undersigned Notary Public of said State, personally appeared , who acknowledged himself/herself to be the \_\_\_\_\_ of LDRV Holdings Corp., a Delaware corporation and the Manager of Lazydays RV America, LLC, Lazydays RV Discount, LLC, Lazydays Mile Hi RV, LLC, Lazydays of Minneapolis LLC, LDRV of Tennessee LLC, Lazydays of Central Florida, LLC, and Lone Star Diversified, LLC, each a Delaware limited liability company, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he/she executed the same for the purposes therein contained as the duly authorized \_\_\_\_\_ of LDRV Holdings Corp. for itself and as Manager of said limited liability companies.

WITNESS my hand and Notarial Seal.

\_\_\_\_\_  
Notary Public

My Commission Expires:

[Signatures continued on following pages]

\_\_\_\_\_

**Signature Page to Construction Loan Addendum:**

WITNESS OR ATTEST:

\_\_\_\_\_

**ADMINISTRATIVE AGENT:**

MANUFACTURERS AND TRADERS TRUST COMPANY,  
A New York Banking Corporation,  
In Its Capacity As Administrative Agent

By \_\_\_\_\_ (SEAL)  
Brendan Kelly,  
Vice President

**LENDER:**

MANUFACTURERS AND TRADERS TRUST COMPANY,  
As A Lender

\_\_\_\_\_

By \_\_\_\_\_ (SEAL)  
Brendan Kelly,  
Vice President

STATE OF \_\_\_\_\_, COUNTY OF \_\_\_\_\_, TO WIT:

I HEREBY CERTIFY, that on this \_\_\_\_\_ day of \_\_\_\_\_, 2020, before me, the undersigned Notary Public of said State, personally appeared Brendan Kelly, who acknowledged himself to be a Vice President of Manufacturers and Traders Trust Company, a New York banking corporation, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same for the purposes therein contained as the duly authorized Vice President of said banking corporation by signing the name of the banking corporation in the foregoing capacity.

WITNESS my hand and Notarial Seal.

\_\_\_\_\_  
Notary Public

My Commission Expires:

[Signatures continued on following pages]

\_\_\_\_\_

**Signature Page to Construction Loan Addendum:**

**LENDER:**

WITNESS OR ATTEST:

BMO HARRIS BANK N.A.,  
As A Lender

\_\_\_\_\_

By: \_\_\_\_\_  
Jonathan Terrell,  
Vice President

STATE OF \_\_\_\_\_, COUNTY OF \_\_\_\_\_, TO WIT:

I HEREBY CERTIFY, that on this \_\_\_\_\_ day of \_\_\_\_\_, 2020, before me, the undersigned Notary Public of said State, personally appeared Jonathan Terrell, who acknowledged himself to be a Vice President of BMO Harris Bank N.A., a national banking association, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he/she executed the same for the purposes therein contained as the duly authorized Vice President of said national banking association by signing the name of the national banking association in the foregoing capacity.

WITNESS my hand and Notarial Seal.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_



**EXHIBIT "A"**

PROPERTY DESCRIPTION

DESCRIPTION OF TRACT 1:  
12.689 ACRE OR 552,728 SQ. FT.

A TRACT OR PARCEL OF CONTAINING 12.689 ACRES OR 552.728 SQUARE FEET OF LAND, SITUATED IN THE W. SORSBY SURVEY, ABSTRACT NO. 958, HARRIS COUNTY, TEXAS, BEING OUT AND A PART OF A CALLED 22.8600 ACRES CONVEYED TO STOKE-290 PARTNERS, LP AS RECORDED UNDER THE HARRIS COUNTY CLERKS FILE (H.C.C.F.) NO. 2016178528, BEING DESCRIBED AS FOLLOWS WITH ALL BEARINGS BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, SOUTH CENTRAL ZONE, NAD83;

COMMENCING, AT A 5/8 INCH IRON ROD FOUND ON THE INTERSECTION OF THE WEST RIGHT-OF- WAY (R.O.W.) LINE OF STOKES ROAD (CALLED 99' R.O.W. PER TX DOT & COUNTY MAPS) AND THE NORTH R.O.W. LINE OF U.S. HIGHWAY 290 (WIDTH VARIES) MARKING THE SOUTHEAST CORNER OF A CALLED 6.1367 ACRE TRACT CONVEYED TO STOKES-290 PARTNERS, LP AS RECORDED UNDER H.C.C.F. NO. Y-202278;

THENCE, ALONG THE WEST R.O.W. LINE OF SAID STOKES ROAD (CALLED 99 FEET R.O.W. PER TXDOT AND COUNTY MAPS), THE FOLLOWING TWO (2) COURSES AND DISTANCES:

1. NORTH 02 DEG. 31 MIN. 27 SEC. WEST, A DISTANCE OF 240.88 FEET TO A 1 INCH IRON PIPE FOUND MARKING THE NORTHEAST CORNER OF SAID CALLED 6.1367 ACRE TRACT AND THE SOUTHEAST CORNER OF SAID CALLED 22.8600 ACRE TRACT;
2. NORTH 02 DEG. 38 MIN. 39 SEC. WEST, A DISTANCE OF 116.43 FEET TO A CAPPED 5/8 INCH IRON ROD STAMPED "WINDROSE" SET FOR THE SOUTHEAST CORNER AND POINT OF BEGINNING OF THE HEREIN DESCRIBED TRACT;

THENCE, OVER AND ACROSS SAID CALLED 22.8600 ACRE TRACT, THE FOLLOWING FOUR (4) COURSES AND DISTANCES:

1. SOUTH 87 DEG. 21 MIN. 21 SEC. WEST, A DISTANCE OF 962.06 FEET TO A CAPPED 5/8 INCH IRON ROD STAMPED "WINDROSE" SET FOR THE SOUTHWEST CORNER OF THE HEREIN DESCRIBED TRACT;
2. NORTH 32 DEG. 40 MIN. 49 SEC. EAST, A DISTANCE OF 161.01 FEET, TO A CAPPED 5/8 INCH IRON ROD STAMPED "WINDROSE" SET MARKING THE BEGINNING OF A CURVE TO THE LEFT;
3. WITH SAID CURVE TO THE LEFT, HAVING A RADIUS OF 40.00 FEET, A CENTRAL ANGLE OF 35 DEG. 13 MIN. 57 SEC., AN ARC LENGTH OF 24.60 FEET, A CHORD BEARING AND DISTANCE OF NORTH 15 DEG. 03 MIN. 50 SEC. EAST, 24.21 FEET TO A CAPPED 5/8 INCH IRON ROD STAMPED "WINDROSE" SET FOR A POINT OF TANGENCY;
4. NORTH 02 DEG. 33 MIN. 08 SEC. WEST, A DISTANCE OF 479.71 FEET TO A CAPPED 5/8 INCH IRON ROD STAMPED "WINDROSE" SET ON A SOUTH LINE OF A CALLED 32.44 ACRE TRACT CONVEYED TO GANIM JOHN GANIM AS RECORDED UNDER H.C.C.F. NO. S-094431 FOR THE NORTHWEST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE, NORTH 87 DEG. 26 MIN. 52 SEC. EAST, ALONG SAID SOUTH LINE OF CALLED 32.44 ACRE TRACT, A DISTANCE OF 860.83 FEET, TO A 3/8 INCH IRON ROD FOUND ON THE WEST R.O.W. LINE OF SAID STOKES ROAD MARKING THE MOST EASTERLY CORNER OF SAID CALLED 32.44 ACRE TRACT, THE NORTHEAST CORNER OF SAID 22.8600 ACRE TRACT AND OF THE HEREIN DESCRIBED TRACT;

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THENCE, SOUTH 02 DEG. 38 MIN. 39 SEC. EAST, ALONG THE WEST R.O.W. LINE OF SAID STOKES ROAD, A DISTANCE OF 632.75 FEET TO THE PLACE OF BEGINNING CONTAINING 12.689 ACRES OR 552.728 SQUARE FEET OF LAND, MORE OR LESS.

DESCRIPTION OF TRACT 2:

4.510 ACRE OR 196,433 SQ. FT.

A TRACT OR PARCEL OF CONTAINING 4.510 ACRES OR 196,433 SQUARE FEET OF LAND, SITUATED IN THE W. SORSBY SURVEY, ABSTRACT NO. 958, HARRIS COUNTY, TEXAS, BEING OUT AND A PART OF A CALLED 22.8600 ACRES CONVEYED TO STOKE-290 PARTNERS, LP AS RECORDED UNDER THE HARRIS COUNTY CLERKS FILE (H.C.C.F.) NO. 2016178528, BEING DESCRIBED AS FOLLOWS WITH ALL BEARINGS BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, SOUTH CENTRAL ZONE, NAD83;

COMMENCING, AT A CAPPED 5/8 INCH IRON ROD STAMPED "WINDROSE LAND SERVICES" FOUND ON THE NORTH RIGHT-OF-WAY (R.O.W.) LINE OF U.S. HIGHWAY 290 (R.O.W. VARIES) MARKING THE SOUTHEAST CORNER OF A CALLED 1.732 ACRE TRACT CONVEYED TO GAGANDEEP SINGH GREWAL AS RECORDED UNDER H.C.C.F. NO. RP-2017-446351 AND THE SOUTHWEST CORNER OF SAID CALLED 22.8600 ACRE TRACT;

THENCE, NORTH 02 DEG. 41 MIN. 59 SEC. WEST, ALONG THE COMMON LINE SAID OF CALLED 1.732 AND SAID CALLED 22.8600 ACRE TRACT, A DISTANCE OF 302.48 FEET TO A CAPPED 5/8 INCH IRON ROD STAMPED "WINDROSE LAND SERVICES" FOUND FOR THE NORTHEAST CORNER OF SAID CALLED 1.732 ACRE TRACT AND THE SOUTHEAST CORNER OF A CALLED 32.44 ACRE TRACT CONVEYED TO GANIN JOHN GANIM AS RECORDED UNDER H.C.C.F. NO. S-094431, FROM WHICH A 1/2 INCH IRON PIPE FOUND BEARS FOR REFERENCE NORTH 23 DEG. 52 MIN. 18 SEC. WEST - 0.86 FEET;

THENCE, NORTH 02 DEG. 22 MIN. 03 SEC. WEST, ALONG THE WEST LINE OF SAID CALLED 22.8600 ACRE TRACT, A DISTANCE OF 42.58 FEET TO A CAPPED 5/8 INCH IRON ROD STAMPED "WINDROSE" SET FOR THE SOUTHWEST CORNER AND POINT OF BEGINNING OF THE HEREIN DESCRIBED TRACT;

THENCE, NORTH 02 DEG. 22 MIN. 03 SEC. WEST, CONTINUING ALONG SAID CALLED 22.8600 ACRE TRACT, A DISTANCE OF 531.66 FEET TO AN INTERIOR CORNER OF SAID CALLED 32.44 ACRE TRACT, THE NORTHWEST CORNER OF SAID CALLED 22.8600 ACRE TRACT AND OF THE HEREIN DESCRIBED TRACT;

THENCE, NORTH 87 DEG. 26 MIN. 52 SEC. EAST, ALONG THE NORTH LINE OF SAID CALLED 22.8600 ACRE TRACT, A DISTANCE OF 339.42 FEET TO A CAPPED 5/8 INCH IRON ROD STAMPED "WINDROSE" SET FOR THE NORTHEAST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE, OVER AND ACROSS SAID CALLED 22.8600 ACRE TRACT, THE FOLLOWING FOUR (4) COURSES AND DISTANCES:

1. SOUTH 02 DEG. 33 MIN. 08 SEC. EAST, A DISTANCE OF 479.71 FEET, TO A CAPPED 5/8 INCH IRON ROD STAMPED "WINDROSE" SET FOR A POINT OF CURVATURE TO THE RIGHT;
  2. WITH SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 40.00 FEET, A CENTRAL ANGLE OF 35 DEG. 13 MIN. 57 SEC., AN ARC LENGTH OF 24.60 FEET, A CHORD BEARING AND DISTANCE OF SOUTH 15 DEG. 03 MIN. 50 SEC. WEST, 24.21 FEET TO A CAPPED 5/8 INCH IRON ROD STAMPED "WINDROSE" SET FOR A POINT OF TANGENCY;
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3. SOUTH 32 DEG. 40 MIN. 49 SEC. WEST, A DISTANCE OF 161.01 FEET, TO THE A CAPPED 5/8 INCH IRON ROD STAMPED "WINDROSE" SET FOR THE SOUTHEAST CORNER OF THE HEREIN DESCRIBED TRACT;

4. NORTH 69 DEG. 28 MIN. 40 SEC. WEST, A DISTANCE OF 261.87 FEET TO THE PLACE OF BEGINNING CONTAINING 4.510 ACRES OR 196,433 SQUARE FEET OF LAND, MORE OR LESS.

DESCRIPTION OF TRACT 3:

A 50' ACCESS EASEMENT 0.4026 ACRE OR 17,536 SQ. FT., AS CREATED IN, AND SUBJECT TO THE TERMS, CONDITIONS, STIPULATIONS, OBLIGATIONS AND APPURTENANT EASEMENT RIGHTS OF THAT CERTAIN DETENTION AND ACCESS, DRAINAGE OUTFALL AND UTILITY EASEMENT AGREEMENT WITH PROVISIONS FOR OTHER FUTURE GRANTS, FILED UNDER HARRIS COUNTY CLERK'S FILE NO. RP-2019-121479

A TRACT OR PARCEL OF CONTAINING 0.4026 ACRES OR 17,536 SQUARE FEET OF LAND, SITUATED IN THE W. SORSBY SURVEY, ABSTRACT NO. 958, HARRIS COUNTY, TEXAS, BEING OUT AND A PART OF A CALLED 22.8600 ACRES CONVEYED TO STOKE-290 PARTNERS, LP AS RECORDED UNDER THE HARRIS COUNTY CLERKS FILE (H.C.C.F.) NO. 2016178528 AND OUT AND A PART OF A CALLED 6.1367 ACRE TRACT CONVEYED TO STOKES-290 PARTNERS, LP AS RECORDED UNDER H.C.C.F. NO. Y-202278, BEING DESCRIBED AS FOLLOWS WITH ALL BEARINGS BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, SOUTH CENTRAL ZONE, NAD83;

COMMENCING, AT A CAPPED 5/8 INCH IRON ROD STAMPED "WINDROSE LAND SERVICES" FOUND ON THE NORTH RIGHT-OF-WAY (R.O.W.) LINE OF U.S. HIGHWAY 290 (R.O.W. VARIES) MARKING THE SOUTHEAST CORNER OF A CALLED 1.732 ACRE TRACT CONVEYED TO GAGANDEEP SINGH GREWAL AS RECORDED UNDER H.C.C.F. NO. RP-2017-446351 AND THE SOUTHWEST CORNER OF SAID CALLED 22.8600 ACRE TRACT;

THENCE, WITH A CURVE TO THE LEFT, HAVING A RADIUS OF 7,479.44 FEET, A CENTRAL ANGLE OF 00 DEG. 27 MIN. 14 SEC., AN ARC LENGTH OF 59.26 FEET, A CHORD BEARING AND DISTANCE OF SOUTH 63 DEG. 04 MIN. 25 SEC. EAST, 59.26 FEET TO THE SOUTHWEST CORNER AND POINT OF BEGINNING OF THE HEREIN DESCRIBED EASEMENT;

THENCE, OVER AND ACROSS SAID CALLED 22.8600 ACRE TRACT, THE FOLLOWING FIVE (5) COURSES AND DISTANCES:

1. NORTH 26 DEG. 28 MIN. 15 SEC. EAST, A DISTANCE OF 200.00 FEET TO AN ANGLE POINT;

2. NORTH 40 DEG. 55 MIN. 09 SEC. EAST, A DISTANCE OF 133.18 FEET TO A CAPPED 5/8 INCH IRON ROD STAMPED "WINDROSE" SET FOR THE NORTHWEST CORNER OF THE HEREIN DESCRIBED EASEMENT;

3. NORTH 87 DEG. 21 MIN. 21 SEC. EAST, A DISTANCE OF 69.00 FEET TO THE NORTHEAST CORNER OF THE HEREIN DESCRIBED EASEMENT;

4. SOUTH 40 DEG. 55 MIN. 09 SEC. WEST, A DISTANCE OF 174.40 FEET TO AN INTERIOR POINT;

5. SOUTH 26 DEG. 28 MIN. 15 SEC. WEST, A DISTANCE OF 193.75 FEET TO NORTH R.O.W. LINE OF SAID U.S. HIGHWAY 290 AND THE SOUTHEAST CORNER OF THE HEREIN DESCRIBED EASEMENT;

THENCE, WITH A CURVE TO THE RIGHT, HAVING A RADIUS OF 7,479.44 FEET, A CENTRAL ANGLE OF 00 DEG. 22 MIN. 59 SEC., AN ARC LENGTH OF 50.00 FEET, A CHORD BEARING AND DISTANCE OF NORTH 63 DEG. 29 MIN. 32 SEC. WEST, 50.00 FEET TO THE POINT OF BEGINNING CONTAINING 0.4026 ACRES OR 17,536 SQUARE FEET OF LAND, MORE OR LESS.

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## EXHIBIT "B"

### DEFINITIONS

1. DEFINITIONS: As used in this Agreement and the attached exhibits, the following terms shall have the following meanings:

"Accounts Payable List" means a written summary from Mortgage Loan Borrower of all accounts paid and payable for soft costs associated with the applicable Draw Request identifying each such account and the invoice amount due or previously paid, and shall be in form and substance reasonably acceptable to Administrative Agent. For purposes of this definition, "soft costs" includes costs and expenses of development other than those attributable to the construction of the physical Improvements, including but not limited to architect's fees, consulting fees, management fees, abatement expenses, legal fees, testing and inspection fees, connection charges, and other similar fees and expenses.

"Administrative Agent Advances" has the meaning set forth in Section 1.8 of this Agreement.

"Administrative Agent's Time" means the time of day observed in the city where Administrative Agent's Office is located.

"Advance Amount" has the meaning set forth in Section 1.7(a).

"Agent-Related Persons" means Administrative Agent, together with its Affiliates, and the officers, directors, employees, agents and attorneys-in-fact of Administrative Agent and its Affiliates.

"Aggregate Cost" has the meaning set forth in Section 1.4 of this Agreement.

"Basel III Regulations" has the meaning ascribed to such term in Exhibit "F" attached hereto.

"Budget" means the budget and cost itemization for the Project attached as Exhibit "D".

"Civil Asset Forfeiture Reform Act" means the Civil Asset Forfeiture Reform Act of 2000 (18 U.S.C. Sections 983 et seq.), as amended from time to time, and any successor thereto.

"Completion Date" means the date which is twelve (12) months following the date of this Agreement.

"Completion of Construction" means with respect to the construction of Improvements, the satisfaction of all of the conditions for the release of the final advance of the Loan Proceeds for the payment of the costs of such construction outlined in Section 5 of Exhibit "F" hereto, as reasonably determined by Administrative Agent.

"Construction Commencement Date" means the date which is thirty (30) calendar days after the date of this Agreement.

"Construction Inspector" means the construction inspector engaged by Administrative Agent with respect to the Project.

"Construction Inspector Report" means a written report from the Construction Inspector due to Administrative Agent on a specified predetermined day of each month acceptable to Administrative Agent.

"Hedge Obligations" has the meaning given to such term in the Mortgage.

"Mortgage Loan Obligations" means the "Obligations" as such term is defined in the Mortgage.

"Mortgage Loans" means the loans by Lenders to Mortgage Loan Borrower, in the maximum principal amount of \$6,136,000.00.

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“Mortgage Loan Borrower’s Deposit” has the meaning set forth in Section 1.5 of this Agreement.

“Controlled Substances Act” means the Controlled Substances Act (21 U.S.C. Sections 801 et seq.), as amended from time to time, and any successor statute.

“Default Notice” has the meaning set forth in Section 1.9(a).

“Defaulting Lender Amount” means the Defaulting Lender’s pro rata share of a Payment Amount.

“Defaulting Lender Obligation” has the meaning set forth in Section 1.9(a).

“Defaulting Lender Payment Amounts” means a Defaulting Lender Amount plus interest from the date such Defaulting Lender Amount was funded by Administrative Agent and/or an Electing Lender, as applicable, to the date such amount is repaid to Administrative Agent and/or such Electing Lender, as applicable, at the rate per annum applicable to such Defaulting Lender Amount under the Loan or otherwise at the Adjusted Base Rate.

“Draw Request” has the meaning set forth in Section 1 of Exhibit “F”.

“Electing Lender” has the meaning set forth in Section 1.9(a).

“Election Notice” has the meaning set forth in Section 1.9(a).

“Election Period” has the meaning set forth in Section 1.9(a).

“Excusable Delay” means a delay, not to exceed a total of thirty (30) days, caused by unusually adverse weather conditions which have not been taken into account in the construction schedule, fire, earthquake or other acts of God, strikes, lockouts, acts of public enemy, riots or insurrections or any other unforeseen circumstances or events beyond the control of Borrower (except financial circumstances or events or matters which may be resolved by the payment of money), and as to which Borrower notifies Administrative Agent in writing within five (5) Business Days after such occurrence; *provided, however*, that in no event shall any Excusable Delay extend the Completion Date or suspend or abate any obligation of Borrower or Guarantor or any other Person to pay any money.

“Environmental Agreement” means the Hazardous Substances Indemnity Agreement of even date herewith by the Loan Parties for the benefit of Administrative Agent and Lenders.

“Funding Date” means the date on which an advance of Mortgage Loan proceeds or Mortgage Loan Borrower’s Deposit shall occur.

“Improvements” means all on-site and off-site improvements required for the construction of a new RV service facility on the Land, and all related amenities, and other fixtures, equipment, improvements and appurtenances now or later to be located on the Land and/or in such improvements, as more particularly described from time to time in the Plans.

“Indemnification Agreements” has the meaning set forth in Section 6.6.

“Indemnified Liabilities” has the meaning set forth in Section 6.1.

“Indemnitees” has the meaning set forth in Section 6.1.

“Initial Advance” means the initial amount of the proceeds of the Mortgage Loans to be advanced by Lenders to Mortgage Loan Borrower after the satisfaction of all required conditions precedent thereto in accordance with the terms of this Agreement.

“Land” means the real property described in Exhibit “A”.

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“Lease” means each existing or future lease or other agreement entered into by or on behalf of Mortgage Loan Borrower under the terms of which any Person has or acquires any right to occupy or use the Property, or any part thereof, or interest therein (other than a fee simple interest), and each existing or future guaranty of payment or performance thereunder, and all extensions, renewals, modifications and replacements of each such lease, sublease, agreement or guaranty. The initial lease for the Property is between the Mortgage Loan Borrower and Diversified

“Loan” means, for purposes of this Addendum, collectively, the Mortgage Loans, each as the same may be amended, modified, restated, replaced or supplemented from time to time.

“Loan Proceeds” has the meaning set forth in Section 1.4.

“Material Contract” means any contract or subcontract for the performance of any work or the supplying of any labor, materials or services which exceeds 500,000.00 in total price, and if any individual contractor, subcontractor or material supplier is a party to more than one contract, such contracts shall be aggregated for the purposes of determining whether such contracts constitute a Material Contract.

“Payments” has the meaning set forth in Section 5.2.

“Payment Amount” means an advance of the Mortgage Loans, an unreimbursed Administrative Agent Advance, an unreimbursed Indemnified Liability, or any other amount that a Lender is required to fund under this Agreement.

“Permitted Changes” means changes to the Plans or the direct costs of construction of the Improvements (but not soft costs), *provided* that (a) the cost of any single change does not exceed \$50,000.00 and the aggregate amount of all such changes (whether positive or negative) does not exceed \$250,000.00.

“Permitted Encumbrances” has the meaning ascribed to such term in the Mortgage.

“Plans” means the plans and specifications listed in Exhibit “E” and all modifications thereof and additions thereto that are included as part of the Plans as the same shall be approved by Administrative Agent in the exercise of its sole, but reasonable discretion in accordance with the terms of this Agreement.

“Project” means the construction, ownership, leasing, management and operation of the Improvements.

“Property” means the Land, the Improvements and all other property constituting the “Property,” as described in the Mortgage, or subject to a right, lien or security interest to secure the Loan pursuant to any other Credit Document.

“Property Agreements” means, individually and collectively such recorded agreements in connection with the construction and development as are approved by the Administrative Agent.

“Property Manager” has the meaning set forth in Section 5.1(b).

“Purchase Offer” has the meaning set forth in Section 5.1.

“Required Up-Front Cash Equity” means cash equity in the amount of One Million Five Hundred Thirty-Five Thousand Dollars (\$1,534,000.00) contributed by Mortgage Loan Borrower to the Project.

“Rents” means all of the rents, royalties, issues, profits, revenues, earnings, income and other benefits of the Property or any part thereof, or arising from the use or enjoyment of the Property or any part thereof, including all such amounts paid under or arising from any of the Lease(s) and all fees, charges, accounts or other payments for the use or occupancy of facilities within the Property or any part thereof.

“Stored Materials” means building materials or furnishings that are not yet incorporated into the Improvements.

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“Stored Materials Advance Limit” means \$500,000.00.

“Survey” means a survey prepared in accordance with Exhibit “G” or as otherwise approved by Administrative Agent in its sole discretion.

“Title Company” means Chicago Title Insurance Company.

“Title Insurance” means the loan policy or policies of title insurance issued to Administrative Agent for the benefit of Lenders by the Title Company, in an amount equal to the maximum principal amount of the Mortgage Loans, insuring the validity and priority of the Mortgage encumbering the Land and Improvements for the benefit of Administrative Agent and Lenders.

“Title Insurance Report” means an update of the Title Insurance in a form and substance reasonably satisfactory to Administrative Agent.

“Total Budget” has the meaning set forth in Section 1.4.

“Total Costs” has the meaning set forth in Section 1.4.

“Up-Front Equity” has the meaning set forth in Section 1.4.

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**EXHIBIT "C"**

**CONDITIONS PRECEDENT TO THE INITIAL ADVANCE**

As conditions precedent to the Initial Advance, if and to the extent required by Administrative Agent, Administrative Agent shall have received and approved the following:

1. **Fees and Expenses.** Any and all required application, commitment and loan fees, and evidence satisfactory to Administrative Agent that Mortgage Loan Borrower has paid all other fees, costs and expenses (including the reasonable and documented fees and costs of Administrative Agent's counsel) then required to be paid pursuant to this Agreement and all other Credit Documents, including, without limitation, all fees, costs and expenses that Mortgage Loan Borrower is required to pay pursuant to any loan application or commitment.

2. **Financial Statements.** The Financial Statements of Mortgage Loan Borrower and Loan Parties or any other party required by any loan application or commitment or otherwise required by Administrative Agent.

3. **Appraisal.** A market value appraisal of the Property satisfactory to the Administrative Agent. The appraiser and appraisal must be satisfactory to Administrative Agent (including satisfaction of applicable regulatory requirements) and the appraiser must be engaged directly by Administrative Agent.

4. **Draw Schedule and Budget.** Mortgage Loan Borrower's proposed cash flow, draw schedule, and construction schedule for the Project, and Administrative Agent shall be satisfied, in its reasonable discretion, that the Improvements may be completed in accordance with the construction schedule and for costs not exceeding those set forth in the Budget.

5. **Authorization.** Evidence Administrative Agent reasonably requires of the existence, good standing, authority and capacity of Mortgage Loan Borrower and Loan Parties to execute, deliver and perform their respective obligations to Administrative Agent and Lenders under the Credit Documents, including:

(a) For each corporation: (i) a true and complete copy of its articles of incorporation and by-laws, and all amendments thereto, a certificate of incumbency of all of its officers who are authorized to execute or attest to any of the Credit Documents, and a true and complete copy of resolutions approving the Credit Documents and authorizing the transactions contemplated in this Agreement and the other Credit Documents; and (ii) certificates of existence, good standing and qualification to do business issued by the appropriate governmental officials in the state of its formation and, if different, the state in which the Project is located.

(b) For each limited liability company: (i) a true and complete copy of the articles of organization and operating agreement, and all amendments thereto, a certificate of incumbency of all of its members who are authorized to execute or attest to any of the Credit Documents, and a true and complete copy of resolutions approving the Credit Documents and authorizing the transactions contemplated in this Agreement and the other Credit Documents; and (ii) certificates of existence, good standing and qualification to do business issued by appropriate governmental officials in the state of its formation and, if different, the state in which the Property is located.

(c) For each limited partnership: (i) a true and complete copy of the certificate of limited partnership and partnership agreement, and all amendments thereto, a certificate of incumbency of all of its partners who are authorized to execute or attest to any of the Credit Documents, and a true and complete copy of resolutions approving the Credit Documents and authorizing the transactions contemplated in this Agreement and the other Credit Documents; and (ii) certificates of existence, good standing and qualification to do business issued by appropriate governmental officials in the state of its formation and, if different, the state in which the Property is located.

(d) All certificates, resolutions, and consents reasonably required by Administrative Agent applicable to the foregoing.

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6. Credit Documents. From Mortgage Loan Borrower and Loan Parties, duly executed, acknowledged and/or sworn to as required, and delivered to Administrative Agent (with a copy for each Lender) all Credit Documents then required by Administrative Agent, dated the date of this Agreement, each in form and content satisfactory to Administrative Agent, and evidence Administrative Agent requires that the Mortgage has been recorded, or delivered to the Title Company for recording, in the official records of the county in which the Property is located and UCC-1 financing statements have been filed in all filing offices that Administrative Agent may require.

7. Opinions. The written opinion of counsel for Mortgage Loan Borrower and Loan Parties, in form and substance reasonably satisfactory to Administrative Agent, and subject to customary assumptions and exceptions, addressed to Administrative Agent for the benefit of Lenders, dated the date of this Agreement.

8. Survey; No Special Flood Hazard. (a) Two (2) prints of an original survey (with a copy for each Lender) of the Land and improvements thereon dated not more than sixty (60) days prior to the date of this Agreement (or dated such earlier date, if any, as is satisfactory to the Title Company, but in any event not more than one hundred eighty (180) days prior to the date of this Agreement) satisfactory to Administrative Agent and the Title Company and otherwise, to the extent required by Administrative Agent, complying with Exhibit "G", and (b) evidence satisfactory to Administrative Agent that none of the Land is located in a flood hazard area or a flood insurance policy (with a copy for each Lender) insuring any structure or portion thereof and any Mortgage Loan Borrower owned contents against casualty by flood in form and amount acceptable to Administrative Agent but in no amount less than the amount sufficient to meet the requirements of applicable Law as such requirements may from time to time be in effect. The flood insurance policy on contents shall be required upon completion of the structure or any unit or component thereof, or as soon thereafter as a flood insurance policy on such contents may be obtained.

9. Title Insurance. An ALTA title insurance policy, issued by the Title Company (which shall be approved by Administrative Agent in its reasonable discretion) in the maximum amount of the Loan plus any other amount secured by the Mortgage, on a coinsurance and/or reinsurance basis if and as reasonably required by Administrative Agent, insuring that the Mortgage constitutes a valid lien covering the Land and all Improvements thereon, having the priority required by the Credit Documents and subject only to the Permitted Encumbrances and those exceptions and encumbrances (regardless of rank or priority) Administrative Agent approves, in a form reasonably acceptable to Administrative Agent, and with all "standard" exceptions which can be deleted, including the exception for matters which a current survey would show, deleted to the fullest extent authorized under applicable title insurance rules, and Mortgage Loan Borrower shall satisfy all requirements therefor permitted; containing no exception for standby fees or real estate taxes or assessments other than those for the year in which the closing occurs to the extent the same are not then due and payable and endorsed "not yet due and payable" and no exception for subsequent assessments for prior years; providing full coverage against mechanics' and materialmen's liens to the extent authorized under applicable title insurance rules, and Mortgage Loan Borrower shall satisfy all requirements therefor; insuring that no restrictive covenants shown in the Title Insurance have been violated, and that no violation of the restrictions will result in a reversion or forfeiture of title; insuring all appurtenant easements; insuring that indefeasible or marketable (as coverage is available) leasehold title to the Land and Improvements is vested in Mortgage Loan Borrower subject only to the Permitted Encumbrances and those exceptions and encumbrances approved by Administrative Agent; containing such affirmative coverage and endorsements as Administrative Agent may reasonably require and are available under applicable title insurance rules, and Mortgage Loan Borrower shall satisfy all requirements therefor; insuring any easements, fee simple and leasehold (as the case may be) estates or other matters appurtenant to or benefiting the Land and/or the Improvements as part of the insured estate; insuring the right of access to the Land to the extent authorized under applicable title insurance rules, and Mortgage Loan Borrower shall satisfy all requirements therefor; and containing provisions acceptable to Administrative Agent regarding advances of Loan funds after closing. Neither Mortgage Loan Borrower nor its counsel shall have any interest, direct or indirect, in any portion of the premium paid for the Title Insurance.

10. Plans. Two (2) true and correct copies of all existing Plans (including the site plan), together with evidence satisfactory to Administrative Agent that all applicable governmental authorities, Mortgage Loan Borrower, and Mortgage Loan Borrower's architect, engineer, and contractors and Construction Inspector have approved the same.

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11. Contracts. (a) A fully executed copy of the general construction contract and any amendments thereto (which has been reviewed and approved by the Administrative Agent), together with a list containing the names and addresses of all existing material subcontractors, architects, engineers, and other suppliers of services and materials for the Project under any Material Contract, their respective contract amounts, and copies of such Material Contracts; and (b) duly executed, acknowledged and delivered originals from each contractor, architect, engineer, subcontractor, or supplier of services or materials required by Administrative Agent of (i) consents or other agreements satisfactory to Administrative Agent and (ii) agreements satisfactory to Administrative Agent subordinating all rights, liens, claims and charges they may have or acquire against Mortgage Loan Borrower or the Property to the rights, liens and security interests of the Administrative Agent for the benefit of the Lenders.

12. Insurance Policies. The insurance policies initially required by Administrative Agent, pursuant to the Credit Documents, together with evidence satisfactory to Administrative Agent that all premiums therefor have been paid and that the policies are in full force and effect.

13. Lease(s). (a) A true and correct copy of the executed Lease to Diversified covering the Improvements; and (b) tenant estoppel certificate and subordination and attornment agreement, dated as of the date of closing of the Mortgage Loans and in form and content reasonably satisfactory to Administrative Agent, from Diversified as sole tenant of the Improvements; (ii) evidence reasonably satisfactory to Administrative Agent of Mortgage Loan Borrower's compliance with the terms of such Lease.

14. Environmental Compliance/Report. Delivery of an Environmental Report in form and substance satisfactory to the Administrative Agent.

15. Soil Reports. A soil composition and test boring report and a foundation report satisfactory to Administrative Agent regarding the Land, made within three (3) years prior to the date of this Agreement, by a licensed professional engineer satisfactory to Administrative Agent.

16. Access, Utilities, and Laws. (a) Evidence reasonably satisfactory to Administrative Agent that the Property abuts and has fully adequate direct and free access to one or more public streets, dedicated to public use, fully installed and accepted by the appropriate Governmental Authority, that all fees, costs and expenses of the installation and acceptance thereof have been paid in full, and that there are no restrictions on the use and enjoyment of such streets which would adversely affect the Project; (b) if required by Administrative Agent, letters from the applicable utility companies or Governmental Authorities confirming that all utilities necessary for the Improvements are available at the boundaries of the Land in sufficient capacity, together with evidence satisfactory to Administrative Agent of paid impact fees, utility reservation deposits, and connection fees required to assure the availability of such services; (c) evidence reasonably satisfactory to Administrative Agent that all applicable zoning ordinances, restrictive covenants and governmental requirements affecting the Property permit the use for which the Property is intended and have been or will be complied with without the existence of any variance, non-complying use, nonconforming use or other special exception; (d) evidence reasonably satisfactory to Administrative Agent that the Land and Improvements comply and will comply with all Laws and governmental requirements regarding subdivision and platting and would so comply if the Land and the Improvements thereon were conveyed as a separate parcel; (e) a true and correct copy of a valid building permit for the Improvements, together with all other consents, licenses, permits and approvals necessary for construction of the Improvements, all in assignable form (to the extent appropriate and available) and in full force and effect; (f) evidence reasonably satisfactory to Administrative Agent of compliance, in all material respects, by Mortgage Loan Borrower and the Property, and the proposed construction, use and occupancy of the Improvements, with such other applicable Laws and governmental requirements as Administrative Agent may reasonably request, including all Laws and governmental requirements regarding access and facilities for handicapped or disabled persons including, without limitation and to the extent applicable, The Federal Architectural Barriers Act (42 U.S.C. § 4151 et seq.), The Americans With Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.), The Rehabilitation Act of 1973 (29 U.S.C. § 794), and any applicable state requirements; and (g) written evidence satisfactory to Administrative Agent that construction of the Improvements on the Land is permissible under all federal, state and local statutes, regulations and rulings protecting tidal and non-tidal wetlands and other environmentally protected areas.

17. Priority. (a) Evidence reasonably satisfactory to Administrative Agent that prior to and as of the time the Mortgage was filed for record (i) no contract, or memorandum thereof, for construction, design, surveying, or any other service relating to the Project has been filed for record in the county where the Property is located; and (ii) no mechanic's or materialman's lien claim or notice, lis pendens, judgment, or other claim or encumbrance against the Property has been filed for record in the county where the Property is located or in any other public record which by Law provides notice of claims or encumbrances regarding the Property; and (b) a certificate or certificates of a reporting service acceptable to Administrative Agent, reflecting the results of current searches, (i) of the central and local UCC records, showing no filings against any of the collateral for the Loan or against Mortgage Loan Borrower otherwise except as consented to by Administrative Agent; and (ii) if required by Administrative Agent, of the appropriate judgment and tax lien records, showing no outstanding judgment or tax lien against Mortgage Loan Borrower or Loan Parties.

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18. Tax and Impact Fees. Evidence satisfactory to Administrative Agent (a) of the identity of all taxing authorities and utility districts (or similar authorities) having jurisdiction over the Property or any portion thereof; (b) that all taxes, impact fees, standby fees, water and sewer connection charges and any other similar charges have been paid, including copies of receipts or statements marked "paid" by the appropriate authority; and (c) that the Land is a separate tax lot or lots with separate assessment or assessments of the Land and Improvements, independent of any other land or improvements and that the Land is a separate legally subdivided parcel.

19. Property Agreements; Other Documents. Fully executed copies of each of the Property Agreements, and to the extent reasonably required by Administrative Agent, satisfactory evidence that such Property Agreements have been duly recorded among the appropriate land records, along with copies of such other documents, instruments, certificates and other materials as Administrative Agent may reasonably request from Mortgage Loan Borrower, Loan Parties, and any other Person, in form and content satisfactory to Administrative Agent.

20. Up-Front Equity. Evidence satisfactory to Administrative Agent that the Up-Front Equity has been fully paid and funded, including without limitation and to the extent applicable, all amounts required to satisfy Basel III Regulations.

21. Identification Due Diligence. Administrative Agent and each Lender shall have received all due diligence materials they deem necessary with respect to verifying the Mortgage Loan Borrower's and Loan Parties' identity and background information in a manner satisfactory to Administrative Agent and each Lender.

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**EXHIBIT "E"**

**LIST OF PLANS**

Project Plans for Project Millennial (Architects Project #181270) 20103 Stokes Road, Waller, Texas, by Powers Brown Architecture, 2100 Travis Street, Suite 501, Houston, Texas 77002

Construction Plans for Proposed Detention Pond to Serve 29.0 Tract, 20103 Stokes Road, Waller, Texas 77484 (WGA Project No. 00486-001, June 2019), by Ward, Getz & Associates, LLP, Consulting Engineers, 2500 Tanglewilde, Suite 120, Houston, Texas 77063

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## EXHIBIT "F"

### ADVANCES

1. Draw Request. A "Draw Request" means a properly completed and executed written application by Mortgage Loan Borrower to Administrative Agent signed by an Authorized Officer on behalf of Mortgage Loan Borrower in the form of Exhibit "F-1" (or in another form satisfactory to Administrative Agent) setting forth the amount of Up-Front Equity funded and/or Loan Proceeds desired, together with the related AIA Documents G-702 and G-703 and such schedules, affidavits, releases, waivers, statements, invoices, Accounts Payable Lists, bills, and other documents, certificates and information reasonably satisfactory to Administrative Agent. At least ten (10) Business Days before the requested date of each advance made under the Budget from the Loan, Mortgage Loan Borrower shall deliver a Draw Request to Administrative Agent and each Lender. Mortgage Loan Borrower shall be entitled to an advance only in an amount approved by Administrative Agent in accordance with the terms of this Agreement and the Credit Documents. Lenders shall not be required to make advances more frequently than once each calendar month. Lenders shall, only upon the satisfaction, as determined by Administrative Agent in its sole discretion, of all applicable conditions of this Agreement and the Credit Documents, be required to make the requested advance to Mortgage Loan Borrower on a Funding Date which is a Business Day within ten (10) Days after such satisfaction. Each Draw Request, and Mortgage Loan Borrower's acceptance of any advance, shall be deemed to ratify and confirm, as of the date of the Draw Request and the advance, respectively, that, except as specified in the Draw Request, (a) all representations and warranties in the Credit Documents remain true and correct in all material respects, and all covenants and agreements in the Credit Documents remain satisfied, (b) there is no uncured Default or Event of Default existing under the Credit Documents, (c) all conditions to the advance, whether or not evidence thereof is required by Administrative Agent, are satisfied, (d) the AIA Document G-702 and G-703 forms executed by each contractor and approved by Mortgage Loan Borrower's architect, together with all schedules, affidavits, releases, waivers, statements, invoices, Accounts Payable Lists, bills, and other documents, certificates and information submitted for the Draw Request are complete and correct, and in all material respects what they purport and appear to be for the amount and period applicable to the Draw Request, (e) all advances previously made to Mortgage Loan Borrower were disbursed, and the proceeds of the advance requested in the Draw Request will immediately be disbursed, for payments of the costs and expenses specified in the Budget for which the advances were made, and for no other purpose, (f) after the advance, all obligations for work and other costs heretofore incurred by Mortgage Loan Borrower in connection with the Project and which are due and payable will be fully paid and satisfied, and (g) any unadvanced portion of the Loan to which Mortgage Loan Borrower is entitled, plus the portions of the Aggregate Cost that are to be paid by Mortgage Loan Borrower from other funds that, to Administrative Agent's satisfaction, are available, set aside and committed, is or will be sufficient to pay the actual unpaid Aggregate Cost.

2. Advances. Mortgage Loan Borrower shall use and apply all advances made to Mortgage Loan Borrower, for payment of the costs and expenses specified in the Budget for which the advances were made, and for no other purpose. Following receipt and approval of a Draw Request, all supporting documentation and information reasonably required by Administrative Agent, and receipt and approval of a Construction Inspector Report and Title Insurance Report reasonably satisfactory to Administrative Agent, Administrative Agent will determine the amount of the advance Lenders shall make in accordance with this Agreement, the Credit Documents, the Budget, and if and to the extent required by Administrative Agent, to Administrative Agent's reasonable satisfaction, the following standards:

(a) An initial advance in the amount of the Initial Advance.

(b) For construction work, other than tenant improvement work under Leases approved by Administrative Agent, advances shall be made on the basis of ninety percent (90%) of the costs shown on the application for payment from the contractor reviewed and approved by Administrative Agent of the work or material in place on the Improvements that comply with the terms of the Credit Documents, minus all previous advances and all amounts required to be paid by Mortgage Loan Borrower, as described in the Budget; *provided, however*, that to the extent required by the terms of any construction contract or subcontract, at such time as the construction of the Improvements is fifty percent (50%) completed, as verified by the Construction Inspector, advances may increase to ninety-five percent (95%) of the approved costs requisitioned, minus all previous advances and all amounts required to be paid by Mortgage Loan Borrower; provided, however, that (i) retainage shall never be less than five percent (5%) of the amount of the general contract without the prior written consent of Administrative Agent and (ii) Administrative Agent shall not be required to make advances for direct construction costs in excess of the aggregate amount for which Mortgage Loan Borrower shall be responsible pursuant to the terms of the general construction contract. Furthermore, notwithstanding anything contained herein to the contrary, but subject to the operation of clause (i) above, Administrative Agent agrees to release the retainage payable to any subcontractor when such subcontractor has completed work under its subcontract in a manner acceptable to Construction Inspector and, if applicable, the appropriate Governmental Authority and has provided to Administrative Agent a full and final waiver of liens (which may be conditioned upon the payment of a specified sum).

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(c) No advances will be made for Stored Materials unless (i) Mortgage Loan Borrower has good title to the Stored Materials and the Stored Materials are components in a form ready for incorporation into the Improvements and will be so incorporated within a period of forty-five (45) days, (ii) the Stored Materials are in Mortgage Loan Borrower's possession and satisfactorily stored on the Land or such materials are satisfactorily stored at such other site as Administrative Agent may approve, (iii) the Administrative Agent shall have been provided with copies of invoices for and, photographic evidence of, such Stored Materials (iv) the Stored Materials are protected and insured against theft and damage in a manner and amount satisfactory to Administrative Agent and satisfactory evidence of commercial property insurance covering Stored Materials provided to the Administrative Agent, (v) the Stored Materials have been paid for in full or will be paid for with the funds to be advanced and all lien rights and claims of the supplier have been released or will be released upon payment with the advanced funds, and (vi) Administrative Agent for the benefit of Lenders has or will have upon payment with the advanced funds a perfected, first priority security interest in the Stored Materials. Notwithstanding the foregoing, the aggregate amount of advances for Stored Materials that have not yet been incorporated into the Improvements shall not exceed the Stored Materials Advance Limit.

(d) Mortgage Loan Borrower agrees that prior to Lenders funding any advance or draw under the Mortgage Loans, Mortgage Loan Borrower shall be required to have contributed the Required Up-Front Cash Equity.

3. Conditions to the Initial Advance. As conditions precedent to the Initial Advance hereunder, if and to the extent required by Administrative Agent, to Administrative Agent's satisfaction, Mortgage Loan Borrower must have satisfied the conditions required under this Agreement, including all of those conditions set forth in Exhibit "C" and Section 4 below.

4. Conditions to All Advances. As conditions precedent to each advance made pursuant to a Draw Request, in addition to all other requirements contained in this Agreement, Mortgage Loan Borrower must satisfy the following conditions, and deliver to Administrative Agent evidence of such satisfaction.

(a) The continued satisfaction of all conditions to the Initial Advance.

(b) Mortgage Loan Borrower must have delivered a Draw Request.

(c) No continuing Default or any event which, with the giving of notice or the lapse of time, or both, could become a Default, exists.

(d) The representations and warranties made in the Credit Documents must be true and correct in all material respects on and as of the date of each advance and no event shall have occurred or condition or circumstance shall exist which, if known to Mortgage Loan Borrower, would render any such representation or warranty incorrect or misleading in any material respect.

(e) To the extent requested by Administrative Agent, (i) each subcontract or other contract for labor, materials, services and/or other work included in a Draw Request duly executed and delivered by all parties thereto and effective, and a true and complete copy of a fully executed copy of each such subcontract or other contract as Administrative Agent may have reasonably requested, and (ii) if not previously delivered, payment and performance bonds for those contractors and/or subcontractors under Material Contracts designated by Administrative Agent, in amounts, form and content reasonably satisfactory to Administrative Agent.

(f) No mechanic's or materialmen's lien or other encumbrance has been filed and remains in effect against the Property, no stop notices shall have been served on Lenders that have not been bonded by Mortgage Loan Borrower in a manner and amount satisfactory to Administrative Agent, and releases or waivers of mechanics' liens and receipted bills showing payment of all amounts due to all parties who have furnished materials or services or performed labor of any kind in connection with the Property (which may be conditioned upon the payment of a specified sum).

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(g) The Title Insurance has been endorsed and brought to date in a manner reasonably satisfactory to Administrative Agent to increase the coverage by the amount of each advance through the date of each such advance with no additional title change or exception not approved by Administrative Agent or otherwise permitted by the terms of the Credit Documents.

(h) Administrative Agent shall have received written certification by Construction Inspector, and if required by Administrative Agent by Mortgage Loan Borrower's architect, that to the best of such party's knowledge, information, and belief, construction is in accordance with the Plans, the quality of the work for which the advance is requested is in accordance with the applicable contract, the amount of the advance requested represents work in place based on on-site observations and the data comprising the Draw Request, the work has progressed in accordance with the construction contract and schedule, and the applicable contractor is entitled to payment of the amount certified.

(i) Administrative Agent shall have received (i) a foundation survey made promptly following, but in no event later than thirty (30) days after, the laying of the foundation of each building or structure of the Improvements satisfactory to Administrative Agent, complying with Exhibit "G", (ii) a certificate of Mortgage Loan Borrower's architect or engineer stating that based on personal inspection the foundations have been completed in accordance with the Plans and are satisfactory in all respects, and (iii) a bearing capacity test report with respect to the excavated footings and foundations, reviewed and reasonably approved by the Construction Inspector and Mortgage Loan Borrower's architect.

(j) Intentionally Deleted.

(k) Intentionally Deleted.

(l) As of the date of making such advance, no event shall have occurred, nor shall any condition exist, that is reasonably likely to have a Material Adverse Effect.

(m) The Improvements shall not have been damaged and not being repaired in accordance with the terms of the Mortgage, and shall not be the subject of any pending (or threatened in writing) condemnation or adverse zoning proceeding.

(n) Mortgage Loan Borrower shall have paid all amounts then required to be paid by Mortgage Loan Borrower under the Budget.

(o) Mortgage Loan Borrower shall have made the Mortgage Loan Borrower's Deposit, if any, required by Section 1.5 of this Agreement.

(p) With respect to any advance to pay a contractor, original applications for payments in form approved by Administrative Agent, containing a breakdown by trade and/or other categories acceptable to Administrative Agent, executed and certified by each applicable contractor and Mortgage Loan Borrower's architect, accompanied by invoices, and approved by Construction Inspector.

(q) Mortgage Loan Borrower shall have delivered to Administrative Agent an Owner's Affidavit certifying that the funds disbursed to date by Lenders have been paid to appropriate parties.

(r) If reasonably requested by Administrative Agent, Mortgage Loan Borrower shall have delivered to Administrative Agent copies of notarized partial lien waiver forms executed by each contractor and each appropriate subcontractor, supplier and materialman, including, without limitation, from all parties sending statutory notices to contractors, notices to owners, or notices of nonpayment, specifying in such partial lien waivers the amount paid or payable in consideration of such partial releases as may be required by Administrative Agent.

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(s) An Accounts Payable List for any soft costs.

(t) Mortgage Loan Borrower shall have delivered to Administrative Agent such other information, documents and supplemental legal opinions as may be reasonably required by Administrative Agent.

5. Final Advance for Improvements. If and to the extent required by Administrative Agent, to Administrative Agent's reasonable satisfaction, the final advance for the Improvements (including retainage) shall not be made until the Administrative Agent shall have received the following as additional conditions precedent to the requested advance:

(a) A certificate from the Construction Inspector (that has conducted an on-site inspection of the project) that the Improvements have been completed in substantial accordance with the Plans.

(b) Certificates from Mortgage Loan Borrower's architect, contractor and, if required by Administrative Agent, from the Construction Inspector, certifying that the Improvements (including any appurtenant off-site improvements) have been completed substantially in accordance with, and as completed substantially comply with, the Plans and comply with all Laws and governmental requirements; and if and to the extent required by Administrative Agent, Administrative Agent shall have received two (2) sets of detailed "as built" Plans approved in writing by Mortgage Loan Borrower and Mortgage Loan Borrower's architect and contractor.

(c) If and to the extent required by Administrative Agent, final affidavits (in a form approved by Administrative Agent) from Mortgage Loan Borrower's architect and each contractor certifying that each of them and their subcontractors, laborers, and materialmen has been paid in full for all labor and materials for construction of the Improvements; and final lien releases or waivers (in a form approved by Administrative Agent, and which may be conditioned on the payment of a specified sum) by Mortgage Loan Borrower's architect, contractor, and all subcontractors, materialmen, and other parties who have supplied labor, materials, or services for the construction of the Improvements, or who otherwise might be entitled to claim a contractual, statutory or constitutional lien against the Property.

(d) The Title Insurance shall be endorsed and brought to date to remove any exception for mechanic's or materialmen's liens or pending disbursements, with no additional title change or exception reasonably objectionable to Administrative Agent, and with such other endorsements required by Administrative Agent, and Mortgage Loan Borrower shall have furnished to the Administrative Agent copies of all final waivers of lien in accordance with the Texas Property Code, and any other releases and waivers that the Title Company may require in order to insure the first lien position of the Mortgage securing the Mortgage Loan.

(e) If requested by the Administrative Agent, an affidavit of the Mortgage Loan Borrower pursuant to Texas Property Code §53.106 ("Affidavit of Completion") stating that, *inter alia*, to the knowledge of the Mortgage Loan Borrower, each Person providing any material or performing any work in connection with the Project for which the Borrower has received funds has been paid in full and all withholding taxes have been paid.

(f) Evidence that (i) forty-one (41) days shall have elapsed from the later of (A) the date of Completion of the Improvements, as specified in Texas Property Code §53.106, if the Affidavit of Completion (defined above) is filed within ten (10) days after such date of Completion, or (B) the date of filing of the Affidavit of Completion is filed ten (10) days or more after the date of the completion of the Improvements as specified in Texas Property Code §53.106, (ii) a copy of the Affidavit of Completion has been mailed by certified or registered mail to any Persons entitled to receive actual notice as specified in Texas Property Code §53.106(b) or (c), and (iii) a notice of lien claim has not been made, nor has a lien been filed as of such date. 1

(g) If and to the extent required by Administrative Agent, three (3) copies of a final as-built survey satisfactory to Administrative Agent and to the extent required by Administrative Agent complying with "Exhibit G".

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1 Requirement(s) to be confirmed with Title Company.

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(h) A certificate of occupancy and/or completion from the Governmental Authorities having jurisdiction over the project, and any other permits required by any applicable Governmental Authority for the use, occupancy, or operation of the Property for the intended usage of the Property.

(i) The fixtures, furniture, furnishings, equipment and other property contemplated under the Budget and Plans shall have been substantially incorporated into installed in the Property free and clear of liens other than Permitted Encumbrances.

(j) If requested by the Administrative Agent, evidence that all insurance required under the terms of the Credit Agreement and the other Credit Documents, including "all risk" casualty insurance covering the Property, the Mortgage Loan Borrower, Diversified, and the business to be conducted on the Property, is in full force and effect.

6. Direct Advances. Mortgage Loan Borrower hereby irrevocably authorizes Administrative Agent on behalf of Lenders (but Administrative Agent shall have no obligation) to (i) advance Loan funds directly to Lenders to pay interest then due and payable on the Mortgage Loans, and (ii) subsequent to the occurrence and during the continuance of a Default, advance and directly apply the proceeds of any advance to the satisfaction of any of Mortgage Loan Borrower's obligations under any of the Credit Documents, even though Mortgage Loan Borrower did not include that amount in a Draw Request. Each such direct advance (except for application of a Mortgage Loan Borrower's Deposit) shall be added to the outstanding principal balance of the Loan and shall be secured by the Credit Documents. Unless Mortgage Loan Borrower pays such interest from other resources, Administrative Agent may advance Loan Proceeds pursuant to this Section for interest payments as and when due. Nothing contained in this Agreement shall be construed to permit Mortgage Loan Borrower to defer payment of interest on the Mortgage Loans beyond the date(s) due. The allocation of the Mortgage Loans funds in the Budget for interest shall not affect Mortgage Loan Borrower's absolute obligation to pay the same in accordance with the Credit Documents. Administrative Agent may hold, use, disburse and apply the Loan Proceeds and any Mortgage Loan Borrower's Deposit for payment of any obligation of Mortgage Loan Borrower under the Credit Documents. Mortgage Loan Borrower hereby assigns and pledges the proceeds of the Loan and any Mortgage Loan Borrower's Deposit to Administrative Agent for itself and for the benefit of Lenders for such purposes. From and after the occurrence of any Default hereunder, Administrative Agent on behalf of Lenders may advance and incur such expenses as Administrative Agent reasonably deems necessary for the completion of the Improvements and to preserve the Property, the Ground Lease and any other security for the Loan, and such expenses, even though in excess of the amount of the Loan, shall be secured by the Credit Documents and shall be payable to Administrative Agent on behalf of Lenders on demand. Administrative Agent on behalf of Lenders may disburse any portion of any advance at any time, and from time to time, to Persons other than Mortgage Loan Borrower for the purposes specified in this Section and the amount of advances to which Mortgage Loan Borrower shall thereafter be entitled shall be correspondingly reduced.

7. Conditions and Waivers. All conditions precedent to the obligation of Lenders to make any advance are imposed hereby solely for the benefit of Administrative Agent and Lenders, and no other party may require satisfaction of any such condition precedent or be entitled to assume that Lenders will refuse to make any advance in the absence of strict compliance with such conditions precedent. Administrative Agent shall have the right to approve and verify the periodic progress of, costs incurred by Mortgage Loan Borrower for, and the estimated costs remaining to be incurred for the construction of the Improvements, after consultation with the Construction Inspector. No advance shall constitute an approval or acceptance by Administrative Agent of any construction work, or a waiver of any condition precedent to any further advance, or preclude Administrative Agent from thereafter declaring the failure of Mortgage Loan Borrower to satisfy such condition precedent to be a Default. No waiver by Administrative Agent of any condition precedent or obligation shall preclude Administrative Agent from requiring such condition or obligation to be met prior to making any other advance or from thereafter declaring the failure of Mortgage Loan Borrower to satisfy such condition or obligation to be a Default.

8. Funding. Mortgage Loan Borrower hereby acknowledges and agrees that it has established an account with Administrative Agent designated as Account # \_\_\_\_\_ into which advances under the Mortgage Loans shall be funded directly to Mortgage Loan Borrower (excluding direct disbursements made to or by Administrative Agent on behalf of Lenders pursuant to this Agreement), and against which checks shall be drawn by Mortgage Loan Borrower only for the payment of costs specified in the Budget. Such account shall not be used for any other purpose. Mortgage Loan Borrower hereby irrevocably authorizes Administrative Agent to deposit each advance requested by Mortgage Loan Borrower to the credit of Mortgage Loan Borrower in that account, by wire transfer or other deposit. Advances may also be made, in addition to other methods contemplated herein, at Administrative Agent's option, by direct or joint check payment to any or all Persons entitled to payment for work or services performed or material furnished in connection with the Project or the Loan, or by having the proceeds thereof made available to the Title Company (or its agent) for disbursement. Neither Administrative Agent nor any Lender shall be required to, and has no responsibility to, supervise the proper application or distribution of funds to third parties.

9. Developer's Fees, Etc. Notwithstanding anything contained herein to the contrary, no portion of the proceeds of the Loan shall be allocated in the Budget, or advanced, for the payment of developer's overhead, developer's fees and/or in-house leasing commissions to the Mortgage Loan Borrower or its Affiliates.

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[“This Mortgage Loan Note was executed and delivered outside of the State of Florida and is exempt from Florida documentary stamp taxes.”]

Buffalo, New York  
\_\_\_\_\_, 202\_

### MORTGAGE LOAN NOTE

FOR VALUE RECEIVED, the undersigned **LONE STAR ACQUISITION, LLC**, a Delaware limited liability company, authorized to do business in the State of Texas as **LONE STAR LAND OF HOUSTON, LLC** (the “Mortgage Loan Borrower”), promises to pay to the order of **MANUFACTURERS AND TRADERS TRUST COMPANY** (the “Lender”), c/o **MANUFACTURERS AND TRADERS TRUST COMPANY** (the “Administrative Agent”), One Fountain Plaza, 12th Floor, Buffalo, New York 14203, or at such other places as the holder of this Mortgage Loan Note may from time to time designate, the principal sum of \_\_\_\_\_ Dollars ( \_\_\_\_\_ ) or the unpaid portion thereof as has been advanced to the Mortgage Loan Borrower for the account of the Lender as a “Mortgage Loan,” as such term is defined and described in the Credit Agreement dated to be effective as of March 15, 2018, as amended from time to time (as amended, the “Agreement”) between the Mortgage Loan Borrower, the other Borrowers which are parties thereto, the Administrative Agent, the Lender, and the other lenders named therein, together with interest thereon at the rate or rates specified in the Agreement until paid in full and any and all other sums which may be owing to the holder of this Mortgage Loan Note by the Mortgage Loan Borrower pursuant to this Mortgage Loan Note, on or before the “Mortgage Loan Maturity Date,” as such term is defined in the Agreement, or such earlier date as required by the Agreement. This Mortgage Loan Note is a “Mortgage Loan Note,” as such term is defined in the Agreement. The following terms shall apply to this Mortgage Loan Note.

1. Interest Rates, Calculation Of Interest, Obligations And Terms Of Repayment, And Rights Of Prepayment. The Mortgage Loan Borrower agrees to pay principal and all interest which accrues on the unpaid balance of this Mortgage Loan Note from the date of this Mortgage Loan Note until such time as the obligations evidenced hereunder have been paid in full, at the times and in accordance with the covenants, procedures and requirements set forth in the Agreement. Interest shall accrue, be payable, and shall be calculated as provided for in the Agreement. The Mortgage Loan Borrower further promises to make such other payments of default interest, late payment charges, fees, and other expenses, costs and payment obligations as are required by the Agreement to be made by the Mortgage Loan Borrower to or for the account of the Lender. The principal balance of this Mortgage Loan Note, together with all other unpaid interest, fees, expenses and other sums due to the holder, shall be paid in full on or before the Mortgage Loan Maturity Date. The Mortgage Loan Borrower’s right to prepay any or all sums due pursuant to this Mortgage Loan Note shall be governed by the terms and conditions of the Agreement.

2. Interest Rate After Judgment. If judgment is entered against the Mortgage Loan Borrower on this Mortgage Loan Note, the amount of the judgment entered (which may include principal, interest, fees, and costs) shall bear interest at the higher of the maximum interest rate imposed upon judgments by applicable law or the default interest rate set forth in the Agreement, to be determined on the date of the entry of the judgment.

3. Expenses Of Collection And Attorneys’ Fees. Should this Mortgage Loan Note be referred to an attorney for collection, whether or not suit is filed, the Mortgage Loan Borrower shall pay all of the holder’s costs, fees and expenses, including reasonable attorneys’ fees, resulting from such referral.

4. Waiver of Defenses. In the event any one or more holders of this Mortgage Loan Note transfer this Mortgage Loan Note for value, the Mortgage Loan Borrower agrees that, except as otherwise provided herein, all subsequent holders of this Mortgage Loan Note who take for value and without actual knowledge of a claim or defense of the Mortgage Loan Borrower against a prior holder shall not be subject to any claims or defenses which the Mortgage Loan Borrower may have against a prior holder, all of which are waived as to the subsequent holder, and that all such subsequent holders shall have all rights of a holder in due course with respect to the Mortgage Loan Borrower even though the subsequent holder may not qualify, under applicable law, absent this section, as a holder in due course. The Mortgage Loan Borrower shall retain all rights and claims which the Mortgage Loan Borrower may have against prior holders despite any such transfers and the waiver of defenses provided in this section as to subsequent holders. Notwithstanding the foregoing, nothing herein shall represent the waiver by the Mortgage Loan Borrower of any defense based upon any payment hereof made to any former holder hereof prior to the Mortgage Loan Borrower having been notified of the transfer of this Mortgage Loan Note to any subsequent holder.

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5. Waiver Of Protest. The Mortgage Loan Borrower, and all parties to this Mortgage Loan Note, whether maker, endorser, or guarantor, waive presentment, notice of dishonor and protest.

6. Extensions Of Maturity. All parties to this Mortgage Loan Note, whether maker, endorser, or guarantor, agree that the maturity of this Mortgage Loan Note, or any payment due hereunder, may be extended at any time or from time to time without releasing, discharging, or affecting the liability of such party.

7. Manner And Method Of Payment. All payments called for in this Mortgage Loan Note shall be made in lawful money of the United States of America. If made by check, draft, or other payment instrument, such check, draft, or other payment instrument shall represent immediately available funds. In the holder's discretion, any payment made by a check, draft, or other payment instrument shall not be considered to have been made until such time as the funds represented thereby have been collected by the holder. Should any payment date fall on a non-banking day, the Mortgage Loan Borrower shall make the payment on the next succeeding banking day.

8. Notices. Any notice or demand required or permitted by or in connection with this Mortgage Loan Note shall be given in the manner specified in the Agreement for the giving of notices under the Agreement. Notwithstanding anything to the contrary, all notices and demands for payment from the holder actually received in writing by the Mortgage Loan Borrower shall be considered to be effective upon the receipt thereof by the Mortgage Loan Borrower regardless of the procedure or method utilized to accomplish delivery thereof to the Mortgage Loan Borrower.

9. Assignability. This Mortgage Loan Note may only be assigned by the Lender or by any holder to the extent permitted by the stated terms of the Agreement.

10. Binding Nature. This Mortgage Loan Note shall inure to the benefit of and be enforceable by the Lender and the Lender's successors and assigns, and shall be binding and enforceable against the Mortgage Loan Borrower and the Mortgage Loan Borrower's respective successors and assigns.

11. Invalidity Of Any Part. If any provision or part of any provision of this Mortgage Loan Note shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Mortgage Loan Note and this Mortgage Loan Note shall be construed as if such invalid, illegal or unenforceable provision or part thereof had never been contained herein, but only to the extent of its invalidity, illegality, or unenforceability.

12. Choice Of Law. The laws of the State of New York ("Governing State") (excluding, however, conflict of law principles) shall govern and be applied to determine all issues relating to this Mortgage Loan Note and the rights and obligations of the parties hereto, including the validity, construction, interpretation, and enforceability of this Mortgage Loan Note and its various provisions and the consequences and legal effect of all transactions and events which resulted in the issuance of this Mortgage Loan Note or which occurred or were to occur as a direct or indirect result of this Mortgage Loan Note having been executed.

13. Consent To Jurisdiction; Agreement As To Venue. The Mortgage Loan Borrower irrevocably consents to the non-exclusive jurisdiction of any state or federal court (if a basis for federal jurisdiction exists) located in the Governing State. The Mortgage Loan Borrower agrees that venue shall be proper in any state or federal court located in the Governing State and waives any right to object to the maintenance of a suit in any of the state or federal courts of the Governing State on the basis of improper venue or of inconvenience of forum.

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14. Unconditional Joint And Several Obligations. The Mortgage Loan Borrower's obligations pursuant to this Mortgage Loan Note shall be the absolute joint and several unconditional duties and obligations of the Mortgage Loan Borrower and shall be independent of any rights of set-off, recoupment or counterclaim which the Mortgage Loan Borrower might otherwise have against the holder of this Mortgage Loan Note, and the Mortgage Loan Borrower shall pay absolutely the payments of principal, interest, fees and expenses required hereunder, free of any deductions and without abatement, diminution or set-off.

15. Effective Date. This Mortgage Loan Note is to be considered effective and enforceable as of the date set forth on the first page hereof, independent of the date of actual execution and delivery.

16. Tense; Gender; Defined Terms; Section Headings. As used herein, the singular includes the plural and the plural includes the singular. A reference to any gender also applies to any other gender. Defined terms are entirely capitalized throughout, and defined terms not specifically defined herein shall have the same meaning as provided by the terms of the Agreement. The section headings are for convenience only and are not part of this Mortgage Loan Note.

17. Actions Against Holder. Any action brought by the Mortgage Loan Borrower against the holder of this Mortgage Loan Note which is based, directly or indirectly, on this Mortgage Loan Note or any matter in or related to this Mortgage Loan Note, including but not limited to the making of the loan evidenced hereby or the administration or collection thereof, shall be brought only in the courts of the Governing State. The Mortgage Loan Borrower agrees that any forum other than the Governing State is an inconvenient forum and that a suit brought by the Mortgage Loan Borrower against the holder of this Mortgage Loan Note in a court of any state other than the Governing State should be forthwith dismissed or transferred to a court located in the Governing State by that Court.

18. Waiver Of Jury Trial. The Mortgage Loan Borrower (by execution of this Mortgage Loan Note) and the holder of this Mortgage Loan Note (by acceptance of this Mortgage Loan Note) agree that any suit, action, or proceeding, whether claim or counterclaim, brought or instituted by or against the Mortgage Loan Borrower or the holder of this Mortgage Loan Note, or any successor or assign of the Mortgage Loan Borrower or the holder of this Mortgage Loan Note, on or with respect to this Mortgage Loan Note or any of the other "Credit Documents," as such term is defined in the Agreement, or which in any way relates, directly or indirectly, to the obligations of the Mortgage Loan Borrower to the holder of this Mortgage Loan Note under this Mortgage Loan Note or any of the other Credit Documents, or the dealings of the parties with respect thereto, shall be tried only by a court and not by a jury. **THE MORTGAGE LOAN BORROWER AND THE HOLDER OF THIS MORTGAGE LOAN NOTE HEREBY EXPRESSLY WAIVE ANY RIGHT TO A TRIAL BY JURY IN ANY SUCH SUIT, ACTION, OR PROCEEDING.**

[Signatures Begin On The Following Page]

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**Signature Page to Mortgage Loan Note:**

IN WITNESS WHEREOF, the Mortgage Loan Borrower has duly executed this Mortgage Loan Note as of the date first above written.

WITNESS/ATTEST:

**MORTGAGE LOAN BORROWER:**

**LONE STAR ACQUISITION, LLC,**  
A Delaware limited liability company,  
Authorized to do business in Texas under the name  
**LONE STAR LAND OF HOUSTON, LLC**

By: LDRV Holdings Corp.,  
a Delaware corporation, its Manager

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

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The following is a list of Subsidiaries of the Registrant:

Subsidiaries	Jurisdiction of Incorporation
Lazydays R.V. Center, Inc. (Lazydays RV)	Delaware
LDRV Holdings Corp. (Lazydays RV)	Delaware
Lazydays Land Holdings, LLC (Lazydays RV)	Delaware
Lazydays RV America LLC (Lazydays RV)	Delaware
Lazydays Mile Hi RV, LLC (Lazydays RV)	Delaware
Lazydays RV Discount, LLC (Lazydays RV)	Delaware
Lazydays of Minneapolis LLC (Lazydays RV)	Delaware
LDRV of Tennessee LLC (Lazydays RV)	Delaware
Lone Star Acquisition LLC (Lazydays RV Service)	Delaware
Lone Star Diversified LLC (Lazydays RV Service)	Delaware
LDRV Acquisition Corp of Nashville LLC (Lazydays RV)	Delaware
LDRV of Nashville LLC (Lazydays RV)	Delaware

INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM'S CONSENT

We consent to the incorporation by reference in the Registration Statements of Lazydays Holdings, Inc. on Form S-3 (File No. 333-224063 and File No. 333-231975), Form S-8 (File No. 333-227155, File No. 333-231973 and File No. 333-231974) and Form S-4 (File No. 333-227156) of our report dated March 20, 2020 with respect to our audits of the consolidated financial statements of Lazydays Holdings, Inc. and Subsidiaries as of December 31, 2019 and December 31, 2018, for the year ended December 31, 2019 (Successor), for the period from March 15, 2018 to December 31, 2018 (Successor) and for the period from January 1, 2018 to March 14, 2018 (Predecessor), which report is included in this Annual Report on Form 10-K of Lazydays Holdings, Inc. for the year ended December 31, 2019.

*/s/ Marcum llp*

Marcum llp  
Melville, NY  
March 20, 2020

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**CERTIFICATION**  
**PURSUANT TO RULE 13a-14 and 15d-15**  
**UNDER THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED**  
**CERTIFICATION OF CHIEF EXECUTIVE OFFICER**

I, William P. Murnane, certify that:

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

Date: March 20, 2020

/s/ WILLIAM P. MURNANE

William P. Murnane  
Chief Executive Officer

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**CERTIFICATION**  
**PURSUANT TO RULE 13a-14 and 15d-15**  
**UNDER THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED**  
**CERTIFICATION OF CHIEF FINANCIAL OFFICER**

I, Nicholas Tomashot, certify that:

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

Date: March 20, 2020

/s/ NICHOLAS TOMASHOT

Nicholas J. Tomashot  
Chief Financial Officer

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**CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Annual Report on Form 10-K of Lazydays Holdings, Inc. (the "Company") for the period ended December 31, 2019 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, William P. Murnane, Chief Executive Officer of the Company, hereby certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 that:

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

*/s/ WILLIAM P. MURNANE*

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William P. Murnane  
Chief Executive Officer

Date: March 20, 2020

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**CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Annual Report on Form 10-K of Lazydays Holdings, Inc. (the “Company”) for the period ended December 31, 2019 as filed with the Securities and Exchange Commission on the date hereof (the “Report”), I, Nicholas Tomashot, Chief Financial Officer of the Company, hereby certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 that:

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

*/s/ NICHOLAS TOMASHOT*

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Nicholas J. Tomashot  
Chief Financial Officer

Date: March 20, 2020

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