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

**FORM 8-K**

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

Date of Report (Date of earliest event reported): **July 21, 2021**

# American Finance Trust, Inc.

(Exact Name of Registrant as Specified in Charter)

| **Maryland** | **000-38597** | **90-0929989** |
|---|---|---|
| (State or other jurisdiction of incorporation) | (Commission File Number) | (I.R.S. Employer Identification No.) |

**650 Fifth Avenue, 30th Floor**
**New York, New York 10019**

(Address, including zip code, of Principal Executive Offices)

**Registrant's telephone number, including area code: (212) 415-6500**

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

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

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

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

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

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

| **Title of each class** | **Trading Symbols** | **Name of each exchange on which registered** |
|---|---|---|
| Class A Common Stock, $0.01 par value per share | AFIN | The Nasdaq Global Select Market |
| 7.50% Series A Cumulative Redeemable Perpetual Preferred Stock, $0.01 par value per share | AFINP | The Nasdaq Global Select Market |
| 7.375% Series C Cumulative Redeemable Perpetual Preferred Stock, $0.01 par value per share | AFINO | The Nasdaq Global Select Market |
| Preferred Stock Purchase Rights | | The Nasdaq Global Select Market |

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

Emerging growth company ☐

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

**Item 1.01. Entry into a Material Definitive Agreement.**

*Multi-Year Outperformance Award Agreement*

On July 21, 2021 American Finance Trust, Inc. (the "Company") and its operating partnership, American Finance Operating Partnership, L.P. (the "OP"), entered into an Advisor Multi-Year Outperformance Award Agreement (the "2021 OPP Agreement") with the Company's advisor, American Finance Advisors, LLC (the "Advisor"). Pursuant to the 2021 OPP Agreement, the Advisor was granted an award of 8,528,885 units of limited partnership interest in the OP designated as "LTIP Units" ("LTIP Units") under the 2018 Advisor Omnibus Incentive Compensation Plan of the Company (the "Advisor Plan"). As previously disclosed, on May 4, 2021, the Company's independent directors, acting as a group, authorized the issuance of the award after the performance period under the award of LTIP Units made to the Advisor in 2018 (the "2018 OPP Agreement") expired on July 19, 2021, with the number of LTIP Units to be issued to the Advisor to be equal to the quotient of $72.0 million divided by the ten-trading day trailing average closing stock price of the Company's Class A common stock for the ten trading days up to and including July 19, 2021 (the "Initial Share Price"). The Initial Share Price was $8.4419. Prior to the issuance of LTIP Units pursuant to the 2021 OPP Agreement, the compensation committee of the board of directors of the Company determined that none of the 4,496,796 of the LTIP Units subject to the 2018 OPP Agreement had been earned. These LTIP Units were thus automatically forfeited effective as of July 19, 2021, without the payment of any consideration by the Company or the OP.

The LTIP Units granted pursuant to the 2021 OPP Agreement may be earned and become vested based on the Company's total shareholder return ("TSR"), including both share price appreciation and reinvestment of Class A common stock dividends, compared to the Initial Share Price, over a performance period commencing on July 20, 2021 and ending on the earliest of (i) July 20, 2024, (ii) the effective date of any Change of Control (as defined in the Advisor Plan) and (iii) the effective date of any termination of the Advisor's service as the Company's advisor.

With respect to one-half of the LTIP Units granted, the number of LTIP Units that become earned (if any) will be determined as of the last day of the performance period based on the Company's achievement of absolute TSR levels as follows:

| Performance Level (% of LTIP Units Earned) | Absolute TSR | Number of LTIP Units Earned |
|---|---|---|
| Below Threshold (0%) | Less than 18.0% | 0 |
| Threshold (25%) | 18.0% | 1,066,110.625 |
| Target (50%) | 24.0% | 2,132,221.250 |
| Maximum (100%) | 36.0% or higher | 4,264,442.500 |

If the Company's absolute TSR is more than 18% but less than 24%, or more than 24% but less than 36%, the number of LTIP Units that become earned will be determined using linear interpolation as between those tiers, respectively.

With respect to the remaining one-half of the LTIP Units granted, the number of LTIP Units that become earned (if any) will be determined as of the last day of the performance period based on the difference (expressed in terms of basis points, whether positive or negative) between the Company's absolute TSR on the last day of the performance period relative to the average TSR of a peer group consisting of Broadstone Net Lease, Inc., Office Properties Income Trust, RPT Realty and Spirit Realty Capital, Inc. as of the last day of the performance period as follows:

| Performance Level (% of LTIP Units Earned) | Relative TSR Excess | Number of LTIP Units Earned |
|---|---|---|
| Below Threshold (0%) | Less than -600 basis points | 0 |
| Threshold (25%) | -600 basis points | 1,066,110.625 |
| Target (50%) | 0 basis points | 2,132,221.250 |
| Maximum (100%) | +600 basis points or more | 4,264,442.500 |

If the relative TSR excess is more than -600 basis points but less than zero basis points, or more than zero basis points but less than +600 basis points, the number of LTIP Units that become earned will be determined using linear interpolation as between those tiers, respectively.

In the case of a Change of Control or a termination of the Advisor without Cause (as defined in the Company's advisory agreement with the Advisor), the number of LTIP Units that become earned will be calculated based on actual performance through the last trading day prior to the effective date of the Change of Control or termination (as applicable), with the hurdles for calculating absolute TSR prorated to reflect a performance period of less than three years but without prorating the number of LTIP Units that may become earned to reflect the shortened performance period.

In the case of a termination of the Advisor for Cause, the number of LTIP Units that become earned will be calculated based on actual performance through the last trading day prior to the effective date of the termination, with the hurdles for calculating absolute TSR and the number of LTIP Units that may become earned each prorated to reflect a performance period of less than three years.

Pursuant to the terms of the Advisor Plan, the LTIP Units will be administered by the Company's board or a committee thereof, defined as the "Committee" in the Advisor Plan. Promptly following the performance period, the Committee will, except in certain circumstances, determine the number of LTIP Units earned (if any) based on a calculations prepared by an independent consultant engaged by the Committee and as approved by the Committee in its reasonable and good faith discretion. The Committee also must approve the transfer of any LTIP Units or any units of limited partnership interest in the OP designated as "Class A Units" ("Class A Units") into which LTIP Units may be converted in accordance with the terms of the agreement of limited partnership of the OP (as amended from time to time, the "Partnership Agreement"). Any LTIP Units that are not earned will automatically be forfeited effective as of the end of the performance period and neither the Company nor the OP will be required to pay any future consideration in respect thereof.

The rights of the Advisor as the holder of the LTIP Units are governed by the terms of the LTIP Units set forth in the Partnership Agreement. Holders of LTIP Units are entitled to distributions on the LTIP Units equal to 10% of the distributions made per Class A Unit (other than distributions of sale proceeds) until the LTIP Units are earned. Distributions paid on Class A Units are equivalent to dividends paid on the Company's Class A common stock. Distributions paid on LTIP Units are not subject to forfeiture, even if the LTIP Units are ultimately forfeited. The Advisor will be entitled to a priority catch-up distribution on each earned LTIP Unit equal to 90% of the aggregate distributions paid on Class A Units during the applicable performance period. Any LTIP Units that are earned will become entitled to receive the same distributions paid on the Class A Units. If and when the Advisor's capital account with respect to an earned LTIP Unit is equal to the capital account balance of a Class A Unit, the Advisor, as the holder of the earned LTIP Unit, in its sole discretion, will, in accordance with the Partnership Agreement, be entitled to convert the LTIP Unit into a Class A Unit, which may in turn be redeemed on a one-for-one basis for, at the Company's election, a share of the Company's Class A common stock or the cash equivalent thereof. In connection with the grant of the LTIP Units under the 2021 OPP Agreement, the Company, as the general partner of the OP, entered into an amendment to the Partnership Agreement (the "LPA Amendment") to make certain clarifying revisions to the provisions related to distributions and tax allocations in the Partnership Agreement and to reflect changes in tax law.

The preceding summary of the 2021 OPP Agreement and the LPA Amendment does not purport to be complete and is subject to, and qualified in its entirety by reference to, the full text of the 2021 OPP Agreement and the LPA Amendment, which are filed as Exhibits 10.1 and 10.2, respectively, to this Current Report on Form 8-K.

**Item 9.01 Financial Statements and Exhibits.**

**(d) Exhibits**

| Exhibit No. | Description |
|---|---|
| 10.1 | Advisor Multi-Year Outperformance Award Agreement, dated as of July 21, 2021, by and among American Finance Trust, Inc., American Finance Operating Partnership, L.P. and American Finance Advisors, LLC. |
| 10.2 | Eighth Amendment, dated as of July 21, 2021, to the Second Amended and Restated Agreement of Limited Partnership of American Finance Operating Partnership, L.P., dated July 19, 2018. |
| 104 | Cover Page Interactive Data File - the cover page XBRL tags are embedded within the Inline XBRL Document. |

**SIGNATURES**

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

**American Finance Trust, Inc.**

Date: July 21, 2021

By: /s/ Edward M. Weil, Jr.
Name: Edward M. Weil, Jr.
Title: Chief Executive Officer and President

**Exhibit 10.1**

**AMERICAN FINANCE TRUST, INC.**

**2018 ADVISOR OMNIBUS INCENTIVE COMPENSATION PLAN**

**ADVISOR MULTI-YEAR OUTPERFORMANCE AWARD AGREEMENT**

This ADVISOR MULTI-YEAR OUTPERFORMANCE AWARD AGREEMENT (this "Agreement") effective as of July 21, 2021, by and among AMERICAN FINANCE TRUST, INC., a Maryland corporation (the "Company"), its subsidiary AMERICAN FINANCE OPERATING PARTNERSHIP, L.P., a Delaware limited partnership and the entity through which the Company conducts substantially all of its operations (the "Partnership"), and AMERICAN FINANCE ADVISORS, LLC, a Delaware limited liability company, the Company's advisor (the "Advisor").

**RECITALS**

**WHEREAS**, the Board of Directors of the Company (the "Board"), has adopted, and the stockholders of the Company have approved, the 2018 Advisor Omnibus Incentive Compensation Plan (the "Advisor Plan") to provide incentives to the Advisor and its Affiliates to promote the progress and success of the business of the Company and its Affiliates (including the Partnership), and provide a means through which the Advisor and its Affiliates can acquire and maintain an equity interest in the Company or the Partnership, or be paid incentive compensation measured by reference to the value of the Common Stock, thereby strengthening their commitment to the welfare of the Company and aligning their interests with those of the Company's stockholders, including by granting to the Advisor and its Affiliates awards of LTIP Units under the Advisor Plan (terms used but not otherwise defined herein shall have the meaning ascribed to them under the Advisor Plan).

**WHEREAS**, the Advisor provides services to the Company pursuant to the Advisory Agreement.

**WHEREAS**, the independent members of the Board approved the award of LTIP Units under the Advisor Plan described in this Agreement (the "Award"), which is subject to the terms and conditions set forth herein, in the Partnership Agreement and the Advisor Plan.

**NOW, THEREFORE,** the Company, the Partnership and the Advisor agree as follows:

1. Definitions. Capitalized terms used herein but not otherwise defined herein are set forth in Exhibit A or have the meaning ascribed to such terms in the Advisor Plan.

2. Outperformance Award.

a. Grant; Performance Period; Valuation Date. On the date of this Agreement (the "Grant Date"), the Advisor was granted the Award, consisting of the issuance to the Advisor of 8,528,885 LTIP Units (the "Award LTIP Units"), which will be subject to vesting and forfeiture as provided in this Section 2 based on performance during the period (the "Performance Period") commencing on July 20, 2021 and ending on the earlier of (i) July 20, 2024, (ii) the effective date of any Change of Control and (iii) the effective date of any termination of the Advisor's service as advisor of the Company (such end date, as applicable, the "Valuation Date"). 4,264,442.5 Award LTIP Units (the "Absolute TSR Award LTIPs") may vest and be earned based on Absolute TSR during the Performance Period and 4,264,442.5 Award LTIP Units (the "Relative TSR Award LTIPs") may vest and be earned based on Relative TSR during the Performance Period.

b. Determination Date; Outperformance Amounts.

(i) Determination Date. On a date as soon as practicable following the Valuation Date (the "Determination Date"), but as of the Valuation Date, the Committee shall determine the number of Award LTIP Units that have vested and been earned as of the Valuation Date based on the Absolute TSR Amount and the Relative TSR Amount, in each case, as defined below and as calculated in accordance with this Section 2(b) by an independent consultant engaged by the Committee and as approved by the Committee in its reasonable and good faith discretion. Notwithstanding the prior sentence, the Committee shall not be required to engage an independent consultant if the Advisor states in writing to the Committee that the Advisor has not earned any of the Award LTIP Units as of the Valuation Date and hereby forfeits any interest in the Award LTIP Units. The Determination Date shall be the Determination Date with respect to the Award LTIP Units for purposes of the Partnership Agreement.

(ii) Absolute TSR Amount. Subject to the provisions of Sections 2(c) and 2(d) below and the paragraph immediately below the following table, the following table sets forth the cumulative number of Absolute TSR Award LTIPs that shall vest and be earned based on the Absolute TSR as of the Valuation Date (such number of vested and earned Absolute TSR Award LTIPs, the "Absolute TSR Amount"):

| **Performance Level (% of Absolute TSR Award LTIPs Earned)** | **Absolute TSR** | **Absolute TSR Amount (Number of Absolute TSR Award LTIPs Vested and Earned)** |
|---|---|---|
| Below Threshold (0%) | Less than 18.0% | 0 |
| Threshold (25%) | 18.0% | 1,066,110.625 |
| Target (50%) | 24.0% | 2,132,221.250 |
| Maximum (100%) | 36.0% or higher | 4,264,442.500 |

All Absolute TSR Award LTIPs will be forfeited if the Absolute TSR is less than 18 percent. If the Absolute TSR is more than 18 percent but less than 24 percent, or more than 24 percent but less than 36 percent, in either case, the cumulative number of Absolute TSR Award LTIPs that will vest and be earned will be determined using linear interpolation as between the respective tiers.

(iii) Relative TSR Amount. Subject to the provisions of Section 2(c) and 2(d) below and the paragraph immediately below the following table, the following table sets forth the cumulative number of Relative TSR Award LTIPs that shall be vested and earned based on Relative TSR as of the Valuation Date (such number of vested and earned Relative TSR Award LTIPs, the "Relative TSR Amount"):

| Performance Level (% of Relative TSR Award LTIPs Earned) | Relative TSR Excess | Relative TSR Amount (Number of Relative TSR Award LTIPs Vested and Earned) |
|---|---|---|
| Below Threshold (0%) | Less than -600 bps | 0 |
| Threshold (25%) | -600 bps | 1,066,110.625 |
| Target (50%) | 0 bps | 2,132,221.250 |
| Maximum (100%) | +600 bps or more | 4,264,442.500 |

All Relative TSR Award LTIPs will be forfeited if the Relative TSR Excess is below -600 bps. If the Relative TSR Excess is more than -600 bps but less than 0 bps, or more than 0 bps but less than +600 bps, in either case, the cumulative number of the Relative TSR Award LTIPs that will vest and be earned will be determined using linear interpolation as between the respective tiers.

c. Change of Control. If the Valuation Date is the effective date of a Change of Control, then the calculations contemplated by Section 2(b) shall be made based on actual performance as of (and including) the effective date of such Change of Control; provided, however, that (i) the Absolute TSR Amount shall be determined (without proration) based on performance as of (and including) the last Trading Day prior to such date, as measured against the Absolute TSR hurdles set forth in Section 2(b)(ii) above, and as such Absolute TSR hurdles are reduced on a pro rata basis based on the number of Trading Days elapsed in the Performance Period through such effective date of a Change of Control over the number of Trading Days during the period from July 20, 2021 through July 20, 2024, and (ii) the Relative TSR Amount shall be determined (without proration) based on the performance as of (and including) the last Trading Day prior to such date.

d. Termination of Advisor.

(i) Termination of Advisor for Cause. If the Valuation Date is the effective date of any termination of the Advisor's service as advisor of the Company for Cause pursuant to and in accordance with the Advisory Agreement, then the calculations contemplated by Section 2(b) shall be made based on actual performance as of (and including) such date of termination; provided, however, that (A) the Absolute TSR Amount shall be (1) determined based on performance as of (and including) the last Trading Day prior to such date, as measured against the Absolute TSR hurdles set forth in Section 2(b)(ii) above, and as such Absolute TSR hurdles are reduced on a pro rata basis based on the number of Trading Days elapsed in the Performance Period through the effective date of termination over the number of Trading Days during the period from July 20, 2021 through July 20, 2024, and (2) prorated based on the number of full Trading Days elapsed in the Performance Period through the effective date of termination over the number of Trading Days during the period from July 20, 2021 through July 20, 2024, and (B) the Relative TSR Amount shall be (1) determined based on performance as of (and including) the last Trading Day prior to such date, as measured against the Relative TSR hurdles set forth in Section 2(b)(iii) above (without proration), and (2) prorated based on the number of Trading Days elapsed in the Performance Period through the effective date of termination over the number of Trading Days during the period from July 20, 2021 through July 20, 2024.

(ii) Termination of Advisor other than for Cause. If the Valuation Date is the effective date of the termination of the Advisor's service as advisor of the Company for any reason other than for Cause pursuant to and in accordance with the Advisory Agreement, then the calculations contemplated by Section 2(b) shall be made based on actual performance as of (and including) such date of termination; provided, however, that (A) the Absolute TSR Amount shall be determined (without proration) based on performance as of (and including) the last Trading Day prior to such date, as measured against the Absolute TSR hurdles set forth in Section 2(b)(ii) above, and as such Absolute TSR hurdles are reduced on a pro rata basis based on the number of Trading Days elapsed in the Performance Period through the effective date of termination over the number of Trading Days during the period from July 20, 2021 through July 20, 2024, and (B) the Relative TSR Amount shall be determined (without proration) based on the performance as of (and including) the last Trading Day prior to such date.

e. Vesting. Any Award LTIP Units that are eligible to vest and be earned pursuant to Section 2(b) shall be deemed to be fully vested as of the Valuation Date. Thereafter, subject to and in accordance with the terms of the Partnership Agreement, the Advisor, in its sole discretion, shall be entitled to convert any earned and vested Award LTIP Units into Class A Units (as defined in the Partnership Agreement) (as so converted, the "Award Class A Units").

f. Forfeiture. Any Award LTIP Units that do not become earned and vested pursuant to, and in accordance with, this Section 2 shall automatically and without notice be forfeited on the Determination Date, effective as of the Valuation Date, without payment of any consideration by the Partnership or the Company, and neither the Advisor nor any of its successors, heirs, assigns, members or their respective assigns or personal representatives will thereafter have any further rights or interests in such forfeited Award LTIP Units.

3. Rights of Advisor. The Advisor shall have no rights with respect to this Agreement (and the Award evidenced hereby) unless the Advisor shall have accepted this Agreement by signing and delivering to the Partnership a copy of this Agreement. Upon acceptance of this Agreement by the Advisor, effective at the Grant Date, the Partnership Agreement shall be amended to reflect the issuance to the Advisor of the Award LTIP Units so accepted. Thereupon, the Advisor shall have all the rights of a Limited Partner of the Partnership with respect to the Award LTIP Units, as set forth in the Partnership Agreement, subject, however, to the restrictions and conditions specified herein, in the Advisor Plan and in the Partnership Agreement. Award LTIP Units constitute and shall be treated for all purposes as the property of the Advisor, subject to the terms of this Agreement, the Advisor Plan and the Partnership Agreement.

4. Distributions. The holder of Award LTIP Units shall be entitled to receive distributions with respect to the Award LTIP Units as described below and in accordance with the Partnership Agreement. The day following the Valuation Date shall be the LTIP Unit Distribution Participation Date with respect to the Award LTIP Units for purposes of the Partnership Agreement. Pursuant to the Partnership Agreement, and subject in all respects to the terms and conditions set forth therein, including, without limitation, Section 5.01 of the Partnership Agreement, a holder of the Award LTIP Units shall be entitled to distributions per Award LTIP Unit in accordance with Section 5.02(a), Section 5.02(b) or Section 5.06 of the Partnership Agreement, as applicable, subject in each case to Section 5.02(c) of the Partnership Agreement, including for the avoidance of doubt, distributions per Award LTIP Unit as follows: (i) during the Performance Period, as and when distributions are made with respect to Class A Units, distributions in an amount equal to ten percent (10%) of the amount distributable with respect to a Class A Unit; (ii) following the Valuation Date, only with respect to each Award LTIP Unit that has been earned in accordance with Section 2, distributions in the same amount and at the same time as distributions on a Class A Unit; and (iii) promptly after the Determination Date, only with respect to each Award LTIP Unit earned in accordance with Section 2, a priority catch-up distribution in an amount in cash equal to the aggregate amount of cash distributed with respect to a Class A Unit during the Performance Period less the aggregate amount distributed with respect to such Award LTIP Unit during the Performance Period. All distributions paid with respect to Award LTIP Units, both before and after the LTIP Unit Distribution Participation Date, shall be fully vested and non-forfeitable when paid, whether or not the underlying Award LTIP Units have been earned in accordance with Section 2.

5. Restrictions on Transfer. Notwithstanding anything in the Partnership Agreement to the contrary and except as otherwise approved by the Committee in its sole discretion, none of the Award LTIP Units granted hereunder nor any of the Award Class A Units shall be sold, assigned, transferred, pledged, hypothecated, given away or in any other manner disposed of, encumbered, whether voluntarily or by operation of law (each such action a "Transfer"). Any Transferee approved by the Committee must agree in writing with the Company and the Partnership to be bound by all the terms and conditions of this Agreement, the Advisor Plan and the Partnership Agreement, and that subsequent transfers shall be prohibited except those in accordance with this Section 5. Additionally, all Transfers of Award LTIP Units or Award Class A Units must be in compliance with all applicable securities laws (including, without limitation, the Securities Act), and the applicable terms and conditions of the Partnership Agreement. In connection with any Transfer of Award LTIP Units or Award Class A Units, the Partnership may require the Advisor to provide an opinion of counsel, satisfactory to the Partnership, that such Transfer is in compliance with all federal and state securities laws (including, without limitation, the Securities Act). Any attempted Transfer of Award LTIP Units or Award Class A Units not approved by the Committee or otherwise in accordance with the terms and conditions of this Section 5 shall be null and void, and the Partnership shall not reflect on its records any change in record ownership of any Award LTIP Units or Award Class A Units as a result of any such Transfer, shall otherwise refuse to recognize any such Transfer and shall not in any way give effect to any such Transfer of any Award LTIP Units or Award Class A Units. Except as provided in this Section 5, this Agreement is personal to the Advisor, is non-assignable and is not transferable in any manner, by operation of law or otherwise.

6. Changes in Capital Structure. If (i) the Company shall at any time be involved in a merger, consolidation, dissolution, liquidation, reorganization, exchange of shares, sale of all or substantially all of the assets or stock of the Company or other transaction similar thereto, (ii) any reorganization, recapitalization, reclassification, stock dividend, stock split, reverse stock split, significant repurchases of stock, or other similar change in the capital stock of the Company or the Partnership, (iii) any cash dividend or other distribution to holders of shares of Common Stock or Partnership Units shall be declared and paid other than in the ordinary course, or (iv) any other extraordinary corporate event shall occur that in each case in the good faith judgment of the Committee necessitates action by way of equitable or proportionate adjustment in the terms of this Agreement or the Award LTIP Units to avoid distortion in the value of this Award, the Committee shall, taking into account, among other factors, the provisions of the Partnership Agreement, make equitable or proportionate adjustment and take such other action as it deems necessary to maintain the Advisor's rights hereunder so that they are substantially proportionate to the rights existing under this Award and the terms of the Award LTIP Units prior to such event, including, without limitation: (A) interpretations of or modifications to any defined term in this Agreement; (B) adjustments in any calculations provided for in this Agreement, and (C) substitution of other awards; provided, however any such adjustment shall be subject in all respects to, shall be consistent with and shall not conflict with Section 5.2 or Section 5.3 of the Advisor Plan, the operation of the Conversion Factor (as defined in the Partnership Agreement), any adjustment pursuant to Section 13.01(a) of the Partnership Agreement in connection with an Adjustment Event (as defined in the Partnership Agreement) and other provisions of the Partnership Agreement, as it may be amended from time to time in accordance with its terms, solely in connection with any adjustment or action by the Committee pursuant to this Section 6. All adjustments pursuant to this Section 6 made by the Committee shall be final, binding and conclusive.

7. Miscellaneous.

a. Amendments. This Agreement may be amended or modified only with the consent of the Company and the Partnership acting through the Committee; provided that any such amendment or modification that adversely affects the rights of the Advisor hereunder must be consented to by the Advisor to be effective as against it. Notwithstanding the foregoing, this Agreement may be amended in writing signed only by the Company and the Partnership to correct any errors or ambiguities in this Agreement or to make such changes that do not adversely affect the Advisor's rights hereunder.

b. Legend. The records of the Partnership evidencing the Award LTIP Units and Award Class A Units shall bear an appropriate legend, as determined by the Partnership in its sole discretion, to the effect that such Award LTIP Units and Award Class A Units are subject to restrictions as set forth herein, in the Advisor Plan and in the Partnership Agreement.

c. Compliance with Law. Notwithstanding any provision of the Partnership Agreement, the Advisor Plan or this Agreement to the contrary, no Award LTIP Units will become vested and earned, and no dividends or distributions will be paid, at a time that any such action would result in a violation of any applicable securities law.

d. Advisor Representations; Registration.

(i) The Advisor hereby represents and warrants that: (A) it understands that it is responsible for consulting its own tax advisor with respect to the application of the U.S. federal income tax laws, and the tax laws of any state, local or other taxing jurisdiction to which the Advisor is or by reason of this Award may become subject, to its particular situation; (B) the Advisor has not received or relied upon business or tax advice from the Company, the Partnership or any of their respective Affiliates, employees, agents, consultants or advisors, in their capacity as such; (C) the Advisor provides services to the Partnership on a regular basis and in such capacity has access to such information, and has such experience of and involvement in the business and operations of the Partnership, as the Advisor believes to be necessary and appropriate to make an informed decision to accept this Award; (D) Award LTIP Units are subject to substantial risks; (E) the Advisor has been furnished with, and has reviewed and understands, information relating to this Award; (F) the Advisor has been afforded the opportunity to obtain such additional information as it deemed necessary before accepting this Award; and (G) the Advisor has had an opportunity to ask questions of representatives of the Partnership and the Company, or persons acting on their behalf, concerning this Award.

(ii) The Advisor hereby acknowledges that: (A) there is no public market for Award LTIP Units or Award Class A Units and neither the Partnership nor the Company has any obligation or intention to create such a market; (B) sales and other Transfers of Award LTIP Units and Award Class A Units are subject to restrictions under the Securities Act and applicable state securities laws and the Partnership Agreement; and (C) because of the restrictions on Transfer of Award LTIP Units and Award Class A Units set forth in the Partnership Agreement and in this Agreement, the Advisor may have to bear the economic risk of its ownership of the Award LTIP Units and Award Class A Units covered by this Award for an indefinite period of time.

e. Incorporation of Advisor Plan. This Agreement is subject to the terms, conditions, limitations and definitions contained in the Advisor Plan and the Partnership Agreement. In the event of any discrepancy or inconsistency between this Agreement and the Advisor Plan or the Partnership Agreement, except as otherwise expressly set forth in this Agreement, the terms and conditions of the Advisor Plan or the Partnership Agreement, as applicable, shall control.

f. Interpretation by Committee. The Committee may make such rules and regulations and establish such procedures for the administration of this Agreement, which are consistent with the terms of this Agreement, the Advisor Plan and the Partnership Agreement, as the Committee deems appropriate.

g. Section 83(b) Election. In connection with the issuance of LTIP Units pursuant to this Agreement, and as a condition of such issuance, the Advisor shall timely elect to include in gross income for the year in which the Grant Date occurs the applicable Award LTIP Units pursuant to an election under Section 83(b) of the Code in substantially the form attached hereto as Exhibit B. The Advisor agrees to file such election (or to permit the Partnership to file such election on the Advisor's behalf) within thirty (30) days after the Grant Date with the IRS Service Center where the Advisor files its personal income tax returns, provide a copy of such election to the Partnership and the Company.

h. Severability. If, for any reason, any provision of this Agreement is held invalid, such invalidity shall not affect any other provision of this Agreement not so held invalid, and each such other provision shall to the full extent consistent with law continue in full force and effect. If any provision of this Agreement shall be held invalid in part, such invalidity shall in no way affect the rest of such provision not held so invalid, and the rest of such provision, together with all other provisions of this Agreement, shall to the full extent consistent with law continue in full force and effect.

i. Governing Law. This Agreement is made under, and will be construed in accordance with, the laws of State of Delaware, without giving effect to the principles of conflict of laws of such state.

j. No Obligation to Continue Service as a Consultant or Advisor. Neither the Company nor any Affiliate (including the Partnership) is obligated solely by, or solely as a result of, this Agreement to continue to have the Advisor as a consultant, advisor or other service provider and this Agreement shall not interfere in any way with the right of the Company or any Affiliate to terminate the Advisor's service relationship in accordance with the Advisory Agreement.

k. Notices. Any notice to be given to the Company shall be addressed to the Secretary of the Company at 650 Fifth Avenue, 30th Floor, New York, New York, 10019, and any notice to be given the Advisor shall be addressed to the Advisor at the Advisor's address as it appears on the records of the Company, or at such other address as the Company or the Advisor may hereafter designate in writing to the other.

l. Withholding and Taxes. The Advisor shall be solely responsible for all federal, state, local, foreign, or other taxes or any taxes under the Federal Insurance Contributions Act with respect to this Award. Notwithstanding the foregoing, if at any time the Company or Partnership are required to withhold any such taxes, the Advisor shall make arrangements satisfactory to the Committee regarding the payment of any federal, state, local, foreign or other taxes required by law to be withheld with respect to such amount. The obligations of the Company under this Agreement will be conditional on such payment or arrangements, and the Company and its Affiliates shall, to the extent permitted by law, have the right to deduct any such taxes from any payment otherwise due to the Advisor with respect to this Award (including, with respect to distributions in respect of the Award LTIP Units). So long as the Advisor holds any Award LTIP Units, the Advisor shall disclose to the Partnership in writing such information as may be reasonably requested with respect to ownership of LTIP Units as the Partnership may deem reasonably necessary to ascertain and to establish compliance with provisions of the Code applicable to the Partnership or to comply with requirements of any other appropriate taxing authority.

m. Headings. The headings of paragraphs hereof are included solely for convenience of reference and shall not control the meaning or interpretation of any of the provisions of this Agreement.

n. Counterparts. This Agreement may be executed in multiple counterparts with the same effect as if each of the signing parties had signed the same document. All counterparts shall be construed together and constitute the same instrument.

o. Successors and Transferees. Notwithstanding anything to the contrary in the Partnership Agreement, this Agreement shall be binding upon and inure to the benefit of the parties hereto and any successors to or Transferees of the Company and the Partnership, on the one hand, and any successors to or Transferees of the Advisor, on the other hand, by will or the laws of descent and distribution, but this Agreement shall not otherwise be assignable or otherwise subject to Transfer by the Advisor.

p. Section 409A. This Agreement shall be construed, administered and interpreted in accordance with a good faith interpretation of Section 409A of the Code. The Award and all Award LTIP Units under this Agreement are intended to be exempt from, or comply with, Section 409A of the Code and shall be interpreted in accordance with such intent. Any provision of this Agreement that is inconsistent with Section 409A of the Code, or that may result in penalties under Section 409A of the Code, shall be amended, with the reasonable cooperation of the Advisor and the Company and the Partnership, to the extent necessary to exempt it from, or bring it into compliance with, Section 409A of the Code. Notwithstanding anything contained herein, the Company and the Partnership make no representations that the payments and benefits provided under this Agreement comply with or are exempt from Section 409A and in no event shall the Company or the Partnership, or any of their respective directors, officers, employees, consultants or advisors, be liable for all or any portion of any taxes, penalties, interest or other expenses that may be incurred by or imposed upon the Advisor or any transferee thereof for failure to comply with, or satisfy an exemption from, Section 409A of the Code.

*[Signature page follows]*

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed as of the date first written above.

AMERICAN FINANCE TRUST, INC.

By: /s/ Edward M. Weil Jr.
Name: Edward M. Weil Jr.
Title: Chief Executive Officer

AMERICAN FINANCE OPERATING PARTNERSHIP, L.P.

By: American Finance Trust, Inc., its general partner

By: /s/ Edward M. Weil Jr.
Name: Edward M. Weil Jr.
Title: Chief Executive Officer

AMERICAN FINANCE ADVISORS, LLC

By: AMERICAN FINANCE SPECIAL LIMITED PARTNER, LLC, its member

By: AR GLOBAL INVESTMENTS, LLC, its member

By: /s/ Michael Anderson
Name: Michael Anderson
Title: Authorized Signatory

**EXHIBIT A**

**DEFINITIONS**

"**Absolute TSR**" means the Company's Total Shareholder Return.

"**bps**" means basis points.

"**Cause**" has the meaning set forth in the Advisory Agreement.

"**Class A Unit**" has the meaning set forth in the Partnership Agreement.

"**Common Stock**" means the class of common stock of the Company, $0.01 par value per share, designated as "Class A Common Stock."

"**Common Stock Price**" means as of any date, the average of the Fair Market Value of one share of Common Stock (or, as applicable, one share of common stock of a Peer Group Company) over the ten (10) consecutive Trading Days ending on, and including, such date (or, if such date is not a Trading Day, the most recent Trading Day immediately preceding such date); provided, however, that if such date is the date upon which a Transactional Change of Control occurs, the Common Stock Price as of such date shall be equal to the fair value, as determined by the Committee, of the total consideration paid or payable in the transaction resulting in the Transactional Change of Control for one share of Common Stock.

"**Initial Share Price**" means (a) with respect to the Company, $8.4419, the average Common Stock Price over the ten (10) consecutive Trading Days immediately prior to July 20, 2021 and (b) with respect to each Peer Group Company, the closing price of one share of such Peer Group Company's common stock on July 19, 2021.

"**Peer Group Companies**" means Broadstone Net Lease, Inc., Office Properties Income Trust, RPT Realty and Spirit Realty Capital, Inc.; provided that if the common stock of any of entities included in the definition of Peer Group Companies ceases to be listed on a national securities exchange at any time during the Performance Period for any reason, then the entity shall be excluded from the Peer Group.

"**Peer Group TSR**" means the average unweighted cumulative Total Shareholder Return of the Peer Group Companies for the Performance Period.

"**Relative TSR**" means the Company's Total Shareholder Return relative to the average unweighted cumulative Total Shareholder Return of the Peer Group Companies.

"**Relative TSR Excess**" means an amount, expressed in terms of bps, whether positive or negative, by which the Company's Absolute TSR as of the Valuation Date exceeds the Peer Group TSR as of the Valuation Date.

"**Subsidiary**" means any subsidiary corporation of the Company within the meaning of Section 424(f) of the Code.

"**Total Shareholder Return**" means, for each of the Company and the Peer Group Companies, with respect to the Performance Period, the total return (expressed as a percentage) that would have been realized by a holder who (a) bought one share of common stock of such company at the Initial Share Price on July 20, 2021, (b) reinvested each dividend and other distribution declared during the Performance Period with respect to such share (and any other shares, or fractions thereof, previously received upon reinvestment of dividends or other distributions or on account of stock dividends), without deduction for any taxes with respect to such dividends or other distributions or any charges in connection with such reinvestment, in additional shares of common stock at a price per share equal to (i) the Fair Market Value on the ex-dividend date for such dividend or other distribution less (ii) the amount of such dividend or other distribution, and (c) sold such shares on the Valuation Date at the Common Stock Price on the Valuation Date, without deduction for any taxes with respect to any gain on such sale or any charges in connection with such sale.

"**Trading Day**" means a day on which the principal national securities exchange on which a security is listed or admitted to trading is open for the transaction of business or, if a security is not listed or admitted to trading on any national securities exchange, shall mean any day other than a Saturday, a Sunday or a day on which banking institutions in the State of New York are authorized or obligated by law or executive order to close.

"**Transactional Change of Control**" means (i) a Change of Control described in clause (a) of the definition thereof where the "person" makes a tender offer for Common Stock, (ii) a Change of Control described in clause (b) of the definition thereof where the Company is not the surviving entity, or (iii) a Change of Control described in clause (c) of the definition thereof.

"**Transferee**" shall mean the transferee in any Transfers of Award LTIP Units or Award Class A Units approved by the Committee pursuant to Section 5 hereof.

**EXHIBIT B**

**ELECTION TO INCLUDE IN GROSS INCOME IN YEAR OF TRANSFER OF PROPERTY PURSUANT TO SECTION 83(b) OF THE INTERN REVENUE CODE**

The undersigned Taxpayer hereby makes an election pursuant to Section 83(b) of the Internal Revenue Code with respect to the property described below and supplies the following information in accordance with the regulations promulgated thereunder:

1. The name, address and taxpayer identification number of the undersigned are:

   Name: American Finance Advisors, LLC (the "Taxpayer")

   Address:

   _____

   Taxpayer Identification No.: ____-____-____

2. Description of property with respect to which the election is being made: 8,528,885 LTIP Units in American Finance Operating Partnership, L.P. (the "Partnership").

3. The date on which the property was transferred is July 21, 2021. The taxable year to which this election relates is calendar year 2021.

4. Nature of restrictions to which the property is subject: With limited exceptions, until the LTIP Units vest, the Taxpayer may not transfer in any manner any portion of the LTIP Units without the consent of the Partnership. The LTIP Units are subject to performance-based vesting conditions related to the performance of American Finance Trust, Inc. (including the distributions made by it to its stockholders). The unvested LTIP Units are subject to forfeiture if such conditions are not met.

5. The fair market value at time of transfer (determined without regard to any restrictions other than restrictions which by their terms will never lapse) of the property with respect to which this election is being made was $0.

6. The amount paid by the Taxpayer for the property was $0.

7. A copy of this statement has been furnished to the Partnership and American Finance Trust, Inc.

AMERICAN FINANCE ADVISORS, LLC

Dated: _____

Signed: _____
By: _____
Name: _____
Title: _____

**Exhibit 10.2**

# EIGHTH AMENDMENT
# TO
## SECOND AMENDED AND RESTATED AGREEMENT OF LIMITED PARTNERSHIP OF AMERICAN FINANCE OPERATING PARTNERSHIP, L.P.

THIS EIGHTH AMENDMENT TO SECOND AMENDED AND RESTATED AGREEMENT OF LIMITED PARTNERSHIP OF AMERICAN FINANCE OPERATING PARTNERSHIP, L.P. (this "**Amendment**"), is hereby entered into and effective as of July 21, 2021 (the "**Effective Date**"), by AMERICAN FINANCE TRUST, INC., a Maryland corporation, as general partner (the "**General Partner**") of AMERICAN FINANCE OPERATING PARTNERSHIP, L.P., a Maryland limited partnership (the "**Partnership**"), for itself and on behalf of any limited partners of the Partnership.

**WHEREAS**, the Second Amended and Restated Agreement of Limited Partnership of the Partnership was entered into on July 19, 2018 (as now or hereafter amended, restated, modified, supplemented or replaced, the "**Partnership Agreement**"); and

**WHEREAS**, concurrent with entering into this Amendment, the General Partner will enter into a 2021 Advisor Multi-Year Outperformance Agreement pursuant to which it will issue additional LTIP Units to American Finance Advisors, LLC, and, pursuant to the authority granted to the General Partner pursuant to Article 11 of the Partnership Agreement, the General Partner desires to amend the Partnership Agreement in connection therewith.

**NOW, THEREFORE**, in consideration of good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the General Partner hereby amends the Partnership Agreement as follows:

1. Article I of the Partnership Agreement is hereby revised by adding the following new defined terms:

""**2021 Advisor OPP Agreement**" means the Advisor Multi-Year Outperformance Award Agreement, entered into as of July 21, 2021 by and among the General Partner, the Partnership and Advisors Limited Partner, as amended from time to time."

"**Base Liquidation Preference**" means, with respect to Series A Preferred Units, Base Liquidation Preference as defined in Annex A hereto, and, with respect to Series C Preferred Units, Series C Base Liquidation Preference as defined in Annex B hereto.

""**Net Operating Income**" means, for each fiscal year or other applicable period, any net items of income and gain over loss, or deduction that are components of Net Income or Net Loss, excluding any items that are taken into account in determining Net Property Gain or Net Property Loss, but only to the extent that those items were not economically accrued as of the date that Class B Unit or LTIP Unit was issued (i.e. Net Operating Income includes only items that are not included in the Valuation Threshold). For this purpose, the LTIP Units awarded under the 2018 Advisor OPP Agreement shall be treated as having been issued on the date the Master LTIP Unit was issued."

"**Preferred Units**" means all Partnership Units designated as preferred units by the General Partner from time to time in accordance with Section 4.02(a) hereto, including Series A Preferred Units and Series C Preferred Units.

""**Profits Interest Catch Up Distributions**" has the meaning set forth in Section 5.02(c)(iii)."

""**Profits Interest Distribution Limitation**" has the meaning set forth in Section 5.02(c)(i)."

""**Tax Liability**" means (i) any amount required to be withheld by the Partnership with respect to a Partner and paid over to any taxing authority as a result of any allocation or distribution of income to a Partner or any other transaction, (ii) amounts for which the Partnership is liable under Section 1446(f)(4) of the Code, or (iii) any amount attributable to any actual or imputed underpayment of taxes under the Revised Partnership Audit Procedures imposed on any current or former Partner's share of the Partnership's gross or net income and gains (or items thereof), and, in each case, any interest, penalties or additions to tax in respect thereof."

""**Valuation Threshold**" means, in respect of each Class B Unit and LTIP Unit, the total amount available for distribution under Section 5.02(a) or Section 5.02(b), including by operation of Section 5.06, as of the date that Class B Unit or LTIP Unit was issued if the Partnership were to liquidate completely and, in connection with such liquidation, (i) its assets sold for cash equal to their respective fair market values, (ii) all Partnership liabilities were satisfied (limited with respect to each nonrecourse liability to the fair market value of the assets securing such liability), (iii) each Partner were to pay its share of Partnership Minimum Gain and Partner Nonrecourse Debt Minimum Gain and the amount, if any, and without duplication, that the Partner would be obligated to contribute to the capital of the Partnership, all computed immediately prior to the hypothetical sale of assets, and (iv) the net assets of the Partnership were distributed in accordance with Section 5.02(b) to the Partners immediately after making such allocation; *provided*, *however,* that the Valuation Threshold in respect of a Partnership Unit shall not be less than zero dollars ($0). Notwithstanding the foregoing, the General Partner shall adjust the Valuation Threshold with respect to any Partnership Unit to reflect any changes in the capitalization of the Partnership, or distributions from the Partnership under Section 5.02(b), after the grant of the Partnership Unit so as to cause the LTIP Unit to be a profits interest for U.S. federal income tax purposes. For purposes of this definition, LTIP Units awarded under the 2018 Advisor OPP Agreement shall be treated as having been issued when the Master LTIP Unit was issued, and the Valuation Threshold of those LTIP Units shall be the Valuation Threshold of the Master LTIP Unit. All determinations pursuant to this paragraph shall be made by the General Partner in its good faith discretion."

2. Article I of the Partnership Agreement is hereby revised by replacing the following defined terms in their entirety with the new defined terms:

““**Capital Account**” means with respect to any Partner, the Capital Account maintained for such Partner in accordance with the following provisions:

(a) to each Partner’s Capital Account there shall be credited:

(i) such Partner’s Capital Contributions;

(ii) such Partner’s distributive share of Net Income, Net Property Gain and any items in the nature of income or gain which are specially allocated to such Partner pursuant to Sections 5.01(c) and 5.01(d); and

(iii) the amount of any Partnership liabilities assumed by such Partner or which are secured by any asset distributed to such Partner;

(b) to each Partner’s Capital Account there shall be debited:

(i) the amount of cash and the Gross Asset Value of any property distributed to such Partner pursuant to any provision of this Agreement;

(ii) such Partner’s distributive share of Net Loss, Net Property Loss and any items in the nature of expenses or losses which are specially allocated to such Partner pursuant to Sections 5.01(c), 5.01(d), 12.04(c), 12.05(d), 13.01(e)(iv) and 13.02(e); and

(iii) the amount of any liabilities of such Partner assumed by the Partnership or which are secured by any asset contributed by such Partner to the Partnership; and

(c) if all or a portion of a Partnership Interest is transferred in accordance with the terms of this Agreement, the transferee shall succeed to the Capital Account of the transferor to the extent it relates to the transferred Partnership Interest.

In determining the amount of any liability for purposes of clauses (a)(iii) and (b)(iii), there shall be taken into account Section 752(c) of the Code and any other applicable provisions of the Code or Regulations. The foregoing provisions and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Sections 1.704-1(b) and 1.704-2 of the Regulations, and shall be interpreted and applied in a manner consistent with such Regulations. If the General Partner shall reasonably determine that it is prudent to modify the manner in which the Capital Accounts, or any debits or credits thereto (including debits or credits relating to liabilities which are secured by contributed or distributed assets or which are assumed by the Partnership, the General Partner or any Limited Partner) are computed in order to comply with such Regulations, the General Partner may make such modification; provided, however, that all allocations of Partnership income, gain, loss and deduction continue to have “substantial economic effect” within the meaning of Section 704(b) of the Code and that no Limited Partner is materially adversely affected by any such modification.”

““**Catch-Up Distributions**” has the meaning set forth in Section 5.02(a)(iv).”

““**Concurrent LTIP Distribution**” has the meaning set forth in Section 5.02(a)(ii).”

““**Determination Date**” means (i) in respect of each LTIP Unit awarded under the 2018 Advisor OPP Agreement or the 2021 Advisor OPP Agreement, the meaning set forth therein, or (ii) in respect of each other LTIP Unit awarded, the date following the completion of the performance period on which the number of LTIP Units earned pursuant to the terms of any OPP Agreement based on the achievement of goals during such performance period is determined, or, if no such date is specified or applicable, the date on which that LTIP Unit is issued.”

““**Indemnified Party**” has the meaning set forth in Section 8.06(f).”

““**Indemnifying Party**” has the meaning set forth in Section 8.06(f).”

““**Liquidation**” means (a) a dissolution or winding up of the General Partner or the Partnership, whether voluntary or involuntary, (b) a consolidation or merger of the General Partner or the Partnership with and into one or more entities which are not affiliates of the General Partner or the Partnership which results in a Change in Control, or (c) a sale, transfer or other disposition of all or substantially all of the General Partner’s or the Partnership’s assets or a related series of transactions that, taken together, result in the sale, transfer or other disposition of all or substantially all of the General Partner’s or the Partnership’s assets other than to an affiliate of the General Partner or the Partnership.”

““**LTIP Unit Distribution Participation Date**” means (i) in respect of each LTIP Unit awarded under the 2018 Advisor OPP Agreement or the 2021 Advisor OPP Agreement, the date following the date as of which an Unvested LTIP Unit is earned and vested pursuant to conditions set forth in the applicable agreement, or (ii) in respect of each other LTIP Unit awarded, the day following the last day of the performance period for which the number of LTIP Units earned pursuant to the terms of any OPP Agreement will be determined based on the achievement of goals during such performance period, or, if no such date is specified or applicable, the date on which that LTIP Unit is issued.”

““**Net Income**” or “**Net Loss**” means, for each fiscal year or other applicable period, an amount equal to the Partnership’s taxable income or loss for such year or period as determined for U.S. federal income tax purposes by the General Partner, determined in accordance with Section 703(a) of the Code (including, for this purpose, all items of income, gain, loss or deduction required to be stated separately pursuant to the Code), adjusted as follows:

(a) by including as an item of gross income any tax-exempt income received by the Partnership and not otherwise taken into account in computing Net Income or Net Loss;

(b) by treating as a deductible expense any expenditure of the Partnership described in Section 705(a)(2)(B) of the Code (or which is treated as a Section 705(a)(2)(B) expenditure pursuant to Section 1.704-1(b)(2)(iv)(i) of the Regulations) and not otherwise taken into account in computing Net Income or Net Loss, including amounts paid or incurred to organize the Partnership (unless an election is made pursuant to Section 709(b) of the Code) or to promote the sale of interests in the Partnership and by treating deductions for any losses incurred in connection with the sale or exchange of Partnership property disallowed pursuant to Section 267(a)(1) or 707(b) of the Code as expenditures described in Section 705(a)(2)(B) of the Code;

(c) by taking into account Depreciation in lieu of depreciation, depletion, amortization and other cost recovery deductions taken into account in computing taxable income or loss;

(d) by computing gain or loss resulting from any disposition of Partnership property with respect to which gain or loss is recognized for U.S. federal income tax purposes by reference to the Gross Asset Value of such property rather than its adjusted tax basis;

(e) if an adjustment of the Gross Asset Value of any Partnership asset which requires that the Capital Accounts of the Partnership be adjusted pursuant to Sections 1.704-1(b)(2)(iv)(e), (f) and (g) of the Regulations, by taking into account the amount of such adjustment as if such adjustment represented additional Net Income or Net Loss pursuant to Section 5.01; and

(f) by not taking into account in computing Net Income or Net Loss items specially allocated to the Partners pursuant to Sections 5.01(c), 5.01(d), 15.05(d) and 13.01(e)(iv).”

““**Net Property Gain**” or “**Net Property Loss**” means, for each fiscal year or other applicable period, items of income, gain, loss or deduction that are components of the Partnership’s Net Income or Net Loss for such year or period from the disposition of any Property, including the net capital gain realized in connection with the actual or hypothetical sale of all or substantially all of the assets of the Partnership, including but not limited to net capital gain realized in connection with an adjustment of the Gross Asset Value of any Property which requires that the Capital Accounts of the Partners be adjusted pursuant to Sections 1.704-1(b)(2)(iv)(e), (f) and (g) of the Regulations.”

““**OPP Agreement**” means any award agreement pursuant to which LTIP Units are granted, entered into by and among the General Partner, the Partnership and any grantee thereunder, including, without limitation the 2018 Advisor OPP Agreement and the 2021 Advisor OPP Agreement.”

““**Partnership Loan**” has the meaning set forth in Section 5.02(d).”

““**Special Limited Partner Interest**” means the interest of the Special Limited Partner in the Partnership representing its right as the holder of an interest in distributions described in Sections 5.02(b)(ii)(A), 5.02(b)(ii)(B)(3) and 5.02(e) (and any corresponding allocations of income, gain, loss and deduction under this Agreement).”

""**Specified Redemption Date**" means the first Business Day of the month that is at least 60 calendar days after the receipt by the General Partner of a Notice of Redemption or an earlier date requested by the Redeeming Limited Partner if the earlier date is approved by the Board of Directors (or a committee thereof)."

3. Article I of the Partnership Agreement is hereby revised by removing the following defined terms in their entirety: (i) "Determination Period"; (ii) "Determination Period LTIP Distributions"; (iii) "Distributable Amount"; (iv) "Pass-Through Election"; and (v) "Withheld Amount."

4. Section 5.01 is hereby revised by replacing it in its entirety with the following new Section 5.01:

"5.01 Allocations.

(a) Allocations of Net Income and Net Loss. Except as otherwise provided in this Agreement, after giving effect to the special allocations in Sections 5.01(c) and 5.01(d), Net Income, Net Loss and, to the extent necessary and without duplication, individual items thereof, shall be allocated among the Partners in a manner such that the Capital Account of each Partner immediately after making such allocation, is, as nearly as possible, equal proportionately to (i) the distributions that would be made to such Partner pursuant to Section 5.06 if (A) the Partnership were dissolved, its affairs wound up and its assets sold for cash equal to their Gross Asset Value, as determined in the reasonable discretion of the General Partner, (B) all Partnership liabilities were satisfied (limited with respect to each nonrecourse liability to the Gross Asset Value of the assets securing such liability), and (C) the net assets of the Partnership were distributed in accordance with Section 5.06 to the Partners immediately after making such allocation, minus (ii) such Partner's share of Partnership Minimum Gain and Partner Nonrecourse Debt Minimum Gain and the amount, if any and without duplication, that the Partner would be obligated to contribute to the capital of the Partnership, all computed immediately prior to the hypothetical sale of assets.

(b) [RESERVED]

(c) Special Allocations

(i) Special Allocations Regarding Preferred Units. Notwithstanding any other provisions of this Section 5.01, after giving effect to the regulatory allocations in Section 5.01(d), but prior to any allocations under Section 5.01(a), a pro rata portion of Net Operating Income and Net Property Gain and, to the extent necessary, individual items of income and gain comprising Net Operating Income and Net Property Gain of the Partnership, shall be allocated to the General Partner in respect of the Series A Preferred Units and Series C Preferred Units until they have been allocated such Net Operating Income and Net Property Gain equal to the excess of (A) the cumulative amount of distributions of Cash Available for Distribution the General Partner has received for all the current and prior taxable years or portions thereof with respect to the Series A Preferred Units and Series C Preferred Units, over (B) the cumulative Net Operating Income and Net Property Gain allocated to the General Partner, pursuant to this Section 5.01(c)(i) for all the current and prior taxable years or portions thereof.

(ii) Special Allocations Regarding Class B Units. Notwithstanding any other provisions of this Sections 5.01 (other than Section 5.01(c)(i)), after giving effect to the regulatory allocations in Section 5.01(d) but prior to any allocations under Section 5.01(a), Net Property Gain and, to the extent necessary, individual items of income and gain comprising Net Property Gain of the Partnership, shall be allocated to the Partners holding Class B Units until their Class B Economic Capital Account Balances are equal to (A) the Class A Unit Economic Balance, multiplied by (B) the number of their Class B Units; provided, that no such Net Property Gain and, to the extent necessary, individual items of income and gain comprising Net Property Gain of the Partnership, will be allocated with respect to any particular Class B Unit unless and to the extent that the Class A Unit Economic Balance exceeds the Class A Unit Economic Balance in existence at the time such Class B Unit was issued. Any allocations made pursuant to the first sentence of this Section 5.01(c)(ii) shall be made among the holders of Class B Units in proportion to the amounts required to be allocated to each under this Section 5.01(c)(ii). The parties agree that the intent of this Section 5.01(c)(ii) is to make the Capital Account balance associated with each Class B Unit to be economically equivalent to the Capital Account balance associated with the Class A Units outstanding (on a per-unit basis), but only if and to the extent that the Capital Account balance associated with the Class A Units outstanding, without regard to the allocations under this Section 5.01(c)(ii), has increased on a per-unit basis since the issuance of the relevant Class B Unit. To the extent Net Property Loss is allocated to Partners holding Class B Units pursuant to Section 5.01(a), such Net Property Loss shall be allocated among the Partners holding Class B Units in a manner that reverses the allocation of Net Property Gain to such Partner pursuant to this Section 5.01(c)(ii).

(iii) Special Allocations Regarding the Special Limited Partner Interest. Notwithstanding any other provisions of this Sections 5.01 (other than Section 5.01(c)(i)), after giving effect to the regulatory allocations in Section 5.01(d) and the special allocations in Section 5.01(c)(ii), , but prior to any allocations under Section 5.01(a), Net Property Gain and, to the extent necessary, individual items of income and gain comprising Net Property Gain of the Partnership shall be allocated to the Special Limited Partner until the Special Limited Partner has received aggregate allocations of income for all fiscal years equal to the Listing Amount.

(iv) Special Allocations Regarding LTIP Units. Notwithstanding any other provisions of this Sections 5.01 (other than Section 5.01(c)(i)), after giving effect to the regulatory allocations in Section 5.01(d) and the special allocations in Sections 5.01(c)(ii) and 5.01(c)(iii), but prior to any allocations under Section 5.01(a), Net Property Gain and, to the extent necessary, individual items of income and gain comprising Net Property Gain of the Partnership, shall be allocated to the LTIP Unitholders until their LTIP Economic Capital Account Balances are equal to (i) the Class A Unit Economic Balance, multiplied by (ii) the number of their LTIP Units; provided that no such Net Property Gain and, to the extent necessary, individual items of income and gain comprising Net Property Gain of the Partnership, will be allocated with respect to any particular LTIP Unit unless and to the extent that the Class A Unit Economic Balance exceeds the Class A Unit Economic Balance in existence at the time such LTIP Unit was issued (and, for this purpose, LTIP awarded under the 2018 Advisor OPP Agreement shall be treated as having been issued when the Master LTIP Unit was issued). Any allocations made pursuant to the first sentence of this Section 5.01(c)(iv) shall be made first to the earliest issued LTIP Units and among the LTIP Unitholders issued on the same date in proportion to the amounts required to be allocated to each under this Section 5.01(c)(iv). The parties agree that the intent of this Section 5.01(c)(iv) is to make the Capital Account balance associated with each LTIP Unit to be economically equivalent to the Capital Account balance associated with the Class A Units outstanding (on a per-unit basis), but only if and to the extent that the Capital Account balance associated with the Class A Units outstanding, without regard to the allocations under this Section 5.01(c)(iv), has increased on a per-unit basis since the issuance of the relevant LTIP Unit. To the extent Net Property Loss is allocated to LTIP Unitholders pursuant to Section 5.01(b), such Net Property Loss shall be allocated among the LTIP Unitholders in a manner that reverses the allocation of Net Property Gain to the LTIP Unitholders pursuant to this Section 5.01(c)(iv).

(d) Regulatory Allocations.

(i) Minimum Gain Chargeback (Nonrecourse Liabilities). Except as otherwise provided in Section 1.704-2(f) of the Regulations, if there is a net decrease in Partnership Minimum Gain for any Partnership fiscal year, each Partner shall be specially allocated items of Partnership income and gain for such year (and, if necessary, subsequent years) in an amount equal to such Partner's share of the net decrease in Partnership Minimum Gain to the extent required by Section 1.704-2(g) of the Regulations. The items to be so allocated shall be determined in accordance with Sections 1.704-2(f)(6) and (j) of the Regulations. This Section 5.01(d)(i) is intended to comply with the minimum gain chargeback requirement in Section 1.704(f) of the Regulations and shall be interpreted consistently therewith. Allocations pursuant to this Section 5.01(d)(i) shall be made in proportion to the respective amounts required to be allocated to each Partner pursuant hereto.

(ii) Partner Minimum Gain Chargeback. Except as otherwise provided in Section 1.704-2(i)(4) of the Regulations, if there is a net decrease in Partner Nonrecourse Debt Minimum Gain attributable to a Partner Nonrecourse Debt during any fiscal year, each Partner who has a share of the Partner Nonrecourse Debt Minimum Gain attributable to that Partner Nonrecourse Debt, determined in accordance with Section 1.704-2(i)(5) of the Regulations, shall be specially allocated items of Partnership income and gain for such year (and, if necessary, subsequent years) in an amount equal to that Partner's share of the net decrease in the Partner Nonrecourse Debt Minimum Gain to the extent and in the manner required by Section 1.704-2(i) of the Regulations. The items to be so allocated shall be determined in accordance with Sections 1.704-2(i)(4) and (j)(2) of the Regulations. This Section 5.01(d)(ii) is intended to comply with the minimum gain chargeback requirement with respect to Partner Nonrecourse Debt contained in Section 1.704-2(i)(4) of the Regulations and shall be interpreted consistently therewith. Allocations pursuant to this Section 5.01(d)(ii) shall be made in proportion to the respective amounts required to be allocated to each Partner pursuant hereto.

(iii) Qualified Income Offset. If a Partner unexpectedly receives any adjustments, allocations or distributions described in Sections 1.704-1(b)(2)(ii)(d)(4), (5) or (6) of the Regulations, and such Partner has an Adjusted Capital Account Deficit, items of Partnership income (including gross income) and gain shall be specially allocated to such Partner in an amount and manner sufficient to eliminate the Adjusted Capital Account Deficit as quickly as possible as required by the Regulations. This Section 5.01(d)(iii) is intended to constitute a "qualified income offset" under Section 1.704-1(b)(2)(ii)(d) of the Regulations and shall be interpreted consistently therewith.

(iv) Nonrecourse Deductions. Nonrecourse Deductions for any fiscal year or other applicable period shall be allocated to the Partners in accordance with their respective Percentage Interests.

(v) Partner Nonrecourse Deductions. Partner Nonrecourse Deductions for any fiscal year or other applicable period with respect to a Partner Nonrecourse Debt shall be specially allocated to the Partner that bears the economic risk of loss for such Partner Nonrecourse Debt.

(vi) Section 754 Adjustment. To the extent an adjustment to the adjusted tax basis of any asset of the Partnership pursuant to Section 734(b) of the Code or Section 743(b) of the Code is required, pursuant to Section 1.704-1(b)(2)(iv)(m) of the Regulations, to be taken into account in determining Capital Accounts, the amount of such adjustment to the Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis) and such gain or loss shall be specially allocated among the Partners in a manner consistent with the manner in which each of their respective Capital Accounts are required to be adjusted pursuant to such section of the Regulations.

(vii) Capital Account Deficits. If any Partner has an Adjusted Capital Account Deficit at the end of any fiscal year or other applicable period which is in excess of the amount such Partner is obligated to restore pursuant to the penultimate sentences of Treasury Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5), such Partner shall be specially allocated items of Partnership income and gain in the amount of such excess as quickly as possible, provided, that an allocation pursuant to this Section 5.01(d)(vii) shall be made only if and to the extent that such Partner would have an Adjusted Capital Account Deficit in excess of such amount after all other allocations provided for under this Agreement have been made as if Section 5.01(d)(iii) and this Section 5.01(d)(vii) were not in this Agreement.

(e) Allocations Between Transferor and Transferee. If a Partner transfers any part or all of its Partnership Interest, the distributive shares of the various items of Net Income and Net Loss allocable among the Partners during such fiscal year of the Partnership shall be allocated between the transferor and the transferee Partner either (i) as if the Partnership's fiscal year had ended on the date of the transfer or (ii) based on the number of days of such fiscal year that each was a Partner without regard to the results of Partnership activities in the respective portions of such fiscal year in which the transferor and the transferee were Partners; provided, however, that the General Partner may apply a different method if required by applicable law. The General Partner, in its sole and absolute discretion, shall determine which method shall be used to allocate the distributive shares of the various items of Net Income and Net Loss between the transferor and the transferee Partner.

(f) Tax Allocations.

(i) Items of Income or Loss. Except as is otherwise provided in this Section 5.01, an allocation of Net Income, Net Loss or any items thereof to a Partner shall be treated as an allocation to such Partner of the same share of each item of income, gain, loss, deduction and item of tax-exempt income or Section 705(a)(2)(B) expenditure (or item treated as such expenditure pursuant to Section 1.704-1(b)(2)(iv)(i) of the Regulations) ("**Tax Items**") that is taken into account in computing Net Income or Net Loss.

(ii) Section 1245/1250 Recapture. Subject to Section 5.01(f)(iii) below, if any portion of gain from the sale of Partnership assets is treated as gain which is ordinary income by virtue of the application of Sections 1245 or 1250 of the Code ("**Affected Gain**"), then such Affected Gain shall, to the extent possible, be allocated among the Partners in the same proportion that the depreciation and amortization deductions giving rise to the Affected Gain were allocated. This Section 5.01(f)(ii) shall not alter the amount of Net Income (or items thereof) allocated among the Partners, but merely the character of such Net Income (or items thereof). For purposes hereof, in order to determine the proportionate allocations of depreciation and amortization deductions for each fiscal year or other applicable period, such deductions shall be deemed allocated on the same basis as Net Income or Net Loss for such respective period.

(iii) Precontribution Gain, Revaluations. With respect to any Contributed Property, the Partnership shall use any permissible method contained in the Regulations promulgated under Section 704(c) of the Code selected by the General Partner, in its sole discretion, to take into account any variation between the adjusted basis of such asset and the fair market value of such asset as of the time of the contribution ("**Precontribution Gain**"). Each Partner hereby agrees to report income, gain, loss and deduction on such Partner's U.S. federal income tax return in a manner consistent with the method used by the Partnership. If any asset has a Gross Asset Value which is different from the Partnership's adjusted basis for such asset for U.S. federal income tax purposes because the Partnership has revalued such asset pursuant to Section 1.704-1(b)(2)(iv)(f) of the Regulations, the allocations of Tax Items shall be made in accordance with the principles of Section 704(c) of the Code and the Regulations and the methods of allocation promulgated thereunder. The intent of this Section 5.01(f)(iii) is that each Partner who contributed to the capital of the Partnership a Contributed Property will bear, through reduced allocations of depreciation, increased allocations of gain or other items, the tax detriments associated with any Precontribution Gain. This Section 5.01(f)(iii) is to be interpreted consistently with such intent.

(iv) Excess Nonrecourse Liability Safe Harbor. Pursuant to Section 1.752-3(a)(3) of the Regulations, solely for purposes of determining each Partner's proportionate share of the "excess nonrecourse liabilities" of the Partnership (within the meaning of Section 1.752-3(a)(3) of the Regulations), the Partners' respective interests in Partnership profits shall be determined under any permissible method reasonably determined by the General Partner; provided, however, that each Partner who has contributed an asset to the Partnership shall be allocated, to the extent possible, a share of "excess nonrecourse liabilities" of the Partnership which results in such Partner being allocated nonrecourse liabilities in an amount which is at least equal to the amount of income required to be allocated to such Partner pursuant to Section 704(c) of the Code and the Regulations promulgated thereunder (the "**Liability Shortfall**"). If there is an insufficient amount of nonrecourse liabilities to be able to allocate to each Partner nonrecourse liabilities equal to the Liability Shortfall, nonrecourse liabilities shall be allocated to each Partner in pro rata in accordance with each such Partner's Liability Shortfall.

(g) It is the intention of the parties hereunder that the aggregate Capital Account balance of the General Partner in respect of the Series A Preferred Units and Series C Preferred Units at any date shall not exceed the amount of the original Capital Contributions made in respect of the Series A Preferred Units and Series C Preferred Units plus all accrued and unpaid distributions thereon, whether or not declared, to the extent not previously distributed. Notwithstanding anything to the contrary contained herein, in connection with the liquidation of the Partnership or the interest of a holder of Series A Preferred Units or Series C Preferred Units, and prior to making any other allocations of Net Income or Net Loss, items of income and gain or deduction and loss shall first be allocated to the General Partner in respect of the Series A Preferred Units and Series C Preferred Units in such amounts as is required to cause the General Partner's adjusted Capital Account in respect of the Series A Preferred Units and Series C Preferred Units (taking into account any amounts such Partner is obligated to contribute to the capital of the Partnership or is deemed obligated to contribute pursuant to Regulations Section 1.704-1(b)(2)(ii)(c)(2)) to equal the amount the General Partner is entitled to receive pursuant to the provisions of this Agreement in respect to the Series A Preferred Units and Series C Preferred Units.

(h) Unless otherwise required by applicable law, any amount distributed to the General Partner in its capacity as the holder of Series A Preferred Units and Series C Preferred Units under Section 5.02 that exceeds the sum of (x) the cumulative Net Operating Income and Net Property Gain (and individual items of income and gain comprising Net Operating Income and Net Property Gain) allocated to the General Partner plus (y) the aggregate Capital Account balance of the General Partner, in each case, in respect of the Series A Preferred Units and Series C Preferred Units, respectively, shall be treated as a guaranteed payment pursuant to Code Section 707(c)."

5. Sections 12.01(a), 12.02(b), 12.04(a), 12.04(c), 12.05(a) are hereby revised by replacing references therein to "Section 5.01(c)(i)" with references to "Section 5.01(c)(ii)."

6. The definition of "LTIP Unit" contained in Article I and Sections 13.01(a), 13.01(b), 13.01(c)(ii), 13.01(c)(iii) and 13.02(e) are hereby revised by replacing references therein to "Section 5.01(c)(iii)" with references to "Section 5.01(c)(iv)."

7. Section 5.02(a) is hereby replaced in its entirety with the following new Section 5.02(a):

"(a) Cash Available for Distribution. Subject to the other provisions of this Article V, the General Partner shall cause the Partnership to distribute Cash Available for Distribution, at such times and in such amounts as are, subject to the terms and conditions of this Agreement, determined by the General Partner in its sole and absolute discretion, to the Partners who are Partners on the applicable Partnership Record Date with respect to such quarter (or other distribution period), as follows:

(i) *first*, 100% to the General Partner in its capacity as the holder of Series A Preferred Units and Series C Preferred Units until the aggregate amount distributed or set aside for payment under this Section 5.02(a)(i) and Section 5.02(b)(i) is equal to the sum of (x) (1) the Series A Preferred Return, multiplied by (2) the number of Series A Preferred Units, plus, (y) (1) the Series C Preferred Return, multiplied by (2) the number of Series C Preferred Units;

(ii) *second*, subject to Section 5.02(c), 100% to the Partners holding Common Units (including Vested LTIP Units and Unvested LTIP Units) until the aggregate amount distributed under this Section 5.02(a)(i) is equal to (x) the per-share distribution on the related record date established by the General Partner for a dividend or other distribution to its stockholders in respect of REIT Shares, *multiplied by* (y) the number of Common Units, *pro rata* and *pari passu* in proportion to their respective Percentage Interests; *provided, however*, that solely for the purpose of determining the number of Common Units and the related Percentage Interests under this Section 5.02(a)(i), the number of LTIP Units held by the Partners with respect to which the LTIP Unit Distribution Participation Date has not occurred prior to the applicable Partnership Record Date shall be divided by 10 (any such distribution that has been divided by 10, a "**Concurrent LTIP Distribution"**); and

(ii) *thereafter*, subject to the obligation to make Catch-Up Distributions under Section 5.02(a)(iv) and Section 5.02(c), 100% to the Partners holding OP Units, Class B Units and LTIP Units, *pro rata* and *pari passu* in proportion to their respective Percentage Interests; *provided*, *however*, that Net Operating Income distributed pursuant to this Section 5.02(a)(iii) shall not be subject to the limitations in Section 5.02(e).

(iii) Notwithstanding anything to the contrary in this Agreement, prior to making any distributions under Section 5.02(a)(iii), any LTIP Unitholder who received distributions under Section 5.02(a)(ii) in respect of an LTIP Unit with respect to which the LTIP Unit Distribution Participation Date had not yet occurred prior to the applicable Partnership Record Date will be entitled to receive distributions pursuant to this Section 5.02(a)(iv) in respect of that LTIP Unit following the Determination Date (any such distribution, a "**Catch-Up Distribution**"). Catch-Up Distributions will be made by the Partnership in respect of any such LTIP Units, pro rata, in proportion to their respective unreturned Catch-Up Distributions until such amounts have been reduced to zero. The Catch-Up Distribution for any such LTIP Unit will be equal to the sum of (A) the difference between (1) the cumulative distributions paid in respect of an OP Unit that was issued and outstanding as of the date such LTIP Unit was issued (which, for purposes of the LTIP Units awarded under the 2018 Advisor OPP Agreement, shall be, for the avoidance of doubt, the date the Master LTIP Unit was issued), after the date such LTIP Unit was issued through the Determination Date, ***minus*** (2) the aggregate distributions paid with respect to that LTIP Unit under Section 5.02(a)(ii) (which, for purposes of the LTIP Units awarded under the 2018 Advisor OPP Agreement, shall include, for the avoidance of doubt, the distribution made promptly following the Effective Date pursuant to the last sentence of Section 13.01(c)(iv)), ***plus*** (B) the cumulative distributions paid to an OP Unit under Section 5.02(a)(iii) in respect of Partnership Record Dates during the period beginning on the date such LTIP Unit was issued and ending on the Determination Date. The Catch-Up Distributions shall be adjusted as necessary to reflect any adjustment pursuant to Section 13.01(a) in connection with an Adjustment Event or otherwise that occurred during that period following the date such LTIP Unit was issued and on or prior to the Determination Date."

8. Sections 13.01(c)(iv) is hereby revised by replacing references therein to "Section 5.02(a)(i)" with references to "Section 5.02(a)(ii)."

9. Section 5.02(b) is hereby replaced in its entirety with the following new Section 5.02(b)

"(b) Net Sales Proceeds. Subject to the other provisions of this Article V, the General Partner shall cause the Partnership to distribute Net Sales Proceeds, at such times and in such amounts as are, subject to the terms and conditions of this Agreement, determined by the General Partner in its sole and absolute discretion, to the Partners who are Partners on the Partnership Record Date with respect to such quarter (or other distribution period):

(i) to the extent that the Cash Available for Distribution distributed to the General Partner pursuant to Section 5.02(a)(i) is less than the sum of (x) (1) the Series A Preferred Return, multiplied by (2) the number of Series A Preferred Units, plus, (y) (1) the Series C Preferred Return, multiplied by (2) the number of Series C Preferred Units, 100% to the General Partner in its capacity as the holder of Preferred Units until the aggregate amount distributed or set aside for payment under this Section 5.02(b)(i) and Section 5.02(a)(i) is equal to that sum.

(ii) (A) 15% to the Special Limited Partner, and (B) 85% to the Partners holding Class A Units, Class B Units or LTIP Units *pro rata and pari passu* in proportion to each such Partner's respective Percentage Interest with respect to such Class A Units, Class B Units or LTIP Units; provided, that:

(1) to the extent the Average Class B Economic Capital Account Balance of a holder of Class B Units is less than the Class A Unit Economic Balance, the Percentage Interest of such Partner holding Class B Units with respect to such Class B Units shall be reduced for purposes of determining its proportionate share of distributions pursuant to this Section 5.02(b) to equal such Partner's Percentage Interest with respect to its Class B Units multiplied by a fraction, the numerator of which is such Partner's Average Class B Economic Capital Account Balance, and the denominator of which is the Class A Unit Economic Balance;

(2) to the extent the Average LTIP Economic Capital Account Balance of a holder of LTIP Units is less than the Class A Unit Economic Balance, the Percentage Interest of such Partner holding LTIP Units with respect to such LTIP Units shall be reduced for purposes of determining its proportionate share of distributions pursuant to this Section 5.02(b) to equal such Partner's Percentage Interest with respect to its LTIP Units multiplied by a fraction, the numerator of which is such Partner's Average LTIP Economic Capital Account Balance, and the denominator of which is the Class A Unit Economic Balance; and

(3) the aggregate amount of distributions of Net Sales Proceeds to the Special Limited Partner pursuant to clause (A) shall not exceed the Listing Amount.

For the avoidance of doubt, any decrease in the Percentage Interest of a Partner with respect to its Class B Units or LTIP Units shall result in a corresponding increase in the Percentage Interests of Partners with respect to their Class A Units (and LTIP Units to the extent such LTIP Units are eligible for conversion pursuant to Section 13.02(b) but have not been converted)."

10. Section 5.02(c) is hereby replaced in its entirety with the following new Section 5.02(c):

"(c) Limitation on Distributions on Class B Units and LTIP Units. It is the intention of the parties to this Agreement that distributions to any Partner in respect of its Class B Units and LTIP Units shall be limited to the extent necessary so that such Partnership Units constitute a profits interest for all U.S. federal income tax purposes as set forth in Section 13.01 and Section 12.05, respectively. Accordingly, and notwithstanding anything to the contrary in this Agreement, a Partner's entitlement to cumulative distributions under Article V shall be appropriately limited so that the Class B Units and LTIP Units qualify as profits interests.

(i) Profits Interest Distribution Limitation. A Partner shall only participate in distributions under Article V in respect of any Class B Unit or LTIP Unit to the extent that in respect of a distribution date, on the related Partnership Record Date, either (x) the Partnership has Net Operating Income, or (y) the net value of the Partnership, plus any prior distributions under Section 5.02(b), equals or exceeds the Valuation Threshold for that Class B Unit or LTIP Unit (the limitation on distributions described in this Section 5.02(c)(i), the "**Profits Interest Distribution Limitation**").

(ii) Reallocation of Limited Distributions. Cash Available for Distribution or Net Sales Proceeds that otherwise would have been distributed to a Limited Partner in respect of Class B Unit or LTIP Unit but for the Profits Interest Distribution Limitation shall, instead, be distributed to the other Limited Partners in respect of other Partnership Units in accordance with Section 5.02(a) or Section 5.02(b)(i), respectively (including by operation of Section 5.06), but solely to the extent that distributions in respect of those Partnership Units are not subject to the Profits Interest Distribution Limitation.

(iii) Profits Interest Catch-Up Distributions. If one or more Class B Units or LTIP Units had been subject to the Profits Interest Distribution Limitation and, after taking into account the Profits Interest Distribution Limitation, such Partnership Units are no longer so limited, then, prior to making any further distributions under Section 5.02(b) to any Persons who received distributions under Section 5.02(b) in respect of those Class B Units or LTIP Units, all distributions pursuant to Section 5.02(b) that otherwise would have been made to such Persons shall instead be made to the Limited Partner(s) in respect of the Class B Units or LTIP Units that were subject to the Profits Interest Distribution Limitation until the aggregate amount distributed to each such Limited Partner under this Section 5.02(c)(iii) equals the aggregate amount that would have been distributed to each such Limited Partner had such Limited Partner's respective Class B Unit or LTIP Unit been issued with a Valuation Threshold equal to zero (the "**Profits Interest Catch-Up Distributions**"), in proportion to their respective Profits Interest Catch-Up Distributions.

(iv) Authority to Make Adjustments. Authority to Make Adjustments. The General Partner shall have the authority to make such adjustments to distributions pursuant to Article V (and corresponding allocations under Section 5.01) as it determines in good faith are necessary to effectuate the intent of this Section 5.02(e)."

11. Section 5.02(d) is hereby revised by replacing it in its entirety with the following new Section 5.02(d):

"Notwithstanding any other provision of this Agreement, the General Partner is authorized to take any action that it determines to be necessary or appropriate to cause the Partnership to comply with any withholding requirements established under the Code or any other federal, state or local law including, without limitation, pursuant to Sections 1441, 1442, 1445, 1446, 1471 or 1472 of the code and, without duplication of Section 10.05(a), to pay any taxes arising under the Revised Partnership Audit Procedures, including any "imputed underpayment" within the meaning of Section 6225 of the Code of the Partnership as a result of an adjustment with respect to any Partnership item, including interest or penalties with respect to any such adjustment (and any corresponding amounts for state or local tax purposes). Any Tax Liability in respect of a Partner shall constitute a loan by the Partnership to such Partner, except to the extent (i) the Partnership withholds the Tax Liability from a distribution that would otherwise be made to that Partner (or its assignee); or (ii) the General Partner determines, in its sole and absolute discretion, that the Tax Liability may be satisfied out of the available funds of the Partnership that, but for that Tax Liability, would be distributed to that Partner (or its assignee) (such loaned amount, a "**Partnership Loan**"). Any Tax Liabilities described in the foregoing clauses (i) or (ii) shall be treated as having been distributed to the related Partner (or its assignee) under this Agreement. For the avoidance of doubt, assessments under the Revised Partnership Audit Procedures shall (x) be treated as expenditures of the Partnership described in Section 705(a)(2)(B) of the Code, (y) be specially allocated to the Partners to whom such amounts are attributable, as reasonably determined in good faith by the General Partner, and (z) reduce the amounts otherwise distributable to such Partners under this Agreement, as if such amounts were distributed to them, as reasonably determined in good faith by the General Partner. A Partner and the Special Limited Partner shall repay a Partnership Loan upon the demand of the Partnership or, alternatively, through withholding by the Partnership with respect to subsequent distributions to the applicable Partner, the Special Limited Partner, or assignee of such Partner or the Special Limited Partner. In the event that a Limited Partner or the Special Limited Partner fails to pay any amount owed to the Partnership with respect to the Partnership Loan within 15 days after demand for payment thereof is made by the Partnership on the Limited Partner or the Special Limited Partner, as applicable, the General Partner, in its sole and absolute discretion, may elect to make the payment to the Partnership on behalf of such Defaulting Limited Partner. In such event, on the date of payment, the General Partner shall be deemed to have extended a General Partner Loan to the Defaulting Limited Partner in the amount of the payment made by the General Partner and the General Partner shall succeed to all rights and remedies of the Partnership against the Defaulting Limited Partner as to that amount. Without limitation, the General Partner shall have the right to receive any distributions that otherwise would be made by the Partnership to the Defaulting Limited Partner until such time as the General Partner Loan has been paid in full, and any such distributions so received by the General Partner shall be treated as having been received by the Defaulting Limited Partner and immediately paid to the General Partner. In addition to all other remedies that the Partnership may be entitled to pursue, in the event that a Limited Partner fails to pay any amount when due pursuant to this Section 5.02(d), the Partnership may thereafter, at any time prior to the Limited Partner's payment in full of such amount (plus any accrued interest), elect to redeem Partnership Units held by such Limited Partner, in accordance with the procedures set forth in Section 8.04 with the valuation date being the date the Partnership elects to redeem such Partnership Units, in an amount sufficient to pay any or all of such amount. In the event that proceeds to the Partnership are reduced on account of taxes withheld at the source or the Partnership incurs a liability and such taxes (or a portion thereof) are imposed on or with respect to one or more, but not all, of the Partners or if the rate of tax varies depending on the attributes of specific Partners or to whom the corresponding income is allocated, the amount of the reduction in the Partnership's net proceeds shall be borne by and apportioned among the relevant Partners and treated as if it were paid by the Partnership as a withholding obligation with respect to such Partners in accordance with such apportionment.

Any amounts treated as a Partnership Loan or a General Partner Loan pursuant to this Section 5.02(d) shall bear interest at the lesser of (i) 300 basis points above the base rate on corporate loans at large United States money center commercial banks, as published from time to time in The Wall Street Journal, or (ii) the maximum lawful rate of interest on such obligation, such interest to accrue from the date the Partnership or the General Partner, as applicable, is deemed to extend the loan until such loan is repaid in full."

12. Section 5.02 is hereby further revised by inserting the following as new Subsection 5.02(g):

"(g) If a new or existing Partner acquires additional Partnership Units in exchange for a Capital Contribution on any date other than a Partnership Record Date, the cash distribution attributable to such additional Partnership Units relating to the Partnership Record Date next following the issuance of such additional Partnership Units shall be reduced in the proportion to (i) the number of days that such additional Partnership Units are held by such Partner bears to (ii) the number of days between such Partnership Record Date and the immediately preceding Partnership Record Date."

13. Section 5.06(a) is hereby revised by replacing it in its entirety with the following new Section 5.06(a).

"(a) Upon liquidation of the Partnership, after the satisfaction of all the debts and obligations of the Partnership, to the extent permitted by law, whether by payment or the making of reasonable provision for payment thereof, any remaining assets of the Partnership shall be distributed, subject to Section 5.07(b), first to the General Partner in respect of the Series A Preferred Units and Series C Preferred Units until it has received distributions under this Agreement in respect of the Series A Preferred Units and Series C Preferred Units equal to their respective Liquidating Distributions and then to all Partners (including the Special Limited Partner) in accordance with Section 5.02(a) and 5.02(b)."

14. The first sentence of Section 5.07(b) is hereby revised by replacing it in its entirety with the following.

"Notwithstanding anything to the contrary in this Agreement, it is the intent of the Partners (including the Special Limited Partner) that the allocation provisions of Section 5.01 produce (a) a final Capital Account balance of the General Partner in respect of the Series A Preferred Units and the Series C Preferred Unites equal to their respective Liquidating Distributions, and (b) final Capital Account balances of the Partners (including the Special Limited Partner) equal to the amount such Partners would receive with respect to their Class A Units, Class B Units, LTIP Units or the Special Limited Partner Interest pursuant to Section 5.02(b)."

15. Section 6.01(a)(xx) is hereby revised by inserting ", any Catch-Up Distributions," after "liabilities."

16. Section 8.04(e) is hereby revised by replacing references to the "Withheld Amount" with references to "Tax Liability."

17. Section 9.02(g) is hereby revised by replacing it in its entirety with the following new Section 9.02(g):

"(g) Prior to the consummation of any Transfer under this Article IX, the transferor and/or the transferee shall deliver to the General Partner such opinions, certificates and other documents as the General Partner shall request in connection with such Transfer, which for the avoidance of doubt, shall include such forms, documentation, proof of payment or other certifications as reasonably required by the General Partner to determine that the transferor and the transferee have complied with Section 1446(f) of the Code (ignoring for this purpose Section 1446(f)(4) of the Code), and any similar provision of state, local, or non-U.S. law, and the transferor and the transferee shall have agreed to be jointly and severally liable for all taxes (including interest, penalties, and additional amounts thereon) under Section 1446(f) of the Code incurred by the Partnership in connection with such Transfer."

18. Section 10.05 is hereby revised by replacing it in its entirety with the following new Section 10.05:

"(a) The General Partner shall be the Tax Matters Partner of the Partnership for U.S. federal income tax purposes with respect to taxable periods ending on or before December 31, 2017. With respect to all subsequent taxable periods, the General Partner shall be the partnership representative (the "**Partnership Representative**") for purposes of Section 6223 of the Code, shall select a "designated individual" on behalf of the Partnership (as contemplated by the proposed Regulations under Section 6223 of the Code), as applicable, and shall represent the Partnership in any disputes, controversies, or proceedings with the IRS or with any state, local or non-U.S. taxing authority. The Tax Matters Partner or the Partnership Representative, as applicable, shall have the right to retain professional assistance in respect of any audit of the Partnership by the Service and all out-of-pocket expenses and fees incurred by the Tax Matters Partner or the Partnership Representative, as applicable, on behalf of the Partnership in performing its duties as such shall constitute Partnership expenses. The Tax Matters Partner or the Partnership Representative, as applicable, shall have the right and obligation to take all actions authorized and required, respectively, by the Code for the Tax Matters Partner or the Partnership Representative, as applicable. Subject to the revised partnership audit procedures and any Regulations or other administrative guidance promulgated in connection therewith (the "**Revised Partnership Audit Procedures**"):

i. In the event the Tax Matters Partner receives notice of a final Partnership adjustment under Section 6223(a)(2) of the Code (as in effect prior to the Budget Act), the Tax Matters Partner shall either (i) file a court petition for judicial review of such final adjustment within the period provided under Section 6226(a) of the Code (as in effect prior to the Budget Act), a copy of which petition shall be mailed to all Limited Partners and the Special Limited Partner on the date such petition is filed, or (ii) mail a written notice to all Limited Partners and the Special Limited Partner, within such period, that describes the Tax Matters Partner's reasons for determining not to file such a petition.

ii. The Partnership Representative shall, subject to the provisions in this Section 10.05(a)(ii), be entitled to take such actions on behalf of the Partnership in any and all proceedings with the IRS and any other such taxing authority as it reasonably determines to be appropriate and any decision made by the Partnership Representative shall be binding on all Partners. The Partners agree to take such actions as may be required to effect the General Partner's designation as the Partnership Representative (and its selection of any designated individual, as applicable), cooperate in good faith to timely provide information reasonably requested by the Partnership Representative as needed to comply with the Revised Partnership Audit Procedures, including, without limitation, to make (and take full advantage of) any elections available to the Partnership or to determine whether any imputed underpayment amount may be modified pursuant to Section 6225(c) of the Code. The Partnership Representative shall have no liability arising out of its performance of its duties as the Partnership Representative hereunder, and the Partnership shall indemnify, defend and hold the Partnership Representative harmless from and against any loss, liability, damage, cost or expense (including reasonable attorneys' fees and costs) sustained or incurred as a result of its acting as Partnership Representative hereunder, provided that the foregoing shall not insulate the Partnership Representative from liability for any action constituting fraud, gross negligence, misappropriate of funds or an intentional breach of this Agreement. The provisions contained in this Section 10.05(a)(ii) and Section 5.02(d) shall survive the liquidation, termination and dissolution of the Partnership and the withdrawal of any Partner or the transfer of any Partner's interest in the Partnership. With respect to all taxable years to which the Revised Partnership Audit Procedures apply to the Partnership, the Partnership Representative may, to the extent permitted by law, make an election under Code Section 6226 with respect to any imputed underpayment of the Partnership, and furnish any adjustment statements to the Partners and to the IRS as required under the Revised Partnership Audit Procedures. In addition to all other remedies that the Partnership may be entitled to pursue, in the event that a Limited Partner fails to pay any amount when due pursuant to this Section 10.05(a), the Partnership may thereafter, at any time prior to the Partner's payment in full of such amount (plus any accrued interest), elect, if applicable, to redeem Partnership Units held by such Partner, in accordance with the procedures set forth in Section 8.04 with the valuation date being the date the Partnership elects to redeem such Partnership Units, in an amount sufficient to pay any or all of such amount. In the event that proceeds to the Partnership are reduced on account of taxes withheld at the source or the Partnership incurs a liability and such taxes (or a portion thereof) are imposed on or with respect to one or more, but not all, of the Partners or if the rate of tax varies depending on the attributes of specific Partners or to whom the corresponding income is allocated, the amount of the reduction in the Partnership's net proceeds shall be borne by and apportioned among the relevant Partners and treated as if it were paid by the Partnership as a withholding obligation with respect to such Partners in accordance with such apportionment.

(b) All elections and determinations required or permitted to be made by the Partnership under the Code or any applicable state or local tax law shall be made by the General Partner in its sole and absolute discretion; *provided, however,* that any elections or determinations required to be made by the Partnership Representative shall be made by the Partnership Representative.

(c) In the event of a transfer of all or any part of the Partnership Interest of any Partner, the Partnership, at the option of the General Partner, may elect pursuant to Section 754 of the Code to adjust the basis of the Properties. Notwithstanding anything contained in Article V of this Agreement, any adjustments made pursuant to Section 754 shall affect only the successor in interest to the transferring Partner and in no event shall be taken into account in establishing, maintaining or computing Capital Accounts for the other Partners for any purpose under this Agreement unless an adjustment to Capital Accounts is permitted under the Regulations promulgated under Section 704 of the Code. Each Partner will furnish the Partnership with all information necessary to give effect to such election.

(d) In the event that the General Partner shall be removed or replaced pursuant to any provision of this Agreement, the successor to the General Partner shall assume the obligations of this Section 10.05.

(e) The Partners, intending to be legally bound, hereby authorize the Partnership to make an election (the "**Safe Harbor Election**") to have the "liquidation value" safe harbor provided in Proposed Treasury Regulation § 1.83-3(1) and the Proposed Revenue Procedure set forth in Internal Revenue Service Notice 2005-43, as such safe harbor may be modified when such proposed guidance is issued in final form or as amended by subsequently issued guidance (the "**Safe Harbor**"), apply to any interest in the Partnership transferred to a service provider while the Safe Harbor Election remains effective, to the extent such interest meets the Safe Harbor requirements (collectively, such interests are referred to as "**Safe Harbor Interests**"). The General Partner is authorized and directed to execute and file the Safe Harbor Election on behalf of the Partnership and the Partners. The Partnership and the Partners (including any Person to whom an interest in the Partnership is transferred in connection with the performance of services) hereby agree to comply with all requirements of the Safe Harbor (including forfeiture allocations) with respect to all Safe Harbor Interests and to prepare and file all U.S. federal income tax returns reporting the tax consequences of the issuance and vesting of Safe Harbor Interests consistent with such final Safe Harbor guidance. The Partnership is also authorized to take such actions as are necessary to achieve, under the Safe Harbor, the effect that the election and compliance with all requirements of the Safe Harbor referred to above would be intended to achieve under Proposed Treasury Regulation § 1.83-3, including amending this Agreement."

19. Schedule A is hereby revised by replacing it in its entirety with Schedule A attached hereto.

20. The foregoing recitals are incorporated in and are made a part of this Amendment.

21. Except as specifically defined herein, all capitalized terms shall have the definitions provided in the Partnership Agreement, including Annex A and Annex B thereto. This Amendment has been authorized by the General Partner pursuant to Article 11 of the Partnership Agreement and does not require execution by any Limited Partner or any other Person.

[SIGNATURE PAGE FOLLOWS]

**IN WITNESS WHEREOF**, the undersigned has executed this Amendment as of the date first set forth above.

**GENERAL PARTNER:**

AMERICAN FINANCE TRUST, INC.

By: /s/ Edward M. Weil, Jr.
Name: Edward M. Weil, Jr.
Title: Chief Executive Officer and President

[Signature Page to Eighth Amendment To Second Amended and Restated Agreement Of Limited Partnership]

**SCHEDULE A**

(As of July 21, 2021)

| Partner | Type of Interest | Type of Units | Number of Partnership Units | Percentage Interest |
|---|---|---|---|---|
| American Finance Trust, Inc. | General Partner Interest | Class A Units | 8,888.00 | 0.01% |
| 650 Fifth Avenue, 30th Floor | Limited Partner Interest | Class A Units | 79,600,753.31 | 62.91% |
| New York, New York 10019 | Limited Partner Interest | Series A Preferred Units | 7,933,711 | N/A |
| | Limited Partner Interest | Series C Preferred Units | 4,594,498 | N/A |
| American Finance Advisors, LLC | Limited Partner Interest | LTIP Units | 8,528,885 | 6.74% |
| 650 Fifth Avenue, 30th Floor | | | | |
| New York, New York 10019 | | | | |
| Genie Acquisition, LLC | Limited Partner Interest | Class A Units | 38,210,198.00 | 30.20% |
| 650 Fifth Avenue, 30th Floor | | | | |
| New York, New York 10019 | | | | |
| Lincoln Retail REIT Services, LLC | Limited Partner Interest | Class A Units | 172,921.19 | 0.14% |
| 2000 McKinney Avenue, Suite 1000 | | | | |
| Dallas, Texas 75201 | | | | |
| **TOTALS** | | | 139,049,854.50 | 100% |