

ARTICLE XVI  
HEDGE AGREEMENTS

Section 16.1. Hedge Agreements.

(a) The Issuer may enter into one or more Initial Hedge Agreements and, subject to Section 16.3, may enter into Hedge Agreements after the Closing Date.

(b) The Trustee shall, on behalf of the Issuer and in accordance with the Distribution Date Report, pay amounts due to any Hedge Counterparties under the Hedge Agreements in accordance with Article XI. In the event the Trustee does not receive a payment from a Hedge Counterparty that is due and payable under a Hedge Agreement, the Trustee shall make a demand on such Hedge Counterparty, or any guarantor, if applicable, demanding payment by 12:30 p.m., New York time, on such date (or by such time on the next succeeding Business Day if such knowledge is obtained after 11:30 a.m., New York time). The Trustee shall give notice to the Holders upon the continuing failure by such Hedge Counterparty to perform its obligations for two Business Days following a demand made by the Trustee on such Hedge Counterparty.

(c) If at any time a Hedge Agreement becomes subject to early termination (whether due to the occurrence of a default, a termination event or otherwise), the Trustee shall take such actions (following the expiration of any applicable grace period and after the expiration of the two Business Day period referred to in Section 16.1(b)) to enforce the rights of the Issuer and the Trustee hereunder and under such Hedge Agreement as may be permitted by the terms of such Hedge Agreement and consistent with the terms hereof, and shall apply the proceeds of any such actions (other than any net proceeds received as a result of a partial termination resulting in a reduction of the notional amount of the related Hedge Agreement) to the extent necessary to enter into a replacement Hedge Agreement on substantially identical terms (other than pricing terms) or on such other terms (including the notional amount thereof) for which Rating Agency Confirmation is obtained and shall apply any payment from a replacement Hedge Counterparty to the payment of any termination payment to the terminating Hedge Counterparty; *provided*, that the Investment Manager may determine not to enter into a replacement Hedge Agreement if Rating Agency Confirmation is obtained. Any costs attributable to entering into a replacement Hedge Agreement that exceed the sum of the proceeds of the liquidation of such Hedge Agreement to be borne by the Issuer shall constitute Administrative Expenses payable under Section 11.1(a)(ii). In determining the amount payable under the terminated Hedge Agreement, the Investment Manager (on behalf of the Issuer) will seek quotations from reference market-makers who satisfy the definition of Hedge Counterparty herein. The Issuer will use its reasonable best efforts to cause the termination of a Hedge Agreement to become effective simultaneously with the entry into a replacement Hedge Agreement described as aforesaid. The Investment Manager will provide instructions to the Trustee with respect to administration of each Hedge Agreement, including with respect to any termination or replacement thereof. If an Event of Default has occurred and is continuing, the Trustee shall pursue remedies under each Hedge Agreement in accordance with Article V.

(d) Each Hedge Agreement will, at a minimum, permit the Issuer to terminate such agreement (with the Hedge Counterparty bearing the costs of any replacement Hedge Agreement) if such Hedge Counterparty fails to do any of the following as and when applicable.

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