IN THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Civil Division

DISTRICT OF COLUMBIA,
a municipal corporation,
400 6th Street N.W., 10th Floor
Washington, D.C. 20001,

       Plaintiff,

    v.

REALPAGE, INC.,
2201 Lakeside Boulevard,
Richardson, Texas 75082;

AVENUE5 RESIDENTIAL, LLC,
901 5th Avenue, Suite 3000,
Seattle, Washington 98164;

AVALONBAY COMMUNITIES, INC.,
4040 Wilson Boulevard, Suite 1000,
Arlington, Virginia 22203;

BELL PARTNERS, INC.,
300 N. Greene Street, Suite 1000,
Greensboro, North Carolina 27401;

BOZZUTO MANAGEMENT COMPANY,
6406 Ivy Lane, Suite 700,
Greenbelt, Maryland 20770;

CAMDEN DEVELOPMENT, INC.,
11 Greenway Plaza, Suite 2400,
Houston, Texas 77046;

EQUITY RESIDENTIAL MANAGEMENT, LLC,
Two North Riverside Plaza, Suite 400,
Chicago, Illinois 60606;

GABLES RESIDENTIAL SERVICES, INC.,
3399 Peachtree Road N.E., Suite 600,
Atlanta, Georgia 30326;

Case No.: _____

Judge:_____

COMPLAINT

JURY TRIAL DEMANDED

GREYSTAR MANAGEMENT SERVICES, L.P.,
465 Meeting Street, Suite 500,
Charleston, South Carolina 29403**;**

HIGHMARK RESIDENTIAL, LLC,
5429 LBJ Freeway, Suite 800,
Dallas, Texas 75240;

JBG ASSOCIATES, LLC,
4747 Bethesda Avenue, Suite 200,
Bethesda, Maryland 20814;

MID-AMERICA APARTMENTS, LP,
6815 Poplar Avenue, Suite 500,
Germantown, Tennessee 38138;

PARADIGM MANAGEMENT II, LP,
1515 North Courthouse Road, #600,
Arlington, Virginia 22201;

UDR, INC.,
1745 Shea Center Drive, Suite 200,
Highlands Ranch, Colorado 80129;

WILLIAM C. SMITH & CO., INC.,
1100 New Jersey Avenue S.E.,
Washington, D.C. 20003,

Defendants.

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COMPLAINT

1.   Plaintiff District of Columbia (the "District"), by and through the Office of the Attorney General, brings this action against Defendants RealPage, Inc. ("RealPage") and fourteen of the largest landlords in the District: Avenue5 Residential, LLC; AvalonBay Communities, Inc.; Bell Partners, Inc.; Bozzuto Management Company; Camden Development, Inc.; Equity Residential Management, LLC; Gables Residential Services, Inc.; Greystar Management Services, L.P.; Highmark Residential, LLC; JBG Associates, LLC; Mid-America Apartments, LP; Paradigm Management II, LP; UDR, Inc.; and William C. Smith & Co., Inc. (collectively "Defendant Landlords") for unlawfully colluding to raise rents by collectively adopting the rents set by RealPage's technology and unlawfully agreeing to exchange competitively sensitive data in violation of the District of Columbia Antitrust Act, D.C. Code §§ 28-4501 *et seq.* In support of its claims, the District states as follows:

INTRODUCTION

2.   Defendant Landlords and RealPage, a technology company, have unlawfully agreed to use a centralized system—RealPage's "Revenue Management" ("RM") Software—to inflate rents for tens of thousands of apartments across the District, causing District renters to pay millions of dollars they would not have, but for Defendants' misconduct. Defendant Landlords have extracted these inflated rents by agreeing to delegate their price-setting authority to a centralized entity—RealPage—rather than competing on price.

3.   As part of this scheme, Defendant Landlords have also agreed, in writing, to share competitively sensitive data for RealPage to feed into its rent-setting RM Software. This data includes the rents that Defendant Landlords actually charge, providing RealPage with a mechanism

for assessing whether Landlords "cheat" on their agreement by deviating from the rent dictated by RealPage's RM Software.

4.   RealPage actively polices Defendants' agreement to ensure compliance. And, in fact, Defendant Landlords have abided by their agreement, imposing rents set by RealPage's RM Software in the vast majority (greater than 90%) of instances.

5.   This misconduct extends beyond District boundaries. Indeed, many of the largest providers of multifamily housing in the nation count themselves as members of this rent-setting cartel and have agreed to use RealPage RM Software. But the impact of the scheme is particularly significant in the D.C. metropolitan area.

6.   Defendant Landlords are some of the largest providers of multifamily housing in the District, and within the broader D.C. metropolitan area, RealPage's RM Software is used to set rents for more than 90% of units in large buildings (those with 50 or more units). Almost all of the buildings that use the software are large buildings, but even if one were to take a broader view of the multifamily housing market, the scope of this misconduct is significant. RealPage's RM Software is used to set the rents at more than 50,000 units in the District—a sizable portion of its available housing.

7.   The consequences of Defendants' anticompetitive scheme are widespread and severe. To recruit more landlords to their cartel, Defendants have publicly advertised that landlords who participate in the scheme, agreeing to use RealPage's RM Software to set rents, can boost revenue (*i.e.*, rents) by 2-7%. Increases of this magnitude translate to millions in wrongfully inflated rents in the last four years alone.

8.   Defendants achieve results like these by limiting market competition. Rather than pursue a "heads in beds" strategy—*i.e.*, competing on price to attract the most renters—Defendants

have conspired to share information, limit supply, and drive up rents. In a truly competitive market, one would expect competitors to keep their pricing strategies confidential—especially if they believe those strategies provide a competitive edge. Here, in contrast, Defendants understand that recruiting more would-be competitors to their anticompetitive scheme only increases their mutual ability to extract unlawfully higher rent, confident that their competitors will not dramatically undercut their prices.

9. The ever-climbing cost of housing is one of the toughest challenges facing District residents today. The District of Columbia is a majority-renter city. In recent years, however, staggering rent increases have become an unfortunate fact of life for District residents; approximately a quarter of all renters are forced to spend over 50% of their income on rent.

10. Defendants' anticompetitive agreement has exacerbated D.C.'s affordable housing crisis, forcing numerous District renters to overpay, month after month, for what is likely the single largest expense in their lives: rent. Housing is a human necessity. By demanding unlawfully high cartel rents, Defendants have inflicted real harm on neighborhoods across the District. Every dollar of increased rent that the cartel illegally squeezes from District renters contributes to widening wealth gaps, forces hardworking residents to forgo other uses of their money, and pushes residents out of a District whose housing they increasingly cannot afford.

11. The Attorney General brings this action in his *parens patriae* capacity to recover treble the damages that Defendants have forced District renters to incur, civil penalties, and other relief identified below.

JURISDICTION

12.   This Court has subject matter jurisdiction over this case pursuant to D.C. Code §§ 1-301.81, 11-921, 28-4507, and 29-412.20(a).   This Court has personal jurisdiction over Defendants pursuant to D.C. Code §§ 13-422 and 13-423(a).

THE PARTIES

13.   Plaintiff District of Columbia, a municipal corporation empowered to sue and be sued, is the local government for the territory constituting the permanent seat of the government of the United States. The District is represented by and through its chief legal officer, the Attorney General for the District of Columbia. The Attorney General has general charge and conduct of all legal business of the District and all suits initiated by and against the District and is responsible for upholding the public interest.   D.C. Code § 1-301.81(a)(1).   The Attorney General is specifically authorized to enforce the District's antitrust laws, including D.C. Code §§ 28-4501 *et seq*.

14.   Defendant RealPage is a corporation headquartered in Richardson, Texas, organized and existing under the laws of Delaware. RealPage provides software and services to managers of residential rental apartments, including the RealPage RM Software described herein. RealPage was a public company from 2010 until December 2020, when it was purchased by Chicago-based private equity firm Thoma Bravo.

15.   Defendant Bozzuto Management Company ("Bozzuto") is a corporation headquartered in Greenbelt, Maryland, organized and existing under the laws of Maryland. Bozzuto is a residential apartment manager and owner that relies on the RealPage RM Software as part of the process for determining the price of rental leases in the District of Columbia. Bozzuto and its affiliates own and/or operate approximately 15,457 units in the District of Columbia, and

during at least all or part of the past four years used RealPage RM Software. Bozzuto has used RealPage RM Software pursuant to contracts with RealPage including, among others, its August 2021 RealPage One Master Agreement. Bozzuto uses the RealPage RM Software at buildings in the District including Cathedral Commons located at 3401 Idaho Avenue NW, and Elevation at Washington Gateway located at 100 Florida Avenue NE.

16.   Defendant William C. Smith & Co., Inc. ("W.C. Smith") is a corporation headquartered in Washington, District of Columbia, organized and existing under the laws of the District of Columbia. W.C. Smith is a residential apartment manager and owner that relies on the RealPage RM Software as part of the process for determining the price of rental leases in the District of Columbia. W.C. Smith has used RealPage RM Software pursuant to contracts with RealPage including, among others, its June 16, 2016 RealPage One Master Agreement. W.C. Smith and its affiliates own and/or operate approximately 9,384 units in the District of Columbia, and during at least all or part of the past four years used RealPage RM Software at buildings in the District, including for example The Garrett located at 150 I Street SE, and Agora at the Collective located at 800 New Jersey Avenue SE.

17.   Defendant Greystar Management Services, L.P. ("Greystar") is a limited partnership headquartered in Charleston, South Carolina, organized and existing under the laws of Delaware. Greystar is a residential apartment manager and owner that relies on the RealPage RM Software as part of the process for determining the price of rental leases in the District of Columbia. Greystar and its affiliates own and/or operate approximately 7,730 units in the District of Columbia, and during at least all or part of the past four years used RealPage RM Software. Greystar has used RealPage RM Software pursuant to contracts with RealPage including, among others, its August 23, 2017 Master Agreement, which states that "Greystar will use commercially

reasonable efforts to . . . cause new and existing Sites to use . . . YieldStar Asset Optimization (revenue management)." Greystar uses RealPage RM Software at buildings in the District including, for example, The Gantry located at 300 Morse Street NE, and Illume located at 853 New Jersey Avenue SE.

18. Defendant Camden Development, Inc. ("Camden") is a corporation headquartered in Houston, Texas, organized and existing under the laws of Delaware. Camden is a residential apartments manager and owner that relies on the RealPage RM Software as part of the process for determining the price of rental leases in the District of Columbia. Camden and its affiliates own and operate approximately 6,199 units in the District of Columbia, and during at least all or part of the past four years used RealPage RM Software. Camden has used RealPage RM Software pursuant to contracts with RealPage including, among others, a Master Agreement with RealPage dated December 22, 2017. Camden uses RealPage RM Software at buildings in the District including, for example, Camden Grand Parc located at 910 15th Street NW, and Camden Roosevelt, located at 2101 16th Street NW.

19. Defendant Equity Residential Management, LLC ("Equity") is a limited liability company headquartered in Chicago, Illinois, organized and existing under the laws of Delaware. Equity is a residential apartment manager and owner that relies on the RealPage RM Software as part of the process for determining the price of rental leases in the District of Columbia. Equity and its affiliates own and operate approximately 4,622 units in the District of Columbia, and during at least all or part of the past four years used RealPage RM Software. Equity has used RealPage RM Software pursuant to contracts including, among others, a contract with The Rainmaker Group Real Estate, LLC entered into on or about July 28, 2011, and an April 2018 contract with RealPage, following RealPage's acquisition of LRO. Equity uses RealPage RM Software in buildings

including Park Connecticut Apartments located at 4411 Connecticut Avenue NW, and 455 Eye Street Apartments located at 455 I Street NW.

20.   Defendant JBG Associates, LLC ("JBG Smith") is an limited liability company headquartered in Bethesda, Maryland, organized and existing under the laws of Delaware. JBG Smith is a residential apartment manager and owner that relies on the RealPage RM Software as part of the process for determining the price of rental leases in the District of Columbia. JBG Smith and its affiliates own and operate approximately 4,553 units in the District of Columbia, and during at least all or part of the past four years used RealPage RM Software. JBG Smith has used RealPage RM Software pursuant to contracts with RealPage including, among others, a January 27, 2020 RealPage One Master Agreement. JBG Smith has used RealPage RM Software at buildings in the District, including The Batley located at 1270 4th Street NE, and West Half located at 1201 Half Street SE.

21.   Defendant AvalonBay Communities, Inc. ("AvalonBay") is an equity real estate investment trust ("REIT") headquartered in Arlington, Virginia, organized and existing under the laws of Maryland. AvalonBay is a residential apartment manager and owner that relies on the RealPage RM Software as part of the process for determining the price of rental leases in the District of Columbia. AvalonBay and its affiliates own or operate approximately 2,602 units in the District of Columbia, and during at least all or part of the past four years used RealPage RM Software, including at buildings such as 770 5th Street NW, 55 M Street NE, and 1160 First Street NE. AvalonBay uses RealPage RM Software pursuant to contracts including, among others, a contract it entered into with The Rainmaker Group Real Estate, LLC in March 2017, and a contract with RealPage following RealPage's acquisition of LRO in 2017.

22.   Defendant Paradigm Management II, LP ("Paradigm") is a limited partnership headquartered in Arlington, Virginia, organized and existing under the laws of Virginia. Paradigm is a residential apartment manager and owner that relies on the RealPage RM Software as part of the process for determining the price of rental leases in the District of Columbia. Paradigm and its affiliates own and/or operate approximately 1,852 units in the District of Columbia, and during at least all or part of the past four years used RealPage RM Software. Paradigm has used RealPage RM Software pursuant to contracts with RealPage including, among others, a February 2, 2020 RealPage One Master Agreement. Paradigm has used RealPage RM Software at buildings in the District including Meridian on First located at 1000 First Street SE and Park Triangle Lofts & Flats located at 1375 Kenyon Street NW.

23.   Defendant Gables Residential Services, Inc. ("Gables") is a corporation headquartered in Atlanta, Georgia, organized and existing under the laws of Texas. Gables is a residential apartment manager and owner that relies on the RealPage RM Software as part of the process for determining the price of rental leases in the District of Columbia. Gables and its affiliates own and operate approximately 1,779 units in the District of Columbia, and during at least all or part of the past four years used RealPage RM Software. Gables uses RealPage RM Software in the District pursuant to its contracts with RealPage including, among others, a September 2017 Products and Services Master Agreement, signed for Gables by its Vice President of Marketing & PR, Gigi Giannoni. Gables uses RealPage RM Software at buildings in the District including, for example, Gables City Vista located at 460 L Street NW, and Gables Dupont Circle located at 1750 P Street NW.

24.   Defendant UDR, Inc. ("UDR") is a corporation headquartered in Highlands Ranch, Colorado, organized and existing under the laws of Maryland. UDR is a residential apartment

manager and owner that relies on the RealPage RM Software as part of the process for determining the price of rental leases in the District of Columbia. UDR and its affiliates own and/or operate approximately 1,753 units in the District of Columbia, and during at least all or part of the past four years used RealPage RM Software. UDR uses RealPage RM Software in the District pursuant to its contracts with RealPage including, among others, a RealPage One Master Agreement with RealPage dated April 15, 2017. UDR uses RealPage RM Software in buildings including View 14 located at 2303 14th Street NW, and Waterside Towers located at 907 6th Street SW.

25.   Defendant Bell Partners, Inc. ("Bell Partners") is a corporation headquartered in Greensboro, North Carolina, organized and existing under the laws of North Carolina. Bell Partners is a residential apartment manager and owner that relies on the RealPage RM Software as part of the process for determining the price of rental leases in the District of Columbia. Bell Partners and its affiliates own or operate approximately 1,380 units in the District of Columbia, and during at least all or part of the past four years used RealPage RM Software. Bell Partners uses RealPage RM Software in the District pursuant to its contracts with RealPage including, among others, a RealPage One Master Agreement dated May 1, 2014. Bell Partners has specifically contracted with RealPage to use RealPage RM Software in the District of Columbia, including for buildings such as Revel at NoMa Center located at 1005 1st Street NE, and Bell Capitol Hill located at 1717 E. Capitol Street SE.

26.   Defendant Avenue5 Residential, LLC ("Avenue5") is a limited liability company headquartered in Seattle, Washington, organized and existing under the laws of Delaware. Avenue5 is a residential apartment manager that relies on the RealPage RM Software as part of the process for determining the price of rental leases in the District of Columbia. Avenue5 manages approximately 542 units in the District of Columbia, and during at least all or part of the

past four years has used RealPage RM Software to set the rents for all or a substantial portion of them. Avenue5 uses RealPage RM Software in the District pursuant to its contracts with RealPage including, among others, a RealPage One Master Agreement entered on or about August 4, 2016. Avenue5 uses RealPage RM Software at buildings in the District of Columbia, including for example, an August 2020 contract for the Coda on H building located at 315 H Street NE, and a November 2020 contract for the Legacy West End building located at 1255 22nd Street NW.

27.   Defendant Highmark Residential, LLC ("Highmark") is a limited liability company headquartered in Dallas, Texas, organized and existing under the laws of Delaware. Highmark is a residential apartment manager that relies on the RealPage RM Software as part of the process for determining the price of rental leases in the District of Columbia. Highmark operates approximately 327 units in the District of Columbia, and during at least all or part of the past four years used RealPage RM Software. Highmark has used RealPage RM Software pursuant to contracts with RealPage including, among others, a January 2016 RealPage One Master Agreement. Highmark has used RealPage RM Software at Ellicott House, located at 4849 Connecticut Avenue NW.

28.   Defendant Mid-America Apartment Communities, Inc. ("MAA") is a corporation headquartered in Germantown, Tennessee, organized and existing under the laws of Tennessee. MAA is a residential apartment manager that relies on the RealPage RM Software as part of the process for determining the price of rental leases in the District of Columbia. MAA and its affiliates own and/or operate approximately 269 units in the District of Columbia, and during at least all or part of the past four years used RealPage RM Software. MAA has used RealPage RM Software in the District at the Post Massachusetts Avenue, 1499 Massachusetts Avenue NW.

RELEVANT FACTS

I.   **RealPage and Defendant Landlords Position RealPage's RM Software to Dominate the Market.**

29.   RealPage offers a variety of technology-based services to real estate owners and property managers including, among others, property management software, sales and marketing solutions, tenant screening capabilities, and, most relevant for purposes of this complaint, revenue management applications and services. RealPage's unparalleled access to proprietary data, and significant market share, have positioned RealPage as the "Big Tech" company of rental housing. Former CEO Steve Winn described the company's powerful market position as, essentially, a "soup to nuts" technology provider for apartment landlords.

30.   RealPage's RM software first hit the residential real estate industry in the early 2000s and, in the intervening twenty years, has been adopted by a substantial portion of the multifamily housing rental market nationwide and here in the District.

A. RealPage's RM Software Uses Public and Proprietary Data to Increase Landlords' Returns.

31.   RealPage markets three revenue management products: YieldStar, LRO, and AIRM. The products are functionally identical in that they automate pricing of multifamily units using algorithms fueled by RealPage's vast data repositories which are shared among the three products. RealPage's RM Software allows clients to "[o]ptimize rents to achieve the overall highest yield, or combination of rent and occupancy, at each property." Stated simply, these products employ statistical models that use data—including proprietary, non-public data—to estimate supply and demand for multifamily housing that is specific to particular geographic areas and unit types, and then generate a "price" to charge for renting those units that maximizes the landlord's revenue.

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32.   Each of the Defendant Landlords have used one or more of the RealPage RM products to set the price of multifamily housing leases in the District. The Defendant Landlords who have used YieldStar include at least Avenue5, Bozzuto, Greystar, and UDR. The Defendant Landlords who have used AIRM include at least Bozzuto, Camden, Greystar, Highmark, MAA, and Paradigm. The Defendant Landlords who have used LRO include at least AvalonBay, Bell Partners, Bozzuto, Equity, Gables, Greystar, JBG Smith, Paradigm, and WC Smith.

33.   RealPage contracts with property managers and owners to provide its RM Software (though in some instances the property manager and owner are the same entity). Each of the Defendant Landlords in this case entered into contracts and otherwise participated in and acted to materially advance the anticompetitive agreements. Even where a Defendant is a property manager rather than owner, its success is tied to that of the buildings it manages and it therefore possesses an economic incentive to implement the scheme for its own benefit. Property managers also can receive fees in connection with implementing the anticompetitive scheme in addition to the standard fees that property managers receive for their building-management services.

34.   While access to the RealPage RM Software is typically purchased on a per-building basis, RealPage charges the landlord an initial setup fee for the RealPage RM Software and then a monthly fee for each unit. This has been incredibly lucrative for RealPage, which has earned hundreds of millions in revenue as a result.

35.   In addition to fees, Defendant Landlords compensate RealPage by providing their valuable proprietary data. This exchange is expressly stated in Defendant Landlords' contracts with RealPage. For example, the contract between RealPage and Defendant JBG Smith states: "RealPage's Product Centers [*i.e.*, products including the RealPage RM Software] rely upon Site Owner Data to function and deliver value to Site owners, managers, and residents. The pricing for

the Product Centers is partially based on the expected value exchange whereby Site Owner grants

to RealPage certain limited rights in the Site Owner Data."

B. RealPage's RM Software is Modeled Off Software Previously Deemed Anticompetitive.

36.   RealPage purchased its first RM product, YieldStar, from Defendant Camden in

2002. From the get-go, RealPage used YieldStar as an opportunity for competitors to coordinate

pricing strategies. In the fall of 2002, RealPage hosted a series of "executive-level revenue

management summits" with key clients (*i.e.*, landlords) to "discuss" various elements of revenue

management, including:

- "Methods for establishing a forecast of weekly supply for each floor plan based on vacant units . . ." and "Methods for establishing a forecast of weekly demand for each floor plan[.]"

- "Methods to price units in real time based on statistically validated price elasticity models that predict the relationship between price imbalances in supply and demand[.]"

- "Methods to adjust pricing to reflect nonoptimal lease terms . . ." and "Methods to adjust pricing to optimize renewal pricing[.]"

- "Methods to manage concessions as a marketing tool that gross up net effective base rents computed by the pricing engine."

RealPage promised to incorporate feedback from these "summits" into future releases of YieldStar.

37.   Two years later, in 2004, RealPage acquired Re-Opt, which marketed a competing

RM product, "Price Optimizer." Like YieldStar, Re-Opt's "Price Optimizer" used a proprietary

model to maximize revenue in the apartment rental market. As part of the acquisition, RealPage

named Re-Opt's CEO, Jeffrey Roper, "President and Principal Scientist" of YieldStar.

38.   Roper had previously served as Alaska Airlines' Director of Revenue Management

in the 1980s. In that capacity, he developed price-setting software for the airline industry that the

Department of Justice Antitrust Division later challenged as facilitating illegal anticompetitive

agreements among the nation's largest airlines, costing customers more than a billion dollars in artificially increased airfares between 1988 and 1992. After the airlines abandoned their expansive revenue management program to satisfy the DOJ, Roper went to work at Talus, a consulting firm that developed revenue management programs for multifamily housing.

39. Leveraging his experience in the airline industry and at Talus, Roper expanded YieldStar's use of proprietary data and incorporated Re-Opt's pricing model into YieldStar to improve on the model's efficacy.

40. Roper predicted that market participants would quickly embrace revenue management for pricing: "[c]learly the whole industry will embrace it one day . . . [i]t will reach the point where [industry participants] don't have a choice because [they] can't compete effectively with what is going on around you."

41. This prediction proved accurate. Between 2004, when Roper joined RealPage, and 2016, use of revenue management for pricing grew significantly, and RealPage was a key part of that growth. In 2016, RealPage was reporting double-digit growth largely driven by YieldStar.

C. RealPage Acquires its Largest RM Competitor, LRO, Cementing its Dominant Market Position in 2017.

42. Like YieldStar, LRO was initially developed in the early 2000s by a REIT—Archstone (which was subsequently acquired by Defendants Equity Residential and AvalonBay). As Archstone's Chief Information Officer Daniel Amedro explained, LRO was created to be a "better way of pricing" than the "old model . . . where the pricing authority was effectively your onsite staff[.]" Archstone hired Talus—the same software company where Roper had worked—to develop LRO.

43. Like YieldStar, LRO used timely and competitively sensitive, non-public data to generate the revenue-maximizing rent to charge for landlords' multifamily units.

44.   By 2017, YieldStar and LRO were the two largest RM products for rental real estate in the United States. RealPage then solidified its position as the dominant player in the revenue management space by purchasing LRO from its prior owner for $300 million. Prior to the acquisition, YieldStar was pricing approximately 1.5 million multifamily housing units in the United States; combining forces with LRO would immediately bring that number to 3 million.

45.   As soon as the deal went through, RealPage acknowledged the significant market advantage obtained as a result. RealPage's access to data exceeded that of any other possible competitor. As Winn told investors, "Simply put, we have more of it [data] than anyone else, and we figured out how to create immense value from it."

46.   Between 2018 and 2020, RealPage continued to market both YieldStar and LRO, noting that RealPage's RM products used an "unmatched database" reflecting "lease transaction data on over 12M units."

47.   RealPage has used its control over the relevant industry data to expand the scope of its RM product offerings. In February 2020, RealPage announced the launch of its "super charged" price optimization product, AI Revenue Management ("AIRM"). RealPage claims that AIRM incorporates machine learning into its modeling, to (1) provide "more accurate supply/demand forecasting" and (2) allow users to "optimize the price of amenity and rentable items." Since introducing AIRM, RealPage has allowed legacy YieldStar and LRO users to continue with those products but new clients can only purchase AIRM, and RealPage has taken steps to transition existing clients to AIRM. AIRM's core functionality and purpose, however, remain identical to YieldStar and LRO.

48.   RealPage's dominant market position stems directly from its unrivaled access to proprietary data—something RealPage itself has acknowledged at multiple investor meetings.

Importantly, RealPage possesses not only a massive amount of data, but also extraordinarily detailed data. This highly specific, proprietary data can then be used daily to generate rental prices for each unit in the building that uses RM software.

D. RealPage's RM Software Is Used to Set Rents for the Substantial Majority of Large Apartment Building Units in the D.C. Metropolitan Area.

49. Given this powerful market edge, RealPage dominates the market for multifamily housing, including both nationally and here in the District. In the District, well over 30% of apartments in multifamily buildings (*i.e.*, buildings with five or more units) are priced using RealPage's RM software.

50. In practice, RealPage has focused on recruiting into the cartel the buildings with the largest number of units (*i.e.*, buildings with fifty or more units). In the District, a sizable majority of units in large multifamily buildings—approximately 60%—set their prices using RealPage's RM software. In the Washington-Arlington-Alexandria Metropolitan Statistical Area, that number is even higher: over 90% of units in large buildings are priced using RealPage's RM software. As a practical matter, this leaves many District residents with no choice but to pay RealPage's inflated rents.

51. Several of the nation's largest landlords—including the largest, Defendant Greystar—use RealPage RM Software for pricing, as do landlords operating exclusively in the D.C. area. Defendant JBG Smith, for example, operates properties exclusively in Washington, D.C. and the surrounding region. The same is true of Defendant W.C. Smith.

52. Indeed, Defendant Landlords—all of whom use a RealPage RM product for many of their units—represent more than 58,000 of the available multifamily housing units in the District, including over 40,000 that are priced using RealPage's RM software. And Defendant Landlords are not the only landlords here in the District that use RealPage's RM products.

53.   Nor is usage of the RealPage RM Software limited to any one particular neighborhood in the District. Landlords have implemented the anticompetitive agreement at issue in buildings in neighborhoods including (but not limited to) Navy Yard, NoMa, Dupont Circle, Forest Hills, Logan Circle, Observatory Circle, Adams Morgan, Southwest Waterfront, Shaw, and others.

II.   Defendant Landlords Unlawfully Agree to Delegate Rent-Setting Authority to RealPage and Share Sensitive Data.

54.   Multifamily property owners and managers (collectively, "landlords") traditionally competed with one another for customers (tenants) in the rental housing market, including competing on the price of rental leases to increase occupancy. Prospective tenants in multifamily housing units routinely consider multiple options when evaluating potential leases, and their decision of which unit to lease is determined in large part by the rent offered.

55.   The RealPage scheme represents a fundamental departure from the traditional, competitive marketplace that historically existed for multifamily rentals. RealPage and its clients ("Participating Landlords" which include Defendant Landlords) have transformed a competitive marketplace into one in which competing landlords work together for their collective benefit at the expense of renters. Indeed, when a former high-ranking manager at Defendant Greystar was asked whether landlords use the RealPage RM Software to collude on raising rental prices, he responded that of course they did—it's the entire reason landlords used the software.

A. RealPage and Defendant Landlords Agree to Delegate Rent-Setting Authority to RealPage, Which Enforces Compliance.

56.   RealPage, the Defendant Landlords, and other Participating Landlords have unlawfully agreed to forgo competition in favor of using a central entity—the RealPage RM

Software—to set apartment rents. Their agreement is reflected in existing documents, has been publicly acknowledged by cartel members, and is closely policed to ensure compliance.

57. RealPage documents show the methods by which the company suppresses the Defendant Landlords' independent price decision-making while also securing their cooperation in the cartel. RealPage training documents state: "You should be compliant"—*i.e.*, each, individually participating landlord must impose the rents generated by the RealPage RM Software—"90+% of the time to see the best results in your revenue management." This principle is reinforced during in-person trainings when landlords join the cartel.

58. RealPage documents are replete with references to the need for "discipline"—*i.e.*, adherence to the prices generated by RealPage. For example, an LRO training presentation emphasizes the importance of "disciplined . . . pricing practices portfolio wide." Similarly, an AIRM training presentation references Participating Landlords' commitment to the "disciplined use of formal quotes." When training landlords on LRO's Lease Audit Report, RealPage instructs landlords: "We should have all compliant leases. Just use the LRO price and you won't have to worry about it."

59. Deviations from the RealPage-generated rent are referred to as "overrides." Consistent with their agreement to impose rents generated by RealPage RM Software nearly all the time, Defendants agreed to limit overrides. For example, a RealPage LRO training document states: "Overrides should be few and far between." Similarly, internal RealPage LRO training documents teach cartel members' regional managers to beware of "Override Overload" or "rogue" leasing agents who too frequently override the LRO-generated pricing.

60. Defendant Landlords have publicly and privately acknowledged their agreement to impose rents set by RealPage's RM Software in nearly all instances. For example:

- Executives at Defendant Camden stated in a 2019 earnings call that "we're very disciplined around our revenue management system [YieldStar]," "it's rare that we have an exception to the recommended YieldStar rate."

- Defendant UDR's Director of Revenue Management Chris Long stated that "[leasing] prospects understood that a system was producing the pricing and it wasn't up to the leasing agent's whim," touting the "sense of discipline."

- An internal presentation created by Defendant Greystar explicitly acknowledges that RealPage RM Software users should each seek to accept at least 95% of the RealPage-generated prices, emphasizing that "Discipline [o]f using revenue management increases more consistent outcomes."

- Former Greystar employees have similarly confirmed that negotiating rents other than those set by the RealPage RM Software was unacceptable.

- Defendant Equity Residential's Executive Vice President, Operations, likewise referred to the "disciplined process" as a "chief benefit" of agreeing to use LRO.

61. RealPage facilitates landlords' compliance with the agreement in many ways, including through a software feature that automatically accepts rents generated by the RM Software. In both AIRM and YieldStar, this feature is called "Auto Pilot" and, if enabled, causes the RealPage-generated rents to be automatically "accepted" and deployed to the landlord's property management system. LRO offers a similar feature referred to as "Rent Syndication" which automatically sends LRO pricing information to Internet Listing Services where the landlord's units are marketed.

62. RealPage's message to Participating Landlords (RealPage's clients) is that they should "let auto accept run" such that the landlords "accept all recommendations." A RealPage presentation on pushing landlords to enable auto-accept states: "[n]ot an ask of the client. This is a command to the client. It isn't an optional process."

63. The importance of auto-accept functionality is even reflected in landlords' contracts for the RealPage RM Software. For example, Defendant JBG Smith's original contract for LRO,

before it was acquired by RealPage, stated that LRO "automates apartment rent pricing on a daily basis," thereby leading "properties to perform better than non-LRO peers in terms of pricing."

64. Even where Participating Landlords do not enable auto-accept, most landlords cannot, on their own, charge rents other than those generated by RealPage's RM Software—landlords can only "propose an override." The landlord must then provide a written business justification for why they wish to depart from the RealPage-generated rent. The landlord is also required to "enter the floorplan rent that [the landlord] is recommending" for the prospective tenant, in order to "submit an override recommendation."

65. Proposed overrides often trigger outreach from a RealPage Pricing Advisor—a RealPage employee charged with directly interacting with clients (sometimes daily) to ensure landlords impose the RealPage-generated rents. In addition to the content of the communications, imposing this administrative burden is one way that RealPage works to ensure adoption of the RealPage-generated prices, as a former RealPage employee explained. If, despite the Pricing Advisor's attempts to persuade otherwise, a landlord persists in seeking an override, the Pricing Advisor can escalate the issue to RealPage management or the landlord's regional manager. Regardless, RealPage will not accept landlords' business justifications for proposed overrides except in extenuating circumstances such as a natural disaster.

66. RealPage actively polices Participating Landlords' compliance to ensure overrides remain rare. When a new landlord joins Defendants' rent-setting cartel, RealPage conducts "secret shops" to "confirm successful adoption" of the software. This process tests whether the landlords' employees are, in fact, offering only RealPage-generated rents even in the event that a prospective tenant attempts to negotiate. As detailed in the training manual that RealPage prepared for Defendant Bozutto:

Within 30 days of Sales Training, YieldStar will telephone shop each site. Secret shops are utilized to confirm that users of revenue management throughout the Bozzuto organization are comfortable using YieldStar, and believe that the system, its pricing, and corresponding business practices are delivering expected benefits. Results of secret shops will be carefully evaluated to determine if adjustments may be needed to product configuration and/or business processes, or if additional training may be required. Bozzuto will also shop the site using their traditional site shopping resource (we will provide guidance on how to modify the shopping report to gauge how effective the team is at selling with the new YieldStar process). Bozzuto agrees to share phone shop results with the YieldStar team.

67.   RealPage has also designed its RM Software to ensure that landlords monitor their own compliance—*i.e.*, whether the landlord has imposed the RealPage-generated rent. For example, AIRM's New Lease Workflow displays a "Lease Compliance" number where "100% means no compliance variances." YieldStar displays a "Lease Compliance" widget to landlords that indicates whether compliance rates are acceptable and generates "Compliance Reports" for landlords that present noncompliant rents as losses (in parentheses). Similarly, LRO presents a "Rent Comparison Graph" to landlords that presents compliance data and generates "Lease Audit Reports" identifying any differences between RealPage-generated rents and the rents that the landlord in fact is charging tenants.

68.   RealPage also employs Pricing Analysts who create reports analyzing clients' compliance rates. Pricing Analysts generate "Rate Acceptance and Lease Compliance Analysis" reports that measure landlords' compliance and "identify detached potentially at-risk clients, properties that need additional training, or opportunities for parameter and strategy alignment." In other words, RealPage monitors the prices actually imposed by cartel members to identify anyone departing from the agreed-upon pricing plan, in order to discipline that member into adhering to the RealPage-generated prices.

69. According to one former RealPage Pricing Analyst, if these reports indicated poor compliance—for example, failure to impose RealPage-generated rents at least 75% of the time—landlords could be expelled from the cartel; "Sometimes we were happy to see customers go." This statement indicates that, while RealPage sought to grow the cartel to maximize profits, it also understood the importance of universal adherence and was willing to expel an occasional cartel member to demonstrate its commitment to enforcement of the agreed-upon pricing scheme.

70. Adherence to the strictures of the cartel's agreement has been high. Overrides are exceedingly rare. According to one former employee of both RealPage and Equity, it was very rare for Equity to deviate from the RealPage-generated rates for renewals, and compliance for pricing new leases was absolute. Additionally, multiple industry participants have confirmed that—consistent with Defendants' agreement and facilitated by RealPage's oversight—Participating Landlords impose RealPage-generated rents in the vast majority (greater than 90%) of the time. In the rare instance when a landlord does not impose the RealPage-generated rent, the cartel's oversight mechanisms ensure that such a decision is not a landlord "cheating" the system, but rather is accounting for some factor of which the RealPage RM Software was unaware (*e.g.*, a natural disaster having just occurred which substantially affects the property's value).

71. At bottom, the rents RealPage generates are not recommendations. Rather than competing on price, Participating Landlords agree to and do impose the RealPage-generated rents nearly all of the time.

B. Defendant Landlords Agree Among Themselves to Forgo Competition and Set Rents Using RealPage's RM Software.

72. Defendant Landlords not only agreed with RealPage to impose RealPage-generated rents, but also agreed with one another to do so.

73.   As Ray Thornton, former Vice President of Information Technology at Colonial Properties (which was subsequently acquired by Defendant MAA in 2013) admitted, Colonial only adopted LRO after consulting with "peers that we trusted" who reported "some really good numbers."

74.   Similarly, a former employee of both RealPage and multiple property management companies reported numerous in-person meetings among Participating Landlords (including Defendants Gables and Equity) specifically for the purpose of exchanging pricing data. These landlords were not acting as true competitors, rather the meetings occurred because, "[w]e didn't want to do damage to each other."

75.   And as Keith Oden, Executive Vice Chairman of Defendant Camden stated during a recent earnings call when he was asked about competition: "[W]e all make the market better. [Camden's competitors] all use revenue management. They are all smart. They raised rents when they should."

76.   Cartel participants likewise further their agreement via communications aimed at recruiting additional members, exchange proprietary data, and generally reaffirm their commitment to their agreement.

1. Participating Landlords—Including Defendant Landlords— Actively Recruit Additional Members to the Cartel.

77.   Numerous landlords have provided testimonials in video recordings and in writing directed towards other landlords, encouraging them to adopt the RealPage RM Software and join the scheme. For example, Defendant UDR provided a lengthy written testimonial, published on RealPage's website, touting the benefits of using YieldStar, in which the company's Director of Pricing and Revenue Management praised the "sense of discipline" and that the RealPage RM

Software enables UDR to "have confidence accepting certain pricing that otherwise would have made us nervous" about potentially being undercut.

78.   Defendant Greystar issued public testimonials to recruit other landlords into the scheme, touting how "YieldStar delivers a sustained, verifiable revenue premium" and that "coming up with the right price" is something that "YieldStar handles" through the use of "data that owners and [managers] are unable to produce on their own":

79.   RealPage also coordinated the production of videotaped landlord testimonials that it published on its website to bring additional landlords into the cartel. In one such video, a landlord speaks directly to competitors about how using YieldStar will ensure "you're getting the best price for your unit and not leaving any money on the table." Another touts YieldStar's "unparalleled access to market data" to inform decisions based on "what everyone in the industry is doing."

80. Yet another recruitment video proclaims, "The Time for Revenue Management is Now!" In it, a landlord executive professes the value of having access to competitor data, with "YieldStar being part of RealPage and RealPage having the largest footprint of any property operating software provider." The executive goes on to conclude, "We achieved results that are beyond anything we could have imagined. . . . Revenue management will become the norm, and I believe within 2 or 3 years if you are not doing it, you will be in the minority."

81. Similarly, Rajiv Verma of Defendant AvalonBay issued a statement urging the adoption of LRO by any "professional who's procrastinating on using revenue management."

82. Steve Lamberti, President of Defendant Highmark, highlighted the benefits of cartel membership as part of a RealPage sponsored webcast: "We're in a position now where occupancy is extremely strong and we are pushing rents[.]" RealPage removed the webcast from its website after the Washington Post accessed the video and sought interviews from participants.

83. In one video created by RealPage, a landlord executive is interviewed by Cameron Rockwell, a RealPage employee. Mr. Rockwell asks: "[For] any clients or prospects we have in that area that are currently evaluating revenue management, what would you say to them?" The landlord executive responds: "It's successful, it's proven, it's an opportunity."

84. Defendant Camden's CEO, Ric Campo, admitted at a 2021 industry conference that Camden wants more landlords using the RealPage RM Software so that the cartel can collectively raise rents: "we want the smartest owners being our competitors…. We want people with revenue management. We want people to understand when to raise rents and how to operate their portfolios at maximum efficiency."

85. These testimonials support the existence of an unlawful agreement among Defendant Landlords by reaffirming one another's continued commitment to the agreement and

serving as a recruitment tool for additional landlords to join in their agreement to forgo competition in favor of RealPage's RM Software.

86.   If the RealPage RM Software provided landlords with a competitive edge—that is, a way to make more money at other landlords' expense—there would be no reason for them to actively work to recruit other landlords to join the system. Why provide your competitors with one of your best tools to increase revenue, if they will just take that revenue from you? The answer is that the RealPage RM Software does not provide landlords with a competitive edge, but with an *anticompetitive* one, where all participants make more money at the expense of renters in the District.

2. Participating Landlords Regularly Communicated in Furtherance of the Cartel.

87.   Participating Landlords—including Defendant Landlords—further effectuated their cartel via ongoing, direct communications. These communications allowed Participating Landlords to exchange additional non-public information and reaffirm their continued commitment to the cartel.

88.   LRO users can and do conduct weekly calls with their competitor landlords, and those competing landlords agree to provide non-public data for input into the LRO software. The non-public data that competing landlords agree to share in these conversations includes current occupancy rates, how many prospects visited the competitor each week, and how many new leases a competitor signed each week.

89.   Additionally, Defendant Landlords directly communicate regarding their collective use of RealPage RM Software in the ongoing 1,000+ member User Group designed specifically to, "promote communications between users." RealPage sponsors the Group but it is "governed by a steering committee of [RealPage's] clients." RealPage's User Group and its subcommittees

meet regularly: the YieldStar and AI Revenue Management groups typically meet telephonically once per month, with the LRO User Group generally meeting quarterly. The User Group also has a digital forum where competitor landlords can communicate with one another about using the RealPage RM Software outside of their scheduled meetings. The User Group—including at least Defendants Camden and Greystar—also communicates regularly via e-mail.

90.   Participating Landlords also gather regularly, in person, to discuss their delegation of pricing to RealPage software and work to recruit additional members into the cartel.

91.   For example, RealPage hosts the annual "Real World" conference, during which landlords who use the RealPage RM Software gather in-person to discuss how they are delegating and will continue to delegate the pricing for their rents. RealPage expressly describes Real World as an opportunity for landlords to "meet with peers." And before LRO's acquisition by RealPage, landlords who use LRO gathered at the annual LRO User Conference and OPTIMIZE Rainmaker User Conference.

92.   In addition to the conferences hosted by RealPage itself, Defendant Landlords communicate at numerous other industry conferences and through digital channels which provide ample opportunities to confer. Examples include:

- The OPTECH Conference held by the National Multifamily Housing Council ("NMHC") and sponsored by corporations including RealPage. For example, the 2020 OPTECH Conference was sponsored by RealPage, and included multiple sessions dedicated to revenue management, including one specifically on RealPage's AI Revenue Management, presented by RealPage employees Amy Dreyfuss and Keth Dunkin. Other conference participants included representatives from Defendants AvalonBay (including at least Senior Vice President for Strategic Initiatives Karen Hollinger), Bell Partners (including at least Vice President of Marketing Laurel Howell), Camden (including at least Vice President of Marketing Julie Keel), RealPage (including at least Asset Optimization Analyst Adam Couch), W.C. Smith (including at least Vice President of Marketing Holli Beckman), Gables (including at least Senior Regional Manager Johanna Nowik), and Greystar (including at least Managing Directors Greg Benson and Scott Berka).

Included among the attendees of the 2021 OPTECH Conference were representatives from Defendants RealPage (which sponsored the event, and sent representatives including at least Multifamily Development Director Steve Sadler), AvalonBay (including at least Karen Hollinger), Gables (including at least Senior Vice President Gigi Giannoni), Greystar (including at least Marti Burrows) and Camden (including at least Vice President for Strategic Services Kristy Simonette).

The 2022 OPTECH Conference was attended by representatives from, at least, Defendants RealPage (including, among others, Director of Research & Analytics Carl Whittaker, and Industry Principal for Asset Optimization Tracy Saffos), AvalonBay (including, among others, Vice President of Data Analytics Kevin Geraghty, who presented on "turning [data] into business intelligence"), Bozzuto (including, among others, Vice President of Digital Marketing Daniel Paulino), W.C. Smith (including at least Holly Beckman), Camden (including, among others, Kristy Simonette – who presented at a panel on "centralization" and "unlocking business intelligence hidden in data"), Greystar (including, among others, Managing Director of US Property Marketing Greg Benson), and Gables (including, among others, Vice President of Technology James Hamrick).

- NMHC facilitates the Participating Landlords' regular communication with one another about their use of multifamily housing technology, such as the RealPage RM Software, through NMHC's Technology and Innovation Committees—which include, among others, an "Enterprise Technology and Business Intelligence Committee." Competitors who meet and communicate directly with one another through these committees include at least Defendants Avenue5, AvalonBay, Bell, Bozzuto, Camden, Equity, Gables, and Greystar.

- The National Apartment Association's ("NAA's") 2019 Maximize conference was held in September 2019 in Atlanta, GA, an "event focusing [on] the intersection of asset and revenue management." Participants included some of the same landlords who have also published testimonials advocating for the use of RealPage RM Software.

- NAA's 2014 and 2015 Maximize conferences similarly included competing landlords communicating directly with one another about strategies to maximize revenue using software such as the RealPage RM Software.

C. **Market "Plus Factors" Support the Existence of an Agreement Among Defendants to Use RealPage RM Software.**

93.   The structure and characteristics of the multifamily housing market in D.C. are particularly conducive to an unlawful agreement among direct competitors. Such market conditions are sometimes referred to as "plus factors." Numerous "plus factors" support the existence of an unlawful agreement among RealPage and Defendant Landlords.

94.   First, demand in the multifamily housing market is highly inelastic—residents'

demand for housing does not change dramatically in response to pricing increases or decreases.

Housing is a human necessity. Defendant Landlords are thus essentially guaranteed a reliable and

steady supply of customers. Because the demand for multifamily housing is relatively insensitive

to changes in price, it is more susceptible to collusion on price-setting.

95.   Second, the market for multifamily housing in the District of Columbia is heavily

concentrated. The Defendant Landlords named in this complaint control more than 58,000 rental

units in the District of Columbia out of approximately 141,000 multifamily units in the District

(per the most recently available 2021 Census data). It therefore takes discussions between only a

small number of landlords to effect and administer the agreement regarding how Defendant

Landlords will use the RealPage RM Software to benefit themselves at the expense of District

renters.

96.   Third, the multifamily housing market is characterized by high barriers to entry—

in other words, there are many challenges that would make it difficult for would-be competitors to

enter the market. These barriers are manifold. Entering the multifamily housing market requires

developing a new property or acquiring an existing property—either of which demands investment

of many millions of dollars—as well as resources to ensure compliance with the laws and

regulations that govern multifamily housing. Further, the ability to build new multifamily housing

in the District of Columbia is partially limited by zoning laws that present a legal barrier to entry;

in certain areas of the District, new multifamily housing is simply not allowed. Even where new

building can occur, District regulations of building height constrain the number of additional units

that can be built. There are also inherent geographic constraints to building multifamily housing

in the District: there is only so much physical space available, and the District of Columbia is

already one of the most densely populated cities in the country with over 11,000 people per square mile on average. Indeed, one Participating Landlord expressly notes on its website that it "target[s] U.S. markets with relatively limited supply and high barriers to entry."

97. Fourth, there are high switching costs for renters in the relevant market. Once a renter has begun renting in a building, there are substantial costs to switching to a competitor, making it easier for competitors like Defendant Landlords to effectuate an anticompetitive scheme. If a renter wants to switch before their lease has expired, they are subject to penalties and potential double-rent payments. Searching for a new apartment involves a substantial investment of time and in-person research and potentially application and background-check fees. And the cost of physically moving all of one's possessions from one apartment to another can easily reach into the thousands of dollars and require multiple days of work. The farther a renter moves, the more of their life they must adjust, and therefore the higher the switching costs and the higher the likelihood that they will simply absorb a rent increase. Indeed, RealPage itself has recognized the direct connection between the high cost of moving and landlords' ability to extract supra-competitive rents: in a training on "overcoming renewal objections," RealPage instructs landlords to remind the tenant of the high cost of moving to force acceptance of the RealPage-generated price.

98. Fifth, product fungibility is conducive to unlawful coordination. The more alike products are, the easier it is for competitors to agree on how to price them. Defendants have worked to standardize the products being offered by Defendants (multifamily housing leases) based on their floorplans. As one internal RealPage document states, "We group units of different sizes and attributes together in broader YieldStar floor plans, and normalizing allows us to have one rate to represent the entire grouping despite their varied value." By standardizing their

products in this way, Defendants facilitate the anticompetitive agreements by making coordination more straightforward and enabling easy detection of cheating on the cartel agreement.

99.   Finally, Defendants' substantial motivation to collude (millions of dollars in fees and increased rents), existence of numerous modes of cartel enforcement, evidence of cartel recruitment, and substantial opportunity to collude all constitute market "plus factors" that, in addition to the facts set forth in this complaint, render allegations of collusion plausible.

D. Defendant Landlords Agree to Share Competitively Sensitive Data for the Purpose of Raising Rents.

100.   RealPage's RM Software is powered by real-time, competitively sensitive, non-public data supplied by its clients including Defendant Landlords:

- RealPage sources competing landlords' information from its own platforms, including OneSite—a widely used Property Management System marketed by RealPage—including non-public information regarding inventory, prices of actual leases, concessions offered, and detailed information about amenities and rental unit value.

- RealPage also sources competitor data from within the RealPage RM Software ecosystem; for example, RealPage RM Software generates pricing from information that competing landlords have provided through other RealPage RM Software products (*e.g.*, YieldStar being fueled by data collected through AIRM and *vice versa*).

- RealPage ingests non-public data from competing property management systems, including from Yardi, which is OneSite's leading competitor in the market.

- In addition to its Automated Comps feature—which automatically pulls in competitor data from RealPage's systems—LRO also allows landlords to manually input competitor data. Landlords are instructed by RealPage to gather this non-public competitor data from direct conversations with their competitors. And the competing landlords agree to provide this data, to enable the LRO algorithm to generate above-market rental prices for themselves and other cartel members. A RealPage LRO user manual states, for example, that "You should gather [] information each week from each competitor" such as "[r]ent charged for each unit type," "number of visits to the property that week," and "occupancy percent for the property."

101.   Defendant Landlords expressly agree to share their non-public information with competitors and know that their competitors' information is being used to generate the rents they charge.   Defendant Landlords' "One Master Agreements" with RealPage expressly obligate Defendant Landlords to provide RealPage with "correct and accurate" data and acknowledge that RealPage may use that data to operate its products (including the RealPage RM Software).

102.   Likewise, Defendant Landlords' contracts for LRO expressly indicate the usage of competitor data in the rent-setting tool.   And when Defendant Bell Partners provided an "Introduction to LRO Webinar" for its employees, the first agenda topic after the introduction to revenue management was "Competitor Rents."

103.   The use of non-public competitor data facilitates Defendants' agreement to coordinate pricing and use RealPage's RM Software for rent setting.   For example, Jon Pastor, a former executive at LRO's prior owner, Rainmaker, and then Chief Product Officer of RealPage, described LRO as "a pricing platform that relied on pricing of your competitors to figure out what your price should be."

104.   In addition to incorporating competitors' data into its algorithm for generating rents, RealPage also makes this data available to users of the RealPage RM Software, including for certain users in specific and non-aggregated form—such as property-specific occupancy and rent data at the floorplan level for competitor properties.   This is consistent with Landlords' contracts for LRO, which expressly indicate the usage of competitor data in the rent-setting tool.

105.   Indeed, RealPage was cognizant of the fact that obtaining a sufficient share of the market's data would enable it to ratchet up rents.   For example, a 2016 investor presentation included a slide titled "Strength in Numbers," touting RealPage's market penetration and tying it to RealPage's ability to raise rents.   As one former RealPage Director succinctly explained: "If

you have the data for the entire market and not enough availability, then everyone's price went up. It pushed pricing up across the board. . . . Let's say you have 50% of the properties in a market and the market is constrained. The model is going to recommend higher lease rates for every property."

106.   The exchange of competitively sensitive information can, in and of itself, cause anticompetitive effects; here those effects were compounded by Defendants' agreement to use that competitively sensitive information to fuel RealPage's RM Software and enable the landlords to collectively increase rents at the expense of renters in the District.

III.   Impact and Damages: Defendants' Agreement to Set Rents and Information Sharing Unlawfully Increased Rents, Overcharging Residents Millions.

107.   Defendants' agreement to use RealPage RM products to set rents has reduced competition in the multifamily housing market, allowing Defendant Landlords to charge higher rents than they otherwise would have and artificially reducing the supply of housing units in the District—all to the detriment of District residents.

108.   RealPage widely touts the impact of its RM products, advertising revenue lifts of 2-7%. Those revenue lifts are attributable to the artificially inflated rents that cartel landlords can extract. Defendant Landlords have been similarly open regarding the direct connection between their adoption of RealPage's RM products and increased rents as the countless client testimonials demonstrate.

109.   As Defendant Camden's then-regional vice president, Laurie Baker, explained, prior to using YieldStar, "[w]e were raising rents, but we were not aggressive enough in what we could really be getting[.]" Likewise, Defendant Equity Residential's then-CEO, David Neithercut, crowed that, with LRO, "[w]e've raised rents hundreds of dollars in some markets and I don't

think the people onsite, given the way we'd trained them to think about pricing, would have had the courage to push it as aggressively as this program has."

110.   AIRM's machine learning engine has only increased this impact. According to a 2020 Earnings call, AIRM was "generating as much as 100 basis points of incremental yield over YieldStar or LRO stand-alone."

111.   Defendants and other users of RealPage's RM Software receive monthly reports detailing how much they have been able to increase rents as a result of adopting RM for pricing. For example, W.C. Smith's monthly report for October 2022 highlights that the company has increased revenues per unit 4.6-4.7% and was able to increase revenues and rents despite occupancy levels decreasing.

112.   The cartel (and resulting diminution of competition) has allowed Defendant Landlords to price units higher than they, themselves, previously believed the market could sustain. For example, the Director of Pricing at Defendant MAA, Chris Lynn, explained to an industry publication that when MAA started testing revenue management products, some company employees expressed skepticism. One property manager reached out to Lynn with serious doubts about the $50 rent increase the software provided. According to Lynn, "she called me up on a Friday afternoon and told me, 'Listen, Chris. I'm sorry. But there's no way anyone is going to pay that much for that apartment' . . . Then, on Monday morning, she called me back and said she had to eat her words. Somebody actually came in over the weekend and leased the unit at the new price."

113.   RealPage's RM products have also allowed Defendant Landlords to maintain artificially high rents even in difficult macroeconomic conditions. Accordingly, even in the rare instances in which RealPage RM Software might decrease the asking rent for a particular unit,

Defendants' coordinated use of the pricing software renders rent decreases smaller than they would have been in competitive market conditions. Indeed, RealPage advertises that, with its RealPage RM Software, clients have "achieved revenue lift between 3% to 7% in challenging cycles" — including revenue increases "at the height of the recession in 2009."

114. Defendants' anticompetitive agreement to use RealPage's RM products to set rents artificially limited the supply of multifamily housing units. RealPage's RM products facilitated— indeed, encouraged—this practice by having users set "sustainable occupancy" rates for their properties. RealPage's RM products' "sustainable occupancy" setting allows users to identify target occupancy levels to maximize rent—even if it means keeping some units vacant rather than lowering prices. As Defendant Camden's CEO, Rick Campo, bluntly put it, with YieldStar, "[t]he net effect of driving revenue and pushing people out was $10 million in income . . . I think that shows keeping the heads in the beds above all else is not always the best strategy." Importantly, the increased revenue obtained by Defendants and other RealPage RM users stems directly from their collective ability to increase rents; higher revenues are not the result of reduced costs or other realized efficiencies. As Bryan Pierce, former employee of Defendant Gables, explained, "We've squeezed expenses to the point where the only ability to capture more revenue was going to be on the income side rather than trying to reduce expenses."

115. Finally, where RealPage's RM market penetration increases, price effects tend to extend beyond just the users of the RM Software itself. Academics studying RM effects in multifamily housing markets find that once market adoption crosses a threshold—25% of buildings or 30% of units—market impacts such as increased rent and lower occupancy can be observed across market participants. This illustrates the significant, widespread effects of collusive adoption of RealPage's algorithmic pricing models.

116. With more than 50,000 units impacted, District residents have overpaid millions in rent as a result of Defendants' unlawful conduct.

IV. Defendants Have Market Power in the Relevant Market.

117. One relevant product market is the market for leases in multifamily residential buildings (*i.e.*, buildings with at least five units). Nearly all buildings in which RealPage's RM Software is used are large multifamily buildings (*i.e.*, buildings with at least fifty units). Smaller, properly defined relevant product markets, such as a market for leases in large multifamily residential buildings, may exist.

118. The multifamily residential real estate lease market satisfies the "hypothetical monopolist" or "SSNIP" test that economists and federal antitrust enforcement agencies use to define relevant antitrust markets. That test asks whether a hypothetical monopolist or cartel in a posited market could profitably charge prices that are significantly higher than the prices that would prevail if the market were competitive. If a hypothetical monopolist could do so, then the test is passed, meaning that the posited market is sufficiently broad (*i.e.*, includes a sufficient number of substitutes) to be useful in economic analysis. If the test is failed, the posited market is too narrow (*i.e.*, includes an insufficient number of substitutes) to be useful in economic analysis. The posited market should then be expanded to include the next closest substitute, and the hypothetical monopolist test should be repeated to see whether the slightly broader market is sufficiently broad.

119. The multifamily residential real estate lease market is properly defined because it satisfies the SSNIP test. Landlords can make rate improvements "year over year, between 5% and 12% in every market," without driving enough renters out of the market to make the price increase ineffective or unprofitable. Because landlords can significantly increase prices without losing

sufficient sales to render the increase unprofitable, the multifamily residential real estate lease market is properly defined.

120.   For consumers, apartments for purchase, condominiums for purchase, or homes for purchase are not economic substitutes for multifamily rental units. Among other reasons, purchasing real estate requires the ability and willingness to make a substantial down payment and to obtain financing. In addition, purchasing real estate involves substantial transaction costs (*e.g.*, broker fees, inspections costs, taxes, and closing costs) that make purchasing impractical absent a long-term commitment to a particular home.

121.   Single-family real estate is also not an economic substitute for multifamily residential real estate, including because single-family properties typically do not offer the same amenities and security.

122.   Industry participants in the multifamily residential real estate market typically distinguish between multifamily and single-family real estate. Defendant Avenue5, for instance, describes itself as a "multifamily property management company." Defendant Bell Partners likewise advertises itself as a "top multifamily asset management firm."

123.   Hotel rooms are also outside the relevant market, as they have lower square footage for the same occupancy, are priced at substantially higher rates than multifamily residential leases, typically lack facilities which are standard in multifamily units (*e.g.*, kitchens and windows that open), and limit guests' control over the rooms in ways that multifamily units do not.

124.   Short-term rental units are also outside the relevant market, as they too have substantially higher rates than multifamily residential real estate leases, by regulation require occupants to stay no longer than 30 days, and, like hotels, do not provide renters with control over the property akin to that available to purchasers of multifamily residential leases.

125. RealPage itself differentiates the multifamily residential real estate market as a separate and distinct market from other residential markets. RealPage's contracts with Defendants describe its services as "for use in the management and operation of multifamily properties." RealPage also describes its revenue management software as "developed solely for multifamily." And RealPage includes among its core beliefs: "we believe we should know the multifamily business, not just revenue management."

126. Housing markets are local, including because commuting distance to a place of work or school is a significant geographic constraint on where a person chooses to live. The U.S. Census Bureau and Office of Management and Budget establishes a Metropolitan Statistical Area ("MSA") for each major metropolitan area in the country. The Census Bureau defines an MSA as a geographic entity associated with at least one core urbanized area of 50,000 or more population, plus adjacent territory that has a high degree of social and economic integration with the core as measured by commuting ties.

127. Renters in any given MSA do not consider multifamily residential leases in other MSAs as adequate substitutes for multifamily residential leases in their own MSA. Leases outside a MSA are not substitutable for leases inside a MSA, including because they would leave renters with impractical commutes to schools or jobs. As a result, multifamily residential real estate outside the MSA are not within the relevant geographic markets for antitrust purposes.

128. One relevant geographic market for the provision of multifamily residential leases is the Washington-Arlington-Alexandria MSA, which includes the District of Columbia and parts of Virginia, West Virginia, and Maryland. Renters in the Washington-Arlington-Alexandria MSA consider multifamily residential leases within the MSA as adequate substitutes. This is consistent

with RealPage's public statements and internal documents, which refer to the Washington-Arlington-Alexandria MSA as its own "Market."

129.   Through its suite of business products, including revenue management software, RealPage collects and shares among competitors pricing, occupancy, and other information for a substantial portion of the multifamily residential apartment units within the Washington-Arlington-Alexandria MSA.

130.   Defendants have market power in the relevant product and geographic markets.

131.   One former employee of RealPage described the company as the "Amazon" of property management software, saying that they "monopolize the industry." RealPage's marketing pitches have likewise sought to leverage RealPage's dominant market share and resulting control over vast troves of data emphasizing, for example, that YieldStar was used by over 85% of the Top 50 apartment managers in the NMHC rankings.

132.   Well over 30% of the multifamily units in the District are priced using the RealPage RM Software (and nearly 60% of multifamily units in large buildings). The share is even greater in the Washington-Arlington-Alexandria MSA: close to 50% of all multifamily units in the greater metropolitan area are priced using the RealPage RM Software (and indeed, over 90% of units in large buildings). Additionally, smaller neighborhoods have an even higher share of units priced using the RealPage RM Software.

133.   Defendants know that smaller, properly defined relevant geographic markets may exist, and the anticompetitive effects of their scheme may be even greater in such smaller markets. Indeed, RealPage's public statements and internal documents organize properties into geographic "Submarkets" within the greater Washington-Arlington-Alexandria MSA, and the share of multifamily units using RealPage's RM Software in some MSA neighborhoods reaches around

90%. The increased concentration of RealPage RM usage in particular neighborhoods is clear in the below map which identifies multifamily housing buildings in the District which use RealPage RM software. While there are buildings that use RealPage RM products throughout the District, it is easy to see increased concentration of such buildings along Connecticut Avenue in the upper Northwest, along 14th Street from Columbia Heights down through Shaw, in the NoMa area, and in the Navy Yard.
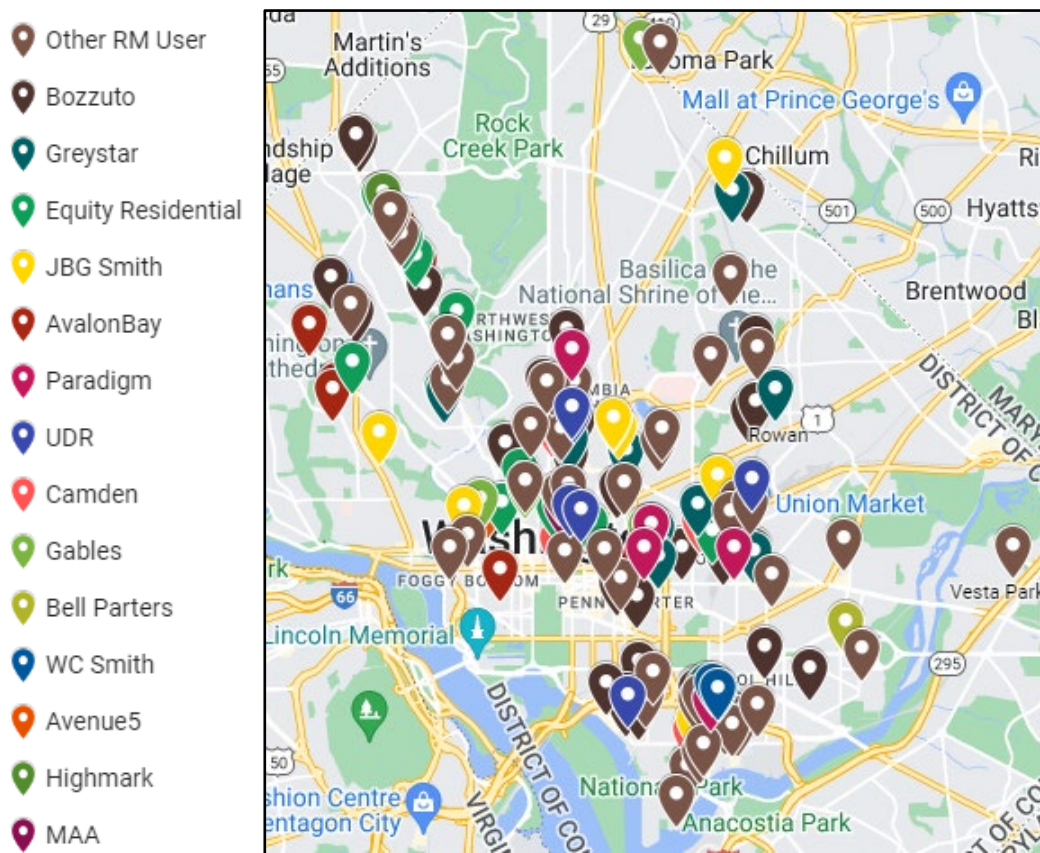
134. Market power can also be shown through direct evidence of anticompetitive effects. Landlords using RealPage's RM software have touted their ability to raise rents by 20% or more, while RealPage itself represents that landlords who use its RM Software can increase revenue by at least 2-7%.

COUNT ONE
(Violation of the D.C. Antitrust Act)

135.   Plaintiff hereby incorporates and re-alleges each allegation in each of the preceding paragraphs as though fully set forth herein, and further alleges as follows:

136.   By entering an agreement providing for the use of RealPage's RM software and related services, as well as the exchange of sensitive non-public information with competitors through RealPage, Defendant Landlords and Defendant RealPage have entered into contracts, combinations in the form of a trust or otherwise, or conspiracies in restraint of trade or commerce all or any part of which is within the District of Columbia, in violation of the D.C. Antitrust Act, D.C. Code § 28-4502. Defendant Landlords have agreed with RealPage to delegate rent price-setting responsibility to RealPage for multifamily housing units in the District, rather than competing with other landlords on the basis of price.

137.   Additionally, through numerous means of communication, including writings, videos, and in-person meetings, Defendant Landlords have entered with each other into horizontal contracts, combinations in the form of a trust or otherwise, or conspiracies in restraint of trade or commerce all or any part of which is within the District of Columbia, in violation of the D.C. Antitrust Act, D.C. Code § 28-4502. Specifically, Defendant Landlords have recruited one another into an agreement to exchange sensitive non-public data among competitors and delegate to RealPage price-setting responsibility for multifamily housing units in the District, instead of competing on the basis of price.

138.   By delegating a substantial majority of price-setting authority to a centralized entity, RealPage, Defendants have conspired to reduce the supply of multifamily housing units in the form of limited target occupancy rates, and to fix and increase the price of leases for multifamily housing units in the District of Columbia. Defendants further advanced the

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anticompetitive scheme by agreeing to share and in fact sharing competitively sensitive, non-public information with their competitors, through RealPage.

139.   Defendants' anticompetitive misconduct is unlawful per se under the D.C. Antitrust Act. Even if the misconduct were not found to be unlawful per se—and it should be—the misconduct is additionally unlawful under the rule of reason. There are no procompetitive justifications sufficient to outweigh the anticompetitive effects of the misconduct.

140.   The result of Defendants' anticompetitive conspiracy has been to limit competition in the market for leases of multifamily housing units in the District of Columbia, forcing D.C. renters to pay illegal, supra-competitive rents and incur substantial damages.

PRAYER FOR RELIEF

141.   The District of Columbia respectfully requests that this Court, as authorized by statute and its own equitable powers, enter final judgment against Defendants and:

    a. Adjudge and decree that Defendants' actions constitute unreasonable and unlawful restraints of trade in violation of the District of Columbia Antitrust Act, D.C. Code § 28-4502;

    b. Enjoin and restrain Defendants, their affiliates, assignees, subsidiaries, successors, and transferees, and their officers, directors, partners, agents and employees, and all other persons acting or claiming to act on Defendants' behalf or in concert with them, from continuing to engage in any anticompetitive conduct and from adopting in the future any practice, plan, program, or device having a similar purpose or effect to the anticompetitive actions set forth above;

    c. As needed, enter such relief to remove any ability of Defendants to harm competition by the anticompetitive actions set forth above, including but not limited

to structural relief as well as effective, monitorable, and measurable conduct remedies that eliminate the ability of Defendants to continue to reap benefits from their pattern of competitive harm;

d. Appoint a corporate monitor to ensure implementation of all structural or practice remedies ordered by the Court, as well as to ensure that Defendants do not engage in further anticompetitive conduct, at Defendants' expense;

e. Award to Plaintiff any other equitable relief as the Court finds appropriate to redress Defendants' violations of the laws specified above and to restore competitive conditions in the markets affected by Defendants' unlawful conduct and deprive Defendants of any advantages from their unlawful acts;

f. Award to Plaintiff the maximum civil penalties as provided by the D.C. Antitrust Act;

g. Award to Plaintiff actual damages, statutory damages, punitive damages, treble damages, and such other relief as provided by the D.C. Antitrust Act;

h. Award pre-judgment and post-judgment interest on such monetary relief;

i. Award to Plaintiff statutory or equitable disgorgement, or any other equitable relief for the benefit of the District consumers as appropriate under the D.C. Antitrust Act;

j. Award to the District of Columbia its costs, including reasonable attorneys' fees; and

k. Order any additional relief that this Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial on all issues so triable.

November 1, 2023

Respectfully submitted,

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