UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-K

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

For the fiscal year ended December 31, 2022

OR

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

Commission file number 1-13610

CREATIVE MEDIA & COMMUNITY TRUST CORPORATION

(Exact Name of Registrant as Specified in Its Charter)

Maryland	**75-6446078**
(State or Other Jurisdiction of Incorporation or Organization)	(I.R.S. Employer Identification No.)
17950 Preston Road, Suite 600, Dallas, Texas	**75252**
(Address of Principal Executive Offices)	(Zip Code)

(972) 349-3200

(Registrant's telephone number, including area code)

Securities Registered Pursuant to Section 12(b) of the Act:

Common Stock, $0.001 Par Value	CMCT	Nasdaq Global Market
Common Stock, $0.001 Par Value	CMCT-L	Tel Aviv Stock Exchange
Series L Preferred Stock, $0.001 Par Value	CMCTP	Nasdaq Global Market
Series L Preferred Stock, $0.001 Par Value	CMCTP	Tel Aviv Stock Exchange
(Title of each class)	(Trading symbol)	(Name of each exchange on which registered)

Securities registered pursuant to Section 12(g) of the Act: **None**

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

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

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

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

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

Large accelerated filer ☐	Accelerated filer ☐	Non-accelerated filer ☒
Smaller reporting company ☒	Emerging growth company ☐	

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

Indicate by check mark whether the registrant has filed a report on and attestation to its management's assessment of the effectiveness of its internal control over financial reporting under Section 404(b) of the Sarbanes-Oxley Act (15 U.S.C. 7262(b)) by the registered public accounting firm that prepared or issued its audit report. ☒

If securities are registered pursuant to Section 12(b) of the Act, indicate by check mark whether the financial statements of the registrant included in the filing reflect the correction of an error to previously issued financial statements. ☐

Indicate by check mark whether any of those error corrections are restatements that required a recovery analysis of incentive-based compensation received by any of the registrant's executive officers during the relevant recovery period pursuant to §240.10D-1(b). ☐

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

As of June 30, 2022, the aggregate market value of the voting common stock held by non-affiliates of the registrant, computed by reference to the average high and low sales prices on the Nasdaq Global Market as of the close of business on June 30, 2022, was approximately $97.2 million. The registrant does not have any nonvoting common equities.

As of March 22, 2023, the registrant had outstanding 22,737,853 shares of common stock, par value $0.001 per share.

Documents Incorporated by Reference

Part III of this Annual Report on Form 10-K incorporates by reference specified portions of Creative Media & Community Trust Corporation's Proxy Statement for its 2023 Annual Meeting of Stockholders, which the registrant anticipates will be filed with the Securities and Exchange Commission no later than April 30, 2023.

CREATIVE MEDIA & COMMUNITY TRUST CORPORATION
2022 ANNUAL REPORT ON FORM 10-K

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Forward-Looking Statements

This Annual Report on Form 10-K contains certain forward-looking statements within the meaning of Section 27A of the Securities Act of 1933 (the "Securities Act") and Section 21E of the Securities Exchange Act of 1934, which are intended to be covered by the safe harbors created thereby. These statements include the plans and objectives of management for future operations, including plans and objectives relating to future growth of our business and availability of funds. Such forward-looking statements can be identified by the use of forward-looking terminology such as "may," "will," "project," "target," "expect," "intend," "might," "believe," "anticipate," "estimate," "could," "would" "continue," "pursue," "potential," "forecast," "seek," "plan," "should" or "goal" or the negative thereof or other variations or similar words or phrases. Such forward-looking statements also include, among others, statements about our plans and objectives relating to future growth and outlook. Such forward-looking statements are based on particular assumptions that our management has made in light of its experience, as well as its perception of expected future developments and other factors that it believes are appropriate under the circumstances. Forward-looking statements are necessarily estimates reflecting the judgment of our management and involve a number of risks and uncertainties that could cause actual results to differ materially from those suggested by the forward-looking statements. These risks and uncertainties include those associated with (i) the timing, form, and operational effects of our development activities, (ii) our ability to raise in place rents to existing market rents and to maintain or increase occupancy levels, (iii) fluctuations in market rents, (iv) the effects of inflation and higher interest rates on our operations and profitability and (v) general economic, market and other conditions. Additional important factors that could cause our actual results to differ materially from our expectations are discussed under the "Item 1A—Risk Factors." The forward-looking statements included herein are based on current expectations and there can be no assurance that these expectations will be attained. Assumptions relating to the foregoing involve judgments with respect to, among other things, future economic, competitive and market conditions and future business decisions, all of which are difficult or impossible to predict accurately and many of which are beyond our control. Although we believe that the assumptions underlying the forward-looking statements are reasonable, any of the assumptions could be inaccurate and, therefore, there can be no assurance that the forward-looking statements expressed or implied in this Annual Report on Form 10-K will prove to be accurate. In light of the significant uncertainties inherent in the forward-looking statements expressed or implied herein, the inclusion of such information should not be regarded as a representation by us or any other person that our objectives and plans will be achieved. Readers are cautioned not to place undue reliance on forward-looking statements. Forward-looking statements speak only as of the date they are made. We do not undertake to update them to reflect changes that occur after the date they are made, except as may be required by applicable securities laws.

Definitions

We use certain defined terms throughout this Annual Report on Form 10-K that have the following meanings:

The phrase "ADR" represents average daily rate. It is calculated as trailing 12-month room revenue divided by the number of rooms occupied. For sold properties, ADR is presented for the Company's period of ownership only.

The phrase "annualized rent" represents gross monthly base rent, or gross monthly contractual rent under parking and retail leases, multiplied by 12. This amount reflects total cash rent before abatements. Where applicable, annualized rent has been grossed up by adding annualized expense reimbursements to base rent.

The phrase "RevPAR" represents revenue per available room. It is calculated as trailing 12-month room revenue divided by the number of available rooms. For sold properties, RevPAR is presented for the Company's period of ownership only.

PART I

Item 1. Business

Business Overview

Creative Media & Community Trust Corporation (formerly known as CIM Commercial Trust Corporation) and its subsidiaries (which may be referred to in this Annual Report on Form 10-K as "we," "us," "our," "our company" or the "Company") are operated by affiliates of CIM Group, L.P. ("CIM Group" or "CIM"). CIM is a vertically-integrated community-focused real estate and infrastructure owner, operator, lender and developer. CIM is headquartered in Los Angeles, CA, with offices in Atlanta, GA, Chicago, IL, Dallas, TX, London, UK, New York, NY, Orlando, FL, Phoenix, AZ, and Tokyo, Japan. CIM also maintains additional offices across the United States, as well as in Korea and Hong Kong to support its platform. See the sections "Overview and History of CIM Group", "CIM Urban Partnership Agreement" and "Investment Management Agreement" in "Item 1—Business" of this Annual Report on Form 10-K.

Creative Media & Community Trust Corporation is a Maryland corporation and REIT. We primarily acquire, develop, own and operate both premier multifamily properties situated in vibrant communities throughout the United States and Class A and creative office real assets in markets with similar business and employment characteristics to our multifamily investments. All of our real estate assets are and will generally be located in communities qualified by CIM Group as described further below. These communities are located in areas that include traditional downtown areas and suburban main streets, which have high barriers to entry, high population density, positive population trends and a propensity for growth. We believe that the critical mass of redevelopment in such areas enhances the value of real estate assets in the area. We believe that these assets will provide greater returns than similar assets in other markets, as a result of the population growth, public commitment and significant private investment that characterize these areas.

Our current reportable segments during the years ended December 31, 2022 and 2021 consist of two types of commercial real estate properties, namely office and hotel, as well as a segment for our lending business. As of December 31, 2022, our real estate portfolio consisted of 19 assets, all of which were fee-simple properties, including one office property which we own through our investment in an unconsolidated joint venture (the "Unconsolidated Joint Venture"). As of December 31, 2022, our 13 office properties, totaling approximately 1.3 million rentable square feet, were 81.7% occupied and our one hotel with an ancillary parking garage, which has a total of 503 rooms, had RevPAR of $126.19 for the year ended December 31, 2022. Additionally, as of December 31, 2022, we had four development sites (with one being used as a parking lot). For the year ended December 31, 2022, our office portfolio contributed approximately 54.8% of revenue from our three segments on a combined basis, while our hotel segment contributed approximately 34.6%, and our lending segment contributed approximately 10.6%.

Strategy

We are a Maryland corporation and REIT. Our portfolio of investments currently consists of premier multifamily, Class A and creative office real assets in vibrant and improving metropolitan communities throughout the United States. We also own one hotel in northern California and a lending platform that originates loans under the Small Business Administration ("SBA") 7(a) loan program. We seek to apply the expertise of CIM Group to the acquisition, development and operation of premier multifamily properties situated in vibrant communities throughout the United States. We also seek to acquire, develop and operate creative office assets that cater to rapidly growing industries such as technology, media and entertainment in markets with similar business and employment characteristics to our multifamily investments. All of our multifamily and creative office assets are and will generally be located in communities qualified by CIM Group as described further below. These communities are located in areas that include traditional downtown areas and suburban main streets, which have high barriers to entry, high population density, positive population trends and a propensity for growth. We believe that the critical mass of redevelopment in such areas creates positive externalities, which enhance the value of real estate assets in the area. We believe that these assets will provide greater returns than similar assets in other markets, as a result of the population growth, public commitment and significant private investment that characterize these areas.

Our investments in multifamily and creative office assets may take different forms, including direct equity or preferred investments, real estate development activities, side-by-side investments or co-investments with vehicles managed or owned by CIM Group and/or originating loans that are secured directly or indirectly by properties primarily located in qualified communities ("Qualified Communities") that meet our strategy. Further, we leverage the investor relationships of CIM Group to execute on our investment pipeline using an asset-light approach for certain of our investments. Under this approach, we co-invest with one or more third parties on an asset-level by raising capital from such third parties, maintain an economic interest in the asset and, in some cases, earn a management fee and a percentage of the profits. We believe this is a compelling model that is expected to contribute to strong returns on invested capital while reducing risk by reducing our capital outlay.

We intend to dispose of assets that do not fit into our strategy over time and opportunistically (i.e., we do not have any specific time frame with respect to such dispositions). Further, as a matter of prudent management, we regularly evaluate each asset within our portfolio as well as our strategy. Such review may result in dispositions when, among other things, we believe the proceeds generated from the sale of an asset can be redeployed in one or more assets that will generate better returns, or the market value of such asset is equal to or exceeds our view of its intrinsic value.

CIM Group Operations

CIM Group believes that a vast majority of the risks associated with acquiring real estate are mitigated by accumulating local market knowledge of the community where the asset is located. As a result, CIM Group typically spends significant resources over a period of between six months and five years evaluating communities prior to making any acquisitions. The distinct districts that CIM Group identifies through this process as targets for acquisitions are referred to as “Qualified Communities.” Qualified Communities typically have dedicated resources to become, or are currently, vibrant communities where people can live, work, shop and be entertained, all within walking distance or close proximity to public transportation. These areas, which include traditional downtown areas and suburban main streets, generally have high barriers to entry, high population density, positive population trends, a propensity for growth and support for investment. CIM Group believes that the critical mass of redevelopment in such Qualified Communities creates positive externalities, which enhance the value of real estate assets in the area. CIM Group targets acquisitions of diverse types of real estate assets, including retail, residential, office, parking, hotel, signage and mixed-use through CIM Group’s extensive network and its current opportunistic activities.

CIM Group seeks to maximize the value of its holdings through active onsite property management and leasing. CIM Group has extensive in-house research, acquisition, credit analysis, development, finance, leasing and onsite property management capabilities, which leverage its deep understanding of metropolitan communities to position properties for multiple uses and to maximize operating income. As a vertically-integrated owner and operator, CIM Group has in-house onsite property management and leasing capabilities. Property managers prepare annual capital and operating budgets and monthly operating reports, monitor results and oversee vendor services, maintenance and capital improvement schedules. In addition, they ensure that revenue objectives are met, lease terms are followed, receivables are collected, preventative maintenance programs are implemented, vendors are evaluated and expenses are controlled. In addition, CIM Group’s real assets management committee (the “Real Assets Management Committee”) reviews and approves strategic decisions related to financing strategies and hold/sell analyses and performance tracking relative to the overall business plan. CIM Group’s organizational structure provides for continuity through multi-disciplinary teams responsible for an asset from the time of the original investment recommendation, through the implementation of the asset’s business plan, and any repositions or ultimate disposition activities.

CIM Group’s Investments and Development teams are separate groups that work very closely together on transactions requiring development or redevelopment. While the Investments team is ultimately responsible for acquisition analysis, both the Investments and Development teams perform due diligence, evaluate and determine underwriting assumptions and participate in the development management and ongoing asset management of CIM Group’s assets under development. The Development team is also responsible for the oversight and or execution of securing entitlements and the development/repositioning process. In instances where CIM Group is not the lead developer, CIM Group’s in-house Development team continues to provide development and construction oversight to co-sponsors through a shadow team that oversees the progress of the development from beginning to end to ensure adherence to the budgets, schedules, quality and scope of the project in order to maintain CIM Group’s vision for the final product. Both the Investments and Development teams interact as a cohesive team when sourcing, underwriting, acquiring, executing and managing the business plan of an opportunistic acquisition.

Competitive Advantages

We believe that CIM Group’s experienced team and vertically-integrated and multi-disciplinary organization, coupled with its community-focused and disciplined real estate approach, results in a beneficial competitive advantage. Additionally, CIM Group’s community-focused strategy is complemented by a number of other competitive advantages including CIM Group’s prudent use of leverage, underwriting approach, disciplined capital deployment, and strong network of relationships. CIM Group’s competitive advantages include:

Vertically-Integrated Organization and Team

CIM Group is managed by its senior management team, which includes all of its Principals and its three founders, Shaul Kuba, Richard Ressler and Avraham Shemesh. CIM Group is vertically-integrated and organized into the following functional groups: Real Asset Services (which includes Development, Onsite Property Management, Commercial Leasing and Hospitality Services), Real Asset Management (which includes Investments, Portfolio Oversight, Capital Markets, Partner & Co-Investor Relations) and Shared Services (which includes Human Resources, Compliance, Operations, Legal and Finance). CIM also has an internal audit team that sits within the Operations department.

To support CIM Group's organic growth and related platforms, CIM Group has invested substantial time and resources in building a strong and integrated team of over 1,000 employees and more than 600 professionals as of December 31, 2022. Each of the CIM Group's vertically-integrated departments is managed by a senior level executive. Department heads have been with CIM Group on average 15 or more years. In addition to developing a core team of principals and other senior level executives, CIM Group has proactively managed its growth through career development and mentoring at both the mid and junior staffing levels, and has hired ahead of its needs, thus ensuring appropriate management and staffing. As part of this initiative, CIM Group has developed a recruiting program that hires from business schools for its associate vice president positions in the Investments team annually. CIM Group seeks to grow organically and develop and train its investment professionals to progress into senior management roles. It has been CIM Group's practice to grow talent within the company to promotion to principal, rather than to hire from the outside. As a result, CIM has an extremely high retention rate of senior investment team members who tend to have a long tenure, strong internal network and a track record of success within the organization.

CIM Group leverages the deep operating and industry experience of its principals and professionals, as well as their extensive relationships, to source and execute opportunistic, value add, core, debt, ground-up development and infrastructure acquisitions. Each opportunity is typically overseen by a dedicated Investment team, including an oversight Principal, one Investment lead (vice president level and above), one associate vice president and one associate from the Investments team. The team is assembled based on the expertise needed for the particular transaction. Additionally, the team works closely with staff from other departments, such as Development, Onsite Property Management, Capital Markets, Commercial Leasing, Legal and Finance. The team oversees all aspects of the project from acquisition through disposition of the asset. The team conducts the underwriting and due diligence for the transaction, presents its findings to the Investment Committee for preliminary and final approvals and oversees the project from inception to disposition. As a result, all investment professionals work across a variety of Qualified Communities and CIM Group's knowledge base is shared across its offices.

Community Qualification

Since inception, CIM Group's unique community qualification process has served as the foundation for all of its strategies. CIM Group targets high barrier-to-entry markets and submarkets with high population density and applies rigorous research to qualify each submarket for potential acquisitions. Since 1994, CIM Group has qualified 135 communities in high barrier-to-entry markets and has deployed capital in 75 of the communities. The qualification process generally takes between six months and five years and is a critical component of our evaluation of potential acquisitions.

CIM Group examines the characteristics of a market to determine whether the district justifies the extensive efforts undertaken in reviewing and making potential acquisitions in its Qualified Communities. Qualified Communities generally fall into one of two categories: (i) transitional metropolitan districts and (ii) well-established, thriving metropolitan areas (typically major central business districts("CBDs")).

Once a community is qualified, CIM Group believes it continues to differentiate itself through the following business principles:

- *Product Non-Specific*—CIM Group has extensive experience owning and operating a diverse range of property types, including retail, residential, office, parking, hotel, signage and mixed-use, which gives CIM Group the ability to effectively execute and capitalize on its strategy. Successful acquisitions require selecting the right markets coupled with providing the right product. CIM Group's experience with multiple asset types does not predispose CIM Group to select certain asset types, but instead ensures that they deliver a product mix that is consistent with the market's requirements and needs. Additionally, there is a growing trend towards developing mixed-use real estate properties in metropolitan markets which requires a diversified platform to successfully execute.
- *Community-Based Tenanting*—CIM Group's strategy focuses on the entire community and the best use of assets in that community. Owning a critical mass of key properties in an area better enables CIM Group to meet the co-tenancy needs of national retailers and office tenants and thus optimize the value of these real estate properties. CIM Group believes that its community perspective gives it a significant competitive advantage in attracting tenants to its retail, office and mixed-use properties and creating synergies between the different tenant types.
- *Local Market Leadership with North American Footprint*—CIM Group maintains local market knowledge and relationships, along with a diversified North American presence, through its 135 Qualified Communities

(thus, CIM Group has the flexibility to deploy capital in its Qualified Communities only when the market environment meets CIM Group's underwriting standards). CIM Group does not need to acquire assets in a given community or product type at a specific time due to its broad proprietary pipeline of opportunities.

- *Deploying Capital Across the Capital Stack*—CIM Group has extensive experience structuring transactions across the capital stack including equity, preferred equity, senior debt and mezzanine positions, giving it the flexibility to structure transactions in efficient and creative ways.

Discipline

CIM Group's strategy relies on its sound business plan and value creation execution to produce returns, rather than financial engineering. CIM Group's underwriting of its potential acquisitions is performed generally both on a leveraged and unleveraged basis. Additionally, with certain exceptions, CIM Group has generally not utilized recourse or cross-collateralized debt due to its conservative underwriting standards.

CIM Group employs multiple underwriting scenarios when evaluating potential acquisition opportunities. CIM Group generally underwrites potential acquisitions utilizing long-term average exit capitalization rates for similar product types and long-term average interest rates. Where possible, these long-term averages cross multiple market cycles, thereby mitigating the risk of cyclical volatility. CIM Group's "long-term average" underwriting is based on its belief, reinforced by its experience through multiple market cycles, that over the life of any given fund that it manages, such fund should be able to exit its holdings at long-term historical averages. CIM Group also underwrites a "current market case" scenario, which generally utilizes current submarket specific exit assumptions and interest rates, in order to reflect anticipated results under current market conditions. CIM Group believes that utilizing multiple underwriting scenarios enables CIM Group to assess potential returns relative to risk within a range of potential outcomes.

Financing Strategy

We may finance our future activities through one or more of the following methods: (i) offerings of shares of our common stock, par value $0.001 per share ("Common Stock"), preferred stock or other equity and or debt securities of the Company; (ii) credit facilities and term loans; (iii) the addition of senior recourse or non-recourse debt using target acquisitions as well as existing assets as collateral, including the securitization of portions of our loan portfolio; (iv) the sale of existing assets; (v) partnering with co-investors; and or (vi) cash flows from operations.

Risk Management

As part of its risk management strategy, CIM Group continually evaluates our assets and actively manages the risks involved in our business strategies. CIM Group's Investments and Portfolio Oversight teams share asset management responsibilities, setting the strategy for and monitoring the performance of our assets relative to market and industry benchmarks and internal underwriting assumptions using direct knowledge of local markets provided by CIM Group's in-house onsite property management, and leasing professionals. In-house onsite property management capabilities include monthly and annual budgeting and reporting as well as vendor services management, property maintenance and capital expenditures management. Property management seeks to ensure that revenue objectives are met, lease terms are followed, receivables are collected, preventative maintenance programs are implemented, vendors are evaluated and expenses are controlled. The Real Assets Management Committee is responsible for overseeing the asset management of CIM's assets. The Real Assets Management Committee reviews and approves strategic decisions related to financing strategies and hold/sell analyses and tracks performance relative to overall business plan execution. The Real Assets Management Committee is comprised of CIM's Founding Principals, Chief Compliance Officer, the Head of Portfolio Oversight and is chaired by Richard Ressler. The Real Assets Management Committee meets monthly to review updates across the various strategies. In addition to reviewing specific property-level conditions and recommendations, the Real Assets Management Committee reviews real estate and related capital market conditions, considers current market trends and monitors fund strategies and portfolio composition. The Real Assets Management Committee acts by a majority vote of the members of the Real Assets Management Committee at any meeting at which a quorum (majority of members) is present. The size, composition, and policies of the Real Assets Management Committee may change from time to time.

Regulatory Matters

Environmental Matters

Environmental laws regulate, and impose liability for, the release of hazardous or toxic substances into the environment. Under some of these laws, an owner or operator of real estate may be liable for costs related to soil or

groundwater contamination on or migrating to or from its property. In addition, persons who arrange for the disposal or treatment of hazardous or toxic substances may be liable for the costs of cleaning up contamination at the disposal site.

These laws often impose liability regardless of whether the person knew of, or was responsible for, the presence of the hazardous or toxic substances that caused the contamination. The presence of, or contamination resulting from, any of these substances, or the failure to properly remediate them, may adversely affect our ability to sell or rent our property, to borrow using the property as collateral or create lender's liability for us. In addition, third parties exposed to hazardous or toxic substances may sue for personal injury damages and or property damages. For example, some laws impose liability for release of or exposure to asbestos-containing materials. As a result, in connection with our former, current or future ownership, operation, and development of real properties, or our role as a lender for loans secured directly or indirectly by real estate properties, we may be potentially liable for investigation and cleanup costs, penalties and damages under environmental laws.

Although many of our properties have been subjected to preliminary environmental assessments, known as Phase I assessments, by independent environmental consultants that identify certain liabilities, Phase I assessments are limited in scope, and may not include or identify all potential environmental liabilities or risks associated with a property. Unless required by applicable law, we may decide not to further investigate, remedy or ameliorate the liabilities disclosed in the Phase I assessments.

Further, these or other environmental studies may not identify all potential environmental liabilities or accurately assess whether we will incur material environmental liabilities in the future. If we do incur material environmental liabilities in the future, our business, financial condition, results of operations, cash flow or our ability to satisfy our debt service obligations or to maintain our level of distributions on our Common Stock or Preferred Stock (as defined in "Item 1A—Risk Factors") could be materially adversely affected.

Americans with Disabilities Act of 1990

Under the Americans with Disabilities Act of 1990, as amended (the "ADA"), all public accommodations must meet federal requirements related to access and use by disabled persons. Although we believe that our properties, to the extent such properties are "public accommodations" as defined under the ADA, substantially comply with present requirements of the ADA, we have not conducted an audit or investigation of all of our properties to determine our compliance. If one or more of our properties or future properties are not in compliance with the ADA, we may be required to take remedial action which would require us to incur additional costs to bring the property into compliance. We cannot predict the ultimate amount, if any, of the cost of compliance with the ADA or the cost of any damages or attorney's fees to private litigants or any fines imposed by the federal government in respect of any failure to comply with the ADA.

Competition

We compete with others engaged in the acquisition, origination, development, and operation of real estate and real estate-related assets. Our competitors include REITs, insurance companies, pension funds, private equity funds, sovereign wealth funds, hedge funds, mortgage banks, investment banks, commercial banks, savings and loan associations, specialty finance companies, and private and institutional investors and financial companies that pursue strategies similar to ours. Many of our competitors may be larger than us with greater access to capital and other resources and may have other advantages over us. In addition, some of our competitors may have higher risk tolerances or lower profitability targets than us, which could allow them to pursue new business more aggressively than us. We believe that our relationship with CIM Group gives us a competitive advantage that allows us to operate more effectively in the markets in which we conduct our business.

Overview and History of CIM Group

CIM Group was founded in 1994 by Shaul Kuba, Richard Ressler and Avraham Shemesh and has approximately $32.6 billion of assets owned and operated across its vehicles as of September 30, 2022. "Assets owned and operated" represents the aggregate assets owned and operated by CIM on behalf of partners (including where CIM contributes capital alongside for its own account) and co-investors, whether or not CIM has discretion, in each case without duplication. CIM Group's successful track record is anchored by CIM Group's community-oriented approach to acquisitions as well as a number of other competitive advantages including its prudent use of leverage, underwriting approach, disciplined capital deployment, vertically-integrated capabilities and strong network of relationships. CIM Group has generated strong risk-adjusted returns across multiple market cycles by focusing on improved asset and community performance, and capitalizing on market inefficiencies and distressed situations.

CIM Urban Partnership Agreement

Our subsidiary, CIM Urban Partners, L.P. ("CIM Urban"), is governed by CIM Urban's partnership agreement (as amended and restated, the "CIM Urban Partnership Agreement"). The general partner of CIM Urban, Urban Partners GP, LLC ("CIM Urban GP"), is an affiliate of CIM Group and has the full, exclusive and complete right, power, authority, discretion and responsibility vested in or assumed by a general partner of a limited partnership under the Delaware Revised Uniform Limited Partnership Act and as otherwise provided by law and is vested with the full, exclusive and complete right, power and discretion to operate, manage and control the affairs of CIM Urban, subject to the terms of the CIM Urban Partnership Agreement.

None of CIM Urban GP or any of its affiliates, members, stockholders, partners, managers, officers, directors, employees, agents and representatives will have any liability in damages or otherwise to any limited partner, any investors in CIM REIT or CIM Urban, and CIM Urban will indemnify such persons from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, lawsuits, proceedings, costs, expenses and disbursements of any kind which may be imposed on, incurred by or asserted against such persons in any way relating to or arising out of any action or inaction on the part of such persons when acting on behalf of CIM Urban or any of its investments, except for those liabilities that result from such persons' fraud, gross negligence, willful misconduct or breach of the terms of the CIM Urban Partnership Agreement or any other agreement between such person and CIM Urban or its affiliates.

Investment Management Agreement

CIM Urban and CIM Capital, LLC, an affiliate of CIM Group ("the Operator"), are parties to an investment management agreement pursuant to which CIM Urban engaged the Operator to provide certain services to CIM Urban (the "Investment Management Agreement"). The Operator has assigned its duties under the Investment Management Agreement to its four wholly-owned subsidiaries: CIM Capital Securities Management, LLC, a securities manager, CIM Capital RE Debt Management, LLC, a debt manager, CIM Capital Controlled Company Management, LLC, a controlled company manager, and CIM Capital Real Property Management, LLC, a real property manager. The "Operator" refers to CIM Capital, LLC and its four wholly-owned subsidiaries.

CIM Urban pays asset management fees to the Operator on a quarterly basis in arrears. Prior to 2022, the fee was calculated as a percentage of the daily average adjusted fair value of CIM Urban's assets as described in Note 13 to our consolidated financial statements included in this Annual Report on Form 10-K. Please see "—Fee Waiver" below for a description of the calculation of the asset management fees to the Operator since the beginning of 2022. The Operator is responsible for the payment of all costs and expenses relating to the general operation of its management business, including administrative expenses, employment expenses and office expenses. All costs and expenses incurred by the Operator on behalf of CIM Urban are borne by CIM Urban. In addition, CIM Urban agreed to indemnify the Operator against losses, claims, damages or liabilities, and reimburse the Operator for its legal and other expenses, in each case incurred in connection with any action, proceeding or investigation arising out of or in connection with CIM Urban's business or affairs, except to the extent such losses or expenses result from fraud, gross negligence or willful misconduct of, or a breach of the terms of the Investment Management Agreement by the Operator.

Nothing in the Investment Management Agreement limits or restricts the right of any partner, officer or employee of the Operator to engage in any other business or to devote his time and attention in part to any other business. Nothing in the Investment Management Agreement limits or restricts the right of the Operator to engage in any other business or to render services of any kind to any other person.

The Investment Management Agreement will remain in effect until CIM Urban is dissolved or CIM Urban and the Operator otherwise mutually agree.

Master Services Agreement

CIM Service Provider, LLC, an affiliate of CIM Group (the "Administrator") provides, or arranges for other service providers to provide, management and administration services (the "Base Services") to us and our subsidiaries under the terms of a master services agreement, dated as of March 11, 2014, as amended on May 11, 2020 (the "Master Services Agreement"). Pursuant to the Master Services Agreement, we appointed an affiliate of CIM Group as the Administrator of CIM Urban GP ("Urban GP Administrator"). For fiscal quarters prior to April 1, 2020, we paid to the Administrator, on a quarterly basis, a base service fee (the "Base Service Fee") of approximately $1.0 million per year (which, for each year after 2014, was subject to an annual escalation by a specified inflation factor beginning on January 1 of each year). On May 11, 2020, the Master Services Agreement was amended to replace the Base Service Fee with an incentive fee (the "Prior Incentive Fee") pursuant to which the Administrator was entitled to receive, on a quarterly basis, 15.00% of our quarterly core funds from operations in excess of a quarterly threshold equal to 1.75% (i.e., 7.00% on an annualized basis) of our average adjusted common stockholders' equity

(i.e., common stockholders' equity plus accumulated depreciation and amortization) for such quarter. The amendment was effective as of April 1, 2020. No Prior Incentive fee was paid in 2020 or 2021. Please see "—Fee Waiver" below for a description of the calculation of the fees to the Administrator since the beginning of 2022.

In addition, pursuant to the terms of the Master Services Agreement, the Administrator may receive compensation and or reimbursement for performing certain services (other than the Base Services) for us and our subsidiaries. Such services performed by the Administrator and its affiliates may include accounting, tax, reporting, internal audit, legal, compliance, risk management, IT, human resources, corporate communications, operational and on-going support in connection with our registered public offering of our Series A Preferred Stock, par value $0.001 per share ("Series A Preferred Stock") and Series D Preferred Stock, par value $0.001 per share ("Series D Preferred Stock" and, together with the Series A Preferred Stock and Series L Preferred Stock, "Preferred Stock"). The Administrator's compensation for such services is based on the salaries and benefits of the employees of the Administrator and or its affiliates who performed such services (allocated based on the percentage of time spent on the affairs us and our subsidiaries).

Fee Waiver

On January 5, 2022, the Company and certain of its subsidiaries entered into a Fee Waiver (the "Fee Waiver") with the Operator and the Administrator with respect to fees that are payable to them. The Fee Waiver is effective retroactively to January 1, 2022 (the "Effective Date"). Pursuant to the Fee Waiver, the Administrator agreed to voluntarily waive any fees in excess of those set forth in the Fee Waiver, to the extent it would otherwise have been entitled to such additional compensation under the Master Service Agreement, and the Operator agreed to voluntarily waive any fees in excess of those set forth in the Fee Waiver, to the extent it would otherwise have been entitled to such additional compensation under the Investment Management Agreement. Following the end of each quarter, the Administrator will deliver to the Company (i) a calculation of the cumulative fees earned by the Operator and the Administrator under the methodology prescribed by the Fee Waiver from the Effective Date through the end of such quarter and (ii) a calculation of the cumulative fees that would have been earned by the Operator and the Administrator during such period under the Master Services Agreement and the Investment Management Agreement without giving effect to the Fee Waiver. If, in respect of any quarter, the aggregate fees that are payable under the methodology prescribed by the Fee Waiver exceed the aggregate fees that would have been payable under the Master Services Agreement and the Investment Management Agreement, without giving effect to the Fee Waiver, such quarter will be deemed an "Excess Quarter". For any quarter following an Excess Quarter, the Company (upon the direction of the independent members of the Board) may, at its option and upon written notice to Administrator, elect to calculate all fees due to the Administrator and the Operator in accordance with the Master Services Agreement and the Investment Management Agreement, without giving effect to the Fee Waiver, from and after such Excess Quarter. Any such election by the Company will be irrevocable, and all fees due to the Administrator and the Operator from and after such election will be calculated in accordance with the Master Services Agreement and the Investment Management Agreement, without giving effect to the Fee Waiver.

The fees payable to the Operator and the Administrator are determined as follows under the Fee Waiver.

1. Base Fee: A base asset management fee (the "Base Fee") is payable quarterly in arrears to the Operator in an amount equal to an annual rate of 1% (or 0.25% per quarter) of the average of the "Net Asset Value Attributable to Common Stockholders" as of the first and last day of the applicable quarter. Net Asset Value Attributable to Common stockholders is defined as (a) the sum of the Company's (1) investments in real estate at fair value, (2) cash, (3) loans receivable at fair value and (4) the book value of the other assets of the Company, excluding deferred costs and net of other liabilities at book value, less (b) the Company's (i) debt at face value, (ii) outstanding preferred stock at stated value, and (iii) non-controlling interests at book value; provided, that, non-controlling interests in any UPREIT operating partnership relating to the Company shall not be excluded.

2. Incentive Fee: An incentive fee (the "Revised Incentive Fee") is payable quarterly in arrears to the Administrator with respect to the quarterly core funds from operations in excess of a quarterly threshold equal to 1.75% (i.e., 7.00% on an annualized basis) of the Company's "Adjusted Common Equity" (as defined below) for such quarter ("Excess Core FFO") as follows: (i) no Revised Incentive Fee in any quarter in which the Excess Core FFO is $0; (ii) 100% of any Excess Core FFO up to an amount equal to the product of (x) the average of the Adjusted Common Equity as of the first and last day of the applicable quarter and (y) 0.4375%; and (iii) 20% of any Excess Core FFO thereafter. Revised Incentive Fees payable for any partial quarter will be appropriately prorated.

“Adjusted Common Equity” means Common Equity plus Excluded Depreciation and Amortization. “Common Equity” means Total Stockholders’ Equity minus Excluded Equity. “Total Stockholders’ Equity” means the amount reflected as total stockholders’ equity in accordance with GAAP on the consolidated balance sheet of the Company and its subsidiaries as of the last day of a given quarter. “Excluded Equity” means the sum of all preferred securities of the Company and its subsidiaries classified as permanent equity in accordance with GAAP on the consolidated balance sheet of the Company and its subsidiaries as of the last day of a given quarter. “Excluded Depreciation and Amortization” means, for a given quarter, the amount of all accumulated depreciation and amortization of (i) the Company and its subsidiaries and (ii) to the extent allocable to the Company and its subsidiaries, the unconsolidated affiliates, in each case as of the last day of such quarter that corresponds to the periodic depreciation and amortization expense calculated in each case in accordance with GAAP that is a permitted add back to net income calculated in accordance with GAAP when calculating funds from operations.

3. Capital Gains Fee: A capital gains fee (the “Capital Gains Fee”) is payable quarterly in arrears to the Administrator in an amount equal to (i) 15% of the cumulative aggregate realized capital gains minus the cumulative aggregate realized capital losses (in each case since the Effective Date), minus (ii) the aggregate capital gains fees paid since the Effective Date. Realized capital gains and realized capital losses are calculated by subtracting from the sales price of a property: (a) any costs incurred to sell such property, and (b) the current gross value of the property (meaning the property’s original acquisition price plus any subsequent, non-reimbursed capital improvements thereon paid for by the Company).

Other Services

CIM Management, Inc. and certain of its affiliates (collectively, the “CIM Management Entities”), all affiliates of CIM REIT and CIM Group, provide property management, leasing, and development services to CIM Urban pursuant to various agreements.

CIM SBA Staffing, LLC, an affiliate of CIM Group (“CIM SBA”), provides personnel and resources to us pursuant to the terms of a Staffing and Reimbursement Agreement, dated as of January 1, 2015, between CIM SBA and PMC Commercial Lending, LLC, our subsidiary. We reimburse CIM SBA for the costs and expenses of providing such personnel and resources as expenses incurred for the lending division.

CCO Capital, LLC, a registered broker dealer and under common control with the Operator and the Administrator (“CCO Capital”), became the exclusive dealer manager for the Company’s public offering of the Series A Preferred Stock effective as of May 31, 2019, subsequent to which the Company entered into the Second Amended and Restated Dealer Manager Agreement, pursuant to which CCO Capital acted as the exclusive dealer manager for the Company’s public offering of its Series A Preferred Stock and Series D Preferred Stock.

On June 16, 2022, the Company entered into the Third Amended and Restated Dealer Manager Agreement, pursuant to which CCO Capital acts as the exclusive dealer manager for the Company’s public offering of its Series A1 Preferred Stock. Thereunder, the Company agreed to compensate CCO Capital, as the dealer manager for the offering, as follows: (1) a dealer manager fee of up to 3.00% of the selling price of each share of Series A1 Preferred Stock sold and (2) selling commissions of up to 7.00% of the selling price of each share of Series A1 Preferred Stock sold. The Company has been informed that CCO Capital generally reallows 100% of the selling commissions on sales of Series A1 Preferred Stock and generally reallows substantially all of the dealer manager fee on sales of Series A1 Preferred Stock to participating broker-dealers. In addition, pursuant to the Third Amended and Restated Dealer Manager Agreement, no longer solicit or make any offers for the sale of shares of Series A Preferred Stock or Series D Preferred Stock.

Lending Segment

Through our loans originated under the SBA 7(a) Program, we are a national lender that primarily originates loans to small businesses. We identify loan origination opportunities through personal contacts, internet referrals, attendance at trade shows and meetings, direct mailings, advertisements in trade publications and other marketing methods. We also generate loans through referrals from real estate and loan brokers, franchise representatives, existing borrowers, lawyers and accountants. In addition, as an SBA 7(a) licensee, we originated loans as an authorized lender under the Paycheck Protection Program (“PPP”). Originations under the PPP have ended and we had no remaining PPP loans outstanding as of December 31, 2022.

The SBA 7(a) Loan Program is the SBA’s most common loan program. The maximum loan amount for an SBA 7(a) loan is $5.0 million. Key eligibility factors are based on what the business does to generate its income, its credit history, and where the business operates. We work with potential borrowers to identify the type of loan that would be appropriate for each such borrower’s needs. Our SBA 7(a) term loans have monthly repayment terms of principal and interest and are originated with variable interest rates based on the prime rate. Most of our SBA 7(a) loans have maturities of approximately 25 years.

While we have focused on originating real estate loans almost exclusively to the limited service and mid-scale hospitality industry, we intend to increase our efforts to originate other real estate collateralized loans. These loans are anticipated to be concentrated in industries in which we previously had positive experiences, including convenience store, RV park and single purpose building owner-occupied restaurant operations and may include owner-occupied industrial operations/warehouse buildings.

Seasonality

Our revenues and expenses for our hotel property are subject to seasonality during the year. Generally, our hotel revenues are greater in the first and second quarters than the third and fourth quarters. This seasonality can be expected to cause quarterly fluctuations in revenues, segment net operating income, net income and cash provided by operating activities. In addition, the hotel industry is cyclical and demand generally follows, on a lagged basis, key macroeconomic factors.

Tenant Concentration

Kaiser Foundation Health Plan, Incorporated (“Kaiser”), which occupied office space in one of our Oakland, California properties accounted for 29.8% of our annualized rental income for the year ended December 31, 2022. No other tenant accounted for greater than 10.0% of our annualized rental income for the year ended December 31, 2022.

Human Capital

We are operated by affiliates of CIM Group and, as of December 31, 2022, only have five employees. Four of such employees are in our lending segment while one employee spends a substantial portion of the time that he devotes to us on matters relating to the lending segment. We have entered into the Master Services Agreement with the Administrator, an affiliate of CIM Group, pursuant to which the Administrator has agreed to provide, or arrange for other service providers to provide, management and administration services to us and our subsidiaries.

Offices

We are headquartered in Dallas, Texas.

Available Information

The public can access free of charge through the “Shareholders” section of our corporate website, *www.creativemediacommunity.com*, our annual reports on Form 10-K, quarterly reports on Form 10-Q and current reports on Form 8-K, and amendments to those reports filed with or furnished to the Securities and Exchange Commission (the “SEC”) as soon as reasonably practicable after such material is filed with or furnished to the SEC. The information on our corporate website is not part of this Annual Report on Form 10-K. The SEC also maintains a website at *www.sec.gov* that contains reports, proxy and information statements and other information regarding our filings.

We have adopted a written code of ethics that applies to all of our directors, officers and employees, the Operator and the Administrator, including our principal executive officer and senior financial officer, in accordance with Section 406 of the Sarbanes-Oxley Act of 2002 and the rules of the SEC promulgated thereunder. The code of ethics, which we call our Code of Business Conduct and Ethics, is available on our corporate website, *www.creativemediacommunity.com*, in the section entitled “Shareholders—Corporate Overview—Corporate Governance.” In the event that we make changes in, or provide waivers from, the provisions of such code of ethics that the SEC requires us to disclose, we intend to disclose these events on our corporate website in such section. In the Corporate Governance section of our corporate website, we have also posted our Audit Committee Charter, as well as our Governance Principles.

Item 1A. Risk Factors

This section sets forth certain factors that make an investment in our Company speculative or risky, including the following:

Risks Related to Our Business

- Uninsured losses or losses in excess of our insurance coverage could materially adversely affect our financial condition and cash flows, and there can be no assurance as to future costs and the scope of coverage that may be available under insurance policies.
- Cyber incidents may adversely affect our business by causing a disruption to our operations, a compromise or corruption of our confidential information, and or damage to our business relationships, all of which could negatively impact our financial results

Risks Related to Conflicts of Interest

- Neither the Master Services Agreement nor the Investment Management Agreement may be terminated by us (except in limited circumstances for cause in the case of the Master Services Agreement) and the Master Services Agreement may be assigned by the Administrator in certain circumstances without our consent, either or both of which may have a material adverse effect on us.
- The Administrator and Operator are entitled to receive fees for the services they provide regardless of our performance, which may reduce their incentive to devote time and resources to our portfolio.
- The Operator may undertake transactions that are motivated, in whole or in part, by a desire to increase its compensation.
- Each of the Administrator and Operator provides services to us under broad mandates, and our Board of Directors may not necessarily be involved in each acquisition, disposition or financing decision made by the Administrator or Operator.
- Certain of our directors and executive officers may face conflicts of interest related to positions they hold with the Operator, the Administrator, CIM Group and their affiliates, which could result in decisions that are not in the best interest of our stockholders.
- The business of CIM Urban is managed by Urban GP Administrator and we agreed in the Master Services Agreement to appoint an affiliate of CIM Group as the manager of the general partner of CIM Urban.

Risks Related to Our Organizational Structure

- Provisions of our charter and bylaws and the Maryland General Corporation Law (the “MGCL”) may deter takeover attempts, which may limit the opportunity of our stockholders to sell their shares at a favorable price.
- The power of the Board of Directors to revoke our REIT election without stockholder approval may cause adverse consequences to our stockholders.
- The MGCL or our charter may limit the ability of our stockholders or us to recover on a claim against a director or officer who negligently causes us to incur losses.
- The liability of the Administrator and the Operator to us under the Master Services Agreement and the Investment Management Agreement, respectively, is limited and we and CIM Urban have agreed to indemnify the Administrator and the Operator, respectively, against certain liabilities. As a result, we could experience poor performance or losses for which neither the Administrator nor the Operator would be liable.

Risks Related to Real Estate Assets

- Our operating performance is subject to risks associated with the real estate industry.
- A significant portion of our properties, by aggregate net operating income and square feet, are located in California. We are dependent on the California real estate market and economy, and are therefore susceptible to risks of events in the California market that could adversely affect our business, such as adverse market conditions, changes in local laws or regulations and natural disasters.
- Tenant concentration increases the risk that cash flow could be interrupted.
- If a major tenant declares bankruptcy, we may be unable to collect balances due under relevant leases, which could have a material adverse effect on our financial condition and ability to pay distributions to our stockholders.
- We may be unable to renew leases or lease vacant office space.
- A significant portion of our net operating income is expected to come from our hotel. The outbreak of a highly infectious, contagious or widespread disease, such as COVID-19, can (and has) result in reductions in travel and adversely affect demand for hotels.
- We may be unable to renew leases or release apartment units as leases expire, or the terms of renewals or new leases may be less favorable than current leases.
- Income from our long-term leases at our office properties is an important source of our cash flow from operations and is subject to risks related to increases in expenses and inflation.

- Real estate-related taxes may increase, and if these increases are not passed on to tenants, our income will be reduced.
- We face risks associated with development, redevelopment, repositioning or construction of real estate projects.
- Inflation may adversely affect our real estate operations.
- Supply chain disruption and increase costs in labor and materials may adversely affect our real estate operations.
- Our real estate business is subject to risks from climate change.

Risks Related to Debt Financing

- We have incurred significant indebtedness and may incur significant additional indebtedness on a consolidated basis.
- We intend to rely in part on external sources of capital to fund future capital needs and, if we encounter difficulty in obtaining such capital, we may not be able to meet maturing obligations or make additional acquisitions.
- Further increases in interest rates could increase the amount of our debt payments and adversely affect our ability to pay distributions to our stockholders.
- We may not be able to generate sufficient cash flow to meet our debt service obligations.
- Lenders may require us to enter into restrictive covenants relating to our operations, which could limit our ability to make distributions on our Common Stock or Preferred Stock.

Risks Related to Our Lending Operations

- Our lending operations expose us to a high degree of risk associated with real estate.
- Our loans secured by real estate and our real estate owned (“REO”) properties, if any, are typically illiquid and their values may decrease.
- Our lending operations have an industry concentration, which may negatively impact our financial condition and results of operations.

U.S. Federal Income and Other Tax Risks

- REIT annual distribution requirements may force us to forgo otherwise attractive opportunities or borrow funds during unfavorable market conditions. This could delay or hinder our ability to meet our objectives and reduce our stockholders’ overall return.
- Our property taxes could increase due to property tax rate changes or reassessment, which would impact our cash flows.

Risks Related to Our Common Stock and Preferred Stock

- We may issue shares of our Common Stock at prices below the then-current NAV per share of our Common Stock, which could materially reduce our NAV per share of our Common Stock.
- The existing mechanism for the dual-listing of securities on Nasdaq and the TASE may be eliminated or otherwise altered such that we may be subject to additional regulatory burden and additional costs.
- Our NAV is an estimate of the fair value of our assets and may not necessarily reflect realizable value.

Stockholders should carefully consider the risks described in this section and the other information included in this Annual Report on Form 10-K in evaluating the Company and our business. The information in this section should be read in conjunction with Part II, “Item 7—Management's Discussion and Analysis of Financial Condition and Results of Operations” and the consolidated financial statements and related notes in Part II, “Item 8—Financial Statements and Supplementary Data” of this Annual Report on Form 10-K. If any of the risks described in this section actually occur, our business, financial condition and results of operations could be materially and adversely affected, actual results could differ materially from those reflected in forward-looking statements or from our historical results and stockholders may lose all or part of their investment. Additional risks and uncertainties not presently known to us or that we currently deem immaterial also may impair our business operations. This discussion of risk factors includes many forward-looking statements. For cautions about relying on forward-looking statements, please refer to the section entitled “Forward-Looking Statements” immediately prior to “Item 1—Business” of this Annual Report on Form 10-K.

Risks Related to Our Business

Our future success depends on the performance of the Administrator and the Operator, their respective key personnel and their access to the investment professionals of CIM Group. We may not find suitable replacements if such key personnel or investment professionals leave the employment of the Administrator, the Operator or other applicable affiliates of CIM Group or if such key personnel or investment professionals otherwise become unavailable to us.

We rely on the Administrator to provide management and administration services to us, and CIM Urban relies completely on the Operator to provide CIM Urban with certain services.

Our executive officers also serve as officers or employees of the Administrator and or the Operator or other applicable affiliates of CIM Group. The Administrator and the Operator have significant discretion as to the implementation of acquisitions and operating policies and strategies on behalf of us and CIM Urban. Accordingly, we believe that our success depends to a significant extent upon the efforts, experience, diligence, skill and network of business contacts of the officers and key personnel of the Administrator, the Operator and the other applicable affiliates of CIM Group. The departure of any of these officers or key personnel could have a material adverse effect on our business, financial condition, results of operations, cash flow or our ability to satisfy our debt service obligations or to maintain our level of distributions on our Common Stock or Preferred Stock.

We also depend on access to, and the diligence, skill and network of, business contacts of the professionals within CIM Group and the information and deal flow generated by its investment professionals in the course of their acquisitions and onsite property management and leasing activities. The departure of any of these individuals, or of a significant number of the investment professionals or principals of CIM Group, could have a material adverse effect on our business, financial condition, results of operations, cash flow or our ability to satisfy our debt service obligations or to maintain our level of distributions on our Common Stock or Preferred Stock. We cannot guarantee that we will continue to have access to CIM Group’s investment professionals or its information and deal flow.

If we seek to internalize the management functions provided pursuant to the Master Services Agreement and the Investment Management Agreement, we could incur substantial costs and lose certain key personnel.

The Board of Directors may determine that it is in our best interest to become self-managed by internalizing the functions performed by the Administrator and or the Operator and to terminate the Master Services Agreement and or the Investment Management Agreement, respectively. However, we do not have the unilateral right to terminate the Master Services Agreement and CIM Urban does not have the unilateral right to terminate the Investment Management Agreement, and neither the Administrator nor the Operator would be obligated to enter into an internalization transaction with us. There is no assurance that a mutually acceptable agreement with these entities as to the terms of the internalization could be reached.

The costs that would be incurred by us in any such internalization transaction are uncertain and could be substantial. Inadequate management of an internalization transaction could cause us to incur excess costs or suffer deficiencies in our disclosure controls and procedures or our internal control over financial reporting. An internalization transaction may divert management's attention from effectively managing our assets. Further, following any internalization of our management functions, certain key employees may remain employees of the Administrator and the Operator or their respective affiliates instead of becoming our employees, especially if the Administrator and the Operator are not acquired by us.

Uninsured losses or losses in excess of our insurance coverage could materially adversely affect our financial condition and cash flows, and there can be no assurance as to future costs and the scope of coverage that may be available under insurance policies.

We carry commercial liability, special form/all risk and business interruption insurance on all of the properties in our portfolio. In addition, we carry directors’ and officers’ insurance. While we select policy specifications and insured limits that we believe are appropriate and adequate given the relative risk of loss, the cost of the coverage, and industry practice, there can be no assurance that we will not experience a loss that is uninsured or that exceeds policy limits.

Our business operations in California and Texas are susceptible to, and could be significantly affected by, adverse weather conditions and natural disasters such as earthquakes, tsunamis, hurricanes, wind, blizzards, floods, landslides, drought and fires. These adverse weather conditions and natural disasters could cause significant damage to the properties in our portfolio, the risk of which is enhanced by the concentration of our properties, by aggregate net operating income and square feet, in California. Our insurance may not be adequate to cover business interruption or losses resulting from adverse weather or natural disasters. We carry earthquake insurance on our properties in California in an amount and with deductibles and limitations that we deem to be appropriate. However, the amount of our earthquake insurance coverage may not be sufficient to

cover losses from earthquakes in California. Furthermore, we may not carry insurance for certain losses, such as those caused by war or certain environmental conditions, such as mold or asbestos.

As a result of the factors described above, we may not have sufficient coverage against all losses that we may experience for any reason.

If we experience a loss that is uninsured or that exceeds policy limits, we could incur significant costs and lose the capital deployed in the damaged properties as well as the anticipated future cash flows from those properties. Further, if the damaged properties are subject to recourse indebtedness, we would continue to be liable for the indebtedness, even if the properties were irreparable. In addition, our properties may not be able to be rebuilt to their existing height or size at their existing location under current land-use laws and policies. In the event that we experience a substantial or comprehensive loss of one of our properties, we may not be able to rebuild such property to its existing specifications and otherwise may have to upgrade such property to meet current code requirements. Any of the factors described above could have a material adverse effect on our business, financial condition, results of operations, cash flow or our ability to satisfy our debt service obligations or to maintain our level of distributions on our Common Stock or Preferred Stock.

Cybersecurity risks and cyber incidents may adversely affect our business by causing a disruption to our operations, a compromise or corruption of our confidential information, and or damage to our business relationships, all of which could negatively impact our financial results.

We face cybersecurity risks and risks associated with security breaches or disruptions, such as cyber-attacks or cyber intrusions over the Internet, malware, computer viruses, attachments to emails, social engineering and phishing schemes or persons inside our organization, the Operator and or Administrator. The risk of a security breach or disruption, particularly through cyber-attacks or cyber intrusions, has generally increased as the number, intensity and sophistication of attempted attacks and intrusions from around the world have increased. The occurrence of a cyber incident may result in disrupted operations, misstated or unreliable financial data, misappropriation of assets, compromise or corruption of confidential information collected in the course of conducting our business, liability for stolen assets or information, increased cybersecurity protection and insurance costs, litigation, regulatory enforcement, damage to our tenant and stockholder relationships, material harm to our financial condition, cash flows and the market price of our securities or other adverse effects. Our Operator's and Administrator's IT networks and related systems are essential to the operations of our business and our ability to perform day-to-day operations (including managing our building systems). Our Operator and Administrator have implemented processes, procedures and internal controls to help mitigate cyber incidents, but these measures do not guarantee that a cyber incident involving our Operator or Administrator will not occur or that attempted security breaches or disruptions would not be successful or damaging. A cyber incident involving our Operator's or Administrator's IT networks and related systems could materially adversely impact our business, financial condition, results of operations, cash flow or our ability to satisfy our debt service obligations or to maintain our level of distributions on our Common Stock or Preferred Stock.

Our Operator, Administrator and their respective affiliates, in the course of providing onsite property management, leasing, accounting and or services to us, collect and retain certain personal information provided by our tenants and vendors. Our Operator, Administrator and their respective affiliates rely on computer systems to process transactions and manage our business. We can provide no assurance that the data security measures designed to protect confidential information on such systems established by our Operator, Administrator and their respective affiliates will be able to prevent unauthorized access to such personal information. There can be no assurance that their efforts to maintain the security and integrity of the information collected and their computer systems will be effective or that attempted security breaches or disruptions will not be successful or damaging. Even the most well protected information, networks, systems and facilities remain potentially vulnerable because the techniques used in such attempted security breaches evolve and generally are not recognized until launched against a target, and, in some cases, are designed not be detected and, in fact, may not be detected. Accordingly, our Operator, Administrator and their respective affiliates may be unable to anticipate these techniques or to implement adequate security barriers or other preventative measures, and thus it is impossible for us to entirely mitigate this risk.

If we fail to maintain an effective system of internal control over financial reporting, we may not be able to accurately report our financial results.

An effective system of internal control over financial reporting is necessary for us to provide reliable financial reports, prevent fraud and operate successfully as a public company. As part of our ongoing monitoring of internal controls, we may discover material weaknesses or significant deficiencies in our internal controls that we believe require remediation. If we discover such weaknesses, we will make efforts to improve our internal controls in a timely manner. Any system of internal controls, however well designed and operated, is based in part on certain assumptions and can only provide reasonable, not absolute, assurance that the objectives of the system are met. Any failure to maintain effective internal controls, or implement any necessary improvements in a timely manner, could have a material adverse effect on our business, financial condition,

results of operations, cash flow or our ability to satisfy our debt service obligations or to maintain our level of distributions on our Common Stock or Preferred Stock, or cause us to not meet our reporting obligations, which could affect our ability to maintain our listing of Common Stock on Nasdaq and the TASE. Ineffective internal controls could also cause holders of our securities to lose confidence in our reported financial information, which would likely have a negative effect on the trading price of our securities.

The outbreak of a future pandemic could negatively affected and will likely continue to negatively affect our business, financial condition, results of operations and cash flows.

The spread of COVID-19 in the United States and the resulting restrictions on and cancellations of travel, meetings and social gatherings adversely impacted, the operations of our hotel in Sacramento, California in 2021 and part of 2022.

Any future pandemic could also have material and adverse effects on our ability to successfully operate and on our financial condition, results of operations and cash flows due to, among other factors:

- a complete or partial closure of, or other operational issues at, one or more of our properties resulting from government or tenant action;
- reduced economic activity severely impacting our tenants' businesses, financial condition and liquidity or causing one or more of our tenants to be unable to meet their obligations to us in full, or at all, or to otherwise seek modifications of such obligations;
- difficulty accessing debt and equity capital on attractive terms, or at all, and a severe disruption and instability in the global financial markets or deteriorations in credit and financing conditions, which may affect our access to capital necessary to fund business operations or address maturing liabilities on a timely basis or our tenants' ability to fund their business operations and meet their obligations to us;
- any impairment in value of our tangible or intangible assets that could be recorded as a result of weaker economic conditions;
- a general decline in business activity and demand for real estate transactions, which could adversely affect our ability or desire to grow our portfolio of properties; and
- negative impacts to the credit quality of our tenants and any related impact to tenant rent collections.

The COVID-19 pandemic has had, and may continue to have, significant impacts on workplace practices and those changes, or other office space utilization trends, could impact our business.

We believe closures of businesses and stay in place orders and the resulting remote working arrangements for non-essential personnel in response to the COVID-19 pandemic has resulted in long-term changed work practices that could negatively impact us and our business. For example, the increased adoption of and familiarity with remote work practices, and the recent increase in tenants seeking to sublease their leased space, has resulted in decreased demand for office space. Further, prior to the onset of the COVID-19 pandemic, telecommuting, flexible work schedules, open workspaces and teleconferencing had become increasingly common and there was an increasing trend among some businesses to utilize shared office space and co-working spaces. As a result, there has been a general trend in office real estate for tenants to decrease the space they occupy per employee. Our tenants may elect to not renew their leases, or to renew them for less space than they currently occupy, which could increase vacancy, place downward pressure on occupancy, rental rates and income and property valuation. The need to reconfigure leased office space, either in response to the COVID-19 pandemic, to new tenants' needs, to modify utilization or for other reasons, may impact space requirements and also may require us to spend increased amounts for tenant improvements. If substantial reconfiguration of the tenant's space is required, the tenant may find it more advantageous to relocate than to renew its lease and renovate the existing space. All of these factors could have a material adverse effect on our business, financial condition, results of operations, cash flow our or our ability to satisfy our debt service obligations or to maintain our level of distributions on our Common Stock or Preferred Stock.

Risks Related to Conflicts of Interest

Neither the Master Services Agreement nor the Investment Management Agreement may be terminated by us (except in limited circumstances for cause in the case of the Master Services Agreement) and the Master Services Agreement may be assigned by the Administrator in certain circumstances without our consent, either or both of which may have a material adverse effect on us.

We and our lending subsidiaries are parties to the Master Services Agreement pursuant to which the Administrator provides, or arranges for other service providers to provide, management and administrative services to us and all of our direct and indirect subsidiaries. We are obligated to pay the Administrator the Revised Incentive Fee (see "Item 1—Business—Master Services Agreement") and market rate transaction fees for transactional and other services that the Administrator elects to

provide to us. Pursuant to the terms of the Master Services Agreement, the Administrator has the right to provide any transactional services to us that we would otherwise engage a third-party to provide.

The Master Services Agreement renews automatically each year. The Administrator may assign the Master Services Agreement without our consent to one of its affiliates or an entity that is a successor through merger or acquisition of the business of the Administrator. We generally may terminate the Master Services Agreement only in the event of a material breach, fraud, gross negligence or willful misconduct by or, in certain limited circumstances, a change of control of the Administrator that our independent directors determine to be materially detrimental to us and our subsidiaries as a whole. We do not have the right to terminate the Master Services Agreement solely for the poor performance of our operations. In addition, CIM Urban does not have the right to terminate the Investment Management Agreement under any circumstances.

Moreover, any removal of Urban GP Administrator as manager of CIM Urban GP pursuant to the Master Services Agreement or the CIM Urban Partnership Agreement would not affect the rights of the Administrator under the Master Services Agreement or the Operator under the Investment Management Agreement. Accordingly, the Administrator would continue to provide the Base Services and receive any Revised Incentive Fee, and the Administrator or the applicable service provider would continue to provide the transactional services and receive related transaction fees, under the Master Services Agreement, and the Operator would continue to receive the management fee under the Investment Management Agreement.

The Administrator and Operator are entitled to receive fees for the services they provide regardless of our performance, which may reduce their incentive to devote time and resources to our portfolio.

Pursuant to the Master Services Agreement, the Administrator is entitled to receive additional fees for the provision of certain transactional and other services at fair market rates approved by our independent directors. Additionally, the Operator is entitled to receive an asset management fee based upon our net asset value attributable to common stockholders. See “Item 1—Business—Investment Management Agreement.” The Administrator’s and the Operator’s entitlement to substantial non-performance based compensation might reduce their incentive to devote time and effort to seeking profitable opportunities for our portfolio.

We may be obligated to pay the Operator quarterly incentive compensation even if we incur a net loss during a particular quarter.

The Operator is entitled to incentive compensation based on our FFO, which rewards our Operator if our quarterly pre-incentive fee FFO exceeds 1.75% (7.0% annualized) of the Adjusted Common Equity. Our pre-incentive fee FFO for a particular quarter for incentive compensation purposes excludes the effect of any unrealized gains, losses, or other items during that quarter that do not affect realized net income, even if these adjustments result in a net loss on our statement of operations for that quarter. Thus, we may be required to pay the Operator incentive compensation for a fiscal quarter even if we incur a net loss for that quarter as determined in accordance with GAAP.

The Operator may undertake transactions that are motivated, in whole or in part, by a desire to increase its compensation.

The Operator is entitled to receive an asset management fee based upon our net asset value attributable to common stockholders, which may provide an incentive for the Operator to deploy our capital to assets that are riskier than we would otherwise acquire, regardless of the anticipated long-term performance of such assets. The Operator may also recommend the disposition of assets that are beneficial to CIM Urban’s operations in order to fund such acquisitions. For a discussion of the broad discretion that may be exercised by the Operator in our business, see “—Each of the Administrator and Operator provides services to us under broad mandates, and our Board of Directors may not necessarily be involved in each acquisition, disposition or financing decision made by the Administrator or Operator” below.

Each of the Administrator and Operator provides services to us under broad mandates, and our Board of Directors may not necessarily be involved in each acquisition, disposition or financing decision made by the Administrator or Operator.

Each of the Administrator, under the Master Services Agreement, and the Operator, under the Investment Management Agreement, has broad discretion and authority over our day-to-day operations and deployment of our capital in assets. While our Board of Directors periodically reviews the performance of our businesses, our Board of Directors does not review all activities conducted by the Administrator and the Operator, and may not review certain proposed acquisitions, dispositions or the implementation of other strategic initiatives before they occur. In addition, in reviewing our business operations, our directors may rely on information provided to them by the Administrator or the Operator, as the case may be. The Administrator or the Operator may cause us to enter into significant transactions or undertake significant activities that may be difficult or impossible to unwind, exit or otherwise remediate. Each of the Administrator and the Operator has great latitude in the implementation of our strategies, including determining the types of assets that are appropriate for us. The decisions of the Administrator and the Operator could therefore result in losses or returns that are substantially below our expectations, which

could have a material adverse effect on our business, financial condition, results of operations, cash flow or our ability to satisfy our debt service obligations or to maintain our level of distributions on our Common Stock or Preferred Stock.

The Operator, the Administrator and their respective affiliates engage in real estate activities that could compete with us and our subsidiaries, which could result in decisions that are not in the best interests of our stockholders.

The Investment Management Agreement with the Operator and the Master Services Agreement with the Administrator do not prevent the Operator or the Administrator, as applicable, and their respective affiliates from operating additional real estate assets or participating in other real estate opportunities, some of which could compete with us and our subsidiaries. The Operator, the Administrator and their respective affiliates operate real estate assets and participate in additional real estate activities having objectives that overlap with our own, and may thus face conflicts in the operation and allocation of real estate opportunities between us, on the one hand, and such other real estate operations and activities, on the other hand. Allocation of real estate opportunities is at the discretion of the Operator and or the Administrator and there is no guarantee that this allocation will be made in the best interest of our stockholders.

There may be conflicts of interest in allocating real estate opportunities to CIM Urban and other funds, vehicles and ventures operated by the Operator. For example, the Operator serves as the operator of private funds formed to deploy capital in real estate and real estate-related assets located in metropolitan areas that CIM Group has already qualified. There may be a significant overlap in the assets and strategies between us and such funds, and many of the same investment personnel will provide services to both entities. Further, the Operator and its affiliates may in the future operate funds, vehicles and ventures that have overlapping objectives with CIM Urban and therefore may compete with CIM Urban for opportunities. The ability of the Operator, the Administrator and their officers and employees to engage in other business activities, including the operation of other vehicles operated by CIM Group or its affiliates, may reduce the time the Operator and the Administrator spend managing our activities.

Certain of our directors and executive officers may face conflicts of interest related to positions they hold with the Operator, the Administrator, CIM Group and their affiliates, which could result in decisions that are not in the best interest of our stockholders.

Some of our directors and executive officers are also part-owners, officers and or directors of the Operator, the Administrator, CIM Group and or their respective affiliates. As a result, such directors and executive officers may owe fiduciary duties to these various other entities and their equity owners that may from time to time conflict with the duties such persons owe to us. Further, these multiple responsibilities may create conflicts of interest for these individuals if they are presented with opportunities that may benefit us and our other affiliates. These individuals may be incentivized to allocate opportunities to other entities rather than to us. Their loyalties to other affiliated entities could result in actions or inactions that are detrimental to our business, strategy and opportunities.

The business of CIM Urban is managed by Urban GP Administrator and we agreed in the Master Services Agreement to appoint an affiliate of CIM Group as the manager of the general partner of CIM Urban, and the general partner of CIM Urban may only be removed from such position under limited circumstances as provided in the CIM Urban Partnership Agreement.

Pursuant to the Master Services Agreement, we agreed to appoint an affiliate of CIM Group as the manager of the general partner of CIM Urban. While currently that designated entity, Urban GP Administrator, is an affiliate of CIM Group, there can be no assurances that a different entity would not be appointed the manager of the general partner of CIM Urban in the future. Moreover, we may only remove the Urban GP Administrator as the manager of CIM Urban GP for “cause” (as defined in the Master Services Agreement). Removal for “cause” also requires the approval of the holders of at least 66 2/3% of our outstanding shares of Common Stock. Upon removal, a replacement manager will be appointed by the independent directors.

Subject to the limitations set forth in the governing documents of CIM Urban and CIM Urban GP, Urban GP Administrator is given the power and authority under the Master Services Agreement to manage, to direct the management, business and affairs of and to make all decisions to be made by or on behalf of (1) CIM Urban GP and (2) CIM Urban. Subject to the other terms of the CIM Urban Partnership Agreement, CIM Urban GP has broad discretion over the operations of CIM Urban. Accordingly, while we own indirectly all of the partnership interests in CIM Urban, except as set forth in the Master Services Agreement and the rights specifically reserved to limited partners by the CIM Urban Partnership Agreement and applicable law, we will have no part in the management and control of CIM Urban.

Risks Related to Our Organizational Structure

Provisions of our charter and bylaws and the MGCL may deter takeover attempts, which may limit the opportunity of our stockholders to sell their shares at a favorable price.

Certain provisions of the MGCL, if applied to us, and our charter and bylaws could have the effect of inhibiting a third-party from making a proposal to acquire us or impeding a change of control under circumstances that otherwise could provide our stockholders with the opportunity to realize a premium over the then-prevailing market price of our Common Stock.

Maryland Statutes. The Maryland Business Combination Act could restrict the power of third parties who acquire, or seek to acquire, control of us without the approval of our Board of Directors to complete mergers and other business combinations even if such transaction would be beneficial to stockholders. “Business combinations” between an “interested stockholder” or an affiliate of an “interested stockholder” and us are prohibited for five years after the most recent date on which the “interested stockholder” becomes an “interested stockholder.” An “interested stockholder” is defined as any person who beneficially owns 10% or more of the voting power of our outstanding voting stock or an affiliate or associate of ours who, at any time within the two-year period immediately prior to the date in question, was the beneficial owner of 10% or more of the voting power of our then outstanding stock. If our Board of Directors approved in advance the transaction that would otherwise give rise to the acquirer attaining such status of an “interested stockholder”, the acquirer would not become an interested stockholder and, as a result, it could enter into a business combination with us. Our Board of Directors may, however, provide that its approval is subject to compliance, at or after the time of approval, with any terms and conditions determined by it. Even after the lapse of the five-year prohibition period, any business combination between us and an interested stockholder must be recommended by our Board of Directors and approved by the affirmative vote of at least:

- 80% of the votes entitled to be cast by holders of outstanding shares of voting stock of the corporation; and
- two-thirds of the votes entitled to be cast by holders of voting stock of the corporation other than the interested stockholder with whom or with whose affiliate the business combination is to be effected or held by affiliates and associates thereof.

The super-majority vote requirements do not apply if, among other considerations, the transaction complies with a minimum price and form of consideration requirements prescribed by the statute. The statute permits various exemptions from its provisions, including business combinations that are exempted by the Board of Directors prior to the time that an interested stockholder becomes an interested stockholder. Our Board of Directors has, by resolution, elected to opt out of this provision of the MGCL. However, our Board of Directors may by resolution elect to repeal the foregoing opt out from the business combination provision of the MGCL.

The Maryland Control Share Acquisition Act provides that a holder of control shares of a Maryland corporation acquired in a control share acquisition has no voting rights with respect to the control shares except to the extent approved by a vote of stockholders entitled to cast two-thirds of the votes entitled to be cast on the matter. Shares owned by the acquiror, by officers or by employees who are directors of the corporation are excluded from shares entitled to vote on the matter. Control shares are voting shares of stock that, if aggregated with all other shares of stock owned by the acquiror or in respect of which the acquiror is able to exercise or direct the exercise of voting power (except solely by virtue of a revocable proxy), would entitle the acquiror to exercise voting power in electing directors within one of the following ranges of voting power:

- one-tenth or more but less than one-third;
- one-third or more but less than a majority; or
- a majority or more of all voting power.

Control shares do not include shares the acquiror is then entitled to vote as a result of having previously obtained stockholder approval or shares acquired directly from the corporation. A control share acquisition means the acquisition of issued and outstanding control shares, subject to certain exceptions.

A person who has made or proposes to make a control share acquisition may compel the Board of Directors of the corporation to call a special meeting of stockholders to be held within 50 days of demand to consider the voting rights of the shares. The right to compel the calling of a special meeting is subject to the satisfaction of certain conditions, including an undertaking to pay the expenses of the meeting. If no request for a meeting is made, the corporation may itself present the question at any stockholders’ meeting.

If voting rights are not approved at the meeting or if the acquiror does not deliver an acquiring person statement as required by the statute, then the corporation may, subject to certain limitations and conditions, redeem for fair value any or all of the control shares, except those for which voting rights have previously been approved. Fair value is determined, without

regard to the absence of voting rights for the control shares, as of the date of any meeting of stockholders at which the voting rights of the shares are considered and not approved or, if no meeting is held, as of the date of the last control share acquisition by the acquiror. If voting rights for control shares are approved at a stockholders' meeting and the acquiror becomes entitled to exercise or direct the exercise of a majority of the voting power, all other stockholders may exercise appraisal rights. The fair value of the shares as determined for purposes of appraisal rights may not be less than the highest price per share paid by the acquiror in the control share acquisition.

The control share acquisition statute does not apply to (a) shares acquired in a merger, consolidation or share exchange if the corporation is a party to the transaction or (b) acquisitions approved or exempted by the charter or bylaws of the corporation. We have elected to opt out of this provision of the MGCL, pursuant to a provision in our bylaws. However, our Board of Directors may, by amendment to our bylaws, opt in to the control share provisions of the MGCL in the future.

Title 3, Subtitle 8, of the MGCL permits the Board of Directors of a Maryland corporation with at least three independent directors and a class of stock registered under the Securities Exchange Act of 1934, as amended (such as the Company), without stockholder approval and notwithstanding any contrary provision in its charter or bylaws, to implement certain takeover defenses, including: (i) a classified board; (ii) a two-thirds vote requirement to remove a director; (iii) limiting the filling of any vacancy on the Board of Directors to only a majority of the remaining directors in office, even if the remaining directors do not constitute a quorum; (iv) providing the board with the sole power to fix the number of directors; and (v) requiring the holders of up to a majority of voting stock to call a special meeting of stockholders. Our charter provides that, except as may be provided by our Board of Directors in setting the terms of any class or series of stock, we elect to be subject to the provisions of Subtitle 8 relating to the filling of vacancies on our Board of Directors. Through provisions in our charter and bylaws unrelated to Subtitle 8, we already (1) require a two-thirds vote for the removal of any director from the Board of Directors, (2) vest in the Board of Directors the exclusive power to fix the number of directorships, subject to limitations set forth in our charter and bylaws, and (3) require, unless called by the chairman of our Board of Directors, our president, our chief executive officer or our Board of Directors, the request of stockholders entitled to cast not less than a majority of all votes entitled to be cast on a matter at such meeting to call a special meeting. We have not elected to classify our Board of Directors.

Advance notice bylaw. Our bylaws contain advance notice procedures for the introduction by a stockholder of new business and the nomination of directors by a stockholder. These provisions could, in certain circumstances, discourage proxy contests and make it more difficult for you and other stockholders to elect stockholder-nominated directors and to propose and, consequently, approve stockholder proposals opposed by management.

Restrictions on transfer and ownership of our stock. To assist in maintaining our qualification as a REIT for federal income tax purposes, our charter prohibits any person, unless exempted by our Board of Directors, from acquiring or holding, directly or indirectly, applying attribution rules under the Code, shares of our capital stock in excess of 6.25% in number of shares or value, whichever is more restrictive, of the aggregate of the outstanding shares of our stock or 6.25% of the number of shares or value, whichever is more restrictive, of the outstanding shares of our Common Stock.. Together, these limitations are referred to as the "ownership limit." Stock acquired or held in violation of the ownership limit will be transferred automatically to a trust for the benefit of a designated charitable beneficiary, and the intended acquirer of the stock in violation of the ownership limit will not be entitled to vote those shares of stock or to receive the economic benefits of owning shares of our stock in excess of the ownership limit. A transfer of shares of our stock to a person who, as a result of the transfer, violates the ownership limit also may be void under certain circumstances.

Our charter, bylaws, the partnership agreement for CIM Urban and Maryland law also contain other provisions that may delay, defer or prevent a transaction or a change of control that might involve a premium price for our Common Stock or otherwise be in the best interest of our stockholders.

The Operator may change its acquisition process, or elect not to follow it, without stockholder consent at any time, which may adversely affect returns on our assets.

While we are principally focused on Class A and creative office assets in vibrant and improving metropolitan communities throughout the United States (including improving and developing such assets), we may also participate more actively in other CIM Group real estate strategies and product types, including, but not limited to, multi-family residential and or real estate debt, in order to broaden our participation in CIM Group's platform and capabilities for the benefit of all classes of stockholders. This may include, without limitation, engaging in real estate development activities as well as investing in other product types directly, side-by-side with one or more funds of CIM Group, through direct deployment of capital in a CIM Group real estate or debt fund, or deploying capital in or originating loans that are secured directly or indirectly by properties primarily located in Qualified Communities that meet our strategy. Such loans may include limited and or non-recourse junior (mezzanine, B-note or 2nd lien) and senior acquisition, bridge or repositioning loans. Stockholders will not have any approval rights with respect to any expansion or change in strategies or future composition of our assets. Our Operator determines our policies regarding deployment of capital into real estate assets, financing, growth and debt capitalization. Our Operator may

change these and other policies without a vote of our stockholders. In addition, there can be no assurance that the Operator will follow its acquisition process in relation to the identification and acquisition or origination of prospective assets. As a result, the nature of the composition of our assets could change without the consent of our stockholders. Changes in the Operator’s acquisition process and or philosophy may result in, among other things, inferior due diligence and transaction standards, which may adversely affect the performance of our assets. If we are unsuccessful in expanding into new real estate activities or our changes in strategies or future deployment of our capital turn out to be unsuccessful, it could have a material adverse effect on our business, financial condition, results of operations, cash flow or our ability to satisfy our debt service obligations or to maintain our level of distributions on our Common Stock or Preferred Stock.

The power of the Board of Directors to revoke our REIT election without stockholder approval may cause adverse consequences to our stockholders.

Our organizational documents permit our Board of Directors to revoke or otherwise terminate our REIT election, without the approval of our stockholders, if the Board of Directors determines that it is no longer in our best interest to continue to qualify as a REIT. In such a case, we would become subject to U.S. federal, state and local income tax on our net taxable income and we would no longer be required to distribute most of our net taxable income to our stockholders, which could have adverse consequences on the total return to our holders of Common Stock.

The MGCL or our charter may limit the ability of our stockholders or us to recover on a claim against a director or officer who negligently causes us to incur losses.

The MGCL provides that a director has no liability in such capacity if he or she performs his or her duties in good faith, in a manner he or she reasonably believes to be in our best interests and with the care that an ordinarily prudent person in a like position would use under similar circumstances. A director who performs his or her duties in accordance with the foregoing standards should not be liable to us or any other person for failure to discharge his or her obligations as a director.

In addition, our charter provides that our directors and officers will not be liable to us or our stockholders for monetary damages unless the director or officer actually received an improper benefit or profit in money, property or services, or is adjudged to be liable to us or our stockholders based on a finding that his or her action, or failure to act, was the result of active and deliberate dishonesty and was material to the cause of action adjudicated in the proceeding. Our charter and bylaws also require us, to the maximum extent permitted by Maryland law, to indemnify and, without requiring a preliminary determination of the ultimate entitlement to indemnification, pay or reimburse reasonable expenses in advance of final disposition of a proceeding to any individual who is a present or former director or officer and who is made or threatened to be made a party to, or witness in, the proceeding by reason of his or her service in that capacity or any individual who, while a director or officer and at our request, serves or has served as a director, officer, partner, trustee, member or manager of another corporation, real estate investment trust, limited liability company, partnership, joint venture, trust, employee benefit plan or other enterprise and who is made or threatened to be made a party to, or witness in, the proceeding by reason of his or her service in that capacity. With the approval of our Board of Directors, we may provide such indemnification and advance for expenses to any individual who served a predecessor of the Company in any of the capacities described above and any employee or agent of the Company or a predecessor of the Company.

We also are permitted to purchase and we currently maintain insurance or provide similar protection on behalf of any directors, officers, employees and agents, including our Administrator and its affiliates, against any liability asserted which was incurred in any such capacity with us or arising out of such status. This may result in us having to expend significant funds, which could have a material adverse effect on our business, financial condition, results of operations, cash flow or our ability to satisfy our debt service obligations or to maintain our level of distributions on our Common Stock or Preferred Stock.

The liability of the Administrator and the Operator to us under the Master Services Agreement and the Investment Management Agreement, respectively, is limited and we and CIM Urban have agreed to indemnify the Administrator and the Operator, respectively, against certain liabilities. As a result, we could experience poor performance or losses for which neither the Administrator nor the Operator would be liable.

Pursuant to the Master Services Agreement, the Administrator has no responsibility other than to provide its services in good faith and will not be responsible for any action of our Board of Directors that follows or declines to follow the Administrator’s advice or recommendations. Under the terms of the Master Services Agreement, none of the Administrator or any of its affiliates providing services under the Master Services Agreement will be liable to us, any subsidiary of ours party to the Master Services Agreement, any governing body (including any director or officer), stockholder or partner of any such entity for acts or omissions made pursuant to or in accordance with the Master Services Agreement, other than acts or omissions constituting fraud, willful misconduct, gross negligence or violation of certain laws or any other intentional or criminal wrongdoing or breach of the Master Services Agreement. Moreover, the aggregate liability of any such entities and persons pursuant to the Master Services Agreement is capped at the aggregate amount of the Base Service Fee and any

transaction fees previously paid to the Administrator in the two most recent calendar years. In addition, we have agreed to indemnify the Administrator and any of its affiliates providing services under the Master Services Agreement, any affiliates of the Administrator and any directors, officers, stockholders, agents, subcontractors, contractors, delegates, members, partners, shareholders, employees and other representatives of each of them from and against all actions, lawsuits, investigations, proceedings or claims except to the extent resulting from such person's fraud, willful misconduct, gross negligence or violation of certain laws or any other intentional or criminal wrongdoing or breach of the Master Services Agreement.

Pursuant to the Investment Management Agreement, the Operator is not liable to CIM Urban, CIM Urban GP or any manager or director of CIM Urban GP for, and CIM Urban has agreed to indemnify the Operator against any losses, claims, damages or liabilities to which it may become subject in connection with, among other things, (1) any act or omission performed or omitted by it or for any costs, damages or liabilities arising therefrom, in the absence of fraud, gross negligence, willful misconduct or a breach of the Investment Management Agreement or (2) any losses due to the negligence of any employees, brokers, or other agents of CIM Urban.

Risks Related to Real Estate Assets

Our operating performance is subject to risks associated with the real estate industry.

Real estate assets are subject to various risks and fluctuations and cycles in value and demand, many of which are beyond our control. Certain events may decrease cash available for distributions, as well as the value of our properties. These events include, but are not limited to:

- adverse changes in economic and socioeconomic conditions (including as a result of the emergence of any new pandemic);
- vacancies or our inability to rent space on favorable terms;
- adverse changes in financial conditions of buyers, sellers and tenants of properties;
- inability to collect rent from tenants;
- competition from real estate investors with significant capital, including but not limited to real estate operating companies, publicly-traded REITs and institutional investment funds;
- reductions in the level of demand for office and hotel space and changes in the relative popularity of properties;
- increases in the supply of office and hotel space;
- fluctuations in interest rates and the availability of credit, which could adversely affect our ability, or the ability of buyers and tenants of properties, to obtain financing on favorable terms or at all;
- dependence on third parties to provide leasing, brokerage, onsite property management and other services with respect to certain of our assets;
- increases in expenses, including insurance costs, labor costs, utility prices, real estate assessments and other taxes and costs of compliance with laws, regulations and governmental policies, and our inability to pass on some or all of these increases to our tenants; and
- changes in, and changes in enforcement of, laws, regulations and governmental policies, including, without limitation, health, safety, environmental, zoning, real estate tax, federal and state laws, governmental fiscal policies and the ADA.

The outbreak of COVID-19 that began in the fourth quarter of 2019 led to an economic slowdown. During periods of economic slowdown or recession, rising interest rates or declining demand for real estate, or the public perception that any of these events may occur, could result in a general decline in rents or an increased incidence of defaults under existing leases. If we cannot operate our properties so as to meet our financial expectations, our business, financial condition, results of operations, cash flow or our ability to satisfy our debt service obligations or to maintain our level of distributions on our Common Stock or Preferred Stock may be negatively impacted.

There can be no assurance that we will achieve our economic objectives.

A significant portion of our properties, by aggregate net operating income and square feet, are located in California. We are dependent on the California real estate market and economy, and are therefore susceptible to risks of events in the California market that could adversely affect our business, such as adverse market conditions, changes in local laws or regulations and natural disasters.

Because our properties in California represent a significant portion of our portfolio by aggregate net operating income and square feet, we are exposed to greater economic risks than if we owned a more geographically diverse portfolio. We are susceptible to adverse developments in the California economic and regulatory environments (such as business layoffs or

downsizing, industry slowdowns, relocations of businesses, increases in real estate and other taxes, costs of complying with governmental regulations or increased regulation and other factors) as well as natural disasters that occur in these areas (such as earthquakes, floods, fires and other events). In addition, the State of California is regarded as more litigious and more highly regulated and taxed than many states, which may reduce demand for office and hotel space in California. Any adverse developments in the economy or real estate markets in California, any decrease in demand for office and hotel space resulting from the California regulatory or business environments or any reduced need for apartment units resulting from increased relocation out of California, could have a material adverse effect on our business, financial condition, results of operations, cash flow or our ability to satisfy our debt service obligations or to maintain our level of distributions on our Common Stock or Preferred Stock.

Capital and credit market conditions may adversely affect demand for our properties and the overall availability and cost of credit.

In periods when the capital and credit markets experience significant volatility, demand for our properties and the overall availability and cost of credit may be adversely affected. No assurances can be given that the capital and credit market conditions will not have a material adverse effect on our business, financial condition, results of operations, cash flow or our ability to satisfy our debt service obligations or to maintain our level of distributions on our Common Stock or Preferred Stock.

In addition, we could be adversely affected by significant volatility in the capital and credit markets as follows:

- the tenants in our office properties may experience a deterioration in their sales or other revenue, or experience a constraint on the availability of credit necessary to fund operations, which in turn may adversely impact those tenants' ability to pay contractual base rents and tenant recoveries. Some tenants may terminate their occupancy due to an inability to operate profitably for an extended period of time, impacting our ability to maintain occupancy levels; and
- constraints on the availability of credit to tenants, necessary to purchase and install improvements, fixtures and equipment and to fund business expenses, could impact our ability to procure new tenants for spaces currently vacant in existing office properties or properties under development.

In March 2023, three banks in the United States were placed into receivership by a federal banking regulator. In addition, in late March 2023, a large international financial institution suffering distress was forced by its principal regulator to be acquired by its rival. These events have caused great uncertainty and turmoil in the credit markets globally and may cause financial institutions to reduce their lending, which in turn could adversely affect our ability to access capital markets for our liquidity needs and/or cause our cost of capital to increase.

We will endeavor to limit uninsured deposits that we have with banks. Nevertheless, if a bank in which we hold funds fails or is subject to significant adverse conditions in the financial or credit markets, we could be subject to a risk of loss of all or a portion of such funds or be subject to a delay in accessing all or a portion of such uninsured funds. In addition, we have undrawn capacities under our credit facility and certain of our mortgages. Any such loss of funds on deposit, lack of access to funds held at banks or inability to borrow from any of our lenders could adversely impact our short-term liquidity and ability to meet our operating expenses or working capital needs.

Tenant concentration increases the risk that cash flow could be interrupted.

We are, and expect that we will continue to be, subject to a degree of tenant concentration at certain of our properties and or across multiple properties. Kaiser, which occupies space in one of our Oakland, California properties, accounted for 29.8% of our annualized rental income for the year ended December 31, 2022. In the event that a tenant occupying a significant portion of one or more of our properties or whose rental income represents a significant portion of the rental revenue at such property or properties were to experience financial weakness or file bankruptcy, it could have a material adverse effect on our business, financial condition, results of operations, cash flow or our ability to satisfy our debt service obligations or to maintain our level of distributions on our Common Stock or Preferred Stock.

If a major tenant declares bankruptcy, we may be unable to collect balances due under relevant leases, which could have a material adverse effect on our financial condition and ability to pay distributions to our stockholders.

The bankruptcy or insolvency of our tenants may adversely affect the income produced by our properties. Under bankruptcy law, a tenant cannot be evicted solely because of its bankruptcy and has the option to assume or reject any unexpired lease. If the tenant rejects the lease, any resulting claim we have for breach of the lease (other than to the extent of any collateral securing the claim) will be treated as a general unsecured claim. Our claim against the bankrupt tenant for unpaid and future rent will be subject to a statutory cap that might be substantially less than the remaining rent actually owed under the lease, and it is unlikely that a bankrupt tenant that rejects its lease would pay in full amounts it owes us under the lease. Even if

a lease is assumed and brought current, we still run the risk that a tenant could condition lease assumption on a restructuring of certain terms, including rent, that would have an adverse impact on us. Any shortfall resulting from the bankruptcy of one or more of our tenants could adversely affect our business, financial condition, results of operations, cash flow or our ability to satisfy our debt service obligations or to maintain our level of distributions on our Common Stock or Preferred Stock.

In addition, the financial failure of, or other default by, one or more of the tenants to whom we have exposure could have an adverse effect on the results of our operations. While we evaluate the creditworthiness of our tenants by reviewing available financial and other pertinent information, there can be no assurance that any tenant will be able to make timely rental payments or avoid defaulting under its lease. If any of our tenants' businesses experience significant adverse changes, they may fail to make rental payments when due, exercise early termination rights (to the extent such rights are available to the tenant) or declare bankruptcy. A default by a significant tenant or multiple tenants could cause a material reduction in our revenues and operating cash flows. In addition, if a tenant defaults, we may incur substantial costs in protecting our asset.

We have assumed, and in the future may assume, liabilities in connection with our property acquisitions, including unknown liabilities.

In connection with the acquisition of properties, we may assume existing liabilities, some of which may have been unknown or unquantifiable at the time of the acquisition of assets. Unknown liabilities might include liabilities for cleanup or remediation of undisclosed environmental conditions, claims of tenants or other persons dealing with the sellers prior to our acquisition of the properties, tax liabilities, and accrued but unpaid liabilities whether incurred in the ordinary course of business or otherwise. If the magnitude of such unknown liabilities is high, either singly or in the aggregate, it could adversely affect our business, financial condition, results of operations, cash flow or our ability to satisfy our debt service obligations or to maintain our level of distributions on our Common Stock or Preferred Stock.

We may be adversely affected by trends in the office real estate industry.

Telecommuting, flexible work schedules, open workspaces and teleconferencing continue to become more common. These practices enable businesses to reduce their space requirements. There is also an increasing trend among some businesses to utilize shared office space and co-working spaces. A continuation of the movement towards these practices could over time erode the overall demand for office space and, in turn, place downward pressure on occupancy, rental rates and property valuations.

We may be unable to renew leases or lease vacant office space.

As of December 31, 2022, 15.5% of the rentable square footage of our office portfolio was available for lease, and 11.2% of the occupied square footage of such office properties was scheduled to expire in 2023. The local economic environment may make the renewal of these leases more difficult, or renewal may occur at rental rates equal to or below existing rental rates. As a result, portions of our office properties may remain vacant for extended periods of time. In addition, we may have to offer substantial rent abatements, tenant improvements, concessions, early termination rights or below-market renewal options to attract new tenants or retain existing tenants. The factors described above could have a material adverse effect on our business, financial condition, results of operations, cash flow or our ability to satisfy our debt service obligations or to maintain our level of distributions on our Common Stock or Preferred Stock.

A significant portion of our net operating income is expected to come from our hotel and, as a result, our operating performance is subject to the cyclical nature of the lodging industry.

The performance of the lodging industry has historically been closely linked to the performance of the general economy and, specifically, growth in U.S. gross domestic product. Fluctuations in lodging demand and, therefore, hotel operating performance, are caused largely by general economic and local market conditions, which subsequently affect levels of business and leisure travel. For instance, increased fuel costs, natural disasters or disruptive global political events, including terrorist activity and war, are a few factors that could affect an individual's willingness to travel.

In addition to general economic conditions, lodging supply is an important factor that can affect the lodging industry's performance. Industry overbuilding and the introduction of new concepts and products such as Airbnb®, Homeaway® and VRBO® have the potential to further exacerbate the negative impact of an economic recession. Room rates and occupancy, and thus RevPAR, tend to increase when demand growth exceeds supply growth. Further, the success of our hotel property depends largely on the property operator's ability to adapt to dominant trends, competitive pressures and consolidation, as well as disruptions such as consumer spending patterns, changing demographics and the availability of labor.

An adverse change in lodging fundamentals could result in returns that are substantially below our expectations or result in losses, which could adversely affect our business, financial condition, results of operations, cash flow or our ability to satisfy our debt service obligations or to maintain our level of distributions on our Common Stock or Preferred Stock.

The outbreak of a highly infectious, contagious or widespread disease, such as COVID-19, could reduce travel and adversely affect demand for our hotel.

Our hotel operations are sensitive to the willingness and ability of our guests to travel. The outbreak of highly infectious, contagious or widespread diseases or global health emergencies will likely cause decreases in both discretionary and business travel and reduce the number of guests that visit our hotel. The degree of any decrease in travel will likely be worsened in the event such a disease causes a disruption in air or other forms of travel used by guests of our hotel. In the event a person having such a disease visits or works at our hotel, the operations at our hotel will likely be disrupted. For example, the spread of COVID-19 in the United States and the resulting restrictions on and cancellations of travel, meetings and social gatherings negatively impacted the operations of our hotel in Sacramento, California in 2021 and part of 2022.

The seasonality of the lodging industry may cause quarterly fluctuations in our revenues.

The lodging industry is seasonal in nature, which may cause quarterly fluctuations in our revenues, occupancy levels, room rates, operating expenses and cash flows. Our quarterly earnings may be adversely affected by factors outside our control, including timing of holidays, weather conditions, poor economic factors and competition in the area of our hotel. We can provide no assurances that our cash flows will be sufficient to offset any shortfalls that occur as a result of these fluctuations. As a result, we may have to enter into short-term borrowings in certain quarters in order to make distributions to our stockholders, and we can provide no assurances that such borrowings will be available on favorable terms, if at all. Consequently, volatility in our financial performance resulting from the seasonality of the lodging industry could adversely affect our business, financial condition, results of operations, cash flow or our ability to satisfy our debt service obligations or to maintain our level of distributions on our Common Stock or Preferred Stock.

The increasing use of online travel intermediaries by consumers may adversely affect our profitability.

Some of our hotel rooms are booked through online travel intermediaries, including, but not limited to, Travelocity.com, Expedia.com and Priceline.com. As online bookings increase, these intermediaries may demand higher commissions, reduced room rates or other significant contract concessions. Moreover, some of these online travel intermediaries are attempting to offer hotel rooms as a commodity, by increasing the importance of price and general indicators of quality (such as “three-star downtown hotel”) at the expense of brand identification. These intermediaries hope that consumers will develop brand loyalties to their reservations systems rather than to particular hotels. Although most of the business for our hotel is expected to be derived from consumer direct and traditional hotel channels, such as travel agencies, corporate accounts, meeting planners and recognized wholesale operators, if the amount of sales made through online intermediaries increases significantly, room revenues may be lower than expected, which could adversely affect our business, financial condition, results of operations, cash flow or our ability to satisfy our debt service obligations or to maintain our level of distributions on our Common Stock or Preferred Stock.

Increased use of technology may reduce the need for business-related travel.

The increased use of teleconference and video-conference technology by businesses could result in decreased business travel as companies increase the use of technologies that allow multiple parties from different locations to participate at meetings without traveling to a centralized meeting location. To the extent that such technologies play an increased role in day-to-day business and the necessity for business-related travel decreases, hotel room demand may decrease, which could adversely affect our business, financial condition, results of operations, cash flow or our ability to satisfy our debt service obligations or to maintain our level of distributions on our Common Stock or Preferred Stock.

We are subject to risks associated with the employment of hotel personnel, particularly with respect to unionized labor.

Our third-party manager is responsible for hiring and maintaining the labor force at our hotel. As owner of our hotel, we are responsible for and subject to many of the costs and risks generally associated with the hotel labor force, particularly with respect to unionized labor. From time to time, hotel operations may be disrupted as a result of strikes, lockouts, public demonstrations or other negative actions and publicity. We also may incur increased legal costs and indirect labor costs as a result of contract disputes or other events. The resolution of labor disputes or re-negotiated labor contracts could lead to increased labor costs, either by increases in wages or benefits or by changes in work rules that raise hotel operating costs. We do not have the ability to affect the outcome of these negotiations.

***We may be unable to renew leases or release apartment units as leases expire, or the terms of renewals or new leases may be less favorable than current leases*.**

When residents decide to leave our apartments, whether because their leases are not renewed or they leave prior to their lease expiration date, we may not be able to release their apartment units. Even if leases are renewed or we can release the apartment units, the terms of renewal or reletting may be less favorable than current lease terms. Furthermore, because our apartment leases generally have initial terms of 12 months or less, our rental revenues at our multifamily properties are impacted by declines in market rents more quickly than if our leases were for longer terms. If we are unable to promptly renew the leases or release apartment units, or if the rental rates upon renewal or releasing are lower than expected rates, our business, financial condition, results of operations, cash flow or our ability to satisfy our debt service obligations or to maintain our level of distributions on our Common Stock or Preferred Stock could be adversely affected.

We may be unable to deploy capital in a way that grows our business and, even if consummated, we may fail to successfully integrate and operate acquired properties.

We plan to deploy capital in additional real estate assets as opportunities arise. Our ability to do so on favorable terms and or successfully integrate and operate them is subject to the following significant risks:

- we may be unable to deploy capital in additional real estate assets because of competition from real estate investors with better access to less expensive capital, including real estate operating companies, publicly-traded REITs and investment funds;
- we may acquire properties that are not accretive to our results upon acquisition, and we may not successfully manage and lease those properties to meet our expectations;
- competition from other potential acquirers may significantly increase purchase prices;
- acquired properties may be located in new markets where we may face risks associated with a lack of market knowledge or understanding of the local economy, lack of business relationships in the area and unfamiliarity with local governmental and permitting procedures;
- we may be unable to generate sufficient cash from operations or obtain the necessary debt or equity financing to consummate a transaction on favorable terms or at all;
- we may need to spend more money than anticipated to make necessary improvements or renovations to acquired properties;
- we may spend significant time and money on potential transactions that we do not consummate;
- we may be unable to quickly and efficiently integrate new acquisitions into our existing operations;
- we may suffer higher than expected vacancy rates and or lower than expected rental rates; and
- we may acquire properties without any recourse, or with only limited recourse, for liabilities against the former owners of the properties.

If we cannot complete real estate transactions on favorable terms, or operate acquired assets to meet our goals or expectations, our business, financial condition, results of operations, cash flow or our ability to satisfy our debt service obligations or to maintain our level of distributions on our Common Stock or Preferred Stock could be materially adversely affected.

We may be unable to successfully expand our operations into new markets.

The risks described in the immediately preceding risk factor that are applicable to our ability to acquire and successfully integrate and operate properties in the markets in which our properties are located are also applicable to our ability to acquire and successfully integrate and operate properties in new markets. In addition to these risks, we may not possess the same level of familiarity with the dynamics and market conditions of certain new markets that we may enter, which could adversely affect our ability to expand into those markets. We may be unable to build a significant market share or achieve a desired return on our assets in new markets. If we are unsuccessful in expanding into new markets, it could have a material adverse effect on our business, financial condition, results of operations, cash flow or our ability to satisfy our debt service obligations or to maintain our level of distributions on our Common Stock or Preferred Stock.

Certain of our properties were subject to impairment charges prior to their sales, and any of our properties may be subject to impairment charges in the future.

We routinely evaluate our assets for impairment indicators (we recorded no impairment of long-lived assets for the years ended December 31, 2022 and 2021). The judgment regarding the existence and magnitude of impairment indicators is based on factors such as market conditions, tenant performance and lease structure. For example, the early termination of, or

default under, a lease by a tenant may lead to an impairment charge. If we determine that an impairment has occurred, we will be required to make a downward adjustment to the net carrying value of the property, which could have a material adverse effect on our results of operations in the period in which the impairment charge is recorded. Negative developments in the real estate market may cause management to reevaluate the business and macro-economic assumptions used in its impairment analysis. Changes in management's assumptions based on actual results may have a material impact on the Company's financial statements.

We may obtain only limited warranties when we purchase a property and typically have only limited recourse in the event our due diligence did not identify any issues that lower the value of our property.

The seller of a property often sells such property in "as is" condition on a "where is" basis and "with all faults," without any warranties of merchantability or fitness for a particular use or purpose. In addition, purchase agreements may contain only limited warranties, representations and indemnifications that survive for only a limited period after the closing and with a cap on recoverable damages. In the event we purchase a property with a limited warranty, there will be an increased risk that we will lose some or all of our capital in the property.

We may be unable to sell a property if or when we decide to do so, including as a result of uncertain market conditions or high inflation.

Real estate assets are, in general, relatively illiquid and may become even more illiquid during periods of economic downturn. As a result, we may not be able to sell our properties quickly or on favorable terms in response to changes in the economy or other conditions when it otherwise may be prudent to do so. In addition, certain significant expenditures generally do not change in response to economic or other conditions, including debt service obligations, real estate taxes, and operating and maintenance costs. This combination of variable revenue and relatively fixed expenditures may result, under certain market conditions, in reduced earnings.In addition, historically, during periods of increasing interest rates, real estate valuations have generally decreased as a result of rising capitalization rates, which tend to be positively correlated with interest rates. Consequently, prolonged periods of higher interest rates may negatively impact the valuation of our portfolio as well as lower sales proceeds from future dispositions. Accordingly, we may be unable to adjust our portfolio promptly in response to economic, market or other conditions, which could adversely affect our business, financial condition, results of operations, cash flow or our ability to satisfy our debt service obligations or to maintain our level of distributions on our Common Stock or Preferred Stock.

Some of our leases may not include periodic rental increases, or the rental increases may be less than the fair market rate at a future point in time. In either case, the value of the leased property to a potential purchaser may not increase over time, which may restrict our ability to sell that property, or if we are able to sell that property, may result in a sale price less than the price that we paid to purchase the property or the price that could be obtained if the rental income was at the then-current market rate.

We expect to hold our various real properties until such time as we decide that a sale or other disposition is appropriate given our business objectives. Our ability to dispose of properties on advantageous terms or at all depends on certain factors beyond our control, including competition from other sellers and the availability of attractive financing for potential buyers of our properties. We cannot predict the various market conditions affecting real estate assets which will exist at any particular time in the future. Due to the uncertainty of market conditions which may affect the disposition of our properties, we cannot assure our stockholders that we will be able to sell such properties at a profit or at all in the future. Accordingly, the extent to which our stockholders will receive cash distributions and realize potential appreciation on our real estate assets will depend upon fluctuating market conditions. Furthermore, we may be required to expend funds to correct defects or to make improvements before a property can be sold. We cannot assure our stockholders that we will have funds available to correct such defects or to make such improvements.

We may be unable to secure funds for our future long-term liquidity needs.

Our long-term liquidity needs will consist primarily of funds necessary for acquisitions of assets, development or repositioning of properties, capital expenditures, refinancing of indebtedness, SBA 7(a) loan originations, paying distributions on our Preferred Stock or any other preferred stock we may issue, any future repurchase and or redemption of our Preferred Stock (if we choose, or are required, to pay the redemption price in cash instead of in shares of our Common Stock), and distributions on our Common Stock. We are also in the process of converting part of an office property that we own from office to multifamily. We may not have sufficient funds on hand or may not be able to obtain additional financing to cover all of these long-term cash requirements. The nature of our business, and the requirements imposed by REIT rules that we distribute a substantial majority of our REIT taxable income on an annual basis in the form of dividends, may cause us to have substantial liquidity needs over the long-term. We will seek to satisfy our long-term liquidity needs through one or more of the following methods: (i) offerings of shares of Common Stock, Preferred Stock or other equity and or debt securities of the

Company; (ii) credit facilities and term loans; (iii) the addition of senior recourse or non-recourse debt using target acquisitions as well as existing assets as collateral; (iv) the sale of existing assets; and or (v) cash flows from operations. These sources of funding may not be available on attractive terms or at all. If we cannot obtain additional funding for our long-term liquidity needs, our assets may generate lower cash flow or decline in value, or both, which may cause us to sell assets at a time when we would not otherwise do so and could have a material adverse effect on our business, financial condition, results of operations, cash flow or our ability to satisfy our debt service obligations or to maintain our level of distributions on our Common Stock or Preferred Stock.

Income from our long-term leases at our office properties is an important source of our cash flow from operations and is subject to risks related to increases in expenses and inflation.

We are exposed to risks related to increases in market lease rates and inflation, as income from long-term leases at our office properties is an important source of our cash flow from operations. Leases of long-term duration or which include renewal options that specify a maximum rate increase may result in below-market lease rates over time if we do not accurately estimate inflation or market lease rates. Provisions of our leases designed to mitigate the risk of inflation and unexpected increases in market lease rates, such as periodic rental increases, may not adequately protect us from the impact of inflation or unexpected increases in market lease rates. If we are subject to below-market lease rates on a significant number of our properties pursuant to long-term leases and our operating and other expenses are increasing faster than anticipated, our business, financial condition, results of operations, cash flow or our ability to satisfy our debt service obligations or to maintain our level of distributions on our Common Stock or Preferred Stock could be materially adversely affected.

We may finance properties with lock-out provisions, which may prohibit us from selling a property or may require us to maintain specified debt levels for a period of years on some properties.

A lock-out provision is a provision that prohibits the prepayment of a loan during a specified period of time. Lock-out provisions may include terms that provide strong financial disincentives for borrowers to prepay their outstanding loan balance. If a property is subject to a lock-out provision, we may be materially restricted from or delayed in selling or otherwise disposing of or refinancing such property. Lock-out provisions may prohibit us from reducing the outstanding indebtedness with respect to any properties, refinancing such indebtedness at maturity, or increasing the amount of indebtedness with respect to such properties. Lock-out provisions could impair our ability to take other actions during the lock-out period that could be in the best interests of our stockholders and, therefore, may have an adverse impact on the value of our securities relative to the value that would result if the lock-out provisions did not exist. In particular, lock-out provisions could preclude us from participating in major transactions that could result in a disposition of our assets or a change of control even though that disposition or change of control might be in the best interests of our stockholders.

Increased operating expenses could reduce cash flow from operations and funds available to deploy capital or make distributions.

Our properties are subject to operating risks common to real estate in general, any or all of which may negatively affect us. If any property is not fully occupied or if rents are payable (or are being paid) in an amount that is insufficient to cover operating expenses that are our responsibility under the lease, we could be required to expend funds in excess of such rents with respect to that property for operating expenses. Our properties are subject to increases in tax rates, utility costs, insurance costs, repairs and maintenance costs, administrative costs and other operating and ownership expenses. Our property leases may not require the tenants to pay all or a portion of these expenses, in which event we may be responsible for these costs. If we are unable to lease properties on terms that require the tenants to pay all or some of the properties' operating expenses, if our tenants fail to pay these expenses as required or if expenses we are required to pay exceed our expectations, we could have less funds available for future acquisitions or cash available for distributions to our stockholders.

The market environment may adversely affect our operating results, financial condition and ability to pay distributions to our stockholders.

Continued deterioration of domestic or international financial markets could impact the availability of credit or contribute to rising costs of obtaining credit and therefore, could have the potential to adversely affect the value of our assets, the availability or the terms of financing, our ability to make principal and interest payments on, or refinance, any indebtedness and or, for our leased properties, the ability of our tenants to enter into new leasing transactions or satisfy their obligations, including the payment of rent, under existing leases. The market environment also could affect our operating results and financial condition as follows:

- *Debt Markets*—The debt market is sensitive to the macro environment, such as Federal Reserve policy, market sentiment, or regulatory factors affecting the banking and commercial mortgage backed securities industries.

Should overall borrowing costs increase, due to either increases in index rates or increases in lender spreads, our operations may generate lower returns.

- *Real Estate Markets*—While incremental demand growth has helped to reduce vacancy rates and support modest rental growth in recent years, and while improving fundamentals have resulted in gains in property values, in many markets property values, occupancy and rental rates continue to be below those previously experienced before the most recent economic downturn. If recent improvements in the economy reverse course, the properties we acquire could substantially decrease in value after we purchase them. Consequently, we may not be able to recover the carrying amount of our properties, which may require us to recognize an impairment charge or record a loss on sale in our earnings.

Real estate-related taxes may increase, and if these increases are not passed on to tenants, our income will be reduced.

We are required to pay property taxes for our properties, which can increase as property tax rates increase or as properties are assessed or reassessed by taxing authorities. In California, pursuant to an existing state law commonly referred to as Proposition 13, all or portions of a property are reassessed to market value only at the time of “change in ownership” or completion of “new construction,” and thereafter, annual property tax increases are limited to 2% of previously assessed values. As a result, Proposition 13 generally results in significant below-market assessed values over time. From time to time, lawmakers and political coalitions have initiated efforts to repeal or amend Proposition 13, including by introducing Proposition 15 on the California ballot in November 2020, which measure was not approved by voters. If successful in the future, these proposals could substantially increase the assessed values and property taxes for our properties in California. Although some tenant leases may permit us to pass through such tax increases to the tenants for payment, renewal leases or future leases may not be negotiated on the same basis. Tax increases not passed through to tenants could have a material adverse effect on our business, financial condition, results of operations, cash flow or our ability to satisfy our debt service obligations or to maintain our level of distributions on our Common Stock or Preferred Stock.

Proposition ULA may reduce the proceeds that we will receive when we sell our Los Angeles properties.

In the November 8, 2022 general election, voters approved a City of Los Angeles ballot measure called Proposition ULA. Effective April 1, 2023, the measure will increase transfer tax rates in the City of Los Angeles on real estate sales valued at $5 million or more. Specifically, the new rate will be 4% for properties valued at $5 million or more and 5.5% for properties valued at more than $10 million. As many of our properties are located in the City of Los Angeles, Proposition ULA may reduce the amount of proceeds that we will receive when we sell our Los Angeles properties. This in turn may reduce our profitability, make our properties located in the City of Los Angeles less attractive than properties located elsewhere, and make us less competitive than REITs that do not have properties in the City of Los Angeles.

We face risks associated with development, redevelopment, repositioning or construction of real estate projects.

We expect to engage in development, redevelopment, repositioning or construction of real estate projects, including, without limitation, deploying capital in unimproved real properties, and will therefore face significant risks relating to such activities. We must rely on rental income and expense projections and estimates of the fair market value of property upon completion of construction when agreeing upon a price at the time we acquire the property. If our projections are inaccurate or we may pay too much for a property, our return on our assets could suffer. We may abandon any of these activities after we begin to explore them and as a result we may lose deposits or fail to recover expenses already incurred. We may be unable to proceed with these activities because we cannot obtain financing on favorable terms or at all. We may be unable to obtain, or face delays in obtaining, required zoning, land-use, building, occupancy, and other governmental permits and authorizations, which could result in increased costs and could require us to abandon or substantially alter our plan for a project. We may incur construction costs for a development project that exceed our original estimates due to increases in interest rates, which is the economic environment that we expect to continue to face in 2023, increased materials, labor, leasing or other costs, material shortages or supply chain delays, all of which are more likely in the current inflationary environment, or unanticipated technical difficulties, which could make completion of the project less profitable because market rents may not increase sufficiently to compensate for the increase in construction costs. We may even suspend development projects after construction has begun due to changes in economic conditions or other factors, and this may result in the write-off of costs, payment of additional costs or increases in overall costs when the development project is restarted. In addition, we will be subject to normal lease-up risks relating to newly constructed projects.

We face significant competition.

Our office portfolio competes with a number of developers, owners and operators of office real estate, many of which own properties similar to ours in the same markets in which our properties are located. If our competitors offer space at rental rates below current market rates, or below the rental rates we currently charge our tenants, we may lose existing or potential

tenants and may not be able to replace them, and we may be pressured to reduce our rental rates below those we currently charge or to offer more substantial rent abatements, tenant improvements, early termination rights or below-market renewal options in order to retain tenants when our tenants' leases expire. As a result of any of the foregoing factors, our business, financial condition, results of operations, cash flow or our ability to satisfy our debt service obligations or to maintain our level of distributions on our Common Stock or Preferred Stock may be materially adversely affected.

Our hotel property competes for guests primarily with other hotels in the immediate vicinity of our hotel and secondarily with other hotels in the geographic market of our hotel. An increase in the number of competitive hotels in these areas could have a material adverse effect on the occupancy, ADR and RevPAR of our hotel.

Our multifamily portfolio competes with numerous housing alternatives in attracting residents. These alternatives include other multifamily properties, condominiums, single-family homes, third-party providers of short-term rentals and serviced apartments that are available for rent or purchase.

War and Terrorism could harm our operating results.

The strength and profitability of our business depends on demand for and the value of our properties. The war between Russia and Ukraine and the resulting economic sanctions imposed by many countries on Russia have led to disruption, instability and volatility in global markets and industries and are expected to have a negative impact on the global economy. Disruption, instability, volatility and decline in global economic activity, whether caused by acts of war, other acts of aggression or terrorism, in each case regardless where it occurs, could in turn harm the demand for and the value of our properties.

In addition, the public perception that certain locations are at greater risk for attack, such as major airports, ports, and rail facilities, may decrease the demand for and the value of our properties near these sites. A decrease in demand could make it difficult for us to renew or re-lease our properties at these sites at lease rates equal to or above historical rates. Terrorist attacks could have an adverse impact on our business even if they are not directed at our properties.

Previous terrorist attacks and subsequent terrorist alerts have adversely affected the U.S. travel and hospitality industries since 2001, often disproportionately compared to the effect on the overall economy. The extent of the impact that actual or threatened terrorist attacks in the United States or elsewhere could have on domestic and international travel and our business in particular cannot be determined, but any such attacks or the threat of such attacks could have a material adverse effect on travel and hotel demand and our ability to finance our hospitality business.

In addition, the terrorist attacks of September 11, 2001 have substantially affected the availability and price of insurance coverage for certain types of damages or occurrences, and our insurance policies for terrorism include large deductibles and co-payments. Although we maintain terrorism insurance coverage on our portfolio, the amount of our terrorism insurance coverage may not be sufficient to cover losses inflicted by terrorism and therefore could expose us to significant losses and have a negative impact on our operations.

In connection with the ownership and operation of real estate assets, we may be liable for costs and damages related to environmental matters.

Environmental laws regulate, and impose liability for, releases of hazardous or toxic substances into the environment. Under some of these laws, an owner or operator of real estate may be liable for costs related to soil or groundwater contamination on or migrating to or from its property. In addition, persons who arrange for the disposal or treatment of hazardous or toxic substances may be liable for the costs of cleaning up contamination at the disposal site.

These laws often impose liability regardless of whether the person knew of, or was responsible for, the presence of the hazardous or toxic substances that caused the contamination. The presence of, or contamination resulting from, any of these substances, or the failure to properly remediate them, may adversely affect our ability to sell or rent our property, to borrow using the property as collateral or create lender's liability for us. In addition, third parties exposed to hazardous or toxic substances may sue for personal injury damages and or property damages. For example, some laws impose liability for release of or exposure to asbestos-containing materials. As a result, in connection with our former, current or future ownership, operation, and development of real estate assets, or our role as a lender for loans secured directly or indirectly by real estate properties, we may be potentially liable for investigation and cleanup costs, penalties and damages under environmental laws.

Although many of our properties have been subjected to preliminary environmental assessments, known as Phase I assessments, by independent environmental consultants that identify certain liabilities, Phase I assessments are limited in scope, and may not include or identify all potential environmental liabilities or risks associated with a property. Unless required by

applicable law, we may decide not to further investigate, remedy or ameliorate the liabilities disclosed in the Phase I assessments.

Further, these or other environmental studies may not identify all potential environmental liabilities or accurately assess whether we will incur material environmental liabilities in the future. If we do incur material environmental liabilities in the future, our business, financial condition, results of operations, cash flow or our ability to satisfy our debt service obligations or to maintain our level of distributions on our Common Stock or Preferred Stock could be materially adversely affected.

Our real estate business is subject to risks from climate change.

Our real estate business is subject to risks associated with climate change. Climate change could trigger extreme weather and changes in precipitation, temperature, and air quality, all of which may result in physical damage to, or a decrease in demand for, our properties located in the areas affected by these conditions. Further, the assessment of the potential impact of climate change has impacted the activities of government authorities, the pattern of consumer behavior, and other areas that impact the business environment in the United States, including, but not limited to, energy-efficiency measures, water use measures, and land-use practices. The promulgation of policies, laws or regulations relating to climate change by governmental authorities in the U.S. and the markets in which the Company owns real estate may require the Company to invest additional capital in our properties.

Most of our properties are located in California. To the extent that climate change impacts changes in weather patterns, our markets could experience increases in extreme weather. For example, many of our properties are located in areas have been impacted by drought and, as such, face the risk of increased water costs and potential fines and/or penalties for high consumption. There can be no assurances that we will successfully mitigate the risk of increased water costs and potential fines and/or penalties for high consumption.

Climate change may also have indirect effects on our business by increasing the cost of, or decreasing the availability of, property insurance on terms we find acceptable or at all, or by increasing the cost of energy (or water, as described above). There can be no assurance that climate change will not have a material adverse effect on our financial condition or results of operations.

Compliance with the ADA and fire, safety and other regulations may require us to make unanticipated expenditures and/or increase our operating costs that could significantly reduce the cash available for distributions on our Common Stock or Preferred Stock.

Our properties are subject to regulation under federal laws, such as the ADA, pursuant to which all public accommodations must meet federal requirements related to access and use by disabled persons. Although we believe that our properties substantially comply with present requirements of the ADA, we have not conducted an audit or investigation of all of our properties to determine our compliance. If one or more of our properties or future properties are not in compliance with the ADA, we might be required to take remedial action, which would require us to incur additional costs to bring the property into compliance. Noncompliance with the ADA could also result in imposition of fines or an award of damages to private litigants.

Additional federal, state and local laws also may require modifications to our properties or restrict our ability to renovate our properties. We cannot predict the ultimate amount of the cost of compliance with the ADA or other legislation.

In addition, our properties are subject to various federal, state and local regulatory requirements, such as state and local earthquake, fire and life safety requirements. Local regulations, including municipal or local ordinances, zoning restrictions and restrictive covenants imposed by community developers may restrict our use of our properties and may require us to obtain approval from local officials or community standards organizations at any time with respect to our properties, including prior to acquiring a property or when undertaking renovations of any of our existing properties. If we were to fail to comply with these various requirements, we might incur governmental fines or private damage awards. If we incur substantial costs to comply with the ADA or any other regulatory requirements, our business, financial condition, results of operations, cash flow or our ability to satisfy our debt service obligations or to maintain our level of distributions on our Common Stock or Preferred Stock could be materially adversely affected.

Further, existing and future rent control or rent stabilization laws and regulations, along with similar laws and regulations that expand tenants' rights or impose additional costs on landlords, may reduce rental revenues or increase operating costs on our multifamily portfolio. Such laws and regulations limit our ability to charge market rents, increase rents, evict tenants or recover increases in our operating expenses and could reduce the value of our multifamily portfolio or make it more difficult for us to dispose of properties in certain circumstances. Expenses associated with our investment in our multifamily portfolio, such as debt service, real estate taxes, insurance and maintenance costs, are generally not reduced when circumstances cause a reduction in rental income from our multifamily portfolio. As a result, our business, financial condition, results of

operations, cash flow or our ability to satisfy our debt service obligations or to maintain our level of distributions on our Common Stock or Preferred Stock could be materially adversely affected.

Inflation may adversely affect our real estate operations

Inflation increased substantially in 2022 and inflation may continue to remain high in 2023 relative to historical levels. Inflation has caused and will likely continue to cause our construction costs, maintenances costs, operating and general and administrative expenses and interest expenses to rise, which in turn could materially adversely affect our business, financial condition, results of operations, cash flow or our ability to satisfy our debt service obligations or to maintain our level of distributions on our Common Stock or Preferred Stock. See “We may be unable to sell a property if or when we decide to do so, including as a result of uncertain market conditions or high inflation,” “--Income from our long-term leases at our office properties is an important source of our cash flow from operations and is subject to risks related to increases in expenses and inflation,” ‘--We face risks associated with development, redevelopment, repositioning or construction of real estate projects,” “--High interest rates may make it difficult for us to finance or refinance assets, which could reduce the number of properties we can acquire and the amount of cash distributions we can make” and “--Supply chain disruption and increased costs in labor and materials may adversely affect our real estate operations.”

Supply chain disruption and increased costs in labor and materials may adversely affect our real estate operations

The construction and building industry, similar to many other industries, has been experiencing worldwide supply chain disruptions due to a multitude of factors that are beyond our control, including, without limitation, the war between Russia and Ukraine. Materials, parts and labor have also increased in cost over the past year or more, sometimes significantly and over a short period of time. This could impact our ability to timely deliver spaces to tenants or complete tenant buildout or complete redevelopment or development projects. In addition, we may incur costs in the process that exceeds our original estimates due to increased costs for materials or labor or other costs that are unexpected. All of these occurrences could affect our ability to achieve the expected value of a lease, redevelopment or development, thereby adversely affecting our profitability.

Our participation in co-investments may subject us to risks that otherwise may not be present in other real estate assets.

We have entered into, and expect to continue to enter into, co-investments with respect to a portion of the properties we acquire. Co-investments involve risks generally not otherwise present with an investment in other real estate assets, such as the following:

- the risk that a co-owner may at any time have economic or business interests or goals that are or become inconsistent with our business interests or goals;
- the risk that a co-owner may be in a position to take action contrary to our instructions or requests or contrary to our policies, objectives or status as a REIT;
- the possibility that an individual co-owner might become insolvent or bankrupt, or otherwise default under the applicable mortgage loan financing documents, which may constitute an event of default under all of the applicable mortgage loan financing documents, result in a foreclosure and the loss of all or a substantial portion of the investment made by the co-owner, or allow the bankruptcy court to reject the agreements entered into by the co-owners owning interests in the property;
- the possibility that a co-owner might not have adequate liquid assets to make cash advances that may be required in order to fund operations, maintenance and other expenses related to the property, which could result in the loss of current or prospective tenants and may otherwise adversely affect the operation and maintenance of the property, and could cause a default under the applicable mortgage loan financing documents and may result in late charges, penalties and interest, and may lead to the exercise of foreclosure and other remedies by the lender;
- the risk that a co-owner could breach agreements related to the property, which may cause a default under, and possibly result in personal liability in connection with, any mortgage loan financing documents applicable to the property result in a foreclosure or otherwise adversely affect the property and the co-investment;
- the risk that we could have limited control and rights, with management decisions made entirely by a third party; and
- the possibility that we will not have the right to sell the property at a time that otherwise could result in the property being sold for its maximum value.

In the event that our interests become adverse to those of the other co-owners, we may not have the contractual right to purchase the co-investment interests from the other co-owners. Even if we are given the opportunity to purchase such co-investment interests in the future, we cannot guarantee that we will have sufficient funds available at the time to purchase co-investment interests from the co-owners.

We might want to sell our co-investment interests in a given property or other investment at a time when the other co-owners in such property or investment do not desire to sell their interests. Therefore, because we anticipate that it will be much more difficult to find a willing buyer for our co-investment interests in an investment than it would be to find a buyer for a property we owned outright, we may not be able to sell our co-investment interest in a property at the time we would like to sell.

Our manager faces conflicts of interest relating to joint ventures or other co-investment arrangements that we may enter into with CIM or its affiliates, which could result in a disproportionate benefit to CIM or its affiliates.

We have entered and expect to continue to enter into joint ventures or co-investments (including co-investment transactions) with CIM, its affiliates or vehicles managed or operated by CIM for the acquisition, development or redevelopment of real estate-related assets. Since personnel of CIM involved in managing and operating our business are also involved in the business and operations of CIM, its affiliates and other vehicles managed or operated by CIM, CIM may face conflicts of interest in determining which real estate program should enter into any particular joint venture or co-investment. These persons also may have a conflict in structuring the terms of the relationship between us and any affiliated co-venturer or co-owner, as well as conflicts of interests in managing the joint venture, which may result in the co-venturer or co-owner receiving benefits greater than the benefits that we receive.

In the event we enter into joint venture or other co-investments with CIM, its affiliates or vehicles managed or operated by CIM, the Administrator may have a conflict of interest when determining when and whether to buy or sell a particular property, or to make or dispose of another real estate-related asset. In the event we enter into a joint venture or other co-investments with CIM, its affiliates or vehicles managed or operated by CIM that has a term shorter than ours, the joint venture may be required to sell its properties earlier than we may desire to sell the properties. Even if the terms of any joint venture or other co-investments between us and CIM, its affiliates or vehicle operated or managed by CIM grants us the right of first refusal to buy such properties, we may not have sufficient funds or borrowing capacity to exercise our right of first refusal under these circumstances.

Risks Related to Debt Financing

We have incurred significant indebtedness and may incur significant additional indebtedness on a consolidated basis.

We have incurred significant indebtedness and may incur significant additional indebtedness to fund future acquisitions, development activities and operational needs. The degree of leverage could make us more vulnerable to a downturn in business or the economy generally.

Payments of principal and interest on our borrowings may leave us with insufficient cash resources to operate our properties and or pay distributions on our Common Stock or Preferred Stock. The incurrence of substantial outstanding indebtedness, and the limitations imposed by our debt agreements, could have significant other adverse consequences, including the following:

- our cash flows may be insufficient to meet our required principal and interest payments;
- we may be unable to borrow additional funds as needed or on favorable terms, which could, among other things, adversely affect our liquidity for acquisitions or operations;
- we may be unable to refinance our indebtedness at maturity or the refinancing terms may be less favorable than the terms of our existing indebtedness;
- we may be forced to dispose of one or more of our properties, possibly on disadvantageous terms;
- we may violate restrictive covenants in our debt documents, which would entitle the lenders to accelerate our debt obligations;
- we may default on our obligations and the lenders or mortgagees may foreclose on our properties and take possession of any collateral that secures their loans; and
- our default under any of our indebtedness with cross-default provisions could result in a default on other indebtedness.

If any one of these events occurs, our business, financial condition, results of operations, cash flow or our ability to satisfy our debt service obligations or to maintain our level of distributions on our Common Stock or Preferred Stock may be materially adversely affected. In addition, any foreclosure on our properties could create taxable income without the accompanying cash proceeds, which could adversely affect our ability to meet the REIT distribution requirements imposed by the Internal Revenue Code of 1986, as amended (the “Code”).

We intend to rely in part on external sources of capital to fund future capital needs and, if we encounter difficulty in obtaining such capital, we may not be able to meet maturing obligations or make additional acquisitions.

In order to qualify and maintain our qualification as a REIT under the Code, we are required, among other things, to distribute annually to our stockholders at least 90% of our REIT taxable income (which does not equal net income as calculated in accordance with GAAP), determined without regard to the deduction for dividends paid and excluding any net capital gain. Because of this dividend requirement, we may not be able to fund from cash retained from operations all of our future capital needs, including capital needed to refinance maturing obligations or make new acquisitions.

The capital and credit markets have experienced volatility and disruption as a result of the sharp rise in interest rate as a result of the Federal Reserve's attempt to combat inflation. We believe that such volatility and disruption are likely to continue into the foreseeable future. Market volatility and disruption could hinder our ability to obtain new debt financing or refinance our maturing debt on favorable terms or at all or to raise debt and equity capital. Our access to capital will depend upon a number of factors, including:

- general market conditions;
- government action or regulation, including changes in tax law;
- the market's perception of our future growth potential;
- the extent of stockholder interest;
- analyst reports about us and the REIT industry;
- the general reputation of REITs and the attractiveness of their equity securities in comparison to other equity securities, including securities issued by other real estate-based companies;
- our financial performance and that of our tenants;
- our current debt levels;
- our current and expected future earnings; and
- our cash flow and cash distributions, including our ability to satisfy the dividend requirements applicable to REITs.

If we are unable to obtain needed capital on satisfactory terms or at all, we may not be able to meet our obligations and commitments as they mature or make any new acquisitions.

High interest rates may make it difficult for us to finance or refinance assets, which could reduce the number of properties we can acquire and the amount of cash distributions we can make.

The Federal Reserve has indicated that it will continue to raise interest rates in 2023 to combat inflation. If interest rates remain at an elevated level because of the Federal Reserve's attempt to combat inflation, we run the risk of being unable to finance or refinance our assets on favorable terms or at all. If interest rates are high, when we desire to mortgage our assets or when existing loans come due and the assets need to be refinanced, we may not be able to, or may choose not to, finance the assets and we would be required to use cash to purchase or repay outstanding obligations. Our inability to use debt to finance or refinance our assets could reduce the number of assets we can acquire, which could reduce our operating cash flow and the amount of cash distributions we can make on our Common Stock or Preferred Stock. Higher costs of capital also could negatively impact our operating cash flow and returns on our assets.

Increases in interest rates could increase the amount of our debt payments and adversely affect our ability to pay distributions to our stockholders.

We have incurred indebtedness, and in the future may incur additional indebtedness, that bears interest at a variable rate. A continued high or increasing interest rate environment, which is the economic environment that the Company expects to face in 2023, will result in increases in the variable rate component of our indebtedness. As of December 31, 2022, we have $56.2 million outstanding under the 2022 credit facility and $27.1 million outstanding under our junior subordinated notes, all of which bear interest at a variable rate. We have not hedged our interest rate with respect to variable rate indebtedness. As a result, increases in interest rates will increase the amounts payable under such indebtedness, which will reduce our operating cash flows and could materially adversely affect our business, financial condition, results of operations, cash flow or our ability to satisfy our debt service obligations or to maintain our level of distributions on our Common Stock or Preferred Stock. In addition, if our existing indebtedness matures or otherwise becomes payable during a period of rising interest rates, we could be required to liquidate one or more of our assets at times that may prevent realization of the maximum return on such assets.

We may not be able to generate sufficient cash flow to meet our debt service obligations.

Our ability to make payments on and to refinance our indebtedness, and to fund our operations, working capital and capital expenditures, depends on our ability to generate cash. To a certain extent, our cash flow is subject to general economic, industry, financial, competitive, operating, legislative, regulatory and other factors, many of which are beyond our control.

We cannot assure our stockholders that our business will generate sufficient cash flow from operations or that future sources of cash will be available to us in an amount sufficient to enable us to pay amounts due on our indebtedness or to fund our other liquidity needs.

Additionally, if we incur additional indebtedness in connection with any future deployment of capital or development projects or for any other purpose, our debt service obligations could increase. We may need to refinance all or a portion of our indebtedness before maturity. Our ability to refinance our indebtedness or obtain additional financing will depend on, among other things:

- our financial condition and market conditions at the time;
- restrictions in the agreements governing our indebtedness;
- general economic and capital market conditions;
- the availability of credit from banks or other lenders; and
- our results of operations.

As a result, we may not be able to refinance our indebtedness on commercially reasonable terms, or at all. If we do not generate sufficient cash flow from operations, and additional borrowings or refinancing or proceeds of asset sales or other sources of cash are not available to us, we may not have sufficient cash to enable us to meet all of our obligations. Accordingly, if we cannot service our indebtedness, we may have to take actions such as seeking additional equity, or delaying any strategic acquisitions and alliances or capital expenditures, any of which could have a material adverse effect on our business, financial condition, results of operations, cash flow or our ability to satisfy our debt service obligations or to maintain our level of distributions on our Common Stock or Preferred Stock.

Lenders may require us to enter into restrictive covenants relating to our operations, which could limit our ability to make distributions on our Common Stock or Preferred Stock.

In connection with providing us financing, a lender could impose restrictions on us that affect our distribution and operating policies and our ability to incur additional debt. Loan documents we enter into may contain covenants that limit our ability to further mortgage the property or discontinue insurance coverage. These or other limitations imposed by a lender may adversely affect our flexibility and limit our ability to pay distributions on our Common Stock or Preferred Stock.

Interest-only indebtedness may increase our risk of default and ultimately may reduce our funds available for distribution to our stockholders.

We may finance some of our property acquisitions using interest-only mortgage indebtedness. During the interest-only period, the amount of each scheduled payment will be less than that of a traditional amortizing mortgage loan. The principal balance of the mortgage loan will not be reduced (except in the case of prepayments) because there are no scheduled monthly payments of principal during this period. After the interest-only period, we will be required either to make scheduled payments of amortized principal and interest or to make a lump-sum or “balloon” payment at maturity. These required payments will increase the amount of our scheduled payments and may increase our risk of default under the related mortgage loan. If the mortgage loan has an adjustable interest rate, the amount of our scheduled payments also may increase at a time of rising interest rates. Increased payments and substantial principal or balloon payments will reduce the funds available for distribution to our stockholders because cash otherwise available for distribution will be required to pay principal and interest associated with these mortgage loans.

Our ability to make a balloon payment at maturity is uncertain and may depend upon our ability to obtain additional financing or our ability to sell the property. At the time the balloon payment is due, we may or may not be able to refinance the loan on terms as favorable as the original loan or sell the property at a price sufficient to make the balloon payment. The effect of a refinancing or sale could affect the rate of return to stockholders and the projected time of disposition of our assets. In addition, payments of principal and interest made to service our debts may leave us with insufficient cash to pay the distributions that we are required to pay to maintain our qualification as a REIT. Any of these results would have a significant, negative impact on the value of our securities.

We may in the future enter into hedging transactions that could expose us to contingent liabilities in the future and materially adversely impact our financial condition and results of operations.

Subject to maintaining our qualification as a REIT, we may in the future enter into hedging transactions that could require us to fund cash payments in certain circumstances (e.g., the early termination of the hedging instrument caused by an event of default or other early termination event, or the decision by a counterparty to request margin securities it is contractually owed under the terms of the hedging instrument), which could in turn result in economic losses to us.

In addition, certain of the hedging instruments that we may enter into could involve additional risks if they are not traded on regulated exchanges, guaranteed by an exchange or our clearing house, or regulated by any U.S. or foreign governmental authorities. It cannot be assured that a liquid secondary market will exist for hedging instruments that we may enter into in the future, and we may be required to maintain a position until exercise or expiration, which could result in significant losses.

We intend to record any derivative and hedging transactions we enter into in accordance with GAAP. However, we may choose not to pursue, or fail to qualify for, hedge accounting treatment relating to such derivative instruments. As a result, our operating results may suffer because losses, if any, on these derivative instruments may not be offset by a change in the fair value of the related hedged transaction or item. Any losses sustained as a result of our hedging transactions would be reflected in our results of operations, and our ability to fund these obligations will depend on the liquidity of our assets and access to capital at the time, and the need to fund these obligations could have a material adverse effect on our business, financial condition, results of operations, cash flow or our ability to satisfy our debt service obligations or to maintain our level of distributions on our Common Stock or Preferred Stock.

We may be adversely affected by the potential discontinuation of the London Interbank Offered Rate ("LIBOR").

In July 2017, the Financial Conduct Authority in the United Kingdom (the "FCA"), which regulates LIBOR, announced that it intends to stop compelling banks to submit rates for the calculation of LIBOR after December 31, 2021. On March 5, 2021, the FCA announced that the 1-week and 2-month U.S. dollar LIBOR settings will cease publication after December 31, 2021 and the overnight 1, 3, 6 and 12 months U.S. dollar LIBOR settings will cease publication after June 30, 2023. However, the FCA has indicated it will not compel panel banks to continue to contribute to LIBOR after the end of 2021 and the Federal Reserve Board, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation have encouraged banks to cease entering into new contracts that use U.S. dollar LIBOR as a reference rate no later than December 31, 2021. To identify a successor rate for U.S. dollar LIBOR, the Alternative Reference Rates Committee ("ARRC"), a U.S.-based group convened by the U.S. Federal Reserve Board and the Federal Reserve Bank of New York, was formed. On July 29, 2021, the ARRC formally recommended the Secured Overnight Financing Rate ("SOFR") as its preferred alternative rate for LIBOR for use in derivatives and other financial contracts currently indexed to LIBOR. SOFR is a measure of the cost of borrowing cash overnight, collateralized by U.S. Treasury securities, and is based on directly observable U.S. Treasury-backed repurchase transactions. The ARRC has proposed a paced market transition plan to SOFR from LIBOR. There are significant differences between LIBOR and SOFR, such as LIBOR being an unsecured lending rate while SOFR is a secured lending rate, and SOFR is an overnight rate while LIBOR reflects term rates at different maturities. Although SOFR is the ARRC's recommended replacement rate, it is also possible that lenders may instead choose alternative replacement rates that may differ from LIBOR in ways similar to SOFR. The transition from LIBOR to SOFR or other alternative reference rates may also introduce operational risks in our accounting, financial reporting, loan servicing, liability management and other aspects of our business. However, we cannot reasonably estimate the impact of the transition at this time. Although there have been a few issuances utilizing SOFR or the Sterling Over Night Index Average, an alternative reference rate that is based on transactions, it is unknown whether these alternative reference rates will attain market acceptance as replacements for LIBOR.

When LIBOR is discontinued, the interest rate for any of our indebtedness that is indexed to LIBOR at the time of discontinuation will be based on a replacement rate or an alternate base rate as specified in the applicable documentation governing such indebtedness or as otherwise agreed by us and the applicable lender. Such an event would not affect our ability to borrow or maintain already outstanding borrowings, but the replacement rate or alternate base rate could be higher or more volatile than LIBOR prior to its discontinuance. For instance, as of December 31, 2022, we had $27.1 million of junior subordinated notes that were indexed to LIBOR. The full impact of the expected transition away from LIBOR is unclear, but these changes could have a material adverse effect on our business, financial condition, results of operations, cash flow or our ability to satisfy our debt service obligations or to maintain our level of distributions on our Common Stock or Preferred Stock.

Risks Related to Our Lending Operations

***Our lending operations expose us to a high degree of risk associated with real estate*.**

The performance and value of our loans depends upon many factors beyond our control. The ultimate performance and value of our loans are subject to risks associated with the ownership and operation of the properties which collateralize our loans, including the property owner's ability to operate the property with sufficient cash flow to meet debt service requirements. The performance and value of the properties collateralizing our loans may be adversely affected by:

- changes in national or regional economic conditions;
- changes in real estate market conditions due to changes in national, regional or local economic conditions or property market characteristics;
- competition from other properties;
- changes in interest rates and the condition of the debt and equity capital markets;
- the ongoing need for capital repairs and improvements;
- increases in real estate tax rates and other operating expenses (including utilities);
- adverse changes in governmental rules and fiscal policies; acts of God, including earthquakes, hurricanes, fires and other natural disasters; pandemic outbreaks and other global health emergencies; disruptive global political events, including terrorist activity and war (including the war between Russia and Ukraine, which has led to disruption, instability and volatility in global markets and industries); or a decrease in the availability of or an increase in the cost of insurance;
- adverse changes in zoning laws;
- the impact of environmental legislation and compliance with environmental laws; and
- other factors that are beyond our control or the control of the commercial property owners.

In the event that any of the properties underlying our loans experience any of the foregoing events or occurrences, the value of, and return on, such loans may be negatively impacted, which in turn could have a material adverse effect on our business, financial condition, results of operations, cash flow or our ability to satisfy our debt service obligations or to maintain our level of distributions on our Common Stock or Preferred Stock.

There are significant risks related to loans originated under the SBA 7(a) Program.

Many of the borrowers under our SBA 7(a) Program are privately-owned businesses. There is typically no publicly available information about these businesses; therefore, we must rely on our own due diligence to obtain information in connection with our decisions. Our borrowers may not meet net income, cash flow and other coverage tests typically imposed by banks. A borrower's ability to repay its loan may be adversely impacted by numerous factors, including a downturn in its industry or other negative local or macro-economic conditions. Deterioration in a borrower's financial condition and prospects may be accompanied by deterioration in the collateral for the loan. In addition, small businesses typically depend on the management talents and efforts of one person or a small group of people for their success. The loss of services of one or more of these persons could have an adverse impact on the operations of the small business. Small companies are typically more vulnerable to customer preferences, market conditions and economic downturns and often need additional capital to maintain the business, expand or compete. These factors may have an impact on the ultimate recovery of our loans receivable from such businesses. Loans to small businesses, therefore, involve a high degree of business and financial risk, which can result in substantial losses and accordingly should be considered speculative. The factors described above could have a material adverse effect on our business, financial condition, results of operations, cash flow or our ability to satisfy our debt service obligations or to maintain our level of distributions on our Common Stock or Preferred Stock.

Our loans secured by real estate and our REO properties are typically illiquid and their values may decrease.

Our loans secured by real estate and our real estate acquired through foreclosure are typically illiquid. Therefore, we may be unable to vary our portfolio promptly in response to changing economic, financial and investment conditions. As a result, the fair market value of these assets may decrease in the future and losses may result. The illiquid nature of our loans may adversely affect our ability to dispose of such loans at times when it may be advantageous or necessary for us to liquidate such assets, which in turn could have a material adverse effect on our business, financial condition, results of operations, cash flow or our ability to satisfy our debt service obligations or to maintain our level of distributions on our Common Stock or Preferred Stock.

Our lending operations have an industry concentration, which may negatively impact our financial condition and results of operations.

A majority of our revenue from the lending operations is generated from loans collateralized by hospitality properties. As of December 31, 2022, our loans subject to credit risk were 99.9% concentrated in the hospitality industry. Any factors that negatively impact the hospitality industry, including the outbreak of pandemic, recessions, severe weather events (such as hurricanes, blizzards, floods, etc.), depressed commercial real estate markets, travel restrictions, bankruptcies or other political or geopolitical events or the introduction of new concepts and products such as Airbnb®, Homeaway® and VRBO®, could have a material adverse effect on our business, financial condition, results of operations, cash flow or our ability to satisfy our debt service obligations or to maintain our level of distributions on our Common Stock or Preferred Stock.

Establishing loan loss reserves entails significant judgment and may negatively impact our results of operations.

We have a quarterly review process to identify and evaluate potential exposure to loan losses. The determination of whether significant doubt exists and whether a loan loss reserve is necessary requires judgment and consideration of the facts and circumstances existing at the evaluation date. Additionally, further changes to the facts and circumstances of the individual borrowers, the limited service hospitality industry and the economy may require the establishment of additional loan loss reserves and the effect to our results of operations would be adverse. If our judgments underlying the establishment of our loan loss reserves are not correct, our results of operations may be negatively impacted.

Whenever our borrowers experience significant operating difficulties and we are forced to liquidate the collateral underlying the loans, losses may be relatively substantial and could have a material adverse effect on our business, financial condition, results of operations, cash flow or our ability to satisfy our debt service obligations or to maintain our level of distributions on our Common Stock or Preferred Stock.

Our SBA 7(a) Program loans are subject to delinquency, foreclosure and loss, any or all of which could result in losses.

Our loans originated pursuant to the SBA 7(a) Program are collateralized by income-producing properties and typically have personal guarantees. These loans are predominantly to operators of limited service hospitality properties. As a result, these operators are subject to risks associated with the hospitality industry, including the outbreak of pandemic, recessions, severe weather events, depressed commercial real estate markets, travel restrictions, bankruptcies or other political or geopolitical events.

Our SBA 7(a) loans that have real estate as collateral are subject to risks of delinquency and foreclosure. The ability of a borrower to repay a loan secured by an income-producing property typically is dependent primarily upon the successful operation of such property rather than upon the existence of independent income or assets of the borrower. If the net operating income of and or cash flow from the property is reduced, the borrower’s ability to repay the loan may be impaired. Net operating income of and or cash flow from an income-producing property can be affected by, among other things, tenant mix, success of tenant businesses, onsite property management decisions, property location and condition, competition from comparable types of properties, changes in laws that increase operating expenses or limit rents that may be charged, any need to address environmental contamination at the property, the occurrence of any uninsured casualty at the property, changes in national, regional or local economic conditions and or specific industry segments, declines in regional or local real estate values, declines in regional or local rental or occupancy rates, increases in interest rates, real estate tax rates and other operating expenses, changes in governmental rules, regulations and fiscal policies, including environmental legislation, acts of God, terrorism, social unrest and civil disturbances.

In the event of a loan default, we will bear a risk of loss of principal to the extent of any deficiency between the value of the collateral multiplied by our percentage ownership and the unguaranteed portion of the principal and accrued interest on the loan. In the event of the bankruptcy of the borrower, the loan to such borrower will be deemed collateralized only to the extent of the value of the underlying property at the time of the bankruptcy (as determined by the bankruptcy court). In addition to losses related to collateral deficiencies, during the foreclosure process we may incur costs related to the protection of our collateral including unpaid real estate taxes, legal fees, franchise fees, insurance and operating shortfalls to the extent the property is being operated by a court-appointed receiver.

Foreclosure and bankruptcy are complex and sometimes lengthy processes that are subject to federal and state laws and regulations. An action to foreclose on a property is subject to many of the delays and expenses of other lawsuits if the defendant raises defenses or counterclaims. In the event of a default by a mortgagor, these restrictions, among other things, may impede our ability to foreclose on or sell the mortgaged property or to obtain proceeds sufficient to repay all amounts due under the note. Further, borrowers have the option of seeking federal bankruptcy protection which could delay the foreclosure process. In conjunction with the bankruptcy process, the terms of the loan agreements may be modified. Typically, delays in the foreclosure process will have a negative impact on our results of operations and or financial condition due to direct and

indirect costs incurred and possible deterioration of the value of the collateral. After foreclosure has been completed, a lack of funds or capital may force us to sell the underlying property resulting in a lower recovery even though developing the property prior to a sale could result in a higher recovery.

As a result of the factors described above, defaults on SBA 7(a) Program loans could have a material adverse effect on our business, financial condition, results of operations, cash flow or our ability to satisfy our debt service obligations or to maintain our level of distributions on our Common Stock or Preferred Stock.

Curtailment of our ability to utilize the SBA 7(a) Program by the federal government could adversely affect our results of operations.

We are dependent upon the federal government to maintain the SBA 7(a) Program. There can be no assurance that the program will be maintained or that loans will continue to be guaranteed at current levels. In addition, there can be no assurance that our SBA lending subsidiary, First Western SBLC, Inc. ("First Western") will be able to maintain its status as a "Preferred Lender" under PLP (as defined below) or that we can maintain our SBA 7(a) license.

If we cannot continue originating and selling government guaranteed loans at current levels of profitability, we could experience a decrease in future servicing spreads and earned premiums. From time-to-time the SBA has reached its internal budgeted limits and ceased to guarantee loans for a stated period of time. In addition, the SBA may change its rules regarding loans or Congress may adopt legislation or fail to approve a budget that would have the effect of discontinuing, reducing availability of funds for, or changing loan programs. Non-governmental programs could replace government programs for some borrowers, but the terms might not be equally acceptable. If these changes occur, the volume of loans to small businesses that now qualify for government guaranteed loans could decline, as could the profitability of these loans.

First Western has been granted national preferred lender program ("PLP") status and originates, sells and services small business loans and is authorized to place SBA guarantees on loans without seeking prior SBA review and approval. Being a national lender, PLP status allows First Western to expedite loans since First Western is not required to present applications to the SBA for concurrent review and approval. The loss of PLP status could have a material adverse effect on our business, financial condition, results of operations, cash flow or our ability to satisfy our debt service obligations or to maintain our level of distributions on our Common Stock or Preferred Stock.

If our lending operation fails to comply with SBA regulations in connection with the origination, servicing, or liquidation of an SBA 7(a) loan, liability on the SBA guaranty, in whole or part, could be transferred back to our lending operations.

Many of the loans originated by our lending operations are under the auspices of the SBA 7(a) program. If we fail to comply with SBA's regulations in connection with the origination, servicing, or liquidation of an SBA 7(a) loan, the SBA may be released from liability on its guaranty of a 7(a) loan, and may refuse to honor a guaranty purchase request in full (referred to by SBA as a "denial") or in part (referred to by SBA as a "repair"), or recover all or part of the funds already paid in connection with a guaranty purchase. In the event of a repair or denial, liability on the SBA guaranty, in whole or part, would be transferred back to our lending operations, which in turn could have a material adverse effect on our business, financial condition, results of operations, cash flow or our ability to satisfy our debt service obligations or to maintain our level of distributions on our Common Stock or Preferred Stock.

We operate in a competitive market for real estate opportunities and future competition for commercial real estate collateralized loans may limit our ability to originate or dispose of our target loans and could also affect the yield of these loans.

We are in competition with a number of entities for the types of commercial real estate collateralized loans that we may originate. These entities include, among others, debt funds, specialty finance companies, savings and loan associations, banks and financial institutions. Some of these competitors may be substantially larger and have considerably greater financial, technical and marketing resources than we do. Some of these competitors may also have a lower cost of funds and access to funding sources that may not be available to us currently. In addition, many of our competitors may not be subject to operating constraints associated with REIT qualification or maintenance of exclusions from registration under the Investment Company Act. Furthermore, competition may further limit our ability to generate desired returns. Due to this competition, we may not be able to take advantage of attractive opportunities from time to time, and can offer no assurance that we will be able to identify and deploy our capital in a manner consistent with our objective. We cannot guarantee that the competitive pressures we face will not have a material adverse effect on our business, financial condition, results of operations, cash flow or our ability to satisfy our debt service obligations or to maintain our level of distributions on our Common Stock or Preferred Stock.

We may be subject to lender liability claims.

In recent years, a number of judicial decisions have upheld the right of borrowers to sue lending institutions on the basis of various evolving legal theories, collectively termed "lender liability." Generally, lender liability is founded on the premise that a lender has either violated a duty, whether implied or contractual, of good faith and fair dealing owed to the borrower or has assumed a degree of control over the borrower resulting in the creation of a fiduciary duty owed to the borrower or our other creditors or stockholders. There can be no assurance that that such claims will not arise or that we will not be subject to significant liability if a claim of this type did arise.

U.S. Federal Income and Other Tax Risks

Failure to qualify and maintain our qualification as a REIT would have significant adverse consequences to us and the value of our securities.

We believe that we are organized and qualify as a REIT and intend to operate in a manner that will allow us to continue to qualify as a REIT. However, we cannot guarantee that we are qualified as such, or that we will remain qualified as such in the future. This is because qualification as a REIT involves the application of highly technical and complex provisions of the Code as to which there are only limited judicial and administrative interpretations and involves the determination of facts and circumstances not entirely within our control. Future legislation, new regulations, administrative interpretations or court decisions may significantly change the tax laws or the application of the tax laws with respect to qualification as a REIT for federal income tax purposes or the federal income tax consequences of such qualification.

If we fail to qualify as a REIT, we could face serious tax consequences that could substantially reduce our funds available for payment of distributions to our stockholders for each of the years involved because:

- we would not be allowed a deduction for dividends paid to stockholders in computing our taxable income and would be subject to federal income tax at regular corporate rates;
- we also could be subject to increased state and local taxes; and
- unless we are entitled to relief under statutory provisions, we could not elect to be subject to be taxed as a REIT for four taxable years following the year during which we are disqualified.

Any such corporate tax liability could be substantial and would reduce our cash available for, among other things, our operations and distributions to stockholders. As a result of these factors, our failure to qualify as a REIT could have a material adverse effect on our business, financial condition, results of operations, cash flow or our ability to satisfy our debt service obligations or to maintain our level of distributions on our Common Stock or Preferred Stock. If we fail to qualify as a REIT for federal income tax purposes and are able to avail ourselves of one or more of the relief provisions under the Code in order to maintain our REIT status, we might nevertheless be required to pay certain penalty taxes for each such failure.

Dividends payable by REITs do not qualify for the reduced tax rates available for some dividends.

Income from "qualified dividends" payable to U.S. stockholders that are individuals, trusts and estates are generally subject to tax at preferential rates. Dividends payable by REITs, however, generally are not eligible for the preferential tax rates applicable to qualified dividend income. Although these rules do not adversely affect the taxation of REITs or dividends payable by REITs, to the extent that the preferential rates continue to apply to regular corporate qualified dividends, investors that are individuals, trusts and estates may perceive investments in REITs to be relatively less attractive than investments in the stocks of non-REIT corporations that pay dividends, which could materially and adversely affect the value of the shares of REITs, including the per share trading price of our securities. However, under the Tax Cuts and Jobs Act of 2017 (the "Tax Cuts and Jobs Act") for taxable years prior to 2026, non-corporate U.S. stockholders of REITs may deduct up to 20% of any "qualified REIT dividends." A qualified REIT dividend is defined as any dividend from a REIT that is not a capital gain dividend or a dividend attributable to dividend income from U.S. corporations or certain non-U.S. corporations. A non-corporate U.S. stockholder's ability to claim a deduction equal to 20% of qualified REIT dividends received may be limited by the stockholder's particular circumstances.

Our ownership of and relationship with our taxable REIT subsidiaries will be limited, and a failure to comply with the limits would jeopardize our REIT status and may result in the application of a 100% excise tax.

Subject to certain restrictions, a REIT may own up to 100% of the stock of one or more taxable REIT subsidiaries ("TRSs"). A TRS may hold assets and earn income that would not be qualifying assets or income if held or earned directly by the REIT. Both the subsidiary and the REIT must jointly elect to treat the subsidiary as a TRS. A corporation of which a TRS directly or indirectly owns more than 35% of the voting power or value of the stock will automatically be treated as a TRS. Overall, no more than 20% of the value of a REIT's assets may consist of stock or securities of one or more TRSs. A TRS

generally will pay income tax at regular corporate rates on any taxable income that it earns. In addition, the TRS rules limit the deductibility of interest paid or accrued by a TRS to its parent REIT to assure that the TRS is subject to an appropriate level of corporate taxation. The rules also impose a 100% excise tax on certain transactions between a TRS and its parent REIT that are not conducted on an arm's-length basis.

Our TRSs are subject to normal corporate income taxes. We continuously monitor the value of our investments in TRSs for the purpose of ensuring compliance with the rule that no more than 20% of the value of our assets may consist of TRS stock and securities (which is applied at the end of each calendar quarter). The aggregate value of our TRS stock and securities was less than 20% of the value of our total assets (including our TRS stock and securities) as of December 31, 2022. In addition, we scrutinize all of our transactions with our TRSs for the purpose of ensuring that they are entered into on arm's-length terms in order to avoid incurring the 100% excise tax described above. There are no distribution requirements applicable to the TRSs and after-tax earnings may be retained. There can be no assurance, however, that we will be able to comply with the 20% limitation on ownership of TRS stock and securities on an ongoing basis so as to maintain REIT status or to avoid application of the 100% excise tax imposed on certain non-arm's-length transactions.

We may be subject to adverse legislative or regulatory tax changes that could increase our tax liability or reduce our operating flexibility, including changes resulting from the recently passed Tax Cuts and Jobs Act.

In recent years, numerous legislative, judicial and administrative changes have been made in the provisions of U.S. federal income tax laws applicable to investments similar to an investment in shares of our capital stock. Additional changes to the tax laws are likely to continue to occur, and we cannot assure our stockholders that any such changes will not adversely affect our taxation and our ability to continue to qualify as a REIT or the taxation of a stockholder. Any such changes could have an adverse effect on an investment in our shares or on the market value or the resale potential of our assets. Our stockholders are urged to consult with their tax advisors with respect to the impact of recent legislation on their investment in our shares and the status of legislative, regulatory or administrative developments and proposals and their potential effect on an investment in our shares or on our ability to continue to qualify as a REIT. Even changes that do not impose greater taxes on us could potentially result in adverse consequences to our stockholders. Although REITs generally receive better tax treatment than entities taxed as regular corporations, it is possible that future legislation (such as a decrease in corporate tax rates) would result in a REIT having fewer tax advantages, and it could decrease the attractiveness of the REIT structure relative to companies that are not organized as REITs. As a result, our charter provides our Board of Directors with the power, under certain circumstances, to revoke or otherwise terminate our REIT election and cause us to be taxed as a regular corporation, without the vote of our stockholders. Our Board of Directors has fiduciary duties to us and our stockholders and could only cause such changes in our tax treatment if it determines in good faith that such changes are in the best interests of our stockholders.

In addition, the Tax Cuts and Jobs Act makes significant changes to the U.S. federal income tax rules for taxation of individuals and businesses, generally effective for taxable years beginning after December 31, 2017. In addition to reducing corporate and individual tax rates, the Tax Cuts and Jobs Act eliminates or restricts various deductions. Many of the changes applicable to individuals are temporary and apply only to taxable years beginning after December 31, 2017 and before January 1, 2026. The Tax Cuts and Jobs Act makes numerous large and small changes to the tax rules that do not affect the REIT qualification rules directly but may otherwise affect us or our stockholders and could impact the geographic markets in which we operate as well as our tenants in ways, both positive and negative, that are difficult to anticipate. For example, the limitation in the Tax Cuts and Jobs Act on the deductibility of certain state and local taxes may make operating in jurisdictions that impose such taxes at higher rates less desirable than operating in jurisdictions imposing such taxes at lower rates.

While the changes in the Tax Cuts and Jobs Act generally appear to be favorable with respect to REITs, the extensive changes to non-REIT provisions in the Code may have unanticipated effects on us or our stockholders. Moreover, certain provisions of the Tax Cuts and Jobs Act give rise to issues needing clarification and unintended consequences that will have to be revisited in subsequent tax legislation or administrative guidance. At this point, it is not clear if or when Congress or the Internal Revenue Service will resolve these issues.

In certain circumstances, we may be subject to certain federal, state and local taxes as a REIT, which would reduce our cash available for distribution to our stockholders.

Even if we qualify and maintain our status as a REIT, we may be subject to certain federal, state and local taxes. For example, net income from the sale of properties that are "dealer" properties sold by a REIT (a "prohibited transaction" under the Code) will be subject to a 100% excise tax, and some state and local jurisdictions may tax some or all of our income because not all states and localities treat REITs the same as they are treated for federal income tax purposes. Any federal, state or local taxes we pay will reduce our cash available for distribution to our stockholders. Moreover, as discussed above, our TRSs are generally subject to corporate income taxes and excise taxes in certain cases. Additionally, if we are not able to make

sufficient distributions to eliminate our REIT taxable income, we may be subject to tax as a corporation on our undistributed REIT taxable income. We may also decide to retain income we earn from the sale or other dispositions of our properties and pay income tax directly on such income. In that event, our stockholders would be treated as if they earned that income and paid the tax on it directly. However, stockholders that are tax-exempt, such as charities or qualified pension plans, would have no benefit from their deemed payment of such tax liability.

REIT annual distribution requirements may force us to forgo otherwise attractive opportunities or borrow funds during unfavorable market conditions. This could delay or hinder our ability to meet our objectives and reduce our stockholders' overall return.

In order to qualify as a REIT, we must distribute annually to our stockholders at least 90% of our REIT taxable income (which does not equal net income as calculated in accordance with GAAP), determined without regard to the deduction for dividends paid and excluding any net capital gain. We will be subject to U.S. federal income tax on our undistributed taxable income and net capital gain and to a 4% nondeductible excise tax on any amount by which dividends we pay with respect to any calendar year are less than the sum of (i) 85% of our ordinary income, (ii) 95% of our capital gain net income and (iii) 100% of our undistributed income from prior years.

Further, to maintain our qualification as a REIT, we must ensure that we meet the REIT gross income tests annually and that at the end of each calendar quarter, at least 75% of the value of our assets consists of cash, cash items, government securities and qualified REIT real estate assets, including certain mortgage loans and certain kinds of mortgage-related securities. The remainder of our investment in securities (other than government securities, qualified real estate assets and stock of a TRS) generally cannot include more than 10% of the outstanding voting securities of any one issuer or more than 10% of the total value of the outstanding securities of any one issuer. In addition, in general, no more than 5% of the value of our assets (other than government securities, qualified real estate assets and stock of a TRS) can consist of the securities of any one issuer, no more than 20% of the value of our total assets can be represented by securities of one or more TRSs and no more than 25% of the value of our total assets can be represented by certain debt securities of publicly offered REITs. If we fail to comply with these requirements at the end of any calendar quarter, we must correct the failure within 30 days after the end of the calendar quarter or qualify for certain statutory relief provisions to avoid losing our REIT qualification and suffering adverse tax consequences.

The foregoing requirements could cause us to distribute amounts that otherwise would be spent on deploying capital in real estate assets and it is possible that we might be required to borrow funds, possibly at unfavorable rates, or sell assets to fund these dividends or make taxable stock dividends. Although we intend to make distributions sufficient to meet the annual distribution requirements and to avoid U.S. federal income and excise taxes on our earnings, it is possible that we might not always be able to do so.

Non-U.S. stockholders may be subject to U.S. federal withholding tax and may be subject to U.S. federal income tax upon the disposition of our shares.

Gain recognized by a non-U.S. stockholder upon the sale or exchange of shares of our capital stock generally will not be subject to U.S. federal income taxation unless such stock constitutes a "U.S. real property interest" ("USRPI") under the Foreign Investment in Real Property Tax Act of 1980 ("FIRPTA"). Shares of our capital stock will not constitute a USRPI so long as we are a "domestically-controlled qualified investment entity." A domestically-controlled qualified investment entity includes a REIT if at all times during a specified testing period, less than 50% in value of such REIT's stock is held directly or indirectly by non-U.S. stockholders. We believe that we are a domestically-controlled qualified investment entity. However, because our capital stock is and will be freely transferable (other than restrictions on ownership and transfer that are intended to, among other purposes, assist us in maintaining our qualification as a REIT for federal income tax purposes as described in the risk factor "The share transfer and ownership restrictions applicable to REITs and contained in our charter may inhibit market activity in our shares of stock and restrict our business combination opportunities"), no assurance can be given that we are or will be a domestically-controlled qualified investment entity.

Even if we do not qualify as a domestically-controlled qualified investment entity at the time a non-U.S. stockholder sells or exchanges shares of our capital stock, gain arising from such a sale or exchange would not be subject to U.S. taxation under FIRPTA as a sale of a USRPI if: (i) the class of shares of capital stock sold or exchanged is "regularly traded," as defined by applicable U.S. Treasury regulations, on an established securities market, and (ii) such non-U.S. stockholder owned, actually or constructively, 10% or less of the outstanding shares of such class of capital stock at all times during the shorter of the five-year period ending on the date of the sale and the period that such non-U.S. stockholder owned such shares. If the class of shares of capital stock sold or exchanged is not "regularly traded," gain arising from such sale or exchange would not be subject to U.S. taxation under FIRPTA as a sale of a USRPI if: (A) on the date the shares were acquired by the non-U.S. stockholder, such shares did not have a fair market value greater than the fair market value on that date of 5% of the "regularly traded" class

of our outstanding shares of capital stock with the lowest fair market value, and (B) the test in clause (A) is also satisfied as of the date of any subsequent acquisition by such non-U.S. stockholder of additional shares of the same non-"regularly traded" class of our capital stock, including all such shares owned as of such date by such non-U.S. stockholder. Complex constructive ownership rules apply for purposes of determining the amount of shares held by a non-U.S. stockholder for these purposes.

Complying with REIT requirements may limit our ability to hedge our liabilities effectively and may cause us to incur tax liabilities.

The REIT provisions of the Code may limit our ability to hedge our liabilities. Any income from a hedging transaction we enter into to manage risk of interest rate changes, price changes or currency fluctuations with respect to borrowings made or to be made to acquire or carry real estate assets or to offset certain other positions, if properly identified under applicable U.S. Treasury regulations, does not constitute "gross income" for purposes of the 75% or 95% gross income tests. To the extent that we enter into other types of hedging transactions, the income from those transactions will likely be treated as non-qualifying income for purposes of one or both of the gross income tests. As a result of these rules, we may need to limit our use of advantageous hedging techniques or implement those hedges through a TRS. This could increase the cost of our hedging activities because our TRSs would be subject to tax on gains or expose us to greater risks associated with changes in interest rates than we would otherwise want to bear. In addition, losses in a TRS generally will not provide any tax benefit, except for being carried forward against future taxable income of such TRS.

Our property taxes could increase due to property tax rate changes or reassessment, which would impact our cash flows.

We will be required to pay some state and local taxes on our properties. The real property taxes on our properties may increase as property tax rates change or as our properties are assessed or reassessed by taxing authorities. Therefore, the amount of property taxes we pay in the future may increase substantially. If the property taxes we pay increase and if any such increase is not reimbursable under the terms of our lease, then our cash flows will be impacted, which in turn could have a material adverse effect on our business, financial condition, results of operations, cash flow or our ability to satisfy our debt service obligations or to maintain our level of distributions on our Common Stock or Preferred Stock.

REIT stockholders can receive taxable income without cash distributions.

Under certain circumstances, REITs are permitted to pay required dividends in shares of their stock rather than in cash. If we were to avail ourselves of that option, our stockholders could be required to pay taxes on such stock distributions without the benefit of cash distributions to pay the resulting taxes.

The share transfer and ownership restrictions applicable to REITs and contained in our charter may inhibit market activity in our shares of stock and restrict our business combination opportunities.

In order to continue to qualify as a REIT, five or fewer individuals, as defined in the Code, may not own, actually or constructively, more than 50% in value of our issued and outstanding shares of stock at any time during the last half of each taxable year, other than the first year for which a REIT election is made. Attribution rules in the Code determine if any individual or entity actually or constructively owns our shares of stock under this requirement. Additionally, at least 100 persons must beneficially own our shares of stock during at least 335 days of a taxable year for each taxable year, other than the first year for which a REIT election is made. To help ensure that we meet these tests, among other purposes, our charter restricts the acquisition and ownership of our shares of stock.

Our charter, with certain exceptions, authorizes our directors to take such actions as are necessary and advisable to preserve our qualification as a REIT. Unless exempted by the Board of Directors, for as long as we continue to qualify as a REIT, our charter prohibits, among other limitations on ownership and transfer of shares of our stock, any person from beneficially or constructively owning (applying certain attribution rules under the Code) more than 6.25% (in value or in number of shares, whichever is more restrictive) of the aggregate of our outstanding shares of capital stock and more than 6.25% (in value or in number of shares, whichever is more restrictive) of our Common Stock. The Board of Directors, in its sole discretion and upon receipt of certain representations and undertakings, may exempt a person (prospectively or retrospectively) from the ownership limits. However, the Board of Directors may not, among other limitations, grant an exemption from these ownership restrictions to any proposed transferee whose ownership, direct or indirect, in excess of the 6.25% ownership limit would result in the termination of our qualification as a REIT. These restrictions on transfer and ownership will not apply, however, if the Board of Directors determines that it is no longer in our best interest to continue to qualify as a REIT or that compliance with the restrictions is no longer required in order for us to continue to so qualify as a REIT.

These ownership limits could delay or prevent a transaction or a change in control that might involve a premium price for our capital stock or otherwise be in the best interest of our stockholders.

Risks Related to Our Common Stock and Preferred Stock

There is no public market for our Preferred Stock, and we do not expect any such market to develop.

There is no public market for our Preferred Stock, and we currently have no plan to list any of these securities on a securities exchange or to include any of these shares for quotation on any national securities market. Additionally, our charter contains restrictions on the ownership and transfer of our securities, and these restrictions may inhibit your ability to sell our Preferred Stock promptly or at all. If you are able to sell shares of our Preferred Stock, you may only be able to sell them at a substantial discount from the price you paid. Therefore, you should purchase our Preferred Stock only as a long term investment.

None of our Preferred Stock has been rated.

We have not obtained, and currently do not intend to obtain, a rating for the Series A1 Preferred Stock, Series A Preferred Stock or Series D Preferred Stock, and it is likely that none of such Preferred Stock will ever be rated. No assurance can be given, however, that one or more rating agencies will not independently determine to issue such a rating or that we will not elect in the future to obtain such a rating. Such a rating, if issued, may adversely affect the market price and or liquidity of our Preferred Stock. Ratings only reflect the views of the rating agency or agencies issuing the ratings and such ratings could be revised downward, placed on negative outlook or withdrawn entirely at the discretion of the issuing rating agency if, in its judgment, circumstances so warrant. While ratings do not reflect market prices or the suitability of a security for a particular investor, such downward revision or withdrawal of a rating could have an adverse effect on the market price and or liquidity of our Preferred Stock.

We may issue shares of our Common Stock at prices below the then-current NAV per share of our Common Stock, which could materially reduce our NAV per share of our Common Stock.

Any sale or other issuance of shares of our Common Stock by us at a price below the then-current NAV per share will result in an immediate reduction of our NAV per share. This reduction would occur as a result of a proportionately greater decrease in a stockholder’s interest in our earnings and assets than the increase in our assets resulting from such issuance. For example, if we issue a number of shares of Common Stock equal to 5% of our then-outstanding shares at a 2% discount from NAV, a holder of our Common Stock who does not participate in that offering to the extent of its proportionate interest in the Company will suffer NAV dilution of up to 0.1%, or $1 per $1,000 of NAV. Currently, the trading price of our Common Stock is substantially below our NAV.

Changes in market conditions could adversely affect the market prices of our Common Stock.

The market value of our Common Stock, as with other publicly traded equity securities, will depend on various market conditions, which may change from time to time. In addition to the economic environment and future volatility in the securities and credit markets in general, the market conditions described in the risk factor “We intend to rely in part on external sources of capital to fund future capital needs and, if we encounter difficulty in obtaining such capital, we may not be able to meet maturing obligations or make additional acquisitions” may affect the value of our Common Stock.

The market value of our Common Stock is based, among other things, upon the market’s perception of our growth potential and our current and potential future earnings and cash dividends and our capital structure. Consequently, our Common Stock may trade at prices that are higher or lower than our NAV per share of Common Stock. If our future earnings or cash distributions are less than expected, the market prices of our Common Stock could decline.

Further, increases in interest rates, which are expected to continue during 2023, may result in a decline in the market price of our Common Stock. We believe that one of the factors that will influence the market price of our Common Stock will be the distribution yield on the Common Stock (as a percentage of the market price of our Common Stock) relative to market interest rates.

An increase in market interest rates may lead potential purchasers of our Common Stock to seek a higher annual dividend rate from other investments. Potential purchasers of our Common Stock may expect a higher distribution rate on their investment. Higher market interest rates would not, however, result in more funds for us to pay distributions and, to the contrary, would likely increase our borrowing costs and potentially decrease funds available for distributions. Thus, higher market interest rates could cause the market price of our Common Stock to decline.

Our Common Stock ranks, with respect to dividends, junior to our Preferred Stock.

The rights of the holders of shares of our Common Stock to receive dividends rank junior to those of the holders of shares of our Preferred Stock.

Unless full cumulative dividends on shares of our Preferred Stock for all past dividend periods have been declared and paid (or set apart for payment), we will not declare or pay dividends with respect to any shares of our Common Stock for any period.

Our Common Stock ranks, with respect to rights upon liquidation, dissolution or winding up of the Company, junior to the Preferred Stock.

Upon any voluntary or involuntary liquidation, dissolution or winding up of the Company, the holders of shares of Preferred Stock are entitled to receive a liquidation preference equal to the applicable stated values of such shares, plus all accrued but unpaid dividends on such shares, prior and in preference to any distribution to the holders of shares of our Common Stock. The stated value of the Series A Preferred Stock is $25.00 per share, subject to adjustment (the "Series A Preferred Stock Stated Value"), the stated value of the Series A1 Preferred Stock is $25.00 per share, subject to adjustment (the "Series A1 Preferred Stock Stated Value") and the stated value of the Series D Preferred Stock is $25.00 per share, subject to adjustment (the "Series D Preferred Stock Stated Value").

Holders of our securities may be required to recognize taxable income in excess of any cash or other distributions received from us, and non-U.S. stockholders could be subject to withholding tax on such amounts.

The agreement governing our warrants to purchase 0.25 shares of Common Stock, subject to adjustment upon the occurrence of certain events specified in such agreement ("Series A Preferred Warrants"), provides that adjustments may be made to the exercise price or the number of shares of Common Stock issuable upon exercise of the Series A Preferred Warrants. In certain cases, such an adjustment could result in the recognition of a taxable dividend to holders of Common Stock, Series A Preferred Stock or Series A Preferred Warrants even if such holders do not receive any cash or other distribution from us.

The redemption price of shares of Preferred Stock may be paid, in our sole discretion in cash or in shares of Common Stock, which ranks junior to our Preferred Stock.

We have the right, at our option and in our sole discretion, to pay the redemption price of shares of Preferred Stock, whether redeemed at our option or at the option of a holder, in cash or in shares of Common Stock. The redemption price of shares of Preferred Stock may be paid, in our sole discretion, in cash in U.S. dollars ("USD") or in equal value through the issuance of shares of Common Stock, based on the volume-weighted average price of our Common Stock for the 20 trading days prior to the redemption.

The rights of the holders of shares of our Common Stock as to distributions rank junior to the rights of the holders of shares of our Preferred Stock. Unless full cumulative dividends on shares of our Preferred Stock for all past dividend periods have been declared and paid (or set apart for payment), we will not declare or pay dividends with respect to any shares of our Common Stock for any period.

The rights of the holders of shares of our Common Stock upon any voluntary or involuntary liquidation, dissolution or winding-up of the Company also rank junior to the rights of the holders of our Preferred Stock.

We have the option to redeem shares of Preferred Stock under certain circumstances without the consent of their holders.

From and after the fifth anniversary of the date of original issuance of any share of our Preferred Stock, we have the right (but not the obligation) to redeem such share at a redemption price equal to 100% of the stated value of such share, plus any accrued but unpaid dividends in respect of such share as of the effective date of the redemption.

We may suffer from delays in deploying capital, which could adversely affect our ability to pay distributions to our stockholders and the value of our securities.

We could suffer from delays in deploying capital, particularly if the capital we raise (including in our current equity offerings described in "Item 7—Management's Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources—Sources and Uses of Funds") outpaces our Operator's ability to identify acquisitions and or close on them. Such delays, which may be caused by a number of factors, including competition in the market for the same real estate opportunities, may adversely affect our ability to pay distributions to our stockholders and or the value of their overall returns on investment in our securities.

The cash distributions received by holders of our Preferred Stock and Common Stock may be less frequent or lower in amount than expected by such holders.

Our Board of Directors will determine the amount and timing of distributions on our Preferred Stock and Common Stock. In making this determination, our Board of Directors will consider all relevant factors, including the amount of cash

resources available for distributions, capital spending plans, cash flow, financial position, applicable requirements of the MGCL and any applicable contractual restrictions. We cannot assure you that we will be able to consistently generate sufficient available cash flow to fund distributions on our Preferred Stock and Common Stock, nor can we assure you that sufficient cash will be available to make distributions on our Preferred Stock and Common Stock (in each case, even to the extent of the Initial Dividend). While holders of Preferred Stock are entitled to receive, if, as and when authorized by our Board of Directors and declared by us out of legally available funds, cumulative cash dividends on each share of Preferred Stock at a specified rate, we cannot predict with certainty the timing of the payment of such distributions and we may be unable to pay or maintain such distributions over time.

Our ability to redeem shares of our Preferred Stock, or to pay distributions on our Preferred Stock and Common Stock, may be limited by Maryland law.

Under applicable Maryland law, a corporation may redeem, or pay distributions on, stock as long as, after giving effect to the redemption or distribution, the corporation is able to pay its debts as they become due in the usual course (the equity solvency test) and its total assets exceed the sum of its total liabilities plus, unless its charter permits otherwise, the amount that would be needed, if the corporation were to be dissolved at the time of the redemption or distribution, to satisfy the preferential rights upon dissolution of stockholders when preferential rights on dissolution are superior to those whose stock is being redeemed or on which the distributions are being paid (the balance sheet solvency test). If the Company is insolvent at any time we are required to redeem any shares of our Preferred Stock, or at any time we are required to make a distribution on our Preferred Stock or Common Stock, the Company may not be able to effect such redemption or distribution.

Holders of our securities are subject to inflation risk.

Inflation is the reduction in the purchasing power of money resulting from the increase in the price of goods and services. Inflation risk is the risk that the inflation-adjusted, or “real,” value of an investment in our Common Stock and Preferred Stock, or the income from that investment, will be worth less in the future. As discussed under “Inflation may adversely affect our Real Estate Operations,” the United States is currently experiencing a high level of inflation. As inflation occurs, the real value of our Common Stock and Preferred Stock and distributions payable on such shares may decline because the rate of distribution will remain the same (with respect to our Preferred Stock) or may not rise with the pace of inflation (with respect to our Common Stock).

The transfer and ownership restrictions applicable to our securities may impair the ability of stockholders to receive shares of our Common Stock upon exercise of the Series A Preferred Warrants and, if the Company elects to pay the redemption price in shares of Common Stock, upon redemption of the Preferred Stock.

Our charter contains restrictions on ownership and transfer of the Preferred Stock and Common Stock that are intended to assist us in maintaining our qualification as a REIT for federal income tax purposes as described in the risk factor “The share transfer and ownership restrictions applicable to REITs and contained in our charter may inhibit market activity in our shares of stock and restrict our business combination opportunities.” Additionally, the agreement governing the Series A Preferred Warrants provides that such Series A Preferred Warrants may not be exercised to the extent such exercise would result in the holder’s beneficial or constructive ownership of more than 6.25%, in number or value, whichever is more restrictive, of our outstanding shares of Common Stock immediately after giving effect to the issuance of such shares. These restrictions may impair the ability of stockholders to receive shares of our Common Stock upon exercise of the Series A Preferred Warrants and, if the Company elects to pay the redemption price in shares of Common Stock, upon redemption of the Preferred Stock.

The terms of our Preferred Stock do not contain any financial covenants.

The terms of our Preferred Stock do not limit our ability to incur indebtedness or make distributions or contain any other restrictive financial covenants. The Preferred Stock ranks subordinate to all of our existing and future debt and liabilities. Our future debt agreements may restrict our ability to pay distributions to preferred stockholders or to redeem shares of preferred stock in the event of a default under such debt agreements or in other circumstances. In addition, while our Preferred Stock ranks senior to our Common Stock with respect to payment of dividends and distributions upon liquidation, dissolution or winding-up, we are allowed to pay dividends on our Common Stock so long as we are current in the payment of dividends on shares of our Preferred Stock. Further, the terms of our Preferred Stock do not restrict our ability to repurchase shares of our Common Stock so long as we are current in the payment of dividends on shares of our Preferred Stock. Such dividends on or repurchases of our Common Stock may reduce the amount of cash on hand to pay the redemption price of our Preferred Stock in cash (if we so choose).

Holders of our Preferred Stock have no voting rights with respect to such shares.

The terms of our Preferred Stock do not entitle holders to voting rights. Our Common Stock is currently the only class of our capital stock that carries any voting rights. Unless and until a holder of our Preferred Stock acquires shares of Common Stock upon the redemption of such shares, such holder will have no rights with respect to the shares of our Common Stock issuable upon redemption of our Preferred Stock. If, at our discretion, a holder of our Preferred Stock is issued shares of our Common Stock upon redemption, such holder will be entitled to exercise the rights of holders of our Common Stock only as to matters for which the record date occurs after the effective date of redemption.

The ownership percentage in the Company of a holder may become diluted if we issue new shares of Common Stock or other securities, and issuances of additional preferred stock or other securities by us may further subordinate the rights of the holders of our Preferred Stock or Common Stock (which holders of Preferred Stock may become upon receipt of redemption payments in shares of Common Stock). Additionally, future issuances of Common Stock, including shares issued in exchange for consideration, upon redemption of Preferred Stock or upon exercise of any Series A Preferred Warrants, may cause the market price of our Common Stock to drop significantly, even if our business is doing well.

Our Board of Directors is authorized, without stockholder approval, to cause us to issue additional shares of Common Stock or to raise capital through the issuance of shares of preferred stock and equity or debt securities convertible into Common Stock, preferred stock, options, warrants and other rights, on such terms and for such consideration as our Board of Directors in its sole discretion may determine. Any such issuance could result in dilution of the equity of our stockholders. In addition, our Board of Directors may, in its sole discretion, authorize us to issue Common Stock or other equity or debt securities to persons from whom we purchase properties, as part or all of the purchase price of the property, or from whom we receive services (including the Operator or the Administrator), as part or all of the payment for such services. Our Board of Directors, in its sole discretion, may determine the price of any Common Stock or other equity or debt securities issued in consideration of such properties or services provided, or to be provided, to us.

We may make redemption payments under the terms of our Preferred Stock in shares of our Common Stock. Although the dollar amounts of such payments are unknown, the number of shares of our Common Stock to be issued in connection with such payments may fluctuate based on the price of our Common Stock. Any sales or perceived sales in the public market of shares of our Common Stock issuable upon such redemption payments could adversely affect prevailing market prices of shares of our Common Stock. The existence of our Preferred Stock may encourage short selling by market participants because the possibility that redemption payments will be made in shares of our Common Stock could depress the market price of shares of our Common Stock. Further, any such issuance could result in dilution of the equity of our stockholders.

Our charter also authorizes our Board of Directors, without stockholder approval, to classify or reclassify any unissued shares of Common Stock and preferred stock into other classes or series of stock and to amend our charter to increase or decrease the aggregate number of shares of stock or the number of shares of stock of any class or series that the Company has authority to issue. Our Board of Directors may, without stockholder approval, designate and issue one or more classes or series of preferred stock in addition to our Preferred Stock and equity or debt securities convertible into preferred stock and to set the voting powers, conversion or other rights, preferences, restrictions, limitations as to dividends or other distributions and qualifications or terms or conditions of redemption of each class or series of shares so issued. If any additional preferred stock is publicly offered, the terms and conditions of such preferred stock (or other equity or debt securities convertible into preferred stock) will be set forth in a registration statement registering the issuance of such preferred stock or equity or debt securities convertible into preferred stock. Because our Board of Directors has the power to establish the preferences and rights of each class or series of preferred stock, it may afford the holders of any class or series of preferred stock preferences, powers, and rights senior to the rights of holders of our Preferred Stock or Common Stock. If we ever create and issue additional preferred stock or equity or debt securities convertible into preferred stock with a distribution preference over our Preferred Stock or Common Stock, payment of any distribution preferences of such new outstanding preferred stock would reduce the amount of funds available for the payment of distributions on our Preferred Stock and Common Stock, as applicable. Further, holders of preferred stock are normally entitled to receive a preference payment if we liquidate, dissolve, or wind up before any payment is made to the holders of our Common Stock, likely reducing the amount the holders of our Common Stock would otherwise receive upon such an occurrence. In addition, under certain circumstances, the issuance of additional preferred stock may delay, prevent, render more difficult or tend to discourage, a merger, tender offer, or proxy contest, the assumption of control by a holder of a large block of our securities, or the removal of incumbent management.

No stockholders have rights to buy additional shares of stock or other securities if we issue new shares of stock or other securities. We may issue Common Stock, convertible debt or preferred stock pursuant to subsequent public offerings or private placements. Investors in our Common Stock who do not participate in any future stock issuances will experience dilution in the percentage of the issued and outstanding stock they own. In addition, depending on the terms and pricing of any

future offerings and the value of our assets, such investors may experience dilution in the book value and fair market value of, and the amount of distributions paid on, their shares of Common Stock, if any.

The listing of our Common Stock on more than one stock exchange may result in price variations that could adversely affect liquidity of the market for our Common Stock.

Our Common Stock is listed on Nasdaq and the TASE. The dual-listing of our Common Stock may result in price variations of our securities between the two exchanges due to a number of factors. First, trading in our securities on these markets takes place in different currencies (USD on Nasdaq and ILS on the TASE). In addition, the exchanges are open for trade at different times of the day and on different days. For example, Nasdaq opens generally during U.S. business hours, Monday through Friday, while the TASE opens generally during Israeli business hours, Sunday through Thursday. The two exchanges also observe different public holidays. Differences in the trading schedules, as well as volatility in the exchange rate of the two currencies, among other factors, may result in different trading prices for our Common Stock on the two exchanges. Any decrease in the trading price of our Common Stock in one market could cause a decrease in the trading price of such security on the other market.

The dual-listing may adversely affect liquidity and trading prices for our Common Stock on one or both of the exchanges as a result of circumstances that may be outside of our control. For example, transfers by holders of our securities from trading on one exchange to the other could result in increases or decreases in liquidity and or trading prices on either or both of the exchanges. In addition, holders could seek to sell or buy our Common Stock to take advantage of any price differences between the two markets through a practice referred to as arbitrage. Any arbitrage activity could create unexpected volatility in both the prices of and volumes of our Common Stock available for trading on either exchange.

The existing mechanism for the dual-listing of securities on Nasdaq and the TASE may be eliminated or otherwise altered such that we may be subject to additional regulatory burden and additional costs.

The existing Israeli regulatory regime provides a mechanism for the dual-listing of securities traded on Nasdaq and the TASE that does not impose any significant regulatory burden or significant costs on us. If this dual-listing regime is eliminated or otherwise altered such that we are unable or unwilling to comply with the regulatory requirements, we may incur additional costs and we may consider delisting of our Common Stock from the TASE.

Our NAV is an estimate of the fair value of our assets and may not necessarily reflect realizable value.

The determination of estimated NAV involves a number of subjective assumptions, estimates and judgments that may not be accurate or complete. Neither the Financial Industry Regulatory Authority nor the SEC provides rules on the methodology we must use to determine our estimated NAV per share. We believe there is no established practice among public REITs for calculating estimated NAV. Different firms using different property-specific, general real estate, capital markets, economic and other assumptions, estimates and judgments could derive an estimated NAV that is significantly different from our estimated NAV.

Our estimated NAV, as determined by us from time to time, is calculated by relying in part on appraisals of our real estate assets and the assets of our lending segment. However, valuations of these assets do not necessarily represent the price at which a willing buyer would purchase such assets; therefore, there can be no assurance that we would realize the values underlying our estimated NAVs if we were to sell our assets and distribute the net proceeds to our stockholders. The values of our assets and liabilities, and therefore our NAV, are likely to fluctuate over time based on changes in value, investment activities, capital activities, indebtedness levels, and other various activities.

General Risk Factors

We may be unable to pay or maintain cash distributions or increase distributions to stockholders over time.

Several factors may affect the availability and timing of cash distributions to our stockholders. Distributions are based primarily on anticipated cash flow from operations over time. The amount of cash available for distributions is affected by many factors, including the performance of our existing assets, including the selection of tenants and the amount of rental income, our operating expense levels, opportunities for acquisition identified by our Operator, the availability of financing arrangements as well as many other variables. We may not always be in a position to pay distributions to our stockholders and the amount of any distributions we do make may not increase over time. In addition, our actual results may differ significantly from the assumptions used by our Board of Directors in establishing our distribution policy. There also is a risk that we may not have sufficient cash flow from operations to fund distributions required to qualify as a REIT or maintain our REIT status.

We have paid, and may in the future pay, some or all of our distributions to stockholders from sources other than cash flow from operations, including borrowings, proceeds from asset sales or the sale of our securities, which may reduce the amount of capital we ultimately deploy in our real estate operations and may negatively impact the value of our Common Stock.

To the extent that cash flow from operations has been or is insufficient to fully cover our distributions to our stockholders, we have paid, and may in the future pay, some or all of our distributions from sources other than cash flow from operations. Such sources may include borrowings, proceeds from asset sales or the sale of our securities. We have no limits on the amounts we may use to pay distributions from sources other than cash flow from operations. The payment of distributions from sources other than cash provided by operating activities may reduce the amount of proceeds available for acquisitions and operations or cause us to incur additional interest expense as a result of borrowed funds. This may negatively impact the market price of our Common Stock.

Distributions at any point in time may not reflect the current performance of our properties or our current operating cash flow.

We may make distributions from any source, including the sources described in the risk factor above. Because the amount we pay in distributions may exceed our earnings and our cash flow from operations, distributions may not reflect the current performance of our properties or our current operating cash flow.

Changes in accounting standards may adversely impact our financial condition and or results of operations.

We are subject to the rules and regulations of the U.S. Financial Accounting Standards Board (the “FASB”) related to generally accepted accounting principles in the United States (“GAAP”). Various changes to GAAP are constantly being considered, some of which could materially impact our reported financial condition and or results of operations. Also, to the extent publicly traded companies in the United States would be required in the future to prepare financial statements in accordance with International Financial Reporting Standards instead of the current GAAP, this change in accounting standards could materially affect our financial condition or results of operations.

Item 1B. Unresolved Staff Comments

None.

Item 2. Properties

As of December 31, 2022, our real estate portfolio consisted of 19 assets, all of which were fee-simple properties, including one office property which we own through our investment in an unconsolidated joint venture (the "Unconsolidated Joint Venture"). As of December 31, 2022, our 13 office properties, totaling approximately 1.3 million rentable square feet, were 81.7% occupied, and our one hotel with an ancillary parking garage, which has a total of 503 rooms, had RevPAR of $126.19 for the year ended December 31, 2022. Additionally, as of December 31, 2022, we had four development sites (with one being used as a parking lot).

Office Portfolio Detail by Classification, Address, Market, and Submarket as of December 31, 2022

Classification / Market / Address	Sub-Market	Rentable Square Feet	% Occupied	% Leased [1]	Annualized Rent (in thousands)	Annualized Rent Per Occupied Square Foot
Consolidated Office Portfolio						
Oakland, CA						
1 Kaiser Plaza	Lake Merritt	537,811	84.5 %	84.5 %	$ 22,936	$ 50.47
San Francisco, CA						
1130 Howard Street	South of Market	21,194	61.1 %	61.1 %	1,215	93.87
Los Angeles, CA						
11620 Wilshire Boulevard	West Los Angeles	196,225	71.8 %	77.2 %	7,102	50.41
11600 Wilshire Boulevard	West Los Angeles	57,737	85.3 %	85.3 %	2,867	58.19
9460 Wilshire Boulevard	Beverly Hills	97,655	69.3 %	91.0 %	7,351	108.58
4750 Wilshire Boulevard [2]	Mid-Wilshire	30,335	100.0 %	100.0 %	1,573	51.85
8944 Lindblade Street [3]	West Los Angeles	7,980	100.0 %	100.0 %	538	67.42
8960 & 8966 Washington Boulevard [3]	West Los Angeles	24,448	100.0 %	100.0 %	1,442	58.98
1037 N Sycamore Avenue	Hollywood	5,031	100.0 %	100.0 %	281	55.85
Austin, TX						
3601 S Congress Avenue [4]	South	228,198	86.4 %	86.4 %	9,630	48.84
1021 E 7th Street	East	11,180	100.0 %	100.0 %	634	56.71
1007 E 7th Street [5]	East	1,352	100.0 %	100.0 %	46	34.02
Total Consolidated Office Portfolio		**1,219,146**	**82.2 %**	**84.9 %**	**55,615**	**55.50**
Unconsolidated Office Portfolio						
Los Angeles, CA						
1910 Sunset Boulevard - 44% [6]	Echo Park	100,506	74.8 %	80.4 %	3,403	45.26
Total Unconsolidated Office Portfolio		**100,506**	**74.8 %**	**80.4 %**	**3,403**	**45.26**
Total Office Portfolio		**1,319,652**	**81.7 %**	**84.5 %**	**59,018**	**54.75**
Total Office Portfolio - CMCT Share of Annualized Rent					**57,112**	
Development Pipeline Properties						
Oakland, CA						
2 Kaiser Plaza [7]	Lake Merritt	N/A	N/A	N/A	N/A	N/A
Los Angeles, CA						
3101 S. Western Avenue [8]	Jefferson Park	N/A	N/A	N/A	N/A	N/A
3022 S. Western Avenue [8]	Jefferson Park	N/A	N/A	N/A	N/A	N/A
3109 S. Western Avenue [9]	Jefferson Park	N/A	N/A	N/A	N/A	N/A
Total Development Pipeline Properties		**N/A**	**N/A**	**N/A**	**N/A**	**N/A**
Total Office and Development Portfolio		**1,319,652**	**81.7 %**	**84.5 %**	**$ 59,018**	**$ 54.75**

(1) Based on leases signed as of December 31, 2022.

(2) In connection with the 4750 Wilshire Project (as defined later), the Company is no longer classifying approximately 110,000 square feet of vacant space at its property at 4750 Wilshire Boulevard in Los Angeles, California as rentable office square footage as of December 31, 2022. The vacant space will be redeveloped and converted from office space into for-lease multifamily units.

(3) The three buildings making up 8960 & 8966 Washington Boulevard and 8944 Lindblade Street were formerly known as Lindblade Media Center.

(4) 3601 S Congress Avenue consists of twelve buildings.

(5) The property is located on a land site of approximately 7,450 square feet. The Company intends to complete pre-development and entitlement work to provide optionality for future development.

(6) CMCT and a CIM-managed separate account purchased the property in February 2022 through a joint venture. CMCT owns approximately 44% of the property. The amounts shown in the table represent 100% of the property.

(7) 2 Kaiser Plaza Parking Lot is a 44,642 square foot parcel of land currently being used as a surface parking lot. We are entitled to develop an office building with a maximum of 800,000 rentable square feet. Alternatively, we are also evaluating a multifamily development, which can be constructed by right.

(8) The Company intends to develop a total of approximately 160 residential units across both properties.

(9) The Company intends to redevelop approximately seven commercial units totaling 5,635 rentable square feet and six parking stalls starting in 2024.

Hotel Portfolio Summary as of December 31, 2022

Property	Market	Rooms	% Occupied [1]	Revenue Per Available Room
Sheraton Grand Hotel [2]	Sacramento, CA	503	73.0 %	$ 126.19
Total Hotel (1 Property)		**503**	**73.0 %**	**$ 126.19**

Other Ancillary Property within Hotel Portfolio

Property	Market	Rentable Square Feet (Retail)	% Occupied (Retail)	% Leased (Retail) [3]	Annualized Rent (Parking and Retail) (in thousands)
Sheraton Grand Hotel Parking Garage & Retail	Sacramento, CA	9,453	81.0 %	81.0 %	$ 538
Total Ancillary Property (1 Property)		**9,453**	**81.0 %**	**81.0 %**	**$ 538**

(1) Represents trailing 12-month occupancy as of December 31, 2022, calculated as the number of occupied rooms divided by the number of available rooms.

(2) The Sheraton Grand Hotel is part of the Sheraton franchise and is managed by Sheraton Operating Corporation, a subsidiary of Marriott International, Inc.

(3) Based on leases commenced as of December 31, 2022.

Office Portfolio—Top 5 Tenants by Annualized Rental Revenue as of December 31, 2022

Tenant	Property	Credit Rating (S&P / Moody's / Fitch)	Lease Expiration	Annualized Rent (in thousands)	% of Annualized Rent	Rentable Square Feet	% of Rentable Square Feet
Kaiser Foundation Health Plan, Inc.	1 Kaiser Plaza	AA- / - / AA-	2025 - 2027[(1)]	$ 17,610	29.8 %	366,777	27.8 %
MUFG Union Bank, N.A.	9460 Wilshire Boulevard	AA- / Aa2 / AA-	2029	3,927	6.7 %	27,569	2.1 %
F45 Training Holdings, Inc.	3601 S Congress Avenue	- / - / -	2030	2,427	4.1 %	44,171	3.3 %
3 Arts Entertainment, Inc.	9460 Wilshire Boulevard	- / - / -	2026	2,396	4.1 %	27,112	2.1 %
Westwood One, Inc.	Lindblade Media Center	- / - / -	2025	1,979	3.4 %	32,428	2.5 %
Total for Top Five Tenants				**28,339**	**48.1 %**	**498,057**	**37.8 %**
All Other Tenants				30,679	51.9 %	579,913	43.9 %
Vacant				—	— %	241,682	18.3 %
Total Office Portfolio				**$ 59,018**	**100.0 %**	**1,319,652**	**100.0 %**

Note: Represents 100% of the consolidated and unconsolidated office portfolios, regardless of our ownership percentage.

(1) From and after February 28, 2023 with respect to the 283,081 rentable square feet expiring in 2025, and February 28, 2025 with respect to the 83,696 rentable square feet expiring in 2027, the tenant has the right to terminate all or any portions of its lease with us, effective as of any date specified by the tenant in a written notice given to us at least 15 months prior to the termination, in each case in exchange for a termination penalty. In each case, the amount of such termination penalty is dependent on a variety of factors, including but not limited to the date of the termination notice, the amount of the square feet to be terminated and the location within the building of the space to be terminated.

Office Portfolio—Diversification by Industry as of December 31, 2022

Industry	Annualized Rent (in thousands)	% of Annualized Rent	Rentable Square Feet	% of Rentable Square Feet
Health Care and Social Assistance	$ 23,711	40.1 %	469,924	35.7 %
Professional, Scientific, and Technical Services	8,791	14.8 %	142,532	10.8 %
Finance and Insurance	5,649	9.5 %	58,959	4.5 %
Arts, Entertainment, and Recreation	5,584	9.4 %	87,506	6.6 %
Real Estate and Rental and Leasing	3,792	6.4 %	74,439	5.6 %
Public Administration	2,281	3.9 %	50,073	3.8 %
Retail Trade	2,157	3.7 %	46,571	3.5 %
Information	1,757	3.0 %	34,313	2.6 %
Other Services (except Public Administration)	1,525	2.6 %	31,966	2.4 %
Administrative and Support and Waste Management and Remediation Services	744	1.3 %	12,585	1.0 %
Other	3,027	5.3 %	69,102	5.2 %
Vacant	—	— %	241,682	18.3 %
Total Office	**$ 59,018**	**100.0 %**	**1,319,652**	**100.0 %**

Note: Represents 100% of the consolidated and unconsolidated office portfolios, regardless of our ownership percentage.

Office Portfolio—Lease Expiration as of December 31, 2022

Year of Lease Expiration	Square Feet of Expiring Leases	% of Square Feet Expiring	Annualized Rent (in thousands)	% of Annualized Rent Expiring	Annualized Rent Per Occupied Square Foot
2023 [1]	120,565	11.2 %	6,427	10.9 %	53.31
2024	98,306	9.1 %	4,859	8.2 %	49.43
2025	440,772	40.9 %	21,923	37.1 %	49.74
2026	97,285	9.0 %	5,834	9.9 %	59.97
2027	133,533	12.4 %	7,085	12.1 %	53.06
2028	25,699	2.4 %	1,903	3.2 %	74.05
2029	38,935	3.6 %	4,612	7.8 %	118.45
2030	77,938	7.2 %	4,216	7.1 %	54.09
2031	19,092	1.8 %	804	1.4 %	42.11
Thereafter	25,845	2.4 %	1,355	2.3 %	52.43
Total Occupied	**1,077,970**	**100.0 %**	**$ 59,018**	**100.0 %**	**$ 54.75**
Vacant	241,682				
Total Office	**1,319,652**				

Note: Represents 100% of the consolidated and unconsolidated office portfolios, regardless of our ownership percentage.

(1) Includes 16,662 square feet of month-to-month leases as of December 31, 2022.

Property Indebtedness as of December 31, 2022

Property	Outstanding Principal Balance (in thousands)	Interest Rate	Maturity Date	Balance Due At Maturity Date (in thousands)
1 Kaiser Plaza	$ 97,100	4.14%	7/1/2026	$ 97,100
1910 Sunset Boulevard (2)	23,925	SOFR + 2.95%	9/13/2025	23,925
Total	**$ 121,025**			**$ 121,025**

(1) Loan is generally not prepayable prior to April 1, 2026.

(2) CMCT and a CIM-managed separate account purchased the property in February 2022 through a joint venture. CMCT owns approximately 44% of the property.

Item 3. Legal Proceedings

We are not currently involved in any material pending or threatened legal proceedings nor, to our knowledge, are any material legal proceedings currently threatened against us, other than routine litigation arising in the ordinary course of business. In the normal course of business, we are periodically party to certain legal actions and proceedings involving matters that are generally incidental to our business. While the outcome of these legal actions and proceedings cannot be predicted with certainty, in management’s opinion, the resolution of these legal proceedings and actions will not have a material adverse effect on our business, financial condition, results of operations, cash flow or our ability to satisfy our debt service obligations or to maintain our level of distributions on our Common Stock or Preferred Stock.

Item 4. Mine Safety Disclosures

Not applicable.

PART II

Item 5. Market For Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities

Marketplace Designation, Sales Price Information and Holders

Shares of our Common Stock trade on Nasdaq, under the ticker symbol "CMCT", and on the TASE, under the ticker symbol "CMCT-L."

On March 22, 2023, there were approximately 357 holders of record of our Common Stock, excluding stockholders whose shares were held by brokerage firms, depositories and other institutional firms in "street name" for their customers. The closing price of our Common Stock on March 22, 2023 was $4.30 as reported on Nasdaq.

Approximately 57.3% of shares of our Common Stock as of March 22, 2023 were held by stockholders that are not our affiliates.

Holders of our Common Stock are entitled to receive dividends, if, as and when authorized by the Board of Directors and declared by us out of legally available funds. In determining our dividend policy, the Board of Directors considers many factors including the amount of cash resources available for dividend distributions, capital spending plans, cash flow, our financial position, applicable requirements of the MGCL, any applicable contractual restrictions, and future growth in NAV and cash flow per share prospects. Consequently, the dividend rate on a quarterly basis does not necessarily correlate directly to any individual factor. There can be no assurance that the future dividends declared by our Board of Directors will not differ materially from historical dividend levels. Risks inherent in our ability to pay dividends are further described in "Item 1A—Risk Factors" of this Annual Report on Form 10-K.

Securities Authorized for Issuance Under Equity Compensation Plans

The following table provides information as of December 31, 2022 with respect to shares of our Common Stock, either under options or in respect of restricted stock awards that may be issued under existing equity compensation plans, all of which have been approved by our stockholders.

Plan Category	Number of shares of Common Stock to be issued upon exercise of outstanding options	Weighted average exercise price of outstanding options	Number of shares of Common Stock remaining available for future issuances under equity compensation plans (all in restricted shares of Common Stock)
Equity incentive plan	—	N/A	18,786

Recent Sales of Unregistered Securities and Use of Proceeds

On December 20, 2022, we issued to the Operator an aggregate of 36,663 shares of our Series A1 Preferred Stock as payment, in lieu of cash, for $916,575 of asset management fees owed to the Operator under the Investment Management Agreement for the third quarter of 2022. Such securities were issued pursuant to the exemption from registration contained in Section 4(a)(2) of the Securities Act. Shares of Series A1 Preferred Stock may be redeemed at our option or at the option of the holder for a redemption price payable in cash or shares of Common Stock as described in Note 10 to the consolidated financial statements included in this Annual Report on Form 10-K.

On December 23, 2022, the Company announced it would redeem all remaining outstanding shares of its Series L Preferred Stock in cash on January 25, 2023 at its stated value of $28.37 per share. The total cost to complete the Series L Redemption, including transaction costs of $93,000 (or $0.03 per share), was $83.8 million. The payment for the Series L Redemption was made on January 25, 2023 as well as the accrued and unpaid dividends on the redeemed shares of Series L Preferred Stock through December 31, 2022 of $1.56 per share (or $4.6 million accrued and unpaid dividends in the aggregate). No additional dividends will be owed on the redeemed shares of Series L Preferred Stock subsequent to December 31, 2022.

Item 6. Reserved

Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations

This section includes many forward-looking statements. For cautions about relying on such forward-looking statements, please see "Forward-Looking Statements" at the beginning of this report immediately prior to "Item 1—Business" *in this Annual Report on Form 10-K.*

Overview

The following discussion focuses on recent developments expected to have material current and future impacts on the results of our business, trends and uncertainties within our industry and business model that may impact our financial results, our recent results of operations, and our liquidity and capital resources.

You should read the following discussion in conjunction with the consolidated financial statements and notes thereto included elsewhere in this Annual Report on Form 10-K.

Executive Summary

Business Overview

Creative Media & Community Trust Corporation (formerly known as CIM Commercial Trust Corporation) is a Maryland corporation and REIT. We primarily acquire, develop, own and operate both premier multifamily properties situated in vibrant communities throughout the United States and Class A and creative office real assets in markets with similar business and employment characteristics to our multifamily investments. We seek to apply the expertise of CIM Group to the acquisition, development and operation of premier multifamily properties and creative office assets that cater to rapidly growing industries such as technology, media and entertainment. All of our real estate assets are and will generally be located in communities qualified by CIM Group as described further below. These communities are located in areas that include traditional downtown areas and suburban main streets, which have high barriers to entry, high population density, positive population trends and a propensity for growth. We believe that the critical mass of redevelopment in such areas creates positive externalities, which enhance the value of real estate assets in the area. We believe that these assets will provide greater returns than similar assets in other markets, as a result of the population growth, public commitment and significant private investment that characterize these areas.

CIM is headquartered in Los Angeles, CA, with offices in Atlanta, GA, Chicago, IL, Dallas, TX, London, UK, New York, NY, Orlando, FL, Phoenix, AZ, and Tokyo, Japan. CIM also maintains additional offices across the United States, as well as in Korea and Hong Kong to support its platform.

Properties

As of December 31, 2022, our real estate portfolio consisted of 19 assets, all of which were fee-simple properties, including one office property which we own through our investment in an unconsolidated joint venture (the "Unconsolidated Joint Venture"). As of December 31, 2022, our 13 office properties, totaling approximately 1.3 million rentable square feet, were 81.7% occupied and our one hotel with an ancillary parking garage, which has a total of 503 rooms, had RevPAR of $126.19 for the year ended December 31, 2022. Additionally, as of December 31, 2022, we had four development sites (with one being used as a parking lot).

Rental Rate Trends

Office Statistics: The following table sets forth occupancy rates and annualized rent per occupied square foot across our office portfolio as of the specified periods (includes 100% of our property partially owned through the Unconsolidated Joint Venture):

	As of December 31,	
	2022	2021
Occupancy [1][2]	81.7 %	77.7 %
Annualized rent per occupied square foot [1][3]	$ 54.75	$ 52.57

(1) The information presented in this table represents historical information as of the date indicated without giving effect to any property sales occurring thereafter.

(2) In connection with the 4750 Wilshire Project (as defined later), the Company is no longer classifying approximately 110,000 square feet of vacant space at its property at 4750 Wilshire Boulevard in Los Angeles, California as rentable office square footage as of December 31, 2022.

(3) Represents gross monthly base rent under leases commenced as of the specified periods, multiplied by twelve. This amount reflects total cash rent before abatements. Total abatements, representing lease incentives in the form of free rent, for the years ended December 31, 2022 and 2021 were $2.8 million and $1.5 million, respectively. Where applicable, annualized rent has been grossed up by adding annualized expense reimbursements to base rent. Annualized rent for certain office properties includes rent attributable to retail.

Over the next four quarters, we expect to see expiring cash rents as set forth in the table below (includes 100% of our property partially owned through the Unconsolidated Joint Venture):

	For the Three Months Ended			
	March 31, 2023	**June 30, 2023**	**September 30, 2023**	**December 31, 2023**
Expiring Cash Rents:				
Expiring square feet [1]	40,698	34,895	22,033	22,939
Expiring rent per square foot [2]	$ 56.44	$ 54.39	$ 52.69	$ 46.69

(1) Month-to-month tenants occupying a total of 16,662 square feet are included in the expiring leases in the first quarter listed.

(2) Represents gross monthly base rent, as of December 31, 2022, under leases expiring during the periods above, multiplied by twelve. This amount reflects total cash rent before abatements. Where applicable, annualized rent has been grossed up by adding annualized expense reimbursements to base rent.

During the year ended December 31, 2022, we executed leases with terms longer than 12 months totaling 157,102 square feet. The table below sets forth information on certain of our executed leases during the year ended December 31, 2022, excluding space that was vacant for more than one year, month-to-month leases, leases with an original term of less than 12 months, related party leases, and space where the previous tenant was a related party:

	Number of Leases [1]	**Rentable Square Feet**	**New Cash Rents per Square Foot** [2]	**Expiring Cash Rents per Square Foot** [2]
Twelve Months Ended December 31, 2022	29	106,695	$ 43.44	$ 45.13

(1) Based on the number of tenants that signed leases.

(2) Cash rents represent gross monthly base rent, multiplied by twelve. This amount reflects total cash rent before abatements. Where applicable, annualized rent has been grossed up by adding annualized expense reimbursements to base rent.

Fluctuations in submarkets, buildings and terms of leases cause large variations in these numbers and make predicting the changes in rent in any specific period difficult. Our rental and occupancy rates are impacted by general economic conditions, including the pace of regional and economic growth, and access to capital. Therefore, we cannot give any assurance that leases will be renewed or that available space will be re-leased at rental rates equal to or above the current market rates. Additionally, decreased demand and other negative trends or unforeseeable events that impair our ability to timely renew or re lease space could have a material adverse effect on our business, financial condition, results of operations, cash flow or our ability to satisfy our debt service obligations or to maintain our level of distributions on our Common Stock or Preferred Stock.

Hotel Statistics: The following table sets forth the occupancy, ADR and RevPAR for our hotel in Sacramento, California for the specified periods:

	For the Year Ended December 31,			
		2022		2021
Occupancy		73.0 %		53.6 %
ADR	$	172.95	$	136.51
RevPAR	$	126.19	$	73.23

Seasonality

Our revenues and expenses for our hotel property are subject to seasonality during the year. Generally, our hotel revenues are greater in the first and second quarters than the third and fourth quarters. This seasonality can be expected to cause quarterly fluctuations in revenues, segment net operating income, net income and cash provided by operating activities. In addition, the hotel industry is cyclical and demand generally follows, on a lagged basis, key macroeconomic factors.

Lending Segment

Through our loans originated under the SBA 7(a) Program, we are a national lender that primarily originates loans to small businesses. We identify loan origination opportunities through personal contacts, internet referrals, attendance at trade shows and meetings, direct mailings, advertisements in trade publications and other marketing methods. We also generate loans through referrals from real estate and loan brokers, franchise representatives, existing borrowers, lawyers and accountants. In addition, as an SBA 7(a) licensee, we originated loans as an authorized lender under the Paycheck Protection Program ("PPP"). Originations under the PPP have ended and we had no remaining PPP loans outstanding as of December 31, 2022.

The SBA 7(a) Loan Program is the SBA's most common loan program. The maximum loan amount for an SBA 7(a) loan is $5.0 million. Key eligibility factors are based on what the business does to generate its income, its credit history, the liquidity of the borrower, size standards and where the business operates. We work with potential borrowers to identity the type of loan that would be appropriate for each such borrower's needs. Our SBA 7(a) term loans have monthly repayment terms of principal and interest and are originated with variable interest rates based on the prime rate. Most of our SBA 7(a) loans have maturities of approximately 25 years.

While we have focused on originating real estate loans almost exclusively to the limited service and mid-scale hospitality industry, we intend to increase our efforts to originate other real estate collateralized loans. These loans are anticipated to be concentrated in industries in which we previously had positive experience, including convenience store, RV park and single purpose building owner-occupied restaurant operations and may include owner-occupied industrial operations/warehouse buildings.

2022 Results of Operations

Net Income (Loss) and FFO

	Year Ended December 31,				Change		
		2022		2021		$	%
	(dollars in thousands)						
Total revenues	$	101,906	$	90,926	$	10,980	12.1 %
Total expenses	$	94,994	$	88,785	$	6,209	7.0 %
Net income (loss)	$	5,945	$	(851)	$	6,796	—

Net income increased to $5.9 million, or by $6.8 million, for the year ended December 31, 2022, compared to a net loss of $851,000 for the year ended December 31, 2021. The increase was primarily due to an increase of $9.2 million in hotel segment net operating income, a decrease of $5.5 million in asset management and other fees to related parties and a decrease of $1.9 million in provision for income taxes, partially offset by a decrease in lending segment net operating income of $9.3 million.

We believe that funds from operations ("FFO"), a non-GAAP measure, is a widely recognized and appropriate measure of the performance of a REIT and that it is frequently used by securities analysts, investors and other interested parties

in the evaluation of REITs, many of which present FFO when reporting their results. FFO represents net income (loss) attributable to common stockholders, computed in accordance with GAAP, which reflects the deduction of redeemable preferred stock dividends accumulated, excluding gains (or losses) from sales of real estate, impairment of real estate, and real estate depreciation and amortization. We calculate FFO in accordance with the standards established by the National Association of Real Estate Investment Trusts (the “NAREIT”).

Like any metric, FFO should not be used as the only measure of our performance because it excludes depreciation and amortization and captures neither the changes in the value of our real estate properties that result from use or market conditions nor the level of capital expenditures and leasing commissions necessary to maintain the operating performance of our properties, all of which have real economic effect and could materially impact our operating results. Other REITs may not calculate FFO in accordance with the standards established by the NAREIT; accordingly, our FFO may not be comparable to the FFOs of other REITs. Therefore, FFO should be considered only as a supplement to net income (loss) as a measure of our performance and should not be used as a supplement to or substitute measure for cash flows from operating activities computed in accordance with GAAP. FFO should not be used as a measure of our liquidity, nor is it indicative of funds available to fund our cash needs, including our ability to pay dividends.

The following table sets forth a historical reconciliation of net income (loss) attributable to common stockholders to FFO attributable to holders of common stockholders:

	Year Ended December 31,	
	2022	**2021**
	(in thousands)	
Net loss attributable to common stockholders [1]	$ (25,785)	$ (19,979)
Depreciation and amortization	20,348	20,112
FFO attributable to common stockholders [1]	$ (5,437)	$ 133

(1) During the years ended December 31, 2022 and 2021, we recognized $13.1 million and $113,000, respectively, of redeemable preferred stock redemptions on our consolidated statements of operations and $19,000 and $253,000 respectively, of redeemable preferred stock deemed dividends on our consolidated statements of operations. Of the $13.1 million of redeemable preferred stock redemptions recognized during the year ended December 31, 2022, $12.7 million resulted from amounts recognized in connection with the Series L Repurchase and Series L Redemption (defined below). Such amounts are included in, and have the effect of increasing, the net loss attributable to common stockholders and FFO attributable to common stockholders, because redeemable preferred stock redemptions are not an adjustment prescribed by NAREIT.

FFO attributable to common stockholders was $(5.4) million for the year ended December 31, 2022, a decrease of $5.6 million compared to $133,000 for the year ended December 31, 2021. The decrease in FFO was primarily attributable to an increase in redeemable preferred stock redemptions of $13.0 million (primarily resulting from $12.7 million recognized in connection with the Series L Repurchase and Series L Redemption during the year ended December 31, 2022) and a decrease in lending segment net operating income of $9.3 million, partially offset by an increase of $9.2 million in hotel segment net operating income, a decrease of $5.5 million in asset management and other fees to related parties and a decrease of $1.9 million in provision for income taxes.

Summary Segment Results

During the years ended December 31, 2022 and 2021, we operated in three segments: office and hotel properties and lending. Set forth and described below are summary segment results for our operating segments.

	Year Ended December 31,		Change	
	2022	2021	$	%
	(dollars in thousands)			
Revenues:				
Office	$ 55,928	$ 53,289	$ 2,639	5.0 %
Hotel	$ 35,213	$ 17,849	$ 17,364	97.3 %
Lending	$ 10,765	$ 19,787	$ (9,022)	(45.6)%
Expenses:				
Office	$ 26,762	$ 23,778	$ 2,984	12.5 %
Hotel	$ 24,099	$ 15,969	$ 8,130	50.9 %
Lending	$ 4,385	$ 4,117	$ 268	6.5 %
Income From Unconsolidated Entity				
Office	$ 164	$ —	$ 164	—
Non-Segment Revenue and Expenses:				
Interest and other income	$ —	$ 1	$ (1)	—
Asset management and other fees to related parties	$ (3,570)	$ (9,030)	$ 5,460	(60.5)%
Expense reimbursements to related parties—corporate	$ (1,925)	$ (2,050)	$ 125	(6.1)%
Interest expense	$ (9,052)	$ (9,005)	$ (47)	0.5 %
General and administrative	$ (4,630)	$ (4,581)	$ (49)	1.1 %
Transaction costs	$ (223)	$ (143)	$ (80)	55.9 %
Depreciation and amortization	$ (20,348)	$ (20,112)	$ (236)	1.2 %
Provision for income taxes	$ (1,131)	$ (2,992)	$ 1,861	(62.2)%

Revenues

Office Revenue: Office revenue includes rental revenue, expense reimbursements and lease termination income from office properties. Office revenue increased by 5.0% to $55.9 million for the year ended December 31, 2022 compared to $53.3 million for the year ended December 31, 2021. The increase is primarily due to increased rental revenues at two office properties in Los Angeles, California, an office property in Beverly Hills, California, and an office property in Austin, Texas, due to higher aggregate rental rates, as well as higher occupancy at the aforementioned Beverly Hills, California property, as compared to the prior year. Additionally, there was an increase in expense reimbursement revenues related to higher operating expenses at an office property in Oakland, California. The aforementioned increases in office revenues were partially offset by a decrease in rental revenues at an office property in San Francisco, California, as a result of lower occupancy at the property.

Hotel Revenue: Hotel revenue increased by 97.3% to $35.2 million for the year ended December 31, 2022 compared to $17.8 million for the year ended December 31, 2021. The increase is due to increase in occupancy and average daily rate during 2022 as compared to the prior year as a result of the hospitality industry continuing to recover from the impact of COVID-19.

Lending Revenue: Lending revenue represents revenue from our lending subsidiaries, including interest income on loans and other loan related fee income. Lending revenue decreased by 45.6% to $10.8 million for the year ended December 31, 2022 compared to $19.8 million for the year ended December 31, 2021. The decrease is primarily due to lower premium income as a result of lower loan sale volume and a reduction in the market premium achieved during the year ended December 31, 2022, compared to the year ended December 31, 2021. The lower loan origination volume was primarily the result of the SBA temporarily increasing the guaranteed percentages of SBA 7(a) loan originations during the comparable period in 2021, while these factors were partially offset by acceleration of income-recognition from any principal discounts

recorded on our loans due to increased prepayment. We expect the aforementioned trend to continue into 2023 because of lower loan origination volume from decreased demand for variable rate loans in the current inflationary economic environment, which we believe tends to lead borrowers to seek fixed rate loan products, and lower revenue from servicing assets retained for servicing the government guaranteed portion of our loans due to expected increases in prepayment.

Income From Unconsolidated Entity: Income from our unconsolidated entity included in office segment net operating income was $164,000 for the year ended December 31, 2022. As our investment in the Unconsolidated Joint Venture was made in February 2022, there was no comparable income for the year ended December 31, 2021.

Expenses

Office Expenses: Office expenses increased by 12.5% to $26.8 million for the year ended December 31, 2022 compared to $23.8 million for the year ended December 31, 2021. The increase is primarily due to an increase in operating expenses at our office property in Oakland, California, primarily as a result of repairs and higher maintenance and utilities expenses (due to increases in usage and rates), as well as an increase in repairs and maintenance, cleaning and utilities expenses at an office property in Austin, Texas. A portion of the aforementioned operating expenses were offset by increases in tenant reimbursement revenues. In addition, office expenses for the year ended December 31, 2021 had been reduced by tax refunds related to prior tax years and adjustments to payroll allocation reimbursements related to certain properties.

Hotel Expenses: Hotel expenses increased by 50.9% to $24.1 million for the year ended December 31, 2022 compared to $16.0 million for the year ended December 31, 2021, primarily as a result of increased occupancy at the hotel due to the hospitality industry continuing to recover from the impact of COVID-19.

Lending Expenses: Lending expenses represent expenses from our lending subsidiaries, including interest expense, general and administrative expenses and fees to related parties. Lending expenses increased by 6.5% to $4.4 million for the year ended December 31, 2022 compared to $4.1 million for the year ended December 31, 2021. The increase was primarily due to an increase interest expense as a result of an increase in interest rates, an increase in provision for loan losses, and an increase in general and administrative expenses, partially offset by a decrease in salaries expenses (due to lower loan origination volume).

Asset Management and Other Fees to Related Parties: Asset management fees and other fees to related parties, which have not been allocated to our operating segments decreased by 60.5% to $3.6 million for the year ended December 31, 2022 compared to $9.0 million for the year ended December 31, 2021. The decrease was primarily a result of the Fee Waiver which became effective January 1, 2022 and resulted in the new Base Fee calculated at an annual rate of 1% (or 0.25% per quarter) of the average net asset value attributable to common stockholders at the beginning and end of the period. The lower fees also reflect a decrease in the adjusted fair value of the Company’s assets in the year ended December 31, 2022 as compared to the year ended December 31, 2021 due to a decrease in the aggregate fair value of the Company’s investments in real estate resulting from valuation changes at the end of 2021 and 2022.

Expense Reimbursements to Related Parties—Corporate*:* The Administrator receives reimbursement for performing certain services for the Company and its subsidiaries. Expense reimbursements to related parties—corporate decreased by 6.1% to $1.9 million for the year ended December 31, 2022 compared to $2.1 million for the year ended December 31, 2021, primarily due to reductions in allocated payroll.

Interest Expense: Interest expense, which has not been allocated to our operating segments, remained consistent at $9.1 million for the year ended December 31, 2022 compared to $9.0 million for the year ended December 31, 2021. This is due to lower average outstanding principal balances on our 2018 and 2022 revolving credit facilities during the year ended December 31, 2022 compared to the year ended December 31, 2021, offset by increases in the LIBOR and SOFR components of interest rates on our variable-rate debt for the year ended December 31, 2022 as compared to the year ended December 31, 2021.

General and Administrative Expenses: General and administrative expenses, which have not been allocated to our operating segments, were $4.6 million for the year ended December 31, 2022, consistent with $4.6 million for the year ended December 31, 2021.

Transaction Costs: Transaction costs were $223,000 for the year ended December 31, 2022 compared to $143,000 for the year ended December 31, 2021. The increase is due to an increase in abandoned project costs incurred related to potential real estate transactions in 2022 as compared to the prior period.

Depreciation and Amortization Expense: Depreciation and amortization expense remained consistent at $20.3 million for the year ended December 31, 2022 compared to $20.1 million for the year ended December 31, 2021.

Provision for Income Taxes: Provision for income taxes decreased by 62.2% to $1.1 million for the year ended December 31, 2022 compared to $3.0 million for the year ended December 31, 2021. The decrease is primarily due to a decrease in taxable income at our taxable REIT subsidiaries, as a result of operations of the lending division during the year ended December 31, 2022 as compared to the year ended December 31, 2021.

Cash Flow Analysis

Our cash flows from operating activities are primarily dependent upon the real estate assets owned, occupancy level of our real estate assets, the rental rates achieved through our leases, the occupancy and ADR of our hotel, the collectability of rent and recoveries from our tenants, and loan related activity. Our cash flows from operating activities are also impacted by fluctuations in operating expenses and other general and administrative costs. Net cash provided by operating activities decreased by $13.9 million for the year ended December 31, 2022, as compared to the same period in 2021. The decrease was primarily due to a $10.8 million decrease in net proceeds from sale of guaranteed loans net of loan fundings, held for sale, and a $9.3 million decrease resulting from a higher level of net working capital used compared to the prior period. These were partially offset by an increase in net income of $6.8 million for the year ended December 31, 2022, as compared to the same period in 2021.

Our cash flows from investing activities are primarily related to property acquisitions and dispositions, expenditures for the development or repositioning of properties, capital expenditures and cash flows associated with loans originated at our lending segment. Net cash used in investing activities increased by $9.6 million to $22.3 million for the year ended December 31, 2022 compared to $12.7 million for the year ended December 31, 2021. The increase in cash used in investing activities was primarily due to our $12.4 million investment in the Unconsolidated Joint Venture, net of distributions, an increase in capital expenditures of $4.8 million and an increase in real estate acquisitions of $7.9 million. Partially offsetting the aforementioned increases in net cash used in investing activities was a $15.4 million decrease in cash used in investing activities related to net loan fundings during the year ended December 31, 2022 as compared to 2021, a year when the SBA temporarily increased guaranteed percentages for SBA 7(a) loan originations and where we were actively lending under the Paycheck Protection Program.

Our cash flows from financing activities are generally impacted by borrowings and capital activities. Net cash provided by financing activities for the year ended December 31, 2022 was $13.7 million compared to cash used in financing activities of $43.6 million for the year ended December 31, 2021. The $57.3 million change was due to a $112.4 million increase in proceeds from issuance of preferred stock, net of redemptions, and a $106.0 million increase in net proceeds from debt during the year ended December 31, 2022 compared to the same period in 2021. The aforementioned amounts increasing net cash provided by financing activities were partially offset by a decrease in net proceeds of $76.9 million from issuance of Common Stock related to our rights offering completed in June 2021 as compared to the year ended December 31, 2022 in which the Company repurchased $4.7 million worth of its Common Stock and had no proceeds from Common Stock issuances. Additionally, there was $67.4 million in repurchases of Series L Preferred Stock during the year ended December 31, 2022 and an increase in the payment of preferred stock dividends of $6.3 million.

Liquidity and Capital Resources

General

On a short-term basis, our principal demands for funds will be for the acquisition of assets, development or repositioning of properties, or re-leasing of space in existing properties, capital expenditures, paying interest and principal on current and any future debt financings, SBA 7(a) loan originations, paying distributions on our Preferred Stock and Common Stock and making redemption payments on our Preferred Stock. We may finance our future activities through one or more of the following methods: (i) offerings of shares of Common Stock, preferred stock or other equity and or debt securities of the Company; (ii) credit facilities and term loans; (iii) the addition of senior recourse or non-recourse debt using target acquisitions as well as existing assets as collateral; (iv) the sale of existing assets; (v) partnering with co-investors; and or (vi) cash flows from operations. In December 2022, we completed a refinancing of our 2018 Credit Facility, which was set to mature in October 2023, replacing it with the a new facility (the “2022 Credit Facility”). The 2022 Credit Facility includes a $56.2 million term loan as well as a revolver allowing the Company to borrow up to $150.0 million, both of which are collectively subject to a borrowing base calculation. The 2022 Credit Facility matures in December 2025 and provides for two one-year extension options, subject to certain conditions being satisfied. On December 23, 2022, the Company announced it would redeem all remaining outstanding shares of its Series L Preferred Stock in cash on January 25, 2023 at its stated value of $28.37. The total cost to complete the Series L Redemption, including transaction costs of $93,000 (or $0.03 per share), was $83.8 million. The payment for the Series L Redemption was made on January 25, 2023 as well as the accrued and unpaid dividends on the redeemed shares of Series L Preferred Stock through December 31, 2022 of $1.56 per share (or $4.6 million accrued and unpaid dividends in the aggregate) and was funded by a combination of proceeds from the sale of our Series A1 Preferred Stock, draws on our 2022 Credit Facility, and cash on hand. No additional dividends will be owed on the redeemed shares of Series L Preferred Stock subsequent to December 31, 2022.

Our long-term liquidity needs will consist primarily of funds necessary for acquisitions of assets, development or repositioning of properties, or re-leasing of space in existing properties, capital expenditures, paying interest and principal on debt financings, refinancing of indebtedness, SBA 7(a) loan originations, paying distributions on our Preferred Stock or any other preferred stock we may issue, any future repurchase of Common Stock and or redemption of our Preferred Stock (if we choose, or are required, to pay the redemption price in cash instead of in shares of our Common Stock) and distributions on our Common Stock. Additionally, our outstanding commitments to fund loans were $19.9 million as of December 31, 2022, substantially all of which reflect prime-based loans to be originated by our subsidiary engaged in SBA 7(a) Small Business Loan Program lending. All of these commitments have government guarantees of 75% (as the government guarantee has now reverted to 75% from 90%) and we believe that we will be able to sell the guaranteed portion of these loans in a liquid secondary market upon fully funding these loans. Since some commitments are expected to expire without being drawn upon, total commitment amounts do not necessarily represent future cash requirements. Further, we are evaluating renovation of certain areas of our hotel in California and development of our development sites. To the extent we decide to proceed with renovating our hotel, undertaking pre-development work and/or conducting development work on any of our development sites, we will have increased liquidity needs

We intend to convert two out of the three floors of an office building that we own at 4750 Wilshire Boulevard in Los Angeles into for-lease multifamily units (the “4750 Wilshire Project”). As part of our asset-light investment approach, we have secured co-investors who have taken an 80% stake in the property, with us retaining a minority equity interest (the “Co-Investment”), effective February 17, 2023. The total cost of the 4750 Wilshire Project is expected to be approximately $31.0 million, which will be financed by a combination of equity contributions from us and co-investors as well as a mortgage loan from a third-party lender. In connection with the Co-Investment, we have commitments to receive cash proceeds from co-investors, enhancing our liquidity. Further, we expect to earn management fees from co-investors in connection with their co-investment in the 4750 Wilshire Project.

We may not have sufficient funds on hand or may not be able to obtain additional financing to cover all of our long-term cash requirements. The nature of our business, and the requirements imposed by REIT rules that we distribute a substantial majority of our REIT taxable income on an annual basis in the form of dividends, may cause us to have substantial liquidity needs over the long-term. While we will seek to satisfy such needs through one or more of the methods described in the first paragraph of this section, our ability to take such actions is highly uncertain and cannot be predicted, and could be affected by various risks and uncertainties, including, but not limited to, the risks detailed in “Risk Factors” in “Item 1A—Risk Factors” of this Annual Report on Form 10-K. If we cannot obtain funding for our long-term liquidity needs, our assets may generate lower cash flows or decline in value, or both, which may cause us to sell assets at a time when we would not otherwise do so which could have a material adverse effect on our business, financial condition, results of operations, cash flow or our ability to satisfy our debt service obligations or to maintain our level of distributions on our Common Stock or Preferred Stock.

Sources and Uses of Funds

Mortgages

We have one mortgage loan agreement with an outstanding balance of $97.1 million as of December 31, 2022.

Revolving Credit Facilities

In October 2018, we entered into the 2018 Revolving Credit Facility that, as amended, allowed us to borrow up to $209.5 million, subject to a borrowing base calculation. The 2018 Revolving Credit Facility was secured by properties in the Company’s real estate portfolio: eight office properties and one hotel property. In December 2022 the Company refinanced its 2018 Credit Facility and replaced it with a new 2022 Credit Facility, entered into with a bank syndicate, that includes a $56.2 million term loan (the “2022 Credit Facility Term Loan”) as well as a revolver allowing the Company to borrow up to $150.0 million (the “2022 Credit Facility Revolver”), both of which are collectively subject to a borrowing base calculation. The 2022 Credit Facility is secured by properties in the Company’s real estate portfolio: six office properties and one hotel property (as well as the hotel’s adjacent parking garage and retail property). The 2022 Credit Facility bears interest at (A) the base rate plus 1.50% or (B) SOFR plus 2.60%. As of December 31, 2022, the variable interest rate was 6.93%. The 2022 Credit Facility Revolver is also subject to an unused commitment fee of 0.15% or 0.25% depending on the amount of aggregate unused commitments. The 2022 Credit Facility is guaranteed by the Company and the Company is subject to certain financial maintenance covenants. The 2022 Credit Facility matures in December 2025 and provides for two one-year extension options, subject to certain conditions being satisfied, including providing notice of the election and paying an extension fee of 0.15% of each lender’s commitment being extended on the effective date of such extension. As of March 22, 2023 and December 31,

2022 , $113.2 million and $56.2 million, respectively, was outstanding under the 2022 Credit Facility and approximately $93.0 million and $150.0 million, respectively, was available for future borrowings.

Other Financing Activity

On March 9, 2023, our lending division completed a securitization of the unguaranteed portion of certain of our SBA 7(a) loans receivable with the issuance of $54.1 million of unguaranteed SBA 7(a) loan-backed notes (with net proceeds of approximately $43.3 million, after payment of fees and expenses in connection with the securitization and the funding of a reserve account and an escrow account). The SBA 7(a) loan-backed notes are collateralized by the right to receive payments and other recoveries attributable to the unguaranteed portions of certain of our SBA 7(a) loans receivable. The SBA 7(a) loan-backed notes mature on March 20, 2048, with monthly payments due as payments on the collateralized loans are received. The SBA 7(a) loan-backed notes bear interest at a per annum rate equal to the lesser of (i) 30-Day average compounded SOFR plus 2.90% and (ii) prime rate minus 0.35%. The annual interest rate for the first interest payment date shall be 7.40%. We reflect the SBA 7(a) loans receivable as assets on our consolidated balance sheet and the SBA 7(a) loan-backed notes as debt on our consolidated balance sheet.

We have junior subordinated notes with a variable interest rate that resets quarterly based on the three-month LIBOR plus 3.25%, with quarterly interest-only payments. The junior subordinated balance is due at maturity on March 30, 2035. The junior subordinated notes may be redeemed at par at our option. The aggregate principal balance of the junior subordinated notes was $27.1 million as of December 31, 2022.

Securities Offerings

We conducted a continuous public offering of Series A Preferred Stock from October 2016 through January 2020, where one Series A Preferred Warrant was issued along with each issued share of Series A Preferred Stock. During the tenure of the offering, we issued 4,603,287 Series A Preferred Stock and Series A Preferred Warrants and received aggregate net proceeds of $105.2 million after commissions, fees and allocated costs.

The Series A Preferred Warrants are exercisable beginning on the first anniversary of the date of their original issuance until and including the fifth anniversary of the date of such issuance. At the time of issuance, the exercise price of each Series A Preferred Warrant was equal to a 15.0% premium to the per share estimated NAV of our Common Stock most recently published and designated as the applicable NAV by us at the time of issuance. However, in accordance with the terms of the Series A Preferred Warrants, the exercise price of each Series A Preferred Warrant issued prior to the reverse stock split in 2019 (the "Reverse Stock Split") was automatically adjusted to reflect the effect of the Reverse Stock Split and, in the discretion of our Board of Directors, the exercise price and the number of shares issuable upon exercise of each Series A Preferred Warrant issued prior to the special dividend in 2019 was adjusted to reflect the effect of the Special Dividend. As of December 31, 2022, there were 3,316,118 Series A Preferred Warrants to purchase 858,208 shares of Common Stock outstanding.

From February 2020 through June 2022, we conducted a continuous public offering of our Series A Preferred Stock and Series D Preferred Stock. In June 2022, we concluded the offering of our Series A Preferred Stock and Series D Preferred Stock and have since conducted a continuous public offering of our Series A1 Preferred Stock of up to approximately $692.3 million. We intend to use the net proceeds from the offerings for general corporate purposes as described under "—Liquidity and Capital Resources—General." As of December 31, 2022, we had issued 5,766,077 shares of Series A1 Preferred Stock, 8,251,657 shares of Series A Preferred Stock and 56,857 shares of Series D Preferred Stock and received aggregate net proceeds of $318.2 million after commissions, fees and allocated costs.

During the twelve months ended December 31, 2021, we conducted the Rights Offering pursuant to which we issued an aggregate of 8,521,589 shares of Common Stock at a subscription price of $9.25 per share for aggregate gross proceeds of $78.8 million before issuance costs of $1.9 million.

Dividends on and Redemptions of Preferred Stock

Holders of Series A1 Preferred Stock, Series A Preferred Stock and Series D Preferred Stock are entitled to receive, if, as and when authorized by our Board of Directors, and declared by us out of legally available funds, cumulative cash dividends on each share as follows: (1) at the of greater of (i) an annual rate of 6.0% of the Series A1 Preferred Stock Stated Value (i.e., the equivalent of $0.3750 per share per quarter) and (ii) the Federal Funds (Effective) Rate for such quarter and plus 2.5% of the Series A1 Preferred Stock Stated Value divided by four, up to a maximum of 2.5% of the Series A1 Preferred Stock Stated Value per quarter, (2) 5.50% of the Series A Preferred Stock Stated Value (i.e., the equivalent of $0.34375 per share per quarter) and (3) 5.65% of the Series D Preferred Stock Stated Value (i.e., the equivalent of $0.35313 per share per quarter), respectively. Additionally, holders of our Series L Preferred Stock were entitled to receive cumulative cash dividends on each share of 5.50% of the Series L Preferred Stock Stated Value (i.e., the equivalent of $1.56035 per share per year).

We expect to pay dividends on the Series A1 Preferred Stock, Series A Preferred Stock and Series D Preferred Stock in arrears on a monthly basis, unless our results of operations, our general financing conditions, general economic conditions, applicable requirements of the MGCL or other factors make it imprudent to do so. The timing and amount of dividends declared and paid on our Preferred Stock will be determined by our Board of Directors, in its sole discretion, and may vary from time to time.

Holders of our Common Stock are entitled to receive dividends, if, as and when authorized by the Board of Directors and declared by us out of legally available funds. In determining our dividend policy, the Board of Directors considers many factors including the amount of cash resources available for dividend distributions, capital spending plans, cash flow, our financial position, applicable requirements of the MGCL, any applicable contractual restrictions, and future growth in NAV and cash flow per share prospects. Consequently, the dividend rate on a quarterly basis does not necessarily correlate directly to any individual factor.

From the date of issuance until the fifth anniversary of the date of issuance, holders of Series A Preferred Stock and Series D Preferred Stock may require us to redeem such shares at a discount to the Series A1 Preferred Stock, Series A Preferred Stated Value and Series D Preferred Stated Value, respectively. From and after the fifth anniversary of the date of original issuance of any share of our Preferred Stock, we generally (subject to certain conditions) have the right (but not the obligation) to redeem, and the holder of such share may require us to redeem, such share at a redemption price equal to 100% of the stated value of such share, plus any accrued but unpaid dividends in respect of such share as of the effective date of the redemption. The redemption price in respect of any share of Preferred Stock, whether redeemed at our option or at the option of a holder, may be paid in cash or in shares of Common Stock in our sole discretion. During the year ended December 31, 2022, we redeemed 561,248 shares of Series A Preferred Stock, 9,930 shares of Series A1 Preferred Stock, and 8,000 of Series D Preferred Stock.

On September 15, 2022, we repurchased 2,435,284 shares of our Series L Preferred Stock in a privately negotiated transaction (the "Series L Repurchase"). The shares were repurchased at a purchase price of $27.40 per share (a 3.4% discount to the stated value of $28.37 per share) plus $1.12 per share of accrued and unpaid dividends (or $2.7 million of accrued and unpaid dividends in aggregate). The total cost to complete the Series L Repurchase, including transactions costs of $700,000, was $70.1 million. In connection with the Series L Repurchase, we recognized redeemable preferred stock redemptions of $4.8 million on our consolidated statement of operations for the year ended December 31, 2022.

As announced on December 23, 2022, the we redeemed all remaining outstanding shares of our Series L Preferred Stock in cash on January 25, 2023 at its stated value of $28.37 (the "Series L Redemption). The total cost to complete the Series L Redemption, including transaction costs of $93,000 (or $0.03 per share), was $83.8 million. In connection with the Series L Redemption, we recognized redeemable preferred stock redemptions of $7.9 million on our consolidated statement of operations for the year ended December 31, 2022. The $7.9 million of redeemable preferred stock redemptions represents the difference between the repurchase price (including $0.03 per share of transaction costs) and the carrying value of the repurchased Series L Preferred Stock (representing the stated value of $28.37 per share reduced by $2.65 per share of stock offering costs). As of December 31, 2022, $83.8 million was recorded in accounts payable and accrued expenses on our consolidated balance sheet in connection with the Series L Redemption. The accrued and unpaid dividends on the redeemed shares of Series L Preferred Stock through December 31, 2022 of $1.56 per share (or $4.6 million accrued and unpaid dividends in the aggregate) were also paid January 25, 2023. No additional dividends will be owed on the redeemed shares of Series L Preferred Stock subsequent to December 31, 2022.

Off Balance Sheet Arrangements

As of December 31, 2022, we did not have any off-balance sheet arrangements.

Critical Accounting Policies and Estimates and Recently Issued Accounting Pronouncements

The discussion and analysis of our historical financial condition and results of operations is based upon our consolidated financial statements, which have been prepared in accordance with GAAP. The preparation of financial statements in accordance with GAAP requires us to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. While we believe that our estimates are based on reasonable assumptions and judgments at the time they are made, some of our assumptions, estimates and judgments will inevitably prove to be incorrect. As a result, actual results could differ from our estimates, and those differences could be material.

We believe the following critical accounting policy, among others, affects our more significant estimates and assumptions used in preparing our consolidated financial statements. For a discussion of recently issued accounting literature, see Note 2 to our consolidated financial statements included in this Annual Report on Form 10-K.

Recoverability of Investments in Real Estate

As described in Note 2 to the consolidated financial statements included in this Annual Report on Form 10-K, investments in real estate are evaluated for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. If, and when, such events or changes in circumstances are present, the recoverability of assets to be held and used is measured by a comparison of the carrying amount to the future undiscounted cash flows expected to be generated by the assets and its eventual disposition. If the undiscounted cash flows are less than the carrying amount of the assets, an impairment is recognized to the extent the carrying amount of the assets exceeds the estimated fair value of the assets. Assets held for sale are reported at the lower of the asset's carrying amount or fair value, less cost to sell.

Our process for evaluating real estate impairment requires management to make significant assumptions related to certain inputs, including rental rates, lease-up period, occupancy, estimated holding periods, capital expenditures, growth rates, market discount rates and terminal capitalization rates. These inputs require a subjective evaluation based on the specific property and market. Changes in the assumptions could have a significant impact on either the fair value, the amount of impairment charge, if any, or both.

FINRA Estimated Per Share Value

We have prepared an estimate of the per share value of each of our Series A Preferred Stock, Series A1 Preferred Stock and Series D Preferred Stock as of December 31, 2022 in order to assist broker-dealers that are participating in our public offering of Series A1 Preferred Stock and broker-dealers that participated in our public offering of Series A Preferred Stock and Series D Preferred Stock in meeting their obligations under applicable FINRA rules. This estimate utilizes the fair values of our investments in real estate and certain lending assets as well as the carrying amounts of our other assets and liabilities, in each case as of December 31, 2022 (the "Calculated Assets and Liabilities"). Specifically, we divided (i) the fair values of our investments in real estate and certain lending assets and the carrying amounts of our other assets less the carrying amounts of our liabilities, in each case as of December 31, 2022, by (ii) the number of shares of Series A Preferred Stock, Series A1 Preferred Stock and Series D Preferred Stock outstanding as of that date. The fair values of our investments in real estate and certain lending assets were determined with material assistance from third-party appraisal firms engaged to value our investments in real estate and certain lending assets, in each case in accordance with standards set forth by the American Institute of Certified Public Accountants. We believe our methodology of determining the Calculated Assets and Liabilities conforms to standard industry practices and is reasonably designed to ensure it is reliable.

The terms of the Series A Preferred Stock, Series A1 Preferred Stock and Series D Preferred Stock expressly provide that the amount that a holder of Series A Preferred Stock, Series A1 Preferred Stock or Series D Preferred Stock, as the case may be, would be entitled to receive upon the redemption of the Series A Preferred Stock, Series A1 Preferred Stock or Series D Preferred Stock, as the case may be, or our liquidation would be equal to the Series A Preferred Stock Stated Value, Series A1 Preferred Stated Value or Series D Preferred Stock Stated Value, as the case may be, plus, in each case, all accumulated, accrued and unpaid dividends thereon (the "Maximum Value"), subject to any applicable redemption fee in the case of a redemption by such holder. As a result, in no event would a holder of Series A Preferred Stock, Series A1 Preferred Stock or Series D Preferred Stock, as the case may be, be entitled to receive an amount greater than the Maximum Value upon the redemption of such shares or our liquidation. Accordingly, although the estimated value of the Series A Preferred Stock, Series A1 Preferred Stock and Series D Preferred Stock, calculated based on the Calculated Assets and Liabilities as described above, exceeded the Maximum Value, we determined that the estimated value of each of the Series A Preferred Stock, the Series A1 Preferred Stock and Series D Preferred Stock, as of December 31, 2022, was equal to $25.00 per share, plus accrued and unpaid dividends.

Dividends

As of December 31, 2022, there were 5,966,077 and 5,956,147 shares of Series A1 Preferred Stock issued and outstanding, respectively, 8,820,338 and 8,259,090 shares of Series A Preferred Stock issued and outstanding, respectively, 56,857 and 48,857 shares of Series D Preferred Stock issued and outstanding, respectively, and 22,737,853 shares of Common Stock issued and outstanding. Additionally as of December 31, 2021, there were 5,387,160 shares of Series L Preferred Stock outstanding, all of which had been either repurchased during 2022 or reclassified to a liability on our consolidated balance sheet as of December 31, 2022 in connection with the Series L Redemption.

Holders of Preferred Stock are entitled to receive, if, as and when authorized by our Board of Directors, and declared by us out of legally available funds, cumulative cash dividends as follows:

	Annual Rate of Dividend (as a % of stated value)
Series A1 Preferred Stock [(1)]	6.00%
Series A Preferred Stock	5.50%
Series D Preferred Stock	5.65%
Series L Preferred Stock	5.50%

(1) The terms of the Series A1 Preferred Stock provide for cumulative cash dividends (if, as and when authorized by the Board of Directors) on each share of Series A1 Preferred Stock at a quarterly rate of the greater of (i) an annual rate of 6.00% of the Series A1 Stated Value, divided by four (4) and (ii) the Federal Funds (Effective) Rate on the dividend determination date, plus 2.50%, of the Series A1 Stated Value, divided by four (4), up to a maximum of 2.50% of the Series A1 Stated Value per quarter. The annual rate of dividend of the Series A1 Preferred Stock during the first quarter of 2023 is 6.33%.

Dividends on each share of Preferred Stock begin accruing on, and are cumulative from, the date of issuance. We expect to timely pay dividends on the Preferred Stock in arrears on a monthly basis, unless our results of operations, our general financing conditions, general economic conditions, applicable requirements of the MGCL or other factors make it imprudent to do so. The timing and amount of dividends declared and paid on our Preferred Stock will be determined by our Board of Directors, in its sole discretion, and may vary from time to time.

Holders of our Common Stock are entitled to receive dividends, if, as and when authorized by the Board of Directors and declared by us out of legally available funds. In determining our dividend policy, the Board of Directors considers many factors including the amount of cash resources available for dividend distributions, capital spending plans, cash flow, our financial position, applicable requirements of the MGCL, any applicable contractual restrictions, and future growth in NAV and cash flow per share prospects. Consequently, the dividend rate on a quarterly basis does not necessarily correlate directly to any individual factor.

Item 7A. Quantitative and Qualitative Disclosures About Market Risk

Our future income, cash flow and fair values relevant to financial instruments are dependent upon prevalent market interest rates. Market risk refers to the risk of loss from adverse changes in market prices and interest rates. We are exposed to market risk in the form of changes in interest rates and the potential impact such changes may have on the cash flows from our floating rate debt or the fair values of our fixed rate debt. As of December 31, 2022 and 2021 (excluding premiums, discounts, and deferred loan costs), $97.1 million (or 52.1%) and $102.1 million (or 50.2%) of our debt, respectively, was fixed rate mortgage loans, and $89.3 million (or 47.9%) and $101.4 million (or 49.8%), respectively, was floating rate borrowings. Based on the level of floating rate debt outstanding as of December 31, 2022 and 2021, a 50 basis point change in LIBOR and SOFR would result in an annual impact to our earnings of approximately $446,000 and $507,000, respectively. We calculate interest rate sensitivity by multiplying the amount of floating rate debt by the respective change in rate.

Item 8. Financial Statements and Supplementary Data

The information required by this Item is incorporated herein by reference to the Financial Statements and Auditors' Report beginning on page F-1.

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

None.

Item 9A. Controls and Procedures

Evaluation of Disclosure Controls and Procedures

As of December 31, 2022, we carried out an evaluation, under the supervision and with the participation of our management, including our Principal Executive Officer and Principal Financial Officer, regarding the effectiveness of the design and operation of our disclosure controls and procedures (as defined in Rules 13a-15I and 15d-15(e) under the Exchange Act) at the end of the period covered by this report. Based on that evaluation, the Chief Executive Officer and Chief Financial Officer concluded, as of that time, that our disclosure controls and procedures were effective in ensuring that information required to be disclosed by us in the reports that we file or submit to the SEC under the Exchange Act is recorded, processed, summarized and reported within the time periods specified by the SEC's rules and forms and include controls and procedures designed to ensure the information required to be disclosed by us in such reports is accumulated and communicated to

management, including our Chief Executive Officer and our Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosure.

Management's Report on Internal Control Over Financial Reporting

Management is responsible for establishing and maintaining adequate internal control over financial reporting as defined in Rule 13a-15(f) under the Exchange Act. Our internal control over financial reporting is designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. We reviewed the results of management's assessment with the Audit Committee of the Board of Directors.

Management assessed the effectiveness of our internal control over financial reporting as of December 31, 2022. In making this assessment, management used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission in *Internal Control—Integrated Framework (2013)*. Based on their assessment, management determined that as of December 31, 2022, our internal control over financial reporting was effective based on those criteria.

The effectiveness of our internal control over financial reporting as of December 31, 2022 has been audited by Deloitte & Touche, LLP, an independent registered public accounting firm as stated in their report which appears herein.

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the stockholders and the Board of Directors of Creative Media & Community Trust Corporation

Opinion on Internal Control over Financial Reporting

We have audited the internal control over financial reporting of Creative Media & Community Trust Corporation (the "Company") as of December 31, 2022, based on criteria established in *Internal Control — Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). In our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2022, based on criteria established in *Internal Control — Integrated Framework (2013)* issued by COSO.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the consolidated financial statements as of and for the year ended December 31, 2022, of the Company and our report dated March 30, 2023, expressed an unqualified opinion on those financial statements.

Basis for Opinion

The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying Management's Report on Internal Control Over Financial Reporting. Our responsibility is to express an opinion on the Company's internal control over financial reporting based on our audit. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audit in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

Definition and Limitations of Internal Control over Financial Reporting

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

/s/ Deloitte & Touche LLP

Tempe, Arizona
March 30, 2023

Limitations on the Effectiveness of Controls

Our management, including our Chief Executive Officer and Chief Financial Officer, does not expect that our disclosure controls or our internal controls will prevent all errors and fraud. A control system, no matter how well designed and operated, can provide only reasonable, not absolute, assurance that the control system's objectives will be met. Further, the design of a control system must reflect the fact that there are resource constraints, and the benefits of controls must be considered relative to their costs. Because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues and instances of fraud, if any, have been detected. These inherent limitations include the realities that judgments in decision making can be faulty, and that breakdowns can occur because of simple error or mistake. Controls can also be circumvented by the individual acts of some persons, by collusion of two or more people, or by management override of the controls. The design of any system of controls is based in part upon certain assumptions about the likelihood of future events, and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions. Over time, controls may become inadequate because of changes in conditions or deterioration in the degree of compliance with associated policies or procedures. Because of the inherent limitations in a cost effective control system, misstatements due to error or fraud may occur and not be detected.

Changes in Internal Control Over Financial Reporting

There have been no changes in our internal control over financial reporting that occurred during the quarter ended December 31, 2022 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Item 9B. Other Information

None.

Item 9C. Disclosure Regarding Foreign Jurisdictions that Prevent Inspections

Not applicable.

PART III

Item 10. Directors, Executive Officers and Corporate Governance

Information required by this Item regarding our directors and executive officers, and corporate governance, including information with respect to beneficial ownership reporting compliance, will appear in the Proxy Statement we will deliver to our stockholders in connection with our 2023 Annual Meeting of Stockholders. Such information is incorporated herein by reference. Information relating to the registrant's Code of Business Conduct and Ethics that applies to its employees, including its senior financial officers, is included in Part I of this Annual Report on Form 10-K under "Item 1—Business—Available Information."

Item 11. Executive Compensation

The information required by this Item will appear in the Proxy Statement we will deliver to our stockholders in connection with our 2023 Annual Meeting of Stockholders. Such information is incorporated herein by reference.

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

The information required by this Item regarding security ownership of certain beneficial owners and management will appear in the Proxy Statement we will deliver to our stockholders in connection with our 2023 Annual Meeting of Stockholders. Such information is incorporated herein by reference. Information relating to securities authorized for issuance under our equity compensation plans is included in Part II of this Annual Report on Form 10-K under "Item 5—Market For Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities."

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

The information required by this Item will appear in the Proxy Statement we will deliver to our stockholders in connection with our 2023 Annual Meeting of Stockholders. Such information is incorporated herein by reference.

Item 14. Principal Accountant Fees and Services

The information required by this Item will appear in the Proxy Statement we will deliver to our stockholders in connection with our 2023 Annual Meeting of Stockholders. Such information is incorporated herein by reference.

PART IV

Item 15. Exhibits and Financial Statement Schedules

(a) 1. Financial Statements

The list of the financial statements filed as part of this Annual Report on Form 10-K is set forth on page F-1 herein.

2. Financial Statement Schedules

The list of the financial statement schedules filed as part of this Annual Report on Form 10-K is set forth on page F-1 herein.

Note: Other schedules are omitted because of the absence of conditions under which they are required or because the required information is given in the financial statements or notes thereto.

3. Exhibits

The following documents are included or incorporated by reference in this Annual Report on Form 10-K:

Exhibit No.	Document
3.1	Articles of Amendment and Restatement (incorporated by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K filed with the SEC on May 2, 2014).
3.1(a)	Articles of Amendment (Name Change) (incorporated by reference to Exhibit 3.4 to the Registrant's Current Report on Form 8-K filed with the SEC on May 2, 2014).
3.1(b)	Articles of Amendment (Reverse Stock Split) (incorporated by reference to Exhibit 3.5 to the Registrant's Current Report on Form 8-K filed with the SEC on May 2, 2014).
3.1(c)	Articles of Amendment (Par Value Decrease) (incorporated by reference to Exhibit 3.6 to the Registrant's Current Report on Form 8-K filed with the SEC on May 2, 2014).
3.1(d)	Articles of Amendment (Reverse Stock Split) (incorporated by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K filed with the SEC on September 6, 2019).
3.1(e)	Articles of Amendment (Par Value Decrease) (incorporated by reference to Exhibit 3.2 to the Registrant's Current Report on Form 8-K filed with the SEC on September 6, 2019).
3.1(f)	Articles of Amendment (Name Change) (incorporated by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K filed with the SEC on March 10, 2022).
3.2	Articles Supplementary, designating the Series A Preferred Stock (incorporated by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K filed with the SEC on October 27, 2016).
3.3	Amendment No. 1 to the Articles Supplementary, designating the Series A Preferred Stock (incorporated by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K filed with the SEC on January 31, 2020).
3.4	Articles Supplementary, designating the Series D Preferred Stock (incorporated by reference to Exhibit 3.2 to the Registrant's Current Report on Form 8-K filed with the SEC on January 31, 2020).
3.5	Articles Supplementary, designating the Series L Preferred Stock (incorporated by reference to Exhibit 4.1 to the Registrant's Pre-Effective Amendment No. 4 to the Form S-11 Registration Statement (333-218019) filed with the SEC on November 15, 2017).
3.6	Articles Supplementary, designating the Series A1 Preferred Stock (incorporated by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K filed with the SEC on June 16, 2022).
3.7	Bylaws of Creative Media & Community Trust Corporation (incorporated by reference to Exhibit 3.6 to the Registrant's Annual Report on Form 10-K filed with the SEC on March 16, 2022).
*4.1	Description of Securities of Creative Media & Community Trust Corporation.
4.2	Purchase Agreement among PMC Commercial Trust, PMC Preferred Capital Trust-A and Taberna Preferred Funding I, Ltd. dated March 15, 2005 (incorporated by reference to Exhibit 10.1 to the Registrant's Quarterly Report on Form 10-Q filed with the SEC on May 10, 2005).
4.3	Junior Subordinated Indenture between PMC Commercial Trust and JPMorgan Chase Bank, National Association as Trustee dated March 15, 2005 (incorporated by reference to Exhibit 10.2 to the Registrant's Quarterly Report on Form 10-Q filed with the SEC on May 10, 2005).
4.4	Amended and Restated Trust Agreement among PMC Commercial Trust, JPMorgan Chase Bank, National Association, Chase Bank USA, National Association and The Administrative Trustees Named Herein dated March 15, 2005 (incorporated by reference to Exhibit 10.3 to the Registrant's Quarterly Report on Form 10-Q filed with the SEC on May 10, 2005).

4.5	Floating Rate Junior Subordinated Note due 2035 (incorporated by reference to Exhibit 10.5 to the Registrant's Quarterly Report on Form 10-Q filed with the SEC on May 10, 2005).
4.6	Warrant Agreement, dated June 28, 2016, between CIM Commercial Trust Corporation and American Stock Transfer & Trust Company, LLC (incorporated by reference to Exhibit 4.2 to the Registrant's Registration Statement on Form S-11/A filed with the SEC on June 29, 2016).
4.7	First Amendment to Warrant Agreement, dated November 6, 2019, between CIM Commercial Trust Corporation and American Stock Transfer & Trust Company, LLC (incorporated by reference to Exhibit 10.2 to the Registrant's Quarterly Report on Form 10-Q filed with the SEC on November 8, 2019).
4.8	Form of Warrant Certificate (incorporated by reference to Exhibit 4.4 to the Registrant's Registration Statement on Form S-11 filed with the SEC on June 29, 2016).
+10.1	2015 Equity Incentive Plan (incorporated by reference to Annex A to the Registrant's Definitive Proxy Statement related to its 2015 annual meeting of stockholders, as filed with the SEC on April 17, 2015).
+10.2	Amended and Restated Executive Employment Contract with Barry N. Berlin dated August 30, 2013 (incorporated by reference to Exhibit 10.2 to the Registrant's Current Report on Form 8-K filed with the SEC on August 30, 2013).
10.3	Master Services Agreement dated March 11, 2014 by and among PMC Commercial Trust, certain of its subsidiaries, and CIM Service Provider, LLC (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K filed with the SEC on March 11, 2014).
10.4	Service Agreement, dated as of August 7, 2014, by and among CIM Commercial Trust Corporation and CIM Service Provider, LLC, under the Master Services Agreement dated March 11, 2014, by and among PMC Commercial Trust, certain of its subsidiaries, and CIM Service Provider, LLC (incorporated by reference to Exhibit 10.8 to the Registrant's Quarterly Report on Form 10-Q filed with the SEC on August 11, 2014).
10.5	Form of Indemnification Agreement for directors and officers of CIM Commercial Trust Corporation (incorporated by reference to Exhibit 10.9 to the Registrant's Quarterly Report on Form 10-Q filed with the SEC on August 11, 2014).
10.6	Staffing and Reimbursement Agreement, dated as of January 1, 2015, by and among CIM SBA Staffing, LLC, PMC Commercial Lending, LLC and CIM Commercial Trust Corporation (incorporated by reference to Exhibit 10.15 to the Registrant's Annual Report on Form 10-K filed with the SEC on March 16, 2015).
10.7	Investment Management Agreement, dated as of December 10, 2015, between CIM Urban Partners, L.P. and CIM Investment Advisors, LLC (incorporated by reference to Exhibit 10.16 to the Registrant's Annual Report on Form 10-K filed with the SEC on March 15, 2016).
10.8	Assignment Agreement, dated as of January 1, 2019, by and among CIM Capital, LLC (formerly known as CIM Investment Advisors, LLC), CIM Capital Controlled Company Management, LLC, CIM Capital RE Debt Management, LLC, CIM Capital Real Property Management, LLC and CIM Capital Securities Management, LLC (incorporated by reference to Exhibit 10.12 to the Registrant's Annual Report on Form 10-K filed with the SEC on March 18, 2019).
10.9	Third Amended and Restated Dealer Manager Agreement, dated as of June 16, 2022, by and among Creative Media & Community Trust Corporation, CIM Service Provider, LLC and CCO Capital, LLC (incorporated by reference to Exhibit 1.1 to the Registrant's Current Report on Form 8-K filed with the SEC on June 16, 2022).
10.10	Third Amended and Restated Dealer Manager Guaranty, dated as of June 16, 2022, by and among Creative Media & Community Trust Corporation, CIM Service Provider, LLC and CCO Capital, LLC (incorporated by reference to Exhibit 1.2 to the Registrant's Current Report on Form 8-K filed with the SEC on June 16, 2022).
10.11	Second Amended and Restated Agreement of Limited Partnership of CIM Urban Partners, L.P., dated as of December 22, 2005, by and among CIM Urban Partners GP, Inc. and CIM Urban REIT, LLC (incorporated by reference to Exhibit 10.17 to the Registrant's Annual Report on Form 10-K filed with the SEC on March 16, 2015).
10.12	Credit Agreement, dated as of December 16, 2022, by and among certain subsidiary borrowers of Creative Media & Community Trust Corporation, JPMorgan Chase Bank, N.A., as administrative agent, and the other lenders party thereto (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K filed with the SEC on December 16, 2022).
10.13	Credit Guaranty, dated as of December 16, 2022, by and among certain subsidiary borrowers of Creative Media & Community Trust Corporation, JPMorgan Chase Bank, N.A., as administrative agent, and the other lenders party thereto (incorporated by reference to Exhibit 10.2 to the Registrant's Current Report on Form 8-K filed with the SEC on December 16, 2022).
10.14	Modification Agreement, dated as of September 2, 2020, among certain subsidiary borrowers of CIM Commercial Trust Corporation, each Lender party thereto and JPMorgan Chase Bank, N.A., as Administrative Agent (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K filed with the SEC on September 3, 2020).
10.15	Lease Agreement, dated as of June 29, 2009, by and among CIM/Oakland 1 Kaiser Plaza, LP and Kaiser Foundation Health Plan, Inc, as amended by the First Amendment to Lease, dated as of June 15, 2012, as further amended by the Second Amendment to Lease, dated as of December 16, 2013, as further amended by the Third Amendment to Lease, dated as of July 8, 2015, and as further amended by the Fourth Amendment to Lease, dated as of November 18, 2015 (incorporated by reference to Exhibit 10.16 to the Registrant's Annual Report on Form 10-K filed with the SEC on March 16, 2020).

10.16	Equity Distribution Agreement, dated as of March 16, 2020, by and among CIM Commercial Trust Corporation, CIM Capital, LLC, CIM Service Provider, LLC and Ladenburg Thalmann & Co. Inc. (incorporated by reference to Exhibit 1.1 to the Registrant's Current Report on Form 8-K filed with the SEC on March 16, 2020).
10.17	Amendment No. 2, dated as of September 22, 2021, to Second Amended and Restated Dealer Manager Agreement, dated as of January 28, 2020, by and among CIM Commercial Trust Corporation, CIM Service Provider, LLC and CCO Capital, LLC (incorporated by reference to Exhibit 1.1 to the Registrant's Current Report on 8-K filed with the SEC on September 24, 2021)
10.18	Fee Waiver, dated January 5, 2022, by and among CIM Commercial Trust Corporation, CIM Service Provider, LLC, CIM Capital, LLC, CIM Capital Securities Management, LLC, CIM Capital Controlled Company Management, LLC, CIM Capital RE Debt Management, LLC, CIM Capital Real Property Management, LLC, CIM Urban Partners, L.P., PMC Funding Corp. and PMC Properties, Inc. (incorporated by reference to Exhibit 1.1 to the Registrant's Current Report on Form 8-K filed with the SEC on January 6, 2023)
10.19	Equity Interest Purchase and Sale Agreement, dated as of January 31, 2023, by and between Jack London Square Development (Oakland) Holdings, LLC and Channel House (Oakland) Owner, LLC (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K filed with the SEC on February 3, 2023)
10.20	Equity Interest Purchase and Sale Agreement, dated as of January 31, 2023, by and between 466 Water Street (Oakland) Holdings, LLC, and Parcel D 466 Water Street (Oakland) Owner, LLC (incorporated by reference to Exhibit 10.2 to the Registrant's Current Report on Form 8-K filed with the SEC on February 3, 2023)
10.21	Equity Interest Purchase and Sale Agreement, dated as of January 31, 2023, by and between JLS F-3 (Oakland) Holdings, LLC, and Parcel F-3 (Oakland) Owner, LLC (incorporated by reference to Exhibit 10.3 to the Registrant's Current Report on Form 8-K filed with the SEC on February 3, 2023)
10.22	Equity Interest Purchase and Sale Agreement, dated as of January 31, 2023, by and between 1100 Clay Venture Holdings, LLC and CMCT 1100 Clay (Oakland) Owner, LLC (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K filed with the SEC on February 29, 2023)
*10.23	Amended And Restated Limited Liability Company Operating Agreement of 4750 Co-Investor, LLC
*21.1	Subsidiaries of the Registrant.
*23.1	Consent of Deloitte & Touche, LLP.
*24.1	Powers of Attorney (included on signature page).
*31.1	Section 302 Officer Certification-Chief Executive Officer.
*31.2	Section 302 Officer Certification-Chief Financial Officer.
*32.1	Section 906 Officer Certification-Chief Executive Officer.
*32.2	Section 906 Officer Certification-Chief Financial Officer.

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* Filed herewith.

\+ Management contract or compensatory plan

(b) Exhibits

The exhibits listed in Item 15(a) are incorporated by reference or attached hereto.

(c) Excluded Financial Statements

None.

Item 16. Form 10-K Summary

None.

SIGNATURES

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

Creative Media & Community Trust Corporation

Dated:	March 30, 2023	By:	/s/ DAVID THOMPSON David Thompson *Chief Executive Officer*
Dated:	March 30, 2023	By:	/s/ BARRY N. BERLIN Barry N. Berlin *Chief Financial Officer*

POWERS OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints David Thompson and Barry N. Berlin and each of them severally, his true and lawful attorney-in-fact with power of substitution and resubstitution to sign in his name, place and stead, in any and all capacities, to do any and all things and execute any and all instruments that such attorney may deem necessary or advisable under the Securities Exchange Act of 1934 and any rules, regulations and requirements of the U.S. Securities and Exchange Commission in connection with this Annual Report on Form 10-K and any and all amendments hereto, as fully for all intents and purposes as he might or could do in person, and hereby ratifies and confirms all said attorneys-in-fact and agents, each acting alone, and his substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

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

Signature	Title	Date
/s/ David Thompson David Thompson	Chief Executive Officer (Principal Executive Officer)	March 30, 2023
/s/ Barry N. Berlin Barry N. Berlin	Chief Financial Officer (Principal Financial Officer and Principal Accounting Officer)	March 30, 2023
/s/ Douglas Bech Douglas Bech	Director	March 30, 2023
/s/ John Hope Bryant John Hope Bryant	Director	March 30, 2023
/s/ Marcie L. Edwards Marcie L. Edwards	Director	March 30, 2023
/s/ Shaul Kuba Shaul Kuba	Director	March 30, 2023
/s/ Richard Ressler Richard Ressler	Director	March 30, 2023
/s/ Avraham Shemesh Avraham Shemesh	Director	March 30, 2023
/s/ Elaine Wong Elaine Wong	Director	March 30, 2023

CREATIVE MEDIA & COMMUNITY TRUST CORPORATION AND SUBSIDIARIES
CONSOLIDATED FINANCIAL STATEMENTS

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REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the stockholders and the Board of Directors of Creative Media & Community Trust Corporation

Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheets of Creative Media & Community Trust Corporation (the "Company") as of December 31, 2022, and 2021, the related consolidated statements of operations, equity and cash flows, for each of the two years in the period ended December 31, 2022, and the related notes and schedules (collectively referred to as the "financial statements"). In our opinion, the financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2022 and 2021, and the results of its operations and its cash flows for each of the two years in the period ended December 31, 2022, in conformity with accounting principles generally accepted in the United States of America.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the Company's internal control over financial reporting as of December 31, 2022, based on criteria established in *Internal Control — Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission and our report dated March 30, 2023, expressed an unqualified opinion on the Company's internal control over financial reporting.

Basis for Opinion

These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's financial statements based on our audits. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. Our audits included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

Critical Audit Matter

The critical audit matter communicated below is a matter arising from the current-period audit of the financial statements that was communicated or required to be communicated to the audit committee and that (1) relates to accounts or disclosures that are material to the financial statements and (2) involved our especially challenging, subjective, or complex judgments. The communication of critical audit matters does not alter in any way our opinion on the financial statements, taken as a whole, and we are not, by communicating the critical audit matter below, providing a separate opinion on the critical audit matter or on the accounts or disclosures to which it relates.

Investments in Real Estate – Evaluation of Impairment Indicators and Undiscounted Cash Flows – Refer to Note 2 to the consolidated financial statements

Critical Audit Matter Description

The Company's evaluation of investments in real estate for impairment involves an initial assessment of each real estate asset to determine whether events or changes in circumstances exist that may indicate that the carrying amounts of each investment in real estate is no longer recoverable. Possible indications of impairment may include, but is not limited to, changes in anticipated holding periods, changes in real estate market conditions, property performance, and occupancy, and additional property valuation assumptions including discount and terminal capitalization rates. When events or changes in circumstances exist, the Company evaluates its investment in real estate for impairment by comparing undiscounted future cash flows expected to be generated over the life of each asset to the respective carrying amount. If the carrying amount of an asset exceeds the undiscounted future cash flows, an analysis is performed to determine the fair value of the asset.

The Company makes significant assumptions to evaluate investments in real estate for possible indications of impairment. Changes in these assumptions could have a significant impact on the investment in real estate identified for further analysis. For those investments in real estate where indications of impairment have been identified, the Company makes significant estimates and assumptions to determine whether the undiscounted future cash flows expected to be generated over the life of the asset exceed the carrying amount of the investment in real estate. Management concluded that the carrying value of the assets were recoverable and therefore were not subjected to a discounted cash flow analysis. Estimates and assumptions used for the undiscounted future cash flows of the office property include rental rates, lease-up period, growth rates, holding period, occupancy, capital expenditures and terminal capitalization rates.

We identified the determination of impairment indicators for investments in real estate and certain assumptions used for the undiscounted future cash flows of the properties as a critical audit matter because of (1) the significant assumptions management makes when determining whether events or changes in circumstances have occurred indicating that the carrying amounts of investments in real estate assets may not be recoverable and (2) for those investments in real estate where indications of impairment have been identified, the significant estimates and assumptions management makes to evaluate whether the undiscounted future cash flows expected to be generated over the life of the asset exceed the carrying amount of the property, including those related to rental rates, lease-up period, growth rates, holding period, occupancy, capital expenditures and terminal capitalization rates. This required a high degree of auditor judgment and an increased extent of effort , including the need to involve our fair value specialists, when performing audit procedures to evaluate (1) whether management appropriately identified impairment indicators and (2) the reasonableness of management's assumptions related to rental rates, lease-up period, growth rates, holding period, occupancy, capital expenditures and terminal capitalization rates for the undiscounted future cash flows analysis.

How the Critical Audit Matter Was Addressed in the Audit

- We tested the effectiveness of controls over (1) management's identification of possible circumstances that may indicate that the carrying amounts of investments in real estate are no longer recoverable and (2) the undiscounted cash flows, including review of the underlying inputs.
- We evaluated the accuracy, relevance, and completeness of factors utilized in the Company's qualitative assessment for a sample of properties.
- We performed corroborating inquiries with management, including property accounting, leasing and portfolio oversight to determine whether factors were identified in the current period that may be an impairment indicator, including changes in expected holding periods, and corroborated these inquiries through review of third-party market reports and inspection of meeting minutes of the Board of Directors. In addition, we evaluated whether factors were identified in the current period that may result in a change to assumptions used in the undiscounted cash flow models.
- We evaluated whether the assumptions used in the Company's undiscounted model relating to rental rates, lease-up period, growth rates, holding period, occupancy, capital expenditures and terminal capitalization rates were consistent with evidence obtained in other areas of the audit.
- For properties in which we identified a change in expected holding period or the property was more likely than not to be disposed, we obtained the Company's analysis to determine whether the expected proceeds were less than the carrying value.
- With the assistance of our fair value specialists, we evaluated the undiscounted cash flow analysis, including office asset estimates of rental rates, lease-up periods, growth rates, holding period, capital expenditures and terminal capitalization rates by (1) evaluating the source of information and assumptions used by management and (2) testing the mathematical accuracy of the undiscounted cash flow analysis.
- We evaluated the reasonableness of management's undiscounted cash flow analysis by comparing management's projections to the Company's historical results and external market sources.

/s/ Deloitte & Touche LLP

Tempe, Arizona
March 30, 2023

We have served as the Company's auditor since 2020.

CREATIVE MEDIA & COMMUNITY TRUST CORPORATION AND SUBSIDIARIES
Consolidated Balance Sheets
(In thousands, except share and per share amounts)

	December 31,	
	2022	**2021**
ASSETS		
Investments in real estate, net	$ 502,006	$ 497,984
Investment in unconsolidated entity	12,381	—
Cash and cash equivalents	46,190	22,311
Restricted cash	11,290	11,340
Loans receivable, net	62,547	73,543
Accounts receivable, net	3,780	3,396
Deferred rent receivable and charges, net	37,543	36,095
Other intangible assets, net	4,461	5,251
Other assets	10,050	10,946
TOTAL ASSETS	$ 690,248	$ 660,866
LIABILITIES, REDEEMABLE PREFERRED STOCK, AND EQUITY		
LIABILITIES:		
Debt, net	$ 184,267	$ 201,145
Accounts payable and accrued expenses	107,220	26,751
Intangible liabilities, net	20	237
Due to related parties	3,155	4,541
Other liabilities	17,856	16,861
Total liabilities	312,518	249,535
COMMITMENTS AND CONTINGENCIES (Note 14)		
REDEEMABLE PREFERRED STOCK: Series A cumulative redeemable preferred stock, $0.001 par value; 35,438,752 and 35,776,705 shares authorized as of December 31, 2022 and December 31, 2021, respectively; 693,741 shares issued and outstanding as of December 31, 2022 and 1,633,965 and 1,631,965 shares issued and outstanding, respectively, as of December 31, 2021; liquidation preference of $25.00 per share, subject to adjustment	15,697	37,782
EQUITY:		
Series A cumulative redeemable preferred stock, $0.001 par value; 35,438,752 and 35,776,705 shares authorized as of December 31, 2022 and December 31, 2021, respectively; 8,126,597 and 7,565,349 shares issued and outstanding, respectively, as of December 31, 2022 and 6,492,632 and 6,271,337 shares issued and outstanding, respectively, as of December 31, 2021; liquidation preference of $25.00 per share, subject to adjustment	189,048	156,431
Series A1 cumulative redeemable preferred stock, $0.001 par value; 27,990,070 shares authorized; 5,966,077 and 5,956,147 shares issued and outstanding, respectively, as of December 31, 2022 and no shares issued, outstanding, or authorized as of December 31, 2021; liquidation preference of $25.00 per share, subject to adjustment	147,514	—
Series D cumulative redeemable preferred stock, $0.001 par value; 26,992,000 and 32,000,000 shares authorized as of December 31, 2022 and December 31, 2021, respectively; 56,857 and 48,857 shares issued and outstanding, respectively, as of December 31, 2022 and 56,857 shares issued and outstanding as of December 31, 2021; liquidation preference of $25.00 per share, subject to adjustment	1,200	1,396
Series L cumulative redeemable preferred stock, $0.001 par value; 919,260 and 6,306,420 shares authorized as of December 31, 2022 and December 31, 2021, respectively; No shares issued and outstanding, respectively, as of December 31, 2022 and 8,080,740 and 5,387,160 shares issued and outstanding as of December 31, 2021; liquidation preference of $28.37 per share, subject to adjustment	—	152,834
Common stock, $0.001 par value; 900,000,000 shares authorized; 22,737,853 and 23,369,331 shares issued and outstanding as of December 31, 2022 and December 31, 2021, respectively	23	24
Additional paid-in capital	861,721	866,746
Distributions in excess of earnings	(837,846)	(804,227)
Total stockholders' equity	361,660	373,204
Noncontrolling interests	373	345
Total equity	362,033	373,549
TOTAL LIABILITIES, REDEEMABLE PREFERRED STOCK, AND EQUITY	$ 690,248	$ 660,866

The accompanying notes are an integral part of these consolidated financial statements.

CREATIVE MEDIA & COMMUNITY TRUST CORPORATION AND SUBSIDIARIES
Consolidated Statements of Operations
(In thousands, except per share amounts)

	Year Ended December 31, 2022	Year Ended December 31, 2021
REVENUES:		
Rental and other property income	$ 56,226	$ 52,838
Hotel income	33,432	16,722
Interest and other income	12,248	21,366
Total Revenues	101,906	90,926
EXPENSES:		
Rental and other property operating	50,526	39,272
Asset management and other fees to related parties	3,570	9,030
Expense reimbursements to related parties—corporate	1,925	2,050
Expense reimbursements to related parties—lending segment	1,929	1,921
Interest	9,604	9,413
General and administrative	6,869	6,844
Transaction costs	223	143
Depreciation and amortization	20,348	20,112
Total Expenses	94,994	88,785
Income from unconsolidated entity	164	—
INCOME BEFORE PROVISION FOR INCOME TAXES	7,076	2,141
Provision for income taxes	1,131	2,992
NET INCOME (LOSS)	5,945	(851)
Net (income) loss attributable to noncontrolling interests	(27)	1
NET INCOME (LOSS) ATTRIBUTABLE TO THE COMPANY	5,918	(850)
Redeemable preferred stock dividends declared or accumulated (Note 10)	(18,558)	(18,763)
Redeemable preferred stock deemed dividends (Note 10)	(19)	(253)
Redeemable preferred stock redemptions (Note 10)	(13,126)	(113)
NET LOSS ATTRIBUTABLE TO COMMON STOCKHOLDERS	$ (25,785)	$ (19,979)
NET LOSS ATTRIBUTABLE TO COMMON STOCKHOLDERS PER SHARE:		
Basic	$ (1.11)	$ (1.04)
Diluted	$ (1.11)	$ (1.04)
WEIGHTED AVERAGE SHARES OF COMMON STOCK OUTSTANDING:		
Basic	23,153	19,187
Diluted	23,154	19,187

The accompanying notes are an integral part of these consolidated financial statements.

CREATIVE MEDIA & COMMUNITY TRUST CORPORATION AND SUBSIDIARIES
Consolidated Statements of Equity
(In thousands, except share and per share amounts)

	Years Ended December 31, 2022 and 2021								
	Common Stock [1]		Preferred Stock						
	Shares	Par Value	Shares	Par Value	Additional Paid - in Capital	Distributions in Excess of Earnings	Total Stockholders' Equity	Non-controlling Interests	Total Equity
Balances, December 31, 2020	14,827,410	$ 15	9,784,067	$ 262,036	$ 794,127	$ (778,519)	$ 277,659	$ 455	$ 278,114
Contributions to noncontrolling interests	—	—	—	—	—	—	—	9	9
Distributions to noncontrolling interests	—	—	—	—	—	—	—	(118)	(118)
Stock-based compensation expense	20,332	—	—	—	220	—	220	—	220
Common dividends ($0.300 per share)	—	—	—	—	—	(5,732)	(5,732)	—	(5,732)
Dividends to holders of Series A Preferred Stock ($1.375 per share)	—	—	—	—	—	(10,289)	(10,289)	—	(10,289)
Issuance of Series D Preferred Stock	—	—	37,712	923	(30)	—	893	—	893
Dividends to holders of Series D Preferred Stock ($1.413 per share)	—	—	—	—	—	(65)	(65)	—	(65)
Dividends to holders of Series L Preferred Stock ($1.560 per share)	—	—	—	—	—	(8,406)	(8,406)	—	(8,406)
Reclassification of Series A Preferred Stock to permanent equity	—	—	2,006,456	50,508	(4,702)	—	45,806	—	45,806
Redeemable Preferred Stock deemed dividends	—	—	—	—	—	(253)	(253)	—	(253)
Redemption of Series A Preferred Stock	—	—	(112,881)	(2,806)	219	(113)	(2,700)	—	(2,700)
Issuance of Common Stock	8,521,589	9	—	—	76,912	—	76,921	—	76,921
Net loss	—	—	—	—	—	(850)	(850)	(1)	(851)
Balances, December 31, 2021	23,369,331	$ 24	11,715,354	$ 310,661	$ 866,746	$ (804,227)	$ 373,204	$ 345	$ 373,549

(Continued)

CREATIVE MEDIA & COMMUNITY TRUST CORPORATION AND SUBSIDIARIES
Consolidated Statements of Equity (Continued)
(In thousands, except share and per share amounts)

	Years Ended December 31, 2022 and 2021								
	Common Stock		Preferred Stock						
	Shares	Par Value	Shares	Par Value	Additional Paid-in Capital	Distributions in Excess of Earnings	Total Stockholders' Equity	Non-controlling Interests	Total Equity
Balances, December 31, 2021	23,369,331	$ 24	11,715,354	$ 310,661	$ 866,746	$ (804,227)	$ 373,204	$ 345	$ 373,549
Contributions to noncontrolling interests	—	—	—	—	—	—	—	5	5
Distributions to noncontrolling interests	—	—	—	—	—	—	—	(4)	(4)
Stock based compensation expense	30,984	—	—	—	202	—	202	—	202
Repurchase of common stock	(662,462)	(1)	—	—	(4,714)	—	(4,715)	—	(4,715)
Common dividends ($0.340 per share)	—	—	—	—	—	(7,838)	(7,838)	—	(7,838)
Issuance of A1 Preferred Stock	—	—	5,966,077	147,761	(12,370)	—	135,391	—	135,391
Redemptions of Series A1 Preferred Stock	—	—	(9,930)	(247)	23	(3)	(227)	—	(227)
Dividends to holders of A1 Preferred Stock ($1.125 per share)	—	—	—	—	—	(2,463)	(2,463)	—	(2,463)
Redemptions of Series D Preferred Stock	—	—	(8,000)	(196)	7	9	(180)	—	(180)
Dividends to holders of Series D Preferred Stock ($1.413 per share)	—	—	—	—	—	(62)	(62)	—	(62)
Repurchase and Redemption of Series L Preferred Stock	—	—	(5,387,160)	(152,834)	14,270	(12,692)	(151,256)	—	(151,256)
Dividends to holders of Series L Preferred Stock ($1.560 per share)	—	—	—	—	—	(7,329)	(7,329)	—	(7,329)
Reclassification of Series A Preferred stock to permanent equity	—	—	1,630,765	40,998	(3,232)	—	37,766	—	37,766
Redeemable Preferred Stock deemed dividends	—	—	—	—	—	(19)	(19)	—	(19)
Redemption of Series A Preferred Stock	—	—	(336,753)	(8,381)	789	(440)	(8,032)	—	(8,032)
Dividends to holders of Series A Preferred Stock ($1.375 per share)	—	—	—	—	—	(8,700)	(8,700)	—	(8,700)
Net income	—	—	—	—	—	5,918	5,918	27	5,945
Balances, December 31, 2022	22,737,853	$ 23	13,570,353	$ 337,762	$ 861,721	$ (837,846)	$ 361,660	$ 373	$ 362,033

The accompanying notes are an integral part of these consolidated financial statements.

CREATIVE MEDIA & COMMUNITY TRUST CORPORATION AND SUBSIDIARIES
Consolidated Statements of Cash Flows
(In thousands)

	Year Ended December 31,	
	2022	**2021**
CASH FLOWS FROM OPERATING ACTIVITIES:		
Net income (loss)	$ 5,945	$ (851)
Adjustments to reconcile net income (loss) to net cash provided by operating activities:		
Depreciation and amortization, net	20,497	20,188
Amortization of deferred loan costs	1,066	1,068
Amortization of premiums and discounts on debt	48	(61)
Unrealized premium adjustment	1,471	2,930
Amortization of deferred costs and accretion of fees on loans receivable, net	(688)	(622)
Write-offs (recoveries) of uncollectible receivables	259	(82)
Deferred income taxes	(3)	72
Stock-based compensation	202	220
Income from unconsolidated entity	(164)	—
Loans funded, held for sale to secondary market	(30,770)	(96,991)
Proceeds from sale of guaranteed loans	31,943	109,000
Principal collected on loans subject to secured borrowings	692	1,786
Commitment fees remitted and other operating activity	(1,086)	(2,559)
Return on investment from unconsolidated entity	164	—
Changes in operating assets and liabilities:		
Accounts receivable	(480)	(1,519)
Other assets	(40)	(1,340)
Accounts payable and accrued expenses	801	2,574
Deferred leasing costs	(2,056)	(1,669)
Other liabilities	995	7,128
Due to related parties	3,614	7,009
Net cash provided by operating activities	32,410	46,281
CASH FLOWS FROM INVESTING ACTIVITIES:		
Capital expenditures	(8,816)	(4,047)
Acquisition of real estate	(10,787)	(2,933)
Investment in unconsolidated entity	(22,652)	—
Return of investment from unconsolidated entity	10,271	—
Loans funded	(9,849)	(36,299)
Principal collected on loans	19,559	30,584
Net cash used in investing activities	(22,274)	(12,695)
CASH FLOWS FROM FINANCING ACTIVITIES:		
Payment of unsecured revolving lines of credit, revolving credit facilities, mortgages payable, term notes and principal on SBA 7(a) loan-backed notes	(182,700)	(157,910)
Proceeds from unsecured revolving lines of credit, revolving credit facilities and term notes	166,230	35,396
Payment of principal on secured borrowings	(692)	(1,786)
Payment of deferred preferred stock offering costs	(1,581)	(1,149)
Payment of deferred costs	(2,928)	(1)
Payment of common dividends	(7,658)	(3,979)
Proceeds from issuance of Common Stock	—	78,825
Payment of Common Stock offering costs	—	(1,900)
Repurchase of Common Stock	(4,715)	—
Net proceeds from issuance of Preferred Stock	148,007	29,829
Payment of preferred stock dividends	(24,327)	(18,045)

(Continued)

CREATIVE MEDIA & COMMUNITY TRUST CORPORATION AND SUBSIDIARIES
Consolidated Statements of Cash Flows (Continued)
(In thousands)

	Year Ended December 31,	
	2022	2021
Repurchase of Series L Preferred Stock	(67,417)	—
Redemption of Preferred Stock	(8,527)	(2,755)
Noncontrolling interests’ distributions	(4)	(118)
Noncontrolling interests’ contributions	5	9
Net cash provided by (used in) financing activities	13,693	(43,584)
NET INCREASE (DECREASE) IN CASH AND CASH EQUIVALENTS AND RESTRICTED CASH	23,829	(9,998)
CASH AND CASH EQUIVALENTS AND RESTRICTED CASH:		
Beginning of period	33,651	43,649
End of period	$ 57,480	$ 33,651
RECONCILIATION OF CASH AND CASH EQUIVALENTS AND RESTRICTED CASH TO THE CONSOLIDATED BALANCE SHEETS:		
Cash and cash equivalents	$ 46,190	$ 22,311
Restricted cash	11,290	11,340
Total cash and cash equivalents and restricted cash	$ 57,480	$ 33,651
SUPPLEMENTAL DISCLOSURE OF CASH FLOW INFORMATION:		
Cash paid during the period for interest	$ 8,388	$ 8,463
Federal income taxes paid	$ 1,105	$ 2,900
SUPPLEMENTAL DISCLOSURES OF NONCASH INVESTING AND FINANCING ACTIVITIES:		
Accrued capital expenditures, tenant improvements and real estate developments	$ 3,859	$ 2,127
Accrued deferred costs	$ 22	$ —
Accrued preferred stock offering costs	$ 68	$ 161
Accrual of dividends payable to preferred stockholders	$ 6,276	$ 12,051
Accrual of dividends payable to common stockholders	$ 1,933	$ 1,753
Preferred stock offering costs offset against redeemable preferred stock	$ 2,105	$ 400
Reclassification of Series A Preferred Stock from temporary equity to permanent equity	$ 37,766	$ 45,806
Reclassification of Preferred Stock from permanent equity to accounts payable	$ 83,838	$ 48
Redeemable preferred stock deemed dividends	$ 19	$ 253
Accrued Redeemable Preferred Stock fees	$ 450	$ 638
Equity-based payment for management fees	$ 5,000	$ 9,174

The accompanying notes are an integral part of these consolidated financial statements.

1. ORGANIZATION AND OPERATIONS

Creative Media & Community Trust Corporation (formerly known as CIM Commercial Trust Corporation) (the "Company"), is a Maryland corporation and real estate investment trust ("REIT"). The Company primarily acquires, develops, owns and operates both premier multifamily properties situated in vibrant communities throughout the United States and Class A and creative office real assets in markets with similar business and employment characteristics to its multifamily investments. The Company also owns one hotel in northern California and a lending platform that originates loans under the Small Business Administration ("SBA") 7(a) loan program. The Company seeks to apply the expertise of CIM Group, L.P. ("CIM Group") to the acquisition, development and operation of premier multifamily properties and creative office assets that cater to rapidly growing industries such as technology, media and entertainment in vibrant and emerging communities throughout the United States.

Subsequent to December 31, 2022, the Company acquired two multifamily properties in Oakland, California and acquired a 50% interest in a multifamily property in.Los Angeles, California (see Note 18 for more details).

The Company's common stock, $0.001 par value per share ("Common Stock"), is currently traded on the Nasdaq Global Market ("Nasdaq") under the ticker symbol "CMCT", and on the Tel Aviv Stock Exchange (the "TASE") under the ticker symbol "CMCT." The Company has authorized for issuance 900,000,000 shares of common stock and 100,000,000 shares of preferred stock ("Preferred Stock").

Since June 2022, the Company has been conducting a continuous public offering with respect to shares of its Series A1 Preferred Stock, par value $0.001 per share with an initial stated value of $25.00 per share, subject to adjustment (Note 10).

The Company has qualified and intends to continue to qualify as a REIT, as defined in the Internal Revenue Code of 1986, as amended.

2. BASIS OF PRESENTATION AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Basis of Presentation—The accompanying consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States ("GAAP").

Principles of Consolidation—The consolidated financial statements include the accounts of the Company and its subsidiaries. All intercompany transactions and balances have been eliminated in consolidation. In determining whether the Company has controlling interests in an entity and the requirement to consolidate the accounts in that entity, the Company analyzes its investments in real estate in accordance with standards set forth in GAAP to determine whether they are variable interest entities ("VIEs"), and if so, whether the Company is the primary beneficiary. The Company's judgment with respect to its level of influence or control over an entity and whether the Company is the primary beneficiary of a VIE involves consideration of various factors, including the form of the Company's ownership interest, the Company's voting interest, the size of the Company's investment (including loans), and the Company's ability to participate in major policy-making decisions. The Company's ability to correctly assess its influence or control over an entity affects the presentation of these investments in real estate on the Company's consolidated financial statements. For the year ended December 31, 2022, the Company has determined that the trust formed for the benefit of the note holders (the "Trust") for the securitization of the unguaranteed portion of certain of the Company's SBA 7(a) loans receivable was considered a VIE. Applying the consolidation requirements for VIEs, the Company determined that it is the primary beneficiary based on its power to direct activities through its role as servicer and its obligations to absorb losses and right to receive benefits. As of December 31, 2022, the Trust held no assets or liabilites as the note holders had been paid in full. In addition, as of December 31, 2022, the Company has determined that its Unconsolidated Joint Venture (as defined below) is considered a VIE. Applying the consolidation requirements for VIEs, the Company determined that it is not the primary beneficiary based on its lack of power to direct activities and its obligations to absorb losses and right to receive benefits, and therefore the Unconsolidated joint venture does not qualify for consolidation. The Company accounts for the investment in the Unconsolidated Joint Venture as an equity method investment.

Investments in Real Estate—Investments in real estate are stated at depreciated cost. Depreciation and amortization are recorded on a straight-line basis over the estimated useful lives as follows:

Buildings and improvements	15 - 40 years
Furniture, fixtures, and equipment	3 - 5 years
Tenant improvements	Lesser of useful life or lease term

The fair value of real estate acquired is recorded to acquired tangible assets, consisting primarily of land, land improvements, building and improvements, tenant improvements, furniture, fixtures, and equipment, and identified intangible assets and liabilities, consisting of the value of acquired above-market and below-market leases, in-place leases and ground leases, if any, based in each case on their respective fair values. Loan premiums, in the case of above-market rate loans, or loan discounts, in the case of below-market rate loans, are recorded based on the fair value of any loans assumed in connection with acquiring the real estate.

Capitalized Project Costs

The Company capitalizes project costs, including pre-construction costs, interest expense, property taxes, insurance, and other costs directly related and essential to the development, redevelopment, or construction of a project, while activities are ongoing to prepare an asset for its intended use. Costs incurred after a project is substantially complete and ready for its intended use are expensed as incurred. Improvements and replacements are capitalized when they extend the useful life, increase capacity, or improve the efficiency of the asset. Ordinary repairs and maintenance are expensed as incurred.

Recoverability of Investments in Real Estate—The Company continually monitors events and changes in circumstances that could indicate that the carrying amounts of its real estate assets may not be recoverable. Investments in real estate are evaluated for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. If, and when, such events or changes in circumstances are present, the recoverability of assets to be held and used requires significant judgment and estimates and is measured by a comparison of the carrying amount to the future undiscounted cash flows expected to be generated by the assets and their eventual disposition. If the undiscounted cash flows are less than the carrying amount of the assets, an impairment is recognized to the extent the carrying amount of the assets exceeds the estimated fair value of the assets. The process for evaluating real estate impairment requires management to make significant assumptions related to certain inputs, including rental rates, lease-up period, occupancy, estimated holding periods, capital expenditures, growth rates, market discount rates and terminal capitalization rates. These inputs require a subjective evaluation based on the specific property and market. Changes in the assumptions could have a significant impact on either the fair value, the amount of impairment charge, if any, or both. Any asset held for sale is reported at the lower of the asset's carrying amount or fair value, less costs to sell. When an asset is identified by the Company as held for sale, the Company will cease recording depreciation and amortization of the asset. The Company did not recognize any impairment of long-lived assets during the years ended December 31, 2022 and 2021 (Note 3).

Investment in Unconsolidated Entity—In February 2022, the Company invested in an unconsolidated joint venture arrangement (the "Unconsolidated Joint Venture") with a CIM-managed separate account (the "CIM JV Partner") to purchase an office property in Los Angeles, California for a gross purchase price of approximately $51.0 million, of which the Company initially contributed approximately $22.4 million and the CIM JV Partner initially contributed the remaining balance. The Company accounts for its approximately 44% investment in the Unconsolidated Joint Venture under the equity method, as the Company has the ability to exercise significant influence over the investment. The Unconsolidated Joint Venture records its assets and liabilities at fair value. As such, the Company records its share of the Unconsolidated Joint Venture's unrealized gains or losses as well as its share of the revenues and expenses on a quarterly basis as an adjustment to the carrying value of the investment on the Company's consolidated balance sheet and such share is recognized within the Company's income from unconsolidated entity on the consolidated statements of operations. The Company recorded income of $164,000 related to its investment in the Unconsolidated Joint Venture during the year ended December 31, 2022, in the consolidated statements of operations. In connection with the closing of the financing of the property owned by the Unconsolidated Joint Venture, the Company received a distribution from the Unconsolidated Joint Venture of $10.4 million during the year ended December 31, 2022, 164,000 of which was recognized as a return on investment and 10.3 million of which was recognized as a return of investment. The Company also made additional contributions during the year ended December 31, 2022 totaling $242,000. The Company's investment in the Unconsolidated Joint Venture was $12.4 million and its ownership percentage remained unchanged as of December 31, 2022.

Cash and Cash Equivalents—Cash and cash equivalents include short-term liquid investments with initial maturities of three months or less.

Restricted Cash—The Company's mortgage loan and hotel management agreements provide for depositing cash into restricted accounts reserved for capital expenditures, free rent, tenant improvement and leasing commission obligations. Restricted cash also includes cash required to be segregated in connection with certain of the Company's loans receivable.

Loans Receivable—The Company's loans receivable are carried at their unamortized principal balance less unamortized acquisition discounts and premiums, retained loan discounts and loan loss reserves. Acquisition discounts or premiums, origination fees and retained loan discounts are amortized as a component of interest and other income using the effective interest method over the life of the respective loans, or on a straight-line basis when it approximates the effective interest method. All loans were originated pursuant to programs sponsored by the Small Business Administration (the "SBA"). The programs consist of loans originated under the SBA 7(a) Small Business Loan Program (the "SBA 7(a) Program") and, commencing with the quarter ended June 30, 2020 and ending during the quarter ended June 30, 2021, the Paycheck Protection Program (the "PPP").

Pursuant to the SBA 7(a) Program, the Company sells the portion of the loan that is guaranteed by the SBA. Upon sale of the SBA guaranteed portion of the loans, which are accounted for as sales, the unguaranteed portion of the loan retained by the Company is recorded at fair value and a discount is recorded as a reduction in basis of the retained portion of the loan. Unamortized retained loan discounts were $9.0 million and $9.6 million as of December 31, 2022 and 2021, respectively.

A loan receivable is generally classified as non-accrual (a "Non-Accrual Loan") if (i) it is past due as to payment of principal or interest for a period of 60 days or more, (ii) any portion of the loan is classified as doubtful or is charged-off or (iii) the repayment in full of the principal and or interest is in doubt. Generally, loans are charged-off when management determines that the Company will be unable to collect any remaining amounts due under the loan agreement, either through liquidation of collateral or other means. Interest income, included in interest and other income, on a Non-Accrual Loan is recognized on the cost recovery basis.

Loan Loss Reserves—On a quarterly basis, the Company evaluates the collectability of its loans receivable. The Company's evaluation of collectability involves significant judgment, estimates, and a review of the ability of the borrower to make principal and interest payments, the underlying collateral and the borrowers' business models and future operations. For the years ended December 31, 2022 and 2021, the Company recorded net impairment losses of $0 and $19,000, respectively, on its loans receivable. There were no material loans receivable subject to credit risk which were considered to be impaired as of December 31, 2022 or 2021. The Company considers a loan to be impaired when the Company does not expect to collect all of the contractual interest and principal payments as scheduled in the loan agreements. The Company also establishes a general loan loss reserve when available information indicates that it is probable a loss has occurred based on the carrying value of the portfolio and the amount of the loss can be reasonably estimated. Significant judgment is required in determining the general loan loss reserve, including estimates of the likelihood of default and the estimated fair value of the collateral. The general loan loss reserve includes those loans, which may have negative characteristics which have not yet become known to the Company. In addition to the reserves established on loans not considered impaired that have been evaluated under a specific evaluation, the Company establishes the general loan loss reserve using a consistent methodology to determine a loss percentage to be applied to loan balances. These loss percentages are based on many factors, primarily cumulative and recent loss history and general economic conditions. For the years ended December 31, 2022 and 2021, the Company has loan loss reserves of $1.1 million and $943,000, respectively.

Deferred Rent Receivable and Charges—Deferred rent receivable and charges consist of deferred rent, deferred leasing costs, deferred offering costs (Note 10), deferred financing costs and other deferred costs. Deferred leasing costs, which represent lease commissions and other direct costs associated with the acquisition of tenants, are capitalized and amortized on a straight-line basis over the terms of the related leases. Deferred offering costs represent direct costs incurred in connection with the Company's offerings of Series A1 Preferred Stock (as defined below), Series A Preferred Stock (as defined below), and, after January 2020, Series A Preferred Stock (as defined below) and Series D Preferred Stock (as defined below), excluding costs specifically identifiable to a closing, such as commissions, dealer-manager fees, and other offering fees and expenses. Generally, for a specific issuance of securities, issuance-specific offering costs are recorded as a reduction of proceeds raised on the issuance date and offering costs incurred but not directly related to a specifically identifiable closing of a security are deferred. Deferred offering costs are first allocated to each issuance of a security on a pro-rata basis equal to the ratio of the number of securities issued in a given issuance to the maximum number of securities that are expected to be issued in the related offering. In the case of the Series A Preferred Stock issued prior to February 2020, the issuance-specific offering costs and the deferred offering costs allocated to such issuance were further allocated to the Series A Preferred Stock and Series A Preferred Warrants issued in such issuance based on the relative fair value of the instruments on the date of issuance. The

deferred offering costs allocated to the Series A Preferred Stock and Series A Preferred Warrants are reductions to temporary equity and permanent equity, respectively. Deferred financing costs related to the securing of a revolving line of credit are presented as an asset and amortized ratably over the term of the line of credit arrangement. As such, the Company's current and corresponding prior period total deferred costs, net in the accompanying consolidated balance sheets relate only to the revolving loan portion of the credit facilities.

As of December 31, 2022 and 2021, deferred rent receivable and charges, net consist of the following:

	December 31, 2022	December 31, 2021
	(in thousands)	
Deferred rent receivable	$ 20,949	$ 20,870
Deferred leasing costs, net of accumulated amortization of $9,637 and $8,971, respectively	8,319	8,453
Deferred offering costs	5,664	6,281
Deferred financing costs, net of accumulated amortization of $30 and $0 , respectively	2,120	—
Other deferred costs	491	491
Deferred rent receivable and charges, net	$ 37,543	$ 36,095

Noncontrolling Interests—Noncontrolling interests represent the interests in various properties owned by third parties.

Redeemable Preferred Stock—Beginning on the date of original issuance of any given shares of Series A1 Preferred Stock, par value $.001 per share ("Series A1 Preferred Stock"), with an initial stated value of $25.00 per share, subject to adjustment (the "Series A1 Preferred Stock Stated Value"), Series A Preferred Stock, par value $0.001 per share ("Series A Preferred Stock") with an initial stated value of $25.00 per share, subject to adjustment (the "Series A Preferred Stock Stated Value"), or Series D Preferred Stock, par value $0.001 per share ("Series D Preferred Stock"), with an initial stated value of $25.00 per share, subject to adjustment (the "Series D Preferred Stock Stated Value"), and from and after the fifth anniversary date of the original issuance of the Series L Preferred Stock, the holder of such shares has the right to require the Company to redeem such shares, subject to certain limitations as discussed in Note 10. The Company records the activity related to the Series A1 Preferred Stock, Series A Preferred Warrants, Series D Preferred Stock and Series L Preferred Stock in permanent equity. In the event a holder of Series A Preferred Stock requests redemption of such shares and such redemption takes place prior to the first anniversary of the date of original issuance, the Company is required to pay such redemption in cash. As a result, the Company recorded issuances of Series A Preferred Stock in temporary equity. On the first anniversary of the date of original issuance of a particular share of Series A Preferred Stock, the Company reclassifies such share of Series A Preferred Stock from temporary equity to permanent equity because the feature giving rise to temporary equity classification, the requirement to satisfy redemption requests in cash, lapses on the first anniversary date.

Purchase Accounting for Acquisition of Investments in Real Estate—The Company applies the acquisition method to all acquired real estate assets. The purchase consideration of the real estate, which includes the transaction costs incurred in connection with such acquisitions, is recorded at fair value to the acquired tangible assets, consisting primarily of land, land improvements, building and improvements, tenant improvements, and furniture, fixtures, and equipment, and identified intangible assets and liabilities, consisting of the value of acquired above-market and below-market leases, in-place leases and ground leases, if any, based in each case on their relative fair values. Loan premiums, in the case of above-market rate loans, or loan discounts, in the case of below-market rate loans, are recorded based on the fair value of any loans assumed in connection with acquiring the real estate.

The fair value of the tangible assets of an acquired property is determined by valuing the property as if it were vacant, and the "as-if-vacant" value is then allocated to land (or acquired ground lease if the land is subject to a ground lease), land improvements, building and improvements, and tenant improvements based on management's determination of the relative fair values of these assets. Management determines the as-if-vacant fair value of a property using methods similar to those used by independent appraisers. Factors considered by management in performing these analyses include an estimate of carrying costs during the expected lease-up periods considering current market conditions and costs to execute similar leases. In estimating carrying costs, management includes real estate taxes, insurance and other operating expenses, and estimates of lost rental

revenue during the expected lease-up periods based on current market demand. Management also estimates costs to execute similar leases, including leasing commissions, legal, and other related costs.

In allocating the purchase consideration of the identified intangible assets and liabilities of an acquired property, above-market, below-market, and in-place lease values are recorded based on the present value (using an interest rate that reflects the risks associated with the leases acquired) of the difference between (i) the contractual amounts to be paid pursuant to the in-place leases and (ii) management's estimate of fair market lease rates for the corresponding in-place leases measured over a period equal to the remaining non-cancelable term of the lease, and for below-market leases, over a period equal to the initial term plus any below-market fixed-rate renewal periods. Acquired above-market and below-market leases are amortized and recorded to rental and other property income over the initial terms of the respective leases.

The aggregate value of other acquired intangible assets, consisting of in-place leases and tenant relationships, is measured by the estimated cost of operations during a theoretical lease-up period to replace in-place leases, including lost revenues and any unreimbursed operating expenses, plus an estimate of deferred leasing commissions for in-place leases. The value of in-place leases is amortized to expense over the remaining non-cancelable periods of the respective leases. If a lease is terminated prior to its stated expiration, all unamortized amounts relating to that lease are written-off.

Revenue Recognition—At the inception of a revenue-producing contract, the Company determines if a contract qualifies as a lease and if not, then as a customer contract. Based on this determination, the appropriate treatment in accordance with GAAP is applied to the contract, including its revenue recognition.

Revenue from leasing activities

The Company operates as a lessor of real estate assets. When the Company enters into a contract or amends an existing contract, the Company evaluates if the contracts meet the definition of a lease using the following criteria:

- One party (lessor) must hold an identified asset;
- The counterparty (lessee) must have the right to obtain substantially all of the economic benefits from the use of the asset throughout the period of the contract; and
- The counterparty (lessee) must have the right to direct the use of the identified asset throughout the period of the contract.

The Company determined that the Company's contracts with its tenants explicitly identify the premises and that any substitution rights to relocate tenants to other premises within the same building stated in the contract are not substantive. Additionally, so long as payments are made timely under such contracts, the Company's tenants have the right to obtain substantially all the economic benefits from the use of the identified asset and can direct how and for what purpose the premises are used to conduct their operations. Therefore, the contracts with the Company's tenants constitute leases.

All leases are classified as operating leases and minimum rents are recognized on a straight-line basis over the terms of the leases when collectability is probable and the tenant has taken possession or controls the physical use of the leased asset. The excess of rents recognized over amounts contractually due pursuant to the underlying leases is recorded as deferred rent. If the lease provides for tenant improvements, the Company determines whether the tenant improvements, for accounting purposes, are owned by the tenant or the Company. When the Company is the owner of the tenant improvements, the tenant is not considered to have taken physical possession or have control of the physical use of the leased asset until the tenant improvements are substantially completed. When the tenant is considered the owner of the improvements, any tenant improvement allowance that is funded is treated as an incentive. Lease incentives paid to tenants are included in other assets and amortized as a reduction to rental revenue on a straight-line basis over the term of the related lease. Lease incentives of $3.9 million and $4.0 million are presented net of accumulated amortization of $3.0 million and $2.7 million as of December 31, 2022 and 2021, respectively.

Reimbursements from tenants, consisting of amounts due from tenants for common area maintenance, real estate taxes, insurance, and other recoverable costs, are recognized as revenue and are included in rental and other property income in the period the expenses are incurred, with the corresponding expenses included in rental and other property operating expense. Tenant reimbursements are recognized and presented on a gross basis when the Company is primarily responsible for fulfilling the promise to provide the specified good or service and control that specified good or service before it is transferred to the tenant. The Company has elected not to separate lease and non-lease components as the pattern of revenue recognition does not differ for the two components, and the non-lease component is not the primary component in the Company's leases.

In addition to minimum rents, certain leases, including the Company's parking leases with third-party operators, provide for additional rents based upon varying percentages of tenants' sales in excess of annual minimums. Percentage rent is recognized once lessees' specified sales targets have been met.

For the years ended December 31, 2022 and 2021, the Company recognized rental income as follows:

	Year Ended December 31,	
	2022	2021
	(in thousands)	
Rental and other property income		
Fixed lease payments [1]	$ 46,373	$ 45,773
Variable lease payments [2]	9,853	7,065
Rental and other property income	$ 56,226	$ 52,838

(1) Fixed lease payments include contractual rents under lease agreements with tenants recognized on a straight-line basis over the lease term, including amortization of acquired above-market leases, below-market leases and lease incentives.

(2) Variable lease payments include expense reimbursements billed to tenants and percentage rent, net of bad debt expense from the Company's operating leases plus cash payments from tenants deemed not probable of collections.

Collectability of Lease-Related Receivables

The Company continually reviews whether collection of lease-related receivables, including any straight-line rent, and current and future operating expense reimbursements from tenants is probable. The determination of whether collectability is probable takes into consideration the tenant's payment history, the financial condition of the tenant, business conditions in the industry in which the tenant operates and economic conditions in the area in which the property is located. Upon the determination that the collectability of a receivable is not probable, the Company will record a reduction to rental and other property income and a decrease in the outstanding receivable. Revenue from leases where collection is deemed to be not probable is recorded on a cash basis until collectability becomes probable. Management's estimate of the collectability of lease-related receivables is based on the best information available at the time of estimate. The Company does not use a general reserve approach. As of December 31, 2022 and 2021, the Company had identified certain tenants where collection was no longer considered probable and decreased outstanding receivables by $387,000 and $579,000, respectively, across all operating leases.

Revenue from lending activities

Interest income included in interest and other income is comprised of interest earned on loans and the Company's short-term investments and the accretion of loan discounts. Interest income on loans is accrued as earned with the accrual of interest suspended when the related loan becomes a Non-Accrual Loan (as defined below).

Revenue from hotel activities

The Company recognizes revenue from hotel activities separate from its leasing activities. At contract inception, the Company assesses the goods and services promised in its contracts with customers and identifies a performance obligation for each promise to transfer to the customer a good or service (or bundle of goods or services) that is distinct. To identify the performance obligations, the Company considers all of the goods or services promised in the contract regardless of whether they are explicitly stated or implied by customary business practices. Various performance obligations of hotel revenues can be categorized as follows:

- cancellable and noncancelable room revenues from reservations and
- ancillary services including facility usage and food or beverage.

Cancellable reservations represent a single performance obligation of providing lodging services at the hotel. The Company satisfies its performance obligation and recognizes revenues associated with these reservations over time as services are rendered to the customer. The Company satisfies its performance obligation and recognizes revenues associated with

noncancelable reservations at the earlier of (i) the date on which the customer cancels the reservation or (ii) over time as services are rendered to the customer.

Ancillary services include facilities usage and providing food and beverage. The Company satisfies its performance obligation and recognizes revenues associated with these services at a point in time when the good or service is delivered to the customer.

At inception of a contract with a customer for hotel goods and services, the contractual price is equivalent to the transaction price as there are no elements of variable consideration to estimate.

The Company presents hotel revenues net of sales, occupancy, and other taxes.

Below is a reconciliation of the hotel revenue from contracts with customers to the total hotel segment revenue disclosed in Note 17:

	Year Ended December 31,	
	2022	2021
	(in thousands)	
Hotel properties		
Hotel income	$ 33,432	$ 16,722
Rental and other property income	1,650	1,070
Interest and other income	131	57
Hotel revenues	$ 35,213	$ 17,849

Tenant recoveries outside of the lease agreements

Tenant recoveries outside of the lease agreements are related to construction projects in which the Company's tenants have agreed to fully reimburse the Company for all costs related to construction. These services include architectural, permit expediter and construction services. At inception of the contract with the customer, the contractual price is equivalent to the transaction price as there are no elements of variable consideration to estimate. While these individual services are distinct, in the context of the arrangement with the customer, all of these services are bundled together and represent a single package of construction services requested by the customer. The Company satisfies its performance obligation and recognizes revenues associated with these services over time as the construction is completed. No such amounts were recognized for tenant recoveries outside of the lease agreements for the years ended December 31, 2022 and 2021. As of December 31, 2022, there were no remaining performance obligations associated with tenant recoveries outside of the lease agreements.

Premiums and Discounts on Debt— Premiums and discounts on debt are accreted or amortized to interest expense using the effective interest method or on a straight-line basis over the respective term of the debt, which approximates the effective interest method.

Stock-Based Compensation Plans—The Company has issued and continue to issue restricted shares under stock-based compensation plans described more fully in Note 8. The Company uses fair value recognition provisions to account for all awards granted, modified or settled.

Earnings per Share ("EPS")—Basic EPS is computed by dividing net income attributable to common stockholders by the weighted-average number of shares of Common Stock outstanding for the period. Net income attributable to common stockholders includes a deduction for dividends due to preferred stockholders. Diluted EPS is computed by dividing net income attributable to common stockholders by the weighted average number of shares of Common Stock outstanding adjusted for the dilutive effect, if any, of securities such as stock-based compensation awards, warrants, including the Series A Preferred Warrants and preferred stock, including the Series A1 Preferred Stock, Series A Preferred Stock, Series D Preferred Stock and Series L Preferred Stock, whose redemption is payable in shares of Common Stock or cash, at the discretion of the Company. The dilutive effect of stock-based compensation awards and warrants, including the Series A Preferred Warrants, is reflected in the weighted average diluted shares calculation by application of the treasury stock method. The dilutive effect of preferred stock, including the Series A1 Preferred Stock, Series A Preferred Stock, Series D Preferred Stock and Series L Preferred

Stock, whose redemption is payable in shares of Common Stock or cash, at the discretion of the Company, is reflected in the weighted average diluted shares calculation by application of the if-converted method.

Distributions—Distributions on the Company's Series A1 Preferred Stock, Series A Preferred Stock, Series D Preferred Stock, Series L Preferred Stock and Common Stock are recorded when they are authorized by its Board of Directors and declared by the Company.

Assets Held for Sale and Discontinued Operations—In the ordinary course of business, the Company may periodically enter into agreements to dispose of its assets. Some of these agreements are non-binding because either they do not obligate either party to pursue any transactions until the execution of a definitive agreement or they provide the potential buyer with the ability to terminate without penalty or forfeiture of any material deposit, subject to certain specified contingencies, such as completion of due diligence at the discretion of such buyer. The Company does not classify assets that are subject to such non-binding agreements as held for sale.

The Company classifies assets as held for sale, if material, when they meet the necessary criteria, which include: a) management commits to and actively embarks upon a plan to sell the assets, b) the assets to be sold are available for immediate sale in their present condition, c) the sale is expected to be completed within one year under terms usual and customary for such sales and d) actions required to complete the plan indicate that it is unlikely that significant changes to the plan will be made or that the plan will be withdrawn. The Company generally believes that it meets these criteria when the plan for sale has been approved by its management, having the authority to approve the sale, there are no known significant contingencies related to the sale and management believes it is probable that the sale will be completed within one year.

Assets held for sale are recorded at the lower of cost or estimated fair value less cost to sell. In addition, if the Company were to determine that the asset disposal associated with assets held for sale or disposed of represents a strategic shift, the revenues, expenses and net gain (loss) on dispositions would be recorded in discontinued operations for all periods presented through the date of the applicable disposition.

Derivative Financial Instruments—As part of risk management and operational strategies, from time to time, the Company may enter into derivative contracts with various counterparties. All derivatives are recognized on the balance sheet at their estimated fair value. Accounting for changes in the fair value of a derivative instrument depends on the intended use of the derivative instrument and the designation of the derivative instrument. The change in fair value of the derivative instrument that is designated as a hedge is recorded as other comprehensive income. The changes in fair value for derivative instruments that are not designated as hedges or that do not meet the hedge accounting criteria are recorded as a gain or loss to operations.

Income Taxes—The Company has elected to be taxed as a REIT under the provisions of the Code. To the extent the Company qualifies for taxation as a REIT, it generally will not be subject to a federal corporate income tax on its taxable income that is distributed to its stockholders. The Company may, however, be subject to certain federal excise taxes and state and local taxes on its income and property. If the Company fails to qualify as a REIT in any taxable year, it will be subject to federal income taxes at regular corporate rates and will not be able to qualify as a REIT for four subsequent taxable years. In order to remain qualified as a REIT under the Code, the Company must satisfy various requirements in each taxable year, including, among others, limitations on share ownership, asset diversification, sources of income, and the distribution of at least 90% of its taxable income within the specified time in accordance with the Code.

The Company has wholly-owned taxable REIT subsidiaries ("TRS's") which are subject to federal income taxes. The income generated from the taxable REIT subsidiaries is taxed at normal corporate rates. Deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the carrying amounts of existing assets and liabilities and their respective tax bases.

The Company has established a policy on classification of penalties and interest related to audits of its federal and state income tax returns. If incurred, the Company's policy for recording interest and penalties associated with audits will be to record such items as a component of general and administrative expense. Penalties, if incurred, will be recorded in general and administrative expense and interest paid or received will be recorded in interest expense or interest income, respectively, in the Company's consolidated statements of operations.

ASC 740, *Income Taxes*, provides guidance for how uncertain tax positions should be recognized, measured, presented, and disclosed in the financial statements. ASC 740 requires the evaluation of tax positions taken or expected to be taken in the course of preparing the Company's tax returns to determine whether the tax positions are "more likely than not" of

being sustained by the applicable tax authority. Tax positions not deemed to meet the more-likely-than-not threshold would be recorded as a tax benefit or expense in the current period. The Company has reviewed all open tax years and concluded that the application of ASC 740 resulted in no material effect to its consolidated financial position or results of operations.

Use of Estimates—The preparation of consolidated financial statements in conformity with GAAP requires management to make certain estimates and assumptions that affect the reported amounts of assets and liabilities, disclosure of contingent assets and liabilities at the date of the consolidated financial statements, and the reported amounts of revenues and expenses during the reporting period. The Company bases such estimates on historical experience, information available at the time, and assumptions the Company believes to be reasonable under the circumstances and at such time. Actual results could differ from those estimates.

Concentration of Credit Risk—Financial instruments that subject us to credit risk consist primarily of cash and cash equivalents and interest rate swap agreements. The Company has its cash and cash equivalents on deposit with what it believes to be high-quality financial institutions. Accounts at each institution are insured by the Federal Deposit Insurance Corporation up to $250,000. Management routinely assesses the financial strength of its tenants and, as a consequence, believes that its accounts receivable credit risk exposure is limited.

The majority of the Company’s revenues are earned from properties located in California. The Company is subject to risks incidental to the ownership and operation of commercial real estate. These include, among others, the risks normally associated with changes in the general economic climate in the communities in which the Company operates, trends in the real estate industry, changes in tax laws, interest rate levels, availability of financing, and the potential liability under environmental and other laws.

Segment Information—Segment information is prepared on the same basis that the Company’s management reviews information for operational decision-making purposes. The Company reportable segments for the years ended December 31, 2022 and 2021 consist of two types of commercial real estate properties, namely office and hotel, as well as a segment for its lending business. The products for the Company’s office segment primarily include rental of office space and other tenant services, including tenant reimbursements, parking, and storage space rental. The products for the Company’s hotel segment include revenues generated from the operations of hotel properties and rental income generated from a garage located directly across the street from the hotel. The income from the Company’s lending segment includes premium income recognized from the sale of the government guaranteed portion of loans receivable, income from the yield on its loans receivable and other related fee income earned on its loans receivable.

Recently Issued Accounting Pronouncements—In June 2016, the Financial Accounting Standards Board (“FASB”) issued Accounting Standards Update (“ASU”) No. 2016-13, *Financial Instruments-Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments*, which was subsequently amended by ASU No. 2018-19, Codification Improvements to Topic 326, *Financial Instruments - Credit Losses* (“ASU 2018-19”) in November 2018. Subsequently, the FASB issued ASU No. 2019-04, ASU No. 2019-05, ASU No. 2019-10, ASU No. 2019-11 and ASU No. 2020-02 to provide additional guidance on the credit losses standard. ASU 2016-13 and the related updates improve financial reporting requiring more timely recognition of credit losses on loans and other financial instruments that are not accounted for at fair value through net income, including loans held-for-investment, held-to-maturity debt securities, net investment in leases and other such commitments. ASU 2016-13 requires that financial assets measured at amortized cost be presented at the net amount expected to be collected, through an allowance for credit losses that is deducted from the amortized cost basis. The amendments in ASU 2016-13 require the Company to measure all expected credit losses based upon historical experience, current conditions, and reasonable and supportable forecasts that affect the collectability of the financial assets and eliminates the “incurred loss” methodology under current GAAP. ASU 2018-19 clarified that receivables arising from operating leases are not within the scope of Topic 326. Instead, impairment of receivables arising from operating leases should be accounted for in accordance with ASU No. 2016-02, Leases (Topic 842). For smaller reporting companies, public entities that are not SEC filers, and entities that are not public business entities, the ASU is effective for annual reporting periods (including interim reporting periods within those periods) beginning after December 15, 2022. Early adoption is permitted for annual reporting periods (including interim reporting periods within those periods) beginning after December 15, 2018. The Company adopted ASU 2016-13 and the related updates on January 1, 2023 and the adoption did not have a material impact.

On April 10, 2020, the FASB issued a question-and-answer document (the “Q&A”) to address stakeholder questions on the application of the lease accounting guidance for lease concessions related to the effects of COVID-19. The lease modification guidance in Topic 842, *Leases*, (or Topic 840, *Leases*) would require the Company to determine, on a lease by lease basis, if a lease concession was the result of a new arrangement reached with the tenant (treated within the lease

modification accounting framework) or if a lease concession was made pursuant to the enforceable rights and obligations of the existing lease agreement (precluded from applying the lease modification accounting framework). However, the Q&A provides that the Company may bypass the lease by lease analysis if certain criteria are met, and instead elect to either consistently apply, or consistently not apply, the lease modification framework to groups of leases with similar characteristics and similar circumstances. The Company has elected not to apply the lease modification guidance to concessions related to the effects of COVID-19 that do not result in a substantial increase in the Company's rights as lessor, including concessions that result in the total payments required by the modified lease being substantially the same as or less than the total payments required by the original lease.

3. INVESTMENTS IN REAL ESTATE

Investments in real estate consist of the following:

	December 31,	
	2022	2021
	(in thousands)	
Land	$ 151,727	$ 141,236
Land improvements	1,837	2,644
Buildings and improvements	455,275	454,431
Furniture, fixtures, and equipment	4,339	4,398
Tenant improvements	34,372	29,733
Work in progress	12,863	10,260
Investments in real estate	660,413	642,702
Accumulated depreciation	(158,407)	(144,718)
Net investments in real estate	$ 502,006	$ 497,984

For the years ended December 31, 2022 and 2021, the Company recorded depreciation expense of $17.3 million and $16.9 million, respectively.

2022 Transactions—During the year ended December 31, 2022, the Company acquired a 100% fee-simple interest in the following properties from unrelated third-parties which were accounted for as asset acquisitions.

Property	Asset Type	Date of Acquisition	Square Feet	Purchase Price [1]
				(in thousands)
3109 S Western Avenue, Los Angeles, CA [1][5]	Multifamily [5]	August 4, 2022	5,900	$ 700
1007 E 7th Street, Austin, TX [2] [6]	Office [6]	July 1, 2022	1,352	$ 1,900
3022 S Western Avenue, Los Angeles, CA [3] [7]	Multifamily [7]	May 20, 2022	6,000	$ 5,650
3101 S Western Avenue, Los Angeles, CA [4] [8]	Multifamily [8]	February 11, 2022	3,752	$ 2,260

(1) Transaction costs that were capitalized as a component of the assets acquired and liabilities assumed in connection with the acquisition of this property totaled $11,000, which are not included in the purchase price above.

(2) Transaction costs that were capitalized as a component of the assets acquired and liabilities assumed in connection with the acquisition of this property totaled $52,000, which are not included in the purchase price above.

(3) Transaction costs that were capitalized as a component of the assets acquired and liabilities assumed in connection with the acquisition of this property totaled $192,000, which are not included in the purchase price above.

(4) Transaction costs that were capitalized as a component of the assets acquired and liabilities assumed in connection with the acquisition of this property totaled $22,000, which are not included in the purchase price above.

(5) The Company intends to redevelop approximately seven commercial units totaling 5,635 rentable square feet and six parking stalls starting in 2024.

(6) The property is located on a land site of approximately 7,450 square feet. The Company intends to complete pre-development and entitlement work to provide optionality for future development.

(7) The property is located on a land site of approximately 28,300 square feet. The Company intends to entitle the property and develop approximately 119 residential units starting in 2024.

(8) The property is located on a land site of approximately 11,300 square feet. The Company intends to entitle the property and develop approximately 40 residential units starting in 2023.

Please refer to “Investments in Unconsolidated Entities” (Note 4) for information on the Company’s acquisition of an approximate 44% interest in an office property in February 2022.

There were no dispositions during the year ended December 31, 2022.

2021 Transactions—During the year ended December 31, 2021, the Company acquired a 100% fee-simple interest in the following property from an unrelated third-party. The purchase was accounted for as an asset acquisition.

Property	Asset Type	Date of Acquisition	Square Feet	Purchase Price
				(in thousands)
1037 North Sycamore, Los Angeles, CA [(1)]	Office	July 13, 2021	4,900	$ 2,900

(1) Transaction costs that were capitalized as a component of the assets acquired and liabilities assumed in connection with the acquisition of this property totaled $33,000, which are not included in the purchase price above.

There were no dispositions during the year ended December 31, 2021.

The results of operations of the properties the Company acquired have been included in the consolidated statements of operations from the date of acquisition. The following table summarizes the purchase price allocation of the aforementioned acquisitions during the years ended December 31, 2022 and 2021.

	Year Ended December 31,	
	2022	2021
	(in thousands)	
Land	$ 10,491	$ 1,839
Land improvements	54	33
Buildings and improvements	164	1,061
Tenant improvements	47	—
Acquired in-place leases	68	—
Acquired above-market leases	—	—
Acquired below-market leases	(37)	—
Net assets acquired	$ 10,787	$ 2,933

4. INVESTMENT IN UNCONSOLIDATED ENTITY

In February 2022, the Company invested in the Unconsolidated Joint Venture with the CIM JV Partner to purchase an office property in Los Angeles, California for a gross purchase price of approximately $51.0 million, of which the Company initially contributed approximately $22.4 million and the CIM JV Partner initially contributed the remaining balance. The Unconsolidated Joint Venture records its assets and liabilities at fair value.

The following table details the Company's equity method investment in the Unconsolidated Joint Venture. See to Note 2 - Basis of Presentation and Summary of Significant Accounting Policies (dollars in thousands):

					Carrying Value	
Property	**Asset Type**	**Location**	**Date of Acquisition**	**Ownership Interest**	**December 31, 2022**	**December 31, 2021**
1910 Sunset Boulevard [1]	Office	Los Angeles, CA	February 11, 2022	44%	$ 12,381	$ —

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(1) 1910 Sunset Boulevard is an office building with 97,746 square feet of office space and 2,760 square feet of retail space. The Unconsolidated Joint Venture plans to undertake a capital improvement program to renovate and modernize the building into creative office space as well as a limited number of multifamily units.

The Company recorded income of $164,000 related to its investment in the Unconsolidated Joint Venture during the year ended December 31, 2022 in the consolidated statements of operations.

In September 2022, the Unconsolidated Joint Venture obtained financing through a mortgage loan of $23.9 million secured by its investment in real estate with an estimated fair value of $52.5 million as of December 31, 2022 (the "1910 Sunset Mortgage Loan"). The 1910 Sunset Mortgage Loan has a three-year term with interest-only monthly payments. The Company entered into a guaranty with the lender, under which the Company agreed to guarantee the Unconsolidated Joint Venture's obligations under the 1910 Sunset Mortgage Loan (the "1910 Sunset Guarantee"). Under the terms of the Unconsolidated Joint Venture, the Company and the CIM JV Partner are subject to cross indemnity obligations pursuant to which the CIM JV Partner agrees to reimburse the Company for its share of any indemnity payment, to the extent any such indemnity payment did not result from the Company's fraud, gross neglect, or willful misconduct.

In connection with the closing of the financing of the property owned by the Unconsolidated Joint Venture, the Company received a distribution from the Unconsolidated Joint Venture of $10.4 million during the year ended December 31, 2022, $164,000 of which was recognized as a return on investment and $10.3 million of which was recognized as a return of investment. The Company also made additional contributions during the year ended December 31, 2022 totaling $242,000. The Company's investment in the Unconsolidated Joint Venture was $12.4 million and its ownership percentage remained unchanged as of December 31, 2022.

5. LOANS RECEIVABLE

Loans receivable consist of the following:

	December 31,	
	2022	2021
	(in thousands)	
SBA 7(a) loans receivable, subject to credit risk	$ 56,116	$ 42,103
SBA 7(a) loans receivable, subject to loan-backed notes	—	18,050
SBA 7(a) loans receivable, Paycheck Protection Program	—	5,050
SBA 7(a) loans receivable, subject to secured borrowings	6,127	6,857
SBA 7(a) loans receivable, held for sale	117	1,200
Loans receivable	62,360	73,260
Deferred capitalized costs, net	1,293	1,226
Loan loss reserves	(1,106)	(943)
Loans receivable, net	$ 62,547	$ 73,543

SBA 7(a) Loans Receivable, Subject to Credit Risk—Represents the unguaranteed portions of loans originated under the SBA 7(a) Program which were retained by the Company.

SBA 7(a) Loans Receivable, Subject to Loan-Backed Notes—Represents the unguaranteed portions of loans originated under the SBA 7(a) Program which were transferred to a trust and are held as collateral in connection with a securitization transaction. The proceeds received from the transfer were reflected as loan-backed notes payable (Note 7). These loans were subject to credit risk.

SBA 7(a) Loans Receivable, Paycheck Protection Program—As an SBA 7(a) licensee, the Company originated loans under the PPP. As of December 31, 2022, all of the loans originated under the PPP have been repaid in full.

SBA 7(a) Loans Receivable, Subject to Secured Borrowings—Represents the government guaranteed portions of loans originated under the SBA 7(a) Program which were sold with the proceeds received from the sale reflected as secured borrowings—government guaranteed loans. There was no credit risk associated with these loans since the SBA has guaranteed payment of the principal.

SBA 7(a) Loans Receivable, Held for Sale— Represents the government guaranteed portion of loans held for sale at the end of the period or that had been sold but in respect of which proceeds had not been received as of the end of the period.

Other

As of December 31, 2022 and 2021, the Company’s loans subject to credit risk were 99.9% and 99.8%, respectively, concentrated in the hospitality industry. As of December 31, 2022 and 2021, 98.4% and 100.0%, respectively, of the Company’s loans subject to credit risk were current. The Company classifies loans with negative characteristics in substandard categories ranging from special mention to doubtful. As of December 31, 2022 and 2021, $1.0 million and $1.1 million, respectively, of loans subject to credit risk were classified in substandard categories.

6. OTHER INTANGIBLE ASSETS AND LIABILITIES

A schedule of our intangible assets and liabilities and related accumulated amortization and accretion as of December 31, 2022 and 2021, is as follows:

	As of December 31,	
	2022	2021
	(in thousands)	
Intangible assets:		
Acquired in-place leases, net of accumulated amortization of $7,795 and $9,030, respectively, with an average useful life of 8 and 9 years, respectively	$ 1,488	$ 2,266
Acquired above-market leases, net of accumulated amortization of $39 and $27, respectively, both with an average useful life of 6 years	16	28
Trade name and license	2,957	2,957
Total intangible assets, net	$ 4,461	$ 5,251
Intangible lease liabilities:		
Acquired below-market leases, net of accumulated amortization of $22 and $1,134, respectively, with an average useful life of 1 and 5 years, respectively	$ 20	$ 237

Amortization of the acquired above-market leases is recorded as a reduction to rental and other property income, and amortization of the acquired in-place leases is included in depreciation and amortization in the accompanying consolidated statements of operations. Amortization of the acquired below-market leases is recorded as an increase to rental and other property income in the accompanying consolidated statements of operations.

During the years ended December 31, 2022 and 2021, the Company recognized amortization related to its intangible assets and liabilities as follows:

	Year Ended December 31,	
	2022	2021
	(in thousands)	
Acquired above-market lease amortization	$ 12	$ 12
Acquired in-place lease amortization	$ 846	$ 1,050
Acquired below-market lease amortization	$ 254	$ 350

A schedule of future amortization and accretion of acquired intangible assets and liabilities as of December 31, 2022, is as follows:

	Assets		Liabilities
Years Ending December 31,	Acquired Above-Market Leases	Acquired In-Place Leases	Acquired Below-Market Leases
	(in thousands)		
2023	$ 10	$ 503	$ (20)
2024	5	374	—
2025	1	171	—
2026	—	123	—
2027	—	123	—
Thereafter	—	194	—
	$ 16	$ 1,488	$ (20)

7. DEBT

The following table summarizes the debt balances as of December 31, 2022 and 2021, and the debt activity for the year ended December 31, 2022 (in thousands):

		During the Year Ended December 31, 2022			
	Balances as of December 31, 2021	**Debt Issuances & Assumptions**	**Repayments**	**Accretion & (Amortization)**	**Balances as of December 31, 2022**
Mortgage Payable:					
Outstanding Balance	$ 97,100	$ —	$ —	$ —	$ 97,100
Deferred debt issuance costs — Mortgage Payable	(120)	—	—	26	(94)
Total Mortgage Payable	96,980	—	—	26	97,006
Secured Borrowings – Government Guaranteed Loans:					
Outstanding Balance	6,671	—	(692)	—	5,979
Unamortized premiums	305	—	—	(47)	258
Total Secured Borrowings—Government Guaranteed Loans	6,976	—	(692)	(47)	6,237
Other Debt:					
2018 revolving credit facility	60,000	110,000	(170,000)	—	—
2022 credit facility revolver	—	—	—	—	—
2022 credit facility term loan	—	56,230	—	—	56,230
Junior subordinated notes	27,070	—	—	—	27,070
SBA 7(a) loan-backed notes	7,670	—	(7,670)	—	—
Borrowed funds from the Federal Reserve through the Paycheck Protection Program Liquidity Facility	5,030	—	(5,030)	—	—
Deferred debt issuance costs — other	(989)	—	—	210	(779)
Discount on junior subordinated notes	(1,592)	—	—	95	(1,497)
Total Other Debt	97,189	166,230	(182,700)	305	81,024
Total Debt, Net	$ 201,145	$ 166,230	$ (183,392)	$ 284	$ 184,267

Mortgage Payable—The mortgage payable is secured by a deed of trust on a property and assignments of rents receivable. As of December 31, 2022, the Company’s mortgage payable had a fixed interest rate of 4.14% per annum, with monthly payments of interest only, due on July 1, 2026. The loan is nonrecourse.

Secured Borrowings—Government Guaranteed Loans—Secured borrowings—government guaranteed loans represent sold loans which are treated as secured borrowings because the loan sales did not meet the derecognition criteria provided for in ASC 860-30, *Secured Borrowing and Collateral*. These loans included cash premiums that are amortized as a reduction to interest expense over the life of the loan using the effective interest method and are fully amortized when the underlying loan is repaid in full. As of December 31, 2022, the Company’s secured borrowings-government guaranteed loans included $3.6 million of loans sold for a premium and excess spread, with a variable rate, reset quarterly, based on prime rate with weighted average coupon rate of 6.88% at December 31, 2022, and $2.4 million of loans sold for an excess spread, with a variable rate, reset quarterly, based on prime rate with weighted average coupon rate of 4.57% at December 31, 2022.

2018 Revolving Credit Facility—In October 2018, the Company entered into a secured revolving credit facility with a bank syndicate that, as amended, allowed the Company to borrow up to $209.5 million, subject to a borrowing base calculation (the “2018 revolving credit facility”). The 2018 revolving credit facility was secured by properties in the Company’s

real estate portfolio: eight office properties and one hotel property. In September 2020, the 2018 revolving credit facility was amended (the "2018 Credit Facility Modification") to remedy the effect that COVID-19 had on the Company's ability to borrow under the 2018 revolving credit facility during the period from September 2, 2020 through August 14, 2021 (the "Deferral Period"). The 2018 revolving credit facility bore interest during the Deferral Period at (A) the base rate plus 1.05% or (B) LIBOR plus 2.05% and (ii) bore interest after the Deferral Period, at (A) the base rate plus 0.55% or (B) LIBOR plus 1.55%. The 2018 revolving credit facility was also subject to an unused commitment fee of 0.15% or 0.25% depending on the amount of aggregate unused commitments. In October 2022, the Company executed a one-year extension of the 2018 revolving credit facility to extend its maturity to October 2023. In connection with the extension, the Company paid 25% of the extension fee specified in the 2018 revolving credit facility (i.e., 25% of 0.15% of each lender's commitment being extended) on October 30, 2022. On December 16, 2022, the 2018 revolving credit facility was refinanced and replaced by the 2022 credit facility (as described below) and the remaining 75% of the extension fee specified in the 2018 revolving credit facility was not incurred.

2022 Credit Facility—In December 2022 the Company refinanced its 2018 credit facility and replaced it with a new 2022 credit facility, entered into with a bank syndicate, that includes a $56.2 million term loan (the "2022 Credit Facility Term Loan") as well as a revolver allowing the Company to borrow up to $150.0 million (the "2022 Credit Facility Revolver"), both of which are collectively subject to a borrowing base calculation. The 2022 credit facility is secured by properties in the Company's real estate portfolio: six office properties and one hotel property (as well as the hotel's adjacent parking garage and retail property). The 2022 credit facility bears interest at (A) the base rate plus 1.50% or (B) SOFR plus 2.60%. As of December 31, 2022, the variable interest rate was 6.93%. The 2022 Credit Facility Revolver is also subject to an unused commitment fee of 0.15% or 0.25% depending on the amount of aggregate unused commitments. The 2022 credit facility guaranteed by the Company and the Company is subject to certain financial maintenance covenants. The 2022 credit facility matures in December 2025 and provides for two one-year extension options under certain conditions, including providing notice of the election and paying an extension fee of 0.15% of each lender's commitment being extended on the effective date of such extension. As of December 31, 2022, $56.2 million was outstanding on the 2022 Credit Facility Term Loan and no amount was outstanding on the 2022 Credit Facility Revolver, while $150.0 million was available for future borrowings.

Junior Subordinated Notes—The Company has junior subordinated notes with a variable interest rate which resets quarterly based on the three-month LIBOR plus 3.25%, with quarterly interest only payments. The junior subordinated balance is due at maturity on March 30, 2035. The junior subordinated notes may be redeemed at par at the Company's option.

SBA 7(a) Loan-Backed Notes—On May 30, 2018, the Company completed a securitization of the unguaranteed portion of certain of its SBA 7(a) loans receivable with the issuance of $38.2 million of unguaranteed SBA 7(a) loan-backed notes. The SBA 7(a) loan-backed notes are secured by deeds of trust or mortgages and are collateralized solely by the right to receive payments and other recoveries attributable to the unguaranteed portions of certain of the Company's SBA 7(a) loans receivable. The SBA 7(a) loan-backed notes had monthly payments due as payments on the collateralized loans were received. As of December 31, 2022 all of the SBA 7(a) loan-backed notes had been paid off. The SBA 7(a) loan-backed notes bore interest at the lower of the one-month LIBOR plus 1.40% or the prime rate less 1.08%. As of December 31, 2021, the variable interest rate was 1.49%. The Company reflected the SBA 7(a) loans receivable as assets on its consolidated balance sheets and the SBA 7(a) loan-backed notes as debt on its consolidated balance sheets. The restricted cash on the Company's consolidated balance sheets included funds related to the Company's SBA 7(a) loan-backed notes of $0 and $1.9 million, as of December 31, 2022 and 2021, respectively.

Paycheck Protection Program Liquidity Facility—In June 2020, the Company commenced borrowing funds from the Federal Reserve through the PPP Liquidity Facility (the "PPPLF") to finance all the loans the Company originated under the PPP. Advances under the PPPLF carried an interest rate of 0.35%, were made on a dollar-for-dollar basis based on the amount of loans originated under the PPP and were secured by loans made by the Company under the PPP. The maturity date of PPPLF borrowings was the same as the maturity date of the loans pledged to secure the extension of credit, generally two years. As of December 31, 2022 and 2021, $0 and $5.0 million, respectively, was outstanding under the PPPLF. As the PPP has ended all borrowings from the Federal Reserve have been repaid in full as of December 31, 2022.

Deferred debt issuance costs, which represent legal and third-party fees incurred in connection with the Company's borrowing activities, are capitalized and amortized to interest expense on a straight-line basis over the life of the related loan, approximating the effective interest method. Deferred debt issuance costs are presented net of accumulated amortization and are a reduction to total debt.

As of December 31, 2022 and 2021, accrued interest and unused commitment fees payable of $562,000 and $467,000, respectively, are included in accounts payable and accrued expenses.

Future principal payments on the Company's debt (face value) as of December 31, 2022 are as follows:

Years Ending December 31,	Mortgage Payable	Secured Borrowings Principal (1)	2022 Credit Facility	Junior Subordinated Notes	Total
			(in thousands)		
2023	$ —	$ 303	$ —	$ —	$ 303
2024	—	321	—	—	321
2025	—	341	56,230	—	56,571
2026	97,100	361	—	—	97,461
2027	—	383	—	—	383
Thereafter	—	4,270	—	27,070	31,340
	$ 97,100	$ 5,979	$ 56,230	$ 27,070	$ 186,379

(1) Principal payments on secured borrowings are generally dependent upon cash flows received from the underlying loans. The Company's estimate of their repayment is based on scheduled payments on the underlying loans. The Company's estimate will differ from actual amounts to the extent the Company experiences prepayments and or loan liquidations or charge-offs. No payment is due unless payments are received from the borrowers on the underlying loans.

8. STOCK-BASED COMPENSATION PLANS

On April 3, 2015, the Company's board of directors (the "Board of Directors") unanimously approved the Company's 2015 Equity Incentive Plan (the "2015 Equity Incentive Plan"), which was approved by the Company's stockholders. Under the 2015 Equity Incentive Plan, the Company granted awards of restricted shares of Common Stock to each of the independent members of the Board of Directors. A summary of the Company's restricted shares as of December 31, 2022 and 2021 and the changes during the years ended is as follows:

	Number of Shares (1)	Weighted Average Grant Date Fair Value Per Share (1)
Balance, December 31, 2020	21,912	$ 10.04
Granted	20,332	$ 10.82
Vested	(21,912)	$ 10.04
Balance, December 31, 2021	20,332	$ 10.82
Granted	30,984	$ 7.10
Vested	(20,332)	$ 10.82
Balance, December 31, 2022	30,984	$ 7.10

(1) Amounts have been adjusted to give retroactive effect to the Reverse Stock Split.

Compensation expense related to these restricted shares of Common Stock is recognized over the vesting period, and generally vests based on one year of continuous service. The Company recorded compensation expense related to these restricted shares of Common Stock in the amount of $202,000 and $220,000 for the years ended December 31, 2022 and 2021, respectively.

As of December 31, 2022, there was $92,000 of total unrecognized compensation expense related to shares of Common Stock which will be recognized ratably over the remaining vesting period.

9. EARNINGS PER SHARE ("EPS")

The computations of basic EPS are based on the Company's weighted average shares outstanding. In order to calculate the diluted weighted average number of shares of Common Stock outstanding for the year ended December 31, 2022, the basic weighted average number of shares of Common Stock outstanding was increased by 1,000 to reflect the dilutive effect of certain shares of the Company's Series D Preferred Stock. No shares of Series A Preferred Stock, Series A1 Preferred Stock, or Series L Preferred Stock outstanding as of December 31, 2022 or 2021 were included in the computation of diluted EPS because they had no dilutive effect. Outstanding Series A Preferred Warrants were not included in the computation of diluted EPS for the years ended December 31, 2022 and 2021 because their impact was either anti-dilutive or such warrants were not exercisable during such periods (Note 11).

EPS for the year-to-date period may differ from the sum of quarterly EPS amounts due to the required method for computing EPS in the respective periods. In addition, EPS is calculated independently for each component and may not be additive due to rounding.

The following table reconciles the numerator and denominator used in computing the Company's basic and diluted per-share amounts for net loss attributable to common stockholders for the years ended December 31, 2022 and 2021:

	Year Ended December 31,	
	2022	2021
	(in thousands, except per share amounts)	
Numerator:		
Net loss attributable to common stockholders	$ (25,785)	$ (19,979)
Redeemable preferred stock dividends declared on dilutive shares	(9)	—
Diluted net (loss) income attributable to common stockholders	$ (25,794)	$ (19,979)
Denominator:		
Basic weighted average shares of Common Stock outstanding	23,153	19,187
Effect of dilutive securities—contingently issuable shares	1	—
Diluted weighted average shares and common stock equivalents outstanding	23,154	19,187
Net (loss) income attributable to common stockholders per share:		
Basic	$ (1.11)	$ (1.04)
Diluted	$ (1.11)	$ (1.04)

10. REDEEMABLE PREFERRED STOCK

The table below provides information regarding the issuances, reclassifications and redemptions of each class of the Company's preferred stock in permanent equity during the years ended December 31, 2022 and 2021 (dollar amounts in thousands):

	Preferred Stock									
	Series A1		Series A		Series D		Series L		Total	
	Shares	Amount	Shares	Amount	Shares	Amount	Shares	Amount	Shares	Amount
Balances, December 31, 2020	—	$ —	4,377,762	$ 108,729	19,145	$ 473	5,387,160	$ 152,834	9,784,067	$ 262,036
Issuance of Series D Preferred Stock	—	—	—	—	37,712	923	—	—	37,712	923
Reclassification of Series A Preferred Stock to permanent equity	—	—	2,006,456	50,508	—	—	—	—	2,006,456	50,508
Redemption of Series A Preferred Stock	—	—	(112,881)	(2,806)	—	—	—	—	(112,881)	(2,806)
Balances, December 31, 2021	—	$ —	6,271,337	$ 156,431	56,857	$ 1,396	5,387,160	$ 152,834	11,715,354	$ 310,661
Issuance of A1 Preferred Stock	5,966,077	147,761	—	$ —	—	—	—	—	5,966,077	147,761
Redemption of Series A1 Preferred Stock	(9,930)	(247)	—	—	—	—	—	—	(9,930)	(247)
Redemption of Series D Preferred Stock	—	—	—	—	(8,000)	(196)	—	—	(8,000)	(196)
Repurchase of Series L Preferred Stock	—	—	—	—	—	—	(5,387,160)	(152,834)	(5,387,160)	(152,834)
Reclassification of Series A Preferred stock to Perm Equity	—	—	1,630,765	40,998	—	—	—	—	1,630,765	40,998
Redemption of Series A Preferred Stock	—	—	(336,753)	(8,381)	—	—	—	—	(336,753)	(8,381)
Balances, December 31, 2022	5,956,147	$ 147,514	7,565,349	$ 189,048	48,857	$ 1,200	—	$ —	13,570,353	$ 337,762

Series A1 Preferred Stock—Since June 2022, the Company has been conducting a continuous public offering with respect to shares of its Series A1 Preferred Stock, par value $0.001 per share with an initial stated value of $25.00 per share, subject to adjustment. Shares of Series A1 Preferred Stock are recorded in permanent equity at the time of their issuance. As of December 31, 2022, the Company had issued in registered public offerings 5,766,077 shares of the Series A1 Preferred Stock and received gross proceeds of $142.8 million and additionally, had issued 200,000 shares of Series A1 Preferred Stock as payment for services to the CIM Service Provider, LLC (the "Administrator"), for which no cash proceeds were received. In connection with such issuance, $10.5 million of costs specifically identifiable to the offering of Series A1 Preferred Stock was allocated to the Series A1 Preferred Stock. Such costs include commissions, dealer manager fees and other offering fees and expenses but do not include non-issuance-specific costs of $9.5 million related to the Company's offering of Series A Preferred Stock, Series A Preferred Warrants, Series A1 Preferred Stock and Series D Preferred Stock. As of December 31, 2022, the Company had reclassified and allocated $1.9 million from deferred charges to Series A1 Preferred Stock as a reduction to the gross proceeds received. Such reclassification was based on the cumulative number of securities issued relative to the maximum number of securities expected to be issued under the offering.

As of December 31, 2022, there were 5,956,147 shares of Series A1 Preferred Stock outstanding and 9,930 shares of Series A1 Preferred Stock had been redeemed.

Series A Preferred Stock—The Company conducted a continuous public offering of Series A Preferred Stock (with each issued share of Series A Preferred Stock initially accompanied by one warrant ("Series A Preferred Warrant") to purchase 0.25 of a share of Common Stock, subject to adjustment) from October 2016 through January 2020. Proceeds and expenses from the sale were allocated to the Series A Preferred Stock and Series A Preferred Warrants using their relative fair values on the date of issuance.

From February 2020 through June 2022, the Company conducted a continuous public offering with respect to shares of the Company's Series A Preferred Stock, which, since February 2020, was no longer being issued as a unit with an accompanying Series A Preferred Warrant. In June 2022, the Company concluded the offering of Series A Preferred Stock.

As of December 31, 2022, the Company had issued in registered public offerings 8,251,657 shares of Series A Preferred Stock and 4,603,287 Series A Preferred Warrants and received gross proceeds of $205.4 million and $761,000, respectively, and additionally, had issued 568,681 shares of Series A Preferred Stock as payment for services to the CIM Service Provider, LLC (the "Administrator"), for which no cash proceeds were received. In connection with the cumulative issuance of Series A Preferred Stock Series A Preferred Warrants, $17.0 million and $142,000 of costs specifically identifiable to the offering of the Series A Preferred Stock and Series A Preferred Warrants, respectively, were allocated to the Series A Preferred Stock and Series A Preferred Warrants, respectively. Such costs include commissions, dealer manager fees and other offering fees and expenses but do not include non-issuance-specific costs of $9.5 million related to the Company's offering of Series A Preferred Stock, Series A Preferred Warrants, Series A1 Preferred Stock and Series D Preferred Stock. As of December 31, 2022, the Company had reclassified and allocated $1.9 million and $5,000 from deferred charges to Series A Preferred Stock and Series A Preferred Warrants, respectively, as a reduction to the gross proceeds received. Such reclassification was based on the cumulative number of securities issued relative to the maximum number of securities expected to be issued under the offering.

Net proceeds from the issuance of shares of Series A Preferred Stock were initially recorded in temporary equity at an amount equal to the gross proceeds allocated to such shares of Series A Preferred Stock minus the costs specifically identifiable to the issuance of such shares and the non-issuance specific offering costs allocated to such shares. If the net proceeds from the issuance of shares of Series A Preferred Stock were less than the redemption value of such shares at the time they were issued, or if the redemption value of such shares subsequently becomes greater than the carrying value of such shares, an adjustment was recorded to increase the carrying amount of such shares to their redemption value as of the balance sheet date. Such adjustment was considered a deemed dividend for purposes of calculating basic and diluted EPS. During the years ended December 31, 2022 and December 31, 2021, the Company recorded redeemable preferred stock deemed dividends of $19,000 and $253,000, respectively, related to such adjustments.

On the first anniversary of the issuance of a particular share of Series A Preferred Stock, the Company reclassifies such share of Series A Preferred Stock from temporary equity to permanent equity because the feature giving rise to temporary equity classification, the requirement to satisfy redemption requests in cash, lapses on the first anniversary date. As of December 31, 2022, the Company had reclassified an aggregate of $184.0 million in net proceeds from temporary equity to permanent equity.

As of December 31, 2022, there were 8,259,090 shares of Series A Preferred Stock outstanding and 561,248 shares of Series A Preferred Stock had been redeemed.

Series D Preferred Stock—From February 2020 through June 2022, the Company conducted a continuous public offering with respect to shares of its Series D Preferred Stock, par value $0.001 per share, subject to adjustment. The selling price of the Series D Preferred Stock was $25.00 per share for all sales that occurred from the beginning of the offering to and including June 28, 2020 and $24.50 per share thereafter. Shares of Series D Preferred Stock were recorded in permanent equity at the time of their issuance. In June 2022, the Company concluded the offering of its Series D Preferred Stock.

As of December 31, 2022, the Company had issued in registered public offerings 56,857 shares of Series D Preferred Stock and received gross proceeds of $1.4 million. In connection with such issuance, $33,000 of costs specifically identifiable to the offering of Series D Preferred Stock were allocated to the Series D Preferred Stock. Such costs include commissions, dealer manager fees and other offering fees and expenses but do not include non-issuance-specific costs of $9.5 million related to the Company's offering of Series A Preferred Stock, Series A Preferred Warrants, Series A1 Preferred Stock and Series D Preferred Stock. As of December 31, 2022, the Company had reclassified and allocated $13,000 from deferred charges to Series D Preferred Stock as a reduction to the gross proceeds received. Such reclassification was based on the cumulative number of securities issued relative to the maximum number of securities expected to be issued under the offering.

As of December 31, 2022, there were 48,857 shares of Series D Preferred Stock outstanding and 8,000 shares of Series D Preferred Stock had been redeemed.

Series L Preferred Stock—On November 21, 2017, the Company issued 8,080,740 shares of Series L Preferred Stock having an initial stated value of $28.37 per share ("Series L Preferred Stock Stated Value"), subject to adjustment. The

Company received gross proceeds of $229.3 million from the sale of the Series L Preferred Stock, which was reduced by issuance-specific offering costs, such as commissions, dealer manager fees, and other offering fees and expenses, totaling $15.9 million, a discount of $2.9 million, and non-issuance-specific costs of $2.5 million. These fees have been recorded as a reduction to the gross proceeds in permanent equity.

On September 15, 2022, the Company repurchased 2,435,284 shares of its Series L Preferred Stock in a privately negotiated transaction (the “Series L Repurchase”). The shares were repurchased at a purchase price of $27.40 per share (a 3.4% discount to the stated value of $28.37 per share) plus $1.12 per share of accrued and unpaid dividends (or $2.7 million accrued and unpaid dividends in the aggregate). The total cost to complete the Series L Repurchase, including transactions costs of $700,000 (or $0.29 per share), was $70.1 million. In connection with the Series L Repurchase, the Company recognized redeemable preferred stock redemptions of $4.8 million on its consolidated statement of operations for the year ended December 31, 2022. The $4.8 million of redeemable preferred stock redemptions represents the difference between the repurchase price (including $0.29 per share of transaction costs) and the carrying value of the repurchased Series L Preferred Stock (representing the stated value of $28.37 per share reduced by $2.65 per share of stock offering costs).

Refer to Note 13 for a discussion of certain payments the Company has made in shares of Common Stock and in shares of Preferred Stock and may make in shares of Preferred Stock in lieu of cash payments in order to remain in compliance with the Series L Preferred Stock Minimum Fixed Charge Coverage Ratio.

Dividends—With respect to the payment of dividends, the Series A1 Preferred Stock, the Series A Preferred Stock and Series D Preferred Stock rank on parity with respect to each other and senior to the Common Stock. With respect to the distribution of amounts upon liquidation, dissolution or winding-up, the Series A1 Preferred Stock, the Series A Preferred Stock and the Series D Preferred Stock rank on parity with respect to each other and senior to the Common Stock.

Holders of Series A1 Preferred Stock are entitled to receive, if, as and when authorized by the Company’s Board of Directors, and declared by the Company out of legally available funds, cumulative cash dividends (the “Series A1 Dividend”) on each share of Series A1 Preferred Stock at the greater of (i) an annual rate of 6.0% of the Series A1 Preferred Stock Stated Value (i.e., the equivalent of $0.3750 per share per quarter) and (ii) the Federal Funds (Effective) Rate for such quarter and plus 2.5% of the Series A1 Preferred Stock Stated Value divided by four, up to a maximum of 2.5% of the Series A1 Preferred Stock Stated Value per quarter. Holders of Series A Preferred Stock are entitled to receive, if, as and when authorized by the Company’s Board of Directors, and declared by the Company out of legally available funds, cumulative cash dividends on each share of Series A Preferred Stock at an annual rate of 5.50% of the Series A Preferred Stock Stated Value (i.e., the equivalent of $0.34375 per share per quarter) (the “Series A Dividend”). Holders of Series D Preferred Stock are entitled to receive, if, as and when authorized by the Company’s Board of Directors, and declared by the Company out of legally available funds, cumulative cash dividends on each share of Series D Preferred Stock at an annual rate of 5.65% of the Series D Preferred Stock Stated Value (i.e., the equivalent of $0.35313 per share per quarter) (the “Series D Dividend”). Dividends on each share of Series A1 Preferred Stock, Series A Preferred Stock and Series D Preferred Stock begin accruing on, and are cumulative from, the date of issuance.

The Company expects to pay the Series A1 Dividend, Series A Dividend and Series D Dividend in arrears on a monthly basis in accordance with the foregoing provisions, unless the Company’s results of operations, general financing conditions, general economic conditions, applicable requirements of the MGCL or other factors make it imprudent to do so. The timing and amount of the Series A1 Dividend, Series A Dividend and the Series D Dividend will be determined by the Company’s Board of Directors, in its sole discretion, and may vary from time to time.

During the year ended December 31, 2022, the Company paid $1.8 million, $11.4 million, $78,000 and $11.1 million of cash dividends on its Series A1 Preferred Stock, Series A Preferred Stock, Series D Preferred Stock and Series L Preferred Stock, respectively. During the year ended December 31, 2021, the Company paid $9.6 million, $50,000 and $8.4 million of cash dividends on its Series A Preferred Stock, Series D Preferred Stock and Series L Preferred Stock, respectively.

Redemptions—The Company’s Series A1 Preferred Stock, Series A Preferred Stock and Series D Preferred Stock are redeemable at the option of the holder or the Company. The redemption schedule of the Series A1 Preferred Stock, Series A Preferred Stock and Series D Preferred Stock allows redemptions at the option of the holder of Series A1 Preferred Stock, Series A Preferred Stock or Series D Preferred Stock from the date of original issuance of any such shares at the Series A1 Preferred Stock Stated Value, Series A Preferred Stock Stated Value or Series D Preferred Stock Stated Value, respectively, less a redemption fee applicable prior to the fifth anniversary of the issuance of such shares, plus accrued and unpaid dividends. The Company has the right to redeem the Series A1 Preferred Stock after the date that is twenty-four months following the

original issuance of such shares of Series A1 Preferred Stock at the Series A1 Preferred Stock Stated Value, plus accrued and unpaid dividends. The Company has the right to redeem the Series A Preferred Stock or Series D Preferred Stock after the fifth anniversary of the date of original issuance of such shares at the Series A Preferred Stock Stated Value or Series D Preferred Stock Stated Value, respectively, plus accrued and unpaid dividends. With respect to redemptions of the Series A1 Preferred Stock, Series A Preferred Stock or Series D Preferred Stock, at the Company's discretion, the redemption price will be paid in cash and/or in Common Stock based on the volume weighted average price of the Company's Common Stock for the 20 trading days prior to the redemption; provided that the redemption price of any shares of Series A Preferred Stock redeemed prior to the first anniversary of the date of original issuance of such shares must be paid in cash.

From and after the fifth anniversary of the date of original issuance of the Series L Preferred Stock, each holder had the right to require the Company to redeem, and the Company also had the option to redeem (subject to certain conditions), such shares of Series L Preferred Stock at a redemption price equal to the Series L Preferred Stock Stated Value, plus, provided certain conditions are met, all accrued and unpaid distributions.

As announced on December 23, 2022, the Company redeemed all remaining outstanding shares of its Series L Preferred Stock in cash on January 25, 2023 at its stated value of $28.37. The total cost to complete the Series L Redemption, including transaction costs of $93,000 (or $0.03 per share), was $83.8 million. In connection with the Series L Redemption, the Company recognized redeemable preferred stock redemptions of $7.9 million on its consolidated statement of operations for the year ended December 31, 2022. The $7.9 million of redeemable preferred stock redemptions represents the difference between the repurchase price (including $0.03 per share of transaction costs) and the carrying the value of the repurchased Series L Preferred Stock (representing the stated value of $28.37 per share reduced by $2.65 per share of stock offering costs). As of December 31, 2022, $83.8 million was recorded in accounts payable and accrued expenses on the Company's consolidated balance sheet in connection with the Series L Redemption. The accrued and unpaid dividends on the redeemed shares of Series L Preferred Stock through December 31, 2022 of $1.56 per share (or $4.6 million accrued and unpaid dividends in the aggregate) were also paid on January 25, 2023. No additional dividends will be owed on the redeemed shares of Series L Preferred Stock subsequent to December 31, 2022.

11. STOCKHOLDERS' EQUITY

Dividends

Holders of the Company's Common Stock are entitled to receive dividends, if, as and when authorized by the Board of Directors and declared by the Company out of legally available funds. In determining the Company's dividend policy, the Board of Directors considers many factors including the amount of cash resources available for dividend distributions, capital spending plans, cash flow, the Company's financial position, applicable requirements of the MGCL, any applicable contractual restrictions, and future growth in NAV and cash flow per share prospects. Consequently, the dividend rate on a quarterly basis does not necessarily correlate directly to any individual factor. Cash dividends per share of Common Stock paid in respect of the years ended December 31, 2022 and 2021 consist of the following:

Declaration Date	Payment Date	Type	Cash Dividend Per Share of Common Stock
September 22, 2022	October 17, 2022	Regular Quarterly	$ 0.085
June 10, 2022	July 5, 2022	Regular Quarterly	$ 0.085
March 8, 2022	April 1, 2022	Regular Quarterly	$ 0.085
December 9, 2021	January 5, 2022	Regular Quarterly	$ 0.075
September 7, 2021	September 29, 2021	Regular Quarterly	$ 0.075
June 7, 2021	June 30, 2021	Regular Quarterly	$ 0.075
March 5, 2021	March 30, 2021	Regular Quarterly	$ 0.075

On December 15, 2022, the Company declared a cash dividend of $0.085 per share of its Common Stock, which was paid on January 9, 2023 to stockholders of record at the close of business on December 27, 2022.

On March 20, 2023, the Company declared a cash dividend of $0.085 per share of its Common Stock, to be paid on April 11, 2023 to stockholders of record at the close of business on March 30, 2023.

Rights Offering

During the year ended December 31, 2021, the Company conducted the Rights Offering pursuant to which the Company issued an aggregate of 8,521,589 shares of Common Stock at a subscription price of $9.25 per share for aggregate gross proceeds of $78.8 million. Offering costs of $1.9 million were incurred in connection with the Rights Offering and recorded as a reduction to additional paid-in capital.

Series A Preferred Warrants

Prior to February 2020, the Series A Preferred Stock was sold as a unit that included one share of Series A Preferred Stock and one Series A Preferred Warrant that could be exercised to purchase 0.25 of a share of Common Stock. The Series A Preferred Warrants are exercisable beginning on the first anniversary of the date of their original issuance until and including the fifth anniversary of the date of such issuance. At the time of issuance, the exercise price of each Series A Preferred Warrant was at a 15.0% premium to the per share estimated NAV of the Company's Common Stock then most recently published and designated as the applicable NAV. However, in accordance with the terms of the Series A Preferred Warrants, the exercise price of each Series A Preferred Warrant issued prior to the Reverse Stock Split was automatically adjusted to reflect the effect of the Reverse Stock Split and, in the discretion of the Company's Board of Directors, the exercise price and the number of shares issuable upon exercise of each Series A Preferred Warrant issued prior to the Special Dividend was adjusted to reflect the effect of the Special Dividend.

Proceeds and expenses from the sale of the Series A Preferred Stock and Series A Preferred Warrants were allocated to the Series A Preferred Stock and Series A Preferred Warrants using their relative fair values on the date of issuance. As of December 31, 2022, the Company had 3,316,118 Series A Preferred Warrants outstanding to purchase 858,208 shares of Common Stock and allocated net proceeds of $484,000 after specifically identifiable offering costs and allocated general offering costs, to the Series A Preferred Warrants in permanent equity.

Share Repurchase Program

In May 2022, the Company's Board of Directors approved a repurchase program of up to $10.0 million of the Company's Common Stock (the "SRP"). Under the SRP, the Company, in its discretion, may purchase shares of its Common Stock from time to time in the open market or in privately negotiated transactions. The amount and timing of purchases of shares will depend on a number of factors, including, without limitation, the price and availability of shares, trading volume, general market conditions and compliance with applicable securities law. The SRP has no termination date and may be suspended or discontinued at any time.

As of December 31, 2022, share repurchases executed under the SRP were as follows:

Period	Shares Repurchased	Average price paid per share	Cost of shares repurchased (in thousands)
June 2022	41,374	$7.32	$303
August 2022	33,374	$7.15	$239
September 2022	587,714	$7.10	$4,173
Total as of December 31, 2022	662,462		$4,715

12. FAIR VALUE OF FINANCIAL INSTRUMENTS

The Company determines the estimated fair value of financial assets and liabilities utilizing a hierarchy of valuation techniques based on whether the inputs to a fair value measurement are considered to be observable or unobservable in a marketplace. The hierarchy for inputs used in measuring fair value is as follows:

Level 1 Inputs—Quoted prices in active markets for identical assets or liabilities

Level 2 Inputs—Observable inputs other than quoted prices in active markets for identical assets and liabilities

Level 3 Inputs—Unobservable inputs

In certain cases, the inputs used to measure fair value may fall into different levels of the fair value hierarchy. In such cases, for disclosure purposes, the level within which the fair value measurement is categorized is based on the lowest level input that is significant to the fair value measurement.

Management's estimation of the fair value of the Company's financial instruments is based on a Level 3 valuation in the fair value hierarchy established for disclosure of how a company values its financial instruments. In general, quoted market prices from active markets for the identical financial instrument (Level 1 inputs), if available, should be used to value a financial instrument. If quoted prices are not available for the identical financial instrument, then a determination should be made if Level 2 inputs are available. Level 2 inputs include quoted prices for similar financial instruments in active markets for identical or similar financial instruments in markets that are not active (i.e., markets in which there are few transactions for the financial instruments, the prices are not current, price quotations vary substantially, or in which little information is released publicly). There is limited reliable market information for the Company's financial instruments and the Company utilizes other methodologies based on unobservable inputs for valuation purposes since there are no Level 1 or Level 2 inputs available. Accordingly, Level 3 inputs are used to measure fair value.

In general, estimates of fair value may differ from the carrying amounts of the financial assets and liabilities primarily as a result of the effects of discounting future cash flows. Considerable judgment is required to interpret market data and develop estimates of fair value. Accordingly, the estimates presented are made at a point in time and may not be indicative of the amounts the Company could realize in a current market exchange.

The following describes the methods the Company uses to estimate the fair value of the Company's financial assets and liabilities.

Debt—The carrying amounts of the Company's secured borrowings—government guaranteed loans, SBA 7(a) loan-backed notes, 2022 Credit Facility and borrowed funds from the Federal Reserve through the PPPLF approximate their fair values, as the interest rates on these securities are variable and approximate current market interest rates. The Company determines the fair value of mortgage notes payable and junior subordinated notes by performing discounted cash flow analyses using an appropriate market discount rate. The Company calculates the market discount rate for its mortgage notes payable by obtaining period-end treasury or swap rates, as applicable, for maturities that correspond to the maturities of the Company's debt and then adding an appropriate credit spread. These credit spreads take into account factors such as the Company's credit standing, the maturity of the debt, whether the debt is secured or unsecured, and the loan-to-value ratios of the debt. When estimating the fair value of the Company's mortgages payable as of December 31, 2022 and 2021, the Company used a rate of 6.48% and 3.22%, respectively. The rate used to estimate the fair value of the Company's junior subordinated notes was 9.02% and 4.46% as of December 31, 2022 and 2021, respectively.

Loans Receivable—The Company determines the fair value of loans receivable by performing a present value analysis for the anticipated future cash flows using an appropriate market discount rate taking into consideration the credit risk and using an anticipated prepayment rate. The value of the government guaranteed portions of loans held for sale is based primarily on the anticipated proceeds to be received upon sale. The following summarizes the ranges of discount rates and prepayment rates used to arrive at the estimated fair values of the Company's loans receivable:

	Year Ended December 31,			
	2022		2021	
	Discount Rate	Prepayment Rate	Discount Rate	Prepayment Rate
SBA 7(a) loans receivable, subject to credit risk	11.00% - 11.25%	5.00% - 17.00%	6.25% - 8.25%	5.00% - 17.50%
SBA 7(a) loans receivable, subject to loan-backed notes	N/A	N/A	5.75% - 7.75%	5.00% - 17.50%
SBA 7(a) loans receivable, subject to secured borrowings	11.00% - 11.25%	5.00% - 17.00%	7.00% - 7.75%	5.00% - 17.50%
SBA 7(a) loans receivable, paycheck protection program	N/A	N/A	1.00%	N/A

Other Financial Instruments—The carrying amounts of the Company's cash and cash equivalents, restricted cash, accounts receivable, accounts payable, and accrued expenses approximate their fair values due to their short-term maturities at December 31, 2022 and 2021. Due to the short-term maturities of these instruments, Level 1 inputs are utilized to estimate the fair value of these financial instruments.

The estimated fair values of those financial instruments which are not recorded at fair value on a recurring basis on the Company's consolidated balance sheets are as follows:

	December 31, 2022		December 31, 2021		
	Carrying Amount	Estimated Fair Value	Carrying Amount	Estimated Fair Value	Level
	(in thousands)				
Assets:					
SBA 7(a) loans receivable, paycheck protection program	$ —	$ —	$ 4,903	$ 5,050	3
SBA 7(a) loans receivable, subject to loan-backed notes	$ —	$ —	$ 18,077	$ 19,635	3
SBA 7(a) loans receivable, subject to credit risk	$ 56,237	$ 58,432	$ 42,416	$ 44,399	3
SBA 7(a) loans receivable, subject to secured borrowings	$ 6,158	$ 6,237	$ 6,891	$ 6,976	3
SBA 7(a) loans receivable, held for sale	$ 152	$ 126	$ 1,256	$ 1,355	3
Liabilities:					
Mortgage payable [(1)]	$ 97,100	$ 90,002	$ 97,100	$ 100,838	2, 3
Junior subordinated notes [(1)]	$ 27,070	$ 25,067	$ 27,070	$ 24,378	3

(1) The carrying amounts for the mortgage payable and junior subordinated notes represents the principal outstanding amounts, excluding deferred debt issuance costs and discounts.

13. RELATED-PARTY TRANSACTIONS

Asset Management and Other Fees to Related Parties

Asset Management Fees; Administrative Fees and Expenses—CIM Urban and CIM Capital, LLC, an affiliate of CIM REIT and CIM Group ("CIM Capital"), have an investment management agreement, pursuant to which CIM Urban engaged CIM Capital to provide certain services to CIM Urban (the "Investment Management Agreement"). CIM Capital has assigned its duties under the Investment Management Agreement to its four wholly-owned subsidiaries: CIM Capital Securities Management, LLC, a securities manager, CIM Capital RE Debt Management, LLC, a debt manager, CIM Capital Controlled Company Management, LLC, a controlled company manager, and CIM Capital Real Property Management, LLC, a real property manager. The "Operator" refers to CIM Capital and its four wholly-owned subsidiaries.

The Company and its subsidiaries have a master services agreement (the "Master Services Agreement") with CIM Service Provider, LLC (the "Administrator"), an affiliate of CIM Group, pursuant to which the Administrator provides, or arranges for other service providers to provide, management and administration services to the Company and its subsidiaries. Pursuant to the Master Services Agreement, the Company appointed an affiliate of CIM Group as the administrator of Urban Partners GP, LLC.

On January 5, 2022, the Company and certain of its subsidiaries entered into a Fee Waiver (the "Fee Waiver") with the Operator and the Administrator with respect to fees that are payable to them. The Fee Waiver is effective retroactively to January 1, 2022 (the "Effective Date"). Pursuant to the Fee Waiver, the Administrator agreed to voluntarily waive any fees in excess of those set forth in the Fee Waiver, to the extent it would otherwise have been entitled to such additional compensation under the Master Service Agreement, and the Operator agreed to voluntarily waive any fees in excess of those set forth in the Fee Waiver, to the extent it would otherwise have been entitled to such additional compensation under the Investment Management Agreement. Following the end of each quarter, the Administrator will deliver to the Company (i) a calculation of the cumulative fees earned by the Operator and the Administrator under the methodology prescribed by the Fee Waiver from the Effective Date through the end of such quarter and (ii) a calculation of the cumulative fees that would have been earned by the Operator and the Administrator during such period under the Master Services Agreement and the Investment Management Agreement without giving effect to the Fee Waiver. If, in respect of any quarter, the aggregate fees that are payable under the methodology prescribed by the Fee Waiver exceed the aggregate fees that would have been payable under the Master Services Agreement and the Investment Management Agreement, without giving effect to the Fee Waiver, such quarter will be deemed an "Excess Quarter". For any quarter following an Excess Quarter, the Company (upon the direction of the independent members of the Board) may, at its option and upon written notice to Administrator, elect to calculate all fees due to the Administrator and the Operator in accordance with the Master Services Agreement and the Investment Management Agreement, without giving effect to the Fee Waiver, from and after such Excess Quarter. Any such election by the Company will be irrevocable, and all fees due to the Administrator and the Operator from and after such election will be calculated in accordance with the Master Services Agreement and the Investment Management Agreement, without giving effect to the Fee Waiver.

The fees payable to the Operator and the Administrator are determined as follows under the Fee Waiver.

1. Base Fee: A base asset management fee (the "Base Fee") is payable quarterly in arrears to the Operator in an amount equal to an annual rate of 1% (or 0.25% per quarter) of the average of the "Net Asset Value Attributable to Common Stockholders" as of the first and last day of the applicable quarter. Net Asset Value Attributable to Common stockholders is defined as (a) the sum of the Company's (1) investments in real estate at fair value, (2) cash, (3) loans receivable at fair value and (4) the book value of the other assets of the Company, excluding deferred costs and net of other liabilities at book value, less (b) the Company's (i) debt at face value, (ii) outstanding preferred stock at stated value, and (iii) non-controlling interests at book value; provided, that, non-controlling interests in any UPREIT operating partnership relating to the Company shall not be excluded.

   Subject to applicable laws and regulations under Nasdaq and the TASE and the agreement of the Operator, the Company will pay the Base Fee owed with respect to the first quarter of 2022 in shares of its Series A Preferred Stock and it is likely that the Company will pay some or part of the remainder of the Base Fees incurred during the year ended December 31, 2022 in shares of Series A Preferred Stock.

2. Incentive Fee: An incentive fee (the "Revised Incentive Fee") is payable quarterly in arrears to the Administrator with respect to the quarterly core funds from operations in excess of a quarterly threshold equal to 1.75% (i.e., 7.00% on an annualized basis) of the Company's "Adjusted Common Equity" (as defined below) for such quarter ("Excess Core FFO") as follows: (i) no Revised Incentive Fee in any quarter in which the Excess Core FFO is $0; (ii) 100% of any Excess Core FFO up to an amount equal to the product of (x) the average of the Adjusted Common Equity as of the first and last day of the applicable quarter and (y) 0.4375%; and (iii) 20% of any Excess Core FFO thereafter. Revised Incentive Fees payable for any partial quarter will be appropriately prorated.

   "Adjusted Common Equity" means Common Equity plus Excluded Depreciation and Amortization. "Common Equity" means Total Stockholders' Equity minus Excluded Equity. "Total Stockholders' Equity" means the amount reflected as total stockholders' equity in accordance with GAAP on the consolidated balance sheet of the Company and its subsidiaries as of the last day of a given quarter. "Excluded Equity" means the sum of all preferred securities of the Company and its subsidiaries classified as permanent equity in accordance with GAAP on the consolidated balance sheet of the Company and its subsidiaries as of the last day of a given quarter. "Excluded Depreciation and Amortization" means, for a given quarter, the amount of all accumulated depreciation and amortization of (i) the Company and its subsidiaries and (ii) to the extent allocable to the Company and its subsidiaries, the unconsolidated affiliates, in each case as of the last day of such quarter that corresponds to the periodic depreciation and amortization expense calculated in each case in accordance with GAAP that is a permitted add back to net income calculated in accordance with GAAP when calculating funds from operations.

3. Capital Gains Fee: A capital gains fee (the “Capital Gains Fee”) is payable quarterly in arrears to the Administrator in an amount equal to (i) 15% of the cumulative aggregate realized capital gains minus the cumulative aggregate realized capital losses (in each case since the Effective Date), minus (ii) the aggregate capital gains fees paid since the Effective Date. Realized capital gains and realized capital losses are calculated by subtracting from the sales price of a property: (a) any costs incurred to sell such property, and (b) the current gross value of the property (meaning the property’s original acquisition price plus any subsequent, non-reimbursed capital improvements thereon paid for by the Company).

In lieu of cash payment of the Base Fee, the Company has issued to the Operator shares of its Series A1 Preferred Stock as payment for the quarterly Base Fee for the nine months ended September 30, 2022.

Pursuant to the Investment Management Agreement, the asset management fee prior to January 1, 2022 fee was calculated (without giving effect to the Fee Waiver) as a percentage of the daily average adjusted fair value of CIM Urban’s assets as follows:

Daily Average Adjusted Fair Value of CIM Urban’s Assets				Quarterly Fee
From Greater of		To and Including		Percentage
(in thousands)				
$	—	$	500,000	0.2500%
$	500,000	$	1,000,000	0.2375%
$	1,000,000	$	1,500,000	0.2250%
$	1,500,000	$	4,000,000	0.2125%
$	4,000,000	$	20,000,000	0.1000%

Asset management fees are included in asset management and other fees to related parties in the accompanying consolidated statements of operations.

Under the Master Services Agreement, for fiscal quarters prior to April 1, 2020, the Company paid a base service fee (the “Base Service Fee”) to the Administrator initially set at $1.0 million per year (subject to an annual escalation by a specified inflation factor beginning on January 1, 2015), payable quarterly in arrears. On May 11, 2020, the Master Services Agreement was amended to replace the Base Service Fee with an incentive fee pursuant to which the Administrator was entitled to receive, on a quarterly basis, 15.00% of the Company’s quarterly core funds from operations in excess of a quarterly threshold equal to 1.75% (i.e., 7.00% on an annualized basis) of the Company’s average Adjusted Common Equity (defined above) for such quarter. The amendment was effective as of April 1, 2020 and was further modified by the Fee Waiver described above. No such incentive fee was paid by the Company.

In addition, pursuant to the terms of the Master Services Agreement, the Administrator may receive compensation and or reimbursement for performing certain services for the Company and its subsidiaries that are not covered by the Base Fee. During the years ended December 31, 2022 and 2021, such services performed by the Administrator and its affiliates included accounting, tax, reporting, internal audit, legal, compliance, risk management, IT, human resources, corporate communications, operational and on-going support in connection with the Company’s offering of Preferred Stock. The Administrator’s compensation is based on the salaries and benefits of the employees of the Administrator and or its affiliates who performed these services (allocated based on the percentage of time spent on the affairs of the Company and its subsidiaries). The expense for such services is included in expense reimbursements to related parties—corporate in the accompanying consolidated statements of operations.

Property Management Fees and Reimbursements—CIM Management, Inc. and certain of its affiliates (collectively, the “CIM Management Entities”), all affiliates of CIM REIT and CIM Group, provide property management, leasing, and development services to CIM Urban. Property management fees earned by the CIM Management entities and onsite management costs incurred on behalf of CIM Urban are included in rental and other property operating expenses in the accompanying consolidated statements of operations, with the exception of certain onsite management costs which are capitalized in some cases. Leasing commissions earned are capitalized to deferred charges on the accompanying consolidated balance sheets. Construction management fees are capitalized to investments in real estate on the accompanying consolidated balance sheets.

Lending Segment Expenses—The Company has a Staffing and Reimbursement Agreement with CIM SBA Staffing, LLC ("CIM SBA"), an affiliate of CIM Group, and the Company's subsidiary, PMC Commercial Lending, LLC. The agreement provides that CIM SBA will provide personnel and resources to the Company and that the Company will reimburse CIM SBA for the costs and expenses of providing such personnel and resources. The expense for such services is included in expense reimbursements to related parties—lending segment in the accompanying consolidated statements of operations.

Offering-Related Fees—CCO Capital, LLC ("CCO Capital") became the exclusive dealer manager for the Company's public offering of the Series A Preferred Stock and and Series A Preferred Warrants effective as of May 31, 2019. CCO Capital is a registered broker dealer and is under common control with the Operator and the Administrator. The Company's offering of the Series A Preferred Warrants ended at the end of January 2020. On January 28, 2020, the Company entered into the Second Amended and Restated Dealer Manager Agreement, pursuant to which CCO Capital acted as the exclusive dealer manager for the Company's public offering of its Series A Preferred Stock and Series D Preferred Stock. The Second Amended and Restated Dealer Manager Agreement was subsequently amended by the Company and CCO Capital to address changes to, among other things, selling commissions and dealer manager fees.

On June 16, 2022, the Company entered into the Third Amended and Restated Dealer Manager Agreement, pursuant to which CCO Capital has been acting as the exclusive dealer manager for the Company's public offering of its Series A1 Preferred Stock. Thereunder, the Company agreed to compensate CCO Capital, as the dealer manager for the offering, as follows: (1) a dealer manager fee of up to 3.00% of the selling price of each share of Series A1 Preferred Stock sold and (2) selling commissions of up to 7.00% of the selling price of each share of Series A1 Preferred Stock sold. The Company has been informed that CCO Capital generally reallows 100% of the selling commissions on sales of Series A1 Preferred Stock and generally reallows substantially all of the dealer manager fee on sales of Series A1 Preferred Stock to participating broker-dealers. In addition, pursuant to the Third Amended and Restated Dealer Manager Agreement, CCO Capital will no longer solicit or make any offers for the sale of shares of Series A Preferred Stock or Series D Preferred Stock.

The Company recorded fees and expense reimbursements as shown in the table below for services provided by related parties related to the services described above during the periods indicated:

	Year Ended December 31,	
	2022	2021
	(in thousands)	
Asset Management Fees:		
Asset management fees [1]	$ 3,570	$ 9,030
Property Management Fees and Reimbursements:		
Property management fees[2]	$ 1,747	$ 1,641
Onsite management and other cost reimbursement[3]	$ 2,838	$ 2,687
Leasing commissions[4]	$ 794	$ 162
Construction management fees[5]	$ 398	$ 226
Administrative Fees and Expenses:		
Expense reimbursements to related parties - corporate	$ 1,925	$ 2,050
Lending Segment Expenses:		
Expense reimbursements to related parties - lending segment [6]	$ 1,929	$ 1,921
Offering-Related Fees:		
Upfront dealer manager and trailing dealer manager fees [7]	$ 1,996	$ 690
Non-issuance specific offering costs [8]	$ 689	$ 106

(1) The Company issued to the Operator an aggregate of 270,209 shares of its Series A Preferred Stock, in lieu of cash payment of the asset management fees incurred during the year ended December 31, 2021. The Company issued to the Operator 110,285 shares of Series A1 Preferred Stock in lieu of cash payment for the asset management fees incurred during the nine months ended September 30, 2022.

(2) Does not include the company's share of the property management fees from the Unconsolidated Joint Venture of $40,000 for the year ended December 31, 2022.

(3) Does not include the Company's share of the onsite management and other cost reimbursements from the Unconsolidated Joint Venture of $94,000 for the year ended December 31, 2022.

(4) Does not include the Company's share of the leasing commissions from the Unconsolidated Joint Venture of $4,000 for the year ended December 31, 2022.

(5) Does not include the Company's share of the construction management fees from the Unconsolidated Joint Venture of $21,000 for the year ended December 31, 2022, respectively.

(6) Expense reimbursements to related parties - lending segment do not include personnel costs capitalized to deferred loan origination costs of $136,000 and $347,000 for the years ended December 31, 2022 and 2021, respectively.

(7) Represents fees earned by CCO Capital and allocated to Series A1 Preferred Stock, Series A Preferred Stock and Series D Preferred Stock.

(8) As of December 31, 2022 and 2021, $2.3 million and $2.0 million, respectively, was included in deferred costs as reimbursable expenses incurred pursuant to the Master Services Agreement and the then applicable dealer manager agreement with CCO Capital. These non-issuance specific costs are allocated against the gross proceeds from the sale of the Series A1 Preferred Stock, Series A Preferred Stock and Series D Preferred Stock on a pro rata basis for each issuance as a percentage of the total offering.

As of December 31, 2022 and 2021, due to related parties consisted of the following:

	December 31,	
	2022	2021
	(in thousands)	
Asset management fees	$ 812	$ 2,244
Property management fees and reimbursements	1,214	320
Expense reimbursements - corporate	466	692
Expense reimbursements - lending segment	124	341
Upfront dealer manager and trailing dealer manager fees	454	638
Non-issuance specific offering costs	17	143
Other amounts due to the CIM Management Entities and certain of its affiliates	68	163
Total due to related parties	$ 3,155	$ 4,541

Affiliate Investments

In February 2022, the Company invested with the CIM JV Partner, a CIM-managed separate account, in the Unconsolidated Joint Venture, which purchased an office property in Los Angeles, California for a gross purchase price of approximately $51.0 million, of which the Company initially contributed approximately $22.4 million and the CIM JV Partner initially contributed the remaining balance. See Note 2 and Note 4 for more information.

Other

On May 15, 2019, CIM Group entered into an approximately 11-year lease for approximately 32,000 rentable square feet with respect to a property owned by the Company. The lease was amended on August 7, 2019 to reduce the rentable square feet to approximately 30,000 rentable square feet. For the years ended December 31, 2022 and 2021, the Company recorded rental and other property income related to this tenant of $1.5 million.

14. COMMITMENTS AND CONTINGENCIES

Loan Commitments—Commitments to extend credit are agreements to lend to a customer when the terms established in the contract are met. The Company's outstanding commitments to fund loans were $19.9 million as of December 31, 2022, all of which are for prime-based loans to be originated by the Company's subsidiary engaged in SBA 7(a) Small Business Loan Program lending, the government guaranteed portion of which is intended to be sold. Commitments generally have fixed

expiration dates. Since some commitments are expected to expire without being drawn upon, total commitment amounts do not necessarily represent future cash requirements.

General—In connection with the ownership and operation of real estate properties, the Company has certain obligations for the payment of tenant improvement allowances and lease commissions in connection with new leases and renewals. the Company had a total of $7.9 million in future obligations under leases to fund tenant improvements and other future construction obligations as of December 31, 2022. As of December 31, 2022, $2.5 million was funded to reserve accounts included in restricted cash on the Company's consolidated balance sheet for these tenant improvement obligations in connection with the mortgage loan agreement entered into in June 2016.

Employment Agreements—The Company has an employment agreement with one of its officers. Under certain circumstances, this employment agreement provides for (1) severance payment equal to the annual base salary paid to the officer and (2) death and disability payments in an amount equal to two times and one time, respectively, the annual base salary paid to the officer.

Litigation—The Company is not currently involved in any material pending or threatened legal proceedings nor, to the Company's knowledge, are any material legal proceedings currently threatened against the Company, other than routine litigation arising in the ordinary course of business. In the normal course of business, the Company is periodically party to certain legal actions and proceedings involving matters that are generally incidental to the Company's business. While the outcome of these legal actions and proceedings cannot be predicted with certainty, in management's opinion, the resolution of these legal proceedings and actions will not have a material adverse effect on the Company's business, financial condition, results of operations, cash flow or the Company's ability to satisfy its debt service obligations or to maintain its level of distributions on Common Stock or Preferred Stock.

A subsidiary of the Company is a defendant in a lawsuit in connection with injuries sustained by a third-party contractor at a property previously owned by such subsidiary. While it is possible that a loss may be incurred, the Company is unable to estimate a range of potential losses due to the complexity and current status of the lawsuit. However, the Company maintains insurance coverage to mitigate the impact of adverse exposures in lawsuits of this nature and do not expect this lawsuit to have a material adverse effect on the Company's business, financial condition, results of operations, cash flow or the Company ability to satisfy its debt service obligations or to maintain the level of distributions on the Company's Common Stock or Preferred Stock.

SBA Related—If the SBA establishes that a loss on an SBA guaranteed loan is attributable to significant technical deficiencies in the manner in which the loan was originated, funded or serviced under the PPP or the SBA 7(a) Small Business Loan Program, the SBA may seek recovery of the principal loss related to the deficiency from the Company. As of December 31, 2022, the Company serviced an aggregate of $250.2 million of the guaranteed portion of SBA 7(a) loans . With respect to the guaranteed portion of SBA loans that have been sold, the SBA will first honor its guarantee and then seek compensation from the Company in the event that a loss is deemed to be attributable to technical deficiencies. Based on historical experience, the Company does not expect that this contingency is probable to be asserted. However, if asserted, it could have a material adverse effect on the Company's business, financial condition, results of operations, cash flow or the Company's ability to satisfy its debt service obligations or to maintain its level of distributions on Common Stock or Preferred Stock.

Environmental Matters—In connection with the ownership and operation of real estate properties, the Company may be potentially liable for costs and damages related to environmental matters, including asbestos-containing materials. The Company has not been notified by any governmental authority of any noncompliance, liability, or other claim in connection with any of the properties, and the Company is not aware of any other environmental condition with respect to any of the properties that management believes will have a material adverse effect on the Company's business, financial condition, results of operations, cash flow or the Company's ability to satisfy its debt service obligations or to maintain its level of distributions on Common Stock or Preferred Stock.

15. LEASES

Future minimum rental revenue under long-term operating leases as of December 31, 2022, excluding tenant reimbursements of certain costs, are as follows (excludes unconsolidated properties, in thousands):

Years Ending December 31,	Total
2023	$ 46,119
2024	45,365
2025	29,164
2026	21,441
2027	15,051
Thereafter	52,711
	$ 209,851

16. INCOME TAXES

The Company has elected to be taxed as a REIT under the Code. To qualify as a REIT, the Company must meet a number of organizational and operational requirements, including a requirement that the Company distributes at least 90% of its taxable income to its stockholders. As a REIT, the Company generally will not be subject to corporate level federal income tax on net income that is currently distributed to stockholders.

The Company has wholly-owned TRS's which are subject to federal and state income taxes. The income generated from the TRS's is taxed at normal corporate rates.

The provision for income taxes results in effective tax rates that differ from federal and state statutory rates. A reconciliation of the provision for income tax attributable to the TRSs' income from continuing operations computed at federal statutory rates to the income tax provision reported in the financial statements is as follows:

	Year Ended December 31,	
	2022	2021
	(in thousands)	
Income from continuing operations before income taxes for TRSs	$ 6,128	$ 9,242
Expected federal income tax provision	$ 1,287	$ 1,941
State income taxes	43	(40)
Change in valuation allowance	300	(273)
Other	(499)	1,364
Income tax provision	$ 1,131	$ 2,992

The components of the Company's net deferred tax asset, which are included in other assets, are as follows:

	December 31,	
	2022	2021
	(in thousands)	
Deferred tax assets:		
Net operating losses	$ 2,664	$ 2,367
Secured borrowings—government guaranteed loans	54	64
Other	145	153
Total gross deferred tax assets	2,863	2,584
Valuation allowance	(2,670)	(2,370)
	193	214
Deferred tax liabilities:		
Loans receivable	(71)	(96)
	(71)	(96)
Deferred tax asset, net	$ 122	$ 118

The net operating loss carryforwards as of December 31, 2022 and 2021 were generated by TRSs and are available to offset future taxable income of these TRSs.

The increase in the valuation allowance recorded in 2022 was $300,000.

The periods subject to examination for the Company's federal and state income tax returns are 2019 through 2022. As of December 31, 2022 and 2021, no reserves for uncertain tax positions have been established and the Company does not anticipate any material changes in the amount of unrecognized tax benefits recorded to occur within the next 12 months.

The Tax Cuts and Jobs Act of 2017, signed into law in late December 2017, made sweeping changes to provisions of the Code applicable to businesses. The CARES Act, signed into law in March 2020, made additional changes to provisions on the Code applicable to the businesses. Management has reviewed these statutory changes and determined that the impact to the Company's consolidated financial statements is not material.

17. SEGMENT DISCLOSURE

The Company's reportable segments during the years ended December 31, 2022 and 2021 consist of two types of commercial real estate properties, namely, office and hotel, as well as a segment for the Company's lending business. Management internally evaluates the operating performance and financial results of the segments based on net operating income. The Company also has certain general and administrative level activities, including public company expenses, legal, accounting, and tax preparation that are not considered separate operating segments. The reportable segments are accounted for on the same basis of accounting as described in Note 2.

For the Company's real estate segments, the Company defines net operating income (loss) as rental and other property income and expense reimbursements less property related expenses, and excludes non-property income and expenses, interest expense, depreciation and amortization, corporate related general and administrative expenses, gain (loss) on sale of real estate, gain (loss) on early extinguishment of debt, impairment of real estate, transaction costs, and provision (benefit) for income taxes. For the Company's lending segment, the Company defines net operating income as interest income net of interest expense and general overhead expenses.

The net operating income (loss) of the Company's segments for the years ended December 31, 2022 and 2021 is as follows:

	Year Ended December 31,	
	2022	2021
	(in thousands)	
Office:		
Revenues	$ 55,928	$ 53,289
Property expenses:		
Operating	26,537	23,431
General and administrative	225	347
Total property expenses	26,762	23,778
Income from unconsolidated entity	164	—
Segment net operating income—office	29,330	29,511
Hotel:		
Revenues	35,213	17,849
Property expenses:		
Operating	23,989	15,841
General and administrative	110	128
Total property expenses	24,099	15,969
Segment net operating income—hotel	11,114	1,880
Lending:		
Revenues	10,765	19,787
Lending expenses:		
Interest expense	552	408
Expense reimbursements to related parties—lending segment	1,929	1,921
General and administrative	1,904	1,788
Total lending expenses	4,385	4,117
Segment net operating income—lending	6,380	15,670
Total segment net operating income	$ 46,824	$ 47,061

A reconciliation of the Company’s segment net operating income to net income attributable to the Company for the years ended December 31, 2022 and 2021 is as follows:

	Year Ended December 31,	
	2022	2021
	(in thousands)	
Total segment net operating income	$ 46,824	$ 47,061
Interest and other income	—	1
Asset management and other fees to related parties	(3,570)	(9,030)
Expense reimbursements to related parties—corporate	(1,925)	(2,050)
Interest expense	(9,052)	(9,005)
General and administrative	(4,630)	(4,581)
Transaction costs	(223)	(143)
Depreciation and amortization	(20,348)	(20,112)
Income before provision for income taxes	7,076	2,141
Provision for income taxes	(1,131)	(2,992)
Net income (loss)	5,945	(851)
Net (income) loss attributable to noncontrolling interests	(27)	1
Net income (loss) attributable to the Company	$ 5,918	$ (850)

The condensed assets for each of the segments as of December 31, 2022 and 2021, along with capital expenditures and loan originations for the years ended December 31, 2022 and 2021 are as follows:

	December 31,	
	2022	2021
	(in thousands)	
Condensed assets:		
Office	$ 471,677	$ 449,843
Hotel	99,082	101,308
Lending	76,148	96,729
Non-segment assets[1]	43,341	12,986
Total assets	$ 690,248	$ 660,866

	Year Ended December 31,	
	2022	2021
	(in thousands)	
Capital expenditures [2] and loan originations:		
Office	$ 9,094	$ 5,714
Hotel	414	193
Total capital expenditures	9,508	5,907
Loan originations	40,619	133,290
Total capital expenditures and loan originations	$ 50,127	$ 139,197

(1) Includes investments in real estate of $9.9 million representing three development sites which the Company intends to develop into multifamily assets.

(2) Represents additions and improvements to real estate investments, excluding acquisitions. Includes the activity for dispositions through their respective disposition dates.

18. SUBSEQUENT EVENTS

Property Acquisitions

On January 31, 2023, the Company acquired an 89.42% interest in each of Channel House, an 8-story apartment building with 333 units in Jack London Square, Oakland, California, land parcel F-3 and land parcel Site D, in each case located in Oakland, California, from related party entities also managed by CIM Group (collectively the “JLS Sellers”) for $120.4 million, $200,000 and $2.2 million, respectively (including, in the case of Channel House, an assumption of a mortgage of $103.0 million). The purchase price is based on bids received by the JLS Sellers in connection with a marketed sales process and is subject to customary post-closing adjustments and does not include transaction costs relating to the acquisition. CMCT’s knowledge of the asset, the market in which it is located and the ability of CMCT to close the transaction rapidly and with certainty were key factors in securing this opportunity. In March, 2023, the Company made a principal payment of $16.0 million on the Channel House mortgage.

On February 17, 2023, an indirect wholly owned subsidiary of the Company announced the closing of a co-investment transaction pursuant to which three international co-investors acquired an 80% interest in a property owned by such subsidiary located at 4750 Wilshire Blvd in Los Angeles (“4750 Wilshire”) for an aggregate of approximately $34.4 million, excluding transaction costs. The Company intends to convert two out of the three floors of 4750 Wilshire into for-lease multifamily units. The total cost of the conversion is expected to be approximately $31.0 million, which will be financed by a combination of equity contributions from the Company and co-investors as well as a $38.5 million mortgage from a bank Pursuant to the co-investment agreement, each co-investor will pay an on-going management fee to the Company. In addition, the Company may earn incentive fees from co-investors based on the performance of 4750 Wilshire after conversion. The Company will account for its retained ownership interest in the 4750 Wilshire Project as an equity method investment.

On February 28, 2023, the Company and a co-investor acquired from an unrelated third-party a 100% fee-simple interest in a 75-unit four-story multifamily property located in the Echo Park neighborhood of Los Angeles, California for a purchase price of $19.1 million, excluding transaction costs. The Company owns 50% of this property. A mortgage of $9.6 million on the property was obtained in connection with the acquisition. The Company will account for its ownership interest as an equity method investment.

On March 9, 2023, our lending division completed a securitization of the unguaranteed portion of certain of our SBA 7(a) loans receivable with the issuance of $54.1 million of unguaranteed SBA 7(a) loan-backed notes (with net proceeds of approximately $43.3 million, after payment of fees and expenses in connection with the securitization and the funding of a reserve account and an escrow account). The SBA 7(a) loan-backed notes are collateralized by the right to receive payments and other recoveries attributable to the unguaranteed portions of certain of our SBA 7(a) loans receivable. The SBA 7(a) loan-backed notes mature on March 20, 2048, with monthly payments due as payments on the collateralized loans are received. The SBA 7(a) loan-backed notes bear interest at a per annum rate equal to the lesser of (i) 30-day average compounded SOFR plus 2.90% and (ii) prime rate minus 0.35%. The annual interest rate for the first interest payment date shall be 7.40%. We reflect the SBA 7(a) loans receivable as assets on our consolidated balance sheet and the SBA 7(a) loan-backed notes as debt on our consolidated balance sheet.

On March 28, 2023, an indirect wholly-owned subsidiary of the Company acquired a 98.05% interest in Eleven Fifty Clay, a 16-story apartment building with 288 units in downtown Oakland, California, from a related party also managed by CIM Group (the “Clay Seller”). The purchase price is $142.7 million (including an assumption of a mortgage of $78.3 million), exclusive of transactions costs. The purchase price is based on bids received by the Clay Seller in connection with a marketed sales process and will be subject to customary adjustments at closing. CMCT’s knowledge of the asset, the market in which it is located and the ability of CMCT to close the transaction rapidly and with certainty were key factors in securing this opportunity.

Dividend Declaration

On March 20, 2023, the Company declared a cash dividend of $0.085 per share of its Common Stock, to be paid on April 11, 2023 to stockholders of record at the close of business on March 30, 2023.

Schedule III—Real Estate and Accumulated Depreciation
December 31, 2022
(in thousands)

Property Name, City and State	Encumbrances	Initial Cost		Net Improvements (Write-Offs) Since Acquisition	Gross Amount at Which Carried [2]				Year Built / Renovated	Year of Acquisition
		Land	Building and Improvements		Land	Building and Improvements	Total	Acc. Deprec.		
Office										
3601 S Congress Avenue [1]										
Austin, TX	$ — (1)	$ 9,569	$ 18,593	$ 14,584	$ 9,569	$ 33,177	$ 42,746	$ 8,985	1918 / 2001 & 2020	2007
1 Kaiser Plaza										
Oakland, CA	$ 97,100	9,261	113,619	19,058	9,261	132,677	141,938	56,435	1970 / 2008	2008
2 Kaiser Plaza Parking Lot [1]										
Oakland, CA	— (1)	10,931	110	3,665	10,931	3,775	14,706	—	N/A	2015
11600 Wilshire Boulevard [1]										
Los Angeles, CA	— (1)	3,477	18,522	2,449	3,477	20,971	24,448	7,267	1955	2010
11620 Wilshire Boulevard [1]										
Los Angeles, CA	— (1)	7,672	51,999	6,989	7,672	58,988	66,660	19,721	1976	2010
4750 Wilshire Boulevard										
Los Angeles, CA	— (1)	16,633	28,985	6,533	16,633	35,518	52,151	7,476	1984 / 2014	2014
Lindblade Media Center										
Los Angeles, CA	— (1)	6,342	11,568	491	6,342	12,059	18,401	2,658	1930 & 1957 / 2010	2014
1037 N Sycamore										
Los Angeles, CA	— (1)	1,839	1,094	113	1,839	1,207	3,046	45	2000 / 2021	2021
1130 Howard Street [1]										
San Francisco, CA	— (1)	8,290	10,480	(45)	8,290	10,435	18,725	1,421	1930 / 2016 & 2017	2017
9460 Wilshire Boulevard [1]										
Los Angeles, CA	— (1)	52,199	76,730	2,250	52,199	78,980	131,179	10,437	1959 / 2008	2018
1021 E 7th Street										
Austin, TX	— (1)	4,976	733	—	4,976	733	5,709	221	1972 / 2001	2020
3101 S Western Avenue										
Los Angeles, CA	— (1)	2,279	—	620	2,279	620	2,899	—	N/A	2022
3022 S Western Avenue										
Los Angeles, CA	— (1)	5,637	156	439	5,637	595	6,232	5	N/A	2022
1007 E 7th Street										
Austin, TX	— (1)	1,866	6	138	1,866	144	2,010	23	1920	2022
3109 S Western Avenue										
Los Angeles, CA	— (1)	709	2	23	709	25	734	—	N/A	2022
Hotel										
Sheraton Grand Hotel [1]										
Sacramento, CA	— (1)	3,497	107,447	67	3,497	107,514	111,011	39,566	2001	2008
Sheraton Grand Hotel Parking & Retail [1]										
Sacramento, CA	—	6,550	10,996	272	6,550	11,268	17,818	4,147	2001	2008
	$ 97,100	$ 151,727	$ 451,040	$ 57,646	$ 151,727	$ 508,686	$ 660,413	$ 158,407		

(1) These properties collateralize the revolving credit facility, which had a $56.2 million outstanding balance as of December 31, 2022.

(2) The aggregate gross cost of property included above for federal income tax purposes approximates $714.3 million (unaudited) as of December 31, 2022.

Schedule III—Real Estate and Accumulated Depreciation (Continued)
December 31, 2022
(in thousands)

The following table reconciles the Company's investments in real estate from January 1, 2021 to December 31, 2022:

	Year Ended December 31,	
	2022	2021
	(in thousands)	
Investments in Real Estate		
Balance, beginning of period	$ 642,702	$ 637,205
Additions:		
Improvements	10,548	5,907
Property acquisitions	10,756	2,933
Deductions:		
Retirements	(3,593)	(3,343)
Balance, end of period	$ 660,413	$ 642,702

The following table reconciles the accumulated depreciation from January 1, 2021 to December 31, 2022:

	Year Ended December 31,	
	2022	2021
	(in thousands)	
Accumulated Depreciation		
Balance, beginning of period	$ (144,718)	$ (131,165)
Additions: depreciation	(17,282)	(16,896)
Deductions:		
Assets held for sale	—	—
Asset sales	—	—
Retirements	3,593	3,343
Balance, end of period	$ (158,407)	$ (144,718)

Schedule IV—Mortgage Loans on Real Estate
December 31, 2022
(dollars in thousands, except footnotes)

Geographic Dispersion of Collateral	Number of Loans	Size of Loans From	Size of Loans To	Interest Rate			Final Maturity Date Range			Carrying Amount of Mortgages [1]	Principal Amount of Loans Subject to Delinquent Principal or "Interest"
SBA 7(a) Loans - States 2% or greater [2] [3]:											
Ohio	21	$ 60	$ 880	7.75%	to	9.00%	01/30/38	—	10/12/47	$ 8,208	$ —
Texas	20	$ 5	$ 860	7.75%	to	9.00%	05/22/23	—	01/26/47	6,553	—
Indiana	12	$ 90	$ 950	7.75%	to	9.00%	05/14/36	—	08/26/46	4,617	—
Michigan	14	$ 80	$ 950	7.75%	to	9.00%	12/10/34	—	10/27/46	4,075	—
Florida	11	$ 20	$ 1,040	8.00%	to	9.00%	06/29/32	—	05/19/47	3,942	—
West Virginia	7	$ 50	$ 860	7.75%	to	9.00%	09/25/31	—	09/07/47	2,421	—
Louisiana	7	$ 60	$ 580	8.00%	to	9.00%	11/22/31	—	05/26/47	2,158	—
Pennsylvania	4	$ 300	$ 670	8.00%	to	9.00%	03/05/40	—	11/29/43	2,016	—
Kentucky	9	$ 5	$ 440	8.00%	to	9.00%	11/11/32	—	03/23/47	1,963	—
Illinois	11	$ 50	$ 290	8.00%	to	9.00%	09/08/39	—	10/26/47	1,876	—
North Carolina	7	$ 60	$ 770	8.00%	to	9.00%	09/08/32	—	04/25/47	1,793	—
New Mexico	5	$ 90	$ 760	7.75%	to	9.00%	11/17/34	—	08/09/46	1,689	—
Virginia	5	$ 110	$ 640	8.00%	to	8.75%	12/27/44	—	12/15/47	1,497	—
Alabama	7	$ 20	$ 470	8.00%	to	8.75%	07/27/25	—	09/10/46	1,427	—
Georgia	6	$ 110	$ 320	8.25%	to	9.00%	12/28/34	—	08/11/47	1,347	—
South Carolina	4	$ 270	$ 380	8.00%	to	9.00%	11/06/40	—	07/30/44	1,284	—
Tennessee	4	$ 140	$ 440	8.50%	to	8.75%	06/01/43	—	08/31/46	1,226	—
Wisconsin	5	$ 100	$ 500	8.00%	to	9.00%	03/05/32	—	06/09/46	1,167	—
Colorado	3	$ 310	$ 510	7.75%	to	8.50%	02/17/41	—	09/15/45	1,154	—
Other [4]	31	$ 30	$ 520	6.00%	to	9.00%	07/26/26	—	11/11/47	7,144	104
Government guaranteed portions [5]										117	—
SBA 7(a) loans, subject to secured borrowings [6]										5,979	—
Total reserves										(1,106)	—
	193									$ 62,547 [7]	$ 104

(1) Excludes general reserves of $1,021,000 since not specifically identified.

(2) Includes $551,000 of loans with subordinate lien positions.

(3) Interest rates are variable at spreads over the prime rate unless otherwise noted.

(4) Includes a loan with a retained face value of $85,000, a valuation reserve of $85,000 and a fixed interest rate of 6.00%.

(5) Represents the government guaranteed portions of the Company's SBA 7(a) loans detailed above retained by us. As there is no risk of loss to us related to these portions of the guaranteed loans, the geographic information is not presented as it is not meaningful.

(6) Represents the guaranteed portion of SBA 7(a) loans which were sold with the proceeds received from the sale reflected as secured borrowings. For Federal income tax purposes, these proceeds are treated as sales and reduce the carrying value of loans receivable.

(7) For Federal income tax purposes, the aggregate cost basis of the Company's loans was approximately $56.2 million (unaudited).

Schedule IV—Mortgage Loans on Real Estate (Continued)
December 31, 2022
(in thousands)

	Year Ended December 31,	
	2022	**2021**
Balance, beginning of period	$ 73,543	$ 83,135
Additions during period:		
New loans	40,619	133,290
Other - deferral of loan origination costs	1,086	2,559
Other - accretion of loan discounts, net of amortization of deferred origination costs	1,836	1,424
Deductions during period:		
Collections of principal	(20,250)	(32,370)
Cost of mortgages sold, net	(34,124)	(114,437)
Other - bad debt expense	(163)	(58)
Balance, end of period	$ 62,547	$ 73,543

Exhibit 4.1

Description of Securities

The following is a summary description of certain important terms of our securities. The description of our securities is not complete and is qualified in its entirety by reference to the provisions of our charter, bylaws and, with respect to our Series A Warrants (as defined in "Series A Warrants" below), the terms of the agreement governing such warrants and the global warrant certificate and the applicable provisions of the Maryland General Corporation Law (the "MGCL"). Our charter, bylaws and agreements governing the terms of our securities are filed with, or are incorporated by reference into, our Annual Report on Form 10-K.

Unless the context otherwise requires, references to "the Company" "us," "we" and "our" are solely to Creative Media & Community Trust Corporation and not to any of its subsidiaries or affiliates.

General

Our charter provides that we may issue up to 900,000,000 shares of our common stock, par value $0.001 per share (our "Common Stock"), and up to 100,000,000 shares of our preferred stock, par value $0.001 per share. As of March 27, 2023, 35,272,648 shares of our preferred stock are classified as our Series A Preferred Stock, par value $0.001 per share (our "Series A Preferred Stock"), 27,978,200 shares of our preferred stock are classified as our Series A1 Preferred Stock, par value $0.001 per share (our "Series A1 Preferred Stock"), 26,992,000 shares of our preferred stock are classified as our Series D Preferred Stock, par value $0.001 per share (our "Series D Preferred Stock"), and 919,260 shares of our preferred stock are classified as our Series L Preferred Stock, par value $0.001 per share (our "Series L Preferred Stock"). Our charter authorizes our Board of Directors, with the approval of a majority of our entire Board of Directors and without stockholder approval, to amend our charter to increase or decrease the aggregate number of shares of stock or the number of shares of stock of any class or series that we are authorized to issue.

As of March 27, 2023, 2023, there were 22,737,853 shares of our Common Stock, 8,092,986 shares of our Series A Preferred Stock, 2,925,501 Series A Warrants to purchase 756,257 shares of Common Stock, no shares of our Series L Preferred Stock, 48,857 shares of our Series D Preferred Stock, and 6,976,710 shares of our Series A1 Preferred Stock issued and outstanding. Our Common Stock was held by approximately 357 stockholders of record as of March 22, 2023.

Under applicable Maryland law, our stockholders are not generally liable for our debts or obligations solely as a result of their status as stockholders.

For a description of relevant provisions of our charter and bylaws that may have an effect of delaying, deferring or preventing a change in control of the Company, please see "Certain Provisions of the MGCL and Our Charter and Bylaws" below.

Common Stock

Subject to the preferential rights of our preferred stock and any other class or series of our capital stock and to the provisions of our charter regarding the restrictions on ownership and transfer of our capital stock (see "—Select Charter Provisions Related to Our Capital Stock—Restrictions on Ownership and Transfer"), holders of shares of our Common Stock are entitled to receive dividends and other distributions on such shares if, as and when authorized by our Board of Directors out of funds legally available therefor and declared by us and to share ratably in the assets of our Company legally available for distribution to our stockholders in the event of our liquidation, dissolution or winding up after payment or establishment of reserves for all known debts and liabilities of our Company.

Subject to the provisions of our charter regarding the restrictions on ownership and transfer of our capital stock and except as may otherwise be specified in the terms of any class or series of our capital stock, each outstanding share of our Common Stock entitles the holder to one vote on all matters submitted to a vote of stockholders, including the election of directors, and, except as provided with respect to any other class or series of stock, the holders of shares of Common Stock will possess the exclusive voting power. There is no cumulative voting in the election of our directors. A plurality of all the votes cast at a meeting of stockholders duly called and at which a quorum is present shall be sufficient to elect a director. Each share of Common Stock entitles the holder thereof to vote for as many individuals as there are directors to be elected and for whose election the holder is entitled to vote. A majority of the votes cast at a meeting of stockholders duly called and at which a quorum is present shall be

sufficient to approve any other matter which may properly come before the meeting, unless more than a majority of the votes cast is required by the MGCL or by our charter.

Holders of shares of our Common Stock have no preference, conversion, exchange, sinking fund or redemption rights and have no preemptive rights to subscribe for any securities of our Company. Our charter provides that our common stockholders generally have no appraisal rights unless our Board of Directors determines prospectively that appraisal rights will apply to one or more transactions in which holders of our Common Stock would otherwise be entitled to exercise appraisal rights. Subject to the provisions of our charter regarding the restrictions on ownership and transfer of our stock, holders of our Common Stock will have equal dividend, liquidation and other rights.

Our Common Stock is traded on Nasdaq, under the ticker symbol “CMCT,” and on the TASE, under the ticker symbol “CMCT” The transfer agent and registrar for shares of our Common Stock is American Stock Transfer and Trust Company.

Preferred Stock

Our Board of Directors may, with the approval of a majority of our entire Board of Directors and without stockholder approval, authorize the issuance of preferred stock with voting, dividend, liquidation and conversion and other rights that could dilute the voting power or other rights or adversely affect the market value of our Common Stock or other series of preferred stock.

Series A Preferred Stock

Our Series A Preferred Stock has no voting rights and ranks senior to our Common Stock and any other class or series of our capital stock, the terms of which expressly provide that our Series A Preferred Stock ranks senior to such class or series with respect to payment of dividends and distribution of amounts upon liquidation, dissolution or winding up. Holders of our Series A Preferred Stock are entitled to receive, if, as and when authorized by our Board of Directors, cumulative cash dividends on each share of Series A Preferred Stock at an annual rate of 5.5% of the stated value of $25.00 (the “Series A Stated Value”), which Series A Stated Value is subject to appropriate adjustment in limited circumstances, as set forth in the articles supplementary setting forth the rights, preferences and limitations of the Series A Preferred Stock. Dividends on each share of Series A Preferred Stock begin accruing on, and are cumulative from, the date of issuance of such shares.

Holders of our shares of Series A Preferred Stock are not entitled to any dividend in excess of full cumulative dividends on such shares. Unless full cumulative dividends on our shares of Series A Preferred Stock for all past dividend periods have been or contemporaneously are declared and paid or declared and a sum sufficient for the payment thereof is set apart for payment, we will not:

- declare and pay or declare and set apart for payment dividends and we will not declare and make any other distribution of cash or other property (other than dividends or other distributions paid in shares of stock ranking junior to our Series A Preferred Stock as to the dividend rights or rights on our liquidation, winding-up or dissolution, and options, warrants or rights to purchase such shares), directly or indirectly, on or with respect to any shares of our Common Stock, Series A1 Preferred Stock, Series D Preferred Stock, or any other class or series of our stock ranking junior to or on parity with our Series A Preferred Stock as to dividend rights or rights on our liquidation, winding-up or dissolution for any period; or
- except by conversion into or exchange for shares of stock ranking junior to our Series A Preferred Stock as to dividend rights or rights on our liquidation, winding-up or dissolution, or options, warrants or rights to purchase such shares, redeem, purchase or otherwise acquire (other than a redemption, purchase or other acquisition of Common Stock made for purposes of an employee incentive or benefit plan) for any consideration, or pay or make available any monies for a sinking fund for the redemption of, any Common Stock, Series A1 Preferred Stock, Series D Preferred Stock, or any other class or series of our stock ranking junior to or on parity with our Series A Preferred Stock as to dividend rights or rights on our liquidation, winding-up or dissolution.

Holders of our Series A Preferred Stock have the right to require us to redeem such shares beginning on the date of original issuance of such shares at a redemption price equal to the Series A Stated Value, less a redemption fee of 13%, beginning on the date of original issuance until but excluding the second anniversary thereof or a redemption fee of 10% beginning on the second anniversary of the date of original issuance until but excluding the fifth anniversary of the date of original issuance, in each case plus any accrued but unpaid dividends; provided, however, that our Board of Directors, in its discretion, may from time to time authorize the Company to redeem such shares of Series A Preferred Stock at a redemption price equal to the Series A Stated Value less a redemption fee of 10 to 0%, plus any accrued but unpaid dividends.

If a holder of shares of Series A Preferred Stock causes the Company to redeem such shares, we will pay the redemption price in cash or, on or after the first anniversary of the issuance of the shares of Series A Preferred Stock to be redeemed, at our option and in our sole discretion, in equal value through the issuance of shares of Common Stock, based on the volume weighted average price of our Common Stock for the 20 trading days prior to the redemption. Additionally, from and after the fifth anniversary of the date of original issuance of any shares of Series A Preferred Stock, we will have the right to redeem any or all shares of Series A Preferred Stock at 100% of the Series A Stated Value, plus any accrued but unpaid dividends, in cash or in equal value through the issuance of shares of Common Stock.

On July 1, 2016, we commenced our reasonable best efforts public offering of up to 36,000,000 units ("Series A Units"), with each Series A Unit consisting of one share of Series A Preferred Stock and one detachable warrant to purchase 0.25 of a share of our Common Stock (a "Series A Warrant"). In January 2020, we terminated the offering of Series A Units. On January 28, 2020, we commenced our reasonable best efforts public offering of a maximum of $784,983,825, on an aggregate basis, of Series A Preferred Stock and Series D Preferred Stock. In June 2022, we terminated the offering of Series A Preferred Stock.

The transfer agent and registrar for shares of our Series A Preferred Stock is American Stock Transfer and Trust Company.

Series A1 Preferred Stock

Our Series A1 Preferred Stock has no voting rights and ranks senior to our Common Stock and any other class or series of our capital stock, the terms of which expressly provide that our Series A1 Preferred Stock ranks senior to such class or series with respect to payment of dividends and distribution of amounts upon liquidation, dissolution or winding up. Holders of Series A1 Preferred Stock are entitled to receive, if, as and when authorized by our Board of Directors and declared by us out of legally available funds, cumulative cash dividends on each share of Series A1 Preferred Stock at a quarterly rate of the greater of (i) 6.00% of $25.00 (the "Series A1 Stated Value," which is subject to appropriate adjustment in limited circumstances as set forth in the articles supplementary setting forth the rights, preferences and limitations of the Series A1 Preferred Stock), divided by 4, and (ii) the Federal Funds (Effective) Rate on the dividend determination date, plus 2.50% of the Series A1 Stated Value, divided by 4, up to a maximum of 2.50% of the Series A1 Stated Value per quarter, as determined on each applicable dividend determination date. Dividends on each share of Series A1 Preferred Stock accrue and are cumulative from the date of issuance of such share.

Holders of our shares of Series A1 Preferred Stock are not entitled to any dividend in excess of full cumulative dividends on such shares. Unless full cumulative Series A1 Dividends for all past dividend periods have been or are contemporaneously declared and paid or declared and a sum sufficient for the payment thereof is set apart for payment, we will not:

- declare and pay or declare and set apart for payment dividends and we will not declare and make any other distribution of cash or other property (other than dividends or other distributions paid in shares of stock ranking junior to the Series A1 Preferred Stock as to the dividend rights or rights upon our liquidation, winding-up or dissolution, or options, warrants or rights to purchase such shares), directly or indirectly, on or with respect to any shares of Common Stock, Series A Preferred Stock, Series D Preferred Stock or any other class or series of our stock ranking junior to or on parity with the Series A1 Preferred Stock as to dividend rights for any period; or
- except by conversion into or exchange for shares of stock ranking junior to the Series A1 Preferred Stock as to dividend rights or rights upon our liquidation, winding-up or dissolution, or options, warrants or rights to purchase such shares, redeem, purchase or otherwise acquire (other than a redemption, purchase or other acquisition of Common Stock made for purposes of an employee incentive or benefit plan) for any consideration, or pay or make available any monies for a sinking fund for the redemption of, any Common Stock, Series A Preferred Stock, Series D Preferred Stock or any class or any other class or series of our stock ranking junior to or on parity with the Series A1 Preferred Stock as to dividend rights.

Holders of our shares of Series A1 Preferred Stock have the right to require the Company to redeem such shares at a redemption price equal to a percentage of the Series A1 Stated Value set forth below plus any accrued and unpaid dividends:

- 91%, for all such redemptions effective prior to the first anniversary of the date of original issuance of such shares;
- 92%, for all such redemptions effective on or after the first anniversary, but prior to the second anniversary, of the date of original issuance of such shares;
- 93%, for all such redemptions effective on or after the second anniversary, but prior to the third anniversary, of the date of original issuance of such shares;
- 94%, for all such redemptions effective on or after the third anniversary, but prior to the fourth anniversary, of the date of original issuance of such shares;

- 95%, for all such redemptions effective on or after the fourth anniversary, but prior to the fifth anniversary, of the date of original issuance of such shares; and
- 100%, for all such redemptions effective on or after the fifth anniversary of the date of original issuance of such shares.

Each holder of Series A1 Preferred Stock may exercise such redemption right by delivering a written notice thereof to the Company and the redemption price will be paid by the Company on a date selected by the Company that is no later than 45 days after such notice is received by the Company.

If a holder of shares of Series A1 Preferred Stock causes us to redeem such shares, we will pay the redemption price, at our option and in our sole discretion, in cash or in equal value through the issuance of shares of Common Stock, based on the volume-weighted average price of our Common Stock for the 20 trading days prior to the redemption. Additionally, from and after the date that is twenty-four months following the date of original issuance of our Series A1 Preferred Stock, we will have the right to redeem any or all shares of Series A1 Preferred Stock at 100% of the Series A1 Stated Value, plus any accrued but unpaid dividends, in cash or in equal value through the issuance of shares of common stock.

On June 10, 2022, we commenced our reasonable best efforts public offering of a maximum of up to $692,312,129, on an aggregate basis, of Series A1 Preferred Stock.

The transfer agent and registrar for our Series A1 Preferred Stock is American Stock Transfer and Trust Company.

Series D Preferred Stock

Our Series D Preferred Stock has no voting rights and ranks senior to our Common Stock and any other class or series of our capital stock, the terms of which expressly provide that our Series D Preferred Stock ranks senior to such class or series with respect to payment of dividends and distribution of amounts upon liquidation, dissolution or winding up. Holders of Series D Preferred Stock are entitled to receive if, as and when authorized by our Board of Directors, cumulative cash dividends on each share of Series D Preferred Stock at an annual rate of 5.65% of the value of $25.00 (the “Series D Stated Value”) which is subject to appropriate adjustment in limited circumstances, as set forth in the articles supplementary setting forth the rights, preferences and limitations of the Series D Preferred Stock. Dividends on the Series D Preferred Stock accrue and are cumulative from the date of issuance of a given share of Series D Preferred Stock.

Holders of our shares of Series D Preferred Stock are not entitled to any dividend in excess of full cumulative Series D Dividends on such shares. Unless full cumulative Series D Dividends for all past dividend periods have been or are contemporaneously declared and paid or declared and a sum sufficient for the payment thereof is set apart for payment, we will not:

- declare and pay or declare and set apart for payment dividends and we will not declare and make any other distribution of cash or other property (other than dividends or other distributions paid in shares of stock ranking junior to the Series D Preferred Stock as to the dividend rights or rights upon our liquidation, winding-up or dissolution, and options, warrants or rights to purchase such shares), directly or indirectly, on or with respect to any shares of Common Stock, Series A Preferred Stock or any other class or series of our stock ranking junior to or on parity with the Series D Preferred Stock as to dividend rights; or
- except by conversion into or exchange for shares of stock ranking junior to the Series D Preferred Stock as to dividend rights or rights upon our liquidation, winding-up or dissolution, or options, warrants or rights to purchase such shares, redeem, purchase or otherwise acquire (other than a redemption, purchase or other acquisition of Common Stock made for purposes of an employee incentive or benefit plan) for any consideration, or pay or make available any monies for a sinking fund for the redemption of, any Common Stock, Series A Preferred Stock, Series A1 Preferred Stock or any class or any other class or series of our stock ranking junior to or on parity with the Series D Preferred Stock as to dividend rights.

Holders of our Series D Preferred Stock have the right to require us to redeem such shares beginning on the date of original issuance of such shares at a redemption price equal to the Series D Stated Value, less a redemption fee of 13%, beginning on the date of original issuance until but excluding the second anniversary thereof or a redemption fee of 10% beginning on the second anniversary of the date of original issuance until but excluding the fifth anniversary of the date of original issuance, in each case plus any accrued but unpaid dividends; provided, however, that our Board of Directors, in its discretion, may from time to time authorize the Company to redeem such shares of Series D Preferred Stock at a redemption price equal to the Series D Stated Value less a redemption fee of 10 to 0%, plus any accrued but unpaid dividends.

If a holder of shares of Series D Preferred Stock causes the Company to redeem such shares, we will pay the redemption price in cash or, on or after the first anniversary of the issuance of the shares of Series D Preferred Stock to be redeemed, at our option and in our sole discretion, in equal value through the issuance of shares of Common Stock, based on the volume weighted average price of our Common Stock for the 20 trading days prior to the redemption. Additionally, from and after the fifth anniversary of the date of original issuance of any shares of Series D Preferred Stock, we will have the right to redeem any or all shares of Series D Preferred Stock at 100% of the Series D Stated Value, plus any accrued but unpaid dividends, in cash or in equal value through the issuance of shares of Common Stock.

On January 28, 2020, we commenced our reasonable best efforts public offering of a maximum of $784,983,825, on an aggregate basis, of Series A Preferred Stock and Series D Preferred Stock. In June 2022, we terminated the offering of Series D Preferred Stock.

The transfer agent and registrar for the Series D preferred Stock is American Stock Transfer and Trust Company.

Series A Warrants

On July 1, 2016, we commenced our reasonable best efforts public offering of up to 36,000,000 Series A Units, with each Series A Unit consisting of one share of Series A Preferred Stock and one Series A Warrant. In January 2020, we terminated the offering of Series A Units. The transfer agent and registrar for shares of our Series A Warrants is American Stock Transfer and Trust Company.

Each Series A Warrant is exercisable for one quarter of a share of our Common Stock at an exercise price, subject to adjustment, equal to a 15% premium to the fair market net asset value of the Company per share of Common Stock as most recently published by the Company at the time of the issuance of the applicable Series A Warrant.

The exercise price and the number of shares of Common Stock issuable upon exercise of the Series A Warrants are subject to appropriate adjustment from time to time in relation to certain events or actions in respect of the Company, including the declaration or making of a distribution on outstanding shares of Common Stock in shares of Common Stock or the subdivision, combination or reclassification of outstanding shares of Common Stock in a lesser or greater number. Additionally, pursuant to an amendment to the warrant agreement in respect of the Series A Warrants, the Company may, as it deems appropriate to account for the effect of the payment of a special cash dividend by the Company, adjust the exercise price of outstanding and unexpired Series A Warrants and/or adjust the number of shares of Common Stock for which Series A Warrants may be exercised. The decision of what constitutes a special cash dividend and whether to make any adjustment in connection therewith, the methodology used to make any adjustment and the extent of any adjustment will be determined by the Company in its sole discretion.

Holders of our Series A Warrants may exercise their Series A Warrants at any time beginning on the first anniversary of the date of issuance of such shares up to 5:00 p.m., New York time, on the date that is the fifth anniversary of such date of issuance (the “Series A Warrant Expiration Date”). The Series A Warrants are exercisable, at the option of each holder, in whole, but not in part, for no less than 50 shares of our Common Stock, unless such holder does not at the time of exercise own a sufficient number of Series A Warrants to meet such minimum amount. Any Series A Warrant that is outstanding after the applicable Series A Warrant Expiration Date will be automatically terminated.

A holder of our Series A Warrants does not have the right to exercise any portion of a Series A Warrant to the extent that, after giving effect to the issuance of shares of our Common Stock upon such exercise, the holder (together with its affiliates and any other persons acting as a group together with such holder or any of its affiliates) would beneficially or constructively own shares of Common Stock (i) in excess of 6.25% in value or number of shares, whichever is more restrictive, of the shares of Common Stock outstanding or (ii) that would otherwise result in the violation of any of the restrictions on ownership transfer of our stock contained in our charter, in each case, immediately after giving effect to the issuance of shares of Common Stock upon exercise of the Series A Warrant, as discussed below in “Certain Provisions of the MGCL and Our Charter and Bylaws—Restrictions on Ownership and Transfer.”

Certain Provisions of the MGCL and Our Charter and Bylaws

Classification or Reclassification of Capital Stock

Our charter authorizes our Board of Directors to classify and reclassify any unissued shares of Common Stock, or preferred stock into other classes or series of stock, including one or more classes or series of stock that have priority with respect to voting rights, dividends or upon liquidation over our Common Stock, Series A Preferred Stock, or Series A1

Preferred Stock, and authorizes us to issue the newly-classified shares. Prior to the issuance of shares of each new class or series, our Board of Directors is required by Maryland law and by our charter to set, subject to the provisions of our charter regarding the restrictions on ownership and transfer of our stock and the express terms of any other class or series of our stock then outstanding, the preferences, conversion or other rights, voting powers, restrictions (including restrictions as to transferability), limitations as to dividends and other distributions, qualifications and terms and conditions of redemption for each class or series. Our Board of Directors may take these actions without stockholder approval unless stockholder approval is required by the rules of any stock exchange or automatic quotation system on which our securities may be listed or traded or the terms of any other class or series of our stock. Therefore, our Board of Directors could authorize the issuance of shares of Common Stock or preferred stock with terms and conditions that could have the effect of delaying, deferring or preventing a change in control or other transaction that might involve a premium price for shares of our Common Stock or otherwise be in the best interest of our stockholders.

Restrictions on Ownership and Transfer

Our charter, subject to certain exceptions, contains certain restrictions on the number of shares of our stock that a person may own. Our charter contains a stock ownership limit that prohibits any person, unless exempted by our Board of Directors, from acquiring or holding, directly or indirectly, applying attribution rules under the Code, shares of our capital stock in excess of 6.25% in number of shares or value, whichever is more restrictive, of the aggregate of the outstanding shares of our stock or 6.25% of the number of shares or value, whichever is more restrictive, of the outstanding shares of our Common Stock. Pursuant to our charter, our Board of Directors has the power to increase or decrease the percentage of stock that a person may beneficially or constructively own. However, any decreased stock ownership limit will not apply to any person whose percentage ownership of our stock is in excess of such decreased stock ownership limit until that person's percentage ownership of our stock equals or falls below the decreased stock ownership limit. Until such a person's percentage ownership of our stock falls below such decreased stock ownership limit, any further acquisition of stock will be in violation of the decreased stock ownership limit.

Our charter further prohibits (i) any person from beneficially or constructively owning our stock that (A) would result in us being "closely held" under Section 856(h) of the Code (without regard to whether the shares are owned during the last half of a taxable year), (B) would cause us to constructively own 10% or more of the ownership interests in a tenant of our real property within the meaning of Section 856(d)(2)(B) of the Code or (C) would otherwise cause us to fail to qualify as a REIT, or (ii) any person from transferring our stock if such transfer would result in our stock being beneficially owned by fewer than 100 persons. Any person who acquires or attempts or intends to acquire beneficial or constructive ownership of our stock that will or may violate any of the foregoing restrictions on ownership and transfer, or who is the intended transferee of shares of our stock that are transferred to the trust (as described below), is required to give written notice immediately to us or, in the event of a proposed or attempted transfer, at least 15 days prior written notice to us and provide us with such other information as we may request in order to determine the effect of such transfer on our qualification as a REIT. The foregoing restrictions on transfer and ownership will not apply if our Board of Directors determines that it is no longer in our best interests to attempt to qualify, or to continue to qualify, as a REIT or that compliance with such restrictions is no longer required in order for us to qualify as a REIT.

Our Board of Directors, in its sole discretion, may exempt, prospectively or retroactively, a person from each of the foregoing restrictions except those listed under (i)(A), (i)(C) and (ii) in the preceding paragraph. The person seeking an exemption must provide such representations, covenants and undertakings as our Board of Directors may deem appropriate to conclude that granting the exemption will not cause us to lose our qualification as a REIT. Our Board of Directors may also require a ruling from the Internal Revenue Service or an opinion of counsel in order to determine or ensure our qualification as a REIT in the context of granting such exemptions. Our Board of Directors has waived the 6.25% ownership limits and the restrictions listed under (i)(B) in the preceding paragraph for CIM Urban REIT, LLC, CIM Urban Partners GP, LLC, CIM Service Provider, LLC, and persons owning a direct or indirect interest in CIM Urban REIT, LLC, CIM Urban Partners GP, LLC, CIM Service Provider, LLC.

Any attempted transfer of shares of our stock which, if effective, would result in a violation of the foregoing restrictions will cause the number of shares of our stock causing the violation (rounded up to the nearest whole share) to be automatically transferred to a trust for the benefit of one or more charitable beneficiaries, and the proposed transferee will not acquire any rights in such stock. The automatic transfer will be deemed to be effective as of the close of business on the business day (as defined in our charter) prior to the date of the transfer. If, for any reason, the transfer to the trust does not occur or would not prevent a violation of the restrictions on ownership and transfer contained in our charter, our charter provides that the purported transfer will be treated as invalid from the outset and the intended transferee will not acquire any rights in such stock. Shares of stock held in the trust will be issued and outstanding shares. The proposed transferee will not benefit economically from ownership of any stock held in the trust, will have no rights to dividends and no rights to vote or other rights

attributable to the shares of stock held in the trust. The trustee of the trust will have all voting rights and rights to dividends or other distributions with respect to shares held in the trust. These rights will be exercised for the exclusive benefit of the charitable beneficiary. Any dividend or other distribution paid prior to our discovery that shares of our stock have been transferred to the trust will be paid by the recipient to the trustee upon demand. Any dividend or other distribution authorized but unpaid will be paid when due to the trustee. Any dividend or other distribution paid to the trustee will be held in trust for the charitable beneficiary. Subject to Maryland law, the trustee will have the authority to rescind as void any vote cast by the proposed transferee prior to our discovery that the shares have been transferred to the trust and to recast the vote in accordance with the desires of the trustee acting for the benefit of the charitable beneficiary. However, if we have already taken irreversible corporate action, then the trustee will not have the authority to rescind and recast the vote.

Within 20 days of receiving notice from us that shares of our stock have been transferred to the trust, the trustee will sell the shares to a person designated by the trustee, whose ownership of the shares will not violate the above ownership limitations. Upon such sale, the interest of the charitable beneficiary in the shares sold will terminate and the trustee will distribute the net proceeds of the sale to the proposed transferee and to the charitable beneficiary as follows: the proposed transferee will receive the lesser of (i) the price paid by the proposed transferee for the shares, or, if the proposed transferee did not give value for the shares in connection with the event causing the shares to be held in the trust (e.g., a gift, devise or other similar transaction), the market price (as defined in our charter) of the shares on the day of the event causing the shares to be held in the trust and (ii) the price per share received by the trustee (net of any commissions and other expenses of sale) from the sale or other disposition of the shares. The trustee may reduce the amount payable to the proposed transferee by the amount of dividends and other distributions paid to the proposed transferee and owed by the proposed transferee to the trust.

Any net sale proceeds in excess of the amount payable to the proposed transferee will be paid immediately to the charitable beneficiary. If, prior to our discovery that shares of our stock have been transferred to the trust, the shares are sold by the proposed transferee, then (i) the shares shall be deemed to have been sold on behalf of the trust and (ii) to the extent that the proposed transferee received an amount for the shares that exceeds the amount the proposed transferee was entitled to receive, the excess shall be paid to the trustee upon demand.

In addition, shares of our stock held in the trust will be deemed to have been offered for sale to us, or our designee, at a price per share equal to the lesser of (i) the price per share in the transaction that resulted in the transfer to the trust (or, in the case of a devise or gift, the market price at the time of the devise or gift) and (ii) the market price on the date we, or our designee, accept the offer. We may reduce the amount payable to the proposed transferee by the amount of dividends and other distributions paid to the proposed transferee and owned by the proposed transferee to the trust. We will have the right to accept the offer until the trustee has sold the shares. Upon a sale to us, the interest of the charitable beneficiary in the shares sold will terminate, and the trustee will distribute the net proceeds of the sale to the proposed transferee and any dividends or other distributions held by the trustee shall be paid to the charitable beneficiary.

Every owner of 5% or more (or such lower percentage as required by the Code or the regulations promulgated thereunder) in value of the outstanding shares of our stock, including our Common Stock, within 30 days after the end of each taxable year, will be required to give written notice to us stating the name and address of such owner, the number of shares of each class and series of shares of our stock that the owner beneficially owns and a description of the manner in which the shares are held. Each owner shall provide to us such additional information as we may request to determine the effect, if any, of the beneficial ownership on our qualification as a REIT and to ensure compliance with the ownership limitations. In addition, each beneficial or constructive owner and each person who is holding shares of our stock for such owner will, upon demand, be required to provide to us such information as we may request to determine our qualification as a REIT and to comply with the requirements of any taxing authority or governmental authority or to determine such compliance and to ensure compliance with the ownership limits.

These ownership limitations could delay, defer or prevent a transaction or a change in control that might involve a premium price for our Common Stock or might otherwise be in the best interests of our stockholders.

Our Board of Directors

Our charter and bylaws provide that the number of directors may be established, increased or decreased by a majority of our entire Board of Directors, but may not be fewer than the minimum number required by the MGCL (which currently is one) or, unless our bylaws are amended, more than 25. Any vacancy on our Board of Directors, whether resulting from an increase in the number of directors or otherwise, may only be filled by the affirmative vote of a majority of the remaining directors, even if such a majority constitutes less than a quorum. Except as may be provided with respect to any class or series of our stock, at each annual meeting of our stockholders, each of our directors will be elected by the holders of our Common Stock to serve until the next annual meeting of our stockholders and until his or her successor is duly elected and qualifies.

Removal of Directors

Our charter provides that, subject to the rights of holders of one or more classes or series of preferred stock, a director may be removed with or without cause and by the affirmative vote of at least two-thirds of the votes entitled to be cast by our stockholders generally in the election of our directors. This provision, when coupled with the exclusive power of our Board of Directors to fill vacant directorships, may preclude stockholders from removing incumbent directors except by a substantial affirmative vote and filling the vacancies created by such removal with their own nominees.

Limitation of Liability and Indemnification

Maryland law permits a Maryland corporation to include in its charter a provision eliminating the liability of its directors and officers to the corporation and its stockholders for money damages except for liability resulting from (i) actual receipt of an improper benefit or profit in money, property or services or (ii) active or deliberate dishonesty established in a judgment or other final adjudication to be material to the cause of action. Our charter contains a provision that eliminates the liability of our directors and officers to the maximum extent permitted by Maryland law.

Maryland law requires a Maryland corporation (unless its charter provides otherwise, which our charter does not) to indemnify a director or officer who has been successful, on the merits or otherwise, in the defense of any proceeding to which he or she is made, or threatened to be made, a party by reason of his or her service in that capacity. Maryland law permits a Maryland corporation to indemnify its present and former directors and officers, among others, against judgments, penalties, fines, settlements and reasonable expenses actually incurred by them in connection with any proceeding to which they may be made or threatened to be made a party by reason of their service in those or other capacities unless it is established that:

- an act or omission of the director or officer was material to the matter giving rise to the proceeding and
  - was committed in bad faith; or
  - was the result of active and deliberate dishonesty;
- the director or officer actually received an improper personal benefit in money, property or services; or
- in the case of any criminal proceeding, the director or officer had reasonable cause to believe that the act or omission was unlawful.

However, under Maryland law, a Maryland corporation may not indemnify for an adverse judgment in a suit by or in the right of the corporation or for a judgment of liability on the basis that personal benefit was improperly received, unless in either case a court orders indemnification and then only for expenses. In addition, Maryland law permits a Maryland corporation to advance reasonable expenses to a director or officer upon the corporation's receipt of:

- a written affirmation by the director or officer of his or her good faith belief that he or she has met the standard of conduct necessary for indemnification by the corporation; and
- a written undertaking by the director or officer or on the director's or officer's behalf to repay the amount paid or reimbursed by the corporation if it is ultimately determined that the director or officer did not meet the standard of conduct.

Our charter and bylaws obligate us, to the maximum extent permitted by Maryland law, to indemnify and, without requiring a preliminary determination of the ultimate entitlement to indemnification, pay or reimburse reasonable expenses in advance of final disposition of a proceeding to:

- any present or former director or officer who is made, or threatened to be made, a party to, or witness in, the proceeding by reason of his or her service in that capacity; or
- any individual who, while a director or officer of our Company and at our Company's request, serves or has served another corporation, real estate investment trust, limited liability company, partnership, joint venture, trust, employee benefit plan or any other enterprise as a director, officer, trustee, member, manager or partner and who is made, or threatened to be made, a party to, or witness in, the proceeding by reason of his or her service in that capacity.

Our charter and bylaws also permit us, subject to approval from our Board of Directors, to indemnify and advance expenses to any person who served a predecessor of our Company in any of the capacities described above and to any employee or agent of our Company or a predecessor of our Company.

Indemnification Agreements

We have entered into indemnification agreements with each of our directors and named executive officers. Each indemnification agreement provides that we will indemnify and hold harmless each such director or named executive officer to the fullest extent permitted by law.

Business Combinations

The MGCL could restrict the power of third parties who acquire, or seek to acquire, control of us without the approval of our Board of Directors to complete mergers and other business combinations even if such transaction would be beneficial to stockholders. "Business combinations" between such a third-party acquirer or its affiliate and us are prohibited for five years after the most recent date on which the acquirer becomes an "interested stockholder." An "interested stockholder" is defined as any person who beneficially owns 10% or more of the voting power of our outstanding voting stock or an affiliate or associate of ours who, at any time within the two-year period immediately prior to the date in question, was the beneficial owner of 10% or more of the voting power of our then outstanding stock. If our Board of Directors approved in advance the transaction that would otherwise give rise to the acquirer attaining such status, the acquirer would not become an interested stockholder and, as a result, it could enter into a business combination with us. Our Board of Directors may, however, provide that its approval is subject to compliance, at or after the time of approval, with any terms and conditions determined by it. Even after the lapse of the five-year prohibition period, any business combination with an interested stockholder must be recommended by our Board of Directors and approved by the affirmative vote of at least:

- 80% of the votes entitled to be cast by stockholders; and
- two-thirds of the votes entitled to be cast by stockholders other than the interested stockholder and affiliates and associates thereof.

The super-majority vote requirements do not apply if, among other considerations, the transaction complies with a minimum price and form of consideration requirements prescribed by the statute. The statute permits various exemptions from its provisions, including business combinations that are exempted by the Board of Directors prior to the time that an interested stockholder becomes an interested stockholder. Our Board of Directors has, by resolution, elected to opt out of this provision of the MGCL. However, our Board of Directors may by resolution elect to repeal the foregoing opt out from the business combination provision of the MGCL

Control Share Acquisitions

The Maryland Control Share Acquisition Act provides that a holder of control shares of a Maryland corporation acquired in a control share acquisition has no voting rights with respect to the control shares except to the extent approved by a vote of two-thirds of the votes entitled to be cast on the matter. Shares owned by the acquiror, by officers or by employees who are directors of the corporation are excluded from shares entitled to vote on the matter. Control shares are voting shares of stock that, if aggregated with all other shares of stock owned by the acquiror or in respect of which the acquiror is able to exercise or direct the exercise of voting power (except solely by virtue of a revocable proxy), would entitle the acquiror to exercise voting power in electing directors within one of the following ranges of voting power:

- one-tenth or more but less than one-third;
- one-third or more but less than a majority; or
- a majority or more of all voting power.

Control shares do not include shares the acquiror is then entitled to vote as a result of having previously obtained stockholder approval or shares acquired directly from the corporation. A control share acquisition means the acquisition of issued and outstanding control shares, subject to certain exceptions.

A person who has made or proposes to make a control share acquisition may compel the Board of Directors of the corporation to call a special meeting of stockholders to be held within 50 days of demand to consider the voting rights of the shares. The right to compel the calling of a special meeting is subject to the satisfaction of certain conditions, including an

undertaking to pay the expenses of the meeting. If no request for a meeting is made, the corporation may itself present the question at any stockholders meeting.

If voting rights are not approved at the meeting or if the acquiror does not deliver an acquiring person statement as required by the statute, then the corporation may, subject to certain limitations and conditions, redeem for fair value any or all of the control shares, except those for which voting rights have previously been approved. Fair value is determined, without regard to the absence of voting rights for the control shares, as of the date of any meeting of stockholders at which the voting rights of the shares are considered and not approved or, if no meeting is held, as of the date of the last control share acquisition by the acquiror. If voting rights for control shares are approved at a stockholders meeting and the acquiror becomes entitled to exercise or direct the exercise of a majority of the voting power, all other stockholders may exercise appraisal rights. The fair value of the shares as determined for purposes of appraisal rights may not be less than the highest price per share paid by the acquiror in the control share acquisition.

The control share acquisition statute does not apply to (a) shares acquired in a merger, consolidation or share exchange if the corporation is a party to the transaction or (b) acquisitions approved or exempted by the charter or bylaws of the corporation. We have elected to opt out of this provision of the MGCL, pursuant to a provision in our bylaws. However, our Board of Directors may, by amendment to our bylaws, opt in to the control share provisions of the MGCL in the future.

Subtitle 8

Subtitle 8 of Title 3 of the MGCL permits a Maryland corporation with a class of equity securities registered under the Exchange Act and at least three independent directors to elect to be subject, by provision in its charter or bylaws or a resolution of its board of directors and notwithstanding any contrary provision in the charter or bylaws, to any or all of the following five provisions:

- a classified board consisting of three classes;
- a two-thirds vote requirement for removing a director;
- a requirement that the number of directors be fixed only by vote of the directors;
- a requirement that a vacancy on the board be filled only by the remaining directors and for the remainder of the full term of the class of directors in which the vacancy occurred; or
- a majority stockholder vote requirement for the calling of a stockholder-requested special meeting of stockholders.

Our charter provides that, except as may be provided by our Board of Directors in setting the terms of any class or series of stock, we elect to be subject to the provisions of Subtitle 8 relating to the filling of vacancies on our Board of Directors. Through provisions in our charter and bylaws unrelated to Subtitle 8, we already (1) require a two-thirds vote for the removal of any director from the Board of Directors, (2) vest in the Board of Directors the exclusive power to fix the number of directorships, subject to limitations set forth in our charter and bylaws, and (3) require, unless called by the chairman of our Board of Directors, our president, our chief executive officer or our Board of Directors, the request of stockholders entitled to cast not less than a majority of all votes entitled to be cast on a matter at such meeting to call a special meeting. We have not elected to classify our Board of Directors.

Dissolution, Amendment to the Charter and Other Extraordinary Actions

Under the MGCL, a Maryland corporation generally cannot dissolve, amend its charter, merge, sell all or substantially all of its assets, engage in a share exchange or convert into another entity unless declared advisable by the board of directors and approved by the affirmative vote of stockholders entitled to cast at least two-thirds of the votes entitled to be cast on the matter. However, a Maryland corporation may provide in its charter for approval of these matters by a lesser percentage, but not less than a majority of all of the votes entitled to be cast on the matter. Our charter provides for approval of any of these matters by the affirmative vote of stockholders entitled to cast a majority of the votes entitled to be cast on such matters, except that the affirmative vote of stockholders entitled to cast at least two-thirds of the votes entitled to be cast on such matter is required to amend the provisions of our charter relating to the removal of directors, the indemnification of our officers and directors, restrictions on ownership and transfer of our stock or the vote required to amend such provisions. Maryland law also permits a Maryland corporation to transfer all or substantially all of its assets without the approval of the stockholders of the corporation to an entity if all of the equity interests of the entity are owned, directly or indirectly, by the corporation. Because our operating assets may be held by our operating partnership or its subsidiaries, these subsidiaries may be able to merge or transfer all or substantially all of their assets without the approval of our stockholders.

Meetings of Stockholders

Under our bylaws, annual meetings of holders of our Common Stock must be held each year at a date, time and place determined by our Board of Directors. Special meetings of holders of our Common Stock may be called by the chairman of our Board of Directors, our chief executive officer, our president and our Board of Directors. Subject to the provisions of our bylaws, a special meeting of stockholders to act on any matter that may properly be considered at a meeting of stockholders must be called by our secretary upon the written request of stockholders entitled to cast a majority of all of the votes entitled to be cast on the matter at such meeting who have requested the special meeting in accordance with the procedures specified in our bylaws and provided the information and certifications required by our bylaws. Only matters set forth in the notice of a special meeting of stockholders may be considered and acted upon at such a meeting.

Advance Notice of Director Nominations and New Business

Our bylaws provide that with respect to an annual meeting of stockholders, nominations of persons for election to our Board of Directors and the proposal of business to be considered by stockholders may be made only (i) pursuant to our notice of the meeting, (ii) by or at the direction of our Board of Directors, or (iii) by a holder of our Common Stock who was a stockholder of record at the time of giving notice and at the time of our annual meeting, who is entitled to vote at the meeting and who has complied with the advance notice procedures set forth in our bylaws. Our bylaws provide that with respect to special meetings of our stockholders, only the business specified in our notice of meeting may be brought before the meeting, and nominations of persons for election to our Board of Directors may be made only (A) by or at the direction of our Board of Directors, or (B) provided that the special meeting has been called in accordance with our bylaws for the purpose of electing directors, by any holder of our Common Stock who was a stockholder of record at the time of giving notice and at the time of the special meeting, who is entitled to vote at the meeting and who has complied with the advance notice procedures set forth in our bylaws.

Exclusive Form for Certain Litigation

Our bylaws provide that, unless the Company consents in writing to the selection of an alternative forum, the Circuit Court for Baltimore City, Maryland, or, if that Court does not have jurisdiction, the United States District Court for the District of Maryland, Northern Division, will be the sole and exclusive forum for (a) any Internal Corporate Claim, as such term is defined in the MGCL, other than any action arising under federal securities laws, including, without limitation, (i) any derivative action or proceeding brought on behalf of the Company, (ii) any action asserting a claim of breach of any duty owed by any director or officer or other employee of the Company to the Company or to the Company's stockholders or (iii) any action asserting a claim against the Company or any director or officer or other employee of the Company arising pursuant to any provision of the MGCL, or our charter or bylaws, or (b) any other action asserting a claim against the Company or any director or officer or other employee of the Company that is governed by the internal affairs doctrine. None of the foregoing actions, claims or proceedings may be brought in any federal or state court sitting outside the State of Maryland unless the Company consents in writing to such court.

For claims arising under the Securities Act of 1933, as amended, our bylaws provide that unless the Company consents in writing to the selection of an alternative forum, the federal district courts of the United States of America, will, to the fullest extent permitted by law, be the sole and exclusive forum for the resolution of any complaint asserting a cause of action arising thereunder.

Exhibit 10.23

AMENDED AND RESTATED LIMITED LIABILITY COMPANY OPERATING AGREEMENT

OF

4750 CO-INVESTOR, LLC

a Delaware limited liability company

Dated as of March 22, 2023

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AMENDED AND RESTATED
LIMITED LIABILITY COMPANY OPERATING AGREEMENT
OF
4750 CO-INVESTOR, LLC

This AMENDED AND RESTATED LIMITED LIABILITY COMPANY OPERATING AGREEMENT of 4750 CO-INVESTOR, LLC, a Delaware limited liability company (the "**Company**"), dated as of March 22, 2023 (the "**Effective Date**"), by and between CIM URBAN PARTNERS, LP, a Delaware limited partnership (a wholly-owned Subsidiary of CMCT (as such capitalized terms are hereafter defined)) (together with its permitted successors and assigns, the "**CIM Member**"), KANDEN REALTY & DEVELOPMENT AMERICA LLC, a Delaware limited liability company (together with its permitted successors and assigns, the "**K-Co-Investor Member**"), TAISEI USA LLC, a Delaware limited liability company (together with its permitted successors and assigns, the "**TA-Co-Investor Member**"), and TO-4750 WILSHIRE CO-INVESTOR, LP, a Cayman Islands exempted limited partnership (together with its permitted successors and assigns, the "**TO-Co-Investor Member**").

R E C I T A L S:

WHEREAS, the Company was formed as a limited liability company pursuant to a *Certificate of Formation* of the Company filed with the Secretary of State of the State of Delaware on March 16, 2023 (as the same may be amended, restated, supplemented, extended, waived or otherwise modified from time to time, the "**Certificate**"), in accordance with the Limited Liability Company Act of the State of Delaware, as amended from time to time (the "**Act**");

WHEREAS, as of the Effective Date, the Company owns 100% of the equity interests in 4750 Wilshire Blvd. (LA) Owner, LLC, a Delaware limited liability company ("**Property Owner**");

WHEREAS, as of the Effective Date, Property Owner owns the real property and improvements situate, lying and being in Los Angeles, California commonly known as 4750 Wilshire Boulevard and more particularly described on Exhibit A attached hereto and made a part hereof (the "**Real Property**"; together with certain development and easement rights and personal and intangible property related thereto or located thereon, including, without limitation, plans, specifications, drawings, permits, licenses, contracts, accounts, books and records, the "**Property**");

WHEREAS, immediately prior to entry into this Agreement, the CIM Member was the sole member of the Company pursuant to that certain Limited Liability Company Agreement of the Company, dated as of March 16, 2023 (as may have been amended prior to the date hereof, the "**Prior Agreement**");

WHEREAS, the CIM Member wishes to have the K-Co-Investor Member, the TA-Co-Investor Member and the TO-Co-Investor Member admitted as a member of the Company (and provide for the contemplated future addition of other Co-Investor Members) and to enter into this Agreement, which from and after the Effective Date shall (x) amend and restate the Prior Agreement in its entirety, (y) provide for the respective rights, obligations and interests of the parties to each other and to the Company and (z) provide the terms and conditions on which the Company will conduct business; and

WHEREAS, the Company is intended to be treated as a partnership for U.S. federal income tax purposes.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree to amend and restate the Prior Agreement in its entirety as follows:

I.

DEFINED TERMS

1.01 Defined Terms. As used in this Agreement, the following terms have the meanings set forth below:

"**Act**" has the meaning set forth in the Recitals.

"**Action**" has the meaning set forth in Section 13.13.

"**Additional Capital Contribution**" means any Capital Contribution made by a Member in accordance with Section 4.01(b).

"**Adjusted Capital Account Deficit**" means, with respect to any Member, the deficit balance, if any, in such Member's Capital Account as of the end of the relevant Fiscal Year, or portion thereof, after giving effect to the following adjustments:

(i) Credit to such Capital Account any amounts which such Member is deemed to be obligated to restore pursuant to the penultimate sentences in Sections 1.704-2(g)(1) and 1.704-2(i)(5) of the Regulations; and

(ii) Debit to such Capital Account the items described in Sections 1.704-1(b)(2)(ii)(*d*)(*4*), 1.704-1(b)(2)(ii)(*d*)(*5*) and 1.704-1(b)(2)(ii)(*d*)(*6*) of the Regulations.

The foregoing definition of "Adjusted Capital Account Deficit" is intended to comply with the provisions of Section 1.704-1(b)(2)(ii)(*d*) of the Regulations and shall be interpreted consistently therewith.

"**Affiliate**," or any derivation thereof, when used with respect to a specified Person, means (a) a Person that directly or indirectly, through one or more intermediaries, Controls, is Controlled by, or is under common Control with the specified Person (a "**Controlled Affiliate**"), (b) any Person that is an officer, director, partner, member, manager or trustee of, or serves in a similar capacity with respect to, the specified Person or of which the specified Person is an officer, partner, member, manager or trustee, or with respect to which the specified Person serves in a similar capacity, (c) any Person that, directly or indirectly, is the beneficial owner of ten percent (10%) or more of any class of equity securities of, or otherwise has a substantial beneficial interest in, the specified Person or of which the specified Person has a substantial beneficial interest, (d) the spouse, issue or parent of the specified Person and/or (e) a trust for the benefit of any such Person. For purposes of this Agreement, no Co-Investor Member, on the one hand, or the CIM Member, on the other hand, shall be deemed an Affiliate of the Company or any Subsidiary or of each other.

"**Aggregate Tax Liability**" has the meaning set forth in Section 6.07(b).

“**Agreement**” means this *Amended and Restated Limited Liability Company Operating Agreement*, including any Exhibits or Schedules attached hereto, as the same may be further amended, restated, supplemented, extended, waived or otherwise modified from time to time after the Effective Date pursuant to the terms of this Agreement.

“**Allocable Costs and Expenses**” means all direct and indirect fees, costs and expenses of any nature whatsoever incurred by the Managing Member or any of its Affiliates in connection with or relating to the performance of its services under this Agreement and the management of the Project, the Company and its Subsidiaries, including an allocable share (determined in the Managing Member’s sole but good faith discretion) of (i) out-of-pocket costs and expenses of the Managing Member or any of its Affiliates, (ii) direct and indirect employment and overhead costs of employees involved in, assisting with, or ancillary to the performance of such services (*e.g.*, internal staff counsel and other legal professionals, and finance and capital markets, tax, accounting, human resources, risk management, information technology, administrative, operations, engineering, architecture, property management, real estate services, development, construction, marketing and communication personnel), (iii) expenses relating to any offices or office facilities (*e.g.*, rent, telephone, printing, mailing, utilities, office furniture, equipment, machinery and any other office, internal, and overhead expenses), including time spent by internal staff, (iv) information technology expenses associated with any computer software or hardware, including time spent by internal staff, (v) insurance costs and fees, and (vi) expenses of any third party retained by the Managing Member or any of its Affiliates.

“**Approved Business Plan**” means the business plan for the Project, which may be updated by the Managing Member from time to time in accordance with the terms of this Agreement. The Approved Business Plan as of the Effective Date is attached hereto as Schedule 3.

“**Available Cash**” means for any period for which such amount is being computed, the sum of:

(1) the amount of any Net Cash Flow distributed by Property Owner (through one or more steps) to the Company during such period, *plus*

(2) the amount of any Net Proceeds in connection with any Capital Transaction consummated by the Company during such period, *plus*

(3) the amount of any Net Proceeds in connection with any Capital Transaction consummated by any Subsidiary of the Company and distributed (through one or more steps) to the Company during such period, *plus*

(4) any decrease in the reserves of the Company, as determined by the Managing Member in its discretion (other than on account of amounts withdrawn from such reserves to pay the costs and expenses of the Company and other than any such decrease taken into account in calculating the amount of Net Proceeds in connection with any Capital Transaction covered by clause (2) of this definition), *less* (i) any amounts required to pay the costs and expenses of the Company and any administrative and overhead expenses for the Company incurred for such period, (ii) any required debt service payments on any indebtedness of the Company (other than Managing Member Loans, Discretionary Capital Shortfall Loans and Required Capital Shortfall Loans), and (iii) any increase in the reserves of the Company (other than any such increase taken into account in calculating the amount of Net Proceeds in connection with any Capital Transaction covered by clause (2) of this definition), as determined by the Managing Member in its discretion.

"**Back Lot**" means the portion of the Property described by the legal description and boundary survey attached as Exhibit B hereto.

"**Bankruptcy Act**" means the United States Bankruptcy Reform Act of 1978, as amended, or any successor Bankruptcy Act, and the rules promulgated thereunder (or any corresponding provision or provisions of any succeeding law).

"**Bankruptcy Action**" means, with respect to any Person, (x) if such Person (a) makes an assignment for the benefit of its creditors, (b) files a voluntary petition under the Bankruptcy Act, (c) is adjudged a bankrupt or insolvent, or has entered against it an order for relief, in any bankruptcy or insolvency proceedings, (d) files a petition or answer seeking for itself any reorganization, arrangement, composition, readjustment, liquidation or similar relief under any statute, law or regulation, (e) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against it in any proceeding of the nature described in the preceding clause (d), (f) colludes, consents or acquiesces to an involuntary petition under the Bankruptcy Act, or (g) seeks, consents to or acquiesces in the appointment of a trustee, receiver or liquidator of such Person or of all or any substantial part of its properties, or (y) if within one hundred twenty (120) days after the commencement of any proceeding against the Person seeking reorganization, arrangement, composition, readjustment, liquidation or similar relief under any statute, law or regulation, the proceeding has not been dismissed, or if within ninety (90) days after the appointment without such Person's consent or acquiescence of a trustee, receiver or liquidator of such Person or of all or any substantial part of its properties, the appointment is not vacated or stayed, or within ninety (90) days after the expiration of any such stay, the appointment is not vacated.

"**BBA Rules**" means Subchapter C of Chapter 63 of the Code (Sections 6221 et seq.) and any Regulations and other guidance promulgated thereunder, and any similar state or local legislation, regulations or guidance.

"**Book Value**" means, with respect to any asset, the asset's adjusted basis for U.S. federal income tax purposes, except as follows:

(i) The initial Book Value of any asset contributed (or deemed contributed) to the Company shall be the gross fair market value of such asset at the time of such contribution;

(ii) The Book Values of all of the Company's assets shall be adjusted to equal their respective gross fair market values (taking Section 7701(g) of the Code into account), as of the following times: (A) the acquisition of an additional Interest in the Company by any new or existing Member in exchange for more than a de minimis capital contribution; (B) the distribution by the Company to a Member of more than a de minimis amount of Company property as consideration for an Interest in the Company; (C) the liquidation of the Company within the meaning of Section 1.704-1(b)(2)(ii)(*g*) of the Regulations; (D) the grant of an interest in the Company (other than a de minimis interest) as consideration for the provision of services to or for the benefit of the Company by an existing Member acting in a partner capacity, or by a new Member acting in a partner capacity or in anticipation of becoming a Member; and (E) at such other times as reasonably determined by the Company Representative; *provided*, *however*, that the adjustments pursuant to clauses (A), (B) and (D) above shall be made only if the Company Representative determines in good faith that such adjustments are necessary or appropriate to reflect the relative economic interests of the Members in the Company;

(iii) The Book Value of any item of Company assets distributed (or deemed distributed) by the Company to any Member shall be adjusted immediately prior to such distribution to equal the gross fair market value (taking Section 7701(g) of the Code into account) of such asset as of the date of distribution; and

(iv) The Book Values of Company assets shall take into account any adjustments to the adjusted basis of any asset of the Company pursuant to Section 734 or Section 743 of the Code in determining such asset's Book Value in a manner consistent with Section 1.704-1(b)(2)(iv)(*m*) of the Regulations.

If the Book Value of an asset has been determined or adjusted pursuant to clause (i), (ii) or (iv) above, such Book Value shall thereafter be adjusted in the same manner as would the asset's adjusted basis for U.S. federal income tax purposes, except that Depreciation shall be computed based on the asset's Book Value as so determined, rather than on its adjusted tax basis.

"**Business Day**" means any day except a Saturday, Sunday or other day on which the Federal Reserve Bank of New York is closed or on which commercial banks are required by law or executive order to close in Los Angeles, California or Tokyo, Japan.

"**Capital Account**" has the meaning set forth in Section 5.01.

"**Capital Call**" has the meaning set forth in Section 4.01(b)(iv).

"**Capital Contribution**" means, with respect to any Member, any contribution to the capital of the Company made by, and attributable to, such Member or (in the case of the CIM Member) its predecessors-in-interest pursuant to this Agreement, including (as applicable) the Initial Capital Contribution, any Additional Capital Contributions and Management Fee Contributions of the Members.

"**Capital Transaction**" means (i) a direct or indirect sale, exchange or other disposition of all or any portion of the Property, including a condemnation of all or any portion of the Property, any insurance award or settlement with respect to the Property (excluding rent loss insurance or any settlement with respect thereto), and any easement or air rights sale, (ii) the direct or indirect sale of the ownership interests in any Subsidiary of the Company, (iii) a financing or a refinancing of all or any portion of the Property, and (iv) any other transaction relating to the Property that, in accordance with GAAP, is treated as a capital transaction.

"**Catch-Up Contribution**" has the meaning set forth in Section 4.01(b)(iii).

"**Certificate**" has the meaning set forth in the Recitals.

"**CIM Commitment Amount**" means the amount of the capital commitment of the CIM Member to the Company, as set forth on Schedule 1, subject to adjustment in accordance with Sections 4.01(b)(vii), (viii) and (ix).

"**CIM Development Fee**" has the meaning set forth in Section 6.08(b).

"**CIM DM**" has the meaning set forth in Section 6.08(b).

"**CIM Group**" means CIM Group Management, LLC, a Delaware limited liability company.

"**CIM Lease Agreement**" means that certain Amended and Restated Office Lease, dated August 7, 2019, between Property Owner as "Landlord" and CIM Group, L.P. as "Tenant" (as amended and/or modified from time to time in accordance with this Agreement).

"**CIM Member**" has the meaning set forth in the Preamble.

"**CIM PM**" has the meaning set forth in Section 6.08(a).

"**Closing Transfer Taxes**" has the meaning set forth in Schedule 7.

"**CMCT**" means Creative Media & Community Trust Corporation, a Maryland corporation.

"**Co-Investor Commitment Amount**" means, as to each Co-Investor Member, the amount of the capital commitment of such Co-Investor Member to the Company, as set forth on Schedule 1, subject to adjustment in accordance with Section 4.01(b)(viii).

"**Co-Investor Member**" means, individually, any Person (including the K-Co-Investor Member, the TA-Co-Investor Member and the TO-Co-Investor Member) admitted now or hereafter as a member of the Company in accordance with the terms of this Agreement, other than the CIM Member (including in its capacity as Managing Member); "**Co-Investor Members**" means, collectively, all Persons (including the K-Co-Investor Member, the TA-Co-Investor Member and the TO-Co-Investor Member) admitted now or hereafter as a member of the Company in accordance with the terms of this Agreement, other than the CIM Member (including in its capacity as Managing Member) and any other Affiliate of CMCT.

"**Co-Investor Member Majority-in-Interest**" means Co-Investor Members holding, in the aggregate, 50.1% of the aggregate Distribution Percentage Interests held by the Co-Investor Members.

"**Code**" means the Internal Revenue Code of 1986, as amended (or any corresponding provision or provisions of any succeeding law).

"**Commitment Amount**" means, with respect to a Member, each Co-Investor Commitment Amount and/or the CIM Commitment Amount, as applicable, subject with respect to each Co-Investor Member to such adjustments and rights to adjust as may be agreed to between the Managing Member and such Co-Investor Member, as the context may require.

"**Company**" has the meaning set forth in the Preamble.

"**Company Cash Needs**" means the cash needs or requirements of the Company of whatever kind or nature, incurred or to be incurred in the ordinary course of the business of the Company in furtherance of the Purposes set forth in Section 2.05, including, without limitation, to satisfy any cash requirements of the Property Owner or any other Subsidiary of the Company, or to satisfy any demand for payment made upon the Company pursuant to any claim for indemnification as herein provided for, and for which in any case sufficient funds are not available to the Company from (a) Available Cash, (b) loans from non-Members, (c) reserves and (d) Capital Contributions and loans previously made by the Members.

"**Company Representative**" means the CIM Member or such other Person as is appointed by the CIM Member to act in the capacity of the "partnership representative" (as such term is defined under the BBA Rules).

"**Construction Schedule**" means the construction schedule for the Project, which may be updated from time to time by the Managing Member. The Construction Schedule as of the Effective Date is attached hereto as Schedule 2.

"**Contract**" means any written or binding oral contract, agreement, commitment, indenture, note, bond, mortgage, deed of trust, loan, instrument, lease, sublease or license.

"**Contributed Excess**" has the meaning set forth in Section 4.01(b)(viii).

"**Contribution Percentage**" has the meaning set forth in Section 4.01(b)(iv).

"**Control**," or any derivation thereof, when used with respect to a specified Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person through the ownership of voting securities or similar ownership interests, by contract or otherwise; *provided*, that a Person may still have Control of a specified Person notwithstanding that one or more third parties may have rights to participate in major decisions of the specified Person.

"**Controlled Affiliate**" has the meaning set forth in the definition of "Affiliate."

"**Declining Member**" has the meaning set forth in Section 4.01(b)(vi)(B).

"**Defaulting Member**" has the meaning set forth in Section 4.01(b)(v)(A).

"**Depreciation**" means, for each Fiscal Year, an amount equal to the depreciation, amortization, or other cost recovery deduction allowable for U.S. federal income tax purposes with respect to an asset for such Fiscal Year, except that (i) with respect to any asset the Book Value of which differs from its adjusted tax basis for U.S. federal income tax purposes at the beginning of such Fiscal Year and which difference is being eliminated by use of the "remedial method" as defined by Section 1.704-3(d) of the Regulations, Depreciation for such Fiscal Year shall be the amount of Book Value recovered for such Fiscal Year under the rules prescribed by Section 1.704-3(d)(2) of the Regulations, and (ii) with respect to any other asset the Book Value of which differs from its adjusted tax basis for U.S. federal income tax purposes at the beginning of such Fiscal Year, Depreciation shall be an amount which bears the same ratio to such beginning Book Value as the U.S. federal income tax depreciation, amortization, or other cost recovery deduction for such Fiscal Year bears to such beginning adjusted tax basis; *provided*, *however*, that in the case of clause (ii) above, if the adjusted tax basis for U.S. federal income tax purposes of an asset at the beginning of such Fiscal Year is zero, Depreciation shall be determined with reference to such beginning Book Value using any method selected by the Company Representative.

"**Discretionary Capital Contribution**" has the meaning set forth in Section 4.01(b)(vi)(A).

"**Discretionary Capital Shortfall**" has the meaning set forth in Section 4.01(b)(vi)(B).

"**Discretionary Capital Shortfall Contribution**" has the meaning set forth in Section 4.01(b)(vi)(B).

"**Discretionary Capital Shortfall Loan**" has the meaning set forth in Section 4.01(b)(vi)(B).

"**Distribution Percentage Interest**" means, as of any date with respect to each Member, but subject to adjustment in accordance with Section 4.01(b)(v), the ratio (expressed as a percentage) of (a) the Capital Contributions of such Member as of such date to (b) the aggregate Capital Contributions of all of the Members as of such date. For purposes of clauses (a) and (b) of the preceding sentence, the amount of Capital Contributions made by the CIM Member shall be deemed reduced by the amount of Catch-Up Contributions made by the Co-Investor Members and the amount of the Initial Project Loan Distribution Amount received by the Company and distributed to the CIM Member, it being understood that any Catch-Up Contributions made by the Co-Investor Member and the amount of the Initial Project Loan Distribution Amount shall

promptly be distributed to the CIM Member pursuant to Section 4.01(b)(iii). Notwithstanding the foregoing, with respect to the definitions of Majority-in-Interest and Co-Investor Member Majority-in-Interest, (i) during the period from and including the Effective Date until and including the date that the amount of the Initial Project Loan Distribution Amount has been received by the Company and distributed to the CIM Member, the Distribution Percentage Interests of the Members shall be calculated as if the Initial Project Loan Distribution Amount has already been received by the Company and distributed to the CIM Member, and (ii) from and including the Effective Date, the Distribution Percentage Interests of the Members shall be calculated as if all Co-Investor Members have already contributed the full amount of their Catch-Up Contributions.

"**Effective Date**" has the meaning set forth in the Preamble.

"**Entity Taxes**" means any taxes imposed under the BBA Rules.

"**Environmental Laws**" means any applicable law relating to (i) emission, discharge, release or threatened release of hazardous materials, into the environment (including without limitation the air, water, land, soil vapor, subsurface strata or natural resources), (ii) the manufacture, processing, handling, distribution, use, treatment, storage, recycling, disposal or transport hazardous materials or (iii) the protection of human health, safety or the environment.

"**ERISA**" means the Employee Retirement Income Security Act of 1974, as amended.

"**Expected Proceeds**" has the meaning set forth in Section 4.01(b)(x).

"**Expert**" means an independent major investment banking firm or other appropriate independent valuation expert, selected by the Managing Member and a Co-Investor Member Majority-in-Interest; *provided*, *however*, *that*, in any instance in which the Managing Member and a Co-Investor Member Majority-in-Interest cannot agree on an Expert, each shall select its own Expert and the two selected Experts shall be charged with selecting a third Expert acceptable to both such Experts, which third Expert shall be deemed to be acceptable to the Members and shall be charged with producing the valuation in question.

"**Fiscal Year**" has the meaning set forth in Section 8.02.

"**Fully-Funded Member**" has the meaning set forth in Section 4.01(b)(vi)(A).

"**GAAP**" means generally accepted accounting principles in effect from time to time in the United States, consistently applied.

"**Governmental Authority**" means any national, state or local government (whether domestic or foreign), any political subdivision thereof or any other governmental, quasi-governmental, judicial, public or statutory instrumentality, authority, body, agency, bureau or entity (including, without limitation, any zoning authority, the Federal Deposit Insurance Corporation, the Comptroller of the Currency or the Federal Reserve Board, any "central bank" or any comparable authority) or any arbitrator with authority to bind a party at law.

"**Gross Development Cost**" means all costs required to develop the Project, including all hard costs and soft costs (including payments to architects, engineers and general contractors, any other payments to contractors and/or professionals retained separately from architects, engineers and general contractors, and costs and fees for legal services incurred to develop the Project); *provided that* Gross Development Cost shall not include any property acquisition costs, finance costs (including interest payments) or the fees described in Section 6.08 below.

"**Indemnifying Member**" has the meaning set forth in Section 10.01(a).

"**Indemnitee**" has the meaning set forth in Section 10.01(b).

"**Initial Capital Contribution**" has the meaning set forth in Section 4.01(a).

"**Initial PMA/DMA**" means that certain Property Management and Services Agreement, dated as of April 21, 2014, between Property Owner and CIM Management, Inc., a California corporation. A true, correct and complete copy of the Initial PMA/DMA is attached hereto as Schedule 4.

"**Initial Project Loan Distribution Amount**" has the meaning set forth in Section 4.01(b)(iii).

"**Interest**" means, with respect to any Member at any time, the interest of such Member in the Company at such time, including the right of such Member to any and all of the benefits to which such Member may be entitled as provided in this Agreement, together with the obligations of such Member to comply with all of the terms and provisions of this Agreement.

"**Internal Rate of Return**" or "**IRR**" means the internal rate of return, as calculated in accordance with the further provisions of this definition. "**Distribution(s)**" means each applicable distribution of Available Cash received by the applicable Member from the Company.

In determining the Internal Rate of Return, the following shall apply:

(a) The Internal Rate of Return calculations shall use the internal rate of return methodology of the XIRR function of the Microsoft Excel computer program, or its functional equivalent, calculated on a quarterly compounding basis.

(b) All Distribution amounts shall be based on the amount of the Distribution prior to the application of any federal, state or local taxation to Members (including any withholding or deduction requirements).

(c) All Capital Contributions shall be treated as having been contributed to the Company on the day on which the applicable Member's funds (or funds advanced on behalf of such Member) were actually delivered to the Company. All Distributions shall be treated as having been received by the applicable Member on the day on which such Member actually received such Distribution.

"**Invested Capital**" means, with respect to any Member, the sum of the aggregate amount of Capital Contributions made, or deemed made, by such Member, as the same may be adjusted in accordance with Section 4.01(b)(v)(A)(3).

"**K-Co-Investor Member**" has the meaning set forth in the Preamble.

"**Liability**" means any liability or obligation of any kind, character or nature whatsoever, whether known or unknown, asserted or not asserted, accrued, absolute, fixed, determined or determinable, liquidated or unliquidated, contingent or otherwise, and whether due or to become due.

"**Liquidating Agent**" has the meaning set forth in Section 11.03(a).

"**Majority-in-Interest**" means Members holding, in the aggregate, Distribution Percentage Interests of not less than 50.1%.

"**Management Fee**" has the meaning set forth in Section 13.18.

"**Management Fee Contribution**" means an amount of cash contributed, or deemed contributed pursuant to this Agreement, by a Member to the Company for payment of any portion of the Management Fee.

"**Managing Member**" means the Member acting as managing member of the Company from time to time in accordance with the terms of this Agreement, initially set forth in Section 7.01(a).

"**Managing Member Loan**" has the meaning set forth in Section 4.01(b)(x).

"**Member**" means, individually, each Co-Investor Member or the CIM Member, as the case may be; "**Members**" shall mean, collectively, each Co-Investor Member and the CIM Member.

"**Member Specific Taxes**" shall mean, with respect to a Member, withholding, income and other taxes (including any interest and penalties) paid by or imposed on the Company and/or any Subsidiaries thereof directly or indirectly formed and/or acquired by the Company to hold investments or to serve as intermediate holding companies and/or a direct or indirect asset of the Company (i) to the extent any of such taxes are, in the reasonable judgment of the Managing Member, attributable to the failure of such Member to comply with the provisions of Section 6.05 or on account of the incompleteness, inaccuracy, obsolescence, expiration, or invalidity of any documentation delivered by such Member pursuant to Section 6.05, (ii) to the extent such taxes would not be imposed but for such Member's connection (whether past or present) with the jurisdiction imposing or assessing the tax in question other than any such connection arising solely by virtue of such Member's investment in the Company or its Subsidiaries, or (iii) to the extent such taxes are imposed on or with respect to some, but not all, Members or imposed on or with respect to the Members at different rates.

"**Net Cash Flow**" means, with respect to any Person, for any period for which such amount is being computed: (i) any operating receipts of such Person for such period (other than any Net Proceeds); *minus* (ii) (A) any amounts required to pay the costs and expenses of such Person (including capital expenditures, operating expenses, and any administrative and overhead expenses for such Person) incurred for such period that are not paid from any Net Proceeds, (B) any required debt service payments on any indebtedness of such Person, and (C) any increase in the reserves of such Person, as determined by the Company; and *plus* (iii) any decrease in the reserves of such Person, as determined by the Company (other than on account of amounts withdrawn from such reserves to pay the costs and expenses of such Person).

"**Net Proceeds**" means the net proceeds of any Capital Transaction, after (i) payment of the debts and liabilities of the Company and/or any of its Subsidiaries to the extent required to be paid or satisfied in connection with such transaction, including, without limitation, outstanding loans and any accrued interest thereon, (ii) if appropriate, the application of such proceeds to their intended use (e.g., repayment of any outstanding loans), (iii) the payment of any and all costs, expenses and commissions incurred in connection with the Capital Transaction (including payments to the CIM Member and/or its Affiliates to the extent permitted hereunder), including, if appropriate, (A) closing apportionments and (B) the costs and expenses incurred in connection with the dissolution and liquidation of the Company and/or any of its Subsidiaries, and (iv) any increase or decrease in reserves of Property Owner or any other Subsidiary of the Company, as determined by the Company.

"**Net Profits**" and "**Net Losses**" means for each Fiscal Year or other period, the taxable income or loss, respectively, of the Company for such period, or particular items thereof, in each

case as determined for U.S. federal income tax purposes, but computed with the following adjustments:

(i) items of income, gain, loss and deduction (including, without limitation, gain or loss on the disposition of any Company asset and Depreciation) shall be computed based upon the Book Value of the Company's assets rather than upon such assets' adjusted bases for U.S. federal income tax purposes;

(ii) any tax-exempt income received by the Company shall be deemed for these purposes only to be an item of gross income;

(iii) any expenditure of the Company described in Section 705(a)(2)(B) of the Code (or treated as described therein pursuant to Regulations under Section 704(b) of the Code) shall be treated as a deductible expense;

(iv) there shall be taken into account any separately stated items under Section 702(a) of the Code;

(v) if the Book Value of any Company asset is adjusted pursuant to clause (ii) or (iv) of the definition of "Book Value," the amount of such adjustment shall be taken into account in the period of adjustment as gain or loss from the disposition or deemed disposition of such asset for purposes of computing Net Profits and Net Losses; and

(vi) items of income, gain, loss, or deduction or credit allocated pursuant to Section 6.02 shall not be taken into account.

"**New Member**" has the meaning set forth in Section 4.01(b)(iv).

"**Payment Date**" means, as the context shall require, the date by which an Additional Capital Contribution shall be due under Section 4.01(b)(iii) or Section 4.01(b)(iv), each as shall be indicated in the respective notice, request or offer therefor as described in such Sections, or, if such notice/request/offer shall not specify a Payment Date, the Payment Date shall be deemed to be the soonest possible deadline therefor as described in such Sections.

"**Percentage Interest**" means, with respect to each Member, the ratio (expressed as a percentage) of (a) the Commitment Amount applicable to such Member to (b) the aggregate amount of the Commitment Amounts, subject to adjustment in accordance with Section 4.01(b)(vii), Section 4.01(b)(viii) and Section 4.01(b)(ix). The initial Percentage Interests are set forth next to each current Member's name on Schedule 1.

"**Person**" means any individual, corporation, partnership, joint venture, limited liability company, firm, association, joint stock company, trust, unincorporated organization, or other organization, whether or not a legal entity, and any Governmental Authority.

"**Plan Asset Regulation**" means 29 C.F.R. § 2510.3-101, as modified by Section 3(42) of ERISA.

"**Preemptive Right**" has the meaning set forth in Section 9.03.

"**Prior Agreement**" has the meaning set forth in the Recitals.

"**Prior Property Loans**" means any loans or other indebtedness for borrowed money obtained by Property Owner on or prior to February 17, 2023 (including any indebtedness evidenced by a note, bond, debenture or other similar instrument or debt security).

"**Prohibited Person**" means any Person identified on any of the lists constituting the U.S. Government Restricted Lists or any other Person with whom a U.S. Person may not conduct business or transactions by prohibition of Federal law or Executive Order of the President of the United States of America.

"**Project**" means the contemplated development, redevelopment, financing, stabilization, leasing, upgrade, operation and/or maintenance (as applicable) of the Property as a mixed-use, multi-family-led building, with such modifications as may be made by the Managing Member in accordance with the terms hereof.

"**Project Loan**" means one or more loans obtained by the Property Owner (and/or any other Subsidiary of the Company as may from time to time exist) for the purposes of financing the Project, as the same may be modified, amended, refinanced, severed and/or increased from time to time, including, without limitation, any refinancing of any such loan.

"**Property**" has the meaning set forth in the Recitals.

"**Property Owner**" has the meaning set forth in the Recitals.

"**Property Owner Prior LLCA**" has the meaning set forth in Section 13.10.

"**Purposes**" has the meaning set forth in Section 2.05.

"**Real Property**" has the meaning set forth in the Recitals.

"**Recall Percentage**" has the meaning set forth in Section 4.07.

"**Recallable Amount**" has the meaning set forth in Section 4.07.

"**Regulations**" means the U.S. federal income tax regulations promulgated by the Treasury Department under the Code, as such regulations may be amended from time to time. All references herein to a specific Section of the Regulations shall be deemed also to refer to any corresponding provisions of succeeding Regulations.

"**Regulatory Allocations**" has the meaning set forth in Section 6.02(e).

"**Related Agreement**" has the meaning set forth in the definition of "Major Decisions" on Schedule 6.

"**Removal Date**" has the meaning set forth in Section 7.07.

"**Removal Notice**" has the meaning set forth in Section 7.07.

"**Required Additional Capital**" has the meaning set forth in Section 4.01(b)(v)(A).

"**Required Capital Shortfall**" has the meaning set forth in Section 4.01(b)(v)(A).

"**Required Capital Shortfall Contribution**" has the meaning set forth in Section 4.01(b)(v)(A).

"**Required Capital Shortfall Loan**" has the meaning set forth in Section 4.01(b)(v)(A).

"**Securities Act**" has the meaning set forth in Section 12.01(b)(ii).

“**Securities Laws**” has the meaning set forth in Section 12.01(b)(ii).

“**Subsidiary**” means, with respect to any Person (including the Company), any entity Controlled, directly or indirectly, by such Person, through which such Person shall hold an interest, whether directly or indirectly (including, without limitation, general and/or limited partnership interests in a limited partnership or limited liability company membership interests in a limited liability company) in any asset.

“**Substantial Completion**” means the lien-free completion of the Project, subject only to the completion of minor or insubstantial details of construction, mechanical adjustments, finishing touches or decoration which do not materially interfere with the use and occupancy of the Project, such that the Project areas (excluding any retail space thereof) can be legally occupied and used for its intended use which includes the issuance of a temporary or permanent certificate of occupancy for such areas of the Project.

“**TA-Co-Investor Member**” has the meaning set forth in the Preamble.

“**Tax Distribution**” has the meaning set forth in Section 6.07(b).

“**Tax Rate**” means, with respect to any item of income, gain, loss or deduction allocated to the CIM Member, the highest combined marginal federal, state and local personal tax rate for an individual resident in the State of California (as such rates were in effect at the time such items were allocated to the CIM Member and taking into account (i) the deductibility of state and local income taxes, provided, that, for administrative convenience, it shall be assumed that no portion of any state and local taxes shall be deductible for so long as the limitation set forth in Section 164(b)(6)(B) of the Code remains applicable, (ii) the character of the items of income, gain, loss or deduction at the time of allocation and the non-deductibility of all or any portion of any allocated loss or deduction and (iii) the allocation by the Company to the CIM Member of tax credits in respect of the items of income, gain, loss or deduction).

“**Taxing Authority**” has the meaning set forth in Section 6.04.

“Title Policy” means the executed American Land Title Association owner’s policy of title insurance policy that is attached hereto as Exhibit C.

“**TO-Co-Investor Member**” has the meaning set forth in the Preamble.

“**Total Equity Excess**” has the meaning set forth in Section 4.01(b)(viii).

“**Total Project Cost**” shall mean the total expected cost of the Project (including, without limitation, (1) acquisition costs and other costs already incurred with respect to the Property, (2) capitalized interest on any Project Loan and (3) the development management fee and other fees (if applicable) described in Section 13.18), in each case as determined by the Managing Member in its sole discretion in accordance with this Agreement.

“**Transfer**” or “**Transferred**” means, with respect to an Interest, a gift, sale, exchange, transfer, conveyance, assignment, pledge, hypothecation, encumbrance, abandonment or other disposition (whether voluntary or involuntary, by operation of law or otherwise) of all or any portion of such Interest at any level or tier of ownership, directly or indirectly, including a sale, exchange, transfer, conveyance, assignment, pledge, hypothecation, encumbrance, abandonment or other disposition of all or any portion of the equity of a Member or any direct or indirect beneficial owner of a Member.

"**U.S. Government Restricted Lists**" means, (a) the two (2) lists maintained by the United States Department of Commerce (Denied Persons and Entities; the Denied Persons), (b) the two (2) lists maintained by the United States Department of Treasury (Specially Designated Nationals and Blocked Persons; Foreign Sanctions Evaders), and (c) the list maintained by the United States Department of State (Terrorist Organizations and Debarred Parties).

1.02 Construction. Words used herein, regardless of the number or any gender used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context requires, and, as used herein, unless the context clearly requires otherwise, the words "hereof," "herein," and "hereunder" and words of similar import shall refer to this Agreement as a whole and not to any particular provisions hereof. References herein to any Article, Section, Schedule or Exhibit shall be to an Article, a Section, a Schedule or an Exhibit, as the case may be, hereof unless otherwise specifically provided. Except as expressly provided, in any case where any Member is authorized or required to take an action or give an approval in its discretion or its judgment or to make any selection or determination, it may do so in its sole discretion or sole judgment. The use herein of the word "include" or "including," when following any general statement, term or matter, shall not be construed to limit such statement, term or matter to the specific items or matters set forth immediately following such word or to similar items or matters, whether or not non-limiting language (such as "without limitation" or "but not limited to" or words of similar import) is used with reference thereto, but rather shall be deemed to refer to all other items or matters that fall within the broadest possible scope of such general statement, term or matter.

II.

ORGANIZATION

2.01 Formation and Continuation. The Company was formed as a limited liability company under and pursuant to the Act by the filing of the Certificate. The Company is hereby continued upon the terms and conditions set forth in this Agreement. This Agreement amends and restates the Prior Agreement, which is hereby superseded in its entirety. The Managing Member shall file and record with the proper offices in the State of Delaware and any other state in which the Company conducts business, such further certificates and other filings as shall be required or advisable under the Act or applicable law. The rights, powers, duties, obligations and liabilities of the Members shall be determined pursuant to the Act and this Agreement. To the extent that the rights, powers, duties, obligations and liabilities of the Members are different by reason of any provision of this Agreement than they would be in the absence of such provision, this Agreement shall, to the extent permitted by the Act, control. This Agreement shall constitute the limited liability company agreement between the Members within the meaning of the Act.

2.02 Name and Principal Place of Business.

(a) Name. The name of the Company is "4750 Co-Investor, LLC". All business of the Company shall be conducted under such name, and title to all assets of the Company shall be held in such name.

(b) Principal Place of Business. The principal place of business and office of the Company shall be located at ℅ CIM Group, L.P., 4700 Wilshire Boulevard, Los Angeles, California 90010. Such principal place of business and office of the Company may be changed from time to time by the Managing Member.

2.03 Term. The term of the Company commenced on the date of the filing of the Certificate pursuant to the Act and shall continue in full force and effect until the dissolution and termination of the Company pursuant to Article XI.

2.04 Registered Agent, Registered Office and Foreign Qualification. The address of the Company's registered office shall be at the offices of its registered agent, as set forth in the Certificate. The address of the Company's registered office and registered agent of the Company may be changed from time to time by the Managing Member by filing the address of the new registered office and/or the name of the new registered agent with the Secretary of State of Delaware pursuant to the Act.

2.05 Purposes. The sole business and purpose of the Company (the "**Purposes**") shall be to (a) own, hold, sell and otherwise deal with its direct or indirect membership interest in the Property Owner and (b) through such interest, acquire, own, develop, construct, manage, operate, finance, refinance, sell and otherwise deal with and hold or dispose of any part of or all of the Property and (c) without limiting the generality of the foregoing, otherwise transact any and all lawful business for which a limited liability company may be organized under the Act that is incidental, necessary, desirable or appropriate to accomplish the foregoing.

2.06 Powers. The Company shall have the power to do anything and everything necessary, suitable or proper for the accomplishment of or in furtherance of the Purposes, and to do every other act or acts, thing or things, incidental or appurtenant to or arising from or connected with any of the Purposes. The powers of the Company shall be exercised by or under the authority of, and the business and affairs of the Company shall be managed by, the Managing Member as provided herein and subject to the terms, conditions and limitations hereof.

2.07 Back Lot. The Members acknowledge that the Back Lot is currently part of the same legal parcel as the balance of the Property. Notwithstanding anything to the contrary contained in this Agreement, the Managing Member shall be permitted without the consent of the other Members to cause Property Owner to (i) subdivide the Property such that the Back Lot becomes a separate legal parcel from the Property and (ii) after such subdivision, convey the Back Lot to any other Person (including any Affiliate of the Managing Member) (and the Managing Member shall be permitted to cause Property Owner to structure such subdivision and conveyance in any manner permitted under applicable law) at no expense to the Co-Investor Members, the Company or any of its Subsidiaries (unless any such expense is reimbursed by the CIM Member). The Co-Investor Members shall have no obligation to make Capital Contributions with respect to, and shall have no right to any distributions attributable to any revenue or proceeds (including sale proceeds) from, the Back Lot. In addition, no amounts contributed by the Managing Member to the Company to pay costs or expenses attributable to the Back Lot shall count as Capital Contributions. The CIM Member shall indemnify and hold the Company, Property Owner and the Co-Investor Members harmless from and against any and all claims or liabilities of any nature whatsoever, including, without limitation, reasonable attorneys' fees and disbursements, arising out of or in connection with Property Owner's ownership of the Back Lot. For so long as the CIM Member or any Affiliate thereof owns the Back Lot, the Back Lot shall not be used or occupied for (i) any unlawful or illegal business, use or purpose, (ii) any obscene or pornographic purpose or any sort of commercial sex establishment, (iii) any use that constitutes a nuisance, public or private, (iv) a casino or any other gaming establishment, (v) a massage parlor, (vi) a public vending machine operation (excluding other uses that have ancillary vending machine services), (vii) an employment agency, (viii) a labor union, (ix) a factory of any kind, or (x) a check cashing operation (excluding commercial banks).

2.08 Title Policy. The CIM Member has delivered the Title Policy to the Co-Investor Members prior to the Effective Date. After the subdivision is complete as set forth in Section 2.07, (1) the CIM Member, at its sole cost and expense, shall deliver an updated Title Policy to the Co-Investor Members with the updated legal description which excludes the Back Lot (which update may be in the form of an endorsement to the existing Title Policy), (2) the CIM Member shall not cause or permit Property Owner to grant any easement over the Property in favor of the owner of the Back Lot if such easement would reasonably be expected to have a material adverse effect on the use or operation of the Property, (3) the CIM Member shall not permit Property Owner to grant any other restriction on the Property in connection with or related to the subdivision of the Property if such restriction would reasonably be expected to have a material adverse effect on the use or operation of the Property; and (4) the CIM Member shall in no event cause or permit Property Owner to grant or permit any monetary liens on the Property in connection with or related to the subdivision of the Property.

III.

MEMBERS

3.01 Members. The K-Co-Investor Member, the TA-Co-Investor Member, the TO-Co-Investor Member and the CIM Member are the only Members of the Company as of the Effective Date. Except as expressly permitted by this Agreement, no other Person shall be admitted as a member of the Company and no other Person has the right to take part in the ownership of the Company.

3.02 Limitation on Liability. Except as otherwise expressly provided in the Act, the debts, obligations and liabilities of the Company, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of the Company, and no Member shall be obligated personally for any such debt, obligation or liability of the Company, solely by reason of being a Member of the Company. Except as otherwise expressly provided herein, the liability of each Member shall be limited to the amount of Capital Contributions made or required to be made by such Member in accordance with the terms of this Agreement.

IV.

CAPITAL

4.01 Capital Contributions.

(a) Initial Capital Contribution. The Members acknowledge and agree that, as of the Effective Date, each Member shall be deemed to have made a Capital Contribution to the Company in the amount set forth next to such Member's name on Schedule 1 attached hereto. The foregoing Capital Contribution of each Member is referred to in this Agreement as such Member's "**Initial Capital Contribution**." The Members acknowledge and agree that each Member has a Capital Account balance as of the Effective Date (for the avoidance of doubt, including any Net Cash Flow achieved prior to the Effective Date and reinvested into the Company) equal to such Member's Initial Capital Contribution.

(b) Additional Capital Contributions.

(i) Contributions Generally. From and after the Effective Date, no Member shall be required, or have the right, to make capital contributions to the Company except as set forth in this Section 4.01(b).

(ii) Management Fee Contributions. Each Member shall be required to make a Management Fee Contribution to the Company (by wire transfer in same day funds to an account specified by the Company) on the date that each quarterly installment of the Management Fee is due and payable by the Company pursuant to Section 13.18 below in the amount of such Member's *pro rata* share (based upon Percentage Interest) of such quarterly installment. At least ten (10) Business Days prior to the due date of each installment of the Management Fee, the Managing Member shall notify each Member of the amount of such quarterly installment that must be paid by such Member by way of a Management Fee Contribution pursuant to this Section 4.01(b)(ii).

(iii) Catch-Up Contributions. Each Co-Investor Member (including any New Member to the extent it is being transferred a portion of the CIM Member's Initial Percentage Interest as set forth on Schedule 1) shall be obligated, within ten (10) Business Days after written request from the Managing Member (which written request shall be made promptly after any New Member becomes obligated to make a Catch-Up Contribution pursuant to the last sentence of Section 4.01(b)(iv)), to make a Capital Contribution to the Company equal to its Percentage Interest of (x) $43,000,000 *minus* (y) the distribution amount from a portion of the net proceeds of the initial funding of the Initial Project Loan in an amount equal to $6,638,418 (the "**Initial Project Loan Distribution Amount**")); *provided*, *however*, that the aggregate Additional Capital Contributions made by a Co-Investor Member pursuant to this Section 4.01(b)(iii) and Section 4.01(b)(iv) (plus the aggregate of any Required Capital Shortfall Contributions and any Required Capital Shortfall Loans made in connection with any failures to make such Additional Capital Contributions) shall in no event exceed the product of (a) the Percentage Interest of such Co-Investor Member multiplied by (b) the aggregate Capital Contributions of all Members pursuant to Section 4.01(a), this Section 4.01(b)(iii) and Section 4.01(b)(iv) (plus the aggregate of any Required Capital Shortfall Contributions and Required Capital Shortfall Loans made in connection with any failures to make such Capital Contributions, but subtracting from the amount of Capital Contributions made by the CIM Member (A) the amount of all distributions to the CIM Member pursuant to this Section 4.01(b)(iii) and (B) if not already received and distributed to the CIM Member pursuant to this Section 4.01(b)(iii), the Initial Project Loan Distribution Amount). All Additional Capital Contributions made by Co-Investor Members under this Section 4.01(b)(iii) shall be referred to herein as "**Catch-Up Contributions**." Each Catch-Up Contribution and the Initial Project Loan Distribution Amount received by the Company shall promptly be distributed to the CIM Member. For the avoidance of doubt, any Additional Capital Contributions made in response to a Capital Call (which Additional Capital Contributions are, as described in Section 4.01(b)(iv) below, to be retained and/or applied by the Company toward existing or expected future Company Cash Needs) are not, and shall not be deemed to be for any purpose hereunder, Catch-Up Contributions (which Catch-Up Contributions shall, as and when described above, be distributed to the CIM Member). Notwithstanding anything to the contrary herein or in any capital call notice delivered by the CIM Member prior to the Effective Date, the Members acknowledge and agree that (x) prior to the Effective Date, each of the K-Co-Investor Member, the TA-Co-Investor Member and the TO-Co-Investor Member made a Catch-Up Contribution in the amount of $6,469,652 pursuant to the first sentence of this Section 4.01(b)(iii), (y) the Managing Member shall request not more than 75% of each Co-Investor Member's then-remaining unfunded Commitment Amount as a Catch-Up Contribution pursuant to the first sentence of this Section 4.01(b)(iii) on a date that is no earlier than ten (10) Business Days prior to June 30, 2023 and (z) the Managing Member shall request not more than the balance of each Co-Investor Member's then-remaining unfunded Commitment Amount as a Catch-Up Contribution pursuant to the first sentence of this Section 4.01(b)(iii) on a date that is no earlier than ten (10) Business Days prior to September 30, 2023. The parties agree that, for U.S. federal (and applicable state and local) income tax purposes, (i)(a) the Initial Capital Contributions (to the extent distributed to the CIM Member), the Catch-Up Contributions, and distribution of each Co-Investor Member's Initial Capital Contribution, Catch-Up Contribution and the Initial Project

Loan Distribution Amount shall be treated as an individual sale of an interest in the Property to each Co-Investor Member for an amount equal to such Co-Investor Member's Initial Capital Contribution (to the extent distributed to the CIM Member), Catch-Up Contribution and such Co-Investor Member's *pro rata* share (based on its Distribution Percentage Interest) of the Initial Project Loan Distribution Amount and (b) consistent with Situation 1 of Revenue Ruling 99-5, the CIM Member and each Co-Investor Member shall be treated as contributing their respective post-sale interest in the Property to the Property Owner in exchange for their initial Interest thereby converting the Property Owner from a disregarded entity to a partnership; and (ii)(a) the parties are treated as forming the Company to merge or consolidate with the Property Owner in an assets-over form pursuant to Section 1.708-1(c)(3) of the Regulations and (b) the Company shall be treated as a continuation of the Property Owner pursuant to Section 1.708-1(c)(1) of the Regulations. Clause (i) of the previous sentence shall not apply to New Members.

(iv) Capital Calls. From time to time as is necessary or desirable as a result of Company Cash Needs and/or expected future Company Cash Needs as determined by the Managing Member in its discretion, the Managing Member shall submit to the Members a written demand ("**Capital Call**") for Additional Capital Contributions in respect of such Company Cash Needs. The Managing Member shall endeavor to deliver Capital Calls no more frequently than quarterly. Each Capital Call shall be in writing and shall state the aggregate amount of such Company Cash Needs, the basis therefor and each Member's Contribution Percentage of the Additional Capital Contributions with respect thereto. Each Member shall, in respect of any Capital Call, be obligated (subject to Sections 4.01(b)(vi)(A) and 4.01(c)) to make an Additional Capital Contribution in the amount of its Percentage Interest of the total requested Additional Capital Contribution pursuant to such Capital Call (such percentage, as may be adjusted pursuant to the proviso clause of this sentence, being referred to herein as such Member's "**Contribution Percentage**"). Subject to the provisions of this Section 4.01(b), each Additional Capital Contribution required pursuant to a Capital Call shall be funded by the applicable Member on a Payment Date ten (10) Business Days following the date the applicable Capital Call shall have been given (or such later Payment Date as may be stated therein) and shall be made by wire transfer of immediately available funds to the Company on or before such applicable Payment Date. If one or more Co-Investor Members ("**New Member**") becomes obligated to make Additional Capital Contributions after one or more other Co-Investor Members have made Capital Contributions pursuant to Section 4.01(b)(iii) or this Section 4.01(b)(iv), such New Member(s) shall be obligated to make all of the Additional Capital Contributions called for in any Capital Call until such time as the aggregate Additional Capital Contributions made by each New Member pursuant to Section 4.01(b)(iii) and this Section 4.01(b)(iv) (including any such Additional Capital Contributions being made pursuant to such Capital Call) (plus the aggregate of any Required Capital Shortfall Contributions and any Required Capital Shortfall Loans made in connection with any failures by such New Member to make such Additional Capital Contributions) is equal to such New Member's Percentage Interest of the aggregate Capital Contributions made by all Members pursuant to Section 4.01(b)(i), Section 4.01(b)(iii) and this Section 4.01(b)(iv) (including any such Additional Capital Contributions being made pursuant to such Capital Call) (plus the aggregate of any Required Capital Shortfall Contributions and any Required Capital Shortfall Loans made in connection with any failures to make such Capital Contributions, but subtracting from the amount of Capital Contributions made by the CIM Member (A) the amount of all distributions to the CIM Member pursuant to Section 4.01(b)(iii) and (B) if not already received and distributed to the CIM Member pursuant to Section 4.01(b)(iii), the Initial Project Loan Distribution Amount).[1]

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[1] Note to Draft: The CIM Member has already funded its full Commitment Amount. Once the Initial Project Loan Distribution Amount and the remaining Catch-Up Contributions are distributed to the CIM Member, its Capital Account, Commitment Amount and aggregate Capital Contributions will all equal $7,272,316.

(v) Capital Call Defaults.

(A) If any Member (in such capacity, the "**Defaulting Member**") fails to contribute all or any part of any Additional Capital Contribution that it is required to make pursuant to this Section 4.01 (its "**Required Additional Capital**") by the applicable Payment Date therefor (each such failure, a "**Required Capital Shortfall**"), then the Managing Member (or, if the Managing Member is the Defaulting Member, any Co-Investor Member) (the "**Curing Member**") in its discretion may (but shall not be obligated to) exercise one or more of the following remedies (or any other remedy available at law or in equity), without further notice to any Member:

(1) make an Additional Capital Contribution to the Company in an amount equal to all or a part of the Required Capital Shortfall (a "**Required Capital Shortfall Contribution**") (which Required Capital Shortfall Contribution shall count against its Commitment Amount), in which event the Distribution Percentage Interest of the Defaulting Member shall be reduced (but not below zero) such that, immediately after such reduction, the Distribution Percentage Interest of the Defaulting Member shall be a percentage equal to the Defaulting Member's Distribution Percentage Interest immediately prior to such reduction, less a percentage expressed as a fraction, the numerator of which is (x) one hundred fifty percent (150%) multiplied by (y) the amount of the Required Capital Shortfall Contribution, and the denominator of which is the aggregate Invested Capital of the Members (including such Required Capital Shortfall Contribution), and, concomitantly, the Distribution Percentage Interest of the Member(s) making such Required Capital Shortfall Contribution shall be increased by the same amount (*pro rata* based on the Required Capital Shortfall Contributions made by such Member(s)); *provided*, *however*, *that* the Curing Member shall give all non-Defaulting Members a reasonable opportunity (taking into account all relevant factors, including the Managing Member's good faith judgment as to when the Company needs to or should receive the applicable funds) to participate in such Required Capital Shortfall Contribution in an amount up to their respective proportionate shares (*pro rata* in proportion to the respective Percentage Interests of all non-Defaulting Members) (or, for any non-Defaulting Member, as to a greater share, should any other non-Defaulting Member(s) fail to participate) of the Required Capital Shortfall; and/or

(2) make (or cause a Controlled Affiliate to make) a loan to the Company in an amount equal to all or a part of the Required Capital Shortfall (less the amount of any Required Capital Shortfall Contribution) (a "**Required Capital Shortfall Loan**"), which Required Capital Shortfall Loan will (x) bear interest at the rate equal to the lesser of (i) the maximum rate permitted under applicable law and (ii) the Specified Default Rate (as defined in Schedule 6) per annum, compounded quarterly, until repaid in accordance with Section 6.07, and (y) at the option of the Curing Member making such Required Capital Shortfall Loan, count against its Commitment Amount; *provided*, *however*, *that* the Curing Member shall give all non-Defaulting Members a reasonable opportunity (taking into account all relevant factors, including the Managing Member's good faith judgment as to when the Company needs to or should receive the applicable funds) to participate in such Required Capital Shortfall Loan in an amount up to their respective proportionate shares (*pro rata* in proportion to the respective Percentage Interests of all non-Defaulting Members) (or, for any non-Defaulting Member, as to a greater share, should any other non-Defaulting Member(s) fail to participate) of the Required Capital Shortfall; and/or

(3) (x) reduce the Capital Account of the Defaulting Member by the lesser of *(i)* fifty percent (50%) of the amount thereof

immediately prior to the default and *(ii)* five hundred percent (500%) of the amount the Defaulting Member failed to contribute; (y) reduce the Invested Capital of the Defaulting Member by an amount equal to the lesser of *(i)* fifty percent (50%) of the amount thereof immediately prior to the default and *(ii)* five hundred percent (500%) of the amount the Defaulting Member failed to contribute; and (z) reduce the Distribution Percentage Interest of the Defaulting Member to a percentage equal to the quotient of the Defaulting Member's Invested Capital, as adjusted pursuant to this clause (3), divided by the aggregate Invested Capital of the Members, and the amount of such reduction shall be credited to the Distribution Percentage Interest, as adjusted pursuant to this clause (3), of all non-Defaulting Members (*pro rata* in proportion to the respective Percentage Interests of all non-Defaulting Members).

In addition, the Managing Member may withhold all distributions to the Defaulting Member until any amounts owed to the Company (after taking into account any Required Capital Shortfall Contribution or Required Capital Shortfall Loan) are paid in full, and any amounts so withheld will be retained by the Company until distributed in accordance with Section 6.07 or used to pay Management Fees. Notwithstanding the foregoing provisions of this Section 4.01(b)(v), the Defaulting Member shall remain liable for the payment of its full Commitment Amount and any other amounts becoming due hereunder as if there were no adjustment in its Distribution Percentage Interest, Capital Account and/or Invested Capital as a result of such default, as if such default had not occurred.

(B) If the CIM Member fails to contribute all or any part of any Additional Capital Contribution which it is required to make pursuant to this Section 4.01 on or before the applicable Payment Date, then the Managing Member shall promptly notify the Co-Investor Members of such failure to fund. In such event, and if no Co-Investor Member elects to be a Curing Member in accordance with clause (A) above, (x) the Capital Call will be deemed a discretionary (and not required) Capital Call for the Co-Investor Members pursuant to Section 4.01(b)(vi), and (y) any Co-Investor Member may in its discretion direct the Managing Member to, and the Managing Member shall promptly upon receipt of such direction, return to such Co-Investor Member the applicable Additional Capital Contribution made by it.

(C) Notwithstanding anything to the contrary in this Agreement (including Section 4.01(b)(v)(A)), if any Co-Investor Member is a "Defaulting Member" or otherwise does not make all or any portion of a Capital Contribution that it is required to make pursuant to this Agreement, then such Co-Investor Member shall be subject to such penalties, forfeitures and/or other remedies as may be agreed to between the Managing Member and such Co-Investor Member.

(vi) Discretionary Capital Calls.

(A) Notwithstanding anything to the contrary in the foregoing provisions of this Section 4.01(b), if a Capital Call is made after a Member has funded its entire Commitment Amount (plus, in the case of the CIM Member, the amount of any distributions to the CIM Member pursuant to Section 4.01(b)(iii) and, if not already received and distributed to the CIM Member pursuant to Section 4.01(b)(iii), the Initial Project Loan Distribution Amount, and less, in the case of each applicable Member, the aggregate amount of any Required Capital Shortfall Contributions and any Required Capital Shortfall Loans (but only to the extent such Member elected at the time of making such Required Capital Shortfall Loan to count it against its Commitment Amount) made by such Member) (any such Member, a "**Fully-Funded Member**"), then such Capital Call shall be deemed discretionary, and not required, as pertaining to such Fully-Funded Member, and such Fully-Funded Member receiving such Capital Call may (but shall not be obligated to) contribute up to its respective Contribution

Percentage of the amount of such Capital Call as an Additional Capital Contribution (any such contribution, a "**Discretionary Capital Contribution**"). Each Discretionary Capital Contribution, if made, shall be funded by the applicable Fully-Funded Member on a Payment Date ten (10) Business Days following the date the applicable Capital Call shall have been given (or such later Payment Date as may be stated therein) and shall be made by wire transfer of immediately available funds to the Company on or before such applicable Payment Date.

(B) If a Fully-Funded Member shall fail to (or elect to not) make a Discretionary Capital Contribution (or if the Discretionary Capital Contribution which a Member elects to make is less than its Contribution Percentage of the total requested Additional Capital Contribution pursuant to such Capital Call) by the applicable Payment Date (the Member making none, or less than its Contribution Percentage of such total requested Additional Capital Contribution being referred to as a "**Declining Member**," and the amount of such deficiency in such Declining Member's Discretionary Capital Contribution being herein referred to as a "**Discretionary Capital Shortfall**"), then the Managing Member in its discretion may (but shall not be obligated to), without further notice to any Co-Investor Member, (1) make an Additional Capital Contribution to the Company in an amount equal to all or a part of the Discretionary Capital Shortfall (a "**Discretionary Capital Shortfall Contribution**"), and/or (2) make (or cause a Controlled Affiliate to make) a loan to the Company in an amount equal to all or a part of the Discretionary Capital Shortfall (less the amount of any Discretionary Capital Shortfall Contribution) (each, a "**Discretionary Capital Shortfall Loan**"); *provided*, *however*, that the Managing Member shall give all non-Declining Members a reasonable opportunity (taking into account all relevant factors, including the Managing Member's good faith judgment as to when the Company needs to or should receive the applicable funds) to participate in such Discretionary Capital Shortfall Contribution and/or a Discretionary Capital Shortfall Loan, as applicable in an amount up to their respective proportionate shares (*pro rata* in proportion to the respective Percentage Interests of all non-Declining Members) (or, for any non-Declining Member, as to a greater share, should any other non-Declining Member(s) fail to participate) of the Discretionary Capital Shortfall. Each Discretionary Capital Shortfall Loan will (x) bear interest at the rate equal to the lesser of (i) the maximum rate permitted under applicable law and (ii) the Specified Discretionary Rate (as defined in Schedule 6) per annum, compounded quarterly, until repaid in accordance with Section 6.07, (y) not be credited to the Capital Account of the Member making such Discretionary Capital Shortfall Loan or be treated as a contribution of capital hereunder, and (z) at the option of the Member making such Discretionary Capital Shortfall Loan, count against its Commitment Amount. Each Discretionary Capital Shortfall Contribution shall count against the Commitment Amount of the Member who makes such contribution and shall be credited to such Member's Capital Account. For the avoidance of doubt, no Member may make a Discretionary Capital Shortfall Contribution or a Discretionary Capital Shortfall Loan unless it has contributed to the Company the full amount of its Contribution Percentage (if any) of the applicable Capital Call.

(vii) Increasing Commitment Amount to Fill Gap Equity. At any time, and from time to time, the CIM Member may increase the CIM Commitment Amount, or offer the Co-Investor Members an opportunity to increase their respective Commitment Amounts (*pro rata* based on the relative Percentage Interests of the Members at the time of such offer) and, effective upon the making of such additional commitment by the CIM Member or any Co-Investor Member, (1) the applicable Commitment Amount shall be increased by the amount of such commitment and (2) the Percentage Interests of the Members shall be appropriately adjusted; *provided*, *however*, that, prior to the CIM Member increasing the CIM Commitment Amount or offering a Co-Investor Member an opportunity to increase its Commitment Amount, the Company shall offer each other Member an opportunity to increase its Commitment Amount by an amount equal to its *pro rata* share of such additional commitment (which share shall be determined based on the relative Percentage Interests of the Members at the time of such offer) and, in the event any Member does not elect to increase its Commitment Amount, the Company

will offer such participating Members with another opportunity to increase its Commitment Amount by an amount equal to its pro rata share of such remaining commitment (which share shall be determined based on the Percentage Interests of the Members at the time of such offer (taking into account the prior election to increase its Commitment Amount)) following the procedure set forth in the second, third and fourth sentences of Section 9.03.

(viii) Excess Equity. If, as of the date of the closing of any Project Loan, the sum of (x) the maximum principal amount of such Project Loan (plus the aggregate maximum principal amount of any other Project Loans which are outstanding), *plus* (y) the aggregate of all Members' Commitment Amounts, exceeds the Total Project Cost (any such excess, the "**Total Equity Excess**"), then, at the Managing Member's option and to the extent permitted under such Project Loans, (i) the Commitment Amount of each Member shall be reduced by an amount equal to such Member's Percentage Interest of the Total Equity Excess and (ii) if all or any of the Total Equity Excess has been contributed to the Company prior to such date (such contributed amounts, the "**Contributed Excess**"), the first borrowings under such Project Loan, up to the aggregate amount of the Contributed Excess, shall be distributed to the Members in accordance with Section 6.07, subject to the terms of such Project Loan.

(ix) Reduction of CIM Commitment Amount Upon Additional Co-Investor Member Equity. At any time and from time to time the CIM Member may, at its option, reduce the CIM Commitment Amount to reflect the amount of the Commitment Amount of any transferee of a portion of the CIM Member's Interest (or the increase in the Commitment Amount of such transferee, if such transferee is an existing Co-Investor Member) pursuant to Article IX. For the avoidance of doubt, no such transfer of a portion of the CIM Member's Interest shall result in a reduction of any Co-Investor Member's Distribution Percentage Interest or Commitment Amount.

(x) Managing Member Loans. If at any time, and from time to time, in the good faith judgment of the Managing Member, the funds then available to the Company out of reserves or other available cash are insufficient to meet the Company Cash Needs on a timely basis, and due to timing constraints, project sequencing, consequences under federal, state, or local tax laws, or for any other valid business reason it is not advisable to wait until the funding of such Company Cash Needs through (1) Additional Capital Contributions (or Required Capital Shortfall Loans or Discretionary Capital Shortfall Loans) or (2) expected proceeds from a new debt financing or any other source ("**Expected Proceeds**"), the Managing Member may elect, in its sole discretion, to make an interim, short-term loan to the Company (a "**Managing Member Loan**") for the purpose of meeting the Company Cash Needs (A) with respect to clause (1) of this sentence, either pending the making of a Capital Call (which the Managing Member shall promptly make in order that such Managing Member Loan may be repaid) or after the making of a Capital Call but pending receipt of Additional Capital Contributions (or Required Capital Shortfall Loans or Discretionary Capital Shortfall Loans) from the Members or (B) with respect to clause (2) of this sentence, pending the receipt of the Expected Proceeds. Each Managing Member Loan shall bear interest at a rate equal to the lesser of (x) the Managing Member Loan Rate (as defined on Schedule 6) per annum and (y) the maximum rate permitted under applicable law, until repaid with the Expected Proceeds or the applicable Additional Capital Contributions (or Required Capital Shortfall Loans or Discretionary Capital Shortfall Loans, if applicable) received with respect to a Capital Call (the Members hereby agreeing that the proceeds of such Capital Call shall first be used to repay all interest on, and then the principal of, the applicable Managing Member Loan) or otherwise in accordance with Section 6.07. Any such amount funded by a Managing Member Loan shall not be credited to the Managing Member's Capital Account and will not be treated as a contribution of capital hereunder, nor shall it count against the CIM Commitment Amount. The Managing Member shall promptly notify the Co-Investor Members of any decision to make a Managing Member Loan (which notice may be included within the Capital Call made to repay the same).

(c) Maximum Required Capital Contributions. Notwithstanding any provision in this Agreement to the contrary, in no event shall a Member be obligated to make aggregate Capital Contributions (including pursuant to Sections 4.01(a), 4.01(b)(iii) and 4.01(b)(iv) but excluding Management Fee Contributions) to the Company in excess of the sum of (1) its Commitment Amount, *plus* (2) in the case of the CIM Member, the amount of any distributions to the CIM Member pursuant to Section 4.01(b)(iii) and if not already received and distributed to the CIM Member pursuant to Section 4.01(b)(iii), the Initial Project Loan Distribution Amount.

(d) No Defaulting Member shall be counted as a Member for voting purposes hereunder. No Defaulting Member's Interest shall be counted in connection with the giving or withholding of any consent or approval and no Defaulting Member shall be entitled to exercise any other consent or approval right hereunder (and with respect to any matter that specifically requires the consent or approval of a particular Member pursuant to the terms hereof, such matter shall be deemed to have been consented to or approved by such Co-Investor Member if such Co-Investor Member is a Defaulting Member).

(e) In the event that there is a Defaulting Member, the Managing Member may deliver to the non-Defaulting Member(s) a capital call, requiring such non-Defaulting Member(s) to make an additional contribution to the Company pro rata in proportion to their relative remaining Commitment Amounts, in an aggregate amount equal to the amount such Defaulting Member failed to contribute to the Company. For the avoidance of doubt, any capital call pursuant to this Section 4.01(e) shall not increase any non-Defaulting Member's Commitment Amount, and any amount contributed by any Co-Investor Member pursuant to a capital call delivered pursuant to this Section 4.01(e) shall reduce such Co-Investor Member's Commitment Amount. Any capital call delivered pursuant to this Section 4.01(e) shall include the name of the Defaulting Member, a description of the remedies (if any) that have been exercised by the Managing Member against the Defaulting Member as of the date of delivery of such capital call and, to the extent applicable, the revised Capital Account, Invested Capital and Distribution Percentage Interest of each non-Defaulting Member resulting from the exercise against the Defaulting Member of the remedy described in Section 4.01(e) hereof.

4.02 Contribution Restriction. No contributions or advances to the Company or any Subsidiary thereof by any Member shall be required of or permitted by the Members other than expressly provided in Section 4.01 and Section 6.04.

4.03 Return of Contributions. Except upon the dissolution of the Company or as otherwise provided in this Agreement, no Member shall have the right to demand a withdrawal, reduction or return of its Capital Contributions or receive interest thereon. No Capital Contribution may be returned in the form of property or other assets other than cash.

4.04 Loans to the Company; Interest. Except for Required Capital Shortfall Loans, Discretionary Capital Shortfall Loans and Managing Member Loans or as otherwise expressly provided herein, (x) no Member shall be required to make any loan or advance to the Company or any of the Subsidiaries, nor shall the Company or any of its Subsidiaries be required under this Agreement to accept any loans or advances offered by any Member, and (y) no Capital Contributions shall bear interest or otherwise entitle the contributing Member to any compensation.

4.05 No Creditor Reliance. The provisions of this Article IV are intended only to govern the obligations of the Members *inter se*, and shall not be enforceable against the Members by any creditor of the Company or any creditor of any Member, or by any party claiming by or through any such creditor or any Member.

4.06 Intentionally Deleted.

4.07 Recalling of Capital. Each Member's Commitment Amount shall be increased by the Recall Percentage (as defined below) of the amount of Net Proceeds from the sale of any asset of the Company or any Subsidiary thereof distributed to such Member in accordance with Section 6.07 (the amount of such increase with respect to a Member, a "**Recallable Amount**"); *provided*, *however*, that any such increase shall only apply with respect to Capital Calls made (x) within the time period after the applicable distribution designated by the Managing Member in a written notice to the Members given no later than the date of the applicable distribution of Net Proceeds and (y) for expenses and liabilities directly related to the applicable sold asset and the sale thereof. As used herein, the term "**Recall Percentage**" shall mean the percentage (which shall be the same for each Member) designated by the Managing Member in a written notice to the Members given no later than the date of the applicable distribution of Net Proceeds and shall represent the Managing Member's good faith estimate of the percentage of the Net Proceeds distributed that may need to be recontributed to the Company as a result of the expenses and liabilities described in the preceding sentence and the time period for which recovery might be needed. Notwithstanding anything to the contrary contained in this Agreement, Capital Calls (up to the Recallable Amount applicable to a Member) to each Co-Investor Member that satisfy the conditions of clauses (x) and (y) above shall be funded by the Members, *pro rata* in accordance with their respective Distribution Percentage Interests, *provided that* the amount allocated to each Co-Investor Member shall be funded (1) first, the Specified Distribution Percentage (as defined in Schedule 6) by the CIM Member and the balance by such Co-Investor Member, until such time as the CIM Member has made Capital Contributions in respect of such Capital Calls under this clause (1) in an amount equal to the amount of distributions that it received pursuant to clause (7)(C) of Section 6.07 below, (2) second, the Specified Distribution Percentage by such Co-Investor Member and the balance by the CIM Member, until such time as the CIM Member has made Capital Contributions in respect of such Capital Calls under this clause (2) in an amount equal to the amount of distributions that it received pursuant to clause (7)(B) of Section 6.07 below, (3) thereafter, 100% by such Co-Investor Member.

V.

CAPITAL ACCOUNTS

5.01 Capital Accounts. A capital account ("**Capital Account**") shall be maintained for each Member in accordance with Section 704(b) of the Code and Sections 1.704-1(b) and 1.704-2 of the Regulations. Each Member's Capital Account shall be as set forth in the Company's books and records.

5.02 Adjustments. The Capital Account of each Member shall be increased by (i) the amount of any cash contributed by such Member to the capital of the Company, (ii) the Book Value of any property or other assets contributed by such Member to the capital of the Company (net of liabilities that the Company is considered to assume, or take property subject to, under Section 752 of the Code), (iii) such Member's share of Net Profits (as determined in accordance with Section 6.01) and (iv) any income and gain allocated to such Member pursuant to Section 6.02. The Capital Account of each Member shall be decreased by (w) the amount of all cash distributions to such Member, (x) the Book Value of any property or other assets distributed to such Member by the Company (net of liabilities that the Member is considered to assume, or take property subject to, under Section 752 of the Code), (y) such Member's share of Net Losses (as determined in accordance with Section 6.01), and (z) any deductions and losses allocated to such Member pursuant to Section 6.02.

5.03 Negative Capital Accounts. No Member shall be required to make up a negative balance in its Capital Account.

5.04 Transfers. If any 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 Interest so transferred.

5.05 Capital Account Balance. Except as otherwise provided in this Agreement, whenever it is necessary to determine the Capital Account balance of any Member, the Capital Account balance of such Member shall be determined after giving effect to all allocations pursuant to Sections 6.01 and 6.02 and all contributions and distributions made prior to the time as of which such determination is to be made.

VI.

ALLOCATIONS AND DISTRIBUTIONS

6.01 Allocations of Net Profit and Net Loss. Except as otherwise provided herein, Net Profit and Net Loss shall be allocated among the Capital Accounts of the Members with respect to each Fiscal Year, as of the end of such Fiscal Year, in a manner that as closely as possible gives economic effect to the provisions of this Article VI, Article XI and the other relevant provisions of this Agreement.

6.02 Regulatory Allocations.

(a) Notwithstanding any other provision of this Agreement, (i) “partner nonrecourse deductions” (as defined in Section 1.704-2(i) of the Regulations), if any, of the Company shall be allocated for each period to the Member that bears the economic risk of loss within the meaning of Section 1.704-2(i) of the Regulations and (ii) “nonrecourse deductions” (as defined in Section 1.704-2(b) of the Regulations) and “excess nonrecourse liabilities” (as defined in Section 1.752-3(a) of the Regulations), if any, of the Company shall be allocated to the Members in accordance with their respective Distribution Percentage Interests.

(b) This Agreement is intended to comply with Section 704(b) of the Code and the Regulations thereunder as in effect on the Effective Date, and shall be considered to include a “Qualified Income Offset” and “Minimum Gain Chargeback,” as defined in such Regulations, and if any Net Profits or Net Losses are allocated pursuant to such a “Qualified Income Offset” or “Minimum Gain Chargeback,” then, subsequently, Net Profits and Net Losses shall, to the extent permitted by Section 704(b) of the Code and the Regulations thereunder, be allocated among the Members in the manner and to the extent necessary to effectuate the intent of the Members as indicated in Section 11.03(a)(iii), and the provisions of Sections 6.01 and 6.07 shall be adjusted accordingly.

(c) To the extent that Net Loss or items of loss or deduction otherwise allocable to a Member hereunder would cause such Member to have an Adjusted Capital Account Deficit as of the end of the taxable year to which such Net Loss, or items of loss or deduction, relate (after taking into account the allocation of all items of income and gain for such taxable period), such Net Loss, or items of loss or deduction, shall not be allocated to such Member and instead shall be allocated to the Members in accordance with Section 6.01 as if such Member were not a Member.

(d) If any Member has an Adjusted Capital Account Deficit at the end of any taxable year, each such Member shall be specially allocated items of income and gain in the amount of such excess as quickly as possible, *provided that* an allocation pursuant to this

Section 6.02(d) shall be made only to the extent such Member's Adjusted Capital Account Deficit would increase if all other allocations provided for in this Article VI were made as if Section 6.02(c) and this Section 6.02(d) were not in this Agreement.

(e) Any allocations required to be made pursuant to Sections 6.02(a), (c) or (d) (the "**Regulatory Allocations**") (other than allocations, the effects of which are likely to be offset in the future by other Regulatory Allocations) shall be taken into account, to the extent permitted by Section 704(b) of the Code and the Regulations thereunder, in computing subsequent allocations of income, gain, loss or deduction pursuant to Section 6.01 so that the net amount of any items so allocated and all other items allocated to each Member shall, to the extent possible, be equal to the amount that would have been allocated to each Member pursuant to Section 6.01 had such Regulatory Allocations under this Section 6.02 not occurred.

(f) The provisions of this Article VI (and other related provisions in this Agreement) pertaining to the allocation of items of Company income, gain, loss, deductions, and credits shall be interpreted consistently with the Regulations, and to the extent unintentionally inconsistent with such Regulations, shall be deemed to be modified to the extent necessary to make such provisions consistent with the Regulations. Recognizing the complexity of the allocations pursuant to this Article VI, the Managing Member is authorized to modify these allocations (including by making allocations of gross items of income, gain, loss or deduction rather than allocations of net items) to ensure that they achieve the intended results, to the extent permitted by Section 704(b) of the Code and the Regulations thereunder.

6.03 Tax Allocations.

(a) For U.S. federal income tax purposes, except as otherwise provided in this Section 6.03, each item of income, gain, loss and deduction shall be allocated among the Members in the same manner as its corresponding item of book income, gain, loss or deduction is allocated pursuant to Sections 6.01 and 6.02.

(b) In accordance with Sections 704(b) and 704(c) of the Code and the Regulations thereunder, income, gain, loss and deduction with respect to any Company asset contributed (or deemed contributed) to the capital of the Company shall, solely for U.S. federal income tax purposes, be allocated among the Members so as to take into account any variation between the adjusted basis of such Company asset for U.S. federal income tax purposes and its Book Value upon its contribution (or deemed contribution) using any "method" chosen by the Company Representative in its discretion as permitted by Section 1.704-2 of the Regulations. If the Book Value of any Company asset is adjusted, subsequent allocations of taxable income, gain, loss and deduction with respect to such Company asset shall take account of any variation between the adjusted basis of such Company asset for U.S. federal income tax purposes and the Book Value of such Company asset in the manner prescribed under Sections 704(b) and 704(c) of the Code and the Regulations thereunder.

(c) If a Member acquires an Interest, redeems all or a portion of its Interest or transfers an Interest during a taxable year, the Net Profit or Net Loss (and other items referred to in Sections 6.01 and 6.02) attributable to any such Interest for such taxable year shall be allocated between the transferor and the transferee by closing the books of the Company as of the date of the transfer, or by any other method permitted under Section 706 of the Code and the Regulations thereunder that is selected by the Company Representative.

6.04 Withholding. The Company at all times shall be entitled to make payments with respect to each Member in amounts that the Managing Member determines in its discretion the Company is required by law to withhold or pay to any U.S. federal, state, local or foreign taxing authority ("**Taxing Authority**") with respect to any distribution or allocation of income or

gain to such Member and to withhold (or deduct) legally required amounts from distributions to such Member. Any funds withheld from a distribution by reason of this Section 6.04 shall nonetheless be deemed distributed to the Member in question for all purposes under this Agreement. If the Company makes any payment to a Taxing Authority in respect of a Member hereunder that is not withheld from actual distributions to the Member, then the Member shall reimburse the Company for the amount of such payment, within ten (10) Business Days of written demand therefor. The amount of a Member's reimbursement obligation under this Section 6.04, to the extent not paid, shall bear interest at a rate equal to the lesser of (x) the maximum rate permitted under applicable law and (y) fifteen percent (15%) per annum per annum, compounded quarterly, and shall be deducted from the distributions to such Member; any amounts so deducted shall constitute a repayment of such Member's obligation hereunder and shall be deemed distributed to the Member in question for all purposes under this Agreement. Each Member's reimbursement obligation under this Section 6.04 shall continue after such Member transfers its Interest or after a withdrawal by such Member. Each Member agrees to indemnify and hold harmless the Company and the other Members from and against any liability with respect to taxes, interest or penalties which may be asserted by reason of the failure to deduct and withhold tax on amounts distributable or allocable to such Member. Any amount payable as indemnity under this Section 6.04 by a Member will be paid promptly to the Company, and if not so paid, the Company will be entitled to retain any distributions due to such Member for all such amounts, and such amounts will not be credited to such Member's Capital Account, will not be treated as a contribution of capital and shall be deemed distributed to the Member in question for all purposes under this Agreement. To the extent any Member Specific Taxes arise (other than any Member Specific Taxes subject to the other provisions of this Section 6.04), such Member Specific Taxes shall be treated as an advance of distributions that otherwise would be made pursuant to Section 6.07 to the Member to which such Member Specific Taxes relate, and shall reduce the amount of the next succeeding distribution or distributions that would otherwise have been made to such Member.

6.05 Documentation. Each Member agrees (a) to assist the Company or any Subsidiary thereof in determining the extent of, and in fulfilling, its withholding, reporting or other tax obligations and (b) to furnish the Company or any Subsidiary thereof with any representations, forms or information as shall reasonably be requested by the Company, including where such request is made due to changes in law made after the Effective Date and including forms or information with respect to a Member's direct or indirect beneficial owners, (i) to assist the Company or any Subsidiary thereof in determining the extent of, and in fulfilling, its withholding, reporting or other tax obligations, (ii) as will permit payments or allocations of income made to or by the Company or any Subsidiary thereof to be made without withholding or at a reduced rate of withholding, (iii) in order to reduce the amount of taxes borne by the Company or any Subsidiary thereof or (iv) that the Managing Member deems necessary to ensure compliance with any laws or regulations applicable to the Company or its business. Each Member (A) represents and warrants that any such information and forms furnished by such Member (except with respect to any such information that was provided to such Member, or that is based upon incorrect information that was provided to such Member, by the Company) are and at all times shall be true, correct and complete, (B) agrees to promptly update any such information or forms if at any time the Member becomes aware that such previously provided information or forms are no longer true, correct and complete, upon the expiration, invalidity or obsolescence of any such provided forms or representations, or if requested to do so by the Company, and (C) agrees to indemnify the Company, any Subsidiary thereof and each of the Members on an after-tax basis from any and all damages, costs and expenses resulting from a breach by such Member of the foregoing representation, warranty and/or agreement. In the event of any claimed over-withholding, a Member shall be limited to an action against the Taxing Authority in the applicable jurisdiction.

6.06 Tax Matters.

(a) Company Representation in Tax Matters. The Company Representative shall be permitted to take any and all actions under the BBA Rules, and shall have any and all powers necessary to perform fully in such capacity. In such regard, the authority of the Company Representative shall include, without limitation, the authority to represent the Company before taxing authorities and courts in tax matters affecting the Company and the Members in their capacity as such and the authority to make the election under Section 6226 of the BBA Rules and any similar state and local authority in connection with any audit. The Company Representative shall keep the Members informed of any material administrative and judicial proceedings and any election described in the preceding sentence. Any Member that is in dispute with any tax authority in relation to a matter relating to the Company shall notify the Company Representative within 30 days or as promptly as practicable thereafter following the occurrence of the dispute, and if the Company Representative reasonably determines that the matter is of material relevance to the tax position of the Company, such Member shall consult in good faith with the Company Representative as to how that dispute is to be handled. Any Member that enters into a settlement agreement with respect to any Company item shall notify the Company Representative of such settlement agreement and its terms within 30 days after the date of settlement. Each Member shall provide the Company Representative any tax information reasonably requested (including providing information in connection with Section 743 of the Code) so that the Company Representative can implement the provisions of this Section 6.06(a) (including by making any election permitted hereunder), can file any tax return of the Company, and can conduct any tax audit or similar proceeding of the Company. The provisions of this Section 6.06(a) shall survive any liquidation and dissolution of the Company and any withdrawal by a Member. The Company Representative shall be reimbursed by the Company for any reasonable third party expenses (including, without limitation, reasonable attorneys' fees and expenses) incurred in its capacity as Company Representative.

(b) Company Tax Liability. If any Entity Taxes are imposed on or otherwise payable by the Company (including the Company's share of Entity Taxes imposed on any subsidiaries of the Company), the Company Representative shall allocate among the Members such Entity Taxes in a reasonable manner taking into account any modifications attributable to a Member pursuant to Section 6225(c) of the BBA Rules (if applicable) and any similar state and local authority. To the extent that a portion of the Entity Taxes for a prior year relates to a former Member, the Company may require a former Member to indemnify the Company for its allocable portion of such Entity Taxes. Each Member acknowledges that, notwithstanding the Transfer or redemption of all or any portion of its interest in the Company, pursuant to this Section 6.06(b) it may remain liable for tax liabilities with respect to its allocable share of income and gain of the Company for the Company's taxable years (or portions thereof) prior to such Transfer or redemption pursuant to this Section 6.06(b). The Members acknowledge and agree that the Company Representative shall be permitted to take any actions to avoid Entity Taxes being imposed on the Company or any of its subsidiaries under the BBA Rules.

(c) Tax Elections. At the written request of a Member (and with the consent of the Company Representative), the Company shall make a timely election to adjust the tax basis of the Company's assets under Section 754 of the Code (and any corresponding provision of state and local law) provided that such Member (or its successor in interest) compensates the Company for its reasonable out-of-pocket tax compliance costs resulting from such election. In addition, if the Company Representative reasonably determines that it is necessary for the Company to comply with any tax laws, the Members shall cooperate to provide the Company with all information necessary for compliance with such tax laws. The Company Representative shall have the sole discretion to make any or all other tax elections; *provided*, *however*, *that* no election shall be made for the Company to be excluded from the application of

the provisions of Subchapter K of the Code and no election shall be made for the Company or its Subsidiaries to be treated as a corporation for U.S. federal income tax purposes.

(d) Tax Returns. The Company Representative shall promptly prepare or cause to be prepared, and shall timely file or cause to be timely filed, any tax returns, information returns, applications, elections and other instruments and documents required under applicable tax law to be filed by the Company and/or any of its Subsidiaries at the sole expense of the Company or such Subsidiary, as applicable.

6.07 Distributions.

(a) The amount and timing of distributions of Available Cash to the Members shall be at the discretion of the Managing Member, but generally shall be made quarterly, without any consent of or resolutions from the Members being required. If the Managing Member elects not to make a distribution during any quarter, it shall notify the Members of the grounds therefor as soon as reasonably possible. Subject to Section 4.01(b)(iii) (regarding a distribution of the Initial Project Loan Distribution Amount to the CIM Member), Section 4.01(b)(v) (regarding penalties, forfeitures and/or other remedies that may be imposed on a Defaulting Member), Section 6.07(b) (regarding Tax Distributions) and Section 11.03 (regarding distributions in liquidation), Available Cash shall be distributed, subject to the preceding sentence, as follows: (1) first, to pay all accrued and unpaid interest on any Managing Member Loans, *pro rata* in accordance with the amount of such interest on each such loan then unpaid, (2) second, to pay all outstanding principal on any Managing Member Loans, *pro rata* in accordance with the amount of such principal on each such loan then unpaid, (3) third, to pay all accrued and unpaid interest on any Required Capital Shortfall Loans, *pro rata* in accordance with the amount of such interest on each such loan then unpaid, (4) fourth, to pay all outstanding principal on any Required Capital Shortfall Loans, *pro rata* in accordance with the amount of such principal on each such loan then unpaid, (5) fifth, to pay all accrued and unpaid interest on any Discretionary Capital Shortfall Loans, *pro rata* in accordance with the amount of such interest on each such loan then unpaid, (6) sixth, to pay all outstanding principal on any Discretionary Capital Shortfall Loans, *pro rata* in accordance with the amount of such principal on each such loan then unpaid, and (7) seventh, to the Members *pro rata* in accordance with their respective Distribution Percentage Interests; *provided that* distributions to each Co-Investor Member pursuant to this clause (7) shall be made as follows: (A) first, 100% to such Co-Investor Member until such Co-Investor Member shall have received an IRR of at least the Preferred Return Rate (as defined on Schedule 6) on all of its Invested Capital (as the same may have been adjusted pursuant to Section 4.01(b)), (B) second, (x) the Specified Distribution Percentage to such Co-Investor Member, and (y) the balance to the CIM Member, until such time that the CIM Member has received cumulative distributions pursuant to this clause (B) equal to the Specified Distribution Percentage of the excess of (I) the aggregate amounts distributed and previously distributed to such Co-Investor Member pursuant to clauses (A) and this clause (B) of this Section 6.07(a) over (II) the aggregate Invested Capital of such Co-Investor Member and (C) thereafter, (x) the Specified Distribution Percentage to the CIM Member and (y) the balance to such Co-Investor Member.

(b) If, as of any date, the Aggregate Tax Liability (as defined below) of the CIM Member exceeds the aggregate amounts previously distributed to the CIM Member pursuant to Section 6.07(a) hereof through such date, such excess shall be distributed to the CIM Member from the next amounts otherwise distributable under Section 6.07(a) (each such distribution a "**Tax Distribution**"). Each Tax Distribution shall be treated as an advance of distributions that otherwise would be made to the CIM Member pursuant to Section 6.07(a) hereof. If subsequent distributions to the Co-Investor Members are not sufficient to repay any Tax Distributions made by the Company to the CIM Member which have not been recontributed by the CIM Member then, immediately prior to the dissolution of the Company, the CIM

Member shall recontribute to the Company an amount equal to such deficiency. All amounts recontributed by the CIM Member to the Company pursuant to the immediately preceding sentence shall be distributed to the Members in accordance with Section 6.07(a) hereof. For this purpose, the "**Aggregate Tax Liability**," as of any date, shall mean the product of (x) the sum of all Net Profits allocated to the CIM Member pursuant to Section 6.01 hereof on or prior to such date less the sum of all Net Losses allocated to the CIM Member pursuant to Section 6.01 hereof on or prior to such date multiplied by (y) the Tax Rate. Prior to any date on which the CIM Member is required to make payments of estimated federal, state or local income tax, the CIM Member may timely submit to the Company an estimate made in good faith of any such excess of the Aggregate Tax Liability over the aggregate distributions and be entitled promptly to receive the distribution to which the CIM Member is entitled pursuant to this Section 6.07(b). Each year, within thirty (30) days following the date on which the CIM Member files its annual tax returns, the CIM Member shall calculate its Aggregate Tax Liability for all periods ending on or before the period covered by such tax returns. In the event that the sum of (I) all Tax Distributions received by the CIM Member on or prior to the last day of the period covered by such tax returns that have not previously been repaid by the CIM Member or offset against amounts that would otherwise have been distributed to the CIM Member *plus* (II) all other distributions received by the CIM Member pursuant to Section 6.07(a) hereof on or prior to the last day of the period covered by such tax returns exceeds the amount of the CIM Member's Aggregate Tax Liability for all such prior periods, the CIM Member shall promptly recontribute to the Company, in repayment of Tax Distributions, up to the amount of such excess.

6.08 Fees and Reimbursements.

(a) Property Management Fee. Property Owner shall pay to the Managing Member (or a Controlled Affiliate of CMCT or CIM Group designated by the Managing Member) (in either case, the "**CIM PM**"), for property management services rendered to Property Owner, a monthly property management fee equal to the excess of (x) three percent of the gross revenues from the Property for such month over (y) the fees paid to any third party property manager for such month. In addition, Property Owner shall reimburse the CIM PM for Allocable Costs and Expenses incurred by the CIM PM in connection with the management of the Property. Property Owner and the CIM PM shall be party to a property management agreement in respect of the Project, and the current property management agreement is the Initial PMA/DMA.

(b) Development Fee. Property Owner shall pay to the Managing Member (or a Controlled Affiliate of CMCT or CIM Group designated by the Managing Member) (in either case, the "**CIM DM**") a development management fee (the "**CIM Development Fee**") equal to the excess of (x) four percent of the Gross Development Cost over (y) the fees paid to any third party development manager for such month. The CIM Development Fee shall be payable monthly over the course of development of the Project, as set forth in, and subject to the provisions of, the Initial PMA/DMA. In addition, as set forth in, and subject to the provisions of, the Initial PMA/DMA, Property Owner shall reimburse the CIM DM for Allocable Costs and Expenses incurred by the CIM DM (without fee or mark-up and without duplication of the Allocable Costs and Expenses reimbursed to the CIM PM) in connection with the design and completion of construction and lease-up of the Project.

VII.

MANAGEMENT

7.01 Management; Major Decisions.

(a) The CIM Member shall be the “Managing Member” of the Company. The Managing Member shall manage the day-to-day business and affairs of the Company and its Subsidiaries and may exercise all powers of the Company and do all lawful acts and things as are not prohibited by the Act, the Certificate or this Agreement directed or required to be exercised or done by the Members or with the prior consent or approval of any other Members in their capacity as members of the Company. The Managing Member shall discharge the duties of the Managing Member under the Act, the Certificate and this Agreement without compensation or reimbursement from the Company, except as expressly set forth herein. The CIM Member shall not resign as the Managing Member of the Company without the approval of a Co-Investor Member Majority-in-Interest.

(b) The authority of the Managing Member under this Agreement expressly shall be subject in all respects to the right and authority of a Majority-in-Interest to approve all Major Decisions (as defined in Schedule 6), all of which shall apply equally to the Company and each Subsidiary whether or not so specified.

7.02 Limited Power and Duties of the Members. Except as expressly provided in this Agreement or as expressly required (and cannot be waived) by the Act, no Member (other than the Managing Member) shall have any power to participate in the management of the Company or to make any decisions or take any actions on behalf of the Company or any of its Subsidiaries. Unless expressly and duly authorized in writing to do so by the Managing Member, no other Member, in its capacity as such, shall have any power or authority to bind or act on behalf of the Company in any way, to pledge the Company’s credit or to render the Company liable for any purpose.

7.03 Delegation to Officers. The Managing Member shall be entitled to appoint individuals to serve as officers and directors of the Company and the Subsidiaries, with such powers, including the power to bind the Company and the Subsidiaries, and subject to such limitations, as the Managing Member may from time to time determine (but in no event with any greater authority than that granted to the Managing Member under this Agreement). If granted the power to bind the Company or any Subsidiary, any such officer’s or director’s execution of any agreement on behalf of the Company within the due authority of such officer shall be sufficient to bind the Company for all purposes.

7.04 Other Activities. Each Member hereby acknowledges and agrees that: (i) each other Member (including the Managing Member) and/or its respective members, partners, shareholders, officers, directors, employees, agents, representatives and Affiliates, has or may in the future have other business interests, activities and investments that may directly or indirectly be in conflict or competition with the business of the Company or its Subsidiaries, including the Property; (ii) such other Member and/or its respective members, partners, shareholders, officers, directors, employees, agents, representatives and Affiliates are entitled to carry on such other business interests, activities and investments; and (iii) neither the Company, its Subsidiaries nor the other Members shall have any right, by virtue of this Agreement, in or to such activities, or the income or profits derived therefrom, and the pursuit of such activities, even if competitive with the business of the Company or any of its Subsidiaries (including the Property), shall not be deemed wrongful or improper.

7.05 Fiduciary Duties. The Managing Member shall have the same fiduciary duty, responsibility and obligation to the Company and the other Members, and the same duty of loyalty, care, good faith and fair dealing, as a general partner owes each other partner in a general partnership under the laws of the State of Delaware.

7.06 No Dissolution or Resignation. Except in connection with the dissolution of the Company pursuant to Section 11.01, without the consent of all of the Members, no Member will take any actions, or permit any actions within its control to be taken, that would cause the dissolution of the Company pursuant to the Act. Subject to Section 9.04, no Member will have the right to resign as a Member of the Company.

7.07 Removal of the Managing Member. A Removal Quorum (as defined in Schedule 6) shall have the right to remove the CIM Member as the Managing Member and appoint a replacement Managing Member upon the occurrence of Cause (as defined in Schedule 6). A Co-Investor Member Majority-in-Interest shall exercise the rights set forth in this Section 7.07 by giving written notice thereof to the Managing Member (the "**Removal Notice**"), which Removal Notice shall specify the reason for such removal. Any removal of the Managing Member pursuant to this Section 7.07 shall be effective as of the date which is set forth in such Removal Notice or, if later, the date on which a replacement Managing Member shall have been appointed and, if applicable, admitted to the Company (the later of such dates, the "**Removal Date**"). In the event that the CIM Member is removed as Managing Member pursuant to this Section 7.07, (x) all outstanding Required Capital Shortfall Loans made by the Managing Member, if any, and the accrued and unpaid interest thereon, and (y) any accrued but unpaid Management Fees with respect to any period prior to the Removal Date, shall be paid in full to the CIM Member (or the applicable Affiliate thereof in the case of Management Fees) on the Removal Date. In addition, if the Managing Member is removed pursuant to this Section 7.07, the Co-Investor Members shall collectively purchase for cash the entire "promote interest" of the CIM Member (*i.e.*, the right of the CIM Member to receive distributions pursuant to subclauses (B) and (C) of clause (7) of Section 6.07(a) above) and, at the CIM Member's election, the remainder of the CIM Member's Interest, on the Removal Date for an amount equal to one hundred percent (100%) of the fair market value thereof as of the Removal Date (as determined by the Expert) *minus* the amount of any actual out-of-pocket damages (including diminution in value of the Property but excluding other consequential, special or punitive damages) incurred by the Co-Investor Members to the extent arising out of the act or omission that constituted Cause. The Managing Member and a Co-Investor Member Majority-in-Interest shall collectively instruct the Expert charged with determining the fair market value of the CIM Member's "promote interest" or full Interest (as applicable) under this Section 7.07 in the methodology to be applied in making such determination; *provided*, *however*, *that* in the event the Managing Member and a Co-Investor Member Majority-in-Interest cannot agree on the methodology which the Expert should apply in respect of any valuation, the Expert shall apply the methodology that it determines is appropriate, taking into consideration the methodologies suggested by the Managing Member and a Co-Investor Member Majority-in-Interest. Any valuation produced by an Expert shall be binding on the Members. The cost of any such valuation shall be borne by the CIM Member.

VIII.

BOOKS AND RECORDS, INFORMATION AND CERTAIN OTHER MATTERS

8.01 Books and Records.

(a) The Managing Member shall maintain or cause to be maintained the books and records of the Company. Each Member or its duly authorized representative, at such Member's own expense and upon reasonable (but not less than ten (10) Business Days')

advance written notice to the Managing Member, shall have reasonable access to such books and records at the Company's office during regular business hours, and the right to inspect and examine such books and records. There will be no commingling of funds or assets of the Company with the funds or assets of any other Person.

8.02 Accounting and Fiscal Year. The books of the Company shall be kept in accordance with GAAP, and the Company shall report its operations for tax purposes on the accrual method of accounting. The taxable year of the Company shall begin on January 1st and end on December 31st of each year (the "**Fiscal Year**"), unless a different taxable year shall be required by the Code or selected by the Managing Member (and the Managing Member shall promptly notify the other Members of any such adjustment).

8.03 Financial Statements and Reports. (a) The Managing Member shall cause the following financial statements and documentation to be delivered to each Member at the time and in the form and manner referenced below:

(i) audited statements of financial position (balance sheet) of the Company as of the close of each Fiscal Year of the Company, a statement of the net income or net loss for such year and of revenues, receipts, expenses and retained earnings, changes in financial position and cash flows for such Fiscal Year; and

(ii) on a quarterly basis (except, with respect to the Company only, for the last quarter of each Fiscal Year), unaudited statements of financial position of the Company and Property Owner as of the close of the preceding quarter of the Fiscal Year of the Company and Property Owner and a statement of the net income or net loss for such quarter.

The Managing Member shall use commercially reasonable efforts to cause (A) the statements referred to in clause (i) of this Section 8.03 to be delivered to the Members within ninety (90) days after the last day of each Fiscal Year of the Company, and (B) the statements referred to in clause (ii) of this Section 8.03 to be delivered to the Members within sixty (60) days after the last day of each of the first three quarters during each Fiscal Year.

8.04 The Company Accountant. The auditor and regular accountant for the Company shall be designated by the Managing Member. The fees and expenses of such accountant shall be a Company expense.

1.01 1, Approved Business Plan. Subject to clause (i) of the definition of "Major Decisions" on Schedule 6, the Managing Member may amend the Approved Business Plan from time to time in its sole discretion. The Managing Member shall provide the Co-Investor Members with written notice of any material amendment to the Approved Business Plan (it being agreed that such notice requirement shall not derogate from clause (i) of the definition of "Major Decisions" on Schedule 6).

IX.

TRANSFER OF INTERESTS

9.01 No Transfer. No Interest (or any portion thereof) may be Transferred except with the prior written consent of the CIM Member (in the case of a Co-Investor Member) or a Co-Investor Member Majority-in-Interest (in the case of the CIM Member), which consent in the case of a proposed Transfer by a Co-Investor Member shall not be unreasonably withheld by the CIM Member (unless the proposed transferee is a competitor of CMCT, the CIM Member or any of their respective Affiliates (as determined by the CIM Member in its sole but good faith discretion), in which case the CIM Member may withhold its consent in its sole discretion);

provided, *however*, that, subject to Section 9.02, (A) each Member shall be entitled without the consent of the other Members to make the following Transfers: if the proposed transferor is a natural Person, (i) to a trust for the benefit of any immediate family member (father, mother, sister, brother, son, daughter, grandson and/or granddaughter) with respect to the proposed transferor or (ii) by succession or testamentary disposition upon his death; (B) the CIM Member shall be entitled without the consent of any other Member to make the following Transfers at any time or from time to time: (i) subject to clause (ix) of the definition of "Major Decisions" on Schedule 6, any Transfer(s) of any portion(s) of the Interest of the CIM Member (including all or any portion of the direct or indirect interests in the CIM Member) at any time or from time to time; (C) if any Co-Investor Member or any direct or indirect member thereof is a pension fund, then any change in the beneficiaries or trustee(s) of such Co-Investor Member or member or transfers of direct and indirect interests in any such beneficiaries or trustee(s) is permitted without the consent of any other Member (but on at least ten (10) days' prior written notice to the other Members in the case of any change in the trustee(s)); and (D) any direct or indirect owner of a Co-Investor Member may transfer or assign (but not pledge, hypothecate or encumber) its direct or indirect interest in such Co-Investor Member to a Controlled Affiliate thereof without the consent of any other Member (but on at least ten (10) days' prior written notice to the other Members). Notwithstanding anything to the contrary contained herein, in the event of any Transfer of any portion(s) of the Interests held by the CIM Member to any of its Affiliates, each of the CIM Member and such Affiliate shall be jointly and severally liable for any breach of the CIM Member's or such Affiliate's (as the case may be) duties and obligations under this Agreement. Any Transfer not in compliance with this Article IX shall be null and void *ab initio*.

9.02 Transferees; Limitations on Transfer.

(a) Notwithstanding anything to the contrary contained in this Agreement, no Member shall be permitted to Transfer all or any portion of its Interest to the extent such Transfer would violate any applicable law, cause the Company to fail to be treated as a partnership for U.S. federal income tax purposes, cause the Company to be treated as a publicly traded partnership for U.S. federal income tax purposes or cause all or any portion of the assets of the Company to constitute "plan assets" under ERISA or the Code; and no transferee of all or any portion of any Interest shall be admitted as a substitute Member unless (i) such Interest is transferred in compliance with the applicable provisions of this Agreement, and (ii) such transferee shall have executed and delivered to the Company such instruments as the Managing Member determines in its discretion are necessary or desirable to effectuate the admission of such transferee as a Member and to confirm the agreement of such transferee to be bound by all the terms, conditions and provisions of this Agreement with respect to such Interest. As promptly as practicable after the admission of any Person as a Member, the books and records of the Company shall be changed to reflect such admission. All reasonable costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) incurred by the Company in connection with any Transfer of any Interest and, if applicable, the admission of any transferee as a Member shall be paid by such transferee.

(b) Notwithstanding anything to the contrary contained herein, any purported Transfer that, if effective, would not comply with all (i) applicable federal, state or foreign law regulating securities (including, without limitation, the Securities Act or any other Securities Laws), or would require the registration of any securities under any of the foregoing, or (ii) applicable laws, rules and regulations and other requirements of Governmental Authorities, including, without limitation, Executive Order 13224 (September 23, 2001), the rules and regulations of the Office of Foreign Assets Control, Department of Treasury, and any enabling legislation or other Executive Orders in respect thereof, shall be void *ab initio* as to the Transfer of those Interests that would cause such violation, and the intended transferee shall acquire no rights in such Interests.

(c) Notwithstanding anything to the contrary contained herein, nothing herein shall restrict the direct or indirect transfer of any shares or other securities issued by any Person whose shares or other securities are publicly listed on any securities exchange (including transfers of shares or other securities issued by Taisei Corporation on the Tokyo Stock Exchange) and any such transfers shall not be subject to the provisions of this Section IX.

9.03 Admission of Additional Members. Notwithstanding anything to the contrary contained herein, at any time (and from time to time) after the Effective Date, the Managing Member may, in connection with transfers of Interests (or portions thereof) or in order to obtain contributions of cash and/or property (or the commitment by any Person to contribute to the Company cash and/or property) which the Managing Member determines is necessary to pay current or future Company Cash Needs (and the Managing Member has determined in good faith that current and future Available Cash, the reserves of the Company and the Subsidiaries, remaining Commitment Amounts and future expected financing proceeds are not and will not be sufficient to satisfy such Company Cash Needs), cause the Company to issue Interests to and admit as a Member any Person. Notwithstanding the preceding sentence, prior to the Managing Member so admitting a Person as a Member in accordance with the preceding sentence in order to obtain additional Capital Contributions or Commitment Amounts, the Company shall offer each Member an opportunity to make Capital Contributions or increase its Commitment Amount, as applicable, by its *pro rata* share of such additional Capital Contributions or Commitment Amounts (which share shall be determined based on the relative Percentage Interests of the Members at the time of the offer) (a "**Preemptive Right**"). In the event any Member does not elect to increase its Commitment Amount or make the additional Capital Contributions, the Company will offer each participating Member another opportunity to increase its Commitment Amount or make additional Capital Contributions by an amount equal to its pro rata share of such remaining Commitment Amount or Capital Contributions (which share shall be determined based on the Percentage Interests of the Members at the time of such offer (taking into account the prior election to increase its Commitment Amount or make additional Capital Contributions)). The Company shall make each such offer by written notice to such Co-Investor Member, which notice shall include the amount of such additional Capital Contributions or Commitment Amounts and such Member's *pro rata* share thereof. Each Co-Investor Member shall have fifteen (15) Business Days from the date of delivery of such notice (or such later date as may be specified in such notice) to accept such offer and may accept such offer for all or a portion of its *pro rata* share of such additional Capital Contributions or Commitment Amounts. The Managing Member shall be authorized on behalf of each of the Members to unilaterally amend this Agreement in accordance with Section 13.14 to reflect the admission, transfer or withdrawal of any Member in accordance with the provisions of this Article IX, and the Managing Member shall promptly deliver a copy of such amendment to the other Members. The Members hereby irrevocably appoint the Managing Member as their attorney-in-fact, coupled with an interest, solely for the purpose of executing and delivering such documents, and taking such actions, as shall be reasonably necessary in connection with the provisions of this Article IX or making any modification to this Agreement permitted by Section 13.14. Any additional or transferee/substitute Member admitted to the Company shall execute and deliver documentation in form satisfactory to the Managing Member in its discretion accepting and agreeing to be bound by this Agreement, and such other documentation as the Managing Member shall require in order to effect such Person's admission as an additional or transferee/substitute Member.

9.04 Withdrawal. No Member has the right to withdraw from the Company, except (i) upon transfer of a Member's entire interest in the Company and the admission of the transferee as a substituted Member in compliance with the terms of this Agreement, or (ii) as otherwise may be approved by all then-Members.

X.

EXCULPATION AND INDEMNIFICATION

10.1 Exculpation; Indemnification.

(a) No Member or any predecessor, successor or Affiliate of such Member or any member, principal, partner, shareholder, beneficial owner, controlling person, officer, director, agent or employee of any of the aforesaid Persons (each Member, collectively with such respective Persons, an "**Indemnifying Member**") shall have any liability to the Company or to any other Member for any loss suffered by the Company or any other Member unless such loss arises out of the willful misconduct or fraud of such Indemnifying Member or the willful breach by such Indemnifying Member of any provision of or limitation of authority contained in this Agreement; *provided*, *however*, that this Section 10.01(a) shall not limit, restrict or otherwise affect the rights or obligations of a Member (or any predecessor, successor or Affiliate of such Member or any member, principal, partner, shareholder, beneficial owner, controlling person, officer, director, agent or employee of any of the aforesaid Persons) under this Agreement (including, for the avoidance of doubt, Section 12.01) or any other agreement to which it is a party.

(b) The Company shall indemnify, defend and hold harmless each Member and/or its Affiliates, and any of their respective officers, directors, shareholders, beneficial owners, principals, partners, members, controlling persons, employees or agents and each officer of the Company (each Member, collectively with such respective Persons, an "**Indemnitee**") from and against any and all claims or liabilities of any nature whatsoever, including, without limitation, reasonable attorneys' fees and disbursements, arising out of or in connection with the business of the Company, including, without limitation, any action (excluding any Transfer by a Member of all or any portion of its Interest or by any other Person of any direct or indirect beneficial ownership interest in any Member) taken or omitted by it pursuant to the authority granted by this Agreement; *provided*, *however*, that no indemnification may be made to or on behalf of any Indemnitee if such Indemnitee's acts in connection with such claim for indemnification constituted willful misconduct or fraud or a willful breach of any provision of or limitation of authority contained in this Agreement or the subject instrument by such Indemnitee; and *provided*, *further*, that no indemnification shall be made in respect of claims or liabilities to the extent an Indemnitee has already recovered pursuant to any other agreement or insurance policy to which such an Indemnitee is a party. Expenses (including reasonable attorneys' fees and disbursements) incurred by an Indemnitee in defending any actual or threatened claim, demand, action, suit or proceeding shall, from time to time, be advanced by the Company prior to the final disposition of such claim, demand, action, suit or proceeding upon receipt by the Company of an undertaking by or on behalf of the Indemnitee to repay such amounts if it is ultimately determined that such Indemnitee is not entitled to indemnification under this Section 10.01(b) with respect thereto. Notwithstanding the foregoing, the Indemnitee shall not be entitled to indemnification with respect to any amount paid in settlement if the settlement was effected without the prior written consent of the Managing Member, which shall not be unreasonably withheld. Any indemnity under this Section 10.01(b) will only be provided first out of the proceeds of insurance carried by the Managing Member, the Company or any Subsidiary and then, to the extent that such proceeds are insufficient to satisfy this indemnity, out of and to the extent of the assets of the Company only, and no Member will have personal liability on account thereof (other than (subject to Section 4.01(c)) pursuant to Section 4.01(b)).

(c) The provisions of this Section 10.01 are for the benefit of each of the Members and shall be enforceable by each of them and shall survive any liquidation and dissolution of the Company and any withdrawal by a Member.

(d) No direct or indirect member, principal, partner, shareholder, beneficial owner or controlling person in or of any Member (and no officer, director, employee or agent of such Member) shall have any personal liability under this Agreement.

10.2 Exculpation/Member Indemnification. Except as described in Section 10.01 or as otherwise provided herein, no Member shall be liable to any other Member or the Company for (i) any act or omission performed or omitted in good faith, or (ii) the negligence, dishonesty or bad faith of any agent, consultant or broker of the Company selected, engaged or retained by the Company in good faith.

XI.

DISSOLUTION AND TERMINATION

11.01 Dissolution. The Company shall be dissolved upon the first of the following events to occur: (i) the written agreement of all the Members, (ii) entry of a judicial decree under the Act, (iii) the happening of any event that makes it unlawful for the Company business to be continued, (iv) the sale of all or substantially all of the assets of the Company (and the Subsidiaries) and the collection of all of the proceeds of such sale, and (v) the occurrence of any event under the Act that dissolves the Company.

11.02 Bankruptcy or Dissolution of a Member. Notwithstanding any other provision of this Agreement, the Bankruptcy Action, death, retirement, resignation, expulsion or dissolution of any Member or the occurrence of any other event that terminates the continued membership of a Member shall not cause the Company to dissolve, and the Company shall continue without dissolution; provided that, if applicable, the legal representative who shall succeed to the rights of such Member to receive distributions from the Company and allocations of income, gain, loss, deduction and credit shall not have the right to become a substitute Member in the place of such Member, and shall not have any control or the power to vote with respect to any Company decision, without the approval of all Members.

11.03 Procedures.

(a) Upon the dissolution of the Company, the Managing Member or the person required by law to wind up the Company's affairs (the Managing Member or such other person being referred to herein as the "**Liquidating Agent**") shall commence to wind up the affairs of the Company as expeditiously as business circumstances allow and proceed within a reasonable period of time to sell or otherwise liquidate its assets (*provided*, *however*, that in the event that the Liquidating Agent shall, in its discretion, determine that a sale or other disposition of part or all of the Company assets would cause undue loss to the Members or otherwise be impractical, the Liquidating Agent may defer liquidation of any such Company assets and withhold distributions relating thereto for a reasonable time), and shall apply the proceeds of such sale and the remaining Company assets in the following order of priority:

(i) Payment of creditors in satisfaction of liabilities of the Company, other than liabilities for distributions to Members;

(ii) To establish any reserves that the Managing Member determines in its discretion are necessary for liabilities and obligations of the Company and the Subsidiaries (including contingent or unforeseen liabilities and obligations), such reserves to be held until the expiration of such period as the Managing Member deems advisable; and

(iii) Thereafter to the Members in the same manner as distributions under Section 6.07(a).

(b) In connection with the winding up and dissolution of the Company, the Liquidating Agent will have all of the rights and powers with respect to the assets and liabilities of the Company that the Managing Member would have pursuant to the Act or any other legal requirements.

11.04 No Recourse to Assets of Members. Each Member shall look solely to the assets of the Company for the return of its Capital Contributions. If the assets of the Company remaining after the payment or discharge of the debts and liabilities of the Company and the Subsidiaries are insufficient to return the Capital Contributions of one or more Members, such Member or Members shall have no recourse against any other Member or against any Affiliate of any other Member.

11.05 Termination of the Company. Upon the completion of the liquidation of the Company and the distribution of all assets of the Company and other funds, the Company and this Agreement will terminate and the Liquidating Agent will have the authority to take or cause to be taken such actions as are necessary or reasonable in order to obtain a certificate of dissolution of the Company as well as any and all other documents required by the Act or any other legal requirements to effectuate the dissolution and termination of the Company.

XII.

REPRESENTATIONS AND WARRANTIES

12.01 Representations and Warranties of the Members.

(a) Each Member represents and warrants (and, as set forth in clauses (vi) and (vii) below, covenants) to the Company and to each other Member as follows:

(i) Such Member has all the requisite power and authority to enter into this Agreement and to consummate the transactions contemplated hereby. The execution and delivery of this Agreement by such Member, and the consummation of the transactions contemplated hereby, does not conflict with or contravene the provisions of its organizational documents or any agreement or instrument by which it or its properties are bound or any law, rule, regulation, order or decree to which it or its properties are subject.

(ii) All acts and other proceedings required to be taken by such Member to authorize the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby have been duly and properly taken.

(iii) This Agreement has been duly executed and delivered by such Member and constitutes the legal, valid and binding obligation of such Member, enforceable against such Member in accordance with its terms, except as may be limited by the Bankruptcy Act, insolvency and other similar laws and general equitable principles.

(iv) Such Member has obtained all approvals and consents required to be obtained by it in connection with the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby from all Governmental Authorities having any approval rights with respect thereto, and all persons having consent rights.

(v) Such Member is duly organized, validly existing and in good standing under the laws of its jurisdiction of formation with all requisite power and authority to enter into this Agreement and perform its obligations hereunder.

(vi) Such Member shall comply in all material respects with, to the extent applicable, the Bank Secrecy Act, as amended by Section 352 of the USA PATRIOT Act. Such Member is subject to an anti-money laundering program reasonably designed to comply with such laws that include: (1) Anti-Money Laundering / "Know Your Customer" and "Enhanced Due Diligence" policies and procedures; (2) the designation of an Anti-Money Laundering Compliance Officer; (3) a Customer Identification Program reasonably designed to meet the requirements of applicable law and regulations; (4) reporting of suspicious activity to government authorities in accordance with applicable law and regulation; (5) anti-money laundering training of appropriate employees; (6) independent testing for compliance with such anti-money laundering program and applicable laws and regulations; (7) enhanced scrutiny with respect to accounts held for senior political figures (as defined and set forth under Section 312 of the USA PATRIOT Act) reasonably designed to detect and report transactions that may involve proceeds of foreign corruption; and (8) policies and procedures reasonably designed to achieve compliance with economic sanctions administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury.

(vii) At all times, neither such Member, nor its officers, directors, direct investors nor, to such Member's knowledge, indirect investors of such Member, will be a Prohibited Person for so long as such Member remains a Member.

(viii) Such Member understands the risks of, and other considerations relating to, its acquisition of its Interest and, by reason of its business and financial experience, together with the business and financial experience of those persons, if any, retained by it to represent or advise it with respect to its investment in the Company, (A) has such knowledge, sophistication and experience in financial and business matters and in making investment decisions of this type that it is capable of evaluating the merits and risks of an investment in the Company and of making an informed investment decision, (B) is capable of protecting its own interest or has engaged representatives or advisors to assist it in protecting its interests and (C) is capable of bearing the economic risk of such investment.

(ix) Such Member (A) has consulted appropriate independent tax advisors and has been or is fully informed as to any relevant tax considerations relating to the specific circumstances of such Member arising out of the purchase and ownership of an interest in the Company, (B) has not relied or is not relying on any information (including any tax information) provided by the CIM Member or the Company or any of its or their Affiliates in making a decision as to whether to make an investment in the Company and (C) is making the decision to become a Member relying solely upon, subject to the terms of Section 13.10 hereof, (1) this Agreement and (2) any independent investigations made by such Member.

(b) Each Co-Investor Member represents, warrants and covenants to the CIM Member that:

(i) No portion of the assets used by such Co-Investor Member in connection with the acquisition and holding of its interest in the Company, or otherwise in connection with the transactions contemplated hereunder, constitute, or will at any time during the term of the Company constitute, "plan assets" under the Plan Asset Regulation of any "benefit plan investor" (within the meaning of the Plan Asset Regulation).

(ii) Such Co-Investor Member is acquiring its interest in the Company for investment, solely for its own account, with the intention of holding such interest for investment and not with a view to, or for resale in connection with, any distribution or public offering or resale of any portion of such interest within the meaning of the Securities Act of 1933 as amended from time to time (the "**Securities Act**") or any other applicable federal or state securities law, rule or regulation ("**Securities Laws**").

(iii) Such Co-Investor Member acknowledges that it is aware that its interest in the Company has not been registered under the Securities Act or under any other Securities Law in reliance upon exemptions contained therein. Such Co-Investor Member understands and acknowledges that its representations and warranties contained herein are being relied upon by the Company and the Managing Member and the constituent owners of each of the foregoing as the basis for exemption of the issuance of interest in the Company from registration requirements of the Securities Act and other Securities Laws. Such Co-Investor Member acknowledges that the Company will not have and has no obligation to register any Interest in the Company under the Securities Act or other Securities Laws.

(iv) Such Co-Investor Member and each investor in such Co-Investor Member (a) has had an opportunity to (1) ask questions of and receive answers concerning the terms and conditions hereof and the business of the Company and (2) obtain any additional information concerning the Company and any related material to the extent the Company possesses such information or can acquire it without unreasonable effort or expense, and all such questions, if asked, have been answered satisfactorily and all such documents, if examined, have been found to be fully satisfactory, (b) is an "Accredited Investor" within the meaning of Rule 501(a) of Regulation D under the Securities Act, (c) is a "qualified purchaser," as defined in Section 2(a)(51)(A) of the Investment Company Act of 1940, as amended, and the related rules promulgated thereunder, (d) is not investing as a result of, and did not hear or read of the opportunity to so invest through, any form of general solicitation or general advertising by the Company or any other person acting on its behalf, including, without limitation, (1) any advertisement, article, notice or other communication published in any newspaper, magazine or similar medium or broadcast on television or radio or (2) any seminar or meeting whose attendees were invited by general solicitation or general advertising or as a result of, subsequent to or pursuant to any of the foregoing, and (e) is making the decision to become a Co-Investor Member or to become such an investor, as applicable, relying solely upon (1) this Agreement, (2) the organizational documents of the Subsidiaries of the Company and (3) any independent investigations made by such Person.

(c) The CIM Member represents, warrants and covenants to each of the Co-Investor Members that, assuming that the representation of each Co-Investor Member set forth in Section 12.01(b) above is true and correct, the assets of the Company do not, and will not during the term of the Company, constitute "plan assets" under the Plan Asset Regulation.

(d) The CIM Member represents and warrants to the Company and each of the Co-Investor Members that, as of the Effective Date, the Specified Representations (as defined in Schedule 6) are true and correct.

(e) Each Member agrees to indemnify and hold harmless the Company, the other Members and their respective Affiliates, officers, directors, shareholders, principals, partners, members, controlling persons, employees, agents, successors and assigns from and against any and all claims, demands, loss, damage, liability, cost or expense (including reasonable attorneys' fees) which they may incur by reason of, or in connection with, any breach of the foregoing representations and warranties by such Member, and all such representations and warranties shall survive the execution and delivery of this Agreement and the termination and dissolution of any Member and/or the Company. However, for the avoidance of doubt, except to the extent any of the foregoing representations or warranties expressly includes a covenant to be maintained through a future date, each of the foregoing representations and warranties in this Article XII is made only as of the Effective Date and not as of any future date.

(f) In addition to and without limiting the CIM Member's obligations under Section 12.01(e) and notwithstanding anything to the contrary contained herein, the CIM Member agrees to indemnify and hold harmless the Company, the Property Owner, the other

Members and their respective Affiliates, officers, directors, shareholders, principals, partners, members, controlling persons, employees, agents, successors and assigns from and against any and all claims, demands, losses, damages, Liabilities, costs or expenses (including reasonable attorneys' fees) that arise out of and are attributable to the period prior to February 17, 2023 (excluding, in each case, Liabilities incurred prior to February 17, 2023 that were related to the Project and that are consistent with the Approved Business Plan).

XIII.

MISCELLANEOUS

13.01 Expenses. The Company (or applicable Subsidiary) shall be responsible for, and shall pay (or if paid by a Member or its Affiliates, reimburse such Member for), all reasonable, out-of-pocket fees, costs and expenses incurred in connection with the business and operations of the Company and the Subsidiaries (including Allocable Costs and Expenses of the Managing Member and its Affiliates and any expenses incurred in connection with the development of the Project prior to the Effective Date that are set forth in the Approved Business Plan). The Company shall be responsible for, and shall pay (or if paid by a Member or its Affiliates, reimburse such Member for), all third-party, out-of-pocket fees, costs and expenses incurred by the Members in connection with the transactions contemplated by this Agreement, including, without limitation, the structuring and formation of the Company, the drafting and negotiation of this Agreement and the performance of any obligations of the Company hereunder.

13.02 Notices. Unless otherwise expressly provided herein, all notices, requests, demands, offers, claims and other communications provided for under the terms of this Agreement shall be in writing. Any notice, request, demand, offer, claim or other communication hereunder shall be sent by (i) personal delivery (including receipted courier service) or overnight delivery service, with confirmation of receipt, (ii) e-mail or facsimile, with confirmation of receipt, to the address or number indicated, providing that a confirming copy is simultaneously sent by overnight delivery service, or (iii) reputable commercial overnight delivery service courier, with confirmation of receipt, and addressed to the intended recipient as set forth below:

If to the Company or
the CIM Member: For Legal Matters:

4700 Wilshire Boulevard
Los Angeles, California 90010
Attention: General Counsel (4750 Wilshire Co-Invest)
Fax No.: (323) 860-4901
E-mail: generalcounsel@cimgroup.com

For Operational and Other Matters:

4700 Wilshire Boulevard
Los Angeles, California 90010
Attention: David Thompson / Steve Altebrando (4750 Wilshire)
E-mail: dthompson@cimgroup.com; saltebrando@cimgroup.com

with a copy to: Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas
New York, New York 10019-6064
Attention: Harris B. Freidus, Esq.
Fax No.: (212) 492-0064
E-mail: hfreidus@paulweiss.com

If to the K-Co-Investor Member: Kanden Realty & Development America LLC
6060 Center Drive, 8th Floor Suite 810, Los Angeles, California 90045
Name: Masanao Morita
E-mail: m.morita@kanden-rd.co.jp

If to the TA-Co-Investor Member: Taisei USA LLC
1-25-1 Nishi Shinjuku, Shinjuku-ku, Tokyo, Japan 163-0606
Attention: Katsunori Tamura
Fax No. 81-3-3344-3527

If to the TO-Co-Investor Member: c/o CIM Group, LLC
4700 Wilshire Boulevard
Los Angeles, California 90010
Attention: General Counsel (4750 Wilshire Co-Invest)
Fax No.: (323) 860-4901
E-mail: generalcounsel@cimgroup.com

with a copy to: Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas
New York, New York 10019-6064
Attention: Harris B. Freidus, Esq.
Fax No.: (212) 492-0064
E-mail: hfreidus@paulweiss.com

All such notices, requests, consents and other communications shall be deemed to have been given upon the sooner to occur of (A) if during normal business hours (which shall be, with respect to the CIM Member, business hours in Los Angeles, California, and, with respect to each Co-Investor Member, business hours in Tokyo, Japan), when received or refused, or (B) one (1) Business Day after sending. Any Member may change its e-mail address, facsimile number or its address to which notices, requests, demands, claims and other communications hereunder are to be delivered by giving the other parties hereto notice in the manner then set forth. Legal counsel for any party may send notices, requests, consents and other communications on behalf of its respective party.

Unless another time period is established under this Agreement for the act specified, each of the Co-Investor Members shall respond to a request for approval or consent within ten (10) Business Days after written request therefor by the Managing Member, and if a Co-Investor Member fails to respond within such ten (10) Business Day period, then such Co-Investor Member shall be deemed to have elected to approve or consent to the Managing Member's request; *provided, that*, notwithstanding the other provisions of this Section 13.02, a Co-Investor Member shall be deemed to have responded if it sends an e-mail response (it being agreed that a Co-Investor Member shall be deemed to have responded even if such Co-Investor Member responds that it needs more time or information in order to make a decision) to the e-mail address of the CIM Member set forth above, and it shall not be necessary for the CIM Member to confirm receipt of

such e-mail or for the Co-Investor Member to send a confirming copy simultaneously by overnight delivery service in order for such response to be validly given.

13.03 Further Assurances. Each Member agrees to execute, acknowledge, deliver, file, record and publish such further instruments and documents, and do all such other acts and things, as may be required by law or as may be required to carry out the intent and purposes of this Agreement.

13.04 Captions. All titles or captions contained in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit, extend, or describe the scope of this Agreement or the intent of any provision in this Agreement.

13.05 Interpretation. Each Member acknowledges that it has been represented by legal counsel in the negotiation and delivery of this Agreement, and accordingly agrees that this Agreement shall be interpreted and construed in accordance with its plain meaning and without reliance upon, or implication, inference or assumption arising from, the fact that this Agreement may have been drafted, in whole or in part, for or on behalf of any party hereto.

13.06 Successors and Assigns. This Agreement shall be binding upon the parties hereto and their respective executors, administrators, legal representatives, heirs, successors and permitted assigns, and shall inure to the benefit of the parties hereto and, except as otherwise expressly provided in this Agreement, their respective executors, administrators, legal representatives, heirs, successors and permitted assigns.

13.07 Extension Not a Waiver. Except as expressly provided herein, no delay or omission in the exercise of any power, remedy or right herein provided or otherwise available to a Member or the Company shall impair or affect the right of such Member or the Company thereafter to exercise the same. Any extension of time or other indulgence granted to a Member hereunder shall not otherwise alter or affect any power, remedy or right of any other Member or of the Company, or the obligations of the Member to whom such extension or indulgence is granted.

13.08 No Third Party Rights. Except as expressly provided herein or in the Act, this Agreement is for the sole benefit of the Members and their respective permitted successors and assigns, and shall not confer directly, indirectly, contingently, or otherwise, any rights or benefits on any Person or party other than the Members and their permitted successors and assigns.

13.09 Severability. In case any one or more of the provisions contained in this Agreement or any application thereof shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and other application thereof shall not in any way be affected or impaired thereby.

13.10 Entire Agreement. IT IS ACKNOWLEDGED AND AGREED THAT ALL UNDERSTANDINGS AND AGREEMENTS HERETOFORE HAD BETWEEN THE PARTIES HERETO WITH RESPECT TO THE TRANSACTIONS CONTEMPLATED HEREIN, ARE HEREBY MERGED IN THIS AGREEMENT, WHICH ALONE FULLY AND COMPLETELY EXPRESS THEIR ENTIRE AGREEMENT AND SUPERSEDES ALL PRIOR REPRESENTATIONS, AGREEMENTS AND UNDERSTANDINGS (INCLUDING ANY PRIOR COURSE OF DEALINGS), BOTH WRITTEN AND ORAL, EXPRESS AND IMPLIED, AMONG THE PARTIES HERETO WITH RESPECT TO THE SUBJECT MATTER HEREOF. NOTWITHSTANDING THE FOREGOING OR ANY OTHER PROVISION HEREOF, IT IS ACKNOWLEDGED AND AGREED THAT THE MANAGING MEMBER AND/OR THE COMPANY MAY HAVE ENTERED, AND/OR MAY

HEREAFTER ENTER, INTO OTHER WRITTEN AGREEMENTS WITH CO-INVESTOR MEMBERS AFFECTING THE TERMS HEREOF AND/OR THE TERMS OF SUCH CO-INVESTOR MEMBER(S)' SUBSCRIPTION AGREEMENTS IN ORDER TO MEET CERTAIN REQUIREMENTS OF SUCH CO-INVESTOR MEMBER(S) OR TO INDUCE SUCH PERSONS TO ACQUIRE INTERESTS. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, NOTHING HEREIN SHALL RELIEVE ANY PARTY FROM LIABILITY FOR BREACH OF ANY PROVISION OF THAT CERTAIN AMENDED AND RESTATED LIMITED LIABILITY COMPANY OPERATING AGREEMENT OF THE PROPERTY OWNER DATED FEBRUARY 17, 2023 (THE "**PROPERTY OWNER PRIOR LLCA**") PRIOR TO THE EFFECTIVE DATE HEREOF.

13.11 Counterparts.

(a) This Agreement and any amendment hereto may be signed in any number of counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one agreement (or amendment, as applicable).

(b) The exchange of counterparts of this Agreement among the parties by means of facsimile transmission or by electronic email transmission (*e.g.*, pdf) that shall contain authentic reproductions shall constitute a valid exchange of this Agreement and shall be binding upon the parties hereto.

13.12 Survival. It is the express intention and agreement of the Members that all covenants, agreements, statements, representations, warranties and indemnities made in this Agreement shall survive the execution and delivery of this Agreement.

13.13 Governing Law. This Agreement shall be governed by and construed both as to validity and enforceability in accordance with the laws of the State of Delaware, without regard to the conflict of laws provisions thereof. Each Member agrees to submit to the jurisdiction of any state or federal court sitting in New York County in the State of New York in any action, suit or proceeding (including any counterclaims) (each an "**Action**") arising out of or relating to this Agreement and/or such Member's ownership of an interest in the Company. Each Member hereby unconditionally and irrevocably agrees (a) that all claims in respect of any Action may be heard and determined in any such court, (b) not to bring any Action in any other court and (c) that nothing in this Agreement or otherwise shall affect any right that the Company may otherwise have to bring an Action against such Member in the courts of any jurisdiction. Each Member agrees that a final non-appealable judgment in any Action so brought will be conclusive and may be enforced by action on the judgment in any court of competent jurisdiction or in any other manner provided at law or in equity. Each Member hereby irrevocably and unconditionally waives any defense of inconvenient forum or lack of personal jurisdiction or forum to the maintenance of any Action so brought and any right of jurisdiction or venue on account of the place of residence or domicile of any party thereto.

13.14 Binding Effect; Amendments. This Agreement shall not become a binding obligation upon any Member unless and until the same has been fully executed by the CIM Member and such Member. This Agreement and any provision hereof shall be amended or modified from time to time only by a written instrument executed by all of the Members; *provided*, *however*, that the Managing Member shall have the right to unilaterally amend and modify this Agreement (including amendments described in the next sentence and amendments to reflect the admission or withdrawal of a Member pursuant to Article IX, and the terms of such new Member's Interest (or the remaining Member(s)'s adjusted Interests, as the case may be) and investment in the Company); *provided further*, *however*, that any such amendment or other modification that (w) would require a Member to make Capital Contributions in excess of its Commitment Amount or require a Member to provide a loan to the Company or any Subsidiary

thereof or a guaranty or security for any loan to the Company or any Subsidiary thereof, (x) would have a disproportionately adverse economic effect on a Member (not taking into account any assets of the Members other than their respective Interests in the Company), (y) increases the obligations or liabilities of a Co-Investor Member hereunder (other than to a de minimis extent) and/or (z) eliminates or materially reduces a Co-Investor Member's non-economic rights or interests hereunder, must be approved by such Member (it being understood that the pro rata "dilution" of such Member (based on the Commitment Amount of such Member in comparison to the Commitment Amounts of all other then-existing Members) pursuant to a new Member's admission, Commitment Amount or capital contributions shall not require Co-Investor Member approval pursuant to this sentence). In addition, in the event of any adjustment of any Member(s)'s Distribution Percentage Interests or Percentage Interests pursuant to the terms of this Agreement, the Managing Member may unilaterally amend this Agreement to reflect the new Distribution Percentage Interests and/or Percentage Interests, as applicable, by delivery of written notice thereof to the other Members. Any such amendment shall be effective upon receipt, absent manifest error.

13.15 Brokerage. Each Member represents to the Company and to the other Members that neither such Member nor any of its Affiliates has employed or incurred any liability to any broker, finder or agent for any brokerage fees, finder's fees, commissions or other amounts in connection with the formation of the Company among the Members. Each Member agrees to indemnify and hold harmless the Company, the other Members and each of their respective Affiliates officers, directors, shareholders, partners, members, employees, successors and assigns from and against any and all claims, demands, loss, damage, liability or expense (including reasonable costs and attorneys' fees) which they may incur by reason of, or in connection with, any breach of such Member's representations in this Section 13.15. This Section 13.15 shall survive the expiration or earlier termination of this Agreement.

13.16 No Partition. Each Member hereby irrevocably waives any and all rights that it may have to maintain any action for partition of any of the property of the Company or the Subsidiaries.

13.17 Waiver of Jury Trial. EACH MEMBER HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT THAT SUCH PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CLAIM OR CAUSE OF ACTION DIRECTLY OR INDIRECTLY BASED UPON OR ARISING OUT OF THIS AGREEMENT.

13.18 Management Fees.

(a) The Company shall pay to the CIM Member (or a Controlled Affiliate thereof as designated by the CIM Member) an annual management fee (the "**Management Fee**") for the services rendered by the CIM Member or such Affiliate in managing the assets of the Company. The Management Fee shall be payable quarterly in advance on the tenth day (or, if such day is not a Business Day, on the next succeeding Business Day) of each fiscal quarter of the Company. Each quarterly installment of the Management Fee shall be equal to the Management Fee Percentage (as defined in Schedule 6) of the aggregate Commitment Amounts of the Members (as of the first day of the applicable fiscal quarter).

(b) Except as set forth in Section 13.18(c), the Members shall be required to make Management Fee Contributions to the Company (by wire transfer in same day funds to an account specified by the Company) on the date that each quarterly installment of the Management Fee is due and payable by the Company in an amount equal to such quarterly installment. At least ten (10) Business Days prior to the due date of each installment of the Management Fee under this Section 13.18, the Managing Member shall notify each Member of

the amount of such quarterly installment that must be paid by such Member by way of a Management Fee Contribution pursuant to this Section 13.18(b) and how much will be paid pursuant to Section 13.18(c) out of a distribution to such Member.

(c) If at any time when an installment of the Management Fee is due and payable by the Company, the Company makes a distribution to a Member pursuant to Section 6.07, then the Managing Member shall (and is hereby authorized by such Member to do so) pay such Member's portion of the Management Fee from amounts distributable to such Member. Any amount paid by the Company to the CIM Member (or a Controlled Affiliate thereof designated by the CIM Member) pursuant to this Section 13.18(c) from amounts distributable to a Member shall (x) be considered for all purposes of this Agreement to have been distributed to such Member pursuant to Section 6.07 on the date of such payment, (y) constitute a Management Fee Contribution by such Member on such date and (z) reduce the amount payable by such Member pursuant to Section 13.18(b). The Managing Member is hereby authorized to apply amounts distributed to each Member by the Company to pay any Management Fee installments on such Member's behalf without any further authorization of such Member. The Managing Member shall be authorized to alter the timing of distributions and create appropriate reserves in order to effectuate payment of installments of the Management Fee pursuant to this Section 13.18(c).

(d) On or about the Effective Date, the Company is paying the CIM Member (or a Controlled Affiliate thereof designated by the CIM Member) the Management Fee attributable to the period from the Effective Date through and including the final day of the fiscal quarter of the Company in which the Effective Date occurs.

13.19 Confidentiality and Publicity.

(a) No Member or any of its Affiliates or the Company or any Subsidiary thereof shall issue any press release or make any other public announcement or statement with respect to the transactions contemplated in this Agreement without the prior written consent of the other Member(s) (which consent may be granted, withheld and/or conditioned in the discretion of the other Member(s)), except as otherwise may be required by applicable law, judicial order or Governmental Authority (or the rules or regulations of any Governmental Authority); *provided*, *however*, that the CIM Member and its Affiliates shall be permitted to issue press releases and make other public announcements and statements with respect to the transactions contemplated in this Agreement without the prior consent of any Co-Investor Member.

(b) Each Co-Investor Member shall cause its members, principals, partners, shareholders, controlling persons, officers, directors, agents and employees, direct and indirect, to maintain in confidence the written, oral or other information treated as proprietary by and released in confidence from the Company or any Subsidiary thereof or any Member in connection with the business and affairs of the Company or any Subsidiary thereof or the Property or the Project unless (i) the same becomes publicly available through no fault of any such party, (ii) the same was within its possession on a non-confidential basis prior to its disclosure by the Company, Subsidiary, or Member, (iii) disclosure is reasonably necessary in connection with any transaction authorized pursuant to the terms of this Agreement, (iv) disclosure is required by applicable law, judicial order, Governmental Authority (or the rules or regulations of any Governmental Authority or stock exchange) claiming or having jurisdiction over such Co-Investor Member, (v) disclosure is reasonably necessary to permit the disclosing party to perform its obligations under this Agreement or to enforce the terms hereof, or (vi) disclosure is made to such party's agents, direct and indirect equity holders, attorneys, accountants, or other professional or investment advisors (existing or proposed) provided that such disclosure is made in confidence and shall be kept in confidence (subject to exceptions

similar to those set forth in clauses (i) through (v) of this sentence) (and for the avoidance of doubt a Co-Investor Member shall be liable for claims and/or damages resulting from any disclosure or unauthorized use of any such confidential information by any such person described in this sentence in violation of this Section 13.19(b)). Each Co-Investor Member acknowledges and agrees that the information about the Property that it will receive may constitute material non-public information about CMCT, the ultimate corporate parent of the CIM Member. As United States securities law prohibits the trading of securities based on material non-public information, each Co-Investor Member acknowledges and agrees that there may be occasions when it (or any of its Affiliates that come into possession of information about the Property) may not be able to buy or sell any securities of CMCT.

(c) The Managing Member shall cause its members, principals, partners, shareholders, controlling persons, officers, directors, agents and employees, direct and indirect, to maintain in confidence the written, oral or other information treated as proprietary by and released in confidence from each Co-Investor Member unless (i) the same becomes publicly available through no fault of any such party, (ii) the same was within its possession on a non-confidential basis prior to its disclosure by the Managing Member, (iii) disclosure is reasonably necessary in connection with any transaction authorized pursuant to the terms of this Agreement, (iv) disclosure is required by applicable law, judicial order, Governmental Authority (or the rules or regulations of any Governmental Authority or stock exchange) claiming or having jurisdiction over the Managing Member, (v) disclosure is reasonably necessary to permit the disclosing party to perform its obligations under this Agreement or to enforce the terms hereof, or (vi) disclosure is made to such party's agents, direct and indirect equity holders, attorneys, accountants, or other professional or investment advisors (existing or proposed) provided that such disclosure is made in confidence and shall be kept in confidence (subject to exceptions similar to those set forth in clauses (i) through (v) of this sentence) (and for the avoidance of doubt the Managing Member shall be liable for claims and/or damages resulting from any disclosure or unauthorized use of any such confidential information by any such person described in this sentence in violation of this Section 13.19(c)). For the avoidance of doubt, the Co-Investor Members acknowledge that the Managing Member has or will be publicly disclosing the identities of the Co-Investor Members in required securities law filings.

13.20 Incorporation by Reference. The Recitals of fact set forth in the beginning of this Agreement and the Exhibits and Schedules attached to this Agreement (including Schedules 6 and 7) from time to time hereby are incorporated by reference into this Agreement as if fully set forth herein.

[The Remainder Of This Page Is Left Intentionally Blank]

IN WITNESS WHEREOF, each of the undersigned, intending to be legally bound hereby, has executed this Agreement as of the Effective Date, and by such execution, acknowledges that it has fully reviewed this Agreement.

CIM MEMBER:

CIM URBAN PARTNERS, LP,
a Delaware limited partnership

By: CIM Urban Partners GP, LLC,
a Delaware limited liability company
its general partner

By: /s/ David Thompson
Name: David Thompson
Title: Vice President

[Signatures Continue and End on Next Page]

K-CO-INVESTOR MEMBER:

KANDEN REALTY & DEVELOPMENT AMERICA LLC,
a Delaware limited liability company

By: /s/ Toshiaki Hori
Name: Toshiaki Hori
Title: CEO

TA-CO-INVESTOR MEMBER:

TAISEI USA LLC,
a Delaware limited liability company

By: /s/ Akehiko Tomita
Name: Akehiko Tomita
Title: CEO

TO-CO-INVESTOR MEMBER:

TO-4750 WILSHIRE CO-INVESTOR, LP,
a Cayman Islands exempted limited partnership

By: CMCT 4750 GP, LLC,
a Delaware limited liability company
its general partner

By: /s/ David Thompson
Name: David Thompson
Title: President

Exhibit 21.1

CREATIVE MEDIA & COMMUNITY TRUST CORPORATION

LIST OF SUBSIDIARIES

Entity	State of Formation	Type of Organization
1021 East 7th Street (Austin) GP, LLC	Delaware	LLC
1021 East 7th Street (Austin) Owner, L.P.	Delaware	LP
1130 Howard (SF) GP, LLC	Delaware	LLC
1130 Howard (SF) Owner, L.P.	Delaware	LP
9460 Wilshire Blvd GP, LLC	Delaware	LLC
9460 Wilshire Blvd (BH) Owner, L.P.	Delaware	LP
4750 Wilshire Blvd. (LA) Owner, LLC	Delaware	LLC
CIM Small Business Loan Trust 2018-1	Delaware	Trust
CIM Urban Holdings, LLC	Delaware	LLC
CIM Urban Partners, L.P.	Delaware	LP
CIM Urban REIT GP I, LLC	California	LLC
CIM Urban REIT GP II, LLC	Delaware	LLC
CIM Urban REIT Holdings, LLC	Delaware	LLC
CIM Urban REIT Properties IX, L.P.	Delaware	LP
CIM Urban REIT Properties XIII, L.P.	Delaware	LP
CIM Wilshire (Los Angeles) Investor, LLC	Delaware	LLC
CIM Wilshire (Los Angeles) Manager, LLC	Delaware	LLC
CIM/11600 Wilshire (Los Angeles) GP, LLC	Delaware	LLC
CIM/11600 Wilshire (Los Angeles), LP	Delaware	LP
CIM 11620 Wilshire (Los Angeles) GP, LLC	Delaware	LLC
CIM 11620 Wilshire (Los Angeles), LP	Delaware	LP
CIM/J Street Garage Sacramento GP, LLC	California	LLC
CIM/J Street Garage Sacramento, L.P	California	LLC
CIM/J Street Hotel Sacramento GP, LLC	California	LLC
CIM/J Street Hotel Sacramento, Inc.	California	Corporation
CIM/J Street Hotel Sacramento, L.P.	California	LP
CIM/Oakland 1 Kaiser Plaza GP, LLC	Delaware	LLC
CIM/Oakland 1 Kaiser Plaza, LP	Delaware	LP
First Western SBLC, Inc.	Florida	Corporation
FW Asset Holding, LLC	Delaware	LLC
Lindblade Media Center (LA) Owner, LLC	Delaware	LLC
PMC Commercial Lending, LLC	Delaware	LLC
PMC Funding Corp.	Florida	Corporation
PMC Mortgage Corp., LLC	Delaware	LLC
PMC Preferred Capital Trust-A	Delaware	Trust
PMC Properties, Inc.	Delaware	Corporation
Two Kaiser Plaza (Oakland) Owner, LLC	Delaware	LLC
Urban Partners GP, LLC	Delaware	LLC
Urban Partners GP Manager, LLC	Delaware	LLC
1037 North Sycamore (Los Angeles) GP, LLC	Delaware	LLC

Entity	State of Formation	Type of Organization
1037 North Sycamore (Los Angeles) Owner, L.P.	Delaware	LP
3101 S Western (LA) Owner GP, LLC	Delaware	LLC
3101 S Western (LA) Owner GP, L.P.	Delaware	LP
1910 Sunset Blvd JV (LA), L.P.	Delaware	LP
1910 Sunset Blvd (LA) GP, LLC	Delaware	LLC
1910 Sunset Blvd (LA), L.P.	Delaware	LP
3109 S. Western (Los Angeles) GP, LLC	Delaware	LLC
3109 S. Western (Los Angeles) Owner, L.P.	Delaware	LP
1007 E. 7th Street (Austin) GP, LLC	Delaware	LLC
1007 E. 7th Street (Austin) Owner, L.P.	Delaware	LP
3022 S. Western (LA) Owner GP, LLC	Delaware	LLC
3022 S. Western (LA) Owner, L.P.	Delaware	LP
Parcel F-3 (Oakland) Manager, LLC	Delaware	LLC
Parcel F-3 (Oakland) Holdings, LLC	Delaware	LLC
Parcel F-3 (Oakland) LTC, LLC	Delaware	LLC
Parcel F-3 (Oakland) Owner, LLC	Delaware	LLC
JLS F-3 (Oakland) Investor, LLC	Delaware	LLC
JLS F-3 (Oakland) Holdings Venture, LLC	Delaware	LLC
JLS F-3 (Oakland) Owner, LLC	Delaware	LLC
Channel House (Oakland) Manager, LLC	Delaware	LLC
Channel House (Oakland) Holdings, LLC	Delaware	LLC
Channel House (Oakland) LTC, LLC	Delaware	LLC
Channel House (Oakland) Owner, LLC	Delaware	LLC
Jack London Square Development (Oakland) Investor, LLC	Delaware	LLC
Jack London Square Development (Oakland) Holdings Venture, LLC	Delaware	LLC
Jack London Square Development (Oakland) Owner, LLC	Delaware	LLC
Parcel D 466 Water Street (Oakland) Manager, LLC	Delaware	LLC
Parcel D 466 Water Street (Oakland) Holdings, LLC	Delaware	LLC
Parcel D 466 Water Street (Oakland) LTC, LLC	Delaware	LLC
Parcel D 466 Water Street (Oakland) Owner, LLC	Delaware	LLC
466 Water Street (Oakland) Investor, LLC	Delaware	LLC
466 Water Street (Oakland) Holdings Venture, LLC	Delaware	LLC
466 Water Street (Oakland) Owner, LLC	Delaware	LLC
1902 Park Ave (Los Angeles) Owner Holdings, LLC	Delaware	LLC
1902 Park Avenue (Los Angeles) GP, LLC	Delaware	LLC
1902 Park Avenue (Los Angeles) Owner, L.P.	Delaware	LP
CMCT 1100 Clay (Oakland) Manager, LLC	Delaware	LLC
CMCT 1100 Clay (Oakland) Holdings, LLC	Delaware	LLC
CMCT 1100 Clay (Oakland) LTC, LLC	Delaware	LLC
CMCT 1100 Clay (Oakland) Owner, LLC	Delaware	LLC
1100 Clay Venture, LLC	Delaware	LLC
1100 Clay (Oakland) Owner, LLC	Delaware	LLC

Exhibit 23.1

Consent of Independent Registered Public Accounting Firm

We consent to the incorporation by reference in Registration Statement Nos. 333-233255 and 333-268032 on Form S-3 and Registration Statement No. 333-218475 on Form S-8 of our reports dated March 30, 2023, relating to the financial statements of Creative Media & Community Trust Corporation and the effectiveness of Creative Media & Community Trust Corporation's internal control over financial reporting appearing in this Annual Report on Form 10-K for the year ended December 31, 2022.

/s/ Deloitte & Touche, LLP

Los Angeles, California
March 30, 2023

Exhibit 31.1

Certification
Pursuant to Section 302 of the
Sarbanes-Oxley Act of 2002

I, David Thompson, certify that:

1. I have reviewed this report on Form 10-K for the year ended December 31, 2022 of Creative Media & Community Trust Corporation;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

    (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

    (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

    (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

    (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

    (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

    (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: March 30, 2023

/s/ David Thompson

David Thompson
Chief Executive Officer

Exhibit 31.2

Certification
Pursuant to Section 302 of the
Sarbanes-Oxley Act of 2002

I, Barry N. Berlin, certify that:

1. I have reviewed this report on Form 10-K for the year ended December 31, 2022 of Creative Media & Community Trust Corporation;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: March 30, 2023

/s/ BARRY N. BERLIN

Barry N. Berlin
Chief Financial Officer

Exhibit 32.1

Certification of Chief Executive Officer
Pursuant to Section 906 of the
Sarbanes-Oxley Act of 2002

Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (18 U.S.C. Section 1350), the undersigned officer of Creative Media & Community Trust Corporation (the "Company"), hereby certifies that the Company's Annual Report on Form 10-K for the year ended December 31, 2022 (the "Report") fully complies with the requirements of Section 13(a) or 15(d), as applicable, of the Securities Exchange Act of 1934 and that the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: March 30, 2023

/s/ David Thompson
Name: David Thompson
Title: *Chief Executive Officer*

The foregoing certification is being furnished solely pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (18 U.S.C. Section 1350) and is not being filed as part of the Report or as a separate disclosure document.

Exhibit 32.2

Certification of Chief Financial Officer
Pursuant to Section 906 of the
Sarbanes-Oxley Act of 2002

Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (18 U.S.C. Section 1350), the undersigned officer of Creative Media & Community Trust Corporation (the "Company"), hereby certifies that the Company's Annual Report on Form 10-K for the year ended December 31, 2022 (the "Report") fully complies with the requirements of Section 13(a) or 15(d), as applicable, of the Securities Exchange Act of 1934 and that the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: March 30, 2023

/s/ BARRY N. BERLIN
Barry N. Berlin
Chief Financial Officer

The foregoing certification is being furnished solely pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (18 U.S.C. Section 1350) and is not being filed as part of the Report or as a separate disclosure document.