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, 2023

OR

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

For the transition period from to

Commission File Number: 001-35877

HANNON ARMSTRONG SUSTAINABLE INFRASTRUCTURE CAPITAL, INC.
(Exact name of registrant as specified in its charter)

Maryland	**46-1347456**
(State or other jurisdiction of incorporation or organization)	**(I.R.S. Employer Identification No.)**
One Park Place Suite 200 Annapolis MD	**21401**
(Address of principal executive offices)	**(Zip Code)**

(410) 571-9860
(Registrant's telephone number, including area code)

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, $0.01 par value per share	HASI	New York Stock Exchange

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 Exchange Act. Yes ☐ No ☒

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

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

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

Large accelerated filer	☒	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 controls 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 in Rule 12b-2 of the Exchange Act). Yes ☐ No ☒

As of June 30, 2023, the aggregate market value of the registrant's common stock (includes unvested restricted stock) held by non-affiliates of the registrant was $ 2.6 billion based on the closing sales price of the registrant's common stock on June 30, 2023 as reported on the New York Stock Exchange.

On February 12, 2024, the registrant had a total of 112,431,024 shares of common stock, $0.01 par value, outstanding (which includes 135,668 shares of unvested restricted common stock).

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the registrant's proxy statement for the 2024 annual meeting of stockholders are incorporated by reference into Part III of this Annual Report on Form 10-K.

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FORWARD-LOOKING STATEMENTS

We make forward-looking statements in this Annual Report on Form 10-K (“Form 10-K”) within the meaning of Section 27A of the Securities Act of 1933, as amended (the “Securities Act”), and Section 21E of the Securities Exchange Act of 1934, as amended (the “Exchange Act”) that are subject to risks and uncertainties. For these statements, we claim the protections of the safe harbor for forward-looking statements contained in such Sections. These forward-looking statements include information about possible or assumed future results of our business, financial condition, liquidity, results of operations, plans and objectives. When we use the words “believe,” “expect,” “anticipate,” “estimate,” “plan,” “continue,” “intend,” “should,” “may” or similar expressions, we intend to identify forward-looking statements. However, the absence of these words or similar expressions does not mean that a statement is not forward-looking. All statements that address operating performance, events or developments that we expect or anticipate will occur in the future are forward-looking statements.

Forward-looking statements are subject to significant risks and uncertainties. Investors are cautioned against placing undue reliance on such statements. Actual results may differ materially from those set forth in the forward-looking statements. Accordingly, any such statements are qualified in their entirety by reference to, and are accompanied by, important factors included in Part I, Item 1A. Risk Factors (in addition to any assumptions and other factors referred to specifically in connection with such forward-looking statements) that could have a significant impact on our operations and financial results, and could cause our actual results to differ materially from those contained or implied in forward-looking statements made by or on our behalf in this Form 10-K, in presentations, on our websites, in response to questions or otherwise.

Any forward-looking statement speaks only as of the date on which such statement is made, and we undertake no obligation to update any forward-looking statement to reflect events or circumstances, including, but not limited to, unanticipated events, after the date on which such statement is made, unless otherwise required by law. New factors emerge from time to time and it is not possible for management to predict all of such factors, nor can it assess the impact of each such factor on the business or the extent to which any factor, or combination of factors, may cause actual results to differ materially from those contained or implied in any forward-looking statement.

RISK FACTOR SUMMARY

An investment in our securities involves risk. You should carefully consider the risks summarized in Item 1A, "Risk Factors" included in this report. These risks include, but are not limited to, the following:

Risks Related to Our Business and Our Industry

- Our business depends in part on U.S. federal, state and local government policies and a decline in the level of government support could harm our business.
- If the market for various types of climate solutions projects or the investment techniques related to such projects do not develop as we anticipate, new business generation in this target area may be adversely impacted.
- We are subject to risks related to our sustainability and governance activities and disclosures.
- We operate in a competitive market, which may impact the terms of the investments we make.

Risks Related to Our Assets and Projects in Which We Invest

- Changes in interest rates could adversely affect the value of our assets and negatively affect our profitability.
- The lack of liquidity of our assets may adversely affect our business, including our ability to value our assets.
- The preparation of our financial statements, including provision for loan losses, involves use of estimates, judgments and assumptions, and our financial statements may be materially affected if our estimates prove to be incorrect.
- We rely on our project sponsors for financial reporting related to our project companies, and our financial statements may be materially affected if the financial reporting related to our project companies proves to be incorrect.
- Our investments are subject to delinquency, foreclosure and loss, any or all of which could result in losses to us.
- Our subordinated and mezzanine debt and equity investments, many of which are illiquid with no readily available market, involve a degree of risk.
- We either do not control or jointly control the projects in which we invest, which may result in the project owner making certain business decisions or taking risks with which we disagree.
- Many of our assets depend on revenues from third-party contractual arrangements, including PPAs, that expose the projects to various risks.
- Portions of the electricity our assets generate is sold on the open market at spot-market prices. A prolonged environment of prices for natural gas, or other conventional fuel sources, below the levels at which we assumed when underwriting these investments, may have a material adverse effect on our long-term business prospects, financial condition and results of operations.
- Some of the projects in which we invest may require substantial operating or capital expenditures in the future.
- We invest in projects which rely on third parties to manufacture quality products or provide reliable services in a timely manner and the failure of these third parties could cause project performance to be adversely affected.
- Our insurance and contractual protections may not always cover lost revenue, increased expenses or liquidated damages payments.
- Energy efficiency, renewable energy and other sustainable infrastructure projects are subject to performance risks, including risks due to extreme weather events, that could impact the repayment of and the return on our assets.

Risks Related to Our Company

- Our management and employees depend on information systems and system failures could significantly disrupt our business, which may, in turn, negatively affect the market price of our common stock and our ability to pay dividends to our stockholders.
- Major public health issues and related disruptions in the U.S. and global economy and financial markets could adversely impact or disrupt our financial condition and results of operations.

Risks Relating to Regulation

- We cannot predict the unintended consequences and market distortions that may stem from far-ranging governmental intervention in the economic and financial system or from regulatory reform of the oversight of financial markets.

- Loss of our 1940 Act exemptions may adversely affect us, the market price of shares of our common stock and our ability to distribute dividends.

Risks Related to our Borrowings and Hedging

- An increase in our borrowing costs relative to the interest we receive on our assets may adversely affect our profitability and our cash available for distribution to our stockholders. Our borrowings may have a shorter duration than our assets.
- While we have an established Board-approved leverage limit, our Board may change our financial leverage guidelines without stockholder consent.

Risks Related to Our Organization and Structure

- Our qualification as a REIT for this and prior taxable years depends on interpretation of highly technical and complex legal provisions, and our failure to qualify as a REIT for prior taxable years would subject us to U.S. federal income tax and potentially state and local tax.
- Our ability to utilize our NOLs and other carryforwards may be limited.

PART I

In this Form 10-K, unless specifically stated otherwise or the context otherwise indicates, references to "we," "our," "us," "HASI," and "our company" refer to Hannon Armstrong Sustainable Infrastructure Capital, Inc., a Maryland corporation and any of our subsidiaries. Hannon Armstrong Sustainable Infrastructure, L.P., a Delaware limited partnership, is a subsidiary of which we are the sole general partner and to which we refer in this Form 10-K as our "Operating Partnership." Our business is focused on reducing the impact of greenhouse gases that have been scientifically linked to climate change. We refer to these gases, which are often for consistency expressed as carbon dioxide equivalents, as carbon emissions.

Item 1. Business

GENERAL

HASI is a climate positive investment firm that actively partners with clients to deploy real assets that facilitate the energy transition. With more than $12 billion in managed assets, our vision is that every investment improves our climate future. We invest in a variety of asset classes across our three primary climate solutions markets:

Behind the Meter	Grid-Connected	Fuels, Transport, and Nature
• Residential Solar & Storage	• Utility-scale Solar	• Renewable Natural Gas
• Community Solar and Commercial & Industrial Solar	• Onshore wind	• Fleet Decarbonization
• Energy Efficiency	• Battery Energy Storage Systems	• Ecological Restoration

We are internally managed by a management team that has extensive relevant industry knowledge and experience, and a team of over 130 climate finance professionals. We have long-standing relationships with some of the leading clean energy project developers, owners and operators, utilities, and energy service companies ("ESCOs"), that provide recurring, programmatic investment and fee-generating opportunities. We measure and report the efficiency with which all HASI investments avoid carbon emissions using CarbonCount®, producing a quantitative impact score of the avoided CO^2 equivalent . Our programmatic client partnership, flexible capital and aligned goals enable repeat business and operational efficiencies. Through our specialized platform, we offer stockholders access to attractive risk adjusted returns from direct asset investing in diverse energy transition end markets.

Our investments take many forms, including equity, joint ventures, real estate, commercial and government receivables or securities, and other financing transactions. While we participate in diverse end markets, we generally intend for all our investments to share common attributes such as being climate-positive investments with top-tier clients in real assets using proven commercial technologies, and which benefit from contracted cash flows and high quality, incented offtakers.

We completed approximately $2.3 billion of transactions during 2023, compared to approximately $1.8 billion during 2022. As of December 31, 2023, we held approximately $6.2 billion of transactions on our balance sheet, which we refer to as our "Portfolio." For those transactions that we choose not to hold on our balance sheet, we transfer all or a portion of the economics of the transaction, typically using securitization trusts, to institutional investors in exchange for cash and, in certain cases, residual interests in the trusts and ongoing fees. As of December 31, 2023, we managed approximately $6.1 billion in these trusts or vehicles that are not consolidated on our balance sheet. When we combine these assets with our Portfolio, as of December 31, 2023, we manage approximately $12.3 billion of assets, which we refer to as our "Managed Assets."

We have a dual revenue strategy, through which generate both net investment income from our portfolio, and Gain-on-Sale and ongoing fees via off-balance sheet securitization transactions, advisory services, and asset management.

We fund our investments in climate solutions using a broad range of financing sources including corporate unsecured bonds, convertible bonds, non-recourse or recourse debt from banks and financial institutions, equity, syndications and off-balance sheet securitization structures. We manage our short-term liquidity needs through short-term commercial paper issuances and revolving credit facilities. We generally provide the associated CarbonCount metrics for our debt issuances In addition, certain of our debt issuances meet the environmental eligibility criteria for green bonds as defined by the International Capital Markets Association's Green Bond Principles, which we believe makes our debt more attractive for many investors compared to such offerings that do not qualify under these principles. A further description of our financing activities can be found herein.

We have a large and active pipeline of potential new opportunities that are in various stages of our underwriting process. We believe the Inflation Reduction Act signed into law on August 16, 2022, which incentivizes the construction of and investment in climate solutions will result in additional investment opportunities in the markets in which we invest over the next several years, and therefore may result in increases in our pipeline in the future. We refer to potential opportunities as being part of our pipeline if we have determined that the project fits within our investment strategy and exhibits the appropriate risk and reward characteristics through an initial credit analysis, including a quantitative and qualitative assessment of the opportunity, as well as research on the relevant market and sponsor. Our pipeline of transactions that could potentially close in the next 12 months consists of opportunities in which we will be the lead originator as well as opportunities in which we may participate with other institutional investors. As of December 31, 2023, our pipeline consisted of more than $5.0 billion in new equity, debt and real estate opportunities. There can, however, be no assurance with regard to any specific terms of such pipeline transactions or that any or all of the transactions in our pipeline will be completed.

We are committed to leadership in transparent disclosure on sustainability, impact, and governance matters. Beginning in 2013, we became one of the first capital providers to evaluate the climate impact of our Portfolio by utilizing CarbonCount. In 2017, we believe we were the first U.S-based public company to commit to the Climate Disclosure Standards Board led initiative on implementing the recommendations of the Financial Stability Board's Task Force for Climate-related Financial Disclosures ("TCFD") and provide the recommended disclosures in our Form 10-K. We are a member of the Partnership for Carbon Accounting Financials ("PCAF"), a global financial industry-led partnership to implement a consistent and transparent disclosure framework to report carbon emissions and avoided emissions resulting from financed assets, and report our financed and avoided emissions under that framework. For further information on our disclosures, see the discussion in the sections titled "Investment Strategy" and "Sustainability, Impact and Corporate Governance" herein. We are committed to providing transparent disclosures on our human capital management, which can be found herein in the section titled "Human Capital Strategy." Through the HASI Foundation, we provide monetary and non-monetary support to programs that align with our philanthropic priorities of ensuring equal access to climate solutions, empowering and creating opportunity for marginalized individuals and communities, and creating a positive local impact in the communities where our business operates.

We elected and qualified to be taxed as a REIT for U.S. federal income tax purposes, commencing with our taxable year ended December 31, 2013 through our taxable year ended December 31, 2023. In December 2023, our board of directors approved our revocation of our REIT status effective January 1, 2024, and we will be taxed as a C Corporation beginning with tax year 2024. We operate our business in a manner that permits us to maintain our exemption from registration as an investment company under the 1940 Act.

INVESTMENT STRATEGY

With scientific consensus that global-warming trends are linked to human activities and result in various extreme weather events, we believe our firm is well-positioned to generate attractive risk-adjusted returns by investing in, and managing a portfolio of, real assets that mitigate greenhouse gas emissions. Further, with increasing weather-related disasters, we see similar investment opportunities in infrastructure assets that increase the resiliency to these weather events and other adverse impacts of climate change.

Our vision is that every investment improves our climate future and our purpose is to make climate positive investments that produce superior risk-adjusted returns. Sustainability is at the core of our business model and influences every investment decision which is why we require all HASI investments to be neutral to negative on incremental carbon emissions or have some other tangible environmental benefit such as reducing water consumption or increasing resilience to extreme events.

Our climate-positive investment thesis is based on the following theories:

- more efficient technologies are more productive and thus should lead to higher economic returns;
- lower portfolio risk is inherent in a portfolio of smaller investments, generated by trends of increasing decentralization and digitalization of energy assets;
- investing in assets aligned with scientific consensus and broadly held societal values will reduce potential regulatory and social costs through more internalization of externalities; and
- assets that reduce or avoid carbon emissions represent an embedded option that may increase in value if regulatory authorities were to set a price on carbon emissions.

We believe combining this investment thesis with our multi-decade experience in investing in our markets through multiple interest rate and business cycles, intermittent governmental support for reducing carbon emissions and several cycles of business expansions in renewable and other sustainable infrastructure markets, allows us to earn attractive risk-adjusted returns on the assets in which we invest. We also believe there is a very large potential market opportunity as the legacy technologies for generating and using energy and the systems that produce carbon emissions are retired and replaced by low-to-no carbon emission systems. Mitigation and resiliency investments continue to grow to address severe weather events and other climate change impacts.

Our investments in climate solutions are focused on three markets:

- *Behind-the-Meter (“BTM”)*: distributed energy projects which reduce energy usage or cost through solar power generation, electric storage, or energy efficiency improvements such as heating, ventilation, and air conditioning systems (HVAC), lighting, energy controls, roofs, windows, building shells, and/or combined heat and power systems;
- *Grid-Connected (“GC”)*: renewable energy projects that deploy cleaner energy sources, such as solar, solar-plus-storage, and wind, to generate power production where the off-taker or counterparty may be part of the wholesale electric power markets; and
- *Fuels, Transport, and Nature (“FTN”):* a range of real assets spanning high-emitting economic sectors other than the power grid such as transportation and fuels in the United States, including renewable natural gas (RNG) plants, transportation fleet enhancements, and ecological restoration projects, among others.

Of our pipeline, 52% is related to BTM assets and 30% is related to GC assets, with the remainder related to FTN, an area of increased focus for us beginning in 2023. We prefer investments in which the assets use proven technology and have a long-term, creditworthy off-taker or counterparties. For BTM assets, the off-taker or counterparty may be the building owner or occupant, and our investment may be secured by the installed improvements or other real estate rights. For GC assets, the off-takers or counterparties may be utility or electric users who have entered into contractual commitments, such as power purchase agreements (“PPAs”), to purchase power produced by a renewable energy project at a specified price with potential price escalators for a portion of the project’s estimated life.

We make our investments utilizing a variety of structures, including:

- equity investments in either preferred or common structures in unconsolidated entities;
- commercial and government receivables or securities, and
- real estate.

Our equity investments in climate solutions projects are operated by various renewable energy companies or by joint ventures in which we participate. These transactions allow us to participate in the cash flows associated with these projects, typically on a priority basis. Our debt investments in various renewable energy or other sustainable infrastructure projects or portfolios of projects are generally secured by the installed improvements, or other real estate rights. Our energy efficiency debt investments are usually assigned the payment stream from the project savings and other contractual rights, often using our pre-existing master purchase agreements with the ESCOs. We also own, both directly and through equity investments, land that is leased under long-term agreements to renewable energy projects where our investment returns are typically senior to most project costs, debt, and equity.

We often make investments where we hold a preferred or mezzanine position in a project company where we are subordinated to project debt and/or preferred forms of equity. Investing greater than 10% of our assets in any investment requires the approval of a majority of our independent directors. We may adjust the mix and duration of our assets over time in order to allow us to manage various aspects of our Portfolio, including expected risk-adjusted returns, macroeconomic conditions, liquidity, availability of adequate financing for our assets, and our exemption from registration as an investment company under the 1940 Act.

As of December 31, 2023, our Portfolio consisted of over 520 investments, with approximately 48% of our Portfolio invested in BTM assets, approximately 37% invested in GC assets, and approximately 15% invested in FTN investments. The mix of our Portfolio is expected to vary over time, as we seek to manage the diversity of our Portfolio by, among other factors, project type, project operator, type of investment, type of technology, transaction size, geography, obligor, and maturity.

As part of our investment process, we calculate the ratio of the estimated first year of metric tons of carbon emissions avoided by our investments divided by the capital invested to quantify the carbon impact of our investments. In this calculation, which we refer to as CarbonCount, we use emissions factor data, expressed on a CO^2 equivalent basis, representing the locational marginal emissions associated with a project to determine an estimate of a project’s energy production or savings to compute an estimate of metric tons of carbon emissions avoided. We estimate that our investments originated in 2023 will avoid annual carbon emissions by over 760 thousand metric tons, equating to a CarbonCount of 0.33. In addition to carbon emissions avoidance, we also consider other environmental attributes, such as water use reduction, stormwater remediation benefits and stream restoration benefits.

We believe that our long history of climate solutions investing, the experience, expertise and relationships of our management team, the anticipated credit strength of the obligors or investees involved in our investments and the size and growth potential of our market, position us well to capitalize on our strategy.

Refer to Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations—Results of Operations, for additional discussion on the performance of our Portfolio.

FINANCING STRATEGY

We believe we have available a broad range of financing sources as part of our strategy to fund our investments. We may finance our investments through the use of cash on hand, debt which may be either recourse or non-recourse and either fixed-rate or floating-rate, or equity, and may also finance such transactions through the use of off-balance sheet securitizations or syndication structures. When issuing debt, we generally provide the estimated carbon emission savingsusing CarbonCount. In addition, certain of our debt issuances meet the environmental eligibility criteria for green bonds as defined by the International Capital Markets Association's Green Bond Principles, which we believe makes our debt more attractive for certain investors compared to such offerings that do not qualify under these principles. We may also consider the use of special purpose entities or funds in which outside investors participate to allow us to expand the investments that we make or to manage our Portfolio diversification.

The decision on how we finance our business is largely driven by our target capital structure, and by market conditions including the overall interest rate environment, prevailing credit spreads and the terms of available financing. During periods of market disruption, certain sources of financing may be less accessible than others which may impact our financing decisions. Over time, as market conditions change, we may use other forms of financial leverage in addition to these financing arrangements. Although we are not restricted by any regulatory requirements as to the type or amount of financial leverage we may use, our Board has established a target limit of our leverage ratio, defined as the ratio of debt to equity, of at or below 2.5 to 1, and a target range for our percentage of fixed rate debt to total debt of between 75% and 100%, allowing for percentages as low as 70% on a short term basis if we intend to repay or swap floating rate borrowings in the near term. See additional discussion in "Item 7. Management's Discussion and Analysis of Financial Conditions and Results of Operations—Liquidity and Capital Resources" regarding our ongoing evaluation of our leverage limits and fixed-rate debt targets.

In our off-balance sheet financings, we transfer all or a portion of an investment to a securitization trust in exchange for cash and/or residual interests in the trust, and in some cases, ongoing fees. The availability of securitization counterparties has remained high throughout various market cycles due to investor demand for high credit quality, long-term climate-positive investments. We may arrange such securitizations of loans or other assets prior to originating the transaction and thus avoid exposure to credit spread, interest rate and funding risks. We also typically manage and service these assets in exchange for fees. We may also use other funds or structures where institutional investors purchase all or a portion of the economics of the transaction and where we may receive upfront or ongoing fees for managing the assets. We periodically provide other services, including arranging financings that are held on the balance sheets of other investors and advising various companies with respect to structuring investments.

Refer to Item 7. Management's Discussion and Analysis of Financial Conditions and Results of Operations—Liquidity and Capital Resources, for additional discussion on our financings and our ratios and Item 8. Financial Statements and Supplementary Data, Notes 5, 7 and 8 to our financial statements for further information on the types and amounts of our financing activities.

HUMAN CAPITAL STRATEGY

An emphasis on a durable social fabric, including engaged, collaborative, and fairly compensated staff, is an important factor in our financial success. Our culture is focused on hiring and retaining highly talented employees with diverse perspectives and empowering them to create value for our stockholders, and our success is dependent on employee understanding of and investment in their role in that value creation. Our employees are responsible for upholding our vision, purpose, and values.

It is important to us that our employees are engaged in our mission of sustainability because we believe engagement improves their performance, as well as our employee recruitment and retention. Our chief executive officer periodically leads employee meetings intended to reinforce the importance of sustainability and regularly meets with small groups of employees to receive their feedback on our business. We also meet no less than quarterly as a Company to provide information to employees on our mission, strategic planning and financial results. We continuously evaluate our employees' level of engagement through in-person or remote meetings that include asking open-ended questions and through formal surveys or similar tools administered on a periodic basis.

We adhere to a blended learning approach with the understanding that our people learn from experiences (on the job and in life), from other people (mentors or supportive managers), and from formal learning and training programs. We acknowledge that learning is highly individualized and needs to be offered in a way that is most conducive to a specific learner's needs. We run a periodic education series that includes internal and external speakers presenting topics of interest that are relevant to our employees. We provide multiple learning solutions that cover a wide range of areas such as diversity, equity, and inclusion training, leadership skills, financial knowledge, technology training, and presentation skills. We also support the pursuit of advanced certifications and degrees in areas including business, science and engineering, and liberal and fine arts and employ formal and informal coaching arrangements.

We care about our employees' employment experience and recognize them as individuals who are motivated in different ways. Managers hold performance conversations with their employees on a periodic basis to ensure they receive the performance feedback they deserve, and to allow managers to obtain insight into how to support the development of their staff, and to ensure that performance expectations are clear and aligned with the overarching objectives of the Company. We also provide continuous dialogue in between these formal touchpoints.

We believe we provide attractive benefits that promote the health of our employees and their families and design compelling job opportunities, aligned with our mission, in an energizing work environment. We also encourage our employees to continue to develop in their careers, including by obtaining advanced degrees or professional certifications. We compensate our employees according to our fair remuneration policies and believe in paying for performance. Therefore, employees typically receive a portion of their compensation in the form of annual bonuses as well as equity grants which are both tied in part to the Company's financial performance. In addition to competitive base salaries, cash bonuses, and equity participation for most employees, we are committed to continuously evaluating and ensuring the competitiveness of our benefits offerings so that we meet the various needs of our employees and their families. Despite a healthcare environment that is facing rising costs, we continue to pay substantially all of the cost of our employees' healthcare insurance. Further, in addition to what we believe to be market total rewards benefits, we provide additional benefits, such as on-site seasonal vaccination clinics, back-up childcare solutions, and a tuition reimbursement program.

We take a values-driven, broad view of diversity, equity, and inclusion. We believe that fostering an internal climate that is supportive and allows people of all backgrounds to flourish lends itself to the highest levels of company performance and facilitates the attraction and retention of best-in-class talent. We also believe it is inherently the right way to conduct business. We support an innovative, creative culture where people can bring their best and most authentic selves to work. Employees who hold divergent opinions are encouraged to voice their views. We track and report internally on key talent metrics including workforce demographics, critical role pipeline data, diversity data, and engagement and inclusion indices.

Decisions regarding staffing, selection, and promotions are made on the basis of individual qualifications related to the requirements of the position. We are committed to identifying and developing the next generation of leaders. We endeavor to select qualified individuals from a diverse pool of candidates derived from broad outreach efforts when we are recruiting. We are committed to the sourcing and/or promotion of highly-qualified women, people of color and other under-represented groups for management and Board positions. To better support our female and underrepresented employees in their onboarding, training, development and progression within the Company, we have established a mentorship program where certain members of our Board mentor female employees who are developing managers.

Our policy is "equal pay for equal work" in compliance with applicable state law. Compensation for our employees is based upon experience, seniority, educational attainment, and individual contribution and company performance against goals.

As of December 31, 2023, we employed 139 people. We intend to hire additional business professionals as needed to assist in the implementation of our business strategy. Refer to "Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations - Results of Operations – Human Capital Metrics" for discussion of metrics related to our Human Capital Strategy.

SUSTAINABILITY, IMPACT AND CORPORATE GOVERNANCE

We own and invest in a diversified portfolio of climate solutions projects focused on reducing or mitigating the impacts of climate change. Under the direction of our chief executive officer and the Board, we are focused on achieving a high level of environmental and social responsibility and strong corporate governance. The Nominating, Governance and Corporate Responsibility Committee of our Board is responsible for our oversight of sustainability, impact, and governance matters, including related policies and communications. Additionally, we have a committee of employees from across our organization that is focused on implementing sustainability and impact strategies and policies and reports directly to our chief executive officer. Annually we publish a report that illustrates our progress on these matters.

Environmental Responsibility. Our business and business strategy are focused on addressing climate change, in part through the reduction of carbon emissions that have been scientifically linked to climate change. As described under "Investment Strategy", we quantify the carbon impact of each of our investments. In addition, we operate our business in a manner intended to reduce our own environmental impact, including by purchasing carbon offsets to mitigate the impact of our office operations, encouraging recycling and composting, and offering clean transportation employee incentives for electric and hybrid vehicles. We have also adopted policies focused on minimizing the environmental impact of our operations.

Through our membership in the Net Zero Asset Managers Initiative, we are pleased to participate in the Glasgow Financial Alliance for Net Zero, which brings the financial sector together to accelerate a shared commitment to decarbonizing the global economy. In 2021, we established targets for our transition to net-zero carbon emissions by 2050 using the foundational framework developed by the Science Based Targets Initiative. We have since validated a net-zero target with the Net Zero Asset Managers Alliance, which commits us to achieving net zero carbon intensity for our financed emissions by 2050.

We are a signatory to the United Nations Global Compact, an initiative focused on responsible business practices related to human rights, labor, the environment and anti-corruption. We participate in a number of initiatives and coalitions that share our commitment to climate action, corporate sustainability, climate-risk disclosure and reporting, and the expansion of clean energy including the United Nations-supported Principles for Responsible Investment, the United Nations Global Compact campaign entitled Business Ambition for 1.5°, and the reporting framework established by an international consortium of business and environmental NGOs referred to as the Climate Disclosure Standards Board.

Social Responsibility. We recognize that the effects of pollution, environmental degradation, increased climate-fueled extreme weather events, and the economic transition away from fossil fuels fall most heavily on marginalized communities in our society, especially communities of color. We know that the effects of climate change are already disproportionately impacting disadvantaged communities, and these adverse outcomes will be exacerbated if we do not eliminate harmful greenhouse gas emissions. Equally so, we acknowledge the legacy of discriminatory policies in creating and perpetuating this imbalance.

We believe in every person’s inherent worth and dignity and that we should all have access to clean water, clean air, healthy food, resilient and reliable shelter and energy, and good paying jobs. We believe these disparities must be addressed while society works to accelerate the transition to a net-zero economy, both here in the United States and across the globe.

We are determined to incorporate these ideals and actions across our entire business, including in our process for underwriting investments, our engagement with business partners, our human capital strategy, philanthropy, and policy advocacy efforts. We established the HASI Foundation to provide cash and in-kind support to programs which provide climate solutions investments and career opportunities for those from historically underrepresented communities, as well as organizations across our local region that seek to strengthen the social fabric and promote economic and climate resiliency.

Corporate Governance. We are focused on achieving best-in-class corporate governance practices to help ensure that our team will operate in a manner consistent with our organizational mission and deliver attractive risk-adjusted returns. Our corporate governance philosophy is based on maintaining a close alignment of our interests with those of our stakeholders. Notable features of our corporate governance structure include the following:

- our Corporate Governance Guidelines provide for a majority vote policy for the election of directors pursuant to which any nominee who receives a greater number of votes “withheld” from his or her election than votes “for” such election shall promptly tender his or her resignation to our Board for their consideration to accept or reject such resignation;
- our Board is not staggered, with each of our directors subject to re-election annually;
- our Board has determined that nine of our eleven directors are independent for purposes of the New York Stock Exchange (“NYSE”) corporate governance listing standards and Rule 10A-3 under the Exchange Act;
- we have a lead independent director of the Board that convenes and chairs executive sessions of the independent directors to discuss certain matters without management or the chairman present;
- we have separated the executive chairman and chief executive officer roles as discussed in Item 9B of this Form 10-K;
- three of our directors qualify as an “audit committee financial expert” as defined by the Securities and Exchange Commission (the “SEC”);
- four of our directors (including our lead independent director) are women and two of our directors are people of underrepresented ethnicity constituting 36% and 18% respectively, of our Board in furtherance of our board diversity policy;
- a target retirement age of 75 has been established for our directors;
- we have an active stockholder outreach program, including providing stockholders the right to vote on an advisory basis on the fairness of the remuneration of executives;
- our Board members and named executive officers are required to maintain certain levels of stock ownership in our company ranging between three and six times their base salary or retainer, depending on position;

- we have a Clawback Policy that provides for the possible recoupment of performance or incentive-based compensation in the event of an accounting restatement due to material noncompliance by us with any financial reporting requirements under the securities laws (other than due to a change in applicable accounting methods, rules or interpretations);
- we have opted out of the control share acquisition statute in the Maryland General Corporations Law (the "MGCL");
- stockholders have the ability to amend the Company's bylaws by the affirmative vote of the holders of a majority of the outstanding shares of our common stock pursuant to a binding proposal submitted by a stockholder; and
- we have exempted from the business combinations statute in the MGCL transactions that are approved by our Board (including a majority of our directors who are not affiliates or associates of the acquiring person).

In order to foster the highest standards of ethics and conduct in all business relationships, we have adopted a Code of Business Conduct and Ethics policy (the "Code of Conduct"). This policy covers a wide range of business practices and procedures and applies to our officers, directors, employees, agents, representatives, and consultants. In addition, we have implemented whistleblowing procedures designed to facilitate the report of accounting and auditing matters as well as Code of Conduct matters (the "Whistleblower Policy") that sets forth procedures by which any Covered Persons (as defined in the Whistleblower Policy) may report, on a confidential basis, concerns regarding, among other things, any questionable or unethical accounting, internal accounting controls or auditing matters with our Audit Committee as well as any potential Code of Conduct or ethics violations with our Nominating, Governance and Corporate Responsibility Committee or our Chief Legal Officer.

We have adopted a Statement of Corporate Policy Regarding Equity Transactions that governs the process to be followed in the purchase or sale of our securities by any of our directors, officers, employees and consultants and prohibits any such persons from buying or selling our securities on the basis of material nonpublic information, and also prohibits our directors and officers from hedging equity securities of the Company, holding such securities in a margin account or pledging such securities as collateral for a loan. We review all of these policies on a periodic basis with our employees.

Our business is managed by our leadership team, subject to the supervision and oversight of our Board. Our directors stay informed about our business by attending meetings of our Board and its committees and through supplemental reports and communications.

We believe in transparent reporting relating to sustainability and impact matters because we believe such reporting improves the understanding of our financial results. As discussed in the "Investment Strategy" section above, we quantify the environmental impact of every transaction we execute through the application of CarbonCount. Our 2023 CarbonCount and avoided emissions for investments originated in 2023 can be found in "Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations — Results of Operations — Environmental Metrics".

We continue to implement the TCFD recommendations, and the recommended disclosures are located in this filing as follows;

- Governance - "Environmental and Social Responsibility and Corporate Governance",
- Strategy - "Investment Strategy"
- Risk Management - "Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations - Factors Impacting our Operating Results — Impact of climate of climate change on our future operations (Scenario Analysis)" and "Item 7A. Quantitative and Qualitative Disclosures About Market Risk — Risk Management", and
- Metrics and Targets - "Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations — Results of Operations - Environmental Metrics".

In addition to the above environmental reporting initiatives, in 2022, we reported our corporate emissions under PCAF, a global financial industry-led partnership to implement a consistent and transparent disclosure framework to report carbon emissions and avoided emissions resulting from financed assets. We also disclose metrics related to our Human Capital Strategy. Refer to "Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations — Results of Operations — Human Capital Metrics". When issuing debt, we generally provide the estimated carbon emission savingsusing CarbonCount, and in some instances are able to achieve better borrowing rates by achieving certain CarbonCount scores. Certain of our debt issuances have been evaluated to determine that they meet the environmental eligibility criteria for green bonds as defined by the International Capital Markets Association's Green Bond Principles.

COMPETITION

We compete against a number of parties, including banks, private equity, hedge or infrastructure investment funds, insurance companies, mutual funds, institutional investors, investment banking firms, specialty finance companies, utilities, independent power producers, project developers, pension funds, governmental bodies, private credit platforms, green banks, and public entities established to own infrastructure assets and other entities.

We compete primarily on the basis of service, price, structure and flexibility as well as the breadth and depth of our expertise. We may at times compete and at other times partner or work as a participant with alternative financing sources. The opportunities in alternative investment and increasing investor acceptance of the climate solutions market has increased the level of competition we experience. We may also encounter competition in the form of potential customers or our origination partners electing to use their own capital rather than engaging us as an outside capital provider. In addition, we may also face competition based on technological developments that reduce demand for electricity, increase power supplies through existing infrastructure or that otherwise compete with climate solutions projects in which we have invested. We believe that a significant part of our competitive advantage is our management team's experience and industry expertise.

For additional information concerning these competitive risks, see "Item 1A. Risk Factors—We operate in a competitive market, which may impact the terms of the investments we make."

INFORMATION ABOUT OUR EXECUTIVE OFFICERS AND OTHER LEADERSHIP TEAM PERSONNEL

Our executive officers and other leadership team personnel and their biographies are provided below.

Jeffrey A. Lipson, 56, has served as president and our chief executive officer since 2023. Prior to becoming chief executive officer, Mr. Lipson served as an executive vice president and our chief operating officer since 2021 and as our chief financial officer since 2019. Previously, Mr. Lipson was president and chief executive officer and director of Congressional Bancshares and its subsidiary Congressional Bank (now Forbright Bank). Mr. Lipson has also been a senior vice president and the treasurer of CapitalSource Inc. and its subsidiary CapitalSource Bank and a senior vice president, Corporate Treasury, at Bank of America and its predecessor FleetBoston Financial. Mr. Lipson received a Bachelor of Science degree in Economics from Pennsylvania State University in 1989 and a Master of Business Administration in Finance from New York University's Leonard N. Stern School of Business in 1993.

Marc T. Pangburn, 38, has served as an executive vice president and our chief financial officer since 2023, and prior to that served as a co-chief investment officer from 2021 to 2023. Mr. Pangburn joined the Company in 2013 and previously served as a managing director until 2021. Prior to joining the Company, Mr. Pangburn worked at MP2 Capital, a solar development and financing company, where he was responsible for structuring the firm's transactions, and worked in the private capital group at New York Life Investments, focusing on utilities, energy and infrastructure debt and equity investments. Mr. Pangburn is a member of the President's Council at Ceres, a non-profit sustainability advocacy organization. Mr. Pangburn received his Bachelor of Arts degree in economics from Drew University.

Susan D. Nickey, 63, has served as an executive vice president and our chief client officer since 2021. Ms. Nickey previously served as a managing director from 2014 to 2021. Ms. Nickey is responsible for leading business development and managing client relationships. Ms. Nickey currently serves as chair on the board of directors of the American Clean Power Association. Previously, she founded and served as CEO of Threshold Power. Ms. Nickey received a Bachelor of Business Administration from the University of Notre Dame and a Master of Science in Foreign Service from Georgetown University.

Nathaniel J. Rose, CFA, 46, has served as executive vice president since 2015 and as a chief investment officer beginning in 2017 and also from 2013 to 2015. Previously, Mr. Rose served as our chief operating officer from 2015 to 2017 and has been with the Company and its predecessor since 2000. Mr. Rose has been involved with a vast majority of our transactions since 2000. Mr. Rose received a joint Bachelor of Science and Bachelor of Arts degree from the University of Richmond in 2000 and a Master of Business Administration degree from the Darden School of Business Administration at the University of Virginia in 2009. Mr. Rose is a CFA charter holder and has passed the CPA examination. He holds a Series 63 and 79 securities licenses.

Richard R. Santoroski, 59, has served as executive vice president and a head of portfolio management since October 2021, previously serving as chief analytics officer since January 2021 after joining the Company in 2020 as a managing director. Mr. Santoroski is responsible for integrating analytics across portfolio, investment, and risk-related decisions. Previously, Mr. Santorski served as co-founder and managing partner of Wye Holdings from 2017 to 2020. From 2012 to 2016, he served as co-founder and managing director of American Capital Energy and Infrastructure (ACEI), an emerging markets investor in power generation projects across Africa, Asia, Latin America, and the Middle East. Prior to ACEI, Mr. Santoroski served as executive vice president, chief risk officer, and head of corporate mergers, acquisitions & development of The AES Corporation. Prior to joining AES, he worked for several years at New York State Electric and Gas as an engineer and energy trader. Mr. Santoroski received a Bachelor of Science degree in electrical engineering from Pennsylvania State University as well as a Master of Science degree in electrical engineering and a Master of Business Administration degree from Syracuse University.

Steven L. Chuslo, 66, has served as an executive vice president and our general counsel and secretary since 2013 and our chief legal officer since 2021. Previously, Mr. Chuslo has served with the predecessor of the Company as general counsel and secretary since 2008. Mr. Chuslo is responsible for governance support to the Board and management and oversees the Company's legal resources in its investment and portfolio management activities. Mr. Chuslo has more than 30 years of experience in the fields of securities, commercial and project finance, energy project development, and U.S. federal regulation. Mr. Chuslo received a Bachelor of Arts degree in History from the University of Massachusetts/Amherst and a Juris Doctorate from the Georgetown University Law Center.

Katherine McGregor Dent, 51, has served as our senior vice president and chief human resources officer since April 2020, focusing on culture, strategy, and organizational development. Previously, Ms. Dent served as vice president, deputy general counsel, and assistant secretary from 2003 to 2020, where she played a key role in structuring, developing, negotiating, and closing billions of dollars of transactions for the Company. Ms. Dent received a Bachelor of Arts in English from Niagara University and a Juris Doctor from the University at Buffalo School of Law. Ms. Dent serves on the board of directors for the YWCA of Annapolis and Anne Arundel County.

Daniel K. McMahon, CFA, 52, has served us as an executive vice president since 2015 and is the head of our syndication group. He has been with the Company and its predecessor since 2000 in a variety of roles, including as a senior vice president from 2007 to 2015. He has played a role in analyzing, negotiating, structuring, and managing several billion dollars of transactions. Mr. McMahon received a Bachelor of Arts degree from the University of California, San Diego in 1993, and is a CFA charter holder. He holds Series 24, 63 and 79 securities licenses.

Charles W. Melko, CPA, 43, has served as a senior vice president and our chief accounting officer since 2017 and as our treasurer since January 2021. He joined the Company in 2016 as a senior vice president and controller and has since been responsible for leading the Company's accounting and financial reporting function. In his treasurer role, he is involved in the Company's cash management and related capital markets activities. Previously, Mr. Melko served in a number of roles at PricewaterhouseCoopers LLP, including as a senior manager in the National Professional Services Group where he focused on complex financial instruments accounting issues for energy clients. Mr. Melko received a Bachelor of Science degree in Accountancy, a Master of Business Administration degree and a Master of Science degree in Accountancy from Wheeling Jesuit University. Mr. Melko holds a CPA license in West Virginia and Maryland and is also a Certified Treasury Professional (CTP).

Amanuel Haile-Mariam, 44, has served as a managing director since joining the Company in 2021 and is responsible for the Company's structured investments in Grid-Connected renewable energy markets. Prior to joining the Company, Mr. Haile-Mariam worked at GE Energy Financial Services for 15 years, most recently as Managing Director - Head of Capital Advisory and Portolio, Americas leading the execution, asset management, capital raise and divestment of energy infrastructure projects. Prior to joining GE Energy Financial Services, Mr. Haile-Mariam worked at GE Corporate Audit Staff, conducting financial audits, leading simplification and operational excellence projects. Mr. Haile-Mariam received his Bachelor of Science degree in accounting and Master of Business Administration in finance from the University of Connecticut.

Annmarie Reynolds, 54, has served as a managing director since joining the Company in 2022 and is responsible for building and growing the Company's investment in markets beyond current asset classes. Prior to joining the Company, Ms. Reynolds worked at The AES Corporation for 22 years serving in several senior roles including chief customer officer from 2019 to 2022, chief commercial officer – US and Eurasia from 2018 to 2019, and prior to that as chief risk officer and managing director climate solutions. Prior to joining The AES Corporation, Ms. Reynolds worked several years at New York State Electric and Gas as an energy trader and engineer. Ms. Reynolds received her Bachelor of Science degree in Mechanical Engineering from Rutgers University, The State University of New Jersey.

Daniela Shapiro, 49, joined the Company as managing director in 2022 and is responsible for growing the Company's investments in Behind-the-Meter opportunities and expanding solutions for broader onsite and as-a-service offerings. Ms. Shapiro has over 20 years of energy industry experience. Prior to joining the Company, Ms. Shapiro was the chief financial officer for Guzman Energy and held various other executive positions, including at SoCore/ ENGIE. Prior to this, Ms. Shapiro worked in the banking industry for 10 years, where she was responsible for deploying capital in energy and infrastructure assets, including tax equity investments in renewable energy projects. Ms. Shapiro received her Bachelor of Science degree in Electrical Engineering from UNIFEI in Brazil, and her Master of Business Administration degree from Northwestern University's Kellogg School of Management.

Viral Amin, 52, joined the Company as a senior vice president in 2023, and leads the on-balance sheet portfolio management group. Prior to joining the Company, Mr. Amin served in a number of roles at DTE Energy, including its vice president of business development, strategy, and mergers and acquisitions of the unregulated portfolio company from 2018 to 2023. While at DTE, Mr. Amin held multiple commercial and strategic roles in the utility and non-utility businesses, and ultimately became responsible for the unregulated company's investment activities overseeing its growth through sourcing, diligence, and execution of new projects in renewable and industrial energy. Prior to joining DTE, Mr. Amin worked for several years at Ford Motor Co. and Visteon Corporation as an engineer. Mr. Amin holds a Bachelor of Science degree and a Master of Science degree in electrical engineering from the University of Michigan, as well as a Master of Business Administration degree from the University of Michigan's Ross School of Business.

AVAILABLE INFORMATION

We maintain a website at www.hasi.com. Information on our website is not incorporated by reference in this Form 10-K. We will make available, free of charge, on our website (a) our Form 10-K, quarterly reports on Form 10-Q and current reports on Form 8-K (including any amendments thereto), proxy statements and other information (collectively, "Company Documents") filed with, or furnished to, the SEC, as soon as reasonably practicable after such documents are so filed or furnished, (b) Corporate Governance Guidelines, (c) Director Independence Standards, (d) Code of Business Conduct and Ethics policy and (e) written charters of the Audit Committee, Compensation Committee, Nominating, Governance and Corporate Responsibility Committee and Finance and Risk Committee of our Board. Company Documents filed with, or furnished to, the SEC are also available for review by the public at the SEC's website at www.sec.gov. We provide copies of our Corporate Governance Guidelines and Code of Business Conduct and Ethics policy, free of charge, to stockholders who request such documents. Requests should be directed to Investor Relations, One Park Place, Suite 200, Annapolis, Maryland 21401, (410) 571-9860.

Item 1A. Risk Factors

Our business and operations are subject to a number of risks and uncertainties, the occurrence of which could adversely affect our business, financial condition, consolidated results of operations and ability to make distributions to stockholders and could cause the value of our capital stock to decline. We may refer to the energy efficiency, renewable energy and the other sustainable infrastructure projects or market collectively as climate solutions projects or the industry. Please also refer to the sections entitled "Forward-Looking Statements" and "Risk Factor Summary".

Risks Related to Our Business and Our Industry

Our business depends in part on U.S. federal, state and local government policies, and a decline in the level of government support could harm our business.

The projects in which we invest typically depend in part on various U.S. federal, state or local governmental policies and incentives that support or enhance project economic feasibility. Such policies may include governmental initiatives, laws and regulations designed to reduce energy usage and impact the use of renewable energy or the investment in and the use of climate solutions, including the Infrastructure Investment and Jobs Act and the Inflation Reduction Act.

U.S. federal policies and incentives include, for example, tax credits, tax deductions, bonus depreciation, federal grants and loan guarantees and energy market regulations. State and local governments policies and incentives include, for example, renewable portfolio standards ("RPS"), feed-in tariffs, other tariffs, tax incentives and other cash and non-cash payments.

Governmental agencies, commercial entities and developers of climate solutions projects frequently depend on these policies and incentives to help defray the costs associated with, and to finance, various projects. Government regulations also impact the terms of third-party financing provided to support these projects, including through energy savings performance contracts. If any of these government policies, incentives or regulations are adversely amended, delayed, eliminated, reduced, retroactively changed or not extended beyond their current expiration dates, or there is a negative impact from the recent federal law changes or proposals, the operating results of the projects we finance and the demand for, and the returns available from, the investments we make may decline, which could harm our business.

U.S. federal, state and local government entities are major participants in, and regulators of, the energy industry, and their actions could be adverse to our project companies or our company.

The projects we invest in are subject to substantial regulation by U.S. federal, state and local governmental agencies. For example, many projects require government permits, licenses, concessions, leases or contracts. Government entities, due to the wide-ranging scope of their authority, have significant leverage in setting their contractual and regulatory relationships with third parties. In addition, government permits, licenses, concessions, leases and contracts are generally very complex, which may result in periods of non-compliance, or disputes over interpretation or enforceability. If the projects in which we invest fail to obtain or comply with applicable regulations, permits, or contractual obligations, they could be prevented from being constructed or subjected to monetary penalties or loss of operational rights, which could negatively impact project operating results and the returns on our assets. In addition, government counterparties also may have the discretion to change or increase regulation of project operations, or implement laws or regulations affecting project operations, separate from any contractual rights they may have. These actions could adversely impact the efficient and profitable operation of the projects in which we invest.

Contracts with government counterparties that support the projects in which we invest may be more favorable to the government counterparties compared to commercial contracts with private parties. For example, a lease, concession or general service contract may enable the government to modify or terminate the contract without requiring the payment of adequate compensation. Typically, our contracts with government counterparties contain termination provisions including prepayment amounts. In most cases, the prepayment amounts provide us with amounts sufficient to repay the financing we have provided but may be less than amounts that would be payable under “make whole” provisions customarily found in commercial lending arrangements.

Government entities may also suspend or debar contractors from doing business with the government or pursue various criminal or civil remedies under various government contract regulations. They may also issue new government contracts or fail to extend existing government contracts. Our ability to originate new assets could be adversely affected if one or more of the ESCOs or other origination sources with whom we have relationships are suspended or debarred or fail to win new, or renew existing, contracts.

If the cost of energy generated by traditional sources of energy continues to stay low or further declines from present levels, demand for the projects in which we invest may decline.

Many traditional sources of energy such as coal, petroleum-based fuels and natural gas can be influenced by the price of underlying or substitute commodities. Such prices, which have decreased and may continue to decrease, may reduce the demand for energy efficiency projects or other projects, including renewable energy facilities, that do not rely on fossil fuel energy sources. For example, low natural gas prices may reduce the demand for projects like renewable energy that can substitute for natural gas. Low natural gas prices also typically adversely affect both the price available to renewable energy projects under future power sale agreements and the price of the electricity the projects sell on either a forward or a spot-market basis. Further, as has occurred in the past, technological progress in electricity generation, storage or in the production of traditional fuels or the discovery of large new deposits of traditional fuels could reduce the cost of energy generated from those sources and consequently reduce the demand for the types of projects in which we invest, which could harm our new business origination prospects as well as the value of our existing Portfolio. In addition, volatility in commodity prices, including energy prices, may cause building owners and other parties to be reluctant to commit to projects for which repayment is based upon a fixed monetary value for energy savings that would not decline if the price of energy declines. Any resulting decline in demand for our investments or the price that industry participants receive for the sale of fossil fuel could adversely impact our operating results.

If the market for various types of climate solutions projects or the investment techniques related to such projects do not develop as we anticipate, new business generation in this target area may be adversely impacted.

The market for various types of climate solutions projects is emerging and rapidly evolving, leaving their future success uncertain. If some or all market segments or investing techniques prove unsuitable for widespread commercial deployment or if demand for such projects or techniques fail to grow sufficiently, the demand for our capital may decline or develop more slowly than we anticipate. Many factors will influence the widespread adoption and demand for such projects and investing techniques, including general and local economic conditions, commodity prices of fossil fuel energy sources, the cost and availability of energy storage, the cost-effectiveness of various projects and techniques, performance and reliability of such technologies compared to conventional power sources and technologies, and the extent of government subsidies and regulatory developments. Any changes in the markets, products, technologies, financing techniques, or the regulatory environment could adversely impact the demand or financial performance for such projects and our investments.

Some projects in which we invest rely on net metering and related policies to improve project economics which if reduced could impact repayment of our investments or the return on our assets.

There has been a nationwide increase in distributed generation which has prompted discussions among policy makers and regulators regarding ways to both better integrate distributed energy resources into the electric grid and how to compensate distributed generators. Many states have a regulatory policy known as net energy metering, or net metering. Net metering typically allows some project customers to interconnect their on-site solar or other renewable energy systems to the utility grid and offset their utility electricity purchases by receiving a bill credit at the utility’s retail rate for the amount of energy in excess of their electric usage that is generated by their renewable energy system and is exported to the grid. At the end of the billing period, the customer simply pays for the net energy used or receives a credit at the retail rate if more energy is produced than consumed. Net metering policies are under review or have been limited or amended in a number of states. The ability and willingness of customers to pay for renewable energy systems that benefit from net metering rules may be reduced if net metering rules are eliminated or their benefits reduced, which may also impact our returns on such systems.

Existing electric utility industry regulations, and changes to regulations, may present technical, regulatory and economic barriers to the purchase and use of renewable energy and energy efficiency systems that may significantly reduce demand for systems and projects in which we invest or may adversely affect the profitability of such projects.

Federal, state and local government regulations and policies concerning the electric utility industry, and internal policies and regulations promulgated by electric utilities, heavily influence the market for electricity products and services. These regulations and policies often relate to electricity pricing and the interconnection of customer-owned electricity generation. In the United States, governments and utilities continuously modify these regulations and policies. These regulations and policies could deter customers from purchasing energy efficiency and renewable energy systems. For example, Federal Energy Regulatory Commission ("FERC") recently conducted its own review of grid resiliency and the functioning of electricity markets and has made, and could continue to make, changes to policies and regulations related to the function of the electricity markets and grid resiliency which may negatively impact the use of renewable energy or encourage the use of fossil fuel energy over renewable energy. This could result in a significant reduction in the potential demand for such systems. Utilities commonly charge fees to larger, industrial customers for disconnecting from the electric grid or for having the capacity to use power from the electric grid for back-up purposes. In addition, there is an increasing trend towards initiating or increasing fixed fees for users to have electricity service from a utility. These fees could increase our customers' cost to use energy efficiency and renewable energy systems not supplied by the utility and make them less desirable, thereby harming our business, prospects, financial condition and results of operations. In addition, any changes to government or internal utility regulations and policies that favor electric utilities could reduce competitiveness and cause a significant reduction in demand for systems in which we invest.

Further, certain climate solutions projects in which we invest may be "qualifying facilities" that are exempt from rate regulation as public utilities by FERC under the Federal Power Act, (the "FPA"). FERC regulations under the FPA confer upon these qualifying facilities key rights to interconnection with local utilities and can entitle such facilities to enter into PPAs with local utilities, from which the qualifying facilities benefit. Changes to these U.S. federal laws and regulations could increase the regulatory burdens and costs and could reduce the revenue of the project. In addition, modifications to the pricing policies of utilities could require climate solutions projects to achieve lower prices in order to compete with the price of electricity from the electric grid and may reduce the economic attractiveness of certain energy efficiency measures. To the extent that the projects in which we invest are subject to rate regulation, the project owners will be required to obtain FERC acceptance of their rate schedules for wholesale sales of energy, capacity and ancillary services. Any adverse changes in the rates project owners are permitted to charge could negatively impact the repayment of our investments, or the return on our assets.

In addition, the operation of, and electrical interconnection for, our climate solutions projects may be subject to U.S. federal, state or local interconnection and federal reliability standards, some of which are set forth in utility tariffs. These standards and tariffs specify rules, business practices and economic terms to which the projects in which we invest are subject and that may impact a project's ability to deliver the electricity it produces or transports to its end customer. The tariffs are drafted by the utilities and approved by the utilities' state and U.S. federal regulatory commissions. These standards and tariffs change frequently and it is possible that future changes will increase our administrative burden or adversely affect the terms and conditions under which the projects render services to their customers.

Under certain circumstances, we may also be subject to the reliability standards of the North American Electric Reliability Corporation. If project owners fail to comply with the mandatory reliability standards, they could be subject to sanctions, including substantial monetary penalties, which could also raise credit risks for, or lower the returns available from, the project companies in which we invest.

These various regulations may also limit the transferability or sale of renewable energy projects and any such limits could negatively impact our returns from such projects.

We are subject to risks related to our sustainability and governance activities and disclosures.

Our sustainability and governance strategy and practices and the level of transparency with which we are approaching them are foundational to our business and expose us to several risks, including:

- that we may fail or be unable to fully achieve one or more of our sustainability and governance goals due to a range of factors within or beyond our control, or that we may adjust or modify our goals in light of new information, adjusted projections, or a change in business strategy, which could negatively impact our reputation and our business;
- that a failure to or perception of a failure to disclose metrics and set goals that are rigorous enough or in an acceptable format, a failure to appropriately manage selection of goals, a failure to or perception of a failure to make appropriate disclosures, stockholder perception of a failure to prioritize the "correct" sustainability and governance goals, or an unfavorable sustainability and governance-related rating by a third party, that could negatively impact our reputation and our business;

- that certain data we utilize in our CarbonCount or similar metric calculations is prepared by third parties or receives limited assurance from and/or verification by third parties and may undergo a less rigorous review process than assurance sought in connection with more traditional audits and such review process may not identify errors and may not protect us from potential liability under the securities laws, and, if errors are identified our reputation and our business could be negatively impacted and if we were to seek more extensive assurance or attestation with respect to such sustainability and governance metrics, we may be unable to obtain such assurance or attestation or may face increased costs related to obtaining and/or maintaining such assurance or attestation;
- that the governance, social, or sustainability standards, norms, or metrics, which are constantly evolving, change in a manner that impacts us negatively or requires us to change the content or manner of our disclosures, and our stockholders or third parties view such changes negatively, we are unable to adequately explain such changes, or we are required to expend significant resources to update our disclosures, any of which could negatively impact our reputation and our business; and
- that our business could be negatively impacted if any of our disclosures, including our CarbonCount or similar metrics, reporting to third-party standards, or reporting against our goals, are inaccurate, perceived to be inaccurate, or alleged to be inaccurate.

We operate in a competitive market, which may impact the terms of our investments.

We compete against a number of parties who may provide alternatives to our investments including, among others, a wide variety of financial institutions, government entities and energy industry participants. Increasing investor acceptance of the climate solutions market increased the level of competition we experience, and we expect supportive government policies and initiatives to further increase competition in the markets in which we invest. We also encounter competition in the form of potential customers or our origination partners electing to use their own capital rather than engaging an outside provider such as us. In addition, we also face competition based on technological developments that reduce demand for electricity, increase power supplies through existing infrastructure or that otherwise compete with our climate solutions projects. Some of our competitors are significantly larger than we are, have access to greater capital and other resources than we do and may have other advantages over us. In addition, some of our competitors have higher risk tolerances or different risk assessments, which allow those competitors to consider a wider variety of investments and establish more relationships than we can. Further, many of our competitors are not subject to the operating constraints associated with maintenance of an exemption from the 1940 Act. These characteristics could allow our competitors to consider a wider variety of opportunities, establish more relationships and offer better pricing and more flexible structuring than we can offer. We may lose business opportunities if we do not match our competitors' pricing, terms and structure. If we match our competitors' pricing, terms and structure, we may not be able to achieve acceptable risk-adjusted returns on our assets or we may be forced to bear greater risks of loss. The increase in the number or the size of our competitors in this market has resulted, and could continue to result, in less attractive terms on our investments or the need to accept a higher level of risks associated with our investments. As a result, competitive pressures we face could have a material adverse effect on our business, financial condition and results of operations.

A change in the fiscal health, level of appropriations or budgets of U.S. federal, state and local governments could reduce demand for our investments.

Although our energy efficiency investments do not normally require additional governmental appropriations to cover repayment due to the energy and operating savings derived from the newly installed equipment and systems, a significant decline in the fiscal health, level of appropriations or budgets of government customers may make it difficult for them to remain current on existing payment obligations or undesirable to enter into new energy efficiency improvement projects. Alternatively, some government entities may choose to provide appropriations or other credit support for climate solutions projects, which would negatively impact the use of private capital such as ours. This could have a material and adverse effect on the return of and return on our investments for existing projects and on our ability to originate new assets. Moreover, other changes in resources available to governments may also impact their willingness to undertake energy efficiency projects. For example, an increase in money set aside for government expenditures for energy efficiency projects may reduce demand for our investments.

In addition, to the extent we make investments that involve direct appropriations, we will depend on approval of the necessary spending for the projects. The repayment of the investment, or the return on our asset, could be adversely affected if appropriations for any such projects are delayed or terminated.

Risks Related to Our Assets and Projects in Which We Invest

Changes in interest rates could adversely affect the value of our assets and negatively affect our profitability.

Interest rates are highly sensitive to many factors, including governmental monetary and tax policies, domestic and international economic and political considerations and other factors beyond our control. Many of our assets pay a fixed rate of interest or provide a fixed preferential return.

With respect to our business operations, increases in interest rates, have caused, and in general, may in the future cause: (1) project owners to be less interested in borrowing or raising equity and thus reduce the demand for our investments; (2) the interest expense associated with our borrowings to increase; (3) the market value of our fixed rate or fixed return assets to decline; and (4) the market value of any fixed-rate interest rate swap agreements to increase. Decreases in interest rates, in general, may over time cause: (1) project owners to be more interested in borrowing or raising equity thus increase the demand for our assets; (2) prepayments on our assets, to the extent allowed, to increase; (3) the interest expense associated with our borrowings to decrease; (4) the market value of our fixed rate or fixed return assets to increase; and (5) the market value of any fixed-rate interest rate swap agreements to decrease. Adverse developments resulting from changes in interest rates could have a material adverse effect on our business, financial condition and results of operations.

The lack of liquidity of our assets may adversely affect our business, including our ability to value our assets.

Volatile market conditions could significantly and negatively impact the liquidity of our assets. Illiquid assets typically experience greater price volatility, as a ready market does not exist, and can be more difficult to value. In addition, validating third-party pricing for illiquid assets may be more subjective than more liquid assets. The illiquidity of our assets may make it difficult for us to sell such assets if the need or desire arises. In addition, if we are required to liquidate all or a portion of our Portfolio quickly, we may realize significantly less than the value at which we have previously recorded our assets. To the extent that we utilize leverage to finance our investments that are or become illiquid, the negative impact on us related to trying to sell assets in a short period of time for cash could be greatly exacerbated. As a result, our ability to vary our Portfolio in response to changes in economic and other conditions may be relatively limited, which could adversely affect our results of operations and financial condition.

Some of the assets in our Portfolio may be recorded at fair value and, as a result, there could be uncertainty as to the value of these assets. Further, we may experience a decline in the fair value of our assets.

Our investments are not publicly traded. The fair value of assets that are not publicly traded may not be readily determinable. In accordance with GAAP, we record certain of our assets at fair value, which may include unobservable inputs. Because such valuations are subjective, the fair value of these assets may fluctuate over short periods of time and our determinations of fair value may differ materially from the values that would have been used if a ready market for these assets existed. The value of our common stock could be adversely affected if our determinations regarding the fair value of these assets were materially higher than the values that we ultimately realize upon their disposal. Additionally, our results of operations for a given period could be adversely affected if our determinations regarding the fair value of these assets were materially higher than the values that we ultimately realize upon their disposal. The valuation process can be particularly challenging during periods when market events make valuations of certain assets more difficult, unpredictable and volatile.

A decline in the fair market value of any asset we carry at fair value, may require us to reduce the value of such assets under GAAP. In addition, our other financial assets are subject to an impairment assessment that could result in adjustments to their carrying values. Upon the subsequent disposition or sale of such assets, we could incur future losses or gains based on the difference between the sale price received and adjusted value of such assets as reflected on our balance sheet at the time of sale.

The preparation of our financial statements, including provision for loan losses, involves use of estimates, judgments and assumptions, and our financial statements may be materially affected if our estimates prove to be incorrect.

Financial statements prepared in accordance with GAAP require the use of estimates, judgments and assumptions that affect the reported amounts. Different estimates, judgments and assumptions reasonably could be used that would have a material effect on the financial statements, and changes in these estimates, judgments and assumptions are likely to occur from period to period in the future. Significant areas of accounting requiring the application of management’s judgment include but are not limited to determining the fair value of our assets.

These estimates, judgments and assumptions are inherently uncertain, and, if they prove to be wrong, then we face the risk that charges to income will be required. Any charges could significantly harm our business, financial condition, results of operations and the price of our securities. See Management’s Discussion and Analysis of Financial Condition and Results of Operations—Critical Accounting Policies and Use of Estimates for a discussion of the accounting estimates, judgments and assumptions that we believe are the most critical to an understanding of our business, financial condition and results of operations.

Further, our provision for loan losses is evaluated on a quarterly basis. The determination of our provision for loan losses requires us to make certain estimates and judgments, which may be difficult to determine. Our estimates and judgments are based on a number of factors and may not be correct. If our estimates or judgments are incorrect, our results of operations and financial condition could be severely impacted. See Management’s Discussion and Analysis of Financial Condition and Results of Operations—Critical Accounting Policies and Use of Estimates for a discussion of the accounting estimates, judgments and assumptions that we believe are the most critical to our provision of loan losses.

We rely on our project sponsors for financial reporting related to our project companies, and our financial statements may be materially affected if the financial reporting related to our project companies proves to be incorrect.

We have equity investments in climate solutions project companies that we account for under the equity method of accounting, which requires us to rely on the project sponsor for the reporting of the financial results of those project companies, including in some instances the allocation of earnings under the hypothetical liquidation at book value ("HLBV") method. The HLBV method involves complex judgments around the interpretation of legal provisions governing liquidation of the entity in which we are invested. To the extent the reporting inclusive of these HLBV allocations we are provided is incorrect, our financial results reported using that information may be incorrect.

The majority of our investments are not rated by a rating agency, which may result in an amount of risk, volatility or potential loss of principal that is greater than that of alternative asset opportunities.

The majority of our investments are not rated by any rating agency and we expect that most of the assets we originate and acquire in the future will not be rated by any rating agency. Although we focus on climate solutions project companies with high credit quality obligors, we believe that a number of the projects or obligors in which we invest, if rated, would be rated below investment grade, due to speculative characteristics of the project or the obligor's capacity to pay interest and repay principal or pay dividends. Some of our assets may result in an amount of risk, volatility or potential loss of principal that is greater than that of alternative asset opportunities.

Any credit ratings assigned to our assets, debt or obligors are subject to ongoing evaluations and revisions and we cannot assure you that those ratings will not be downgraded.

To the extent our assets, their underlying obligors, or our debt are rated by credit rating agencies or by our internal rating process, such assets, obligors or our debt will be subject to ongoing evaluation by credit rating agencies and our internal rating process, and those ratings may be changed or withdrawn in the future. If rating agencies assign a lower-than-expected rating or if a rating is further reduced or withdrawn by a rating agency or us, or if there are indications of a potential reduction or withdrawal of the ratings of our assets, the underlying obligors or our debt in the future, the value of these assets could significantly decline, the level of borrowings based on such asset could be reduced or we could incur higher borrowing costs or incur losses upon disposition or the failure of obligors to satisfy their obligations to us.

Our investments are subject to delinquency, foreclosure and loss, any or all of which could result in losses to us.

Our investments are subject to risks of delinquency, foreclosure and loss. In many cases, the ability of a borrower to return our invested capital and our expected return is dependent primarily upon the successful development, construction and operation of the underlying project. If the cash flow of the project is reduced, the borrower's ability to return our capital and our expected return may be impaired. We make certain estimates regarding project cash flows or savings during the underwriting of our investment. These estimates may not prove accurate, as actual results may vary from estimates. The cash flows or cost savings of a project can be affected by, among other things: the terms of the power purchase or other use agreements used in such project; the creditworthiness of the off-taker or project user; price of power or services now and in the future; the technology deployed; unanticipated expenses in the development or operation of the project and changes in national, regional, state or local economic conditions, laws and regulations; and acts of God, terrorism, social unrest and civil disturbances.

In the event of any default or shortfall of an investment, we will bear a risk of loss of principal or equity to the extent of any deficiency between the value of the collateral, if any, and the amount of our investment, which could have a material adverse effect on our cash flow from operations and may impact the cash available for distribution to our stockholders. Many of the projects are structured as special purpose limited liability companies, which limits our ability to realize any recovery to the collateral or value of the project itself. In the event of the bankruptcy of a project owner, obligor, or other borrower, our investment or the project will be deemed to be subject to the avoidance powers of the bankruptcy trustee or debtor-in-possession and our or the project's contractual rights may be unenforceable under federal bankruptcy or state law. Foreclosure proceedings against a project can be an expensive and lengthy process, which could have a substantial negative effect on our anticipated return on the foreclosed investment.

Our climate solutions project companies may incur liabilities that rank equally with, or senior to, our investments in such projects.

We provide a range of investment structures, including various types of debt and equity securities, senior and subordinated loans, real property leases, mezzanine debt, preferred equity and common equity. Our projects may have, or may be permitted to incur, other liabilities or equity preferences that rank equally with, or senior to, our positions or investments in such projects or businesses, as the case may be, including with respect to grants of collateral. By their terms, such instruments may entitle the holders to receive payment of interest, principal payments or other distributions on or before the dates on which we are entitled to receive payments with respect to the instruments in which we invest. Also, in the event of insolvency, liquidation, dissolution, reorganization or bankruptcy of an entity in which we have invested, holders of instruments ranking senior to our investment in that project or business would typically be entitled to receive payment in full before we receive any distribution. After repaying such senior stakeholders, such project may not have any remaining assets to use for repaying its obligation to us. In the case of securities ranking equally with instruments we hold, we would have to share on an equal basis any distributions with other stakeholders holding such instruments in the event of an insolvency, liquidation, dissolution, reorganization or bankruptcy of the relevant project.

Our subordinated and mezzanine debt and equity investments, many of which are illiquid with no readily available market, involve a degree of risk.

Subordinated and mezzanine debt and equity investments involve a number of significant risks, including:

- such investments could be subject to further dilution as a result of the issuance of additional debt or equity interests and to additional risks because subordinated and mezzanine debt are subordinate to other indebtedness and in some cases, project tax equity, and equity interests are subordinate to all indebtedness (including trade creditors) and any senior securities in the event that the issuer is unable to meet its obligations or becomes subject to a bankruptcy process;
- to the extent that a project company in which we invest requires additional capital and is unable to obtain it, we may not recover our investment; and
- in some cases, subordinated and mezzanine debt may not pay current interest or principal or equity investments may not pay current dividends, and our ability to realize a return on our investment, as well as to recover our investment, will be dependent on the success of the project company in which we invest. The project may face unanticipated costs or delays or may not generate projected cash flows, which could lead to the project generating lower than expected rates of return.

We either jointly control or do not control the projects in which we invest, which may result in the project owner making certain business decisions or taking risks with which we disagree.

Although the covenants in our financing or investment documentation generally restrict certain actions that may be taken by project owners, we generally do not control the projects in which we invest. As a result, we are subject to the risk that the project owner may make certain business decisions or take risks with which we disagree or otherwise act in ways that do not serve our interests.

We invest in joint ventures and other similar arrangements that subject us to additional risks.

Some of our project companies are structured as joint ventures, partnerships, securitizations, syndications and consortium arrangements. Part of our strategy is to participate with other institutional investors or the project's sponsor on various climate solutions transactions. These arrangements are driven by the magnitude of capital required to complete acquisitions and the development of climate solutions projects and other industry-wide trends that we believe will continue. Such arrangements involve risks not present where a third party is not involved, including the possibility that partners or co-venturers might become bankrupt or otherwise fail to fund their share of required capital contributions. Additionally, partners or co-venturers might at any time have economic or other business interests or goals different from ours. These investments generally provide for a reduced level of control over an acquired project because governance rights are shared with others. Accordingly, project decisions relating to the management, operation and the timing and nature of any exit, are often made by a majority vote of the investors or by separate agreements that are reached with respect to individual decisions. In addition, project operations may be subject to the risk that the project owners may make business, financial or management choices with which we do not agree or the management of the project may take risks or otherwise act in a manner that does not serve our interests. Because we may not have the ability to exercise control, we may not be able to realize some or all of the benefits expected from our investment. If any of the foregoing were to occur, our business, financial condition and results of operations could suffer as a result.

In addition, some of our joint ventures, partnerships, and equity investments subject the sale or transfer of our interests in these project companies to rights of first refusal or first offer, tag along or drag along rights and buy-sell, call-put or other restrictions. Such rights may be triggered at a time when we may not want them to be exercised and such rights may inhibit our ability to sell our interest in an entity within our desired time frame or on any other desired terms.

Many of our assets depend on revenues from third-party contractual arrangements, including PPAs, that expose the projects to various risks.

Many of the projects in which we invest rely on revenue or repayment from contractual commitments of end-customers, including federal, state, or local governments for energy efficiency projects or utilities or other customers under PPAs. There is a risk that these customers may default under their contracts. In addition, many of these end-customers are large entities with wide ranging activities. An event in a non-related part of the business could have a material adverse impact on the financial strength of such end-customer, such as the effect of wildfires on the California utilities. Furthermore, the bankruptcy, insolvency, or other liquidity constraints of one or more customers may result in a renegotiation or rejection of the third-party contract, delay the receipt of any obligations or reduce the likelihood of collecting defaulted obligations. Some projects rely on one customer for their revenue and thus the project could be materially and adversely affected by any material change in the financial condition of that customer. While there may be alternative customers for such a project, there can be no assurance that a new contract on the same terms will be able to be negotiated for the project.

Certain of our projects with contractually committed revenues or other sources of repayment under long term contracts will be subject to re-contracting risk in the future. These projects may be unable to renegotiate these contracts once their terms expire on equally favorable terms or at all. If it is not possible to renegotiate these contracts on favorable terms, our business, financial condition, results of operations, and prospects could be materially and adversely affected.

Revenues at some of the projects in which we invest depend on reliable and efficient metering, or other revenue collection systems, which are often specified in the contract. If one or more of these projects are not able to operate and maintain the metering or other revenue collection systems in the manner expected, if the operation and maintenance costs, are greater than expected, or if the customer disputes the output of the revenue collection system, the ability of the project to repay our investments or provide a return to us on our asset could be materially and adversely affected.

In most instances, projects which sell power under PPAs commit to sell minimum levels of generation. If the project generates less than the committed volumes, it may be required to buy the shortfall of electricity on the open market or make payments of liquidated damages or be in default under a PPA, which could result in its termination. In the event that any of these events were to occur, our business, financial condition, and results of operations could suffer as a result.

We are exposed to the credit risk of various project sponsors, ESCOs, and others.

We are exposed to credit risks in the commercial projects in which we invest. We are also subject to varying degrees of credit risk related to ESCOs in government energy efficiency projects in which guarantees provided by ESCOs under energy savings performance contracts are required in the event that certain energy savings are not realized by the customer.

Where we make loans to or own equity interests in special purposes entities such as those that lease solar energy systems to residential customers, those special purpose entities often enter into various contractual arrangements with, or receive performance guarantees from the affiliate project sponsor to ensure satisfactory equipment or other project performance over the term of the lease or power purchase agreement. To the extent those parties are unable to perform on their contractual obligations or performance guarantees we may see diminished equity returns or the special purpose entity may be unable to repay their loan timely or at all.

We seek to mitigate these credit risks by employing a comprehensive review and asset selection process and careful ongoing monitoring of acquired assets. Nevertheless, unanticipated credit losses could occur which could adversely impact our operating results. During periods of economic downturn in the global economy, the solvency and financial wherewithal of counterparties with whom we do business could be impacted and our exposure to credit risks from obligors increases, and our efforts to monitor and mitigate the associated risks may not be effective in reducing our credit risks. In the event a counterparty to us or one of our climate solutions projects becomes insolvent or unable to make payments, we may fail to recover the full value of our investment or realize the value from the counterparty's contract, thus reducing our earnings and liquidity. In addition, the insolvency of one or more of our, or one of our climate solutions projects', counterparties could reduce the amount of financing available to us, which would make it more difficult for us to leverage the value of our assets and obtain substitute financing on attractive terms or at all. A material reduction in our financing sources or an adverse change in the terms of our financings could have a material adverse effect on our financial condition and results of operations. Certain participants in the sustainable energy industry have experienced significant declines in the value of their equity and difficulty in raising or refinancing debt, which increases the credit risk to these companies and they may not be able to fulfill their obligations which could adversely impact our operating results.

Some of the projects in which we invest have sold their output under PPAs that expose the projects to various risks.

Some of our projects enter into PPAs when they contract to sell all or a fixed proportion of the electricity generated by the project, sometimes bundled with renewable energy credits and capacity or other environmental attributes, to a power purchaser, often a utility, or increasingly, a corporation. PPAs are used to stabilize our revenues from that project. We are exposed to the risk that the power purchaser, who we consider an obligor, will fail to perform under a PPA or the PPA will be terminated or expire, which will lead to that project needing to sell its electricity at the then market price, which could be substantially lower than the price provided in the applicable PPA. In many instances, the project also commits to sell minimum levels of generation. If the project generates less than the committed volumes, it may be required to buy the shortfall of electricity on the open market or make payments of liquidated damages or be in default under a PPA, which could result in its termination. In the event that any of these events were to occur, our business, financial condition, and results of operations could suffer as a result.

Portions of the electricity and environmental attributes our assets generate are sold on the open market at spot-market prices. A prolonged environment of low prices for natural gas, or other conventional fuel sources, below the levels at which we assumed when underwriting these investment could have a material adverse effect on our long-term business prospects, financial condition and results of operations.

Low prices for traditional fossil fuels, particularly natural gas, could cause demand for renewable energy to decrease and prices have, and may continue to, adversely affect both the future sale price of energy under new PPAs and the current sale price of energy sold on a spot-market basis. Low PPA and spot market power prices, if combined with other factors, can have a material adverse effect on our projects and their respective values and our expected returns, results of operations and cash available for distribution.

Some of the projects we invest in, or may plan to invest in, sell environmental attributes such as renewable energy credits or other similar credits on an uncontracted basis. To the extent merchant prices for these attributes are lower than expected, our projects revenues could be adversely impacted, and our business, financial condition, and results of operations could suffer as a result.

The ability of our assets to generate revenue from certain projects depends on having interconnection arrangements and services.

The future success of our assets will depend, in part, on their ability to maintain satisfactory interconnection agreements. If the interconnection or transmission agreement of a project is terminated for any reason, they may not be able to replace it with an interconnection and transmission arrangement on terms as favorable as the existing arrangement, or at all, or they may experience significant delays or costs in connection with securing a replacement. If a network to which one or more of the projects is connected experiences equipment or operational problems or other forms of “down time,” the affected project may lose revenue and be exposed to non-performance penalties and claims from its customers. These may include claims for damages incurred by customers, such as the additional cost of acquiring alternative electricity supply at then-current spot market rates. The owners of the network will not usually compensate electricity generators for lost income due to down time. In addition, our projects may be exposed to a locational basis risk resulting from a difference between where the power is generated and the contracted delivery point. These factors could materially affect these projects, which could negatively affect our business, results of operations, financial condition, and cash flow.

Our projects and their obligors are exposed to an increase in climate change or other change in meteorological conditions, which could have an impact on electric generation, revenue, insurance costs or the ability of the projects or their obligors to honor their contract obligations, all of which could adversely affect our business, financial condition and results of operations and cash flows.

The electricity produced and revenues generated by a renewable electric generation facility are highly dependent on suitable weather conditions, which are beyond our control. Components of renewable energy systems, such as turbines, solar panels and inverters, could be damaged by natural disasters or severe weather, including extreme temperatures, wildfires, hurricanes, hailstorms or tornadoes. Furthermore, the potential physical impacts of climate change may impact our projects, including the result of changes in weather patterns (including floods, tsunamis, drought, mudslides, and rainfall levels), wind speeds, water availability, storm patterns and intensities, and temperature levels. The projects in which we invest will be obligated to bear the expense of repairing the damaged renewable energy systems and replacing spare parts for key components and insurance may not cover the costs or the lost revenue. Natural disasters or unfavorable weather and atmospheric conditions, such as extreme cold temperatures or extreme events of rain, flooding, and mudslides, could impair the effectiveness of the renewable energy assets, reduce their output beneath their rated capacity, require shutdown of key equipment or impede operation of the renewable energy assets, which could adversely affect our business, financial condition and results of operations and cash flows. Sustained unfavorable weather could also unexpectedly delay the installation of renewable energy systems, which could result in a delay in our investing in new projects or increase the cost of such projects. The resulting effects of climate change can also have an impact on the cost of, and the ability of a project to obtain, adequate insurance coverage to protect against related losses.

We typically base our investment decisions with respect to each renewable energy facility on the findings of studies conducted on-site prior to construction or based on historical conditions at existing facilities. However, actual climatic conditions at a facility site may not conform to the findings of these studies. Even if an operating project's historical renewable energy resources are consistent with the long-term estimates, the unpredictable nature of weather conditions often results in daily, monthly and yearly material deviations from the average renewable resources anticipated during a particular period. Therefore, renewable energy facilities in which we invest may not meet anticipated production levels or the rated capacity of the generation assets, which could adversely affect our business, financial condition and results of operations and cash flows.

In addition, many of the project's end-customers are large entities with wide ranging activities. A climate related event in a non-related part of the business could have a material adverse impact on the financial strength of such end-customer and their ability to honor their contractual obligations which could negatively impact on revenue and the cash flow of the project and our business.

Operation of the projects in which we invest involves significant risks and hazards that could have a material adverse effect on our business, financial condition, results of operations and cash flows.

Climate projects are subject to various construction and operating delays and risks that have in the past caused them to, and may in the future cause them to, incur higher than expected costs or generate less than expected amounts of savings or outputs, such as electricity in the case of a renewable energy project.

The ongoing operation of the projects in which we invest involves risks that include construction delays, the breakdown or failure of equipment or processes or performance below expected levels of output or efficiency due to wear and tear, the impact of inflation, latent defect, design error or operator error or force majeure events, among other things. In addition to natural risks such as earthquake, flood, drought, lightning, wildfire, hurricane, ice, wind, and temperature extremes, other hazards, such as fire, explosion, structural collapse and machinery failure, acts of terrorism or related acts of war, hostile cyber intrusions, pandemics or other public health issue, or other catastrophic events are inherent risks in the construction and operation of a project. These and other hazards can cause significant personal injury or loss of life, severe damage to and destruction of property, plant and equipment and contamination of, or damage to, the environment and suspension of operations. Operation of a project also involves risks that the operator will be unable to transport its product to its customers in an efficient manner due to a lack of transmission capacity. Unplanned outages of projects, including extensions of scheduled outages due to mechanical failures or other problems, occur from time to time and are an inherent risk of the business. Unplanned outages typically increase operation and maintenance expenses and may reduce revenues as a result of selling less electricity or require the project to incur significant costs as a result of obtaining replacement power from third parties in the open market to satisfy forward power sales obligations. Any extended interruption in a project's construction or operation, a project's inability to operate its assets efficiently, manage capital expenditures and costs or generate earnings and cash flow could have a material adverse effect on the repayment of and return on our investment and our business, financial condition, results of operations and cash flows. While the projects maintain insurance, obtain warranties from vendors and obligate contractors to meet certain performance levels, the proceeds of such insurance, warranties or performance guarantees may not cover the lost revenues, increased expenses or liquidated damages payments should the project experience any equipment breakdowns, insurance claims or non-performance by contractors or vendors.

Some of the projects in which we invest may require substantial operating or capital expenditures in the future.

Many of the projects in which we invest are capital intensive and require substantial ongoing expenditures for, among other things, additions and improvements, and maintenance and repair of plant and equipment related to project operations. In addition, there may be cash needs to settle certain contractual obligations of the projects, such as settlements or margining requirements related to hedging activities. While we do not typically bear the responsibility for these expenditures, any failure by the equity owner to make necessary operating or capital expenditures could adversely impact project performance. In addition, some of these expenditures may not be recoverable from current or future contractual arrangements.

The use of real property rights that we acquire or are used for our climate solutions projects may be adversely affected by the rights of lienholders and leaseholders that are superior to those of the grantors of those real property rights to us.

The projects in which we invest often require large areas of land for construction and operation or other easements or access to the underlying land. In addition, we may acquire rights to land or other real property. Although we believe that we, or the projects in which we invest, have valid rights to all material easements, licenses and rights of way, not all of such easements, licenses and rights of way are registered against the lands to which they relate and may not bind subsequent owners. Some of our real property rights and projects generally are, and are likely to continue to be, located on land occupied pursuant to long-term easements and leases. The ownership interests in the land subject to these easements and leases may be subject to mortgages securing loans or other liens (such as tax liens) and other easement and lease rights of third parties (such as leases of water, oil or mineral rights) that were created prior to, or are superior to, our or our projects' easements and leases. As a result, our rights may be subject, and subordinate, to the rights of those third parties. We typically obtain representations or perform title searches or obtain title insurance to protect our real property interest and our investments in our projects against these risks. Such measures may, however, be inadequate to protect against all risk of loss of rights to use the land rights we have acquired or the land on which these projects are located, which could have a material and adverse effect on our land rights, our projects and their financial condition and operating results.

We own land or leasehold interests that are used by renewable energy projects. Negative market conditions or adverse events affecting tenants, or the industries in which they operate, could have an adverse impact on our underwritten returns. Moreover, many of our real estate assets are concentrated in similar geographic locations, which subjects us to an increased risk of significant loss if any property declines in value, incurs a natural disaster or if we are unable to lease a property.

We own land or leasehold interests used by renewable energy projects that are concentrated in a limited number of geographic locations. One consequence of this is that the aggregate returns we realize may be substantially adversely affected by the unfavorable performance of a small number of leases, a significant decline in the market value of any single property or a natural disaster in a concentrated area. Our cash flow depends in part on the ability to lease the real estate to projects or other tenants on economically favorable terms. We could be adversely affected by various facts and events over which we have limited or no control, such as:

- lack of demand in areas where our properties are located;
- inability to retain existing tenants and attract new tenants;
- oversupply of space and changes in market rental rates;
- our tenants' creditworthiness and ability to pay rent, which may be affected by their operations, the current economic situation and competition within their industries from other operators;
- defaults by and bankruptcies of tenants, failure of tenants to pay rent on a timely basis, or failure of tenants to comply with their contractual obligations;
- economic or physical decline of the areas where the properties are located; and
- destruction from natural disasters.

At any time, any tenant may experience a downturn in its business, including increased operating costs, termination of a PPA or low spot-market prices of products, that may weaken its operating results or overall financial condition, a tenant may delay lease commencement, fail to make rental payments when due, decline to extend a lease upon its expiration, become insolvent or declare bankruptcy. Any tenant bankruptcy or insolvency, leasing delay or failure to make rental payments when due could result in the termination of the tenant's lease and material losses to us.

If a tenant elects to terminate its lease prior to or upon its expiration or does not renew its lease as it expires, we may not be able to rent or sell the properties or realize our expected value. Furthermore, leases that are renewed and some new leases for properties that are re-leased, may have terms that are less economically favorable than expiring lease terms, or may require us to incur significant costs, such as lease transaction costs. In addition, negative market conditions or adverse events affecting tenants, or the industries in which they operate, may force us to sell vacant properties for less than their carrying value, which could result in impairments. Any of these events could adversely affect the value of our asset, the cash flow from operations and our ability to make distributions to stockholders and service indebtedness. A significant portion of the costs of owning property, such as real estate taxes, insurance and maintenance, are not necessarily reduced when circumstances cause a decrease in rental revenue from the properties. In a weakened financial condition, tenants may not be able to pay these costs of ownership and we may be unable to recover these operating expenses from them.

Further, the occurrence of a tenant bankruptcy or insolvency could diminish the income we receive from the tenant's lease or leases. For instance, a bankruptcy court might authorize the tenant to terminate its leases with us. If that happens, our claim against the bankrupt tenant for unpaid future rent would be subject to statutory limitations that most likely would be substantially less than the remaining rent we are owed under the leases. In addition, any claim we have for unpaid past rent, if any, may not be paid in full. As a result, tenant bankruptcies may have a material adverse effect on our results of operations.

In addition, since renewable energy projects are often concentrated in certain states, we would also be subject to any adverse change in the political or regulatory climate in those states or specific counties where such properties are located that could adversely affect our properties and our ability to lease such properties.

Performance of projects where we invest may be harmed by future labor disruptions and economically unfavorable collective bargaining agreements.

A number of the projects where we invest could have workforces that are unionized or in the future may become unionized and, as a result, are required to negotiate the wages, benefits and other terms with many of their employees collectively. If these projects were unable to negotiate acceptable contracts with any of their unions as existing agreements expire, they could experience a significant disruption of their operations, higher ongoing labor costs and restrictions on their ability to maximize the efficiency of their operations, which could have a material and adverse effect on our business, financial condition and results of operations. In addition, in some jurisdictions where our projects have operations, labor forces have a legal right to strike, which may have a negative impact on our business, financial condition and results of operations, either directly or indirectly, for example if a critical upstream or downstream counterparty was itself subject to a labor disruption that impacted the ability of our projects to operate.

We invest in projects that rely on third parties to manufacture quality products or provide reliable services in a timely manner and the failure of these third parties could cause project performance to be adversely affected.

We invest in projects that typically rely on third parties to select, manage or provide equipment or services. Third parties may be responsible for choosing vendors, including equipment suppliers and subcontractors. Project success often depends on third parties who are capable of installing and managing projects and structuring contracts that provide appropriate protection against construction and operational risks. In many cases, in addition to contractual protections and remedies, project owners may seek guaranties, warranties and construction bonding to provide additional protection.

The warranties provided by the third parties and, in some cases, their subcontractors, typically limit any direct harm that results from relying on their products and services. However, there can be no assurance that a supplier or subcontractor will be willing or able to fulfill its contractual obligations and make necessary repairs or replace equipment. In addition, these warranties generally expire within one to five years or may be of limited scope or provide limited remedies. If projects are unable to avail themselves of warranty protection or receive the expected protection under the terms of the guaranties or bonding, we may need to incur additional costs, including replacement and installation costs, which could adversely impact our investment.

In addition, renewable energy projects rely on electric and other types of transmission lines and facilities owned and operated by third parties to receive and distribute their energy. Any substantial access barriers to these lines and facilities could adversely impact the demand or financial performance for such projects and our investments.

Liability relating to environmental matters may impact the value of properties that we may acquire or the properties underlying our assets.

Under various U.S. federal, state and local laws, an owner or operator of real estate or a project may become liable for the costs of removal of certain hazardous substances released from the project or any underlying real property. These laws often impose liability without regard to whether the owner or operator knew of, or was responsible for, the release of such hazardous substances.

The presence of hazardous substances may adversely affect our, or another owner's, ability to sell a contaminated project or borrow using the project as collateral. To the extent that we, or another project owner, become liable for removal costs, our investment, or the ability of the owner to make payments to us, may be negatively impacted.

We acquire real property rights, make investments in projects that own real property, have collateral consisting of real property and in the course of our business, we may take title to a project or its underlying real estate assets relating to one of our debt financings. In these cases, we could be subject to environmental liabilities with respect to these assets. To the extent that we become liable for the removal costs, our results of operation and financial condition may be adversely affected. The presence of hazardous substances, if any, may adversely affect our ability to sell the affected real property or the project and we may incur substantial remediation costs, thus harming our financial condition.

Our insurance and contractual protections may not always cover lost revenue, increased expenses or liquidated damages payments.

Although our assets or projects generally have insurance, supplier warranties, subcontractors performance assurances such as bonding and other risk mitigation measures, the proceeds of such insurance, warranties, bonding or other measures may not be adequate to cover lost revenue, increased expenses or liquidated damages payments that may be required in the future.

The repayment of certain of our assets is dependent upon collection of payments from residential customers and we may be indirectly subject to consumer protection laws and regulations.

Certain obligors to which we have credit exposure are, or may be, subject to consumer protection laws, such as federal truth-in-lending, consumer leasing, and equal credit opportunity laws and regulations, as well as state and local sales and finance laws and regulations. Claims arising out of actual or alleged violations of law may be asserted against those obligors by individuals or governmental entities and may expose them to significant damages or other penalties, including fines, or could reduce the likelihood the residential customer may pay their obligation, which could limit their ability to repay borrowings or make equity distributions to us.

Risks Related to Our Company

Our management and employees depend on information systems and system failures could significantly disrupt our business, which may, in turn, negatively affect the market price of our common stock and our ability to pay dividends to our stockholders.

Our underwriting process and our asset and financial management and reporting are dependent on our present and future communications and information systems. Any failure or interruption of these systems could cause delays or other problems in our originating, financing, investing, asset and financial management and reporting activities, which could have a material adverse effect on our operating results.

We contract with information technology service providers where, in part, we rely upon their systems and controls for the quality of the data provided. The inappropriate establishment and maintenance of these systems and controls could cause information that we use to operate our business to be unavailable or inaccurate and could negatively impact our financial results.

Our information technology architecture is partially outsourced. These systems and processes may be either internet based or through traditional outsourced functions and certain of these arrangements are new or emerging. When we contract with these service providers, we attempt to evaluate the quality of their systems and controls before we execute the arrangement and may rely on third party reviews and audits of these service providers and attempt to implement certain processes to ensure the quality of the data received from these service providers. Because of the nature and maturity of the technology such efforts may be unsuccessful or incomplete and the unavailability of these systems or the inaccurate data provided from these service providers could negatively impact our financial results.

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, a misappropriation of funds, and/or damage to our business relationships, all of which could negatively impact our financial results.

A cyber incident is considered to be any adverse event that threatens the confidentiality, integrity or availability of our information resources. These incidents may be an intentional attack or an unintentional event and could involve gaining unauthorized access to our information systems for purposes of misappropriating assets, stealing confidential information, corrupting data or causing operational disruption. The risk of a security breach or disruption, particularly through cyber-attacks or cyber intrusions, including by computer hackers, nation-state affiliated actors, and cyber terrorists, has generally increased as the number, intensity and sophistication of attempted attacks and intrusions from around the world have increased, and will likely continue to increase in the future. The result of these incidents could include disrupted operations, misstated or unreliable financial data, disrupted market price of our common stock, misappropriation of assets, liability for stolen assets or information, increased cybersecurity protection and insurance cost, regulatory enforcement, litigation and damage to our relationships. These risks require continuous and likely increasing attention and other resources from us to, among other actions, identify and quantify these risks, upgrade and expand our technologies, systems and processes to adequately address them and provide periodic training for our employees to assist them in detecting phishing, malware and other schemes. Such attention diverts time and other resources from other activities and there is no assurance that our efforts will be effective. Additionally, the cost of maintaining such systems and processes, procedures and internal controls may increase from its current level. Potential sources for disruption, damage or failure of our information technology systems include, without limitation, computer viruses, security breaches, human error, cyber- attacks, natural disasters and defects in design. Additionally, due to the size and nature of our company, we rely on third-party service providers for many aspects of our business. The networks and systems that our third-party vendors have established or use may not be effective. As our reliance on technology has increased, so have the risks posed to both our information systems and those provided by third-party service providers. Our processes, procedures and internal controls that are designed to mitigate cybersecurity risks and cyber intrusions do not guarantee that a cyber incident will not occur or that our financial results, operations or confidential information will not be negatively impacted by such an incident.

Even if we are not targeted directly, cyberattacks on the U.S. and foreign governments, financial markets, financial institutions, or other businesses, including borrowers, vendors, software creators, cybersecurity service providers, and other third parties with whom we do business, may occur, and such events could disrupt our normal business operations and networks in the future.

Major public health issues and related disruptions in the U.S. and global economy and financial markets could adversely impact or disrupt our financial condition and results of operations.

In recent years, the outbreaks of a number of diseases, including COVID-19, avian influenza, H1N1, and other viruses have resulted in and increased the risk of a pandemic or major public health issues. We believe that our ability to operate, our level of business activity and the profitability of our business, as well as the values of, and the cash flows from, the assets we own could in the future be impacted by another pandemic or other major public health issue. While we have implemented risk management and contingency plans and taken preventive measures and other precautions, no predictions of specific scenarios can be made with certainty and such measures may not adequately predict the impact on our business from such events.

We may seek to expand our business internationally, which would expose us to additional risks that we do not face in the United States. A failure to manage these additional risks could have an adverse effect on our business, financial condition and operating results.

We generate substantially all of our revenue from operations in the United States. We may seek to expand our projects outside of the United States in the future. These operations will be subject to a variety of risks that we do not face in the United States, including risk from changes in foreign country regulations, infrastructure, legal systems and markets. Other risks include possible difficulty in repatriating overseas earnings and fluctuations in foreign currencies.

Our overall success in international markets will depend, in part, on our ability to succeed in different legal, regulatory, economic, social and political conditions. We may not be successful in developing and implementing policies and strategies that will be effective in managing these risks in each country where we decide to do business. Our failure to manage these risks successfully could harm our international projects, reduce our international income or increase our costs, thus adversely affecting our business, financial condition and operating results.

Risks Relating to Regulation

We cannot predict the unintended consequences and market distortions that may stem from far-ranging governmental intervention in the economic and financial system or from regulatory reform of the oversight of financial markets.

The U.S. federal government, the Federal Reserve Board of Governors, the U.S. Treasury, the SEC, U.S. Congress and other governmental and regulatory bodies have taken, are taking or may in the future take, various actions to address inflation, financial crises, or other areas of regulatory concern. Such actions could have a dramatic impact on our business, results of operations and financial condition, and the cost of complying with any additional laws and regulations or the elimination or reduction in scope of various existing laws and regulations could have a material adverse effect on our financial condition and results of operations. The far-ranging government intervention in the economic and financial system may carry unintended consequences and cause market distortions. We are unable to predict at this time the extent and nature of such unintended consequences and market distortions, if any. The inability to evaluate the potential impacts could have a material adverse effect on the operations of our business.

Loss of our 1940 Act exemptions may adversely affect us, the market price of shares of our common stock and our ability to distribute dividends.

We conduct our operations so that we are not required to register as an investment company under the 1940 Act. Section 3(a)(1)(A) of the 1940 Act defines an investment company as any issuer that is or holds itself out as being engaged primarily in the business of investing, reinvesting or trading in securities. Section 3(a)(1)(C) of the 1940 Act defines an investment company as any issuer that is engaged or proposes to engage in the business of investing, reinvesting, owning, holding or trading in securities and owns or proposes to acquire investment securities having a value exceeding 40% of the value of the issuer's total assets (exclusive of U.S. Government securities and cash items) on a non-consolidated basis, which we refer to as the 40% test. Excluded from the term "investment securities," among other things, are U.S. Government securities and securities issued by majority-owned subsidiaries that are not themselves investment companies and are not relying on the exemption from the definition of investment company set forth in Section 3(c)(1) or Section 3(c)(7) of the 1940 Act.

We conduct our businesses primarily through our subsidiaries and our operations so that we comply with the 40% test. The securities issued by any wholly-owned or majority-owned subsidiaries that we hold or may form in the future that are exempted from the definition of “investment company” based on Section 3(c)(1) or 3(c)(7) of the 1940 Act, together with any other investment securities we may own, may not have a value in excess of 40% of the value of our total assets on a non-consolidated basis. Certain of our subsidiaries rely on or will rely on an exemption from registration as an investment company under the 1940 Act pursuant to Section 3(c)(5)(C) of the 1940 Act, which is available for entities which are not primarily engaged in issuing redeemable securities, face-amount certificates of the installment type or periodic payment plan certificates and which are primarily engaged in the business of purchasing or otherwise acquiring mortgages and other liens on and interests in real estate. This exemption generally requires that at least 55% of such subsidiaries’ portfolios must be comprised of qualifying assets and at least 80% of each of their portfolios must be comprised of qualifying assets and real estate-related assets under the 1940 Act. Consistent with guidance published by the SEC staff, we intend to treat as qualifying assets for this purpose loans secured by projects for which the original principal amount of the loan did not exceed 100% of the value of the underlying real property portion of the collateral when the loan was made. We intend to treat as real estate-related assets non-controlling equity interests in joint ventures that own projects whose assets are primarily real property. In general, with regard to our subsidiaries relying on Section 3(c)(5)(C), we rely on other guidance published by the SEC or its staff or on our analyses of guidance published with respect to other types of assets to determine which assets are qualifying real estate assets and real estate-related assets.

In addition, one or more of our subsidiaries qualifies for an exemption from registration as an investment company under the 1940 Act pursuant to either Section 3(c)(5)(A) of the 1940 Act, which is available for entities which are not engaged in the business of issuing redeemable securities, face-amount certificates of the installment type or periodic payment plan certificates, and which are primarily engaged in the business of purchasing or otherwise acquiring notes, drafts, acceptances, open accounts receivable, and other obligations representing part or all of the sales price of merchandise, insurance, and services, or Section 3(c)(5)(B) of the 1940 Act, which is available for entities primarily engaged in the business of making loans to manufacturers, wholesalers, and retailers of, and to prospective purchasers of, specified merchandise, insurance, and services. These exemptions generally require that at least 55% of such subsidiaries’ portfolios must be comprised of qualifying assets that meet the requirements of the exemption. We intend to treat energy efficiency loans where the loan proceeds are specifically provided to finance equipment, services and structural improvements to properties and other facilities and renewable energy and other climate solutions projects or improvements as qualifying assets for purposes of these exemptions. In general, we also expect, with regard to our subsidiaries relying on Section 3(c)(5)(A) or (B), to rely on guidance published by the SEC or its staff, including reliance on a no-action letter obtained in connection with Sections 3(c)(5)(A) and 3(c)(5)(B) of the 1940 Act, or on our analyses of guidance published with respect to other types of assets to determine which assets are qualifying assets under the exemptions.

Although we monitor the portfolios of our subsidiaries relying on the Section 3(c)(5)(A), (B) or (C) exemptions periodically and prior to each acquisition, there can be no assurance that such subsidiaries will be able to maintain their exemptions. Qualification for exemptions from registration under the 1940 Act will limit our ability to make certain investments. For example, these restrictions will limit the ability of these subsidiaries to make loans that are not secured by real property or that do not represent part or all of the sales price of merchandise, insurance, and services.

There can be no assurance that the laws and regulations governing the 1940 Act, including the Division of Investment Management of the SEC providing more specific or different guidance regarding these exemptions, will not change in a manner that adversely affects our operations. For example, on August 31, 2011, the SEC issued a concept release (No. IC-29778; File No. SW7-34-11, Companies Engaged in the Business of Acquiring Mortgages and Mortgage-Related Instruments) pursuant to which it is reviewing the scope of the exemption from registration under Section 3(c)(5)(C) of the 1940 Act. While the SEC has yet to provide additional information on its position relating to these exemptions and timing of any future changes to the exemptions remain unknown, any additional guidance from the SEC or its staff from this process or in other circumstances could provide additional flexibility to us, or it could further inhibit our ability to pursue the strategies we have chosen. If we or our subsidiaries fail to maintain an exemption from the 1940 Act, we could, among other things, be required either to (1) change the manner in which we conduct our operations to avoid being required to register as an investment company, (2) effect sales of our assets in a manner that, or at a time when, we would not otherwise choose to do so or (3) register as an investment company, any of which could negatively affect our business, our ability to make distributions, our financing strategy and the market price for shares of our common stock.

We have not requested the SEC or its staff to approve our treatment of any company as a majority-owned subsidiary and neither the SEC nor its staff has done so. If the SEC or its staff were to disagree with our treatment of one or more companies as majority-owned subsidiaries, we would need to adjust our strategy and our assets in order to continue to pass the 40% test. Any such adjustment in our strategy could have a material adverse effect on us.

Rapid changes in the values of our assets may make it more difficult for us to maintain our exemption from the 1940 Act.

If the market value or income potential of our assets changes as a result of changes in interest rates, general market conditions, government actions or other factors, we may need to adjust the portfolio mix of our real estate assets and income or liquidate our non-qualifying assets to maintain our exemption from the 1940 Act. If changes in asset values or income occur quickly, this may be especially difficult to accomplish. This difficulty may be exacerbated by the illiquid nature of the assets we may own. We may have to make decisions that we otherwise would not make absent 1940 Act considerations.

Risks Related to our Borrowings and Hedging

We use financial leverage in executing our business strategy, which may adversely affect the returns on our assets and may reduce cash available for distribution to our stockholders, as well as increase losses when economic conditions are unfavorable.

We use debt to finance our assets, including credit facilities, recourse and non-recourse debt, securitizations, and syndications. Changes in the financial markets and the economy generally could adversely affect one or more of our lenders or potential lenders and could cause one or more of our lenders, potential lenders or institutional investors to be unwilling or unable to provide us with financing or participate in securitizations or could increase the costs of that financing or securitization. Some of our borrowings will have a remaining balance when they come due. If we are unable to repay or refinance the remaining balance of this debt, or if the terms of any available refinancing are not favorable, we may be forced to liquidate assets or incur higher costs which may significantly harm our business, financial condition, results of operations, and our ability to make distributions, which could in turn cause the value of our common stock to decline. The return on our assets and cash available for distribution to our stockholders may be reduced to the extent that market conditions prevent us from leveraging our assets or increase the cost of our financing relative to the income that can be derived from the assets acquired. Increases in our financing costs will reduce cash available for distributions to stockholders. We may not be able to meet our financing obligations and, to the extent that we cannot, we risk the loss of some or all of our assets to liquidation or sale to satisfy the obligations.

An increase in our borrowing costs relative to the interest we receive on our assets may adversely affect our profitability and our cash available for distribution to our stockholders. Our borrowings may have a shorter duration than our assets.

As some of our borrowings will have a remaining balance at maturity, we may be required to enter into new borrowings at higher rates or to sell certain of our assets to repay the loan. Our credit facilities have rates that adjust on a frequent basis based on prevailing short-term interest rates. Increases in interest rates, or a flattening or inversion of the yield curve, reduce the spread between the returns on our assets which are typically priced using longer-term interest rates and the cost of any new borrowings or borrowings where the interest rate adjusts to market rates or is based on shorter-term rates. This change in interest rates may adversely affect our earnings and, in turn, cash available for distribution to our stockholders. In addition, as we may use short-term borrowings that are generally short-term commitments of capital, lenders may respond to market conditions making it more difficult for us to obtain continued financing. If we are not able to renew our then existing facilities or arrange for new financing on terms acceptable to us, or if we default on our covenants or are otherwise unable to access funds under any of these facilities, we may have to curtail entering into new transactions and/or dispose of assets. We will face these risks given that a number of our borrowings have a shorter duration than the assets they finance.

While we have an established Board-approved leverage limit, our Board may change our leverage limits without stockholder approval.

We are not restricted by any regulatory requirements to maintain our leverage ratio at or below any particular level. The amount of leverage we may deploy for particular assets will depend upon the availability of particular types of financing and our assessment of the credit, liquidity, price volatility and other risks of those assets and the credit quality of our financing counterparties. We have established leverage limits which are discussed in Item 7, Management's Discussion and Analysis of Financial Conditions and Results of Operations—Liquidity and Capital Resources. However, our charter and bylaws do not limit the amount or type of indebtedness we can incur, and our Board has changed, and has the discretion to deviate from or change at any time in the future, our leverage policy, which could result in our business having a different risk profile. We utilize non-recourse facilities on certain types of assets that have significantly higher leverage. On these facilities, the lenders' primary recourse is to the pledged assets. If the value of the pledged assets is below the value of the debt or if we default on a facility, the lender would be able to foreclose on all the pledged assets, which would result in losses and reduce our assets and the cash available for distributions to stockholders. We may apply too much leverage to our assets or may employ an inefficient financing strategy to our assets.

The use of securitizations and special purpose entities exposes us to additional risks.

We hold securitized loans and often hold the most junior certificates or the residual value associated with a securitization. We have also established funds and special purpose entities through which we hold only a partial or subordinate interest or a residual value after taking into account our non-recourse debt facilities or a right to participate in the profits of such entity once it achieves a predefined threshold. As a holder of the residual value or other such interests, we are more exposed to losses on the underlying collateral because the interest we retain in the securitization vehicle or other entity would be subordinate to the more senior notes or interests issued to investors and we would, therefore, absorb all of the losses, up to the value of our interests, sustained with respect to the underlying assets before the owners of the notes or other interests experience any losses. In addition, the inability to securitize our Portfolio or assets within our Portfolio could hurt our performance and our ability to grow our business.

We also use various special purpose entities to own and finance our assets. These subsidiaries incur various types of debt, that can be used to finance one or more of our assets. This debt is typically structured as non-recourse debt, which means it is repayable solely from the revenue from the investment financed by the debt and is secured by the related physical assets, major contracts, cash accounts and in some cases, a pledge of our ownership interests in the subsidiaries involved in the projects. Although this subsidiary debt is typically non-recourse to us, we make certain representations and warranties or enter into certain guaranties of our subsidiary's obligations or covenants to the non-recourse debt holder, the breach of which may require us to make payments to the lender. We may also from time to time determine to provide financial support to the subsidiary in order to maintain rights to the project or otherwise avoid the adverse consequences of a default. In the event a subsidiary defaults on its indebtedness, its creditors may foreclose on the collateral securing the indebtedness, which may result in us losing our ownership interest in some or all of the subsidiary's assets. The loss of our ownership interest in a subsidiary or some or all of a subsidiary's assets could have a material adverse effect on our business, financial condition and operating results.

Our existing credit facilities and debt contain, and any future financing facilities may contain, covenants that restrict our operations and may inhibit our ability to grow our business and increase revenues.

Our existing credit facilities and debt contain, and any future financing facilities may contain, various affirmative and negative covenants, including maintenance of an interest coverage ratio and limitations on the incurrence of liens and indebtedness, investments, fundamental organizational changes, dispositions, changes in the nature of business, transactions with affiliates, use of proceeds and stock repurchases. In addition, the terms of our non-recourse debt include restrictions and covenants, including limitations on our ability to transfer or incur liens on the assets that secure the debt. For further information see Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources.

The covenants and restrictions included in our existing financings do, and the covenants and restrictions to be included in any future financings may, restrict our ability to, among other things:

- incur or guarantee additional debt;
- make certain investments, originations or acquisitions;
- make distributions on or repurchase or redeem capital stock;
- engage in mergers or consolidations;
- reduce liquidity below certain levels;
- grant liens;
- have a tangible net worth below a defined threshold;
- incur operating losses for more than a specified period; and
- enter into transactions with affiliates.

Our non-recourse debt limits our ability to take action with regard to the assets pledged as security for the debt. These restrictions, as well as any other covenants contained in any future financings, may interfere with our ability to obtain financing, or to engage in other business activities, which may significantly limit or harm our business, financial condition, liquidity and results of operations. Certain financing agreements also contain cross-default provisions, so that if a default occurs under any one agreement, the lenders under our other agreements could also declare a default. A default and resulting repayment acceleration could significantly reduce our liquidity, which could require us to sell our assets to repay amounts due and outstanding. This could also significantly harm our business, financial condition, results of operations, and our ability to make distributions, which could cause the value of our common stock to decline. A default will also significantly limit our financing alternatives such that we will be unable to pursue our leverage strategy, which could curtail the returns on our assets.

In addition, certain of our financing arrangements contain provisions that provide for a preference in cash flow allocations to the lender from our assets or an acceleration of principal payments owed when certain conditions are present related to the underlying assets that serve as collateral for the financing. These provisions may limit our ability to obtain distributions from the underlying assets and could impact our cash flow and expected returns.

We have issued senior unsecured notes that require us to maintain a certain amount of unencumbered assets as a part of our Portfolio, as well as to maintain certain debt coverage service ratios in order to issue additional notes. These provisions may limit our ability to leverage certain assets and limit our overall debt levels.

We will have to pay off the remaining balance or refinance our borrowings when they become due. The failure to be able to pay off the remaining balance or refinance such borrowings or an increase in interest rates of such refinancing could have a material impact on our business.

Some of our borrowings will have a remaining balance when they become due. If our subsidiary is unable to repay or refinance the remaining balance of this debt, or if the terms of any available refinancing are not favorable, we may be forced to liquidate assets or incur higher costs which may significantly harm our business, financial condition, results of operations, and our ability to make distributions, which could cause the value of our common stock to decline.

We have borrowings which bear interest at a variable rate that is based on Secured Overnight Financing Rate ("SOFR") term rates ("Term SOFR"), which may have consequences for us that cannot be reasonably predicted and may adversely affect our liquidity, financial condition, and results of operations.

We have borrowings which bear interest at a rate per annum that is based upon Term SOFR. The use of SOFR based rates is relatively new, and there could be unanticipated difficulties or disruptions with the calculation and publication of SOFR based rates. In particular, if the agent under the CarbonCount-Based Revolving Credit Facility (the "unsecured revolving credit facility") determines that SOFR based rates cannot be determined or the agent or the lenders determine that SOFR based rates do not adequately reflect the cost of funding the SOFR loans, outstanding SOFR loans will be converted into ABR Loans (as defined in the unsecured revolving credit facility). The possible volatility of SOFR and the potential conversion to ABR Loans could result in higher borrowing costs for us, which would adversely affect our liquidity, financial condition, and results of operations.

We, or the projects in which we invest, enter into hedging transactions that could expose us to contingent liabilities or additional credit risk in the future and adversely impact our financial condition.

Part of our strategy, or the strategy of the projects in which we invest, involves entering 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 it is contractually owed under the terms of the hedging instrument). The amount due would be equal to the unrealized loss of the open swap positions with the respective counterparty and could also include other fees and charges. These economic losses will be reflected in our, or the project's, financial statements, and our, or the project's, ability to fund these obligations will depend on the liquidity of our, or the project's, assets and access to capital at the time, and the need to fund these obligations could adversely impact our financial condition.

Even though most swaps are cleared through a central counterparty clearinghouse, certain transactions could be executed bilaterally with a counterparty. While we have the ability to require counterparties to post, to the extent we have not obtained sufficient collateral, we would remain exposed to our counterparty's ability to perform on its obligations under each hedge and cannot look to the creditworthiness of a central counterparty for performance. As a result, if a hedging counterparty cannot perform under the terms of the hedge, we would not receive payments due under that hedge, we may lose any unrealized gain associated with the hedge and the hedged liability would cease to be hedged. While we would seek to terminate the relevant hedge transaction and may have a claim against the defaulting counterparty for any losses, including unrealized gains, there is no assurance that we would be able to recover such amounts or to replace the relevant hedge on economically viable terms or at all. In such case, we could be forced to cover our unhedged liabilities at the then current market price. We may also be at risk for any collateral we have pledged to secure our obligations under the hedge if the counterparty becomes insolvent or files for bankruptcy.

Furthermore, our interest rate swaps and other hedge transactions are subject to increasing statutory and other regulatory requirements and, depending on the identity of the counterparty, applicable international requirements. Recently, new regulations have been promulgated by U.S. and foreign regulators to strengthen the oversight of swaps, and any further actions taken by such regulators could constrain our strategy or increase our costs, either of which could materially and adversely impact our results of operations.

Moreover, the projects in which we invest, may enter into various forms of hedging including interest rate and power price hedging. To the extent they enter into such hedges, the financial results of the project will be exposed to similar risks as described above which could adversely impact our results of operations. Further, the hedges entered into by us or the projects in which we invest may not be effective which could adversely impact our economics.

If we, or our projects, choose not to pursue, or fail to qualify for, hedge accounting treatment, our operating results under GAAP may be impacted because losses on the derivatives that we enter into may not be offset by a change in the fair value of the related hedged transaction.

We, or our projects, may choose not to pursue, or fail to qualify for, hedge accounting treatment relating to derivative and hedging transactions. We, or our projects, may fail to qualify for hedge accounting treatment for a number of reasons, including if we, or our projects, use instruments that do not meet the Accounting Standards Codification ("ASC") Topic 815 definition of a derivative, we, or our projects, fail to satisfy ASC Topic 815 hedge documentation and hedge effectiveness assessment requirements or the hedge relationship is not highly effective. If we, or our projects, fail to qualify for, or choose not to pursue, hedge accounting treatment, our, or our projects, operating results may be impacted because losses on the derivatives that we, or our projects, enter into may not be offset by a change in the fair value of the related hedged transaction in our statement of operations presented under GAAP.

Risks Related to Our Common Stock

An active trading market for our common stock may not continue, which could cause our common stock to trade at a discount and make it difficult for holders of our common stock to sell their shares.

Our common stock is listed on the New York Stock Exchange ("NYSE"). However, an active trading market for our common stock may not continue, which could cause our common stock to trade at a discount to historical prices. Some of the factors that have or in the future could negatively affect the market price of our common stock include:

- our actual or projected operating results, financial condition, cash flows and liquidity or changes in business strategy or prospects;
- changes in the mix of our investment products and services, including the level of securitizations or fee income in any quarter;
- actual or perceived conflicts of interest with individuals, including our executives;
- our ability to arrange financing for projects;
- equity issuances by us, or share resales by our stockholders, or the perception that such issuances or resales may occur;
- seasonality in construction and demand for our investments;
- actual or anticipated accounting problems;
- publication of research reports about us or the climate solutions industry;
- changes in market valuations of similar companies;
- adverse market reaction to any increased indebtedness we may incur in the future;
- commodity price changes;
- interest rate changes;
- additions to or departures of our key personnel;
- speculation or negative publicity in the press or investment community;
- our failure to meet, or the lowering of, our earnings estimates or those of any securities analysts;
- increases in market interest rates, which may lead investors to demand a higher distribution yield for our common stock, and would result in increased interest expenses on certain of our debt;
- changes in governmental policies, regulations or laws;
- failure to maintain our exemption from registration as an investment company under the 1940 Act;
- price and volume fluctuations in the stock market generally; and
- general market and economic conditions, including the current state of the credit and capital markets.

Market factors unrelated to our performance also have, and could in the future, negatively impact the market price of our common stock. One of the factors that investors may consider in deciding whether to buy or sell our common stock is our distribution rate as a percentage of our stock price relative to market interest rates. If market interest rates increase, prospective investors may demand a higher distribution rate or seek alternative investments paying higher dividends or interest. As a result, interest rate fluctuations and conditions in capital markets have, or in the future could, affect the market value of our common stock.

Common stock and preferred stock eligible for future sale may have adverse effects on our share price.

Subject to applicable law, our Board, without stockholder approval, may authorize us to issue additional authorized and unissued shares of common stock and preferred stock on the terms and for the consideration it deems appropriate.

We cannot predict the effect, if any, of future sales of our common stock or the availability of shares for future sales, on the market price of our common stock. Sales of substantial amounts of common stock or the perception that such sales could occur may adversely affect the prevailing market price for our common stock.

We cannot assure you of our ability to make distributions in the future. If our portfolio of assets fails to generate sufficient income and cash flow, we could be required to sell assets, borrow funds, issue additional equity or make a portion of our distributions in the form of a taxable stock distribution or distribution of debt securities.

As a REIT, we were generally required, among other things, to distribute annually at least 90% of our REIT taxable income (without regard to the deduction for dividends paid and excluding net capital gains) each year for us to have qualified as, and to have maintained our qualification as a REIT. Effective January 1, 2024, we revoked our REIT election and starting in 2024 we will be taxed as a C corporation, and as a result, in 2024, we are no longer subject to this requirement. However, our current policy is to pay quarterly distributions. In the event that our Board authorizes distributions in excess of the income or cash flow generated from our assets, we may make such distributions from the proceeds of future offerings of equity or debt securities or other forms of debt financing or the sale of assets.

Our ability to make distributions may be adversely affected by a number of factors. Therefore, although we anticipate making quarterly distributions to our stockholders, our Board has the sole discretion to determine the timing, form and amount of any distributions to our stockholders. If our portfolio of assets fails to generate sufficient income and cash flow, we could be required to sell assets, borrow funds, raise additional equity or make a portion of our distributions in the form of a taxable stock distribution or distribution of debt securities. To the extent that we are required to sell assets in adverse market conditions or borrow funds at unfavorable rates, our results of operations could be materially and adversely affected. If we raise additional equity, our stock price could be materially and adversely affected. Our Board will make determinations regarding distributions based upon various factors, including our earnings, our financial condition, our liquidity, our debt covenants, applicable provisions of the MGCL and other factors as our Board may deem relevant from time to time. We believe that a change in any one of the following factors could adversely affect our results of operations and impair our ability to make distributions to our stockholders:

- our ability to make profitable investments;
- margin calls or other expenses that reduce our cash flow;
- defaults in our asset portfolio or decreases in the value of our portfolio;
- the cash flow we receive from our assets, including those subject to non-recourse debt; and
- the fact that anticipated operating expense levels may not prove accurate, as actual results may vary from estimates.

As a result, no assurance can be given that we will be able to make distributions to our stockholders at any time in the future or that the level of any distributions we do make to our stockholders will achieve a market yield or increase or even be maintained over time, any of which could materially and adversely affect us. In addition, a failure to achieve the anticipated benefits of the transition from a REIT to a taxable C corporation at all, or in a timely manner, could adversely affect our ability to make distributions to our stockholders as well as our business, financial condition, results of operations, and the market price of our common stock.

Future offerings of debt or equity securities, which may rank senior to our common stock, may adversely affect the market price of our common stock.

Our present debt ranks, and any future debt would rank, senior to our common stock. Such debt is, and likely will be, governed by a loan agreement, an indenture, or other instrument containing covenants restricting our operating flexibility. Additionally, our convertible securities, and any equity securities or convertible or exchangeable securities that we issue in the future may have rights, preferences and privileges more favorable than those of our common stock and may result in dilution to owners of our common stock. We and, indirectly, our stockholders will bear the cost of issuing and servicing such debt or securities. Because our decision to issue debt or equity securities in any future offering will depend on market conditions and other factors beyond our control, we cannot predict or estimate the amount, timing, or nature of our future offerings. Thus, holders of our common stock will bear the risk of our future offerings reducing the market price of our common stock and diluting the value of their stock holdings in us.

Risks Related to Our Organization and Structure

Our business could be harmed if key personnel terminate their employment with us.

Our success depends, to a significant extent, on the continued services of our senior management team. We have entered into employment agreements with certain members of our senior management team. Notwithstanding these agreements, there can be no assurance that any or all members of our senior management team will remain employed by us. We do not maintain key person life insurance on any of our officers. The loss of services of one or more members of our senior management team could harm our business and our prospects.

Conflicts of interest could arise as a result of our structure.

Conflicts of interest could arise in the future as a result of the relationships between us and our affiliates, on the one hand, and our Operating Partnership or any partner thereof, on the other. Our directors and officers have duties to our company under applicable Maryland law in connection with our management. Our duties, as the general partner, to our Operating Partnership and our partners may come into conflict with the duties of our directors and officers to us.

Under Delaware law, a general partner of a Delaware limited partnership owes its limited partners the duties of good faith and fair dealing. Other duties, including fiduciary duties, may be modified or eliminated in the partnership's partnership agreement, except that conflict of interest transactions may still run afoul of implied contractual standards under Delaware law. The partnership agreement of our Operating Partnership provides that, for so long as we own a controlling interest in our Operating Partnership, any conflict that cannot be resolved in a manner not adverse to either our stockholders or the limited partners will be resolved in favor of our stockholders. We have not obtained an opinion of counsel covering the provisions set forth in the partnership agreement of our Operating Partnership that purport to waive or restrict our fiduciary duties that would be in effect under common law were it not for the partnership agreement of our Operating Partnership.

Additionally, the partnership agreement of our Operating Partnership expressly limits our liability by providing that neither we, as the general partner of the Operating Partnership, nor any of our directors or officers, will be liable or accountable in damages to our Operating Partnership, its limited partners or their assignees for errors in judgment, mistakes of fact or law or for any act or omission if the general partner, director or officer, acted in good faith. In addition, our Operating Partnership is required to indemnify us, our affiliates and each of our and their respective officers, directors, employees and agents to the fullest extent permitted by applicable law against any and all losses, claims, damages, liabilities (whether joint or several), expenses (including, without limitation, attorneys' fees and other legal fees and expenses), judgments, fines, settlements and other amounts arising from any and all claims, demands, actions, suits or proceedings, civil, criminal, administrative or investigative, that relate to the operations of the Operating Partnership, provided that our Operating Partnership will not indemnify any such person for (1) willful misconduct or a knowing violation of the law, (2) any transaction for which such person received an improper personal benefit in violation or breach of any provision of the partnership agreement of our Operating Partnership, or (3) in the case of a criminal proceeding, the person had reasonable cause to believe the act or omission was unlawful.

Certain provisions of Maryland law could inhibit changes in control.

Certain provisions of the MGCL may have the effect of deterring a third party from making a proposal to acquire us or of impeding a change in control under circumstances that otherwise could provide the holders of our common stock with the opportunity to realize a premium over the then-prevailing market price of our common stock. We are subject to the "business combination" provisions of the MGCL that, subject to limitations, prohibit certain business combinations between us and an "interested stockholder" (defined generally as any person who beneficially owns 10% or more of our then outstanding voting stock or an affiliate or associate of ours who, at any time within the two-year period prior to the date in question, was the beneficial owner of 10% or more of our then outstanding voting stock) or an affiliate thereof for five years after the most recent date on which the stockholder becomes an interested stockholder and, thereafter, impose fair price and/or supermajority stockholder voting requirements on these combinations.

The "control share" provisions of the MGCL provide that, subject to certain exemptions, a holder of "control shares" of a Maryland corporation (defined as shares which, when aggregated with all other shares controlled by the stockholder (except solely by virtue of a revocable proxy), entitle the stockholder to exercise one of three increasing ranges of voting power in electing directors) acquired in a "control share acquisition" (defined as the direct or indirect acquisition of ownership or control of issued and outstanding "control shares") has no voting rights with respect to such shares except to the extent approved by our stockholders by the affirmative vote of at least two thirds of all the votes entitled to be cast on the matter, excluding votes entitled to be cast by the acquirer of control shares, our officers and our directors who are also our employees.

The "unsolicited takeover" provisions of Title 3, Subtitle 8 of the MGCL permit our Board, without stockholder approval and regardless of what is currently provided in our charter or bylaws, to implement certain takeover defenses, some of which (for example, a classified board) we do not yet have.

As permitted by the MGCL, our Board has by resolution exempted from the "business combination" provision of the MGC business combinations (1) between us and any other person, provided, that such business combination is first approved by our Board (including a majority of our directors who are not affiliates or associates of such person), (2) the Predecessor and its affiliates and associates as part of our formation transactions and (3) persons acting in concert with any of the foregoing. Our bylaws contain a provision exempting from the control share acquisition statute any and all acquisitions by any person of shares of our stock. There can be no assurance that our Board will not amend or revoke the exemption at any time.

Our authorized but unissued shares of common and preferred stock may prevent a change in our control.

Our charter permits our Board to authorize us to issue additional shares of our authorized but unissued common or preferred stock. In addition, our Board may, without common stockholder approval, amend our charter to increase the aggregate number of our shares of stock or the number of shares of stock of any class or series that we have the authority to issue and classify or reclassify any unissued shares of common or preferred stock and set the terms of the classified or reclassified shares. As a result, our Board may establish a series of common or preferred stock that could delay or prevent a transaction or a change in control that might involve a premium price for shares of our common stock or otherwise be in the best interest of our stockholders.

Our rights and the rights of our stockholders to take action against our directors and officers are limited, which could limit stockholder recourse in the event of actions not in our stockholders' best interests.

Our charter eliminates the liability of our present and former directors and officers to us and our stockholders for money damages to the maximum extent permitted under Maryland law.

Our charter authorizes us, and our bylaws and indemnification agreements entered into with each of our directors and executive officers require us, to the maximum extent permitted by Maryland law, to indemnify and, without requiring a preliminary determination of their ultimate entitlement to indemnification, to pay or reimburse defense costs and other expenses of each of our directors and officers in the defense of any proceeding to which he or she is made, or threatened to be made, a party or witness by reason of his or her service to us. As a result, we and our stockholders have rights against our directors and officers that are more limited than might otherwise exist and, in the event that actions taken by any of our directors or officers impede the performance of our company, your and our ability to recover damages from such director or officer will be limited.

Our charter contains provisions that make removal of our directors difficult, which could make it difficult for our stockholders to effect changes to our management.

Our charter provides that, subject to the rights of holders of any series of preferred stock, a director may be removed with or without cause upon the affirmative vote of holders of at least two thirds of the votes entitled to be cast generally in the election of directors. Vacancies may be filled only by a majority of the remaining directors in office, even if less than a quorum. These requirements make it more difficult to change our management by removing and replacing directors and may prevent a change in control of our company that is in the best interests of our stockholders.

Failure to qualify as a REIT for this and prior taxable years would subject us to U.S. federal income tax and potentially state and local tax.

We elected to be taxed as a REIT commencing with our taxable year ended December 31, 2013, but recently terminated our election, effective January 1, 2024. Prior to terminating our REIT election, our qualification as a REIT depended upon our satisfaction of certain asset, income, organizational, distribution, stockholder ownership and other requirements on a continuing basis. We structured our activities in a manner designed to satisfy all the requirements to qualify as a REIT. However, the REIT qualification requirements are extremely complex and interpretation of the U.S. federal income tax laws governing qualification as a REIT is limited. Furthermore, any opinion of our counsel, regarding qualification as a REIT is not binding on the Internal Revenue Service (the "IRS"). Satisfying the asset tests depended on our analysis of the characterization and fair market values of our assets, some of which are not susceptible to a precise determination. Furthermore, during the period that we elected to be taxed as a REIT, we invested in certain assets that we believed were qualifying assets for purposes of the REIT assets tests, such as mezzanine loans meeting certain requirements and commercial property assessed clean energy assets, and no assurance can be provided that the IRS would agree with such characterizations. Accordingly, if certain of our operations were to be recharacterized by the IRS, such recharacterization could jeopardize our ability to have satisfied all requirements for qualification as a REIT for prior taxable years. Furthermore, future legislative, judicial or administrative changes to the U.S. federal income tax laws could be applied retroactively, which could result in our disqualification as a REIT for prior taxable years.

We received a private letter ruling from the Internal Revenue Service ("IRS"), which we refer to as the Ruling, relating to our ability to treat certain of our assets as qualifying REIT assets. We were entitled to rely on this Ruling for those assets which fit within the scope of the Ruling only to the extent that we had the legal and contractual rights described in the Ruling, and we operated in accordance with the relevant facts described in the Ruling request we submitted, such facts were accurately presented and only to the extent that the Ruling was not inconsistent with the Real Property Regulations (as discussed in more detail below). As a result, no assurance can be given that we were able to rely on the Ruling during the period that we elected to be taxed as a REIT.

In August of 2016, the Treasury Department and the IRS published regulations which we refer to as the Real Property Regulations relating to the definition of “real property” for purposes of the REIT income and asset tests with respect to our taxable years that we elected to be taxed as a REIT beginning after December 31, 2016. Among other things, the Real Property Regulations provide that an obligation secured by a structural component of a building or other inherently permanent structure qualifies as a real estate asset for REIT qualification purposes only if such obligation is also secured by a real property interest in the inherently permanent structure served by such structural component. This aspect of the Real Property Regulations has important implications for our qualification as a REIT during the periods that we elected to so qualify, because a significant portion of our REIT qualifying assets consisted of receivables that were secured by liens on installed structural improvements designed to improve the energy efficiency of buildings and a significant portion of our REIT qualifying gross income was interest income earned with respect to such receivables.

The structural improvements securing the receivables held by us during the period we elected to be taxed as a REIT generally qualified as “fixtures” under local real property law, as well as under the Uniform Commercial Code, or the UCC, which governs rights and obligations of parties in secured transactions. Although not controlling for REIT purposes, the general rule in the United States is that once improvements are permanently installed in real properties, such improvements become fixtures and thus take on the character of and are considered to be real property for certain state and local law purposes. In general, in the United States, laws governing fixtures, including the UCC and real property law, afford lenders who have secured their financings with security interests in fixtures with rights that extend not just to the fixtures that secure their financings, but also to the real properties in which such fixtures have been installed. By way of example only, Section 9-604(b) of the UCC, which has been adopted in all but two states in the United States, permits a lender secured by fixtures, upon a default, to enforce its rights under the UCC or under applicable real property laws. Although there is limited authority directly on point, given the nature of, and the extent to which, the structural improvements securing the receivables held by us during the period we elected to be taxed as a REIT were integrated into and served the related buildings, we believe that the better view is that the nature and scope of our rights in such buildings that inured to us as a result of our receivables were sufficient to satisfy the requirements of the Real Property Regulations described above. In addition to the limited authority directly on point, two other important caveats apply in this regard. First, the Real Property Regulations do not define what is required for an obligation secured by a lien on a structural component to also be secured by a real property interest in the building served by such structural component. However, the initial proposed version of the Real Property Regulations, which never became effective, included a requirement that the interest in the real property held by a REIT be “equivalent” to the interest in a structural component held by the REIT in order for the structural component to be treated as a real estate asset. This requirement was ultimately not included in the final Real Property Regulations, in part in response to comments that such requirement may negatively affect investment in energy efficiency and renewable energy assets. We believe the deletion of this requirement implies that under the final Real Property Regulations, our rights in the building during the period we elected to be taxed as a REIT did not need to be equivalent to our rights in the structural components serving the building. Second, real property law is typically relegated to the states and the specific rights available to any lien or mortgage holder, including our rights as a fixture lien holder described above, may vary between jurisdictions as a result of a range of factors, including the specific local real property law requirements and judicial and regulatory interpretations of such laws, and the competing rights of mortgage and other lenders. During the period we elected to be taxed as a REIT,we applied the analysis described above in a number of states that have adopted Section 9-604(b) of the UCC. In addition, in states where Section 9-604(b) of the UCC has not been adopted, we applied the analysis described above based on the application of the local real property laws of that state to the extent that we received advice from counsel in those jurisdictions that local real property law provided us with appropriate rights to the buildings in which the structural improvements securing our receivables were installed. Furthermore, we applied the analysis described above to certain receivables secured by liens on structural improvements installed in buildings located in certain U.S. installations outside of the United States, based on our view that such installations were subject to U.S. sovereignty and as a result the UCC applied in such installations. While a number of cases have addressed the rights of fixture lien holders generally, there are limited judicial interpretations in only a few jurisdictions that directly address the rights and remedies available to a fixture lien holder in the real property in which the fixtures have been installed. Such rights have been addressed in some cases that support our position and, in factual circumstances distinguishable from our own, in some cases where the courts have found these rights to be more limited. The resolution of these issues in many jurisdictions therefore has remained uncertain. As a result of the foregoing, no assurance can be given that the IRS will not challenge our position that the receivables that we held during the periods that we elected to be taxed as a REIT met the requirements of the Real Property Regulations or that, if challenged, such position would be sustained.

The preamble to the Real Property Regulations provides that, to the extent a private letter ruling issued prior to the issuance of the Real Property Regulations is inconsistent with the Real Property Regulations, the private letter ruling is revoked prospectively from the applicability date of the Real Property Regulations. We do not believe that the Ruling is inconsistent with the Real Property Regulations because we believe the analysis in the Ruling was based on similar principles as the relevant portions of the Real Property Regulations, and accordingly we do not believe that the Real Property Regulations impacted our ability to rely on the Ruling. However, no assurance can be given that the IRS would not successfully assert that we were not permitted to rely on the Ruling during periods that we elected to be taxed as a REIT because the Ruling had been revoked by the Real Property Regulations.

If the IRS were to assert that a significant portion of the receivables that we held during periods that we elected to be taxed as a REIT did not qualify as real estate assets and did not generate income treated as interest income from mortgages on real property, we would fail to satisfy both the gross income requirements and asset requirements applicable to REITs during the relevant periods.

During the period that we elected to be taxed as a REIT, no more than 20% of the value of our total assets were permitted to consist of stock and securities of one or more taxable REIT subsidiaries, or TRSs. In order to satisfy the TRS limitation, we made loans to our TRSs that met the requirements to be treated as qualifying investments of new capital, which are generally treated as real estate assets under the Internal Revenue Code of 1986, as amended, or "the Code". Because such loans were treated as real estate assets for purposes of the REIT requirements, we did not treat these loans as TRS securities for purposes of the TRS asset limitation. However, no assurance can be provided that the IRS may not successfully assert that such loans should be treated as securities of our TRSs, which could adversely impact our qualification as a REIT during the periods that we elected to be taxed as a REIT. In addition, our TRSs had obtained financing in transactions in which we and our other subsidiaries had provided guaranties and similar credit support. Although we believe that these financings were properly treated as financings of our TRSs for U.S. federal income tax purposes, no assurance can be provided that the IRS would not assert that such financings should be treated as issued by other entities in our structure, which could impact our compliance with the TRS limitation and the other REIT requirements during the period that we elected to be taxed as a REIT.

If the IRS were to determine that we failed to qualify as a REIT for any prior taxable year ended on or before December 31, 2023, and we do not qualify for certain statutory relief provisions, we would be subject to U.S. federal income tax on our taxable income for such taxable year at the applicable corporate rate. If that were to happen, we would also be disqualified from treatment as a REIT for the four taxable years following the year in which we lost our REIT qualification. Losing our REIT qualification for any prior taxable year(s) could reduce our current and/or future net earnings available for investment or distribution to stockholders because of additional tax liability for any such year(s). If we were to lose our REIT qualification for any prior taxable year(s), we might be required to borrow funds or liquidate some investments in order to pay any applicable tax.

Our ability to utilize our NOLs and other carryforwards may be limited.

Under the Code, a corporation is generally allowed a deduction for net operating losses ("NOLs") carried over from prior taxable years, subject to certain limitations. As of December 31, 2023, we had approximately $666 million of gross federal NOLs, of which $87 million begin to expire in 2034 and $579 million of which can be carried forward indefinitely, and $31 million of tax credits available to reduce future federal tax liabilities. Our NOL carryforwards are subject to adjustment on audit by the Internal Revenue Service and the respective state taxing authorities. Additionally, certain of the NOL carryforwards may expire before we can generate sufficient taxable income to use them.

Our ability to use our NOLs and other carryforwards depends on the amount of taxable income generated in future periods. There can be no assurance that an additional valuation allowance on our net deferred tax assets will not be required should our financial performance be negatively impacted in the future. Such valuation allowance could be material. In addition, the use of NOLs and other carryforwards to offset taxable income is subject to various limitations, which could limit our ability to utilize these tax attributes to reduce our taxes even if we generate sufficient taxable income.

A corporation's ability to deduct its federal NOL carryforwards and to utilize certain other available tax attributes can be substantially constrained under the general annual limitation rules of Section 382 of the Code ("Section 382") if it undergoes an "ownership change" as defined in Section 382 (generally where cumulative stock ownership changes among material stockholders exceed 50% during a rolling three-year period). An ownership change may severely limit or effectively eliminate our ability to utilize our NOL carryforwards and other tax attributes. In October 2023, our Board of Directors adopted a tax benefits preservation plan (the "Tax Benefits Preservation Plan") in order to preserve our ability to use our NOLs and certain other tax attributes to reduce potential future income tax obligations. The Tax Benefits Preservation Plan is designed to reduce the likelihood that we experience an ownership change by deterring certain acquisitions of our common stock. There is no assurance, however, that the deterrent mechanism will be effective, and such acquisitions may still occur. In addition, the Tax Benefits Preservation Plan may adversely affect the marketability of our common stock by discouraging existing or potential investors from acquiring our common stock or additional shares of our common stock, because any non-exempt third party that acquires 4.9% or more of the then-outstanding shares of our common stock would suffer substantial dilution of its ownership interest in HASI.

We may be subject to adverse legislative or regulatory tax changes that could increase our tax liability, reduce our operating flexibility, and reduce the market price of shares of our stock.

Changes to the tax laws may occur, and any such changes could have an adverse effect on an investment in shares of our stock or on the market value or the resale potential of our assets. Our stockholders are urged to consult with an independent tax advisor with respect to the status of legislative, regulatory or administrative developments and proposals and their potential effect on an investment in shares of our stock.

Item 1B. Unresolved Staff Comments.

None.

Item 1C. Cybersecurity.

Risk management and strategy

We have implemented and maintain various information security processes at each of our remote and office locations designed to identify, assess and manage material risks from cybersecurity threats to our critical computer networks, third-party hosted services, communications systems, hardware and software, and our critical data, including intellectual property and confidential information that is proprietary, strategic or competitive in nature ("Information Systems and Data").

Our Chief Technology Officer ("CTO"), who also serves as our chief information security officer, and Deputy Chief Information Security Officer ("Deputy CISO") help identify, assess and manage our cybersecurity threats and risks. Collaborating with their team, they are responsible for steering the company-wide cybersecurity strategy, policy, standards, architecture, and processes. They also identify and assess risks from cybersecurity threats by monitoring and evaluating our threat environment and our risk profile using various methods.

The Company's information security program, led by our CTO and Deputy CISO, collaborates with various departments within the organization, such as information technology, legal, enterprise risk management, human resources, accounting, finance, and internal audit, as well as external third-party partners. This collaboration aims to identify, mitigate, and plan for potential cybersecurity threats comprehensively. Additionally, the Company consistently evaluates and enhances its processes, procedures, and management approaches in response to evolving cybersecurity landscapes.

Depending on the environment, we implement and maintain various technical, physical, and organizational measures, processes, standards and policies designed to manage and mitigate material risks from cybersecurity threats to our Information Systems and Data. These include incident management, change management, network segmentation, cyber protection and containment, detection and response, and recovery. We measure our programs against the National Institute of Standards and Technology Cyber Security Framework and regularly test our controls and incident response plans.

Our assessment and management of material risks from cybersecurity threats are integrated into our overall risk management processes. For example, (1) cybersecurity risk is addressed as a component of our enterprise risk management program; (2) the information security function works with our leadership team to prioritize our risk management processes and mitigate cybersecurity threats that are more likely to lead to a material impact to our business; (3) our CTO evaluates material risks from cybersecurity threats against our overall business objectives and reports to the Finance & Risk Committee of our board of directors (the "Finance and Risk Committee"), which evaluates our overall enterprise risk.

We use third-party service providers to assist us from time to time to identify, assess, and manage material risks from cybersecurity threats, as well as to perform a variety of other functions throughout our business. We have enlisted the services of a third-party managed detection and response firm to conduct continuous monitoring of our information systems, including intrusion detection and alerting. We also regularly engage with assessors, consultants, auditors, and other third parties to review our cybersecurity program to help identify areas for continued focus, improvement, and compliance.

For a description of the risks from cybersecurity threats that may materially affect us and how they may do so, see our risk factors under "Part 1. Item 1A. Risk Factors" in this Annual Report on Form 10-K, including "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, a misappropriation of funds, and/or damage to our business relationships, all of which could negatively impact our financial results."

Governance

Our board of directors addresses our cybersecurity risk management as part of its general oversight function. The Finance & Risk Committee is responsible for overseeing the Company's cybersecurity risk management processes, including oversight and mitigation of risks from cybersecurity threats. Our cybersecurity risk assessment and management processes are implemented and maintained by certain Company management, including our CTO and Deputy CISO. The CTO and Deputy CISO have a combined four decades of information technology and cybersecurity leadership experience across public and private sectors.

Our CTO is responsible for hiring appropriate personnel, helping to integrate cybersecurity risk considerations into our overall risk management strategy, and communicating key priorities to relevant personnel. Our CTO and Deputy CISO are responsible for approving budgets, helping prepare for cybersecurity incidents, approving cybersecurity processes, and reviewing security assessments and other security-related reports.

Our cybersecurity incident response plan and vulnerability management processes are designed to escalate certain cybersecurity incidents to members of management depending on the circumstances, including our CEO, CFO, Chief Legal Officer and other members of our leadership team. Our leadership team works with our incident response team to help us mitigate and remediate cybersecurity incidents of which they are notified. In addition, our incident response plan and vulnerability management processes include reporting to our board of directors for certain cybersecurity incidents.

The Finance & Risk Committee receives periodic reports from CTO concerning our significant cybersecurity threats and risk and the processes we have implemented to address them. The Finance & Risk Committee also receives various reports, summaries or presentations related to cybersecurity threats, risk and mitigation.

Item 2. Properties

Our principal executive offices are located at One Park Place, Suite 200, Annapolis, Maryland 21401. Our telephone number is (410) 571-9860.

Item 3. Legal Proceedings

From time to time, we may be involved in various claims and legal actions in the ordinary course of business. As of December 31, 2023, we are not currently subject to any legal proceedings that are likely to have a material adverse effect on our financial position, results of operations or cash flows.

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

Market Information

Our common stock is traded on the NYSE under the symbol "HASI."

Holders

As of February 12, 2024, we had 159 registered holders of our common stock. The 159 holders of record do not include the beneficial owners of our common stock whose shares are held by a broker or bank. Such information was obtained from The Depository Trust Company.

Dividends

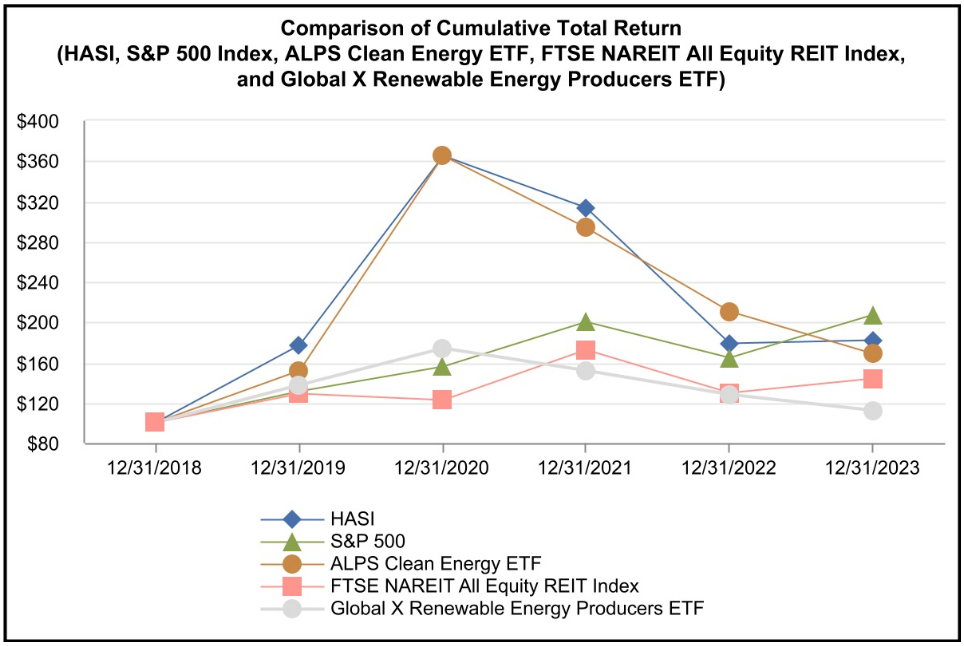
We intend to make regular quarterly distributions to holders of our common stock. Any distributions we make will be at the discretion of our Board and will depend upon, among other things, our actual results of operations. These results and our ability to pay distributions will be affected by various factors, including the net interest and other income from our Portfolio, our operating expenses and any other expenditures. See Item 1A. Risk Factors, and Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations, of this Form 10-K, for information regarding the sources of funds used for dividends and for a discussion of factors, if any, which may adversely affect our ability to pay dividends. See Note 11 to our audited financial statements in this Form 10-K for details of our dividends declared in 2023 and 2022.

Additionally, as we were subject to the REIT requirements to distribute at least 90% of our REIT taxable income for tax years 2023 and prior, there was a minimum amount of distributions that we were required to make. The taxable income of the REIT can vary from our GAAP earnings due to a number of different factors, including, the book to tax timing differences of income and expense recognition from our transactions as well as the amount of taxable income of our TRSs distributed to the REIT. We are no longer subject to these requirements for taxable years 2024 and onward. See Note 10 to our audited financial statements in this Form 10-K regarding the amount of our distributions that are taxed as ordinary income to our stockholders.

Stockholder Return Performance

The stock performance graph and table below shall not be deemed, under the Securities Act or the Exchange Act, to be (i) "soliciting material" or "filed" or (ii) incorporated by reference by any general statement into any filing made by us with the SEC, except to the extent that we specifically incorporate such stock performance graph and table by reference.

The following graph is a comparison of the cumulative total stockholder return from December 31, 2018 to December 31, 2023 on shares of our common stock, the Standard & Poor's 500 Index (the "S&P 500 Index"), and peer group indices, including the ALPS Clean Energy ETF, FTSE NAREIT All Equity REIT Index, and Global X Renewable Energy Producers ETF. The graph assumes that $100 was invested at closing on December 31, 2018, in our shares of common stock, the S&P 500 Index, and the peer group indices and that all dividends were reinvested without the payment of any commissions. There can be no assurance that the performance of our common stock will continue in line with the same or similar trends depicted in the graph below. In this Form 10-K we have added ALPS Clean Energy ETF, which beginning with the 2024 Form 10-K for the year ended December 31, 2024 will replace the FTSE NAREIT All Equity REIT Index and Global X Renewable Energy Producers ETF as indices in this graph. As a growing, US-based, well-diversified, mid-cap investor in climate-positive real assets, we believe this index is well positioned to serve as a peer group index. ALPS Clean Energy ETF is comprised of companies who generally own or operate assets similar to our investments in renewable energy projects as well other companies positively exposed to the energy transition.



Company or Index	12/31/2018	12/31/2019	12/31/2020	12/31/2021	12/31/2022	12/31/2023
Hannon Armstrong Sustainable Infrastructure Capital, Inc.	$ 100.00	$ 177.08	$ 364.69	$ 313.37	$ 178.40	$ 181.57
S&P 500 Index	100.00	131.47	155.65	200.29	163.98	207.04
Alps Clean Energy ETF	100.00	151.67	364.37	293.55	210.10	168.00
FTSE NAREIT All Equity REIT Index	100.00	128.65	122.12	172.52	129.53	144.14
Global X Renewable Energy Producers ETF	100.00	137.05	173.56	151.36	128.19	111.76

Sources: Bloomberg L.P.

Purchases of Equity Securities by the Issuer and Affiliated Purchasers

The table below summarizes all of our repurchases of our common stock during 2023.

Date	Total number of shares purchased (1)	Average price per share	Total number of shares purchased as part of publicly announced plans or programs	Maximum number of shares that may yet be purchased under the plans or programs
1/18/2023	6,468	$ 34.43	N/A	N/A
3/5/2023	35,104	31.18	N/A	N/A
5/15/2023	4,452	26.10	N/A	N/A
7/31/2023	351	26.11	N/A	N/A
8/15/2023	989	23.56	N/A	N/A
11/15/2023	973	23.22	N/A	N/A

(1) During the year ended December 31, 2023, certain of our employees surrendered shares of our common stock owned by them to satisfy their tax and other compensation related withholdings associated with the vesting of restricted stock and restricted stock units. No OP units were exchanged by non-controlling interest holders during the year ended December 31, 2023. The price paid per share is based on the closing price of our common stock as of the date of the exchange and withholding.

Item 6. [Reserved]

None.

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

The following discussion should be read in conjunction with our financial statements and accompanying notes included in Item 8. Financial Statements and Supplementary Data, of this Form 10-K. Refer to 'Item 7 -- Management's Discussion and Analysis of Financial Condition and Results of Operations' on our Form 10-K for the year ended December 31, 2022 for a discussion of our results for the year ended December 31, 2022 and a comparison of our results of operations for the fiscal years ended December 31, 2022 and December 31, 2021.

Overview

We are a climate positive investment firm that actively partners with clients to deploy real assets that facilitate the energy transition. With more than $12 billion in managed assets, our vision is that every investment improves our climate future. Our investments take many forms, including equity, joint ventures, land ownership, lending, and other financing transactions. In addition to net investment income from our portfolio, we also generate ongoing fees through gain-on-sale securitization transactions, asset management, and other services.

We are internally managed, and our management team has extensive relevant industry knowledge and experience. We have long-standing relationships with the leading energy service companies ("ESCOs"), manufacturers, project developers, utilities, owners and operators that provide recurring, programmatic investment and fee-generating opportunities.

We completed approximately $2.3 billion of transactions during 2023, compared to approximately $1.8 billion during 2022. As of December 31, 2023, we held approximately $6.2 billion of transactions on our balance sheet, which we refer to as our "Portfolio." For those transactions that we choose not to hold on our balance sheet, we transfer all or a portion of the economics of the transaction, typically using securitization trusts, to institutional investors in exchange for cash and/or residual interests in the assets and in some cases, ongoing fees. As of December 31, 2023, we managed approximately $6 billion in these trusts or vehicles that are not consolidated on our balance sheet. When we combine these assets with our Portfolio, as of December 31, 2023, we manage approximately $12 billion of assets, which we refer to as our "Managed Assets".

See Item 1. Business for a further discussion of our business, investing strategy, and financing strategy.

Market Conditions

As a result of increasing global awareness of and aversion to climate change impacts, we believe the climate solutions markets in which we invest, and investment in climate solutions more broadly, will continue to grow as the impact of climate change increases. In January 2024, National Oceanic and Atmospheric Administration ("NOAA") reported that globally, 2023 was the warmest year on record, with the ten warmest years since 1850 having occurred in the last decade.

In light of this trend, we expect the federal government to continue to build upon its recent efforts to support the industry for climate solutions. On August 16, 2022, the Inflation Reduction Act ("IRA") was signed into law, representing an unprecedented level of government support for the climate solutions industry as a whole. The IRA includes federal funding for tax credits, consumer rebates, and other incentives that put the United States on a path to achieve the U.S.'s goal of reducing emissions 50 percent below 2005 levels by the end of the decade. Specifically, production tax credits ("PTCs") and investment tax credits ("ITCs") for certain wind and solar investments have been extended for at least ten years, which we believe will provide developers, operators, and investors significant runway for capital deployment. Importantly, these new tax credits transition to technology-neutral credits for projects that generate electricity with zero greenhouse gas emissions placed into service after 2024 and phase down upon the later of 2032 or when annual greenhouse gas emissions in the U.S. electric sector fall 75 percent from 2022 levels. The PTCs and ITCs under the IRA are transferable, and also include energy community and low-income community adders incentivizing the installation of projects in markets traditionally underserved by the renewables industry. Further, the IRA provides incentives for domestic content production, energy storage, clean fuel production, clean transportation, and other climate solutions markets that support the expansion of our total addressable market.

The IRA builds on the climate and clean energy investments provided in the Infrastructure Investment and Jobs Act ("IIJA"), signed into law by President Biden in November 2021. The IIJA provides billions of dollars for a variety of traditional infrastructure projects, as well as funding to invest in new emissions reduction technologies, build out a domestic network of electric vehicle chargers, and strengthen the battery supply chain. Critically, the IIJA includes approximately $65 billion for energy and electric grid development, which will prove critical to integrating the next generation of renewable energy projects. While this legislation can be expected to have lasting impacts on the markets in which we invest, effects are already being seen, with the American Clean Power Association reporting in it's August 2023 publication *Clean Energy Investing in America* that $270 billion in capital investments were announced in the roughly one-year period following the signing into law of the IRA.

Each of these actions by the federal government represent unprecedented support for the climate solutions markets that we serve. While we are not dependent on the support of the federal government to achieve our financial results, we welcome these actions to further combat the impact of climate change. States are also responding, with 29 states plus the District of Columbia having renewable portfolio standards, with 17 of those states having targets that eventually require 100% of energy to be obtained from clean or renewable sources.

These positive industry trends coupled with the increasing environmental and economic imperative to reduce carbon emissions are expected to further broaden our investment opportunities. Investments in energy efficiency as a service allow organizations to avoid the upfront costs of efficiency investments by paying for efficiency-enabled cost savings as operating rather than capital expenses. In its Annual Energy Outlook 2023, the U.S. Energy Information Administration ("EIA") estimates that decreasing energy intensity resulting from energy efficiency improvements will continue until at least 2050 with declines in each end-use sector.

Interest rates were volatile in 2023, and are expected to continue to be volatile into 2024. The Federal Reserve Board of Governors increased the federal funds rate (the rate at which banks lend to one another) 11 times in 2022 and 2023 for an overall increase of 5.25% to reduce inflation to stated targets. These actions, in additional to general market conditions, increased the cost of financing available to the markets that we serve in those periods. However, the Treasury yield curve as of December 31, 2023 suggests interest rates are likely to be lower in the future. See "Item 7A. Quantitative and Qualitative Disclosures about Market Risk-Interest Rate and Borrowing Risks" for an analysis of the impact of rates on our business. To date, inflationary pressures have not had a material impact on our business.

According to the EIA, the average annual Henry Hub natural gas price for 2023 was $2.57/MMBtu, a decrease of 62 percent over 2022. The EIA cites record natural gas production along with flat consumption and rising natural gas inventories as key contributors to the sharp decrease in price compared to 2022. The EIA's outlook for 2024 and 2025 is for the average price of natural gas to remain below $3.00 MMBtu. While we typically invest in projects which sell power at prices which have been prenegotiated under power purchase agreements, lower natural gas prices, may negatively impact, renewable energy projects that sell wholesale power on a "merchant" basis at spot market prices, as wholesale electricity prices are closely tied to wholesale natural gas prices in many parts of the United States. For more detail on commodity price impacts, see "Item 7A. Quantitative and Qualitative Disclosures about Market Risk-Commodity Price Risk".

Notwithstanding any concerns that current market conditions have raised for our business, we believe significant opportunities exist for us to grow our business. As a long-term participant committed to providing capital for climate solutions, we plan to continue to fund projects that meet our underwriting standards and look for opportunities to expand our business.

Factors Impacting our Operating Results

We expect that our results of operations will be affected by a number of factors and will primarily depend on the size and mix of our Portfolio, the income we receive from securitizations, syndications and other services, our Portfolio's credit risk profile, changes in market interest rates, commodity prices, federal, state and/or municipal governmental policies, general market conditions in local, regional and national economies, and maintain our exemption from registration as an investment company under the 1940 Act and the impact of climate change.

Portfolio Size and Mix

The size and mix of our Portfolio will be a key driver of revenue. Generally, as the size of our Portfolio on our balance sheet grows the amount of our revenue will increase. Our Portfolio may grow at an uneven pace as opportunities to originate new assets may be irregularly timed, and the timing and extent of our success in such originations cannot be predicted. To the extent the size of our Portfolio changes due to equity method investment activity, the income or loss from such investments will not be included in revenue but are reflected as income (loss) from equity method investments in our income statement and will vary over time. In addition, we may decide for any particular asset that we should securitize or otherwise sell a portion, or all, of the asset, which would result in gain on sale of receivables and investments or fee income as described below. The level of portfolio activity will fluctuate from period to period based upon the market demand for the capital we provide, our view of economic fundamentals including interest rates, the present mix of our Portfolio, our ability to identify new opportunities that meet our investment criteria, the volume of projects that have advanced to stages where we believe a transaction is appropriate, seasonality in our activities and in the various projects where we may provide debt or equity and our ability to consummate the identified opportunities, including as a result of our available capital. The level of our new origination activity, the percentage of the originations that we choose to retain on our balance sheet and the related income, will directly impact our interest and rental revenue and income from equity method investments.

Income from Securitization, Syndication and Other Services

We earn gain on sale of assets or fee income by securitizing or selling all or a portion of certain transactions. For transactions that we securitize via a non-consolidated trust, we recognize a gain on the securitization. The gain may be comprised of either or both cash received and a residual interest in securitized assets. We may also recognize additional income from servicing fees from these securitized assets over the life of the asset. We view the revenue from such activities as a valuable component of our earnings and an important source of franchise value.

In many cases, we arrange the securitization of the loan or other asset prior to originating the transaction and thus avoid exposure to credit spread and interest rate risks. In these cases, we avoid funding risks for these financings or other assets given that our securitization partners contractually agree to fund such assets before the origination transaction is completed.

We also generate fee income for syndications where we arrange financings that are held by other investors or if we sell existing transactions to other investors. In these transactions, unless we decide to hold a portion of the economic interest of the transaction on our balance sheet, we have no exposure to risks related to ownership of those financings. We may charge advisory, retainer or other fees, including through our broker dealer subsidiary.

The total amount of income from securitizations, syndications, and other services will vary from quarter to quarter depending on various factors, including the level of our originations, the duration, credit quality and types of assets we originate, current and anticipated future interest rates, the impact on our leverage, the mix of our Portfolio and our need to tailor our mix of assets in order to maintain our exemption from registration under the 1940 Act.

Credit Risks

We source and identify quality opportunities within our broad areas of expertise and apply our rigorous underwriting processes to our transactions, which, we believe, will generally enable us to minimize our credit losses and maintain our current level of financing costs. In the case of various renewable energy and other sustainable infrastructure projects, we will be exposed to the credit risk of the obligor of the project's PPA or other long-term contractual revenue commitments, as well as to the credit risk of certain suppliers and project operators. While we do not anticipate facing significant credit risk in our assets related to government energy efficiency projects, we are subject to varying degrees of credit risk in these projects in relation to payment guarantees provided by ESCOs that are required in the event that certain energy savings are not realized by the customer. We are also exposed to credit risk in our other projects that do not benefit from governments as the obligor such as on balance sheet financing of projects undertaken by universities, schools and hospitals, as well as privately owned commercial projects. We have extended mezzanine loans to various special purpose entities which own residential or community solar projects, and the ultimate repayment of those loans is dependent on the creditworthiness of the related residential obligors. As a result of investing in these and other mezzanine loans, we are exposed to additional credit risk. In certain instances, interest is paid on our mezzanine loans in-kind, which increases our outstanding loan balances and causes the ultimate repayment of cash to occur later. We seek to manage credit risk through thorough due diligence and underwriting processes, strong structural protections in our transaction agreements with customers and continual, active asset management and portfolio monitoring. Nevertheless, unanticipated credit losses could occur and during periods of economic downturn in the global economy, our exposure to credit risks from obligors increases, and our efforts to monitor and mitigate the associated risks may not be effective in reducing our credit losses. See Item 7A. Quantitative and Qualitative Disclosures about Credit Risks for further information on our credit risks and see Note 6 to our audited financial statements in this Form 10-K for additional detail of the credit risks surrounding our Portfolio.

Changes in Market Interest Rates and Liquidity

Interest rate risk is highly sensitive to many factors, including governmental monetary and tax policies, domestic and international economic and political considerations and other factors beyond our control. We are subject to interest rate risk in connection with new asset originations and our borrowings, including our revolving credit facilities, and in the future, to the extent we choose to enter into any new floating rate assets, revolving credit facilities or other borrowings. See Item 7A. Quantitative and Qualitative Disclosures about Market Risk for further information on interest rates risks and liquidity.

Commodity Prices

When we make investments in a project that is exposed to commodity prices, we may also be exposed to volatility in those prices. For example, the performance of renewable energy projects that produce electricity can be impacted by volatility in the market prices of various forms of energy, including electricity, coal and natural gas. This is especially true for utility scale projects that sell power on a wholesale basis such as many of our Grid-Connected projects as opposed to Behind-the-Meter projects which compete against the retail or delivered costs of electricity which includes the cost of transmitting and distributing the electricity to the end user. See Item 7A. Quantitative and Qualitative Disclosures about Market Risk for further information on the impact of commodity prices.

Government Policies

We make investments in renewable energy projects that typically depend in part on various federal, state or local governmental policies that support or enhance the project's economic feasibility. Such policies may include governmental initiatives, laws and regulations designed to reduce energy usage and impact the use of renewable energy or the investment in, and the use of, climate solutions. Policies and incentives provided by the U.S. federal government may include tax credits, tax deductions, bonus depreciation, federal grants and loan guarantees, and energy market regulations. The value of tax credits, deductions and incentives and how they can be realized may be impacted by changes in tax laws, rates, or regulations.

Incentives provided by state and local governments may include an RPS or similar clean energy standard, which specify the portion of the power utilized by local utilities that must be derived from renewable or clean energy sources. Additionally, certain states have implemented feed-in or net metering tariffs, pursuant to which electricity generated from renewable energy sources is purchased at a higher rate than prevailing wholesale rates. Other incentives include tariffs, tax incentives and other cash and non-cash payments.

Governmental agencies, commercial entities and developers of climate solutions projects frequently depend on these policies and incentives to help defray the costs of various projects. Government regulations also impact the terms of third party financing provided to support these projects. If any of these government policies, incentives or regulations are adversely amended, delayed, eliminated, reduced, retroactively changed or not extended beyond their current expiration dates or there is a negative impact from the recent federal law changes or proposals, the operating results of the projects we finance and the demand for, and the returns available from our investments may decline, which could harm our business.

Impacts of climate change on our future operations

As our business is focused on reducing carbon emissions and increasing resiliency to climate change, we are impacted by the effects of climate change and various related regulatory responses. In managing our business, we consider the potential impacts to our operations that may result in certain climate-related scenarios. We have implemented the recommendations of the TCFD, which provides a framework to consider and disclose our processes for managing the risks and opportunities associated with climate change. We have disclosed the components of the TCFD framework throughout this document. The following tables highlight our evaluation of potential impacts to our business in two climate related scenarios as well as our resilience to and strategy for handling the potential impacts.

Transition Risks and Opportunities - We believe our Portfolio will be impacted by the transition risks and opportunities contemplated by the Paris Accords and the achievement of its objectives.

Scenario 1 - Global action is taken to limit the global temperature increase to 1.5 degrees Celsius above pre-industrial levels

Assumption	Qualitative impacts	Quantitative impacts	Considerations of and impact on our management strategy
The price of Renewable Energy Credits ("RECs") or similar structures increase as more aggressive renewable portfolio standards and corporate renewable energy targets are implemented	Increased expected cash flows and financial returns for certain of our investments to the extent the RECs are sold at higher market prices. Increased debt/lease service coverage ratio for the obligors of our renewable energy debt investments and solar real estate leases that sell RECs at higher market pricing. The resulting increase in cash flows may also allow us to apply greater financial leverage to these investments and enhance our profitability. If there was a material increase in value associated with RECs, it is likely that more renewable energy projects would be developed in geographic areas where the RECs were more valuable, leading to more potential investment opportunities for us.	If the overall price level of RECs increased by 5% we would expect an approximately 1% increase in future cash flows for our existing GC and BTM equity investments. We would not expect a material impact to our, renewable energy debt, solar real estate, or energy efficiency investments.	We may identify more investment opportunities resulting from the increased REC value. In addition, to the extent that our investments become more valuable we would consider whether it would be more economical to our stockholders to either monetize the investment given the increase in value or continue to hold in our Portfolio and maximize our returns from adding additional leverage to our financing.

Assumption	Qualitative impacts	Quantitative impacts	Considerations of and impact on our management strategy
A carbon tax or similar carbon pricing mechanism is implemented by governmental authorities which may cause an increase to (i) power prices, (ii) operating costs for certain entities, and (iii) the competitiveness of renewable energy, energy efficiency and storage projects	Increased cash flows and financial returns from certain investments to the extent power is sold at higher market prices due to the increase in cost imposed on fossil fueled energy projects. Increases in the debt/lease service coverage ratio for the obligors of our renewable energy debt investments and solar real estate leases that sell power at higher market pricing. The resulting increase in cash flows may also allow us to apply greater financial leverage to these investments and enhance our profitability. Increased energy cost savings from energy efficiency solutions. Increased competitiveness of renewable energy projects with fossil fueled power plants, due to an increase in power prices. An increase in the items mentioned above may increase the volume of assets available in which we can invest. However, the implementation of a carbon tax may also have a negative impact on the financial health of utilities and corporate entities who also purchase power from renewable energy projects in which we have invested. The credit ratings of these entities may be downgraded due to additional operating expenses resulting from a carbon tax. A credit rating downgrade may reduce the amount of financial leverage we are able to utilize. If this were to occur, our overall profitability could decline.	A portion of our Portfolio is exposed to changes in the market price of power. Whether it is due to sales of energy at the then current market price or through a re-contracting of fixed price power purchase agreements. Under a scenario where a carbon tax drives the price of power up by 10%, our existing GC equity investments may hit their preferred return targets earlier, resulting in a modest increase in our overall investment yield, compared to the current baseline scenario. Our existing BTM and GC equity investments would experience a 3% increase in expected cash flows. We would not expect a material impact to our, renewable energy debt, solar real estate, or energy efficiency investments.	In relation to new business, there is the potential that more competitors enter our markets and put pressure on our asset pricing strategies as renewable energy and energy efficiency projects become more cost competitive with fossil fuel electricity generation assets. We are constantly reviewing our pricing strategies and would continue to do so in this scenario to understand how we can continue to make investments with acceptable risk adjusted returns. In addition, to the extent that our investments become more valuable we would consider whether it would be more economical to our stockholders to either monetize the investment given the increase in value or continue to hold in our Portfolio and maximize our returns from adding additional leverage to our financing.

Assumption	Qualitative impacts	Quantitative impacts	Considerations of and impact on our management strategy
A significant increase in research and re-development investment in renewable energy, energy storage, and energy efficiency technologies by public and private entities	Continued decreases in cost could make renewable energy, energy storage, and energy efficiency technologies more cost competitive. As a result, we may experience an increase in investment opportunities available to us.	Given the nature of our business activities and focus on structuring transactions to meet the capital needs of our clients, it is difficult to reliably quantify the positive impact on our investment opportunities. However, we would expect to achieve accretive economics from this assumption.	In the development of our investment strategies we would consider investment in different technologies that we may not have historically invested based upon the additional development and maturation gained through the prospective increase in research and development. Additionally, the lower cost of projects may influence the amount of investment we would make in each opportunity.
Significant growth in positive public sentiment for climate solutions investment	Increased demand for investment in climate solutions may increase the volume of transactions in which we may invest, reduce our overall cost of capital and increase our profitability.	Given the nature of our business activities and focus on structuring transactions to meet the capital needs of our clients, it is difficult to reliably quantify the positive impact on our investment opportunities. However, we would expect to achieve accretive economics from this assumption.	An increased demand for climate solutions may increase competition and influence our pricing strategy. We would continue to review our pricing strategies with these opportunities.
Customer preference shifting to match electricity demand with carbon-free energy generation from resources on the same regional grids	Increased demand for climate solutions investment in particular regions increase the volume of transactions in which we may invest, reduce our overall cost of capital and increase our profitability.	Given the nature of our business activities and focus on structuring transactions to meet the capital needs of our clients, it is difficult to reliably quantify the positive impact on our investment opportunities. However, we would expect to achieve accretive economics from this assumption.	Changing consumer preference can drive investments in renewable deployments in new areas to improve the localization of clean energy supplies and can drive development of multi-technology portfolios of intelligent generation and storage, both of which may increase the total investment opportunities available to us.

Scenario 2 - Global temperatures increase more than 2 degrees Celsius above pre-industrial levels

Assumption	Qualitative impacts	Quantitative impacts	Considerations of and impact to our management strategy
No meaningful government policy to shift the trajectory of global climate change	Given current trends, even without an increase in government support, we might expect increased demand for climate solutions due to the improving economics and cost competitiveness of these technologies. Such growth in demand may increase the volume of investment opportunities available to us.	Given the nature of our business activities and focus on structuring transactions to meet the capital needs of our clients, it is difficult to reliably quantify the impact on our investment opportunities. However, we would expect to achieve accretive economics from this assumption.	The increased demand in climate solutions may increase competition and influence our pricing strategy.
An increase in demand for climate change resiliency solutions	Flooding and storm surges may become more frequent, resulting in an increase in demand for storm water management assets. Greater instability in the power grid may increase the demand for on-site and distributed power generation systems and battery storage. If the above events occur, we may experience an increase in the volume of investment opportunities available to us.	Given the nature of our business activities and focus on structuring transactions to meet the capital needs of our clients, it is difficult to reliably quantify the positive impact on our investment opportunities. However, we would expect to achieve accretive economics from this assumption.	The increased demand in climate solutions may increase competition and influence our pricing strategy.
Greater variability and instability in the commodity markets	Potential increases in the price of commodities (e.g., natural gas) due to climate change induced supply chain and transport disruptions, such as a major hurricane striking a series of gulf coast pipelines, may drive power prices higher, thus increasing financial returns from certain of our investments to the extent the power is sold at market prices rather than under fixed price contracts. However, climate change-related impacts to the amount of potable water supplies, such as irregular rainfall and saltwater intrusion, may drive increases in the price of water. These increases in cost may increase the demand for assets that increase water use efficiency, resulting in an increase in the volume of investment opportunities available to us.	We believe any mentioned impacts that are realized, are short-term in nature and we would not expect a material impact on our investments.	We currently have risk management processes which include a recurring review of our investments through our portfolio management function to assess any increasing operational costs of our investments. For our Portfolio, we will actively manage the risk to make appropriate adjustments to budget approvals, operational approvals, and other asset management tasks. For any new investments, we make conservative assumptions to protect our investments from such types of pricing volatility and will continue to do so, including new assumptions around commodity volatility as relevant.

Physical Risks and Opportunities - Given the assessments of the United Nation's Intergovernmental Panel on Climate Change and other leading climate research organizations regarding the probability of a 1.5 Celsius increase in global temperature and serious climatic impacts even with the most aggressive emissions reduction initiatives, we believe our Portfolio will be impacted by physical risks regardless of the actions taken as discussed above. We assume the types of risks to which our Portfolio is exposed are similar under either Scenario 1 or 2 (albeit at varying degrees of severity).

Scenario 1 - Global action is taken to limit the global temperature increase to 1.5 degrees Celsius above pre-industrial levels and

Scenario 2 - Global temperatures increase more than 2 degrees Celsius above pre-industrial levels.

Assumption	Qualitative impacts	Quantitative impacts	Considerations of and impact to our management strategy
Increased (i) flooding events due to heavier rainfalls and increased storm surge due to rising sea levels, (ii) the probability and severity of wildfires and (iii) increased frequency and severity of storms and other weather-related events	Our existing investments in low lying areas are exposed to potential flooding events and other storm damage and such events may cause construction delays, operational shutdowns, and more significant site damage.	We would not expect a material risk to the cash flows from our investments as we typically require insurance coverage for these events where the project owner bears this cost. Refer to later discussion on the impacts of the increase in insurance costs.	When underwriting our investments we negotiate structural protections to mitigate any loss we may incur from operations or inability of the projects to operate (this includes project insurance). For any new investment opportunities we would evaluate the exposure to rising sea levels and structure our investment terms such that we protect our invested capital.
	A portion of our investments are located in high wildfire risk regions and are exposed to catastrophic damage from wildfire events.	We would not expect a material risk to the cash flows from our investments as we typically require insurance coverage for these events where the project owner bears this cost. Refer to later discussion on the impacts of the increase in insurance costs.	When underwriting our investments we negotiate structural protections to mitigate any loss we may incur from operations or inability of the projects to operate (this includes project insurance). For any new investment opportunities we would evaluate the exposure to wildfires and structure our investment terms such that we protect our invested capital.
	Solar energy assets that are not in the direct path of wildfires but are within the proximity thereof may have reduced power production due to ash soiling on the panels or reduced solar insolation due to ash clouds.	The potential impact of additional soiling of panels or ash clouds was assessed and is not expected to have a material impact on the cashflows and value of our portfolio.	To the extent this became a material issue we would seek out protections to mitigate any impact of this, such as adding panel washing requirements to contracts.
	If the events above were to occur, we may experience reduced cash flows and financial returns from these investments, which may cause us to reduce the amount of financial leverage we utilize and cause a decline in our overall profitability.		

Assumption	Qualitative impacts	Quantitative impacts	Considerations of and impact to our management strategy
Operational performance of the projects in which we invest are impacted by the global temperature increase	A decrease in performance and power generation of the solar and wind energy assets related to our investments, as the performance of these assets vary based upon the ambient temperatures (in the case of solar) and air density (in the case of wind). Both conditions may be caused by increases in global temperatures.	Solar portfolio production can be affected by an increase in global temperature depending on the geography. High temperatures have a significant efficiency impact on wind turbines as high temperature faults create more wear and tear on equipment. If production of these GC assets decreases by 5% the cash flows from those investments would be expected to decrease by approximately 10%. We would not expect a material impact on our BTM equity investments, renewable energy debt, solar real estate and energy efficiency investments.	When underwriting our investment opportunities we make conservative assumptions regarding performance and operational expenses that protect our returns from some level of unexpected performance or operation issues in the future. We will continue to adjust our assumptions as additional risks and severity of climate risk are assessed. We actively manage our Portfolio to preemptively and proactively address any operational or maintenance issues.
	Increased wind variability and increased wear on wind turbine components, which may increase operating costs.	An increase in operating expenses would result and if there was 5% higher operating expenses the cash flows from our GC equity investments would be expected to decrease by 4%.	
	Increased operating costs and lower generation from the increase in temperatures may reduce our expected cash flows and financial returns from our investments, which may cause us to reduce the amount of financial leverage we utilize and cause a decline in our overall profitability.	If there were both a decrease in production of 5% and higher operating expenses of 5% our cash flows from our GC equity investments would be expected to decline by 12%. We would not expect a material impact on our renewable energy debt, solar real estate and energy efficiency investments.	

Assumption	Qualitative impacts	Quantitative impacts	Considerations of and impact to our management strategy
An increase in water scarcity potentially resulting in an increase in the price of water	Water is used to clean the panels on solar energy assets to maintain their efficiency. An increase in water prices may reduce the cash flows and financial returns from our related investments, which may cause us to reduce the amount of financial leverage we utilize and cause a decline in our overall profitability. Climate change related impacts to the amount of potable water supplies, such as irregular rainfall and saltwater intrusion, may drive increases in the price of water. These increases in cost may increase the demand for assets that increase water use efficiency resulting in an increase in the volume of investment opportunities available to us.	The impact of water scarcity and increased prices to our Portfolio is not expected to have a material impact on the cash flows of our investments.	To the extent this becomes a material matter we would seek out protections to mitigate any impact of additional water related costs. The increased demand in these projects may increase competition and influence our pricing strategy.
An increase in the cost, or a change in the availability of insurance	In anticipation of climate change related physical risks, projects related to our investments in particularly vulnerable regions, such as low-lying coastal areas, may face increases in insurance costs. An increase in insurance costs may reduce the cash flows and financial returns from these investments and may cause us to reduce the amount of financial leverage we utilize and cause a decline in our overall profitability.	Insurance policies are executed on an annual basis and in some regions the price of insurance could increase such that the cash flow and value of our projects in high risk geographic regions are affected. This increase in insurance cost would drive an increase in total operating expenses. We have estimated that an increase in operating expenses of 5% would be expected to reduce our cash flows from GC equity investments by 4%, and from BTM equity investments by 1% . We would not expect a material impact on our renewable energy debt, solar real estate and energy efficiency investments.	We require that the projects in which we invest are insured against casualty events that could impact our cash distributions. We continually evaluate whether there are superior asset or portfolio level policies that are available that optimize our insurance coverage and premium costs.

Critical Accounting Policies and Use of Estimates

Our financial statements are prepared in accordance with GAAP, which requires the use of estimates and assumptions that involve the exercise of judgment and use of assumptions as to future uncertainties. The following discussion addresses the accounting policies that we use including areas that involve the use of significant estimates. Our most critical accounting policies involve decisions and assessments that could affect our reported assets and liabilities, as well as our reported revenues and expenses. We believe that all of the decisions and assessments upon which our financial statements are based are reasonable at the time made and based upon information available to us at that time. Our critical accounting policies and accounting estimates may be expanded over time. Those material accounting policies and estimates that we expect to be most critical to an investor's understanding of our financial results and condition and require complex management judgment are discussed below. See Note 2 to our audited financial statements in this Form 10-K for further details on our accounting policies.

We evaluate our critical accounting estimates and judgments on an ongoing basis and update them, as necessary, based on changing conditions.

We have identified the following accounting policies as critical because they require significant judgments and assumptions about highly complex and inherently uncertain matters and the use of reasonably different estimates and assumptions could have a material impact on our reported results of operations or financial condition.

Consolidation

We account for our investment in entities that are considered voting or variable interest entities under ASC 810, *Consolidation*. We perform an ongoing assessment and make judgments to determine the primary beneficiary of each entity as required by ASC 810, which includes an assessment of the type and degree of control we have over the entity. If we would conclude that certain of these entities should be consolidated, we would include the entities' assets, liabilities and related activity in our financial statements, along with non-controlling interests related to the ownership of the other equity holders. Refer to discussion below relating to additional consolidation considerations related to the securitization of receivables. We further discuss our process for evaluating these judgments in Note 2 to our audited financial statements in this Form 10-K.

Equity Method Investments

For our non-consolidated equity investments that we have concluded contain substantive profit sharing agreements, we generally determine our income allocations under the equity method of accounting based on the change in our claim on net assets of the investee entity as reported by the investee using a method commonly referred to as the hypothetical liquidation at book value method or ("HLBV"). This method uses a hypothetical liquidation scenario that may require judgment in its application and could have a material impact on our reported financial results. Any changes in this method of application or in certain assumptions could either increase or decrease our net income and the carrying value of the assets accounted for under this method. We further discuss our process for applying this method of income allocations in Note 2 to our audited financial statements in this Form 10-K.

Impairment of our Portfolio

We evaluate the various assets in our Portfolio on at least a quarterly basis, and more frequently when economic or other conditions warrant such an evaluation, for delinquencies or other events that may indicate a potential impairment or specific consideration in the development of the allowance for credit losses. For our equity method investments and real estate, if an impairment charge is deemed appropriate it would be recorded in our income statement and reduce our net income. In addition, for our receivables, we make judgments about our expected losses related to the receivables in our Portfolio and record an allowance for credit losses on such receivables with a provision for loss on receivables in our income statement. We further discuss our process for evaluating these judgments in Note 2 to our audited financial statements in this Form 10-K.

Securitization of Financial Assets

We have established various special purpose entities or securitization trusts for the purpose of securitizing certain receivables or other debt investments. We make judgments, based in part, on supporting legal opinions, on whether these entities should be consolidated as a variable interest entity, as defined in ASC 810, *Consolidation,* and whether the transfers to these entities are accounted for as a sale of a financial asset or a secured borrowing under ASC 860, *Transfers and Servicing*. If we would conclude that certain of these special purpose entities or securitization trusts should be consolidated, we would include the assets and liabilities of the entity and their related activity in our financial statements. If sale accounting is not met in these transactions, it would be treated as a secured borrowing rather than a sale in our financial statements, which would result in reduced revenue in the period in which an asset contributed to the trust and an increase in assets and non-recourse debt. We further discuss our process for evaluating these judgments in Note 2 to our audited financial statements in this Form 10-K. We also make assumptions regarding the fair value of our securitization assets in these transferred assets. If our determination of fair value is determined to be incorrect, our gain on sale of receivables and investments in our income statement and securitization assets on our balance sheet will be inaccurate. See Note 3 to our audited financial statements in this Form 10-K for a discussion around fair value measurements.

Results of Operations

For a comparison of our results of operations for the fiscal years ended December 31, 2022 and December 31, 2021, see "Part II, Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations" of our annual report on Form 10-K for the fiscal year ended December 31, 2022, filed with the SEC on February 21, 2023.

We completed approximately $2.3 billion of transactions during 2023, compared to approximately $1.8 billion during 2022. Our strategy includes holding a large portion of these transactions on our balance sheet. We refer to the transactions we hold on our balance sheet as of a given date as our "Portfolio". Our Portfolio was approximately $6.2 billion as of December 31, 2023 and $4.3 billion December 31, 2022.

Portfolio

Our Portfolio totaled approximately $6.2 billion as of December 31, 2023, and included approximately $3.0 billion of BTM assets, approximately $2.3 billion of GC assets, and approximately $0.9 billion of FTN assets. Approximately 45% of our Portfolio consisted of unconsolidated equity investments in renewable energy related projects. Approximately 51% consisted of commercial and government receivables on our balance sheet and approximately 4% of our Portfolio was real estate leased to renewable energy projects under long-term operating lease agreements. Our Portfolio consisted of over 520 transactions with an average size of $12 million and the weighted average remaining life of our Portfolio (excluding match-funded transactions) of approximately 17 years as of December 31, 2023.

The table below provides details on the interest rate and maturity of our receivables and debt securities as of December 31, 2023:

	Balance	Maturity
	(in millions)	
Floating-rate receivable, interest rate of 10.1%	$ 277	2026 to 2026
Fixed-rate receivables, interest rates less than 5.00% per annum	102	2025 to 2047
Fixed-rate receivables, interest rates from 5.00% to 6.49% per annum	417	2024 to 2061
Fixed-rate receivables, interest rates from 6.50% to 7.99% per annum	868	2025 to 2069
Fixed-rate receivables, interest rates from 8.00% to 9.49% per annum	1,004	2027 to 2039
Fixed-rate receivables, interest rates 9.50% or greater per annum	456	2024 to 2047
Receivables [(1)]	3,124	
Less: Allowance for loss on receivables	(50)	
Receivables, net of allowance	3,074	
Fixed-rate investments, interest rates less than 5.00% per annum	7	2035 to 2051
Fixed-rate investments, interest rates from 5.00% to 6.50% per annum	—	2047 to 2050
Total receivables and investments	**$ 3,081**	

(1) Excludes receivables held-for-sale of $35 million.

The table below presents, for the debt investments and real estate related holdings of our Portfolio and our interest-bearing liabilities inclusive of our short-term commercial paper issuances and revolving credit facilities, the average outstanding balances, income earned, the interest expense incurred, and average yield or cost. Our earnings from our equity method investments are not included in this table.

	Years Ended December 31,		
	2023	2022	2021
	(dollars in millions)		
Portfolio, excluding equity method investments			
Interest income, receivables	$ 203	$ 132	$ 106
Average balance of receivables	$ 2,424	$ 1,650	$ 1,301
Average interest rate of receivables	8.4 %	8.0 %	8.1 %
Interest income, investments	$ 1	$ 1	$ 1
Average balance of investments	$ 12	$ 13	$ 26
Average interest rate of investments	4.9 %	4.4 %	4.0 %
Rental income	$ 21	$ 26	$ 26
Average balance of real estate	$ 286	$ 357	$ 358
Average yield on real estate	7.4 %	7.3 %	7.2 %
Average balance of receivables, investments, and real estate	$ 2,722	$ 2,021	$ 1,685
Average yield from receivables, investments, and real estate	8.3 %	7.9 %	7.9 %
Debt			
Interest expense, including the impact of cash flow hedges[(1)]	$ 171	$ 116	$ 106
Average balance of debt	$ 3,437	$ 2,688	$ 2,300
Average cost of debt	5.0 %	4.3 %	4.6 %

(1) Excludes loss on debt modification or extinguishment included in interest expense in our income statement.

The following table provides a summary of our anticipated principal repayments for our receivables and investments as of December 31, 2023:

	Principal payment due by Period				
	Total	Less than 1 year	1-5 years	5-10 years	More than 10 years
			(in millions)		
Receivables (excluding allowance)	$ 3,124	$ 182	$ 803	$ 1,481	$ 658
Investments	7	1	1	3	2

See Note 6 to our audited financial statements in this Form 10-K for information on:

- the anticipated maturity dates of our receivables and investments and the weighted average yield for each range of maturities as of December 31, 2023,
- the term of our leases and a schedule of our future minimum rental income under our land lease agreements as of December 31, 2023,
- the Performance Ratings of our Portfolio, and
- the receivables on non-accrual status.

For information on our securitization assets relating to our securitization trusts, see Note 5 to our audited financial statements in this Form 10-K. The securitization assets do not have a contractual maturity date and the underlying securitized assets have contractual maturity dates until 2059.

Comparison of the Year Ended December 31, 2023 to the Year Ended December 31, 2022

	Years ended December 31,			
	2023	2022	$ Change	% Change
	(dollars in thousands)			
Revenue				
Interest income	$ 207,794	$ 134,656	$ 73,138	54 %
Rental income	21,251	26,245	(4,994)	(19) %
Gain on sale of receivables and investments	68,637	57,187	11,450	20 %
Securitization asset income	19,259	17,905	1,354	8 %
Fee income	2,930	3,744	(814)	(22) %
Total revenue	**319,871**	**239,737**	**80,134**	**33 %**
Expenses				
Interest expense	171,008	115,559	55,449	48 %
Provision for loss on receivables	11,832	12,798	(966)	(8) %
Compensation and benefits	64,344	63,445	899	1 %
General and administrative	31,283	29,934	1,349	5 %
Total expenses	**278,467**	**221,736**	**56,731**	**26 %**
Income before equity method investments	**41,404**	**18,001**	**23,403**	**130 %**
Income (loss) from equity method investments	140,974	31,291	109,683	351 %
Income (loss) before income taxes	**182,378**	**49,292**	**133,086**	**270 %**
Income tax benefit (expense)	(31,621)	(7,381)	(24,240)	328 %
Net income (loss)	**$ 150,757**	**$ 41,911**	**$ 108,846**	**260 %**

- Net income increased by approximately $109 million as a result of a $110 million increase in income from equity method investments and an $80 million increase in total revenue, partially offset by a $57 million increase in total expense and a $24 million increase in income tax expense. These results do not include the Non-GAAP earnings adjustment related to equity method investments, which is discussed in the Non-GAAP Financial Measures section.
- Interest income increased by $73 million due to a higher average rate on a larger portfolio. Rental income decreased as a result of the deconsolidation of certain special purpose entities which held such land assets as a result of amendments to terms of the non-recourse debt held by those special purpose entities. See the table above for information on our average receivables, investment, and land balance and average yield on those assets. Gain on sale

of receivables and investments and fee income increased by $11 million primarily from a change in mix of assets being securitized. Securitization income was largely flat compared to the prior year.

- Interest expense for the year increased by approximately $55 million due to a higher average rate on a higher average debt balance. See the table above for detail on our average debt rate and average debt balance. Provision for loss on receivables decreased by $1 million compared to the prior period as a result of the release of certain loan specific reserves, offset partially by provision on new loans and loan commitments.
- Compensation and benefits increased by $1 million as a result of an increase in our employee headcount and compensation. General and administrative increased by $1 million due to additional investment in corporate infrastructure.
- Income from equity method investments increased by $110 million, due to allocations of income in the current period related to tax credits allocated to our investors related to a grid-connected utility-scale solar project, as those tax credits reduced the tax equity investors ongoing claim on the net assets of the project.
- Income tax expense increased by $24 million primarily due to recording a deferred tax liability in the current period associated with the Board's 2023 approval of our decision to revoke our REIT status effective January 1, 2024.

Non-GAAP Financial Measures

We consider the following non-GAAP financial measures useful to investors as key supplemental measures of our performance: (1) distributable earnings, (2) distributable net investment income, and (3) managed assets. These non-GAAP financial measures should be considered along with, but not as alternatives to, net income or loss as measures of our operating performance. These non-GAAP financial measures, as calculated by us, may not be comparable to similarly named financial measures as reported by other companies that do not define such terms exactly as we define such terms.

Distributable Earnings

We calculate distributable earnings as GAAP net income (loss) excluding non-cash equity compensation expense, provisions for loss on receivables, amortization of intangibles, non-cash provision (benefit) for taxes, losses or (gains) from modification or extinguishment of debt facilities, any one-time acquisition related costs or non-cash tax charges and the earnings attributable to our non-controlling interest of our Operating Partnership. We also make an adjustment to our equity method investments in the renewable energy projects as described below. We will use judgment in determining when we will reflect the losses on receivables in our distributable earnings and will consider certain circumstances such as the time period in default, sufficiency of collateral as well as the outcomes of any related litigation. In the future, distributable earnings may also exclude one-time events pursuant to changes in GAAP and certain other adjustments as approved by a majority of our independent directors.

We believe a non-GAAP measure, such as distributable earnings, that adjusts for the items discussed above is and has been a meaningful indicator of our economic performance in any one period and is useful to our investors as well as management in evaluating our performance as it relates to expected dividend payments over time. Additionally, we believe that our investors also use distributable earnings, or a comparable supplemental performance measure, to evaluate and compare our performance to that of our peers, and as such, we believe that the disclosure of distributable earnings is useful to our investors.

Certain of our equity method investments in renewable energy and energy efficiency projects are structured using typical partnership "flip" structures where the investors with cash distribution preferences receive a pre-negotiated return consisting of priority distributions from the project cash flows, in many cases, along with tax attributes. Once this preferred return is achieved, the partnership "flips" and the common equity investor, often the operator or sponsor of the project, receives more of the cash flows through its equity interests while the previously preferred investors retain an ongoing residual interest. We have made investments in both the preferred and common equity of these structures. Regardless of the nature of our equity interest, we typically negotiate the purchase prices of our equity investments, which have a finite expected life, based on our underwritten project cash flows discounted back to the net present value, based on a target investment rate, with the cash flows to be received in the future reflecting both a return on the capital (at the investment rate) and a return of the capital we have committed to the project. We use a similar approach in the underwriting of our receivables.

Under GAAP, we account for these equity method investments utilizing the HLBV method. Under this method, we recognize income or loss based on the change in the amount each partner would receive, typically based on the negotiated profit and loss allocation, if the assets were liquidated at book value, after adjusting for any distributions or contributions made during such quarter. The HLBV allocations of income or loss may be impacted by the receipt of tax attributes, as tax equity investors are allocated losses in proportion to the tax benefits received, while the sponsors of the project are allocated gains of a similar amount. The investment tax credit available for election in solar projects is a one-time credit realized in the quarter when the project is considered operational for tax purposes and is fully allocated under HLBV in that quarter (subject to an impairment test), while the production tax credit required for wind projects and electable for solar projects is a ten-year credit and thus is allocated under HLBV over a ten year period. In addition, the agreed upon allocations of the project's cash flows may differ materially from the profit and loss allocation used for the HLBV calculations in a given period. We also consider the impact of any OTTI in determining our income from equity method investments.

The cash distributions for those equity method investments where we apply HLBV are segregated into a return on and return of capital on our cash flow statement based on the cumulative income (loss) that has been allocated using the HLBV method. However, as a result of the application of the HLBV method, including the impact of tax allocations, the high levels of depreciation and other non-cash expenses that are common to renewable energy projects and the differences between the agreed upon profit and loss and the cash flow allocations, the distributions and thus the economic returns (i.e. return on capital) achieved from the investment are often significantly different from the income or loss that is allocated to us under the HLBV method in any one period. Thus, in calculating distributable earnings, for certain of these investments where there are characteristics as described above, we further adjust GAAP net income (loss) to take into account our calculation of the return on capital (based upon the underwritten investment rate), as adjusted to reflect the performance of the project and the cash distributed. We believe this equity method investment adjustment to our GAAP net income (loss) in calculating our distributable earnings measure is an important supplement to the income (loss) from equity method investments as determined under GAAP for an investor to understand the economic performance of these investments where HLBV income can differ substantially from the economic returns in any one period.

We have acquired equity investments in portfolios of projects which have the majority of the distributions payable to more senior investors in the first few years of the project. The following table provides results related to our equity method investments for the last three years:

	Years ended December 31,		
	2023	2022	2021
	(dollars in millions)		
Income (loss) under GAAP	$ 141	$ 31	$ 126
Collections of Distributable earnings	$ 39	$ 57	$ 23
Return of capital	24	101	30
Cash collected [(1)]	$ 63	$ 158	$ 53

(1) Cash collected during 2023 and 2022 includes $9 million and $64 million, respectively of debt issuance proceeds from certain of our equity method investees, the repayment of which we have guaranteed.

Distributable earnings does not represent cash generated from operating activities in accordance with GAAP and should not be considered as an alternative to net income (determined in accordance with GAAP), or an indication of our cash flow from operating activities (determined in accordance with GAAP), or a measure of our liquidity, or an indication of funds available to fund our cash needs, including our ability to make cash distributions. In addition, our methodology for calculating distributable earnings may differ from the methodologies employed by other companies to calculate the same or similar supplemental performance measures, and accordingly, our reported distributable earnings may not be comparable to similar metrics reported by other companies.

We have calculated our distributable earnings for the years ended December 31, 2023, 2022 and 2021. The table below provides a reconciliation of our GAAP net income to distributable earnings:

	Years Ended December 31,					
	2023		2022		2021	
	$	Per Share	$	Per Share	$	Per Share
	(dollars in thousands, except per share amounts)					
Net income attributable to controlling stockholders [1]	$ 148,836	$ 1.42	$ 41,502	$ 0.47	$ 126,579	$ 1.51
Distributable earnings adjustments						
Reverse GAAP income from equity method investments	(140,974)		(31,291)		(126,421)	
Add equity method investments earnings adjustment	156,757		131,762		103,707	
Equity-based expenses	19,782		20,101		17,047	
Non-cash provision for loss on receivables [2]	11,832		12,798		496	
Loss (gain) on debt modification or extinguishment	—		—		16,083	
Amortization of intangibles	2,473		3,129		3,307	
Non-cash provision (benefit) for taxes	31,621		7,381		17,158	
Current year earnings attributable to non-controlling interest	1,921		409		767	
Distributable earnings [3]	$ 232,248	$ 2.23	$ 185,791	$ 2.08	$ 158,723	$ 1.88

(1) The per share data reflects the GAAP diluted earnings per share and is the most comparable GAAP measure to our distributable earnings per share.

(2) In addition to these provisions, in 2022 we wrote-off two commercial receivables with a combined total carrying value of approximately $8 million which represented assignments of land lease payments from two wind projects that we had originated in 2014 as a part of an acquisition of a large land portfolio. In 2017, the operator of the projects terminated the lease, at which time we filed a legal claim and placed these assets on non-accrual status. In 2019, we received a court decision indicating that the owners of the projects were within their rights under the contract terms to terminate the lease which impacts the land lease assignments to us, at which time we reserved the receivables for their full carrying amount. In 2022, we received a court decision indicating that our appeal was not successful, and accordingly wrote off the full amount of the receivable. We have excluded the write off from Distributable earnings for the year ended December 31, 2022, due to the infrequent occurrence of credit losses as well as the unique nature of the receivables, as the assignment of land lease payments from wind projects represent a small portion of our total portfolio.

(3) Distributable earnings per share are based on 104,319,803 shares, 89,355,907 shares and 84,268,341 shares for the years ended December 31, 2023, 2022 and 2021, respectively, which represent the weighted average number of fully-diluted shares outstanding including our restricted stock awards, restricted stock units, long-term incentive plan units and the non-controlling interest in our Operating Partnership. We include any issuances of our common stock related to share based compensation units in the amount we believe is reasonably certain to vest. As it relates to Convertible Notes, we will assess the market characteristics around the instrument to determine if it is more akin to debt or equity based on an expectation of the likelihood of conversion based on current conditions. If the instrument is more debt-like then we will include any related interest expense and exclude the underlying shares issuable upon conversion of the instrument. If the instrument is more equity-like and is more dilutive when treated as equity then we will exclude any related interest expense and include the weighted average shares underlying the instrument. We consider the impact of any capped calls in assessing whether an instrument is equity-like or debt-like.

Distributable Net Investment Income

We have a portfolio of investments in climate solutions that we finance using a combination of debt and equity. We calculate distributable net investment income as shown in the table below by adjusting GAAP-based net investment income for those distributable earnings adjustments that are applicable to distributable net investment income. We believe that this measure is useful to investors as it shows the recurring income generated by our Portfolio after the associated interest cost of debt financing. Our management also uses distributable net investment income in this way. Our non-GAAP distributable net investment income measure may not be comparable to similarly titled measures used by other companies. For further information on the adjustments between GAAP-based net investment income and distributable net investment income, see the discussion above related to Distributable Earnings.

The following is a reconciliation of our GAAP-based net investment income to our distributable net investment income for the years ended December 31, 2023, 2022 and 2021:

	Years Ended December 31,		
	2023	**2022**	**2021**
		(in thousands)	
Interest income	$ 207,794	$ 134,656	$ 106,889
Rental income	21,251	26,245	25,905
GAAP-based investment revenue	$ 229,045	$ 160,901	$ 132,794
Interest expense	171,008	115,559	121,705
GAAP-based net investment income	$ 58,037	$ 45,342	$ 11,089
Equity method earnings adjustment	156,757	131,762	103,707
Loss (gain) on debt modification or extinguishment	—	—	16,083
Amortization of real estate intangibles	2,473	3,061	3,089
Distributable net investment income	$ 217,267	$ 180,165	$ 133,968

Managed Assets

As we both consolidate assets on our balance sheet and securitize assets off-balance sheet, certain of our receivables and other assets are not reflected on our balance sheet where we may have a residual interest in the performance of the investment, such as servicing rights or a retained interest in cash flows. Thus, we present our investments on a non-GAAP "Managed Assets" basis, which assumes that securitized receivables are not sold. We believe that our Managed Asset information is useful to investors because it portrays the amount of both on- and off-balance sheet receivables that we manage, which enables investors to understand and evaluate the credit performance associated with our portfolio of receivables, investments and residual assets in off-balance sheet securitized receivables. Our management also uses Managed Assets in this way. Our non-GAAP Managed Assets measure may not be comparable to similarly titled measures used by other companies.

The following is a reconciliation of our GAAP-based Portfolio to our Managed Assets as of December 31, 2023 and 2022:

	As of December 31,	
	2023	2022
	(dollars in millions)	
Equity method investments	$ 2,966	$ 1,870
Commercial receivables, net of allowance	2,983	1,887
Government receivables	91	103
Receivables held-for-sale	35	85
Real estate	111	353
Investments	7	10
GAAP-based Portfolio	6,193	4,308
Assets held in securitization trusts	6,060	5,486
Managed assets	$ 12,253	$ 9,794

Adjusted Cash from Operations Plus Other Portfolio Collections

We operate our business in a manner that considers total cash collected from our portfolio and making necessary operating and debt service payments to assess the amount of cash we have available to fund dividends and investments. We believe that the aggregate of these items, which combine as a non-GAAP financial measure titled Adjusted Cash Flow from Operations plus Other Portfolio Collections, is a useful measure of the liquidity we have available from our assets to fund both new investments and our regular quarterly dividends. This non-GAAP financial measure may not be comparable to similarly titled or other similar measures used by other companies. Although there is also not a directly comparable GAAP measure that demonstrates how we consider cash available for dividend payment, below is a reconciliation of this measure to Net cash provided by operating activities.

Also, Adjusted Cash Flow from Operations plus Other Portfolio Collections differs from Net cash provided by (used in) investing activities in that it excludes many of the uses of cash used in our investing activities such as in Equity method investments, Purchases of and investments in receivables, Purchases of real estate, Purchases of investments, Funding of escrow accounts, and excludes Withdrawal from escrow accounts, and Other. In addition, Adjusted Cash Flow from Operations plus Other Portfolio Collections is not comparable to Net cash provided by (used in) financing activities in that it excludes many of our financing activities such as proceeds from common stock issuances and borrowings and repayments of unsecured debt.

	For the year ended December 31,		
	2023	2022	2021
	(in thousands)		
Net cash provided by operating activities	$ 99,689	$ 230	$ 13,309
Changes in receivables held-for-sale	(51,538)	62,953	22,035
Equity method investment distributions received	30,140	110,064	21,777
Proceeds from sales of equity method investments	—	1,700	300
Principal collections from receivables	197,784	125,976	148,769
Proceeds from sales of receivables	7,634	5,047	75,582
Proceeds from sales of land	—	4,550	—
Principal collections from investments [1]	3,805	171	414
Proceeds from sales of investments and securitization assets	—	7,020	15,197
Principal payments on non-recourse debt	(21,606)	(30,581)	(37,974)
Adjusted cash flow from operations and other portfolio collections	$ 265,908	$ 287,130	$ 259,409
Less: Dividends	(159,786)	(132,198)	(113,510)
Cash Available for Reinvestment	$ 106,122	$ 154,932	$ 145,899

(1) Included in Other in the cash provided (used in) investing activities section of our statement of cash flows.

Other Measures and Metrics

Portfolio Yield

We calculate portfolio yield as the weighted average underwritten yield of the investments in our Portfolio as of the end of the period. Underwritten yield is the rate at which we discount the expected cash flows from the assets in our Portfolio to determine our purchase price. In calculating underwritten yield, we make certain assumptions, including the timing and amounts of cash flows generated by our investments, which may differ from actual results, and may update this yield to reflect our most current estimates of project performance. We believe that portfolio yield provides an additional metric to understand certain characteristics of our Portfolio as of a point in time. Our management uses portfolio yield this way and we believe that our investors use it in a similar fashion to evaluate certain characteristics of our Portfolio compared to our peers, and as such, we believe that the disclosure of portfolio yield is useful to our investors.

Our Portfolio totaled approximately $6.2 billion as of December 31, 2023. Unlevered portfolio yield was 7.9% as of December 31, 2023 and 7.5% as of December 31, 2022. See Note 6 to our financial statements and MD&A - Our Business in this Form 10-K for additional discussion of the characteristics of our Portfolio as of December 31, 2023.

Environmental Metrics

As discussed in Item 1. Business, as part of our investment process, we calculate the estimated metric tons of CO2 equivalent emissions, or carbon emissions avoided by our investments by applying emissions factor data representing the locational marginal emissions associated with a project to an estimate of a project's energy production or savings to compute an estimate of metric tons of carbon emissions avoided. We then determine the metric tons of carbon emissions avoided per thousand dollars of investments, in a calculation we refer to as CarbonCount, which enables us to measure the impact our investments have on avoiding carbon emissions. We estimate that our investments originated in 2023 will avoid annual carbon emissions by over 760 thousand metric tons, equating to a CarbonCount of 0.33.

In assessing our performance and results of operations, we also consider the impact of our operations on the environment. We utilize the carbon emissions categorizations established by the World Resources Institute Greenhouse Gas Protocol Corporate Standards ("Standards") to set goals and calculate our estimated emissions. The categorizations are as follows:

- *Scope 1 GHG emissions - Direct emissions* - Emissions from operations that are owned or controlled by the reporting company. Due to the nature of our operations, we do not have Scope 1 GHG emissions.
- *Scope 2 GHG emissions - Indirect emissions* - Emissions from the generation of purchased or acquired energy such as electricity, steam, heating or cooling, consumed by the reporting company. As we purchase power for our offices from renewable, zero-carbon energy sources, we do not have market-based Scope 2 emissions.

- *Scope 3 GHG emissions - Indirect emissions* - All other indirect emissions that occur in the value chain of the reporting company, including both upstream and downstream emissions. This includes the estimated emissions associated with employee commuting and business travel.

The table below illustrates our goals and performance for 2023 in metric tons ("MT").

Category	Goal	Performance
		(in thousands)
Scope 1 GHG emissions	0 MT	0 MT
Scope 2 GHG emissions	0 MT	0 MT[1]
Scope 3 GHG emissions	0 MT[2]	< 200 MT[2]

(1) Performance stated is market-based.

(2) Our stated actual performance and goal for Scope 3 GHG emissions does not include the carbon emissions or the emissions reductions as a result of our investments. The first year estimated carbon emissions avoided as a result of our investments originated in 2023 are 760 thousand MT.

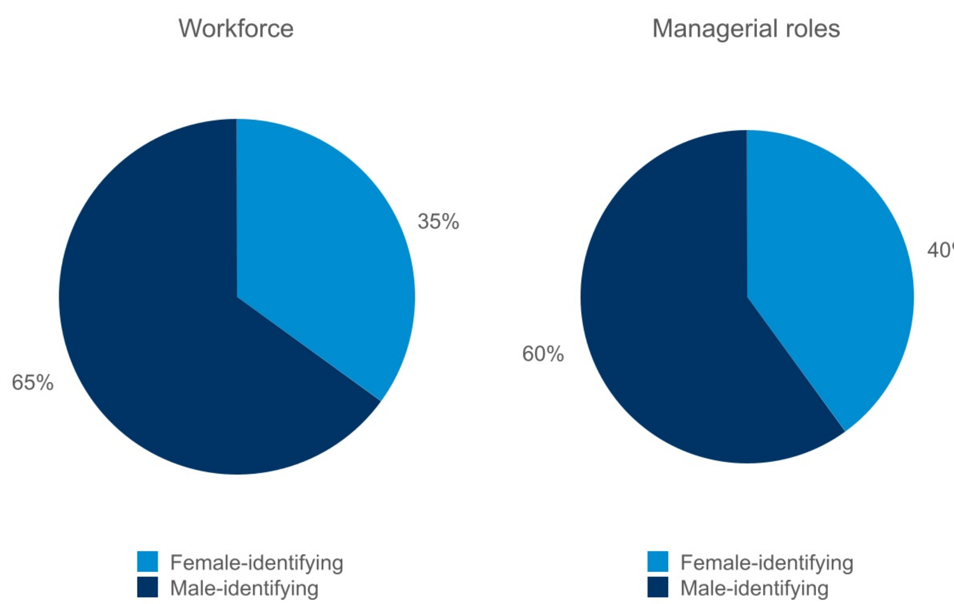
Human Capital Metrics

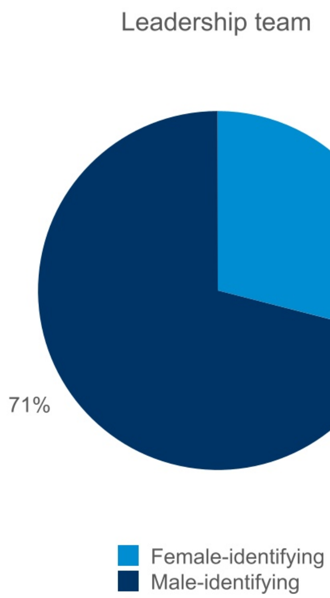
As part of our broader human capital strategy, we monitor and disclose certain metrics which help us understand our workforce and our progress in fostering a diverse and inclusive work environment. As of December 31, 2023, we employed 137 people full-time, 2 people part-time, and 4 people as independent contractors. The average tenure of our employees as of December 31, 2023, was approximately 4.5 years, and more than 36% of our employees had been employed by us for more than 4 years. For the year ended December 31, 2023, we had a voluntary employee turnover rate of 6%. There were no retirements or resignations related to ill health.

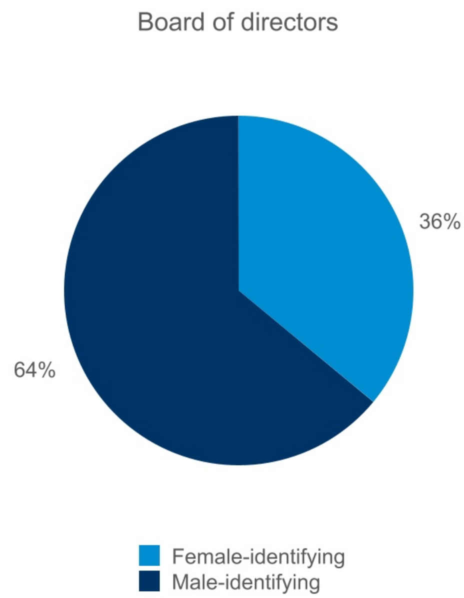
As discussed in Item 1. Business - Human Capital and Social Strategy, we are undertaking studies and are focused on continuing to increase the diversity of our workforce at all levels of our organization and are in the process of developing goals to enhance diversity and inclusion. These metrics are and will continue to be actively managed and will be reported along with the results of the studies to our executive leadership as well as our Board.

Metrics surrounding the diversity and inclusion of our workforce are shown below:

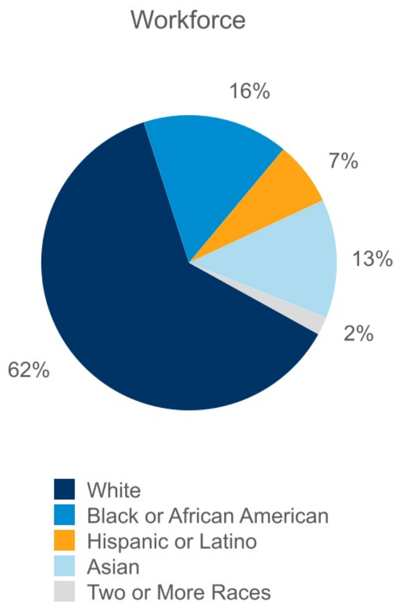
Percentage of various levels of the workforce who identify as male or female as of December 31, 2023

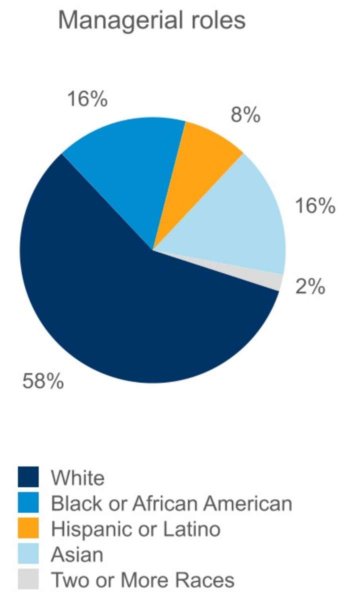


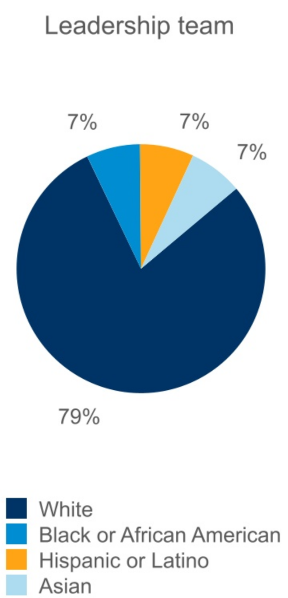

Leadership team
29%
71%
Female-identifying
Male-identifying

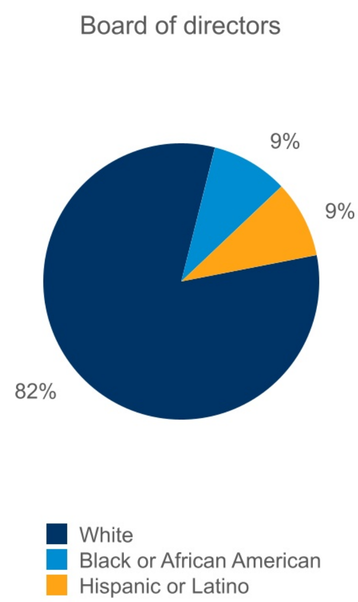

Board of directors
36%
64%
Female-identifying
Male-identifying

Percentage of various levels of the workforce who identify as racial- or ethnic-minorities as of December 31, 2023

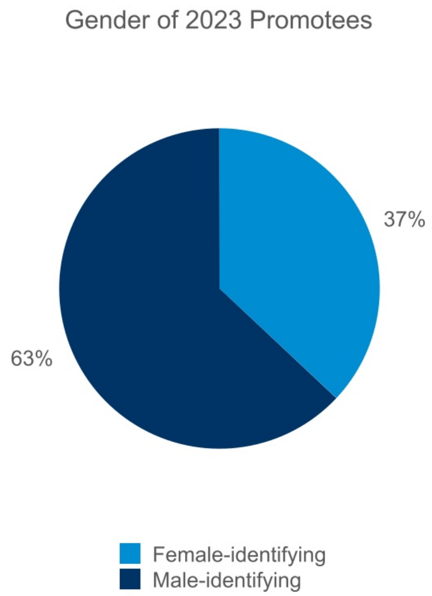


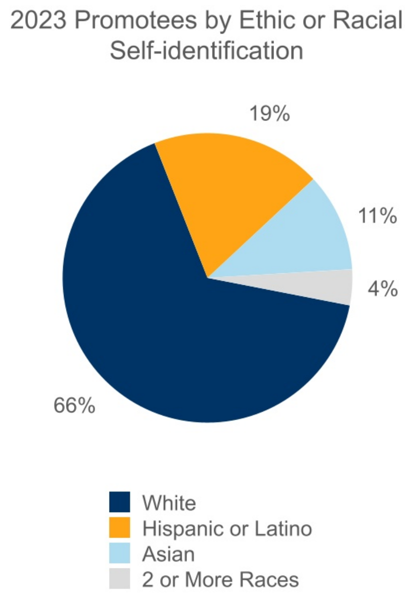






Demographic data of promoted employees during the year ended December 31, 2023





Of both our workforce and our managerial roles, 3% represent as LGBTQ. In addition to diversity of gender and ethnic background, we also value diversity of thought, with 57% of our leadership team and 72% of our Board possessing degrees outside the fields of business or economics, including in science and engineering, liberal and fine arts, and law.

Liquidity and Capital Resources

Liquidity is a measure of our ability to meet potential short term (within one year) and long term cash requirements. We carefully manage and forecast our liquidity sources and uses on a frequent basis. Our sources of liquidity typically include collections from our Portfolio, cash proceeds from asset sales and securitizations, fee revenue, proceeds from debt transactions, and proceeds from equity transactions. Our uses of liquidity typically include funding investments, operating expenses (including cash compensation), interest and principal payments on our debt, and stockholder dividends and limited partner distributions. We maintain sufficiently available liquidity in the form of unrestricted cash and immediately available capacity on our credit facilities to manage our net cash flow.

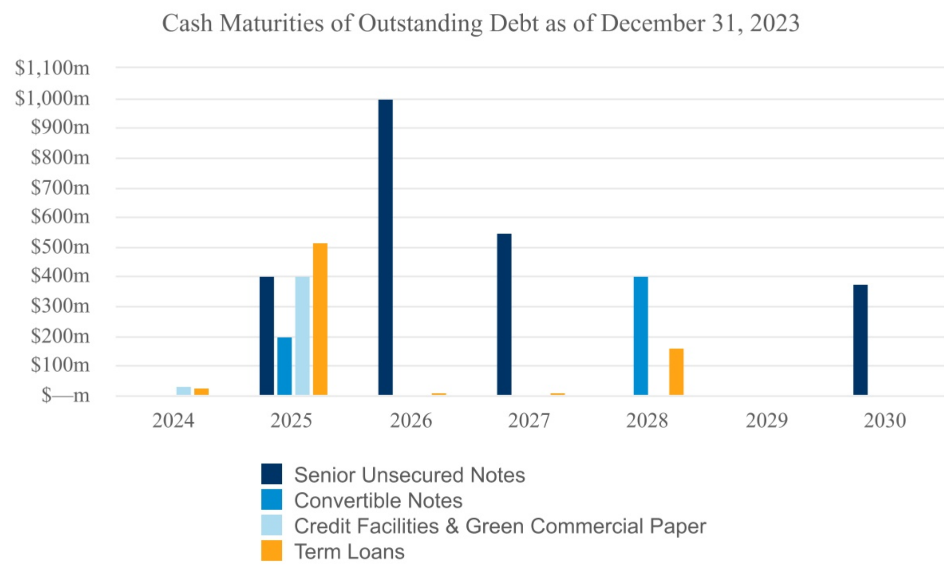
We typically pay our operating expenses, including debt service, and dividends from collections on our Portfolio and proceeds from sales of Portfolio investments. We use borrowings as part of our financing strategy to increase potential returns to our stockholders and have available to us a broad range of financing sources. We finance our investments primarily with non-recourse or recourse debt, equity and off-balance sheet securitization structures.

We have adequate liquidity as of December 31, 2023, with unrestricted cash balances of $63 million, an unsecured revolving credit facility with an unused capacity of $507 million, and $70 million of availability under our CarbonCount Green Commercial Paper Notes Program. During 2023 we issued our 2028 Exchangeable Notes with a principal amount of $403 million, with the proceeds used in part to payoff the 2023 Convertible Notes at maturity. In December of 2023, we issued a principal amount of $550 million of Green Senior Unsecured Note due 2027 (the “2027 Notes”), which we supplemented with an add-on offering of $200 million principal amount of 2027 Notes in January 2024. We increased the outstanding borrowings on our CarbonCount Term Loan Facility by $165 million, and increased the capacity under our unsecured revolving credit facility by $315 million. We issued $494 million in equity in 2023. As of December 31, 2023, we had $162 million of non-recourse borrowings, $2.3 billion of senior unsecured notes, and $603 million of convertible or exchangeable notes (the “Convertible Notes”) outstanding.

We also use off-balance sheet securitization transactions with large institutional investors such as life insurance companies, where we transfer the loans or other assets we originate to securitization trusts or other bankruptcy remote special purpose funding vehicles that are not consolidated on our balance sheet. As of December 31, 2023, the outstanding principal balance of our assets financed through the use of these off-balance sheet transactions was approximately $6.1 billion.

In addition to general operational obligations, which are typically paid as incurred, and dividends and distributions, which are declared by our Board quarterly, we will have future cash needs related to the payments due at maturity on the Senior Unsecured Notes and loans under our unsecured loan facility and the balances under our commercial paper program and revolving credit facilities. We also have maturities related to our non-recourse debt and Convertible Notes. However, as it relates to the non-recourse debt, to the extent there are not sufficient cash flows received from those investments pledged as collateral, the investor has no recourse against other corporate assets to recover any shortfalls and corporate cash contributions would not be required. As it relates to the Convertible Notes, those obligations may be settled at maturity with cash, or with the issuance of shares to the extent that the market price of our common stock exceeds the strike price on the Convertible Notes. For further information on our long-term debt, see Note 8 to our financial statements of this Form 10-K.

The maturity profile of our recourse debt obligations are shown below:



We plan to continue to issue debt which may be either recourse or non-recourse and either fixed-rate or floating-rate as a means of financing our business and may issue additional equity. We also expect to use both on-balance sheet and off-balance sheet securitizations. We may also consider the use of separately funded special purpose entities or funds to allow us to expand the investments that we make or to manage Portfolio diversification.

The decision on how we finance specific assets or groups of assets is largely driven by risk and portfolio and financial management considerations, including the potential for gain on sale or fee income, as well as the overall interest rate environment, prevailing credit spreads and the terms of available financing and market conditions. During periods of market disruptions, certain sources of financing may be more readily accessible than others which may impact our financing decisions. Over time, as market conditions change, we may use other forms of debt and equity in addition to these financing arrangements.

The amount of financial leverage we may deploy for particular assets will depend upon our target capital structure and the availability of particular types of financing and our assessment of the credit, liquidity, price volatility and other risks of those assets, and the interest rate environment. As shown in the table below, our debt to equity ratio was approximately 2.0 to 1 as of December 31, 2023, which is below our current board-approved leverage limit of up to 2.5 to 1. Our percentage of fixed rate debt was approximately 92% as of December 31, 2023, which is within our board-approved targeted fixed rate debt percentage range of 75% to 100%. Our targeted fixed rate debt range allows for percentages as low as 70% on a short term basis if we intend to repay or swap floating rate borrowings in the near term

The calculation of our fixed-rate debt and financial leverage as of December 31, 2023 and 2022 is shown in the chart below:

	December 31, 2023	% of Total	December 31, 2022	% of Total
	(dollars in millions)		*(dollars in millions)*	
Floating-rate borrowings [1]	$ 338	8 %	$ 431	14 %
Fixed-rate debt [2]	3,909	92 %	2,545	86 %
Total debt	$ 4,247	100 %	$ 2,976	100 %
Equity	$ 2,142		$ 1,665	
Leverage	2.0 to 1		1.8 to 1	

(1) Floating-rate borrowings include borrowings under our floating-rate credit facilities and commercial paper notes with less than six months original maturity, to the extent such borrowings are not hedged using interest rate swaps.

(2) Fixed-rate debt includes the impact of our interest rate swaps and collars on debt that is otherwise floating. Debt excludes securitizations that are not consolidated on our balance sheet.

We intend to use financial leverage for the primary purpose of financing our Portfolio and business activities and not for the purpose of speculating on changes in interest rates. While we may temporarily exceed the leverage limit, if our Board approves a material change to this limit, we anticipate advising our stockholders of this change through disclosure in our periodic reports and other filings under the Exchange Act.

While we generally intend to hold our target assets that we do not securitize upon acquisition as long term investments, certain of our investments may be sold in order to manage our interest rate risk and liquidity needs, to meet other operating objectives and to adapt to market conditions. The timing and impact of future sales of receivables and investments, if any, cannot be predicted with any certainty.

We believe our identified sources of liquidity will be adequate for purposes of meeting our short-term and long-term liquidity needs, which include funding future investments, debt service, operating costs and distributions to our stockholders.

Sources and Uses of Cash

We had approximately $75 million and $176 million in unrestricted cash, cash equivalents, and restricted cash as of December 31, 2023 and 2022, respectively.

Cash Flows Relating to Operating Activities

Net cash provided by operating activities was approximately $100 million for the year ended December 31, 2023, driven primarily by net income of $151 million, offset by adjustments for non-cash and other items of $51 million. The non-cash and other adjustments consisted of decreases of $108 million for equity method investments, $42 million for gain on securitizations, $44 million for change in accrued interest on receivables and investments, and $3 million of other. These were partially offset by increases of $52 million in changes in receivables held-for-sale, $48 million for changes in accounts payable and accrued expenses, $18 million for equity-based expenses, $16 million for depreciation and amortization, and $12 million for provision for loss on receivables.

Net cash provided by operating activities was less than $1 million for the year ended December 31, 2022, driven primarily by net income of $42 million, offset by adjustments for non-cash and other items of $42 million. The non-cash and other adjustments consisted of decreases of $63 million related to changes in receivables held-for sale, $29 million related to non-cash gain on securitization, and $33 million in change in accrued interest on receivables and investments and other. These were partially offset by increases of $16 million related to equity method investments, $13 million related to provision for loss on receivables, $20 million for equity based compensation, $12 million in amortization of financing costs, $4 million of depreciation and amortization, and $18 million related to changes in accounts payable and accrued expenses.

Cash Flows Relating to Investing Activities

Net cash used in investing activities was approximately $2 billion for the year ended December 31, 2023. We made investments in receivables and fixed rate debt securities of $1.3 billion, equity method investments of $869 million, and investments of $14 million, and pledged $94 million as collateral to hedge counterparties. These were offset by principal collections of $198 million from receivables, $85 million received from the return of collateral from hedge counterparties, $30 million received from equity method investments in excess of income recognized to date under GAAP, and the receipt of $11 million from the sale of financial assets and other investing inflows.

Net cash used in investing activities was approximately $592 million for the year ended December 31, 2022. We made equity method investments of $128 million, investments in receivables and fixed rate debt securities of $729 million, purchases of real estate of $5 million, funded escrow accounts of $5 million, and had other investing outflows of approximately $2 million. These were offset by collected payments of $126 million from receivables and fixed rate debt securities and the receipt of $12 million from the sale of financial assets. We also collected $112 million from equity method investments in excess of income recognized to date under GAAP, withdrew $23 million from escrow accounts, and received $5 million related to the sale of real estate.

Cash Flows Relating to Financing Activities

Net cash provided by financing activities was approximately $1.8 billion for the year ended December 31, 2023. We received proceeds from credit facilities of $1.2 billion, proceeds from the issuance of senior unsecured notes of $550 million, net proceeds from common stock issuances of $492 million, proceeds from the issuance of a term loan of $365 million, proceeds from the issuances of convertible debt of $403 million, proceeds of $176 million from the receipt of collateral from hedge counterparties, and proceeds from the issuance of green commercial paper notes of $30 million. These were partially offset by principal payments on credit facilities $827 million, collateral provided to hedge counterparties of $167 million, principal payments on convertible notes of $144 million, the purchase of capped calls related to the issuance of convertible notes for $38 million, payment of debt issuance costs of $23 million, principal payments on non-recourse debt of $22 million, principal payments of term loan of $16 million and payments of dividends, distributions, and other financing activities of $164 million.

Net cash provided by financing activities was approximately $516 million for the year ended December 31, 2022. We received proceeds from the issuance of a term loan of $383 million, proceeds from the issuances of convertible debt of $200 million, net proceeds from common stock issuances of $188 million, and proceeds from credit facilities of $100 million, and issuance of non-recourse debt of $33 million. These were partially offset by principal payments on credit facilities and commercial paper notes of $200 million, principal payments on non-recourse debt of $31 million, payments of $3 million for withholding requirements as a result of the vesting of employee shares, payment of debt issuance costs of $12 million and payments of dividends, distributions, and other financing activities of $142 million.

Off-Balance Sheet Arrangements

We have relationships with non-consolidated entities or financial partnerships, such as entities often referred to as structured investment vehicles, or special purpose or variable interest entities, established to facilitate the sale of securitized assets. Other than our securitization assets (including any outstanding servicer advances) of approximately $231 million as of December 31, 2023, that may be at risk in the event of defaults or prepayments in our securitization trusts and as discussed below, and except as disclosed in Note 9 to our audited financial statements in this Form 10-K, we have not guaranteed any obligations of non-consolidated entities or entered into any commitment or intent to provide additional funding to any such entities. A more detailed description of our relations with non-consolidated entities can be found in Note 2 of our audited financial statements in this Form 10-K.

In connection with some of our transactions, we have provided certain limited guarantees to other transaction participants covering the accuracy of certain limited representations, warranties or covenants and provided an indemnity against certain losses from “bad acts” including fraud, failure to disclose a material fact, theft, misappropriation, voluntary bankruptcy or unauthorized transfers. In some transactions, we have also guaranteed our compliance with certain tax matters, such as negatively impacting the investment tax credit and certain other obligations in the event of a change in ownership or our exercising certain protective rights.

Dividends

Any distributions we make will be at the discretion of our board of directors and will depend upon, among other things, our actual results of operations. These results and our ability to pay distributions will be affected by various factors, including the net interest and other income from our assets, our operating expenses and any other expenditures. In the event that our Board determines to make distributions in excess of the income or cash flow generated from our assets, we may make such distributions from the proceeds of future offerings of equity or debt securities or other forms of debt financing or the sale of assets.

Our board of directors had approved of our revocation of our REIT status effective for tax year 2024. We elected to be taxed as a REIT during tax years 2023 and previous. U.S. federal income tax law generally requires that a REIT distribute annually at least 90% of its REIT taxable income, without regard to the deduction for dividends paid and excluding net capital gains, and that it pays tax at regular corporate rates to the extent that it annually distributes less than 100% of its REIT taxable income. As a REIT, we paid quarterly distributions, which on an annual basis equaled or exceeded substantially all of our REIT taxable income. The taxable income of the REIT would vary from our GAAP earnings due to a number of different factors including the book to tax timing differences of income and expense recognition from our transactions as well as the amount of taxable income of our TRS distributed to the REIT. See Note 10 to our financial statements in this Form 10-K regarding the amount of our distributions that are treated as ordinary taxable income to our stockholders.

The dividends declared in 2023 and 2022 are described in Note 11 to our audited financial statements in this Form 10-K.

Book Value Considerations

As of December 31, 2023, we carried only our investments, residual assets in securitized financial assets, and our interest rate swaps and collar at fair value on our balance sheet. As a result, in reviewing our book value, there are a number of important factors and limitations to consider. Other than our investments, the residual assets in securitized financial assets, and interest rate swaps and collar that are carried on our balance sheet at fair value as of December 31, 2023, the carrying value of our remaining assets and liabilities are calculated as of a particular point in time, which is largely determined at the time such assets and liabilities were added to our balance sheet using a cost basis in accordance with GAAP, adjusted for income or loss recognized on such assets. Other than the allowance for current expected credit losses applied to our commercial and government receivables, our remaining assets and liabilities do not incorporate other factors that may have a significant impact on their value, most notably any impact of business activities, changes in estimates, or changes in general economic conditions, interest rates or commodity prices since the dates the assets or liabilities were initially recorded. Accordingly, our book value does not necessarily represent an estimate of our net realizable value, liquidation value or our fair market value.

Item 7A. Quantitative and Qualitative Disclosures about Market Risk

We anticipate that our primary market risks will be related to the credit quality of our counterparties and project companies, market interest rates, the liquidity of our assets, commodity prices and environmental factors. We will seek to manage these risks while, at the same time, seeking to provide an opportunity to stockholders to realize attractive returns through ownership of our common stock.

Credit Risks

We source and identify quality opportunities within our broad areas of expertise and apply our rigorous underwriting processes to our transactions, which, we believe, will generally enable us to minimize our credit losses and maintain access to attractive financing. Through our investments in various projects, we will be exposed to the credit risk of the obligor of the project’s PPA or other long-term contractual revenue commitments, as well as to the credit risk of certain suppliers and project operators. While we do not anticipate facing significant credit risk in our assets related to government energy efficiency projects, we are subject to varying degrees of credit risk in these projects in relation to guarantees provided by ESCOs where payments under energy savings performance contracts are contingent upon achieving pre-determined levels of energy savings. We are exposed to credit risk in our other projects that do not benefit from governments as the obligor such as on balance sheet financing of projects undertaken by universities, schools and hospitals, as well as privately owned commercial projects. We have invested in mezzanine loans and, as a result, we are exposed to additional credit risk. We seek to manage credit risk through thorough due diligence and underwriting processes, strong structural protections in our transaction agreements with customers and continual, active asset management and portfolio monitoring. Nevertheless, unanticipated credit losses could occur and during periods of economic downturn in the global economy, our exposure to credit risks from obligors increases, and our efforts to monitor and mitigate the associated risks may not be effective in reducing our credit risks.

We use a risk rating system to evaluate projects that we target. We first evaluate the credit rating of the obligors involved in the project using an average of the external credit ratings for an obligor, if available, or an estimated internal rating based on a third-party credit scoring system. We then estimate the probability of default and estimated recovery rate based on the obligors’ credit ratings and the terms of the contract. We also review the performance of each investment, including through, as appropriate, a review of project performance, monthly payment activity and active compliance monitoring, regular communications with project management and, as applicable, its obligors, sponsors and owners, monitoring the financial performance of the collateral, periodic property visits and monitoring cash management and reserve accounts. The results of our reviews are used to update the project’s risk rating as necessary. Additional detail of the credit risks surrounding our Portfolio can be found in Note 6 to our financial statements in this Form 10-K.

Interest Rate and Borrowing Risks

Interest rate risk is highly sensitive to many factors, including governmental monetary and tax policies, domestic and international economic and political considerations and other factors beyond our control.

We are subject to interest rate risk in connection with new asset originations and our floating-rate borrowings, and in the future, any new floating rate assets, credit facilities or other borrowings. Because short-term borrowings are generally short-term commitments of capital, lenders may respond to market conditions, making it more difficult for us to secure continued financing. If we are not able to renew our then existing borrowings or arrange for new financing on terms acceptable to us, or if we default on our covenants or are otherwise unable to access funds under any of these borrowings, we may have to curtail our origination of new assets and/or dispose of assets. We face particular risk in this regard given that we expect many of our borrowings will have a shorter duration than the assets they finance. Increasing interest rates may reduce the demand for our investments while declining interest rates may increase the demand. Both our current and future revolving credit facilities and other borrowings may be of limited duration and are periodically refinanced at then current market rates. We attempt to reduce interest rate risks and to minimize exposure to interest rate fluctuations through the use of fixed rate financing structures, when appropriate, whereby we seek to (1) match the maturities of our debt obligations with the maturities of our assets, (2) borrow at fixed rates for a period of time or (3) match the interest rates on our assets with like-kind debt (i.e., we may finance floating rate assets with floating rate debt and fixed-rate assets with fixed-rate debt), directly or through the use of interest rate swap agreements, interest rate cap agreements or other financial instruments, or through a combination of these strategies. We expect these instruments will allow us to minimize, but not eliminate, the risk that we must refinance our liabilities before the maturities of our assets and to reduce the impact of changing interest rates on our earnings. In addition to the use of traditional derivative instruments, we also seek to mitigate interest rate risk by using securitizations, syndications and other techniques to construct a portfolio with a staggered maturity profile. We monitor the impact of interest rate changes on the market for new originations and often have the flexibility to negotiate the term of our investments to offset interest rate increases.

Typically, our long-term debt, or that of the projects in which we invest if applicable, is at fixed rates or may at times be fixed using interest rate hedges that convert most of the floating rate debt to fixed rate debt. If interest rates rise, and our fixed rate debt balance remains constant, we expect the fair value of our fixed rate debt to decrease and the value of any hedges on floating rate debt to increase. See Note 3 to our audited financial statements in this Form 10-K for the estimated fair value of our fixed rate long-term debt, which is based on having the same debt service requirements that could have been borrowed at the date presented, at prevailing current market interest rates.

Our unsecured term loan is a variable rate loan with an outstanding balance of $535 million, and our revolving credit facilities are variable rate lines of credit with approximately $401 million outstanding as of December 31, 2023. We also have short-term green commercial paper borrowings outstanding of $30 million, which we may refinance through the issuance of additional paper at the then prevailing short-term rate. Increases in interest rates would result in higher interest expense while decreases in interest rates would result in lower interest expense. As described above, we may use various financing techniques including interest rate swap agreements, interest rate cap agreements or other financial instruments, or a combination of these strategies to mitigate the variable interest nature of these facilities, and have hedged $820 million of these floating-rate borrowings. A 50 basis point increase in benchmark interest rates would increase the quarterly interest expense related to the $338 million in unhedged variable rate borrowings by $423 thousand. Such hypothetical impact of interest rates on our variable rate borrowings does not consider the effect of any change in overall economic activity that could occur in a rising interest rate environment. Further, in the event of such a change in interest rates, we may take actions to further mitigate our exposure to such a change. However, due to the uncertainty of the specific actions that would be taken and their possible effects, the analysis assumes no changes in our financial structure.

We record certain of our assets at fair value in our financial statements and any changes in the discount rate would impact the value of these assets. See Note 3 to our audited financial statements in this Form 10-K.

Liquidity and Concentration Risk

The assets that comprise our Portfolio are not and are not expected to be publicly traded. A portion of these assets may be subject to legal and other restrictions on resale or will otherwise be less liquid than publicly-traded securities. The illiquidity of our assets may make it difficult for us to sell such assets if the need or desire arises, including in response to changes in economic and other conditions. Certain of the projects in which we invest have one obligor and thus we are subject to concentration risk for these investments and could incur significant losses if any of these projects perform poorly or if we are required to write down the value of any of these projects. Many of our assets, or the collateral supporting those assets, are concentrated in certain geographic areas, which may make those assets or the related collateral more susceptible to natural disasters or other regional events. See also “Credit Risks” discussed above.

Commodity and Environmental Attribute Price Risk

When we make equity or debt investments for a renewable energy project that acts as a substitute for an underlying commodity, we may be exposed to volatility in prices for that commodity. The performance of renewable energy projects that produce electricity can be impacted by volatility in the market prices of various forms of energy, including electricity, coal and natural gas. This is especially true for GC utility scale projects that sell power on a wholesale basis as opposed to BTM projects which compete against the retail or delivered costs of electricity which includes the cost of transmitting and distributing the electricity to the end user. Projects in which we invest, or in which we may plan to invest, may also be exposed to volatility in the prices of environmental attributes, such as renewable energy credits or other similar credits which the project may produce.

Although we generally focus on renewable energy projects that have the majority of their operating cash flow supported by long-term PPAs or leases, many of our projects have shorter term contracts (which may have the potential of producing higher current returns) or sell their power or environmental attributes in the open market on a merchant basis. The cash flows of certain projects, and thus the repayment of, or the returns available for, our assets, are subject to risk if energy or environmental attribute prices change. We also attempt to mitigate our exposure through structural protections. These structural protections, which are typically in the form of a preferred return mechanism, are designed to allow recovery of our capital and an acceptable return over time. When structuring and underwriting these transactions, we evaluate these transactions using a variety of scenarios, including natural gas prices remaining low for an extended period of time. Despite these protections, as natural gas or renewable fuel credit price volatility continues or PPAs expire, the cash flows from certain of our projects are exposed to these market conditions and we work with the projects sponsors to minimize any impact as part of our on-going active asset management and portfolio monitoring. We often invest in utility scale solar projects by owning the land under the project where our rent is paid out of project operational costs before the debt or equity in the project receives any payments. Certain of the projects in which we invest may also be obligated to physically deliver energy under PPAs or related agreements, and to the extent they are unable to do so may be negatively impacted. Certain PPAs or related agreements may also price power at a different location than the location where power is delivered to the grid, and the projects may be negatively impacted to the extent to which these prices differ. To the extent transmission and distribution infrastructure in geographies in which we invest is not able to accommodate additional power, additional renewable penetration from other new projects in certain geographic areas could decrease the revenues of our projects.

We seek to structure our energy efficiency investments so that we typically avoid exposure to commodity price risk. However, volatility in energy prices may cause building owners and other parties to be reluctant to commit to projects for which repayment is based upon a fixed monetary value for energy savings that would not decline if the price of energy declines.

Environmental Risks

Our business is impacted by the effects of climate change and various related regulatory responses. We discuss the risks and opportunities associated with the impacts of climate change in Item 7. Management’s Discussion and Analysis of Financial Condition and Results of Operations - Impact of climate change on our future operations. This discussion outlines potential qualitative impacts to our business, quantitative illustrations of sensitivity as well as our strategy and resilience to these risks and opportunities.

Risk Management

Our ongoing active asset management and portfolio monitoring processes provide investment oversight and valuable insight into our origination, underwriting and structuring processes. These processes create value through active monitoring of the state of our markets, enforcement of existing contracts and asset management. As described above, we engage in a variety of interest rate management techniques that seek to mitigate the economic effect of interest rate changes on the values of, and returns on, some of our assets. We seek to manage credit risk using thorough due diligence and underwriting processes, strong structural protections in our agreements with customers and continual, active asset management and portfolio monitoring. Additionally, we have a Finance and Risk Committee of our Board which discusses and reviews policies and guidelines with respect to our risk assessment and risk management for various risks, including, but not limited to, our interest rate, counter party, credit, capital availability, refinancing risks, and cybersecurity. As it relates to environmental risks, when we underwrite and structure our investments the environmental risks and opportunities are an integral consideration to our investment parameters. While we cannot fully protect our investments, we seek to mitigate these risks by using third party experts to conduct engineering and weather analysis and insurance reviews as appropriate. Weather related risks are at times managed in cooperation with our clients where they buy offsetting power positions to mitigate power market disruptions or operational impacts. Once a transaction has closed we continue to monitor the environmental risks to the Portfolio. We further discuss our strategy to managing these risks in Item 7. Management’s Discussion and Analysis of Financial Condition and Results of Operations - Impact of climate change on our future operations.

Item 8. Financial Statements and Supplementary Data

Report of Independent Registered Public Accounting Firm

To the Stockholders and the Board of Directors of
Hannon Armstrong Sustainable Infrastructure Capital, Inc.

Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheets of Hannon Armstrong Sustainable Infrastructure Capital, Inc. (the Company) as of December 31, 2023 and 2022, the related consolidated statements of operations, comprehensive income, stockholders' equity, and cash flows for each of the three years in the period ended December 31, 2023, and the related notes and financial statement schedule listed in the Index at Item 15(a)(2) (collectively referred to as the "consolidated financial statements"). In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of the Company at December 31, 2023 and 2022, and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2023, in conformity with U.S. generally accepted accounting principles.

We also have 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, 2023, based on criteria established in Internal Control-Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (2013 framework), and our report dated February 16, 2024 expressed an unqualified opinion thereon.

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 the critical audit matter does not alter in any way our opinion on the consolidated 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 account or disclosure to which it relates.

Accounting for Equity Investments in Climate Solutions Projects

Description of the Matter	As discussed in Note 2 to the consolidated financial statements, the Company makes investments in climate solutions projects that are accounted for under the equity method of accounting. As of December 31, 2023, the Company held $2.97 billion of equity investments in climate solutions projects as of December 31, 2023. The Company's determination that it does not have the power to direct the significant activities impacting each of the investees' economic performance ("power") is critical to its determination that it is not the primary beneficiary of the investee. Also, as described in Note 2 to the consolidated financial statements, for equity method investments that contain preferences with regard to cash flows from operations, capital events and liquidation in their respective limited liability company agreements ("LLC Agreements"), the Company applies the Hypothetical Liquidation at Book Value ("HLBV") method to record its share of profits and losses on these investments, which is recorded one quarter in arrears to allow for receipt of financial information from its investees. Also, as described in Note 2, the Company evaluates their equity method investments quarterly for other than temporary impairment ("OTTI"). This requires evaluating available qualitative and quantitative evidence to determine whether there may be indicators of a loss in investment value below carrying value. Auditing the Company's determination of whether it has power over an investee was complex and required significant judgment to determine both the activities of the investee that most significantly impact the investee's economics, and the distribution of power among the members of the investee that ultimately determine the outcome of such activities. In addition, auditing the Company's application of the HLBV method was challenging and inherently complex, because the application is based on interpretations of the liquidation provisions outlined within investees' LLC Agreements. Lastly, evaluating available qualitative and quantitative evidence was subjective and required judgment as to whether there were indicators of a loss in investment value below carrying value.
How We Addressed the Matter in Our Audit	We tested the Company's controls that address the risks of material misstatement relating to: i) the determination of whether the Company has the power to direct the significant activities of the investees, ii) the recognition of its share of investees' profits and losses through use of the HLBV method based on financial information reported to the Company from its investees, and iii) the review of available qualitative and quantitative evidence in determining whether there may be indicators of a loss in investment value below carrying value. For example, we tested the Company's controls over management's review of the variable interest model and determination of whether the Company has power. We also tested controls over management's review of the HLBV method, including the application of any liquidation provisions and the financial information reported from their investees. Lastly, we tested controls over management's review of available quantitative and qualitative evidence and whether there were indicators of a loss in investment value below carrying value. To evaluate whether the Company has power over each investee, our audit procedures included, on a sample basis, reading LLC Agreements and evaluating management's analysis of the significant activities of the investee and which parties can direct those significant activities. For example, as part of our evaluation, we considered the purpose and design of each investee and the legal rights of each of the involved parties, including the significance of the decisions that each party makes. We also tested the rights of each party included in management's analysis by comparing such rights to the LLC Agreements. We tested the Company's application of the HLBV method for a sample of both new and existing investments. Our audit procedures included, among others, involving tax professionals to assist in evaluating the Company's application of the liquidation provisions within the LLC Agreements. Specifically, we assessed the Company's HLBV calculations by agreeing provisions of the calculations, such as the application of stated preferred returns and allocation of tax attributes, to the terms of the LLC Agreements for each of these investments. We also performed additional procedures on the Company's HLBV calculations that included, but were not limited to, recalculating the stated preferred returns, recalculating allocations of tax attributes, comparing inputs included within the calculations to the information reported to the Company by its investee, and recalculating the Company's share of profits and losses of the investee. We reviewed the Company's evaluation of available qualitative and quantitative evidence and whether there may be indicators of a loss in investment value below carrying value for a sample of investments. This included, among others, evaluating management's identification of indicators that the Company's investments may have experienced a loss of value below carrying value, agreeing certain qualitative and quantitative information used in the assessment to source documents, testing clerical accuracy of the analysis as applicable, and assessing any contradictory evidence that arose during our audit.

/s/ Ernst & Young LLP

We have served as the Company’s auditor since 1983.

Tysons, Virginia

February 16, 2024

Report of Independent Registered Public Accounting Firm

To the Stockholders and the Board of Directors of
Hannon Armstrong Sustainable Infrastructure Capital, Inc.

Opinion on Internal Control Over Financial Reporting

We have audited Hannon Armstrong Sustainable Infrastructure Capital, Inc.'s internal control over financial reporting as of December 31, 2023, based on criteria established in Internal Control—Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (2013 framework) (the COSO criteria). In our opinion, Hannon Armstrong Sustainable Infrastructure Capital, Inc. (the Company) maintained, in all material respects, effective internal control over financial reporting as of December 31, 2023, based on the COSO criteria.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the consolidated balance sheets of the Company as of December 31, 2023 and 2022, the related consolidated statements of operations, comprehensive income, stockholders' equity and cash flows for each of the three years in the period ended December 31, 2023, and the related notes and financial statement schedule listed in the Index at Item 15(a)(2) and our report dated February 16, 2024 expressed an unqualified opinion thereon.

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/ Ernst & Young LLP

Tysons, Virginia

February 16, 2024

HANNON ARMSTRONG SUSTAINABLE INFRASTRUCTURE CAPITAL, INC.
CONSOLIDATED BALANCE SHEETS
(DOLLARS IN THOUSANDS, EXCEPT PER SHARE DATA)

	December 31, 2023	December 31, 2022
Assets		
Cash and cash equivalents	$ 62,632	$ 155,714
Equity method investments	2,966,305	1,869,712
Commercial receivables, net of allowance of $50 million and $41 million, respectively	2,983,170	1,887,483
Government receivables	90,685	102,511
Receivables held-for-sale	35,299	85,254
Real estate	111,036	353,000
Investments	7,165	10,200
Securitization assets, net of allowance of $3 million and $0 million, respectively	218,946	177,032
Other assets	77,112	119,242
Total Assets	**$ 6,552,350**	**$ 4,760,148**
Liabilities and Stockholders' Equity		
Liabilities:		
Accounts payable, accrued expenses and other	$ 163,305	$ 120,114
Credit facilities	400,861	50,698
Commercial paper notes	30,196	192
Term loans payable	727,458	379,742
Non-recourse debt (secured by assets of $239 million and $632 million, respectively)	160,456	432,756
Senior unsecured notes	2,318,841	1,767,647
Convertible notes	609,608	344,253
Total Liabilities	4,410,725	3,095,402
Stockholders' Equity:		
Preferred stock, par value $0.01 per share, 50,000,000 shares authorized, no shares issued and outstanding	—	—
Common stock, par value $0.01 per share, 450,000,000 shares authorized, 112,174,279 and 90,837,008 shares issued and outstanding, respectively	1,122	908
Additional paid-in capital	2,381,510	1,924,200
Accumulated deficit	(303,536)	(285,474)
Accumulated other comprehensive income (loss)	13,165	(10,397)
Non-controlling interest	49,364	35,509
Total Stockholders' Equity	2,141,625	1,664,746
Total Liabilities and Stockholders' Equity	**$ 6,552,350**	**$ 4,760,148**

See accompanying notes.

HANNON ARMSTRONG SUSTAINABLE INFRASTRUCTURE CAPITAL, INC.
CONSOLIDATED STATEMENTS OF OPERATIONS
(DOLLARS IN THOUSANDS, EXCEPT PER SHARE DATA)

	Years Ended December 31,		
	2023	2022	2021
Revenue			
Interest income	$ 207,794	$ 134,656	$ 106,889
Rental income	21,251	26,245	25,905
Gain on sale of assets	68,637	57,187	68,333
Securitization asset income	19,259	17,905	9,692
Other income	2,930	3,744	2,347
Total revenue	**319,871**	**239,737**	**213,166**
Expenses			
Interest expense	171,008	115,559	121,705
Provision for loss on receivables and securitization assets	11,832	12,798	496
Compensation and benefits	64,344	63,445	52,975
General and administrative	31,283	29,934	19,907
Total expenses	**278,467**	**221,736**	**195,083**
Income before equity method investments	**41,404**	**18,001**	**18,083**
Income (loss) from equity method investments	140,974	31,291	126,421
Income (loss) before income taxes	**182,378**	**49,292**	**144,504**
Income tax benefit (expense)	(31,621)	(7,381)	(17,158)
Net income (loss)	**150,757**	**41,911**	**127,346**
Net income (loss) attributable to non-controlling interest holders	1,921	409	767
Net income (loss) attributable to controlling stockholders	**$ 148,836**	**$ 41,502**	**$ 126,579**
Basic earnings (loss) per common share	$ 1.45	$ 0.47	$ 1.57
Diluted earnings (loss) per common share	$ 1.42	$ 0.47	$ 1.51
Weighted average common shares outstanding—basic	101,844,551	87,500,799	79,992,922
Weighted average common shares outstanding—diluted	109,467,554	90,609,329	87,671,641

See accompanying notes.

HANNON ARMSTRONG SUSTAINABLE INFRASTRUCTURE CAPITAL, INC.
CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME
(DOLLARS IN THOUSANDS)

	Years Ended December 31,		
	2023	**2022**	**2021**
Net income (loss)	$ 150,757	$ 41,911	$ 127,346
Unrealized gain (loss) on available-for-sale securities, net of tax (provision) benefit of $1.8 million, $2.2 million and $0.4 million in 2023, 2022, and 2021 respectively	12,761	(63,935)	(5,434)
Unrealized gain (loss) on interest rate swaps, net of tax (provision) benefit of $(3.3) million, $(13.2) million, and $(0.8) million in 2023, 2022, and 2021 respectively	10,764	43,401	2,687
Comprehensive income (loss)	174,282	21,377	124,599
Less: Comprehensive income (loss) attributable to non-controlling interest holders	1,884	176	751
Comprehensive income (loss) attributable to controlling stockholders	**$ 172,398**	**$ 21,201**	**$ 123,848**

See accompanying notes.

HANNON ARMSTRONG SUSTAINABLE INFRASTRUCTURE CAPITAL, INC.
CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY
(AMOUNTS IN THOUSANDS)

	Common Stock		Additional Paid-in Capital	Accumulated Deficit	Accumulated Other Comprehensive Income (Loss)	Non-controlling Interest	Total
	Shares	Amount					
Balance at December 31, 2020	**76,457**	**$ 765**	**$ 1,394,009**	**$ (204,112)**	**$ 12,634**	**$ 6,853**	**$ 1,210,149**
Net income (loss)	—	—	—	126,579	—	767	**127,346**
Unrealized gain (loss) on available-for-sale securities	—	—	—	—	(5,401)	(33)	**(5,434)**
Unrealized gain (loss) on interest rate swaps	—	—	—	—	2,671	16	**2,687**
Issued shares of common stock	3,326	33	200,808	—	—	—	**200,841**
Equity-based compensation	—	—	6,039	—	—	15,471	**21,510**
Issuance (repurchase) of vested equity-based compensation shares	324	3	(14,020)	—	—	—	**(14,017)**
Other	5,220	52	140,831	—	—	—	**140,883**
Dividends and distributions	—	—	—	(116,173)	—	(1,277)	**(117,450)**
Balance at December 31, 2021	**85,327**	**$ 853**	**$ 1,727,667**	**$ (193,706)**	**$ 9,904**	**$ 21,797**	**$ 1,566,515**
Net income (loss)	—	—	—	41,502	—	409	**41,911**
Unrealized gain (loss) on available-for-sale securities	—	—	—	—	(63,211)	(724)	**(63,935)**
Unrealized gain (loss) on interest rate swaps	—	—	—	—	42,910	491	**43,401**
Issued shares of common stock	5,121	51	188,831	—	—	—	**188,882**
Equity-based compensation	—	—	3,159	—	—	16,942	**20,101**
Issuance (repurchase) of vested equity-based compensation shares	103	1	(3,213)	—	—	—	**(3,212)**
Other	286	3	7,756	—	—	(85)	**7,674**
Dividends and distributions	—	—	—	(133,270)	—	(3,321)	**(136,591)**
Balance at December 31, 2022	**90,837**	**$ 908**	**$ 1,924,200**	**$ (285,474)**	**$ (10,397)**	**$ 35,509**	**$ 1,664,746**
Net income (loss)	—	—	—	148,836	—	1,921	**150,757**
Unrealized gain (loss) on available-for-sale securities	—	—	—	—	12,935	(174)	**12,761**
Unrealized gain (loss) on interest rate swaps	—	—	—	—	10,627	137	**10,764**
Issued shares of common stock	21,267	213	493,544	—	—	—	**493,757**
Equity-based compensation	—	—	3,089	—	—	15,296	**18,385**
Issuance (repurchase) of vested equity-based compensation shares	69	1	(1,490)	—	—	—	**(1,489)**
Conversion of convertible notes	—	—	2	—	—	—	**2**
Purchase of capped calls			(37,835)				**(37,835)**
Dividends and distributions	—	—	—	(166,898)	—	(3,325)	**(170,223)**
Balance at December 31, 2023	**112,173**	**$ 1,122**	**$ 2,381,510**	**$ (303,536)**	**$ 13,165**	**$ 49,364**	**$ 2,141,625**

See accompanying notes.

HANNON ARMSTRONG SUSTAINABLE INFRASTRUCTURE CAPITAL, INC.
CONSOLIDATED STATEMENTS OF CASH FLOWS
(DOLLARS IN THOUSANDS)

	Years Ended December 31,		
	2023	**2022**	**2021**
Cash flows from operating activities			
Net income (loss)	$ 150,757	$ 41,911	$ 127,346
Adjustments to reconcile net income to net cash provided by operating activities:			
Provision for loss on receivables	11,832	12,798	496
Depreciation and amortization	3,127	3,993	3,801
Amortization of financing costs	12,958	11,685	11,316
Equity-based compensation	18,386	20,101	17,047
Equity method investments	(108,025)	16,403	(94,773)
Non-cash gain on securitization	(43,542)	(28,614)	(48,332)
(Gain) loss on sale of assets	1,305	(218)	(720)
Changes in receivables held-for-sale	51,538	(62,953)	(22,035)
Loss on debt extinguishment	—	—	14,584
Changes in accounts payable and accrued expenses	48,485	18,176	11,313
Change in accrued interest on receivables and investments	(44,105)	(15,414)	(859)
Other	(3,027)	(17,638)	(5,875)
Net cash provided by operating activities	99,689	230	13,309
Cash flows from investing activities			
Equity method investments	(869,412)	(127,867)	(401,856)
Equity method investment distributions received	30,140	110,064	21,777
Proceeds from sales of equity method investments	—	1,700	300
Purchases of and investments in receivables	(1,338,860)	(726,931)	(553,366)
Principal collections from receivables	197,784	125,976	148,769
Proceeds from sales of receivables	7,634	5,047	75,582
Purchases of real estate	—	(4,550)	—
Sales of real estate	—	4,550	—
Purchases of investments	(14,404)	(2,329)	(4,830)
Proceeds from sales of investments and securitization assets	—	7,020	15,197
Collateral provided to hedge counterparties	(93,550)	—	—
Collateral received from hedge counterparties	84,950	—	—
Funding of escrow accounts	—	(5,476)	(12,069)
Withdrawal from escrow accounts	—	22,757	1,756
Other	2,915	(2,071)	5,338
Net cash provided by (used in) investing activities	(1,992,803)	(592,110)	(703,402)

	Years Ended December 31,		
	2023	2022	2021
Cash flows from financing activities			
Proceeds from credit facilities	1,177,000	100,000	100,000
Principal payments on credit facilities	(827,000)	(150,000)	(22,441)
Proceeds from issuance of commercial paper notes	30,000	—	50,000
Principal payments on commercial paper notes	—	(50,000)	—
Proceeds from issuance of non-recourse debt	—	32,923	—
Principal payments on non-recourse debt	(21,606)	(30,581)	(37,974)
Proceeds from issuance of term loan	365,000	383,000	—
Principal payments on term loan	(16,478)	—	—
Proceeds from issuance of senior unsecured notes	550,000	—	1,000,000
Redemption of senior unsecured notes	—	—	(500,000)
Proceeds from issuance of convertible notes	402,500	200,000	—
Principal payments on convertible notes	(143,748)	(461)	—
Purchase of capped calls related to the issuance of convertible notes	(37,835)	—	—
Net proceeds of common stock issuances	492,377	188,881	200,641
Payments of dividends and distributions	(159,786)	(132,198)	(113,510)
Withholdings on employee share vesting	(1,488)	(3,211)	(14,018)
Redemption premium paid	—	—	(14,101)
Payment of debt issuance costs	(22,894)	(11,754)	(17,750)
Collateral provided to hedge counterparties	(166,600)	—	—
Collateral received from hedge counterparties	176,050	—	—
Other	(3,268)	(9,820)	(12)
Net cash provided by (used in) financing activities	1,792,224	516,779	630,835
Increase (decrease) in cash, cash equivalents, and restricted cash	(100,890)	(75,101)	(59,258)
Cash, cash equivalents, and restricted cash at beginning of period	175,972	251,073	310,331
Cash, cash equivalents, and restricted cash at end of period	$ 75,082	$ 175,972	$ 251,073
Interest paid	$ 138,418	$ 98,704	$ 108,267
Supplemental disclosure of non-cash activity			
Residual assets retained from securitization transactions	$ 35,483	$ 28,614	$ 56,432
Equity method investments received upon deconsolidation of a special purpose entity	144,603	—	—
Right-of-use asset obtained in exchange for lease liability	—	—	4,628
Issuance of common stock from conversion of convertible notes	—	7,674	141,810
Deconsolidation of non-recourse debt and other liabilities	257,746	—	126,139
Deconsolidation of assets pledged for non-recourse debt	374,608	—	130,513

See accompanying notes.

1. **The Company**

Hannon Armstrong Sustainable Infrastructure Capital, Inc. (the “Company”) actively partners with clients to deploy real assets that facilitate the energy transition. Our investments take various forms, including equity, joint ventures, real estate ownership, lending and other financing transactions. We generate net investment income from our portfolio, and fees through gain-on sale securitization transactions, asset management and servicing, broker/dealer and other services. We also generate recurring income through our residual ownership in securitization and syndication structures.

The Company and its subsidiaries are hereafter referred to as “we,” “us” or “our.” We refer to the income producing assets that we hold on our balance sheet as our “Portfolio.” Our Portfolio includes:

- equity investments in either preferred or common structures in unconsolidated entities;
- commercial and government receivables;
- real estate; and
- investments in debt securities.

We finance our business through cash on hand, non-recourse debt, recourse debt, convertible securities, or equity issuances and may also decide to finance such transactions through the use of off-balance sheet securitization structures.

Our common stock is listed on the New York Stock Exchange (“NYSE”) under the symbol “HASI.” We intend to continue to operate our business in a manner that will maintain our exemption from registration as an investment company under the Investment Company Act of 1940 (the “1940 Act”), as amended. We operate our business through, and serve as the sole general partner of, our operating partnership subsidiary, Hannon Armstrong Sustainable Infrastructure, L.P., (the “Operating Partnership”), which was formed to acquire and directly or indirectly own our assets.

Transition to Taxable C Corporation

As a result of expanding opportunities in non-qualifying assets, effective January 1, 2024, we have elected to revoke our real estate investment trust (“REIT”) election, and will be taxed as a C Corporation beginning in tax year 2024. Commencing with the taxable year ended December 31, 2024, all of the Company’s taxable income is subject to U.S. federal and state income tax at the applicable corporate tax rate. Dividends paid to stockholders are no longer tax deductible to us. The Company is also no longer subject to the REIT requirement for distributions to stockholders when the Company has taxable income.

The Company anticipates that operating as a taxable C Corporation will provide the Company with flexibility to execute various strategic initiatives without the constraints of complying with REIT requirements, including investing in power generating, transportation, and alternative fuel assets which are not REIT qualifying assets. The Company’s transition to a taxable C Corporation is not expected to result in significant incremental current income tax expense in the near term due to the availability of net operating loss (“NOL”) carryforwards and tax credits typically offered by the assets in which we often invest. See Note 10 for additional information.

2. **Summary of Significant Accounting Policies**

Basis of Presentation

The preparation of financial statements in accordance with U.S. generally accepted accounting principles (“GAAP”) requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from these estimates and such differences could be material. In the opinion of management, all adjustments necessary to present fairly our financial position, results of operations and cash flows have been included. Certain amounts in the prior years have been reclassified to conform to the current year presentation.

The consolidated financial statements include our accounts and controlled subsidiaries, including the Operating Partnership. All material intercompany transactions and balances have been eliminated in consolidation.

Following the guidance for non-controlling interests in Financial Accounting Standards Board Accounting Standards Codification (“ASC”) 810, Consolidation (“ASC 810”), references in this report to our earnings per share and our net income and stockholders’ equity attributable to common stockholders do not include amounts attributable to non-controlling interests.

Consolidation

We account for our investments in entities that are considered voting interest entities or variable interest entities ("VIEs") under ASC 810 and assess on an ongoing basis whether we should consolidate these entities. We have established various special purpose entities or securitization trusts for the purpose of securitizing certain assets that are not consolidated in our financial statements as described below in Securitization of Financial Assets.

Since we have assessed that we have power over and receive the benefits from those special purpose entities that are formed for the purpose of holding our assets on our balance sheet, we have concluded we are the primary beneficiary and should consolidate these entities under the provisions of ASC 810. We also have certain subsidiaries we deem to be voting interest entities that we control through our ownership of voting interests and accordingly consolidate.

Certain of our equity method investments were determined to be interests in VIEs in which we are not the primary beneficiary, as we do not direct the significant activities of these entities, and thus we account for those investments as Equity Method Investments as discussed below. Our maximum exposure to loss through these investments is typically limited to their recorded values. However, we may provide financial commitments to these VIEs or guarantee certain of their obligations. Certain other entities in which we have equity investments have been assessed to be voting interest entities and as we exert significant influence rather than control through our ownership of voting interests, we do not consolidate them and thus account for them as equity method investments described below.

Equity Method Investments

We have made equity investments, typically in structures where we have a preferred return position. These investments are typically owned in holding companies (using limited liability companies ("LLCs") taxed as partnerships) where we partner with either the operator of the project or other institutional investors. We share in the cash flows, income, and tax attributes according to a negotiated schedule which typically does not correspond with our ownership percentages. Investors, if any, in a preferred return position typically receive a priority distribution of all or a portion of the project's cash flows, and in some cases, tax attributes. Once the preferred return, if applicable, is achieved, the partnership "flips" and common equity investors, often the operator of the project, receive a larger portion of the cash flows, with the previously preferred investors retaining an on-going residual interest.

Our equity investments in climate solutions projects are accounted for under the equity method of accounting. Under the equity method of accounting, the carrying value of these equity method investments is determined based on amounts we invested, adjusted for the equity in earnings or losses of the investee allocated based on the LLC agreement, less distributions received. For the LLC agreements that contain preferences with regard to cash flows from operations, capital events and liquidation, we reflect our share of profits and losses by determining the difference between our claim on the investee's reported book value at the beginning and the end of the period, which is adjusted for distributions received and contributions made. This claim is calculated as the amount we would receive if the investee were to liquidate all of its assets at the recorded amounts determined in accordance with GAAP and distribute the resulting cash to creditors and investors in accordance with their respective priorities. This method is referred to as the hypothetical liquidation at book value method ("HLBV"). Our exposure to loss in these investments is limited to the amount of our equity investment, as well as receivables from or guarantees made to the same investee.

Any difference between the amount of our investment and the amount of underlying equity in net assets at the time of our investment is generally amortized over the life of the assets and liabilities to which the difference relates. Cash distributions received from each equity method investment are classified as operating activities to the extent of cumulative earnings for each investment in our consolidated statements of cash flows. Our initial investment and additional cash distributions beyond the amounts that are classified as operating activities are classified as investing activities in our consolidated statements of cash flows. We typically recognize earnings one quarter in arrears for certain of these investments to allow for the receipt of financial information.

We evaluate on a quarterly basis whether the current carrying value of our investments accounted for using the equity method have an other than temporary impairment ("OTTI"). An OTTI occurs when the estimated fair value of an investment is below the carrying value and the difference is determined to not be recoverable in the near term. First, we consider both qualitative and quantitative evidence in determining whether there is an indicator of a loss in investment value below carrying value. After considering the weight of available evidence, if it is determined that there is an indication of loss in investment value, we will perform a fair value analysis. If the resulting fair value is less than the carrying value, we will determine if this loss in value is OTTI, and we will recognize any OTTI in the income statement as an impairment. This evaluation requires significant judgment regarding, but not limited to, the severity and duration of the impairment; the ability and intent to hold the securities until recovery; financial condition, liquidity, and near-term prospects of the issuer; specific events; and other factors.

Commercial and Government Receivables

Commercial and government receivables ("receivables") include project loans and receivables. These receivables are separately presented in our balance sheet to illustrate the differing nature of the credit risk related to these assets. Unless otherwise noted, we generally have the ability and intent to hold our receivables for the foreseeable future and accordingly we classify them as held for investment. Our ability and intent to hold certain receivables may change from time to time depending on a number of factors including economic, liquidity and capital market conditions. At inception of the arrangement, the carrying value of receivables held for investment represents the present value of the note, lease or other payments, net of any unearned fee income, which is recognized as income over the term of the note or lease using the effective interest method. Receivables that are held for investment are carried at amortized cost, net of any unamortized acquisition premiums or discounts and include origination and acquisition costs, as applicable. Our initial investment and principal repayments of these receivables are classified as investing activities and the interest collected is classified as operating activities in our consolidated statements of cash flows. Receivables that we intend to sell in the short-term are classified as held-for-sale and are carried at the lower of amortized cost or fair value on our balance sheet, which is assessed on an individual asset basis. The purchases and proceeds from receivables that we intend to sell at origination are classified as operating activities in our consolidated statements of cash flows. Interest collected is classified as an operating activity in our consolidated statements of cash flows. Receivables from certain projects are subordinate to preferred investors in a project who are allocated the majority of such project's cash in the early years of the investment. Accordingly, such receivables may include the ability to defer scheduled interest payments in exchange for increasing our receivable balance. We generally accrue this paid-in-kind ("PIK") interest when collection is expected and cease accruing PIK interest if there is insufficient value to support the accrual or we expect that any portion of the principal or interest due is not collectible. The change in PIK in any period is included in Change in accrued interest on receivables and investments in the operating section of our statement of cash flows.

We evaluate our receivables for an allowance as determined under ASC Topic 326*Financial Instruments- Credit Losses* ("Topic 326") and for our internally derived asset performance categories included in Note 6 to our financial statements on at least a quarterly basis and more frequently when economic or other conditions warrant such an evaluation. When a receivable becomes 90 days or more past due, and if we otherwise do not expect the debtor to be able to service all of its debt or other obligations, we will generally consider the receivable delinquent or impaired and place the receivable on non-accrual status and cease recognizing income from that receivable until the borrower has demonstrated the ability and intent to pay contractual amounts due. If a receivable's status significantly improves regarding the debtor's ability to service the debt or other obligations, we will remove it from non-accrual status.

We determine our allowance based on the current expectation of credit losses over the contractual life of our receivables as required by Topic 326. We use a variety of methods in developing our allowance including discounted cash flow analysis and probability-of-default/loss given default ("PD/LGD") methods. In developing our estimates, we consider our historical experience with our and similar assets in addition to our view of both current conditions and what we expect to occur within a period of time for which we can develop reasonable and supportable forecasts, typically two years. For periods following the reasonable and supportable forecast period, we revert to historical information when developing assumptions used in our estimates. In developing our forecasts, we consider a number of qualitative and quantitative factors in our assessment, which may include a project's operating results, loan-to-value ratio, any cash reserves, the ability of expected cash from operations to cover the cash flow requirements currently and into the future, key terms of the transaction, the ability of the borrower to refinance the transaction, other credit support from the sponsor or guarantor and the project's collateral value. In addition, we consider the overall economic environment, the climate solutions sector, the effect of local, industry, and broader economic factors such as unemployment rates and power prices, the impact of any variation in weather and the historical and anticipated trends in interest rates, defaults and loss severities for similar transactions. For those assets where we record our allowance using a discounted cash flow method, we have elected to record the change in allowance due solely to the passage of time through the provision for loss on receivables in our income statement. For assets where the obligor is a publicly rated entity, we consider the published historical performance of entities with similar ratings in developing our estimate of an allowance, making adjustments determined by management to be appropriate during the reasonable and supportable forecast period. We have made certain loan commitments that are within the scope of Topic 326. When estimating an allowance for these loan commitments we consider the probability of certain amounts to be funded and apply either a discounted cash flow or PD/LGD methodology as described above. We charge off receivables against the allowance, if any, when we determine the unpaid principal balance is uncollectible, net of recovered amounts. Any provision we record for an allowance is a non-cash reconciling item to cash from operating activities in our consolidated statements of cash flows.

Real Estate

Real estate consists of land or other real property and its related lease intangibles, net of any amortization. Our real estate is generally leased to tenants on a triple net lease basis, whereby the tenant is responsible for all operating expenses relating to the property, generally including property taxes, insurance, maintenance, repairs and capital expenditures. Certain real estate transactions may be characterized as "failed sale-leaseback" transactions as defined under ASC Topic 842, *Leases*, and thus are accounted for as financing transactions similarly to our commercial receivables as described above in Government and Commercial Receivables.

For our real estate lease transactions that are classified as operating leases, the scheduled rental revenue typically varies during the lease term and thus rental income is recognized on a straight-line basis, unless there is considerable risk as to collectability, so as to produce a constant periodic rent over the term of the lease. Accrued rental income is the aggregate difference between the scheduled rents that vary during the lease term and the income recognized on a straight-line basis and is recorded in other assets. Expenses, if any, related to the ongoing operation of leases where we are the lessor are charged to operations as incurred. Our initial investment is classified as investing activities and income collected for rental income is classified as operating activities in our consolidated statements of cash flows.

When our real estate transactions are treated as an asset acquisition with an operating lease, we typically record our real estate purchases at cost, including acquisition and closing costs, which is allocated to each tangible and intangible asset acquired on a relative fair value basis.

The fair value of the tangible assets of an acquired leased property is determined by valuing the property as if it were vacant, and the “as-if-vacant” value is then allocated to land, building and tenant improvements, if any, based on the determination of the fair values of these assets. The as-if-vacant fair value of a property is typically determined by management based on appraisals by a qualified appraiser. In determining the fair value of the identified intangibles of an acquired property, above-market and below-market in-place lease values are valued 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 term of the lease, including renewal periods reasonably certain of being exercised by the lessee.

The capitalized off-market lease values are amortized as an adjustment of rental income over the term used to value the intangible. We also record, as appropriate, an intangible asset for in-place leases. The value of the leases in place at the time of the transaction is equal to the potential income lost if the leases were not in place. The amortization of this intangible occurs over the initial term unless management believes that it is reasonably certain that the tenant would exercise the renewal option, in which case the amortization would extend through the renewal period. If a lease were to be terminated, all unamortized amounts relating to that lease would be written off.

Investments

Investments are debt securities that meet the criteria of ASC 320,*Investments-Debt and Equity Securities*. We have designated our debt securities as available-for-sale and carry these securities at fair value on our balance sheet. Unrealized gains and losses, to the extent not considered to be credit related, on available-for-sale debt securities are recorded as a component of accumulated other comprehensive income (“AOCI”) in equity on our balance sheet. When a security is sold, we reclassify the AOCI to earnings based on specific identification. Our initial investment and principal repayments of these investments are classified as investing activities and the interest collected is classified as operating activities in our consolidated statements of cash flows.

We evaluate our investments for impairment on at least a quarterly basis, and more frequently when economic or market conditions warrant such an evaluation. Our impairment assessment is a subjective process requiring the use of judgments and assumptions. Accordingly, we regularly evaluate the extent and impact of any credit deterioration associated with the financial and operating performance and value of the underlying project. We consider several qualitative and quantitative factors in our assessment. The primary factor in our assessment is the current fair value of the security, while other factors include changes in the credit rating, performance of the underlying project, key terms of the transaction, the value of any collateral and any support provided by the sponsor or guarantor.

To the extent that we have identified an impairment for a security, intend to hold the investment to maturity, and do not expect that we will be required to sell the security prior to recovery of the amortized cost basis, we will recognize only the credit component of the unrealized loss in earnings by recording an allowance against the amortized cost of the asset as required by Topic 326. We determine the credit component using the difference between the security’s amortized cost basis and the present value of its expected future cash flows, discounted using the effective interest method or its estimated collateral value. Any remaining unrealized loss due to factors other than credit is recorded in AOCI.

To the extent we hold investments with a fair value less than the amortized cost and we have made the decision to sell the security or it is more likely than not that we will be required to sell the security prior to recovery of its amortized cost basis, we recognize the entire portion of the impairment in earnings.

Premiums or discounts on investment securities are amortized or accreted into interest income using the effective interest method.

Securitization of Assets

We have established various special purpose entities or securitization trusts for the purpose of securitizing certain financial assets. We determined that the trusts used in securitizations are VIEs, as defined in ASC 810. When we conclude that we are not the primary beneficiary of certain trusts because we do not have power over those trusts' significant activities, we do not consolidate the trust. We typically serve as primary or master servicer of these trusts; however, as the servicer, we do not have the power to make significant decisions impacting the performance of the trusts.

We account for transfers of financial assets to these securitization trusts as sales pursuant to ASC 860, *Transfers and Servicing* ("ASC 860"), when we have concluded the transferred assets have been isolated from the transferor (i.e., put presumptively beyond the reach of the transferor and its creditors, even in bankruptcy or other receivership) and we have surrendered control over the transferred assets. When we are unable to conclude that we have been sufficiently isolated from the securitized financial assets, we treat such trusts as secured borrowings, retaining the assets on our balance sheet and recording the amounts due to the trust investor as non-recourse debt. Transfers of non-financial assets are accounted for under ASC 610-20, *Gains and Losses from the Derecognition of Non-financial Assets*, and those transfers are accounted for as sales when we have concluded that we have transferred control of the non-financial asset.

For transfers treated as sales under ASC 860, we have received true-sale-at-law and non-consolidation legal opinions for all of our securitization trust structures to support our conclusion regarding the transferred financial assets. When we sell financial assets in securitizations, we generally retain interests in the form of servicing rights and residual assets, which we refer to as securitization assets.

Gain or loss on the sale of assets is calculated based on the excess of the proceeds received from the securitization (less any transaction costs) plus any retained interests obtained over the cost basis of the assets sold. For retained interests, we generally estimate fair value based on the present value of future expected cash flows using our best estimates of the key assumptions of anticipated losses, prepayment rates, and current market discount rates commensurate with the risks involved. Cash flows related to our securitizations at origination are classified as operating activities in our consolidated statements of cash flows.

We initially account for all separately recognized servicing assets and servicing liabilities at fair value and subsequently measure such servicing assets and liabilities using the amortization method. Servicing assets and liabilities are amortized in proportion to, and over the period of, estimated net servicing income with servicing income recognized as earned. We assess servicing assets for impairment at each reporting date. If the amortized cost of servicing assets is greater than the estimated fair value, we will recognize an impairment in net income.

We account for our other retained interests in securitized financial assets, the residual assets, similar to available-for-sale debt securities and carry at fair value with changes in fair value recorded in AOCI pursuant to ASC 325-40, *Beneficial Interests in Securitized Financial Assets*. Income related to the residual assets is recognized using the effective interest rate method and included in securitization income in our income statement. Our residual assets are evaluated for impairment on a quarterly basis under Topic 326. A residual asset is impaired if its fair value is less than its carrying value. The credit component of impairments, if any, are recognized by recording an allowance against the amortized cost of the asset. For changes in expected cash flows, we will calculate a new yield based on the current amortized cost of the residual assets and the revised expected cash flows. This yield is used prospectively to recognize our income related to these assets. Residual interests in securitized non-financial assets are accounted for as equity method investments, and subject to those accounting policies described above.

Cash and Cash Equivalents

Cash and cash equivalents include short-term government securities, certificates of deposit and money market funds, all of which had an original maturity of three months or less at the date of purchase. These securities are carried at their purchase price, which approximates fair value.

Restricted Cash

Restricted cash includes cash and cash equivalents set aside with certain lenders primarily to support obligations outstanding as of the balance sheet dates. Restricted cash is reported as part of other assets in our consolidated balance sheets. Refer to Note 3 to our financial statements in this Form 10-K for disclosure of the balances of restricted cash included in other assets.

Convertible Notes

We have issued convertible and exchangeable senior unsecured notes (together, "Convertible Notes") that are accounted for in accordance with ASC 470-20, *Debt with Conversion and Other Options*, and ASC 815, *Derivatives and Hedging* ("ASC 815"). Under ASC 815, issuers of certain convertible or exchangeable debt instruments are generally required to separately account for the conversion or exchange option of the debt instrument as either a derivative or equity, unless it meets the scope exemption for contracts indexed to, and settled in, an issuer's own equity. Since our conversion or exchange options are both indexed to our equity and can only be settled in our common stock, we have met the scope exemption, and therefore, we are not separately accounting for the embedded conversion or exchange options. The initial issuance and any principal repayments are classified as financing activities and interest payments are classified as operating activities in our consolidated statements of cash flows. If converted or exchanged, the carrying value of each Convertible Note is reclassified into stockholders' equity.

Derivative Financial Instruments

We use derivative financial instruments, including interest rate swaps and collars, to manage, or hedge, our interest rate risk exposures associated with new debt issuances and anticipated refinancings of existing debt, to manage our exposure to fluctuations in interest rates on floating-rate debt, and to optimize the mix of our fixed and floating-rate debt. Our objective is to reduce the impact of changes in interest rates on our results of operations and cash flows. The fair values of our interest rate derivatives designated and qualifying as effective cash flow hedges are reflected in our consolidated balance sheets as a component of other assets (if in an unrealized asset position) or accounts payable, accrued expenses and other (if in an unrealized liability position) and in net unrealized gains and losses in AOCI as described below. The cash settlements of our interest rate swaps, if any, are classified as operating activities in our consolidated statements of cash flows.

The interest rate derivatives we use are intended to be designated as cash flow hedges and are considered highly effective in reducing our exposure to the interest rate risk that they are designated to hedge. This effectiveness is required in order to qualify for hedge accounting. Instruments that meet the required hedging criteria are formally designated as hedging instruments at the inception of the derivative contract. Derivatives are recorded at fair value. If a derivative is designated as a cash flow hedge and meets the highly effective threshold, the change in the fair value of the derivative is recorded in AOCI, net of associated deferred income tax effects and is recognized in earnings at the same time as the hedged item. For any derivative instruments not designated as hedging instruments, changes in fair value would be recognized in earnings in the period that the change occurs. We assess, both at the inception of the hedge and on an ongoing basis, whether the derivatives designated as cash flow hedges are highly effective in offsetting the changes in cash flows of the hedged items. We do not hold derivatives for trading purposes. Any collateral posted or received as credit support against derivative positions are netted against those derivatives in our balance sheets. When our collateral account with any particular counterparty is in a liability position, we include inflows and outflows related to those collateral postings within financing activities in our statement of cash flows. When our collateral account with any particular counterparty is in an asset position, we include inflows and outflows related to those collateral postings within investing activities in our statement of cash flows.

Interest rate derivative contracts contain a credit risk that counterparties may be unable to fulfill the terms of the agreement. We attempt to minimize that risk by evaluating the creditworthiness of our counterparties, who are limited to major banks and financial institutions, and do not anticipate nonperformance by the counterparties due to their requirement to post collateral.

We have entered into certain capped call transactions to mitigate the economic dilution that may result from the conversion or exchange of certain of our Convertible Notes. These transactions are freestanding equity-linked derivative instruments that qualify for the exemption for contracts indexed to, and settled in, an issuer's own equity found in ASC 815, and accordingly the payment of the option premium was recorded as a reduction of Additional Paid-in-Capital within our Statement of Stockholders' Equity.

Income Taxes

We elected and qualified to be taxed as a REIT for U.S. federal income tax purposes, commencing with our taxable year ended December 31, 2013 through our taxable year ended December 31, 2023. We have revoked our REIT status effective January 1, 2024, and beginning in taxable year 2024 will be taxed as a C Corporation. For tax years 2023 and prior, we had taxable REIT subsidiaries ("TRS") that were taxed separately, and that were generally be subject to U.S. federal, state, and local income taxes as well as taxes of foreign jurisdictions, if any. To qualify as a REIT, we were required to meet on an ongoing basis several organizational and operational requirements, including a requirement that we distribute at least 90% of our REIT's net taxable income before dividends paid, excluding capital gains, to our stockholders each year. As a REIT, for tax years ended December 31, 2023 and earlier, we were not subject to U.S. federal corporate income tax on that portion of net income that was distributed to our owners in accordance with the REIT rules. Subsequent to our REIT status revocation, all of our net taxable income is subject to U.S. federal and state income tax at the applicable corporate tax rate, and dividends paid to stockholders are no longer tax deductible.

We account for income taxes under ASC 740, *Income Taxes* ("ASC 740") for tax years 2024 and later, and for our TRS for tax years 2023 and earlier, using the asset and liability method. Deferred tax assets and liabilities are recognized for the estimated future tax consequences attributable to the differences between the consolidated financial statement carrying amounts of existing assets and liabilities and their respective tax bases. Deferred tax assets and liabilities are measured using enacted tax rates in effect for the year in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities from a change in tax rates is recognized in earnings in the period when the new rate is enacted. We evaluate any deferred tax assets for valuation allowances based on an assessment of available evidence including sources of taxable income, prior years taxable income, any existing taxable temporary differences and our future investment and business plans that may give rise to taxable income. We treat any tax credits we receive from our equity investments in renewable energy projects as reductions of federal income taxes of the year in which the credit arises. Any deferred tax impacts resulting from transfers of assets to or from our TRS were recorded as an adjustment to additional paid-in capital, as it is a transfer amongst entities under common control.

We apply ASC 740 with respect to how uncertain tax positions should be recognized, measured, presented, and disclosed in the financial statements. This guidance requires the accounting and disclosure of tax positions taken or expected to be taken in the course of preparing our tax returns to determine whether the tax positions are "more likely than not" to be sustained by the applicable tax authority. We are required to analyze all open tax years, as defined by the statute of limitations, for all major jurisdictions, which includes U.S. federal and certain states.

Equity-Based Compensation

We have adopted equity incentive plans which provide for grants of stock options, stock appreciation rights, restricted stock units, shares of restricted common stock, phantom shares, dividend equivalent rights, long-term incentive-plan units ("LTIP Units") and other restricted limited partnership units issued by our Operating Partnership and other equity-based awards. From time to time, we may grant equity or equity-based awards as compensation to our independent directors, employees, advisors, consultants and other personnel. Certain awards earned under each plan are based on achieving various performance targets, which are generally earned between 0% and 200% of the initial target, depending on the extent to which the performance target is met. In addition to performance targets, income or gain must be allocated by our Operating Partnership to certain LTIP Units issued by our Operating Partnership so that the capital accounts of such units are equalized with the capital accounts of other holders of OP units before parity is reached and LTIP Units can be converted to limited partnership units.

We record compensation expense for grants made in accordance with ASC 718,*Compensation—Stock Compensation*. We record compensation expense for unvested grants that vest solely based on service conditions on a straight-line basis over the vesting period of the entire award based upon the fair market value of the grant on the date of grant. Fair market value for restricted common stock is based on our share price on the date of grant. For awards where the vesting is contingent upon achievement of certain performance targets, compensation expense is measured based on the fair market value on the grant date and is recorded over the requisite service period (which includes the performance period). Actual performance results at the end of the performance period determines the number of shares that will ultimately be awarded. We have also issued awards where the vesting is contingent upon service being provided for a defined period and certain market conditions being met. The fair value of these awards, as measured at the grant date, is recognized over the requisite service period, even if the market conditions are not met. The grant date fair value of these awards was developed by an independent appraiser using a Monte Carlo simulation. Forfeitures of unvested awards are recognized as they occur.

We have a retirement policy that provides for full vesting at retirement of any time-based awards that were granted prior to the date of retirement and permits the vesting of performance-based awards that were granted prior to the date of retirement according to the original vesting schedule of the award, subject to the achievement of the applicable performance measures and without the requirement for continued employment. Employees are eligible for the retirement policy upon meeting age and years of service criteria. We record compensation expense for unvested grants through the date in which an employee meets the retirement criteria.

Earnings Per Share

We compute earnings per share of common stock in accordance with ASC 260,*Earnings Per Share*. Basic earnings per share is calculated by dividing net income attributable to controlling stockholders (after consideration of the earnings allocated to unvested grants, if applicable) by the weighted-average number of shares of common stock outstanding during the period excluding the weighted average number of unvested grants, if applicable ("participating securities" as defined in Note 12 to our financial statements in this Form 10-K). Diluted earnings per share is calculated by dividing net income attributable to controlling stockholders (after consideration of the earnings allocated to unvested grants, if applicable) by the weighted-average number of shares of common stock outstanding during the period plus other potential common stock instruments if they are dilutive. Other potentially dilutive common stock instruments include our unvested restricted stock, other equity-based awards, and Convertible Notes. The restricted stock and other equity-based awards are included if they are dilutive using the treasury stock method. The treasury stock method assumes that theoretical proceeds received for future service provided is used to purchase shares of treasury stock at the average market price per share of common stock, which is deducted from the total shares of potential common stock included in the calculation. When unvested grants are dilutive, the earnings allocated to these dilutive unvested grants are not deducted from the net income attributable to controlling stockholders when calculating diluted earnings per share. The Convertible Notes are included if they are dilutive using the if-converted method, which removes interest expense related to the Convertible Notes from the net income attributable to controlling stockholders and includes the weighted average shares of potential common stock over the period issuable upon conversion or exchange of the note. No adjustment is made for shares of potential common stock that are anti-dilutive during a period. Our capped call transactions are anti-dilutive and therefore their impact will be excluded from earnings per share.

Segment Reporting

We manage our business as a single portfolio and report all of our activities asone business segment.

Recently Issued Accounting Pronouncements

In November 2023, the FASB issued ASU No. 2023-07,*Segment Reporting (Topic 280): Improvements to Reportable Segment Disclosures.* ASU No. 2023-07 amended the existing segment reporting requirements by requiring disclosure of the significant segment expenses based on how management internally views segment information and by allowing the disclosure of more than one measure of segment profit or loss, as well as by expanding the interim period segment requirements. The ASU also requires single-reportable segment entities to report the disclosures required under ASC Topic 280, *Segment Reporting.* ASU No. 2023-07 is effective for fiscal years beginning after December 15, 2023, and interim periods within fiscal years beginning after December 15, 2024. Upon adoption of ASU No. 2023-07, we will provide the disclosures required by ASC Topic 280, *Segment Reporting.*

Other accounting standards updates issued before February 16, 2024, and effective after December 31, 2023, are not expected to have a material effect on our consolidated financial statements and related disclosures. There were no accounting standards that became effective in the year ended December 31, 2023 that had a material effect on our consolidated financial statements and related disclosures.

3. **Fair Value Measurements**

Fair value is defined as the price that would be received for an asset or paid to transfer a liability in an orderly transaction between market participants on the measurement date. The fair value accounting guidance provides a three-level hierarchy for classifying financial instruments. The levels of inputs used to determine the fair value of our financial assets and liabilities carried on the balance sheet at fair value and for those which only disclosure of fair value is required are characterized in accordance with the fair value hierarchy established by ASC 820, *Fair Value Measurements.* Where inputs for a financial asset or liability fall in more than one level in the fair value hierarchy, the financial asset or liability is classified in its entirety based on the lowest level input that is significant to the fair value measurement of that financial asset or liability. We use our judgment and consider factors specific to the financial assets and liabilities in determining the significance of an input to the fair value measurements. As of December 31, 2023 and December 31, 2022, only our residual assets related to our securitization trusts, our derivatives, and our investments were carried at fair value on the consolidated balance sheets on a recurring basis. The three levels of the fair value hierarchy are described below:

- Level 1—Quoted prices (unadjusted) in active markets that are accessible at the measurement date.
- Level 2—Observable prices that are based on inputs not quoted on active markets, but corroborated by market data.
- Level 3—Unobservable inputs are used when little or no market data is available.

The tables below illustrate the estimated fair value of our financial instruments on our balance sheet. Unless otherwise discussed below, fair value for our Level 2 and Level 3 measurements is measured using a discounted cash flow model, contractual terms and inputs which consist of base interest rates and spreads over base rates which are based upon market observation and recent comparable transactions. An increase in these inputs would result in a lower fair value and a decline would result in a higher fair value. Our Senior Unsecured Notes (as defined below) and Convertible Notes are valued using a market based approach and observable prices. The receivables held-for-sale, if any, are carried at the lower of cost or fair value, as determined on an individual asset basis.

	As of December 31, 2023		
	Fair Value	Carrying Value	Level
	(in millions)		
Assets			
Commercial receivables	$ 2,647	$ 2,983	Level 3
Government receivables	86	91	Level 3
Receivables held-for-sale	36	35	Level 3
Investments (1)	7	7	Level 3
Securitization residual assets (2)	219	219	Level 3
Derivative assets	10	10	Level 2
Liabilities (3)			
Credit facilities	$ 401	$ 401	Level 3
Commercial paper notes	30	30	Level 3
Term loan facilities	736	736	Level 3
Non-recourse debt	158	162	Level 3
Senior unsecured notes	2,251	2,337	Level 2
Convertible notes			
2025 Exchangeable Senior Notes	202	211	Level 2
2028 Exchangeable Senior Notes	481	408	Level 2
Total Convertible Notes	683	619	Level 2
Derivative liabilities	9	9	Level 2

(1) The amortized cost of our investments as of December 31, 2023, was $ 8 million.

(2) Included in securitization assets on the consolidated balance sheet. The amortized cost of our securitization residual assets as of December 31, 2023, was $ 258 million.

(3) Fair value and carrying value exclude unamortized financing costs.

	As of December 31, 2022		
	Fair Value	Carrying Value	Level
	(in millions)		
Assets			
Commercial receivables	$ 1,859	$ 1,887	Level 3
Government receivables	96	103	Level 3
Receivables held-for-sale	92	85	Level 3
Investments (1)	10	10	Level 3
Securitization residual assets (2)	177	177	Level 3
Liabilities (3)			
Credit facilities	$ 51	$ 51	Level 3
Commercial paper notes	—	—	Level 3
Term loan facilities	384	384	Level 3
Non-recourse debt	402	442	Level 3
Senior unsecured notes	1,546	1,784	Level 2
Convertible notes:			
2023 Convertible Senior Notes	137	143	Level 2
2025 Convertible Senior Notes	185	206	Level 2
Total Convertible Notes	322	349	Level 2

(1) The amortized cost of our investments as of December 31, 2022, was $ 12 million.

(2) Included in securitization assets on the consolidated balance sheet. The amortized cost of our securitization residual assets as of December 31, 2022, was $ 224 million.

(3) Fair value and carrying value exclude unamortized financing costs.

Securitization residual assets

The following table reconciles the beginning and ending balances for our Level 3 securitization residual assets that are carried at fair value on a recurring basis, with changes in fair value recorded through AOCI:

	For the year ended December 31,	
	2023	2022
	(in millions)	
Balance, beginning of period	$ 177	$ 210
Accretion of securitization residual assets	14	17
Additions to securitization residual assets	37	29
Collections of securitization residual assets	(17)	(16)
Sales of securitization residual assets	—	—
Unrealized gains (losses) on securitization residual assets recorded in OCI	11	(63)
Provision for loss on securitization residual assets	(3)	—
Balance, end of period	$ 219	$ 177

The following table illustrates our securitization residual assets in an unrealized loss position:

	Estimated Fair Value		Unrealized Losses (1)		Count of Assets	
	Assets with a loss shorter than 12 months	Assets with a loss longer than 12 months	Assets with a loss shorter than 12 months	Assets with a loss longer than 12 months	Assets with a loss shorter than 12 months	Assets with a loss longer than 12 months
	(in millions)					
December 31, 2023	$ 24	$ 164	$ 0.3	$ 41	11	66
December 31, 2022	118	51	27	22	66	12

(1) Other than as discussed in Note 5, loss positions are due to interest rates movements and is not indicative of credit deterioration. We have the intent and ability to hold these investments until a recovery of fair value.

In determining the fair value of our securitization residual assets, as of December 31, 2023 and 2022, we used a market-based risk-free rate and added a range of interest rate spreads based upon recent transactions of approximately 1% to 6%. The weighted average discount rate used to determine the fair value of our securitization residual assets as of December 31, 2023 and 2022 was 6.6% and 6.8%, respectively.

Non-recurring Fair Value Measurements

Our financial statements may include non-recurring fair value measurements related to acquisitions and non-monetary transactions, if any. Assets acquired in a business combination, if any, are recorded at their fair value. We may use third party valuation firms to assist us with developing our estimates of fair value. In 2023, we deconsolidated a special purpose entity and its associated assets and non-recourse debt, and retained a residual interest in the special purpose entity in the form of an equity method investment. We describe how we determined the fair value of our retained investment in Note 5.

Concentration of Credit Risk

Commercial and government receivables, real estate leases, and debt investments consist primarily of receivables from various projects, U.S. federal government-backed receivables, and investment grade state and local government receivables and do not, in our view, represent a significant concentration of credit risk given the large number of diverse offtakers and other obligors of the projects. Additionally, certain of our investments are collateralized by projects concentrated in certain geographic regions throughout the United States. These investments typically have structural credit protections to mitigate our risk exposure and, in most cases, the projects are insured for estimated physical loss which helps to mitigate the possible risk from these concentrations.

We had cash deposits that are subject to credit risk as shown below:

	December 31,	
	2023	2022
	(in millions)	
Cash deposits	$ 63	$ 156
Restricted cash deposits (included in other assets)	12	20
Total cash deposits	$ 75	$ 176
Amount of cash deposits in excess of amounts federally insured	$ 63	$ 174

4. **Non-Controlling Interest**

Units of limited partnership interests in the Operating Partnership ("OP units") that are owned by limited partners other than us are included in non-controlling interest on our consolidated balance sheets. The non-controlling interest holders are generally allocated their pro rata share of income, other comprehensive income and equity transactions.

The outstanding OP units not held by us represent approximately 1% of our outstanding OP units and are redeemable by the limited partners for cash, or at our option, for a like number of shares of our common stock. No OP units were exchanged by non-controlling interest holders during the years ended December 31, 2023, and 2,777 OP units were exchanged for the same number of shares in December 31, 2022.

We have also granted to members of our leadership team and directors LTIP Units pursuant to our equity incentive plans. The LTIP Units issued to employees are held by HASI Management HoldCo LLC. The LTIP Units are designed to qualify as profits interests in the Operating Partnership and initially will have a capital account balance of zero and, therefore, will not have full parity with OP units with respect to liquidating distributions or other rights. However, the amended and restated agreement of limited partnership of the Operating Partnership (the "OP Agreement") provides that "book gains," or economic appreciation, in the Operating Partnership will be allocated first to the LTIP Units until the capital account per LTIP Units is equal to the capital account per-unit of the OP units. Under the terms of the OP Agreement, the Operating Partnership will revalue its assets upon the occurrence of certain specified events, and any increase in valuation from the time of grant until such event will be allocated first to the holders of LTIP Units to equalize the capital accounts of such holders with the capital accounts of OP unit holders. Once this has occurred, the LTIP Units will achieve full parity with the OP units for all purposes, including with respect to liquidating distributions and redemption rights. In addition to these attributes, there are vesting and settlement conditions similar to our other equity-based awards as discussed in Notes 2 and 11 to our financial statements in this Form 10-K.

5. **Securitization of Financial Assets**

The following summarizes certain transactions with securitization trusts:

	As of and for the year ended December 31,		
	2023	2022	2021
		(in millions)	
Gains on securitizations	$ 69	$ 57	$ 68
Cost of financial assets securitized	559	500	810
Proceeds from securitizations	628	557	878
Residual and servicing assets	219	117	210
Cash received from residual and servicing assets	20	20	18

In connection with securitization transactions, we typically retain servicing responsibilities and residual assets. We generally receive annual servicing fees that are typically up to 0.25% of the outstanding balance. We may periodically make servicer advances, that are subject to credit risk. Included in securitization assets in our consolidated balance sheets are our servicing assets at amortized cost and our residual assets at fair value. Our residual assets are subordinate to investors' interests, and their values are subject to credit, prepayment and interest rate risks on the transferred financial assets. Other than our securitization assets representing these residual interests in the trusts' assets, the investors and the securitization trusts have no recourse to our other assets for failure of debtors to pay when due. In computing gains and losses on securitizations, we use discount rates based on a review of comparable market transactions including Level 3 unobservable inputs which consist of base interest rates and spreads over these base rates. Depending on the nature of the transaction risks, the discount rate ranged from 5.6% to 9.5% during the year ended December 31, 2023.

As of December 31, 2023 and December 31, 2022, our managed assets totaled $12.3 billion and $9.8 billion, respectively, of which $6.1 billion and $5.5 billion, respectively, were securitized assets held in unconsolidated securitization trusts. As of

December 31, 2023 and December 31, 2022, these trusts held $5.6 billion and $5.3 billion, respectively, of notes due to investors. There wereno securitization credit losses in the years ended December 31, 2023, 2022, or 2021. As of December 31, 2023, there were no material payments from debtors to the securitization trusts that were greater than 90 days past due.

Receivables from contracts for the installation of energy efficiency and other technologies are the source of cash flows for $108 million of our securitization residual assets. These technologies are installed in facilities owned by, or operated for or by, federal, state or local government entities where the ultimate obligor for the receivable is a governmental entity. The contracts may have guarantees of energy savings from third-party service providers, which typically are entities rated investment grade by an independent rating agency. The remainder of our securitization residual assets are related to contracts where the underlying cash flows are secured by an interest in real estate which are typically senior in terms of repayment to other financings.

In 2023, we recorded an allowance for losses on securitization residual assets related to prepayable assets secured by real estate. While there is no change in the underlying credit quality of the securitized assets, we have revised our estimates of cash flows due to prepayments on certain of these assets. The following table reconciles our beginning and ending allowance for loss on securitization residual assets:

	Commercial	Government
	(in millions)	
Beginning balance - December 31, 2021	**$ —**	**$ —**
Provision for loss on securitization asset	—	—
Provision recorded on purchase of a credit deteriorated asset	—	—
Write-off of allowance	—	—
Recovery of allowance	—	—
Ending balance - December 31, 2022	**$ —**	**$ —**
Provision for loss on securitization asset	3	—
Provision recorded on purchase of a credit deteriorated asset	—	—
Write-off of allowance	—	—
Recovery of allowance	—	—
Ending balance - December 31, 2023	**$ 3**	**$ —**

We recognized a gain of approximately $19 million upon deconsolidation of certain land assets and the debt to which those assets were pledged, which is included in gain on of assets in our income statement. The fair value of our retained interest, which we account for as an equity method investment as described in Note 6, was calculated consistently with how we calculate the value of our securitization residual assets described above.

6. **Our Portfolio**

As of December 31, 2023, our Portfolio included approximately $6.2 billion of equity method investments, receivables, real estate and investments on our balance sheet. The equity method investments represent our non-controlling equity investments in climate solutions. The receivables and investments are typically collateralized by contractually committed debt obligations of government entities or private high credit quality obligors and are often supported by additional forms of credit enhancement, including security interests and supplier guaranties. The real estate is typically land and related lease intangibles for long-term leases to wind and solar projects.

In developing and evaluating performance against our credit criteria, we consider a number of qualitative and quantitative criteria which may include a project's operating results, loan-to-value ratio, any cash reserves, the ability of expected cash from operations to cover the cash flow requirements currently and into the future, key terms of the transaction, the ability of the borrower to refinance the transaction, the financial and operating capability of the borrower, its sponsors or the obligor as well as any guarantors and the project's collateral value. In addition, we consider the overall economic environment, the climate solutions sector, the effect of local, industry and broader economic factors, the impact of any variation in weather and the historical and anticipated trends in interest rates, defaults and loss severities for similar transactions.

The following is an analysis of the Performance Ratings of our Portfolio as of December 31, 2023, which is assessed quarterly:

	Portfolio Performance				
	Commercial			Government	
	1 (1)	2 (2)	3 (3)	1 (1)	Total
Receivable vintage (4)			*(dollars in millions)*		
2023	$ 877	$ —	$ —	$ —	$ 877
2022	978	—	—	—	978
2021	294	—	—	—	294
2020	168	—	—	—	168
2019	398	—	—	—	398
Prior to 2019	318	—	—	91	409
Total receivables held-for-investment	3,033	—	—	91	3,124
Less: Allowance for loss on receivables	(50)	—	—	—	(50)
Net receivables held-for-investment (5)	2,983	—	—	91	3,074
Receivables held-for-sale	32	—	—	3	35
Investments	5	—	—	2	7
Real estate	111	—	—	—	111
Equity method investments (6)	2,930	36	—	—	2,966
Total	$ 6,061	$ 36	$ —	$ 96	$ 6,193
Percent of Portfolio	97 %	1 %	— %	2 %	100 %

(1) This category includes our assets where based on our credit criteria and performance to date we believe that our risk of not receiving our invested capital remains low.

(2) This category includes our assets where based on our credit criteria and performance to date we believe there is a moderate level of risk to not receiving some or all of our invested capital.

(3) This category includes our assets where based on our credit criteria and performance to date, we believe there is substantial doubt regarding our ability to recover some or all of our invested capital. Loans in this category are placed on non-accrual status.

(4) Receivable vintage refers to the period in which the relevant loan agreement is signed, and a given vintage may contain loan advances made in periods subsequent to the period in which the loan agreement was signed.

(5) Total reconciles to the total of the government receivables and commercial receivables lines of the consolidated balance sheets

(6) Some of the individual projects included in portfolios that make up our equity method investments have government off-takers. As they are part of large portfolios, they are not classified separately.

Receivables

As of December 31, 2023 our allowance for loan losses was $50 million based on our expectation for credit losses over the lives of the receivables in our Portfolio. During 2023, we recorded a provision for loss on receivables of $9 million primarily due to new loans and loan commitments. During 2023, we entered into a variable rate revolving credit facility with an energy services company secured by projects in development, with a maximum principal amount of $300 million and that matures in 2026. As of December 31, 2023, the outstanding balance of the facility was $277 million and the facility bore interest at a rate of 10.1%.

Below is a summary of the carrying value, expected loan funding commitments, and allowance by type of receivable or “Portfolio Segment,” as defined by Topic 326, as of December 31, 2023 and 2022:

	December 31, 2023			December 31, 2022		
	Gross Carrying Value	Loan Funding Commitments	Allowance	Gross Carrying Value	Loan Funding Commitments	Allowance
			(in millions)			
Commercial [1]	$ 3,033	$ 423	$ 50	$ 1,928	$ 256	$ 41
Government [2]	91	—	—	103	—	—
Total	$ 3,124	$ 423	$ 50	$ 2,031	$ 256	$ 41

(1) As of December 31, 2023, this category of assets include $ 1.5 billion of mezzanine loans made on a non-recourse basis to special purpose subsidiaries of residential solar companies which hold residential solar assets where we rely on certain limited indemnities, warranties, and other obligations of the residential solar companies or their other subsidiaries.

Risk characteristics of our commercial receivables include a project's operating risks, which include the impact of the overall economic environment, the climate solutions sector, the effect of local, industry, and broader economic factors, the impact of any variation in weather and trends in interest rates. We use assumptions related to these risks to estimate an allowance using a discounted cash flow analysis or the PD/LGD method as discussed in Note 2. All of our commercial receivables are included in Performance Rating 1 in the Portfolio Performance table above. For those assets in Performance Rating 1, the credit worthiness of the obligor combined with the various structural protections of our assets cause us to believe we have a low risk we will not receive our invested capital, however we recorded a $50 million allowance on these $ 3.0 billion in assets as a result of lower probability assumptions utilized in our allowance methodology.

(2) As of December 31, 2023, our government receivables include $ 10 million of U.S. federal government transactions and $ 81 million of transactions where the ultimate obligors are state or local governments.
Risk characteristics of our government receivables include the energy savings or the power output of the projects and the ability of the government obligor to generate revenue for debt service, via taxation or other means. Transactions may have guarantees of energy savings or other performance support from third-party service providers, which typically are entities, directly or whose ultimate parent entity is, rated investment grade by an independent rating agency. All of our government receivables are included in Performance Rating 1 in the Portfolio Performance table above. Our allowance for government receivables is primarily calculated by using PD/LGD methods as discussed in Note 2. Our expectation of credit losses for these receivables is immaterial given the high credit-quality of the obligors.

The following table reconciles our beginning and ending allowance for loss on receivables by Portfolio Segment for the year ended December 31, 2023:

	Commercial	Government
	(in millions)	
Beginning balance - December 31, 2021	$ 36	$ —
Provision for loss on receivables	13	—
Write-off of allowance	(8)	—
Ending balance - December 31, 2022	41	—
Provision for loss on receivables	9	—
Write-off of allowance	—	—
Ending balance - December 31, 2023	$ 50	$ —

We have no receivables which are on non-accrual status.

The following table provides a summary of our anticipated maturity dates of our receivables and the weighted average yield for each range of maturities as of December 31, 2023:

	Total	Less than 1 year	1-5 years	5-10 years	More than 10 years
			(dollars in millions)		
Maturities by period (excluding allowance)	$ 3,124	$ 1	$ 553	$ 1,317	$ 1,253
Weighted average yield by period	8.4 %	6.5 %	8.9 %	8.5 %	8.0 %

Real Estate

Our real estate is leased to renewable energy projects, typically under long-term triple net leases with expiration dates that range between the years 2033 and 2052 under the initial terms and 2047 and 2080 if all renewals are exercised. In 2023, a majority of our land and related intangibles were deconsolidated, and we retain a residual interest in those assets in the form of equity method investments as discussed in Other Equity Method Investments below. The components of our real estate portfolio as of December 31, 2023 and 2022, were as follows:

	December 31, 2023	December 31, 2022
	(in millions)	
Real estate		
Land	$ 97	$ 269
Lease intangibles	22	104
Accumulated amortization of lease intangibles	(8)	(20)
Real estate	$ 111	$ 353

As of December 31, 2023, the future amortization expense of the intangible assets and the future minimum rental income payments under our land lease agreements are as follows:

Year Ending December 31,	Future Amortization Expense	Minimum Rental Payments
	(in millions)	
2024	$ 1	$ 24
2025	1	24
2026	1	24
2027	1	25
2028	1	25
Thereafter	9	673
Total	$ 14	$ 795

Equity Method Investments

We have made non-controlling equity investments in a number of climate solutions projects that we account for as equity method investmentsAs of December 31, 2023, we held the following equity method investments:

Investee	Carrying Value
	(in millions)
Jupiter Equity Holdings, LLC	$ 538
Lighthouse Partnerships [1]	903
Other equity method investments	1,525
Total equity method investments	$ 2,966

(1) Represents the total of five equity investments in a portfolio of a renewable energy projects discussed below.

Jupiter Equity Holdings, LLC

We have a preferred equity interest in Jupiter Equity Holdings, LLC ("Jupiter") that owns nine operating onshore wind projects and four operating utility-scale solar projects with an aggregate capacity of approximately 2.3 gigawatts. Through December 31, 2023, we have made capital contributions to Jupiter of approximately $562 million related to these projects, reflecting final funding true-ups after all projects reached substantial completion. Alongside the project sponsor and under terms outlined in the partnership agreement, we have made $10 million in loans to Jupiter for contract restructuring expenses and payments related to winter storm Uri. In 2023, in order to increase both the near-term cash flows and expected lifetime return, we made an additional $58 million loan to the project to allow for the restructuring of certain power purchase agreements and tax equity arrangements, and also guaranteed, alongside the project sponsor, to fund the working capital needs of two of the underlying portfolio companies. We anticipate the incremental investment to be accretive to our earnings per share. Those loans are included in our Related Party Transactions disclosures below. At agreement inception, the projects feature cash flows from fixed-price power purchase agreements and financial hedges with a weighted average contract life of 13 years, contracted with highly creditworthy off-takers and counterparties.

Jupiter is governed by an amended and restated limited liability company agreement, dated July 1, 2020, by and among Jupiter, one of our subsidiaries and a subsidiary of the project sponsor, which contains customary terms and conditions. We own 100% of the Class A Units in Jupiter corresponding to 49% of the distributions from Jupiter subject to the preferences discussed below. Most major decisions that may impact Jupiter, its subsidiaries or its assets, require the majority vote of a four person committee in which we and the project sponsor each have two representatives. Through Jupiter, we will be entitled to preferred distributions until certain return targets are achieved. Once these return targets are achieved, distributions will be allocated approximately 33% to us and approximately 67% to the sponsor. As of July 1, 2023, we and the sponsor each have a right of first offer if the other party desires to transfer any of its equity ownership to a third party. We use the equity method of accounting to account for our preferred equity interest in Jupiter, and have elected to recognize earnings from this investment one quarter in arrears to allow for the receipt of financial information.

Lighthouse Renewables Portfolio

We have entered into certain agreements relating to the acquisition, ownership and management of preferred cash equity investments in five partnerships that expect to own cash equity interests in an approximately 1.6 gigawatt portfolio of onshore wind, utility-scale solar and solar-plus-storage projects (the "Renewables Portfolio") developed and managed by the project sponsor. We have made investments in the preferred cash equity interests of the Lighthouse Partnerships of approximately $800 million through December 31, 2023, and additional investments are expected to be made as the projects become commercially operational. We expect to make additional capital contributions of $85 million related to the acquisition of new assets, with the final contribution being made in 2024. Alongside the project sponsor and under terms outlined in the partnership agreement, we have made $17 million in working capital loans to the Lighthouse Partnerships primarily for payments related to winter storm Uri. Those working capital loans are included in our Related Party Transactions disclosures below. At agreement inception, the Renewables Portfolio had contracted cash flows with a combined weighted average contract life of greater than 15 years with a diversified group of predominately investment grade corporate, utility, university, and municipal offtakers.

Each of the Lighthouse Partnerships are or will be governed by a limited liability company agreement between us and the sponsor serving as managing member and contain customary terms and conditions. Most major decisions that may impact each of the Lighthouse Partnerships, its subsidiaries or its assets, require a unanimous vote of the representatives present at a meeting of a review committee in which a quorum is present. The review committee is a four person committee, which includes two Company representatives and two sponsor representatives. Through each Lighthouse Partnership, commencing on a certain date following the effective date of the applicable limited liability company agreement, we will be entitled to preferred distributions until certain return targets of the Renewables Portfolio are achieved. Subject to customary exceptions, no member of a Lighthouse Partnership can transfer any of its equity ownership in any Lighthouse Partnership to a third party without approval of the review committee of that Lighthouse Partnership. We use the equity method of accounting to account for our preferred equity interest in each Lighthouse Partnership, and have elected to recognize earnings from this investment one quarter in arrears to allow for the receipt of financial information.

Other Equity Method Investments

In the third quarter of 2023, we entered into an agreement with an existing securitization partner to amend the contractual terms of certain non-recourse debt agreements, which caused us to deconsolidate the entities holding such debt and its pledged collateral. Our retained interest in those entities are equity method investments, which hold land and associated operating leases as well as financial assets where the ultimate obligors are grid-connected solar projects. The carrying value of these equity method investments as of December 31, 2023 was $155 million. Our retained interest is in the form of an equity method investment, instead of a Securitization Asset, due to the nature of the underlying assets being predominantly real property.

Related party transactions

As of December 31, 2023, of our commercial receivables, approximately $995 million are loans made to entities in which we also have non-controlling equity investments of approximately $824 million. Typically, these equity method investments are LLCs taxed as partnerships that we have entered into with various renewable energy project sponsors, such as the SunPower Corporation. We negotiate the commercial terms of these loans with the other partner, and the assets against which the project sponsors are borrowing are contributed into the LLCs upon the execution of the loans. Our equity investments allow us to participate in the residual economics of those contributed assets alongside the other partner, and our rights under the project operating agreements do not allow us to make any significant unilateral decisions regarding the terms of the arrangement. These assets are bankruptcy remote from the project sponsor, and typically contain back-up servicer provisions to allow for continuity of operations in the event the project sponsor is unable to fulfill its duties in that capacity. We are not obligated to contribute capital to support these entities, beyond agreements to make contributions to allow for the entities to purchase additional renewable energy assets. Because the loans made to these entities are typically subordinate to senior debt and tax equity investors in the projects, these loans, which have maturities of over ten years, may accrue PIK interest in the early years of the project until sufficient cash flow is available for our interest payments. Any change in PIK interest is included in Change in accrued interest on receivables and investments in the operating section of our statement of cash flows. On a quarterly basis, we assess these loans for any impairment inclusive of any PIK interest accrued under CECL as discussed above under Receivables.

The following table provides additional detail on these related party transactions:

	For the year ended December 31,		
	2023	**2022**	**2021**
		(in millions)	
Interest income from related party loans	$ 68	$ 60	$ 54
Additional investments made in related party loans	324	164	324
Principal collected from related party loans	36	87	71
Interest collected from related party loans	62	64	53

7. **Credit facilities and commercial paper notes**

Secured credit facilities

We previously had a secured revolving credit facility in the form of an approval-based loan agreement with various lenders with a maximum outstanding principal amount of $200 million. In 2023, we amended the secured revolving credit facility to a secured term loan. See Note 8 to our financial statements for discussion of the current terms of that secured term loan. Also in 2023, we terminated a previously existing representation-based secured revolving limited-recourse credit facility which had a maximum outstanding principal amount of $100 million.

Unsecured revolving credit facilities

In February 2022, we entered into a $600 million CarbonCount®-Based Revolving Credit Facility (the "unsecured revolving credit facility") pursuant to a revolving credit agreement with a syndicate of lenders which matures in February 2025, replacing our then-existing $400 million unsecured revolving credit facility entered into in February 2021. In 2023, we increased the maximum outstanding borrowing amount of the facility from $600 million to $915 million. As of December 31, 2023, the outstanding balance on the unsecured revolving credit facility was $401 million, which bears interest at 7.28%. As of December 31, 2023, we had less than $2 million of remaining unamortized financing costs associated with the unsecured revolving credit facility that have been capitalized and included in other assets on our balance sheet and are being amortized on a straight-line basis over the term of the unsecured revolving credit facility.

The unsecured revolving credit facility has a commitment fee based on our current credit rating and bears interest at a rate of the SOFR or prime rate plus applicable margins based on our current credit rating, which may be adjusted downward up to 0.10% to the extent our Portfolio achieves certain targeted levels of carbon emissions avoidance as measured by our CarbonCount metric. The current applicable margins are 1.875% for Term SOFR Rate-based loans and 0.875% for prime rate-based loans, plus an additional 0.10%. The unsecured revolving credit facility contains terms, conditions, covenants, and representations and warranties that are customary and typical for transactions of this nature, including various affirmative and negative covenants, and limitations on the incurrence of liens and indebtedness, investments, fundamental organizational changes, dispositions, changes in the nature of business, transactions with affiliates, use of proceeds, stock repurchases, and dividends we can declare. The unsecured revolving credit facility also includes customary events of default and remedies. At our option, upon maturity of the unsecured revolving credit facility, we have the ability to convert amounts borrowed into term loans for a fee equal to 1.875% of the term loan amounts.

CarbonCount Green Commercial Paper Note Program

We have a CarbonCount Green Commercial Paper Note Program (the "commercial paper program") that allows us to issue commercial paper notes, in amounts up to $100 million outstanding at any time. We obtained an irrevocable direct-pay letter of credit in an amount not to exceed $100 million from Bank of America, N.A, to support these obligations which expires in June 2024. Bank of America provides a direct-pay letter of credit to the noteholders in the same amount of each commercial paper note. The letter of credit is automatically drawn upon at maturity of a commercial paper note and the noteholders are repaid in full. We have a five business-day grace period during which we repay Bank of America for the amount drawn or issue a new commercial paper note. Following the five business-day grace period, any amount then-outstanding is converted into a loan from Bank of America.

Commercial paper notes will not be redeemable, will not be subject to voluntary prepayment and are not to exceed 397 days. The proceeds from our commercial paper notes are used to acquire or refinance, in whole or in part, eligible green projects, including assets that are neutral to negative on incremental carbon emissions. As of December 31, 2023, we had $30 million outstanding under our commercial paper program, which bore interest at a rate of 6.80%.

Commercial paper notes will be issued at a discount based on market pricing, subject to broker fees of 0.10%. For issuance of the letter of credit, we will pay 1.40% on any drawn letter of credit amounts to Bank of America, N.A., and 0.40% on any unused letter of credit capacity. Any loans converted from drawn letter of credit amounts bear interest at a rate of Term SOFR plus 2.125%, plus an additional 0.10%. Fees paid on the drawn letters of credit may be reduced by up to 0.10% to the extent our Portfolio achieves certain targeted levels of carbon emissions avoidance as measured by our CarbonCount metric. As of December 31, 2023, we have no remaining unamortized financing costs associated with the commercial paper program and associated letter of credit. The associated letter of credit contains terms, conditions, covenants, and representations and warranties that are customary and typical for a transaction of this nature, including various affirmative and negative covenants, and limitations on the incurrence of liens and indebtedness, investments, fundamental organizational changes, dispositions, changes in the nature of business, transactions with affiliates, use of proceeds, stock repurchases and dividends we declare. The letter of credit also includes customary events of default and remedies.

8. **Long-term Debt**

Non-recourse debt

We have outstanding the following asset-backed non-recourse debt and bank loans:

	Outstanding Balance as of December 31, 2023	Outstanding Balance as of December 31, 2022	Interest Rate	Maturity Date	Anticipated Balance at Maturity	Carrying Value of Assets Pledged as of December 31, 2023	Carrying Value of Assets Pledged as of December 31, 2022	Description of Assets Pledged
					(dollars in millions)			
HASI Sustainable Yield Bond 2015-1A	$ 68	$ 73	4.28 %	October 2034	$ —	$ 136	$ 136	Receivables, real estate, real estate intangibles, and restricted cash
HASI SYB Trust 2016-2	51	56	4.35 %	April 2037	—	57	63	Receivables and restricted cash
HASI SYB Trust 2017-1	— (1)	141	3.86 %	March 2042	—	—	231	Receivables, real estate, real estate intangibles, and restricted cash
Lannie Mae Series 2019-1	— (1)	90	3.68 %	January 2047	—	—	120	Receivables, real estate, real estate intangibles, and restricted cash
Other non-recourse debt (2)	43	82	3.15% - 7.23%	2024 to 2032	17	46	82	Receivables
Unamortized financing costs	(2)	(9)						
Non-recourse debt (3)	$ 160	$ 433						

(1) In 2023, contractual terms of these non-recourse debt agreements were modified, which caused us to deconsolidate the entities holding such debt and its related pledged collateral.

(2) Other non-recourse debt consists of various debt agreements used to finance certain of our receivables. Scheduled debt service payment requirements are equal to or less than the cash flows received from the underlying receivables.

(3) The total collateral pledged against our non-recourse debt was $ 239 million and $ 632 million as of December 31, 2023 and December 31, 2022, respectively, which includes $ 11 million and $ 20 million of restricted cash that was pledged for debt service as of December 31, 2023 and December 31, 2022, respectively.

We have pledged the financed assets, and typically our interests in one or more parents or subsidiaries of the borrower that are legally separate bankruptcy remote special purpose entities as security for the non-recourse debt. There is no recourse for repayment of these obligations other than to the applicable borrower and any collateral pledged as security for the obligations. Generally, the assets and credit of these entities are not available to satisfy any of our other debts and obligations. The creditors can only look to the borrower, the cash flows of the pledged assets and any other collateral pledged, to satisfy the debt and we are not otherwise liable for nonpayment of such cash flows. The debt agreements contain terms, conditions, covenants, and representations and warranties that are customary and typical for transactions of this nature, including limitations on the incurrence of liens and indebtedness, investments, fundamental organizational changes, dispositions, changes in the nature of business, transactions with affiliates, use of proceeds and stock repurchases. The agreements also include customary events of default, the occurrence of which may result in termination of the agreements, acceleration of amounts due, and accrual of default interest. We typically act as servicer for the debt transactions. We were in compliance with all covenants as of December 31, 2023 and 2022.

We have guaranteed the accuracy of certain of the representations and warranties and other obligations of certain of our subsidiaries under certain of the debt agreements and provided an indemnity against certain losses from “bad acts” of such subsidiaries including fraud, failure to disclose a material fact, theft, misappropriation, voluntary bankruptcy or unauthorized transfers.

The stated minimum maturities of non-recourse debt as of December 31, 2023, were as follows:

Year Ending December 31,	Future minimum maturities	
	(in millions)	
2024	$	17
2025		19
2026		14
2027		21
2028		18
Thereafter		73
Total minimum maturities		162
Unamortized financing costs		(2)
Total non-recourse debt	$	160

The stated minimum maturities of non-recourse debt above include only the mandatory minimum principal payments. To the extent there are additional cash flows received from our investments serving as collateral for certain of our non-recourse debt facilities, these additional cash flows may be required to be used to make additional principal payments against the respective debt. Any additional principal payments made due to these provisions may impact the anticipated balance at maturity of these financings. To the extent there are not sufficient cash flows received from those investments pledged as collateral, the investor has no recourse against other corporate assets to recover any shortfalls.

Subsequent to December 31, 2023, we issued $94 million of non-recourse debt, secured by equity method investments with a carrying value of $247 million. This non-recourse debt has a tenor of approximately 20 years, and bears interest at a rate of 6.78%. The terms of this debt are consistent with those described above for our existing non-recourse debt agreements.

Senior Unsecured Notes

We have outstanding senior unsecured notes issued jointly by certain of our TRS and are guaranteed by the Company and certain other subsidiaries (the "Senior Unsecured Notes"). The Senior Unsecured Notes are subject to covenants that limit our ability to incur additional indebtedness and require us to maintain unencumbered assets of not less than 120% of our unsecured debt. These covenants will terminate on any date at which the Senior Unsecured Notes have been rated investment grade by two of the three major credit rating agencies and no event of default has occurred. We are in compliance with all of our covenants as of December 31, 2023 and 2022. The Senior Unsecured Notes impose certain requirements in the event that we merge with or sell substantially all of our assets to another entity. We allocate an amount equal to the net proceeds of our Senior Unsecured Notes to the acquisition or refinance of, in whole or in part, eligible green projects, including assets that are neutral to negative on incremental carbon emissions.

The following are summarized terms of the Senior Unsecured Notes:

	Outstanding Principal Amount		Maturity Date	Stated Interest Rate		Interest Payment Dates	Redemption Terms Modification Date
	(in millions)						
2025 Notes	400		April 15, 2025	6.000	%	April 15 and October 15	N/A
2026 Notes	1,000		June 15, 2026	3.375	%	June 15 and December 15	March 15, 2026 (1)
2027 Notes	550	(3)	June 15, 2027	8.000	%	June 15 and December 15	March 15, 2027 (2)
2030 Notes	375	(4)	September 15, 2030	3.750	%	February 15 and August 15	N/A

(1) Prior to this date, we may redeem, at our option, some or all of the 2026 Notes for the outstanding principal amount plus the applicable "make-whole" premium as defined in the indenture governing the 2026 Notes plus accrued and unpaid interest through the redemption date. In addition, prior to this date, we may redeem up to 40% of the Senior Unsecured Notes using the proceeds of certain equity offerings at a price equal to par plus the coupon percentage of the principal amount thereof, plus accrued but unpaid interest, if any, to, but excluding, the applicable redemption date. On, or subsequent to, this date we may redeem the 2026 Notes in whole or in part at redemption prices defined in the indenture governing the 2026 Notes, plus accrued and unpaid interest though the redemption date.

(2) Prior to this date, we may redeem, at our option, some or all of the 2027 Notes for the outstanding principal amount plus the applicable "make-whole" premium as defined in the indenture governing the 2027 Notes plus accrued and unpaid interest through the redemption date. In addition, prior to this date, we may redeem up to 40% of the Senior Unsecured Notes using the proceeds of certain equity offerings at a price equal to par plus the coupon percentage of the principal amount thereof, plus accrued but unpaid interest, if any, to, but excluding, the applicable redemption date. On, or subsequent to, this date we may redeem the 2027 Notes in whole or in part at a price equal to 100% of the principal amount, plus accrued and unpaid interest though the redemption date.

(3) In January 2024, we issued additional 2027 Notes with a principal amount of $ 200 million for net proceeds of $204 million, equivalent to a yield to maturity of 7.08%.

(4) We issued the $375 million aggregate principal amount of the 2030 Notes for total proceeds of $ 371 million ($367 million net of issuance costs) at an effective interest rate of 3.87%.

We may redeem the 2025 or 2030 Notes in whole or in part at redemption prices defined in the indenture governing the 2025 Notes or 2030 Notes, plus accrued and unpaid interest though the redemption date.

The following table presents a summary of the components of the Senior Unsecured Notes:

	As of and for the year ended December 31,	
	2023	2022
	(in millions)	
Principal	$ 2,325	$ 1,775
Accrued interest	15	12
Unamortized premium (discount)	(3)	(3)
Less: Unamortized financing costs	(18)	(16)
Carrying value of Senior Unsecured Notes	$ 2,319	$ 1,768
Interest expense	$ 80	$ 77

Convertible Notes

We have outstanding exchangeable senior notes, and have previously issued convertible senior notes together "Convertible Notes". Holders may convert or exchange any of their Convertible Notes into shares of our common stock at the applicable conversion or exchange ratio at any time prior to the close of business on the second scheduled trading day immediately preceding the maturity date, unless the Convertible Notes have been previously redeemed or repurchased by us.

The following are summarized terms of the Convertible Notes as of December 31, 2023:

	Outstanding Principal Amount	Maturity Date	Stated Interest Rate	Interest Payment Dates	Conversion/Exchange Ratio	Conversion/ Exchange Price	Issuable Shares	Dividend Threshold Amount (1)
	(in millions)						(in millions)	
2023 Convertible Senior Notes	— (2)	August 15, 2023	0.000 %	N/A	20.8643	$47.93	—	$0.340
2025 Exchangeable Senior Notes	200 (3)	May 1, 2025	0.000 %	N/A	17.7454	$56.35	3.5	$0.375
2028 Exchangeable Senior Notes	403	August 15, 2028	3.750 %	February 15 and August 15	36.8494	$27.14	14.8	$0.395

(1) The conversion ratio is subject to adjustment for dividends declared above these amounts per share per quarter and certain other events that may be dilutive to the holder.
(2) These Notes were settled in 2023 using proceeds of the 2028 Exchangeable Senior Notes.
(3) The 2025 Exchangeable Senior Notes accrete to a premium at maturity equal to 3.25% per annum. The current balance including accreted premium is $ 221 million.

For the 2025 Exchangeable Senior Notes and the 2028 Exchangeable Senior Notes, following the occurrence of a make-whole fundamental change, we will, in certain circumstances, increase the exchange rate for a holder that converts its exchangeable notes in connection with such make-whole fundamental change. There are no cash settlement provisions for the 2025 Exchangeable Senior Notes and the exchange option can only be settled through physical delivery of our common stock. Upon exchange of the 2028 Exchangeable Senior Notes, exchange may be settled through cash, shares of our common stock or a combination of cash and shares of our common stock, at our election (as described in the indenture related to the 2028 Exchangeable Senior Notes). Additionally, upon the occurrence of certain fundamental changes involving us, holders of the 2025 Exchangeable Senior Notes or the 2028 Exchangeable Senior Notes may require us to redeem all or a portion of their notes for cash at a price of 100% of the principal amount outstanding, plus accrued and unpaid interest. We may redeem the 2028 Exchangeable Senior Notes, in whole or in part, at our option, on or after August 20, 2026 and prior to the 62nd scheduled trading day immediately preceding the maturity date for such notes, if certain conditions are met including our common stock trading above 130% of the exchange price for at least 20 trading days, as set forth in the indenture relating to the 2028 Exchangeable Senior Notes. Any shares of our common stock issuable upon exchange of the 2025 Exchangeable Senior Notes and the 2028 Exchangeable Senior Notes will have certain registration rights.

The 2025 Exchangeable Senior Notes are guaranteed by us and certain other subsidiaries and may, under certain conditions, be exchangeable for our common stock. The notes accrete to a premium at maturity at an effective rate of 3.25% annually. Upon any exchange, holders will receive a number of shares of our common stock equal to the product of (i) the aggregate initial principal amount of the notes to be exchanged, divided by $1,000 and (ii) the applicable exchange rate, which will initially be 17.6873, equivalent to an initial exchange price of approximately $56.54 per share, plus cash in lieu of fractional shares. We allocated an amount equal to the net proceeds of this offering to the acquisition or refinancing of, in whole or in part, new and/or existing eligible green projects, which include assets that are neutral to negative on incremental carbon emissions.

The 2028 Exchangeable Senior Notes are guaranteed by us and certain other subsidiaries and may, under certain conditions, be exchangeable for our common stock. Upon such exchange, holders will receive a number of shares of our common stock equal to the product of (i) the aggregate initial principal amount of the notes to be exchanged, divided by $1,000 and (ii) the applicable exchange rate, which initially was 36.8494, equivalent to an initial exchange price of approximately $27.14 per share, plus cash in lieu of fractional shares.

The following table presents a summary of the components of our Convertible Notes:

	As of and for the year ended December 31,	
	2023	**2022**
	(in millions)	
Principal	$ 603	$ 344
Accrued interest	6	—
Premium	11	5
Less: Unamortized financing costs	(10)	(5)
Carrying value of Convertible Senior Notes	$ 610	$ 344
Interest expense	$ 9	$ 7

In order to mitigate the potential dilution to our common stock upon exchange of the 2028 Exchangeable Senior Notes, we entered into privately-negotiated capped call transactions (“Capped Calls”) with certain counterparties. The Capped Calls are separate transactions and are not part of the terms of the 2028 Exchangeable Senior Notes. The total premium for the Capped Calls was recorded as a reduction of additional paid-in capital. The Company used a portion of the proceeds from the 2028 Exchangeable Senior Notes to pay for the cost of the Capped Call premium. The material terms of the Capped Calls are as follows:

	(in millions except per share data)
Aggregate cost of capped calls	$ 38
Initial strike price per share	$ 27.14
Initial cap price per share	$ 43.42
Shares of our common stock covered by the capped calls	14.8
Expiration date	August 15, 2028

CarbonCount Term Loan Facility

We have entered into a CarbonCount Term Loan Facility (“the unsecured term loan facility”) with a syndicate of banks. In 2023, we increased the outstanding principal amount from $383 million, to $535 million. Principal amounts under the term loan facility bear interest at a rate of Term SOFR plus applicable margins based on our current credit rating plus 0.10%, which may be adjusted downward up to0.10% to the extent our Portfolio achieves certain targeted levels of carbon emissions avoidance, as measured by our CarbonCount metric. As of December 31, 2023, the applicable margin is 2.125% and the current interest rate is 7.52%. The coupon on any drawn amounts will be reset at monthly, quarterly, or semi-annual intervals at our election. Interest is due and payable quarterly. Payments of 1.25% of the outstanding principal balance are due quarterly. The unsecured term loan facility has a maturity date of October 31, 2025, and loans under the unsecured term loan facility can be prepaid without penalty. We intend to allocate an amount equal to the net proceeds of this offering to the acquisition or refinancing of, in whole or in part, new and/or existing eligible green projects, which include assets that are neutral to negative on incremental carbon emissions.

Principal and interest payments which were due under the term loan facility as of December 31, 2023 are as follows:

Year Ending December 31,		**Future maturities**
		(in millions)
2024	$	30
2025		505
2026		—
Total	$	535
Less: Unamortized financing costs		(5)
Carrying Value	$	530

The unsecured term loan facility contains terms, conditions, covenants, and representations and warranties that are customary and typical for a transaction of this nature, including various affirmative and negative covenants, and limitations on the incurrence of liens and indebtedness, investments, fundamental organizational changes, dispositions, changes in the nature of business, transactions with affiliates, use of proceeds, stock repurchases and dividends we declare. The unsecured term loan facility also includes customary events of default and remedies.

Secured Term Loan

In 2023, we amended our approval-based credit facility to become a secured term loan ("secured term loan") with a maturity date of January 2028. Principal amounts under the secured term loan will bear interest at a rate of Daily Term SOFR plus a credit spread of 2.25%, plus 0.10%. We are required to hold interest rate swaps with notional values equal to 85% of the outstanding principal amount of the loan. The secured term loan is subject to mandatory principal amortization of5% per annum, with principal and interest payments due quarterly. The secured term loan contains terms, conditions, covenants, and representations and warranties that are customary and typical for a transaction of this nature, including various affirmative and negative covenants, and limitations on the incurrence of liens and indebtedness, investments, fundamental organizational changes, dispositions, changes in the nature of business, transactions with affiliates, use of proceeds, stock repurchases and dividends we declare. The secured term loan also includes customary events of default and remedies.

As of December 31, 2023, with respect to the secured term loan, the outstanding principal balance is $200 million, the interest rate as of the last rate reset is7.68%, and we have financing receivables pledged with a carrying value of $454 million. Unamortized financing costs associated with the secured term loan have been netted against the loan on our balance sheet and are being amortized on a straight-line basis over the term of the secured term loan Facility. Principal payments which were due under the secured term loan as of December 31, 2023 are as follows:

Year Ending December 31,	Future maturities
	(in millions)
2024	$ 3
2025	11
2026	13
2027	12
2028	162
Total	201
Less: Unamortized Financing Costs	(4)
Carrying Value	$ 197

Interest rate swaps

In connection with several of our long-term borrowings, including floating-rate loans from our unsecured term loan facility, our secured term loan, unsecured revolving credit facility, and the anticipated refinancings of certain of our Senior Unsecured Notes we have entered into the following interest rate swaps derivative transactions in 2023 that are designated as cash flow hedges as of December 31, 2023:

Instrument Type	Index	Hedged Rate	Fair Value as of December 31, 2023	Notional Value as of December 31, 2023	Term
Interest Rate Swap	1 month SOFR	3.79 %	$ (12)	$ 400	March 2023 to March 2033
Interest Rate Swap	Overnight SOFR	2.98 %	7	400	June 2026 to June 2033
Interest Rate Swap	Overnight SOFR	3.09 %	7	600	June 2026 to June 2033
Interest Rate Swap	Overnight SOFR	3.08 %	8	400	April 2025 to April 2035
Interest Rate Collar	1 month SOFR	3.70% - 4.00% (1)	—	250	May 2023 to May 2026
Interest Rate Swap	Overnight SOFR	4.41 %	(4)	85	September 2023 to June 2033
Interest Rate Swap	Overnight SOFR	4.39 %	(2)	43	September 2023 to June 2033
Interest Rate Swap	Overnight SOFR	4.42 %	(2)	43	September 2023 to June 2033

(1) Interest rate collar consists of a purchased interest rate cap of 4.00% and a written interest rate floor of 3.70%.

The fair values of our interest rate derivatives designated and qualifying as effective cash flow hedges are reflected in our consolidated balance sheets as a component of other assets (if in an unrealized gain position) or accounts payable, accrued expenses and other (if in an unrealized loss position) and in net unrealized gains and losses in AOCI. As of December 31, 2023, all of our derivatives were designated as hedging instruments which were deemed to be effective. As of December 31, 2023, we hold $9 million of collateral related to our interest rate derivatives that are assets, and we have netted the liability associated with that collateral against our derivative assets in other assets on our balance sheet. As of December 31, 2023, we have posted $9 million worth of collateral related to our interest rate derivatives that are liabilities, and we have netted the asset associated with that collateral against our derivative liabilities in accounts payable, accrued assets, and other liabilities on our balance sheet. A benefit of $6 million was included in interest expense as a result of our hedging activities for the year ended December 31, 2023.

9. **Commitments and Contingencies**

Leases

We lease office space at our headquarters in Annapolis, Maryland under an operating lease entered into in 2021 which expires in 2033. In 2023, we entered into a lease for additional office space in New York, New York.

We have a lease related to our previous office space entered into in 2011 and amended in 2013 and 2017. Lease payments under this prior lease commenced in 2012 and incremental payments related to the amendments commenced in 2014 and 2017. The lease expires in 2027, and we began subleasing this space in 2023.

The leases provide for operating expense reimbursements and annual escalations that are amortized over the respective lease terms on a straight-line basis. Rent expense related to these three leases was less than $1 million for each of the years ended December 31, 2023, 2022, and 2021, respectively. Future gross minimum lease payments are approximately $2 million for years 2024 through 2026, and $1 million per year during the remaining term of the leases.

Litigation

The nature of our operations exposes us to the risk of claims and litigation in the normal course of our business. We are not currently subject to any legal proceedings that are probable of having a material adverse effect on our financial position, results of operations or cash flows.

Guarantees and other commitments

We have made guarantees related to the financing of four of our joint venture entities that own debt securities of energy efficiency projects. We received $4 million of the proceeds of this financing arrangement, and in turn have guaranteed the obligations of the entity related to this financing, which includes collateral posting requirements as well as repayment of the financing at maturity in May 2024. As of December 31, 2023, our maximum obligation under this guarantee is approximately $87 million. We believe the likelihood of having to perform under the guarantee is remote, have recorded no liability associated with this guarantee, and presently have not been required to post collateral for this guarantee as the assets of the joint venture entities are enough to support the financing obligation. We have executed a separate agreement with our joint venture partner pursuant to which it is liable for repayment to us of 15% of this guarantee obligation.

As a part of broader project restructuring in order to increase our expected cash flows from the investment, we alongside the project sponsor, made guarantees to support the working capital needs of two of the project companies owned by Jupiter Equity Holdings LLC, an equity method investee. The guarantees are in effect until the tax equity investors in those project companies achieve their target preferred returns, and our contractual maximum under these guarantees is $53 million, and is limited to $20 million in any particular calendar year. As of December 31, 2023, we have no liability recorded as a result of these guarantees as we believe it is not probable we will be required to perform under them. As of December 31, 2023 we have not been asked to perform under them.

In connection with some of our transactions, we have provided certain limited representations, warranties, covenants and/or provided an indemnity against certain losses resulting from our own actions, including related to certain investment tax credits. As of December 31, 2023, there have been no such actions resulting in claims against the Company.

10. **Income Tax**

As discussed in Note 1, as a result of expanding opportunities in non-qualifying REIT assets, effective January 1, 2024, we have elected to revoke our REIT election, and will be taxed as a C Corporation beginning in tax year 2024. Commencing with the taxable year ended December 31, 2024, all of the Company's taxable income will be subject to U.S. federal and state income tax at the applicable corporate tax rate. Dividends paid to stockholders will no longer be tax deductible. The Company will also no longer be subject to the REIT compliance requirements for assets, income, or distributions to stockholders among other REIT compliance requirements.

The Company anticipates that operating as a taxable C Corporation will provide the Company with flexibility to execute various strategic initiatives without the constraints of complying with REIT requirements, including increased investing in power generating, transportation, and alternative fuel assets that are not REIT qualifying. The Company's transition to a taxable C Corporation is not expected to result in significant incremental current income tax expense in the near term due to the availability of net operating loss ("NOL") carryforwards and tax credits typically offered by the assets in which we often invest.

We recorded an income tax benefit (expense) of approximately $(32) million for the year ended December 31, 2023, a $(7) million tax benefit (expense) for the year ended December 31, 2022, and an $(17) million tax benefit (expense) for the year for the year ended 2021. The federal income tax expense and benefits recorded were determined using a rate of 21%. Our deferred tax assets and liabilities were measured using a federal rate of 21%. As discussed in Note 1, commencing on January 1, 2024, the Company will be taxed as a C Corporation, and $33 million of our income tax expense for the year ended December 31, 2023 is the result of revaluing the Company's REIT business related deferred tax assets and liabilities using a statutory rate of 21% due to the REIT election revocation. As a result of the revocation of our REIT election effective January 1, 2024, we have changed the presentation of our rate reconciliation to include both REIT and TRS activities in the current year. Prior year presentation has been updated to conform to our current year presentation.Below is a reconciliation between the federal statutory rates and our effective tax rates for the years ended December 31:

	2023	2022	2021
Federal statutory income tax rate	21 %	21 %	21 %
Changes in rate resulting from:			
Share-based compensation	2 %	11 %	(4)%
Equity method investments	(6)%	(9)%	(1)%
Recognition of deferred tax liability from REIT revocation	18 %	— %	— %
REIT benefit / dividends paid deduction	(14)%	(32)%	(8)%
Other	2 %	5 %	4 %
Valuation allowance	(6)%	19 %	— %
Effective tax rate	17 %	15 %	12 %

Our deferred tax liability was $77 million and $44 million as of December 31, 2023 and 2022. Our deferred tax liability is included in accounts payable, accrued expenses and other on our consolidated balance sheet. Deferred income taxes represent the tax effect from continuing operations of the differences between the book and tax basis of assets and liabilities. Deferred tax assets (liabilities) include the following as of December 31:

	2023	2022
	(in millions)	
Net operating loss (NOL) carryforwards	$ 163	$ 114
Tax credit carryforwards	31	21
Share-based compensation	6	3
Other	4	1
Valuation allowance	—	(10)
Gross deferred tax assets	**204**	**129**
Receivables basis difference	$ (57)	$ (20)
Equity method investments	(224)	(153)
Gross deferred tax liabilities	**(281)**	**(173)**
Net deferred tax liabilities	**$ (77)**	**$ (44)**

We have unused NOLs of $666 million and tax credits of approximately $31 million. Approximately $87 million of our NOLs will begin to expire in 2034. If we were to experience a change in control as defined in Section 382 of the Internal Revenue Code, our ability to utilize NOLs in the years after the change in control would be limited. Similar rules and limitation may apply for state tax purposes as well. Of our NOLs, $579 million were added in taxable years after 2017 which are not subject to expiration but are limited to 80% of taxable income. Our tax credits begin to expire in 2034.

We have no examinations in progress, none are expected at this time, and years 2020 through 2023 are open. As of December 2023 and 2022, we had no uncertain tax positions. Our policy is to recognize interest expense and penalties related to income tax matters as a component of general and administrative expense. There were no accrued interest and penalties as of December 31, 2023 and 2022, and no interest and penalties were recognized during the years ended December 31, 2023, 2022, or 2021.

For federal income tax purposes, the cash dividends paid for the years ended December 31, 2023 and 2022 are characterized as follows:

	2023	2022
Common distributions		
Ordinary income	52 %	31 %
Return of capital	6 %	69 %
Capital gain dividend	42 %	— %
	100 %	**100 %**

11. **Equity**

Dividends and Distributions

Our Board declared the following dividends in 2022, 2023, and 2023:

Announced Date	Record Date	Pay Date	Amount per share
2/17/2022	04/4/2022	04/11/2022	$ 0.375
5/3/2022	07/5/2022	07/12/2022	0.375
8/4/2022	10/4/2022	10/11/2022	0.375
11/3/2022	12/28/2022 (1)	01/6/2023	0.375
02/16/2023	04/3/2023	04/10/2023	0.395
05/4/2023	07/5/2023	07/12/2023	0.395
08/3/2023	10/4/2023	10/11/2023	0.395
11/2/2023	12/29/2023 (1)	01/12/2024	0.395
02/15/2024	04/5/2024	04/19/2024	0.415

(1) These dividends are treated as distributions in the following year for tax purposes.

Equity Offerings

We have an effective universal shelf registration statement registering the potential offer and sale, from time to time and in one or more offerings, of any combination of our common stock, preferred stock, depositary shares, debt securities, warrants and rights (collectively referred to as the “securities”). We may offer the securities directly, through agents, or to or through underwriters by means of ordinary brokers’ transactions on the NYSE or otherwise at market prices prevailing at the time of sale or at negotiated prices and may include “at the market” (“ATM”) offerings, to or through a market maker or into an existing trading market on an exchange or otherwise. In January 2023, we established a dividend reinvestment and stock purchase plan, allowing stockholders and holders of OP Units (including LTIP Units) to purchase shares of our common stock by reinvesting cash dividends or distributions received. We completed the following public offerings (including ATM issuances) of our common stock in 2022 and 2023:

Date/Period	Common Stock Offerings	Shares Issued	Price Per Share (1)	Net Proceeds (2)
		(amounts in millions, except per share amounts)		
Q1 2022	ATM	1.050	$ 48.14	$ 50
Q2 2022	ATM	0.731	38.91	28
Q3 2022	ATM	1.346	36.85	49
Q4 2022	ATM	1.996	31.41	62
Q1 2023	ATM	0.763	31.31	24
5/30/2023	Public Offering	15.000	22.23	333
Q2 2023	ATM	0.053	26.07	1
Q3 2023	ATM	4.394	24.71	107
Q4 2023	ATM	1.006	28.81	29

(1) Represents the average price per share at which investors in our ATM offerings purchased our shares.

(2) Net proceeds from the offerings are shown after deducting underwriting discounts, commissions and other offering costs.

Equity-based Compensation Awards

We have 7,500,000 awards authorized for issuance under our current equity-based compensation plan. As of December 31, 2023, we have issued awards with service, performance and market conditions and have 6,340,415 awards remaining available for issuance. During the year ended December 31, 2023, our Board awarded employees and directors 765,767 shares of restricted stock, restricted stock units, and LTIP Units that vest from 2024 to 2027. Refer to Note 4 for background on the LTIP Units.

A summary of equity-based compensation expense and the fair value of shares and LTIP Units vested on the vesting date for the years ended December 31, 2023, 2022, and 2021 is shown below.

	2023	2022	2021
		(in millions)	
Equity-based compensation expense	$ 18	$ 20	$ 17
Fair value of awards vested on vesting date	11	34	44

The total unrecognized compensation expense related to awards of shares of restricted stock, restricted stock units, and LTIP Units was approximately $20 million as of December 31, 2023. We expect to recognize compensation expense related to these awards over a weighted-average term of approximately 2 years. A summary of the unvested shares of restricted common stock that have been issued is as follows:

	Restricted Shares of Common Stock	Weighted Average Grant Date Fair Value	Value
		(per share)	*(in millions)*
Ending Balance—December 31, 2021	193,548	$ 38.66	$ 7.5
Granted	71,911	37.32	2.7
Vested	(93,646)	46.46	(4.3)
Forfeited	(3,361)	46.83	(0.2)
Ending Balance—December 31, 2022	168,452	$ 33.59	$ 5.7
Granted	77,938	30.03	2.3
Vested	(98,367)	29.18	(2.9)
Forfeited	(12,356)	42.74	(0.5)
Ending Balance—December 31, 2023	135,667	$ 33.90	$ 4.6

A summary of the unvested shares of restricted stock units that have market-based vesting conditions that have been issued is as follows:

	Restricted Stock Units [(1)]	Weighted Average Grant Date Fair Value	Value
		(per share)	*(in millions)*
Ending Balance—December 31, 2021	78,366	$ 35.32	$ 2.8
Granted	24,790	58.77	1.5
Incremental performance shares granted	39,730	25.12	1.0
Vested	(79,460)	25.12	(2.1)
Forfeited	(5,022)	49.00	(0.2)
Ending Balance—December 31, 2022	58,404	$ 51.03	$ 3.0
Granted	63,446	39.29	2.4
Incremental performance shares granted	7,305	34.63	0.3
Vested	(18,041)	35.17	(0.6)
Forfeited	(16,460)	30.90	(0.5)
Ending Balance—December 31, 2023	94,654	$ 48.42	$ 4.6

(1) As discussed in Note 2, restricted stock units with market-based vesting conditions can vest between 0% and 200% subject to both the absolute performance of our common stock as well as relative performance compared to a group of peers. The incremental performance shares granted relate to the vesting of an award at the 200% level.

A summary of the unvested LTIP Units that have time-based vesting conditions that have been issued is as follows:

	LTIP Units (1)	Weighted Average Grant Date Fair Value	Value
		(per share)	(in millions)
Ending Balance—December 31, 2021	384,046	$ 43.15	$ 16.6
Granted	174,340	44.08	7.7
Vested	(279,123)	44.64	(12.5)
Forfeited	(2,497)	46.08	(0.1)
Ending Balance—December 31, 2022	276,766	$ 42.21	$ 11.7
Granted	342,349	30.08	10.3
Vested	(142,041)	39.21	(5.5)
Forfeited	—	—	—
Ending Balance—December 31, 2023	477,074	$ 34.40	$ 16.5

(1) See Note 4 for information on the vesting of LTIP Units.

A summary of the unvested LTIP Units that have market-based vesting conditions that have been issued is as follows:

	LTIP Units (1)	Weighted Average Grant Date Fair Value	Value
		(per share)	(in millions)
Ending Balance—December 31, 2021	347,478	$ 31.61	$ 11.0
Granted	125,550	54.77	6.9
Incremental performance shares granted	149,000	26.70	4.0
Vested	(298,000)	26.70	(8.0)
Forfeited	—	—	—
Ending Balance—December 31, 2022	324,028	$ 42.84	$ 13.9
Granted	282,034	39.29	11.1
Incremental performance shares granted	40,394	19.94	0.8
Vested	(96,496)	19.94	(1.9)
Forfeited	(56,102)	4.56	(0.3)
Ending Balance—December 31, 2023	493,858	$ 47.76	$ 23.6

(1) See Note 4 for information on the vesting of LTIP Units. LTIP Units with market-based vesting conditions can vest between 0% and 200% subject to both the absolute performance of our common stock as well as relative performance compared to a group of peers. The incremental performance shares granted relate to the vesting of awards at the actual performance level.

NOL Stockholder Rights Plan

In 2023, we entered into a Tax Benefits Preservation Plan (“The Plan”), which is designed to protect our tax benefits in connection with any "ownership change" within the meaning of Section 382 of the Internal Revenue Code of 1986. Under the Plan, we declared a dividend distribution of one right (a “Right”) for each outstanding share of our common stock to be paid to all record holders of our common stock at the close of business on November 21, 2023. The Plan is intended to reduce the risk that our ability to use net operating losses ("NOLs") and certain other Tax Benefits will become substantially limited as the result of an “ownership change”.

Pursuant to the Plan, if a stockholder (or group) becomes a5% stockholder without meeting certain exceptions, the Rights become exercisable upon board approval and entitle stockholders (other than the 5% stockholder or group causing the rights to become exercisable) to purchase additional of our common shares at a significant discount, resulting in significant dilution in the economic interest and voting power of the 5% stockholder or group causing the Rights to become exercisable. Stockholders owning 5% or more of our outstanding shares at the time the Plan was adopted were grandfathered and will only cause the Rights to distribute and become exercisable if they acquire any additional HASI shares. Under the Plan, the Board has the ability to determine in its sole discretion that any person shall not be deemed an acquiring person and therefore that the Rights shall not become exercisable if such person becomes a 5% stockholder. The adoption of the Plan and the dividend distribution will not have an impact on our consolidated financial statements.

12. **Earnings per Share of Common Stock**

The net income or loss attributable to the non-controlling OP units have been excluded from the basic earnings per share and the diluted earnings per share calculations attributable to common stockholders. Unvested share-based payment awards that contain non-forfeitable rights to dividends or dividend equivalents (whether paid or unpaid) are participating securities and are excluded from net income available to common stockholders in the computation of earnings per share pursuant to the two-class method. Certain share-based awards are included in the diluted share count to the extent they are dilutive as discussed in Note 2. To the extent our Convertible Notes are dilutive under the if-converted method, we add back the interest expense to the numerator and include the weighted average shares of potential common stock over the period issuable upon conversion of the note in the denominator in calculating dilutive EPS as described in Note 2.

The computation of basic and diluted earnings per common share of our common stock is as follows:

	Year ended December 31,		
Numerator:	**2023**	**2022**	**2021**
	(dollars in millions, except share and per share data)		
Net income (loss) attributable to controlling stockholders and participating securities	$ 148.8	$ 41.5	$ 126.6
Less: Dividends and distributions to participating securities	(1.0)	(0.7)	(0.9)
Undistributed earnings attributable to participating securities	—	—	—
Net income (loss) attributable to controlling stockholders	$ 147.8	$ 40.8	$ 125.7
Add: Interest expense related to convertible notes under the if-converted method	7.5	1.4	6.3
Net income (loss) attributable to controlling stockholders—diluted	$ 155.3	$ 42.2	$ 132.0
Denominator:			
Weighted-average number of common shares—basic	101,844,551	87,500,799	79,992,922
Weighted-average number of common shares—diluted	109,467,554	90,609,329	87,671,641
Basic earnings per common share	$ 1.45	$ 0.47	$ 1.57
Diluted earnings per common share	$ 1.42	$ 0.47	$ 1.51
Securities being allocated a portion of earnings:			
Weighted-average number of OP units	1,314,182	1,002,002	485,013
Participating securities:			
Unvested restricted common stock and unvested LTIP Units with time-based vesting conditions outstanding at period end	612,742	445,218	577,594
Potentially dilutive securities as of period end that were not dilutive for the presented periods:			
Unvested restricted common stock and unvested LTIP Units with time-based vesting conditions	612,742	445,218	577,594
Restricted stock units	94,654	38,222	16,348
LTIP Units with market-based vesting conditions	493,858	211,824	86,274
Potential shares of common stock related to convertible notes	3,549,083	3,537,460	—

13. **Equity Method Investments**

During the years ended December 31, 2023, 2022, and 2021 we recognized income of $141 million, $31 million, and $126 million respectively, from our equity method investments. We describe our accounting for the non-controlling equity investments in Note 2.

The following is a summary of the consolidated balance sheets and income statements of the entities in which we have a significant equity method investment. These amounts are presented on the underlying investees' accounting basis. In certain instances, adjustment to these equity values may be necessary in order to reflect our basis in these investments, for reasons including but not limited to the investees reporting to us being on a cost basis rather than a fair value basis or due to our allocations under HLBV differing from our purchase price of the investment. As described in Note 2, any difference between the amount of our investment and the amount of our share of underlying equity is generally amortized over the life of the assets and liabilities to which the differences relate. Our basis in equity method investments exceeds the basis reported to us by our investees by an aggregate amount of $284 million, and $531 million, as of December 31, 2023 and 2022, respectively.

Balance Sheet	Daggett Renewable HoldCo LLC	Other Investments [1]	Total
	in millions		
As of September 30, 2023			
Current assets	$ 142	$ 1,114	$ 1,256
Total assets	782	16,420	17,202
Current liabilities	131	875	1,006
Total liabilities	548	7,799	8,347
Members' equity	234	8,621	8,855
As of December 31, 2022			
Current assets	—	692	692
Total assets	—	14,702	14,702
Current liabilities	—	822	822
Total liabilities	—	6,836	6,836
Members' equity	—	7,866	7,866
Income Statement			
For the nine months ended September 30, 2023			
Revenue	7	737	744
Income (loss) from continuing operations	16	(110)	(94)
Net income (loss)	16	(110)	(94)
For the year ended December 31, 2022			
Revenue	—	528	528
Income (loss) from continuing operations	—	(406)	(406)
Net income (loss)	—	(406)	(406)
For the year ended December 31, 2021			
Revenue	—	183	183
Income (loss) from continuing operations	—	(589)	(589)
Net income (loss)	—	(589)	(589)

(1) Represents aggregated financial statement information for investments not separately presented.

14. **Defined Contribution Plan**

We administer a 401(k) savings plan, a defined contribution plan covering substantially all of our employees. Employees in the plan may contribute up to the maximum annual IRS limit before taxes via payroll deduction. Under the plan, we provide a dollar for dollar match for the first 4% of the employee's contributions and a $0.50 per dollar match for the next 2% of employee contributions. We contributed approximately $1 million under the plan for the years ended December 31, 2023 and 2022, and less than $1 million during the year ended December 31 2021.

SCHEDULE II - VALUATION AND QUALIFYING ACCOUNTS

ALLOWANCE FOR CREDIT LOSSES

	For the year ended December 31,		
	2023	**2022**	**2021**
	(in thousands)		
Balance at beginning of period	**$ 41,024**	**$ 36,253**	**$ 35,757**
Charged to provision	11,832	12,798	496
Loan charge-offs	—	(8,027)	—
Balance at end of period	**$ 52,856**	**$ 41,024**	**$ 36,253**

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

None.

Item 9A. Controls and Procedures

A review and evaluation was performed by our management, including our chief executive officer and chief financial officer, of the effectiveness of the design and operation of our disclosure controls and procedures (as such term is defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act), as of the end of the period covered by this Form 10-K. Based on that review and evaluation, the chief executive officer and chief financial officer have concluded that our current disclosure controls and procedures, as designed and implemented, were effective. Notwithstanding the foregoing, a control system, no matter how well designed and operated, can provide only reasonable, not absolute, assurance that it will detect or uncover failures within our company to disclose material information otherwise required to be set forth in our periodic reports.

Management's Report on Internal Control Over Financial Reporting

Our management is responsible for establishing and maintaining adequate internal control over financial reporting. Internal control over financial reporting is defined in Rules 13a-15(f) and 15d-15(f) promulgated under the Exchange Act as a process designed by, or under the supervision of, our principal executive and principal financial officers and effected by our Board, management and other personnel to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with U.S. GAAP and includes those policies and procedures that:

- pertain to the maintenance of records that in reasonable detail accurately and fairly reflect the transactions and dispositions of the assets of our company;
- provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with U.S. GAAP, and that our receipts and expenditures are being made only in accordance with authorizations of our management and directors; and
- provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of our 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. Projections of any evaluation of effectiveness to future periods are subject to the risks that controls may become inadequate because of changes in conditions or that the degree of compliance with the policies or procedures may deteriorate.

Our management assessed the effectiveness of our internal control over financial reporting as of December 31, 2023. In making this assessment, our management used criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission in Internal Control-Integrated Framework (2013 Framework).

Based on this assessment, our management believes that, as of December 31, 2023, our internal control over financial reporting was effective based on those criteria.

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, 2023 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Our company's independent registered public accounting firm, Ernst & Young LLP, has issued an attestation report on the effectiveness of our company's internal control over financial reporting. This report appears on page 78 of this annual report on Form 10-K.

Item 9B. Other Information

On February 15, 2023, we entered into an amendment and waiver (the "Amendment and Waiver") to the Amended and Restated Employment Agreement of Jeffrey W. Eckel, our executive chairman.

Pursuant to the Amendment and Waiver any annual bonus received by Mr. Eckel for performance during the year ending December 31, 2024 and future periods will be paid in equity, subject to vesting requirements, instead of cash.

In addition, under the Amendment and Waiver, the target value of the equity compensation award to be granted to Mr. Eckel on March 1, 2024 was reduced from $3,285,750 to $1,647,000, subject to vesting and performance requirements.

The foregoing summary of the Amendment and Waiver does not purport to be complete and is qualified in its entirety by the terms of the Amendment and Waiver attached as an exhibit to this Annual Report on Form 10-K and incorporated by reference herein.

Item 9C. Disclosure Regarding Foreign Jurisdictions that Prevent Inspections

None.

PART III

Item 10. Directors, Executive Officers and Corporate Governance

The information regarding our directors, executive officers and certain other matters required by Item 401 of Regulation S-K is incorporated herein by reference to our definitive proxy statement relating to our annual meeting of stockholders (the "Proxy Statement"), to be filed with the SEC within 120 days after December 31, 2023.

The information regarding compliance with Section 16(a) of the Exchange Act required by Item 405 of Regulation S-K is incorporated herein by reference to the Proxy Statement to be filed with the SEC within 120 days after December 31, 2023.

The information regarding our Code of Business Conduct and Ethics required by Item 406 of Regulation S-K is incorporated herein by reference to the Proxy Statement to be filed with the SEC within 120 days after December 31, 2023.

The information regarding certain matters pertaining to our corporate governance required by Item 407(c)(3), (d)(4) and (d)(5) of Regulation S-K is incorporated by reference to the Proxy Statement to be filed with the SEC within 120 days after December 31, 2023.

Item 11. Executive Compensation

The information regarding executive compensation and other compensation related matters required by Items 402 and 407(e)(4) and (e)(5) of Regulation S-K is incorporated herein by reference to the Proxy Statement to be filed with the SEC within 120 days after December 31, 2023.

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

The tables on beneficial ownership of our Company required by Item 403 of Regulation S-K are incorporated herein by reference to the Proxy Statement to be filed with the SEC within 120 days after December 31, 2023.

Securities Authorized For Issuance Under Equity Compensation Plans

In 2013, we adopted our 2013 Equity Incentive Plan (the "2013 Plan") and in 2022, we adopted our 2022 Equity Incentive Plan (the "2022 Plan"), to provide equity-based incentive compensation to members of our senior management team, our independent directors, advisers, consultants and other personnel. The 2022 Plan authorizes our compensation committee to grant stock options, shares of restricted common stock, restricted stock units, phantom shares, dividend equivalent rights, LTIP Units and other restricted limited partnership units issued by our Operating Partnership and other equity-based awards. Up to 7,500,000 equity awards may be issued under the 2022 Plan. Upon the adoption of the 2022 Plan, no further awards were permitted to be granted under the 2013 Plan.

As of December 31, 2023, in the aggregate under the 2013 Plan and 2022 Plan, we have approximately 1.8 million shares of our restricted common stock, LTIP Units, and restricted common stock units outstanding (assuming that the restricted stock units vest at 200%), which are subject to vesting and, in some cases, performance requirements, to our directors, officers and other employees.

The following table presents certain information about our equity compensation plan as of December 31, 2023:

Award	Number of securities remaining available for future issuance under equity compensation plans [(1)]
Equity compensation plans approved by stockholders	6,340,415
Equity compensation plans not approved by stockholders	—
Total	**6,340,415**

(1) The 2022 Plan provides for grants of up to 7,500,000 equity awards. As of December 31, 2023, we did not have outstanding under our equity compensation plan, any options, warrants or rights to purchase shares of our common stock.

Item 13. Certain Relationships and Related Transactions and Director Independence

The information regarding transactions with related persons, promoters and certain control persons and director independence required by Items 404 and 407(a) of Regulation S-K is incorporated herein by reference to the Proxy Statement to be filed with the SEC within 120 days after December 31, 2023.

Item 14. Principal Accountant Fees and Services

The information concerning principal accounting fees and services and the Audit Committee’s pre-approval policies and procedures required by Item 14 is incorporated herein by reference to the Proxy Statement to be filed with the SEC within 120 days after December 31, 2023.

PART IV

Item 15. Exhibits and Financial Statement Schedules

Documents filed as part of the report

The following documents are filed as part of this Form 10-K in Part II, Item 8 and are incorporated by reference:

(a)(1) Financial Statements:

See index in Item 8—"Financial Statements and Supplementary Data," filed herewith for a list of financial statements.

(a)(2) 2. Financial Statement Schedules:

See index in Item 8—"Financial Statements and Supplementary Data," filed herewith for Schedule II – Valuation and Qualifying Accounts filed in response to this Item.

(3) Exhibits Files:

Exhibit number	Exhibit description
3.1	Articles of Amendment and Restatement of Hannon Armstrong Sustainable Infrastructure Capital, Inc. (incorporated by reference to Exhibit 3.1 to the Registrant's Form 10-Q for the quarter ended June 30, 2013 (No. 001-35877), filed on August 9, 2013)
3.2	Amended and restated bylaws of Hannon Armstrong Sustainable Infrastructure Capital, Inc. (incorporated by reference to Exhibit 3.1 to the Registrant's Form 8-K (No. 001-35877), filed on August 1, 2023)
3.3	Articles Supplementary of Series A Junior Participating Preferred Stock of Hannon Armstrong Sustainable Infrastructure Capital, Inc. (incorporated by reference to Exhibit 3.1 to the Registrant's Form 8-K (No. 001-35877), filed on November 3, 2023)
4.1	Specimen Common Stock Certificate of Hannon Armstrong Sustainable Infrastructure Capital, Inc. (incorporated by reference to Exhibit 4.1 to Amendment No. 3 to the Registrant's Form S-11 (No. 333-186711), filed on April 12, 2013)
4.2*	Description of Hannon Armstrong Sustainable Infrastructure Capital, Inc.'s Securities Registered Pursuant to Section 12 of the Securities Exchange Act of 1934
4.3	Indenture, dated as of August 22, 2017, between Hannon Armstrong Sustainable Infrastructure Capital, Inc. and U.S. Bank National Association, as Trustee (incorporated by reference to Exhibit 4.1 to the Registrant's Form 8-K (No. 001-35877), filed on August 22, 2017)
4.4	Indenture, dated as of April 21, 2020, between HAT Holdings I LLC and HAT Holdings II LLC, as issuers, and Hannon Armstrong Sustainable Infrastructure Capital, Inc., Hannon Armstrong Sustainable Infrastructure, L.P., and Hannon Armstrong Capital, LLC, as guarantors, and U.S. Bank National Association, as trustee (including the form of HAT Holdings I LLC and HAT Holdings II LLC's 6.00% Senior Notes due 2025) (incorporated by reference to Exhibit 4.1 on the Registrant's Form 8-K (No. 001-35877), filed on April 21, 2020)
4.5	Indenture, dated as of August 25, 2020, between HAT Holdings I LLC and HAT Holdings II LLC, as issuers, and Hannon Armstrong Sustainable Infrastructure Capital, Inc., Hannon Armstrong Sustainable Infrastructure, L.P., and Hannon Armstrong Capital, LLC, as guarantors, and U.S. Bank National Association, as trustee (including the form of HAT Holdings I LLC and HAT Holdings II LLC's 3.750% Senior Notes due 2030) (incorporated by reference to Exhibit 4.1 on the Registrant's Form 8-K (No. 011-35877), filed on August 25, 2020)
4.6	Indenture, dated as of June 28, 2021, between HAT Holdings I LLC and HAT Holdings II LLC, as issuers, and Hannon Armstrong Sustainable Infrastructure Capital, Inc., Hannon Armstrong Sustainable Infrastructure, L.P., and Hannon Armstrong Capital, LLC, as guarantors, and U.S. Bank National Association, as trustee (including the form of HAT Holdings I LLC and HAT Holdings II LLC's 3.375% Senior Notes due 2026) (incorporated by reference to Exhibit 4.1 on the Registrant's Form 8-K (No. 011-35877), filed on June 28, 2021)
4.7	Indenture, dated as of April 13, 2022 by and among HAT Holdings I LLC and HAT Holdings II LLC, as issuers, and Hannon Armstrong Sustainable Infrastructure Capital, Inc., Hannon Armstrong Sustainable Infrastructure, L.P., and Hannon Armstrong Capital, LLC, as guarantors, and U.S. Bank Trust Company, National Association, as trustee (incorporated by reference to Exhibit 4.1 on the Registrant's Form 8-K (No. 011-35877) filed on April 15, 2022)

4.8	First Supplemental Indenture, dated as of April 13, 2022 by and among HAT Holdings I LLC and HAT Holdings II LLC, as issuers, and Hannon Armstrong Sustainable Infrastructure Capital, Inc., Hannon Armstrong Sustainable Infrastructure, L.P., and Hannon Armstrong Capital, LLC, as guarantors, and U.S. Bank Trust Company, National Association, as trustee (including the form of HAT Holdings I LLC's and HAT Holdings II LLC's 0.00% Green Exchangeable Senior Note due 2025) (incorporated by reference to Exhibit 4.2 on the Registrant's Form 8-K (No. 011-35877) filed on April 15, 2022)
4.9	Indenture, dated as of August 11, 2023 by and among HAT Holdings I LLC and HAT Holdings II LLC, as issuers, and Hannon Armstrong Sustainable Infrastructure Capital, Inc., Hannon Armstrong Sustainable Infrastructure, L.P., and Hannon Armstrong Capital, LLC, as guarantors, and U.S. Bank Trust Company, National Association, as trustee (including the form of HAT Holdings I LLC's and HAT Holdings II LLC's 3.750% Green Exchangeable Senior Unsecured Note due 2028) (incorporated by reference to Exhibit 4.1 to the Registrant's Form 8-K (No. 001-35877), filed on August 11, 2023)
4.10	Indenture, dated as of December 7, 2023 by and among HAT Holdings I LLC and HAT Holdings II LLC, as issuers, the guarantors party thereto and U.S. Bank Trust Company, National Association, as trustee (including the form of HAT Holdings I LLC and HAT Holdings II LLC's 8.00% Green Senior Unsecured Note due 2027) (incorporated by reference to Exhibit 4.1 to the Registrant's Form 8-K (No. 001-35877), filed on December 7, 2023)
4.11	Tax Benefits Preservation Plan, dated as of November 2, 2023, between Hannon Armstrong Sustainable Infrastructure Capital, Inc. and Equiniti Trust Company, LLC (incorporated by reference to Exhibit 4.1 to the Registrant's Form 8-K (No. 001-35877), filed on November 3, 2023)
10.1*	Second Amended and Restated Agreement of Limited Partnership of Hannon Armstrong Sustainable Infrastructure, L.P.
10.2	Form of Indemnification Agreement (incorporated by reference to Exhibit 10.5 to Amendment No. 3 to the Registrant's Form S-11 (No. 333-186711), filed on April 12, 2013)
10.3	Amended and Restated 2013 Hannon Armstrong Sustainable Infrastructure Capital, Inc. Equity Incentive Plan (incorporated by reference to Exhibit 10.1 to the Registrant's Form 10-Q for the quarter ended March 31, 2017 (No. 001-35877), filed on May 4, 2017)
10.4	2022 Hannon Armstrong Sustainable Infrastructure Capital, Inc. Equity Incentive Plan (incorporated by reference to Exhibit 10.1 to the Registrant's Form 8-K (No. 001-35877), filed on June 7, 2022)
10.5	Restricted Stock Award Agreement dated April 23, 2013 between Hannon Armstrong Sustainable Infrastructure Capital, Inc. and Jeffrey W. Eckel (incorporated by reference to Exhibit 10.2 to the Registrant's Form 10-Q for the quarter ended June 30, 2013 (No. 001-35877), filed on August 9, 2013)
10.6	Form of Restricted Stock Award Agreement (Executive Officers) (incorporated by reference to Exhibit 10.3 to the Registrant's Form 10-Q for the quarter ended June 30, 2013 (No. 001-35877), filed on August 9, 2013)
10.7	Form of Restricted Stock Award Agreement (Non-employee Directors) (incorporated by reference to Exhibit 10.4 to the Registrant's Form 10-Q for the quarter ended June 30, 2013 (No. 001-35877), filed on August 9, 2013)
10.8	Amended and Restated Form of Restricted Stock Unit Award Agreement (incorporated by reference to Exhibit 10.2 to the Registrant's Form 10-Q for the quarter ended March, 31 2017 (No. 001-35877), filed on May 4, 2017)
10.9	Form of Amended and Restated Restricted Stock Unit Agreement (incorporated by reference to Exhibit 10.57 to the Registrant's Form 10-K (No. 001-35877) for the year ended December, 31, 2017, filed on February 23, 2018)
10.10	Form of LTIP Unit Vesting Agreement under the 2013 Hannon Armstrong Sustainable Infrastructure Capital, Inc. Equity Incentive Plan (incorporated by reference to Exhibit 10.2 to the Registrant's Form 10-Q for the quarter ended March 31, 2019 (No. 001-35877), filed on May 3, 2019)
10.11	Form of Hannon Armstrong Sustainable Infrastructure, L.P. Time-Based LTIP Unit Award Agreement (incorporated by reference to Exhibit 10.3 to the Registrant's Form 10-Q for the quarter ended March 31, 2019 (No. 001-35877), filed on May 3, 2019)
10.12	Form of Hannon Armstrong Sustainable Infrastructure, L.P. Performance-Based LTIP Unit Award Agreement (incorporated by reference to Exhibit 10.4 to the Registrant's Form 10-Q for the quarter ended March 31, 2019 (No. 001-35877), filed on May 3, 2019)
10.13	Employment Agreement, dated April 17, 2013, by and between Hannon Armstrong Sustainable Infrastructure Capital, Inc. and Steven L. Chuslo (incorporated by reference to Exhibit 10.9 to the Registrant's Form 10-Q for the quarter ended June 30, 2013 (No. 001-35877), filed on August 9, 2013)
10.14	Employment Agreement, dated April 17, 2013, by and between Hannon Armstrong Sustainable Infrastructure Capital, Inc. and Nathaniel J. Rose (incorporated by reference to Exhibit 10.10 to the Registrant's Form 10-Q for the quarter ended June 30, 2013 (No. 001-35877), filed on August 9, 2013)

10.15	Employment Agreement, dated April 17, 2013, by and between Hannon Armstrong Sustainable Infrastructure Capital, Inc. and Daniel McMahon (incorporated by reference to Exhibit 10.3 to the Registrant's Form 10-Q for the quarter ended June 30, 2015 (No. 001-35877), filed on August 7, 2015)
10.16	Employment Agreement, dated March 15, 2017, by and between Hannon Armstrong Sustainable Infrastructure Capital, Inc. and Charles Melko (incorporated by reference to Exhibit 10.3 to the Registrant's Form 10-Q for the quarter ended March 31, 2017 (No. 001-35877), filed on May 4, 2017)
10.17	Letter Agreement, dated as of January 6, 2021, between J. Brendan Herron, Hannon Armstrong Sustainable Infrastructure Capital, Inc. and Hannon Armstrong Capital Inc. (incorporated by reference to Exhibit 10.1 to the Registrant's Form 10-Q for the quarter ended March 31, 2021 (No. 001-35877), filed on May 7, 2021)
10.18	Employment Agreement, dated June 30, 2021, by and between Hannon Armstrong Sustainable Infrastructure Capital, Inc. and Susan D. Nickey (incorporated by reference to Exhibit 10.3 to the Registrant's Form 10-Q for the quarter ended June 30, 2021 (No. 001-35877), filed on August 6, 2021)
10.19	Amended and Restated Employment Agreement, dated February 14, 2023, by and between Hannon Armstrong Sustainable Infrastructure Capital, Inc. and Jeffrey Lipson (incorporated by reference to Exhibit 10.31 to the Registrant's Form 10-K for the year ended December 31, 2022 (No. 001-35877), filed on February 21, 2023)
10.20	Amended and Restated Employment Agreement, dated February 14, 2023, by and between Hannon Armstrong Sustainable Infrastructure Capital, Inc. and Marc Pangburn (incorporated by reference to Exhibit 10.32 to the Registrant's Form 10-K for the year ended December 31, 2022 (No. 001-35877), filed on February 21, 2023)
10.21*	Amended and Restated Employment Agreement, dated January 26, 2024, by and between Hannon Armstrong Sustainable Infrastructure Capital, Inc. and Richard R. Santoroski
10.22*	Amended and Restated Employment Agreement, dated February 15, 2024, by and between Hannon Armstrong Sustainable Infrastructure Capital, Inc. and Jeffrey Eckel
10.23	Registration Rights Agreement, dated April 23, 2013, by and among Hannon Armstrong Sustainable Infrastructure Capital, Inc. and the parties listed on Schedule I thereto (incorporated by reference to Exhibit 10.6 to the Registrant's Form 10-Q for the quarter ended June 30, 2013 (No. 001-35877), filed on August 9, 2013)
10.24	Registration Rights Agreement, dated as of April 13, 2022, by and among HAT Holdings I LLC, HAT Holdings II LLC, and Hannon Armstrong Sustainable Infrastructure Capital, Inc. and the initial purchasers party thereto. (incorporated by reference to Exhibit 10.1 on the Registrant's Form 8-K (No. 011-35877) filed on April 15, 2022)
10.25	Registration Rights Agreement, dated as of August 11, 2023, by and among HAT Holdings I LLC, HAT Holdings II LLC, and Hannon Armstrong Sustainable Infrastructure Capital, Inc. and the representatives of the Initial Purchasers party thereto (incorporated by reference to Exhibit 10.1 to the Registrant's Form 8-K (No. 001-35877), filed on August 11, 2023)
10.26	Indemnity Agreement, dated as of September 30, 2015, by Hannon Armstrong Sustainable Infrastructure Capital, Inc. in favor of the Bank of New York Mellon (incorporated by reference to Exhibit 10.7 to the Registrant's Form 10-Q for the quarter ended September 30, 2015 (No. 001-35877), filed on November 5, 2015)
10.27	Credit Agreement, dated as of April 19, 2021, by and among the Company, certain subsidiaries of the Company, JPMorgan Chase Bank, N.A. as administrative agent, sole bookrunner, sole lead arranger and sustainability structuring agent, Bank of America, N.A., Barclays Bank PLC, Credit Suisse AG, New York Branch, KeyBank National Association, Morgan Stanley Senior Funding, Inc., Royal Bank of Canada, Sumitomo Mitsui Banking Corporation and Wells Fargo Bank, National Association, as documentation agents, and each lender from time to time party thereto (incorporated by reference to Exhibit 1.1 on the Registrant's Form 8-K (No. 011-35877), filed on April 20, 2021)
10.28	Credit Agreement, dated as of February 7, 2022, by and among the Company, certain subsidiaries of the Company, JPMorgan Chase Bank, N.A. as administrative agent, sole bookrunner, sole lead arranger and sustainability structuring agent, Bank of America, N.A., Barclays Bank PLC, Credit Suisse AG, New York Branch, KeyBank National Association, Morgan Stanley Senior Funding, Inc., Royal Bank of Canada, Sumitomo Mitsui Banking Corporation and Wells Fargo Bank, National Association, as documentation agents, and each lender from time to time party thereto (incorporated by reference to Exhibit 1.1 to the Registrant's Form 8-K (No. 001-35877), filed on February 11, 2022.
10.29	Amendment No. 1 to Credit Agreement, dated as of May 31, 2023, by and among the Company, certain subsidiaries of the Company, JPMorgan Chase Bank, N.A. as administrative agent, issuing bank, sole bookrunner, sole lead arranger, lender and sustainability structuring agent, and Bank of America, N.A., Barclays Bank PLC, Citibank, N.A., Morgan Stanley Senior Funding, Inc., RBC Capital Markets, Sumitomo Mitsui Banking Corporation and Wells Fargo Bank, National Association, as documentation agents and lenders (incorporated by reference to Exhibit 1.2 to the Registrant's Form 8-K (No. 001-35877), filed on June 2, 2023)

10.30	At Market Issuance Sales Agreement, dated May 13, 2020, by and between Hannon Armstrong Sustainable Infrastructure Capital, Inc., B. Riley FBR, Inc., Robert W. Baird & Co. Incorporated, BofA Securities, Inc., Loop Capital Markets LLC, SMBC Nikko Securities America, Inc. and Nomura Securities International, Inc. (incorporated by reference to Exhibit 1.1 to the Registrant's Form 8-K (No. 001-35877), filed on May 13, 2020)
10.31	Amendment No. 1 to the At Market Issuance Sales Agreement, dated February 26, 2021, by and among Hannon Armstrong Sustainable Infrastructure Capital, Inc., B. Riley Securities, Inc., Robert W. Baird & Co. Incorporated, BofA Securities, Inc., Loop Capital Markets LLC, SMBC Nikko Securities America, Inc. and Nomura Securities International, Inc. (incorporated by reference to Exhibit 1.2 to the Registrant’s Form 8-K (No. 001-35877), filed on March 1, 2021)
10.32	Amendment No. 2 to the At Market Issuance Sales Agreement, dated March 1, 2022, by and among Hannon Armstrong Sustainable Infrastructure Capital, Inc., B. Riley Securities, Inc., Robert W. Baird & Co. Incorporated, BofA Securities, Inc., Loop Capital Markets LLC, SMBC Nikko Securities America, Inc. and Nomura Securities International, Inc. (incorporated by reference to Exhibit 1.3 to the Registrant’s Form 8-K (No. 001-35877), filed on March 2, 2022)
10.33	Amendment No. 3 to the At Market Issuance Sales Agreement, dated February 22, 2023, by and among Hannon Armstrong Sustainable Infrastructure Capital, Inc., B. Riley Securities, Inc., Barclays Capital Inc., BofA Securities, Inc., Credit Suisse Securities (USA) LLC, Goldman Sachs & Co. LLC, J.P. Morgan Securities LLC, Morgan Stanley & Co. LLC, Nomura Securities International, Inc., SMBC Nikko Securities America, Inc., Truist Securities, Inc. and Wells Fargo Securities, LLC (incorporated by reference to Exhibit 1.4 to the Registrant’s Form 8-K (No. 001-35877), filed on February 23, 2023)
10.34	Amendment No. 4 to the At Market Issuance Sales Agreement, dated May 10, 2023, by and among Hannon Armstrong Sustainable Infrastructure Capital, Inc., B. Riley Securities, Inc., Barclays Capital Inc., BofA Securities, Inc., Credit Suisse Securities (USA) LLC, Goldman Sachs & Co. LLC, KeyBanc Capital Markets Inc., Jefferies LLC, J.P. Morgan Securities LLC, Morgan Stanley & Co. LLC, Nomura Securities International, Inc., Truist Securities, Inc. and Wells Fargo Securities, LLC (incorporated by reference to Exhibit 1.5 to the Registrant’s Form 8-K (No. 001-35877), filed on May 11, 2023)
10.35	Amendment No. 5 to the At Market Issuance Sales Agreement, dated September 5, 2023, by and among Hannon Armstrong Sustainable Infrastructure Capital, Inc., B. Riley Securities, Inc., Barclays Capital Inc., BofA Securities, Inc., Credit Suisse Securities (USA) LLC, Goldman Sachs & Co. LLC, KeyBanc Capital Markets Inc., Jefferies LLC, J.P. Morgan Securities LLC, Morgan Stanley & Co. LLC, Nomura Securities International, Inc., Truist Securities, Inc. and Wells Fargo Securities, LLC (incorporated by reference to Exhibit 1.6 to the Registrant’s Form 8-K (No. 001-35877), filed on September 5, 2023)
21.1*	List of subsidiaries of Hannon Armstrong Sustainable Infrastructure Capital, Inc.
23.1*	Consent of Ernst & Young LLP for Hannon Armstrong Sustainable Infrastructure Capital, Inc.
24.1*	Power of Attorney (included on signature page)
31.1*	Certification of Chief Executive Officer pursuant to Section 302 of the Sarbanes—Oxley Act of 2002
31.2*	Certification of Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
32.1**	Certification of Chief Executive Officer pursuant to section 18 U.S.C. Section 1350 as adopted pursuant to Section 906 of the Sarbanes—Oxley Act of 2002
32.2**	Certification of Chief Financial Officer pursuant to section 18 U.S.C. Section 1350 as adopted pursuant to Section 906 of the Sarbanes—Oxley Act of 2002
97.1*	Hannon Armstrong Sustainable Infrastructure Capital, Inc. Recovery Policy Relating to Erroneously Awarded Incentive Compensation
101.SCH*	Inline XBRL Taxonomy Extension Schema
101.CAL*	Inline XBRL Taxonomy Extension Calculation Linkbase
101.DEF*	Inline XBRL Taxonomy Extension Definition Linkbase
101.LAB*	Inline XBRL Taxonomy Extension Label Linkbase
101 PRE*	Inline XBRL Taxonomy Extension Presentation Linkbase
104	Cover Page Interactive Data File Included as Exhibit 101 (embedded within the Inline XBRL document)

* Filed herewith.

** Furnished with this report.

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.

HANNON ARMSTRONG SUSTAINABLE INFRASTRUCTURE CAPITAL, INC.
(Registrant)

Date: February 16, 2024

/s/ Jeffrey A. Lipson
Jeffrey A. Lipson
Chief Executive Officer and President

/s/ Marc T. Pangburn
Marc T. Pangburn
Chief Financial Officer and Executive Vice President

/s/ Charles W. Melko
Charles W. Melko
Chief Accounting Officer, Treasurer and Senior Vice President

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Jeffrey A. Lipson, Marc T. Pangburn and Charles W. Melko, and each of them, with full power to act without the other, such person's true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign this Form 10-K and any and all amendments thereto, and to file the same, with exhibits and schedules thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing necessary or desirable to be done in and about the premises, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or any of them, or their or his or her 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, as amended, this report has been signed below by the following persons on behalf of the Registrant and in the capacities and on the dates indicated.

Signatures		Title	
By:	/s/ Jeffrey A. Lipson Jeffrey A. Lipson	President and Chief Executive Officer (Principal Executive Officer)	February 16, 2024
By:	/s/ Marc T. Pangburn Marc T. Pangburn	Chief Financial Officer and Executive Vice President (Principal Financial Officer)	February 16, 2024
By:	/s/ Charles W. Melko Charles W. Melko	Chief Accounting Officer, Treasurer and Senior Vice President (Principal Accounting Officer)	February 16, 2024
By:	/s/ Jeffrey W. Eckel Jeffrey W. Eckel	Executive Chair of the Board	February 16, 2024
By:	/s/ Lizabeth Ardisana Lizabeth Ardisana		February 16, 2024
By:	/s/ Clarence D. Armbrister Clarence D. Armbrister		February 16, 2024
By:	/s/ Teresa M. Brenner Teresa M. Brenner		February 16, 2024
By:	/s/ Nancy C. Floyd Nancy C. Floyd		February 16, 2024

By:	/s/ Charles M. O’Neil Charles M. O’Neil	February 16, 2024
By:	/s/ Richard J. Osborne Richard J. Osborne	February 16, 2024
By:	/s/ Steven G. Osgood Steven G. Osgood	February 16, 2024
By:	/s/ Kimberly A. Reed Kimberly A. Reed	February 16, 2024

DESCRIPTION OF SECURITIES
REGISTERED UNDER SECTION 12 OF
THE SECURITIES EXCHANGE ACT OF 1934

The following is a brief summary of the material terms of common stock, par value $0.01 per share, of Hannon Armstrong Sustainable Infrastructure Capital, Inc. ("Company," "we," "us" or "our") registered pursuant to Section 12 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"). This summary description is not meant to be complete. The particular terms of any security are subject to and qualified in their entirety by reference to Maryland law and our charter and bylaws, copies of which have been filed by us with the Securities and Exchange Commission.

Description of Common Stock

Our charter provides that we may issue up to 450,000,000 shares of common stock, par value $0.01 per share. Subject to the preferential rights, if any, of holders of any other class or series of our stock and to the provisions of our charter regarding the restrictions on ownership and transfer of our stock, holders of outstanding shares of common stock are entitled to receive dividends or other distributions on such shares of common stock out of assets legally available therefor if, as and when authorized by our board of directors and declared by us, and the holders of outstanding shares of common stock are entitled to share ratably in our assets legally available for distribution to our stockholders in the event of our liquidation, dissolution or winding up after payment of or adequate provision for all our known debts and liabilities and payment of any liquidation amounts for any issued and outstanding preferred stock.

All outstanding shares of our common stock are duly authorized, validly issued, fully paid and nonassessable. Subject to the provisions of our charter regarding the restrictions on ownership and transfer of our stock and except as may otherwise be specified in the terms of any class or series of our stock, each outstanding share of 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. A plurality of the votes cast in the election of directors is sufficient to elect a director and there is no cumulative voting in the election of directors, which means that the holders of a majority of the outstanding shares of common stock generally can elect all of the directors then standing for election, and the holders of the remaining shares will not be able to elect any directors. However, pursuant to our majority vote policy for the election of directors, in an uncontested election, any nominee who receives a greater number of votes "withheld" from his or her election than votes "for" such election is required to tender his or her resignation to our board of directors for its consideration.

Holders of shares of common stock have no preference, conversion, exchange, sinking fund, redemption or appraisal rights and have no preemptive rights to subscribe for any securities of our company. Subject to the provisions of our charter regarding the restrictions on ownership and transfer of our stock, holders of shares of common stock will have equal dividend, liquidation and other rights.

Under the Maryland General Corporation Law (the "MGCL"), a Maryland corporation generally cannot dissolve, amend its charter, merge or consolidate with or convert into another entity, sell all or substantially all of its assets or engage in a statutory share exchange unless the action is advised by its 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, unless a lesser percentage (but not less than a majority of all of the votes entitled to be cast on the matter) is specified in the corporation's charter. Our charter provides that these actions may be approved by our stockholders by a majority of all of the votes entitled to be cast on the matter, except that certain amendments to the provisions of our charter related to the removal of directors and the restrictions on ownership and transfer of our stock, and the vote required to amend such provisions, must be approved by stockholders entitled to cast at least two-thirds of the votes entitled to be cast on the amendment. Maryland law also permits a Maryland corporation, without the approval of the stockholders of the corporation, to transfer all or substantially all of its assets if all of the equity interests of the transferee are owned, directly or indirectly, by the corporation. Because substantially all of our assets will 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.

Power to Reclassify Our Unissued Shares of Stock

Our charter provides that we may issue up to 50,000,000 shares of preferred stock, par value $0.01 per share, of which 450,000 shares are classified and designated as "Series A Junior Participating Preferred Stock," par value $0.001 per share (the "Series A Preferred Stock"). Our charter authorizes our board of directors to classify and reclassify any unissued shares of common or preferred stock into other classes or series of stock, including one or more classes or series of stock that have priority over our common stock with respect to voting rights, dividends or upon liquidation, 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, the preferences, conversion and other rights, voting powers, restrictions, 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 terms of any other class or series of our stock or the rules of any stock exchange or automatic quotation system on which our securities may be listed or traded.

Power to Increase or Decrease Authorized Shares of Stock and Issue Additional Shares of Stock

Our board of directors has the power to amend our charter, without stockholder approval, to increase or decrease the aggregate number of authorized shares of our stock, to authorize us to issue additional authorized but unissued shares of common or preferred stock and to classify or reclassify unissued shares of common or preferred stock and thereafter to authorize us to issue such classified or reclassified shares of stock. We believe that this power will provide us with increased flexibility in structuring possible future financings and acquisitions and in meeting other needs that might arise.

Transfer Agent and Registrar

The transfer agent and registrar for our common stock is American Stock Transfer & Trust Company, LLC.

Rights to Purchase Series A Junior Preferred Stock

On November 2, 2023, we entered into a Tax Benefits Preservation Plan (the "Tax Benefits Preservation Plan") with Equiniti Trust Company, LLC, in its capacity as Rights Agent, and our board of directors authorized a dividend of one right (a "Right") for each outstanding share of our common stock, to be paid to all record holders of our common stock at the close of business on November 21, 2023 (the "Record Date"). The following is a summary description of the material terms and conditions of the Rights and the Tax Benefits Preservation Plan. This summary is intended to provide a general description only, does not purport to be complete, and is qualified in its entirety by reference to the complete text of the Tax Benefits Preservation Plan, a copy of which is filed as an exhibit to the Annual Report on Form 10-K of which this exhibit is a part and is incorporated herein by reference. All capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Tax Benefits Preservation Plan.

The Tax Benefits Preservation Plan is intended to reduce the risk that our ability to use our net operating losses ("NOLs") and certain other Tax Benefits will become substantially limited as the result of an "ownership change" within the meaning of Section 382 of the Internal Revenue Code of 1986, as amended (the "Code"), and the Treasury Regulations thereunder. An ownership change generally occurs for purposes of Section 382 of the Code if a Person or group of Persons who Beneficially Own five percent or more of the outstanding shares of our common stock (or other Company Securities) increase their Percentage Stock Ownership by more than 50 percentage points during any rolling three-year period. For purposes of the Tax Benefits Preservation Plan, "Beneficial Ownership" of Company Securities is defined to include, among other things, direct and indirect ownership (actual or constructive) within the meaning of Section 382 of the Code and Rules 13d-3 and 13d-5 under the Securities Exchange Act of 1934, as amended, and the regulations thereunder, as well as Derivative Positions whose pricing or value is derived from or related to, in whole or in part, the value of Company Securities. The Tax Benefits Preservation Plan reduces the risk of an ownership change by deterring any Person from obtaining a Percentage Stock Ownership of 4.9% or more of the outstanding Company Securities. As described below under "Certain Exceptions and Exemptions," any stockholder whose Percentage Stock Ownership is presently 4.9% or more will not be considered an "Acquiring Person" (as defined below), unless and until such Person increases its Percentage Stock Ownership after November 3, 2023 (except to the extent another exception to such subsequent increase applies under the Tax Benefits Preservation Plan).

Rights; Distribution Date; Exercise Period

The Rights are not exercisable until a Distribution Date (as described below) occurs. Prior to a Distribution Date, (i) the Rights will be evidenced solely by notations in the book entry accounts for the shares of our common stock and will be transferrable only in connection with a transfer of the underlying shares of our common stock, (ii) in connection with the issuance of any shares of our common stock after the Record Date and prior to the earlier of the Distribution Date and the Expiration Date, one Right will be issued for each share of our comon stock issued, subject to adjustment pursuant to the Tax Benefits Preservation Plan, (iii) each share of our common stock issued after the Record Date will contain a notation in the respective book entry accounts for such shares of our common stock referencing the Rights associated with such shares and incorporating the Tax Benefits Preservation Plan by reference and (iv) any transfer of the underlying shares of our common stock will also constitute the transfer of the Rights associated with such shares of our common stock. Until a Right is exercised, the holder thereof, in its capacity as such, will have no rights as our stockholder, including, without limitation, the right to vote or to receive dividends in respect of Rights.

Following the occurrence of a Distribution Date, each Right initially will entitle the registered holder thereof to purchase from us a unit consisting of one one-thousandth of a share (a "Unit") of Series A Preferred Stock, at a purchase price of $100 per Unit, subject to adjustment as described below (the "Purchase Price"), except that, after a Flip-In Event or a Flip-Over Event, each as defined below, the Rights become exercisable for our common stock or common stock of the surviving or acquiring entity, as described below.

Subject to certain exceptions specified in the Tax Benefits Preservation Plan, unless the Rights have been redeemed by our board of directors, as described below, the Rights will separate from our common stock and become exercisable and separately transferrable at the close of business on the date (the "Distribution Date") that is the tenth Business Day after the earlier of (i) the date on which on which a press release is issued or other public announcement is made (including a filing with the SEC) indicating that a Person, together with its affiliates and associates, has a Percentage Stock Ownership of 4.9% or more (an "Acquiring Person"), or otherwise disclosing the existence of an Acquiring Person (the “Stock Acquisition Date”) and (ii) the date on which a tender offer or exchange offer is commenced that, upon consummation, would result in a Person becoming an Acquiring Person (or, in each case, (i) and (ii), such other date as determined by our board of directors, in its sole discretion).

Flip-in Trigger

In the event that any Person becomes an Acquiring Person (a “Flip-In Event”), unless such event is a “Flip-Over Event” (as described below), if we have not redeemed the Rights on or prior to the tenth Business Day following the Stock Acquisition Date, then each holder of Rights (other than the Acquiring Person and its affiliates and associates and certain transferees thereof) will, upon exercise of such Rights and payment of the then-current Purchase Price, be entitled to purchase shares of our common stock having a then-current market value equal to two times the Purchase Price. All Rights that are Beneficially Owned by the Acquiring Person (and its affiliates and associates and certain transferees thereof) become null and void on the Distribution Date and may not be exercised.

Flip-over Trigger

In the event that, at any time following the Stock Acquisition Date, (i) we merge or consolidate with another entity and we are not the survivor, or our common stock is converted into or exchanged for other securities, cash or other property, or (ii) 50 percent or more of our assets, cash flow or earning power is sold or otherwise disposed of, each holder of Rights (other than the Acquiring Person (and its affiliates and associates and certain transferees thereof)) shall thereafter have the right to receive, upon exercise of such Rights and payment of the then-current Purchase Price, shares of common stock of the surviving or acquiring entity having a then-current market value equal to two times the then-current Purchase Price (each of the foregoing clauses (i) and (ii) above, a “Flip-Over Event”).

Exchange Feature

At any time after the Distribution Date, and prior to such time as the Acquiring Person’s Percentage Stock Ownership is 50 percent or more, our board of directors may, at its option, and in its sole discretion, exchange all or any portion of the outstanding and exercisable Rights (other than Rights owned by the Acquiring Person (and its affiliates and associates and certain transferees thereof), which shall have become null and void), for shares of our common stock at an exchange ratio of one share of our common stock for each Right (which ratio is subject to adjustment to reflect stock splits, stock dividends and similar transactions).

Equitable Adjustments

The Purchase Price payable, and the number and kind of shares covered by each Right, and the number of Rights outstanding, are subject to adjustment from time to time to prevent dilution (i) in the event of a stock dividend on, or a subdivision, split, combination, consolidation or reclassification (ii) if holders of Series A Preferred Stock are issued certain rights, options or warrants to subscribe for or purchase Series A Preferred Stock or securities convertible into Series A Preferred Stock at a price or conversion price less than the then-current market price of the Series A Preferred Stock, or (iii) upon the distribution of cash to holders of Series A Preferred Stock (including upon consummation of a merger), but excluding regular quarterly cash dividends in accordance with the Preferred Stock Articles Supplementary, assets (other than Series A Preferred Stock), evidences of indebtedness or subscription rights or warrants (other than those referred to in clause (ii) above).

With certain exceptions, no adjustment in the Purchase Price will be required until cumulative adjustments amount to at least one percent of the Purchase Price. No fractional Rights will be issued, nor will any fractional shares be issued upon exercise of the Rights, and, in lieu thereof, payment in cash will be made based on the closing market price of the Rights, Series A Preferred Stock, our common stock or other securities issuable upon exercise of the Rights on the last trading date immediately prior to the date on which such fractional Rights would have been issued, or the Rights were exercised, as applicable.

Certain Exceptions and Exemptions

The definition of “Acquiring Person” contained in the Tax Benefits Preservation Plan contains several exceptions, including for (i) us or any of our subsidiaries; (ii) any employee benefit plan of ours or any of our subsidiaries, or any entity or trustee holding our common stock pursuant to the terms of, or for purposes of funding, any such plan; (iii) any Person, together with all of its affiliates and associates, whose collective Percentage Stock Ownership becomes 4.9% or more as a result of a reduction in the number of Company Securities outstanding due to any acquisition of Company Securities by any Exempt Person or a stock dividend, stock split, reverse stock split or similar transaction, unless and until such Person subsequently increases its Percentage Stock Ownership; (iv) any Person, together with all of its affiliates and associates, whose Percentage Stock Ownership is 4.9% or more as of the time of our first public announcement of the adoption of the Tax Benefits Preservation Plan, unless and until such Person subsequently increases its Percentage Stock Ownership without our prior written consent (upon approval by our board of directors, in its sole discretion) or decreases its Percentage Stock Ownership below 4.9%; (v) any Person, together with all of its affiliates and associates, whose Percentage Stock Ownership became 4.9% or more inadvertently, if such Person, within ten Business Days of being requested by us to do so, certifies to us that it became an Acquiring Person inadvertently (including without actual knowledge that it Beneficially Owned a number of Company Securities that would result in it becoming an Acquiring Person) and who, together with all of its affiliates and associates, thereafter disposes of a number of Company Securities so that it ceases to be an Acquiring Person; (vi) any Person who would become an Acquiring Person solely as a result of (a) unilateral grants or issuances of Company Securities by us (including restricted stock), (b) pre-arranged purchases by directors, officers or employees of ours or our subsidiaries pursuant to a dividend reinvestment plan sponsored by us or (c) exercises of outstanding options, warrants, rights or similar interests granted by us to directors, officers or employees of ours or our subsidiaries; and (vii) any Person who our board of directors has affirmatively determined, in its sole discretion, shall not be deemed an Acquiring Person, for so long as such Person complies with any limitations or conditions imposed by our board of directors and unless and until our board of directors shall determine otherwise.

Redemption of Rights

Our board of directors may, at its option and in its sole discretion, at any time prior to the close of business on the earlier of (i) the tenth Business Day following the Stock Acquisition Date and (ii) the Final Expiration Date, redeem all of the Rights in whole, but not in part, at a price of $0.001 per Right, subject to adjustment as described above with respect to the Purchase Price (the "Redemption Price"). We may, at our option, pay such Redemption Price in cash, shares of our common stock or other consideration deemed appropriate by our board of directors. The redemption of the Rights may be made effective at such time, on such basis, and with such conditions as our board of directors may establish, in its sole discretion. Immediately upon any redemption of the Rights, the right to exercise the Rights will terminate and the only right of the holders of Rights will be to receive the Redemption Price.

Amendment of Rights

Any of the provisions of the Tax Benefits Preservation Plan may be amended or supplemented by us, upon prior approval of our board of directors, in its sole discretion, at any time prior to the Distribution Date without the consent of any holders of Rights. After the Distribution Date, the provisions of the Tax Benefits Preservation Plan may be amended or supplemented by us, upon prior approval of our board of directors, in its sole discretion, without the consent of any holders of Rights in order to (i) cure any ambiguity, (ii) correct or supplement any provision contained therein that may be defective or inconsistent with any other provisions therein, (iii) make changes that we may deem necessary or desirable and that do not adversely affect the interests of holders of Rights (in their capacity as such), other than the Acquiring Person (and its affiliates and associates and certain transferees thereof) or (iv) shorten or lengthen any time period under the Tax Benefits Preservation Plan (other than the Final Expiration Date, which may not be amended without approval by a majority of votes cast by holders of outstanding shares of our common stock entitled to vote thereon at a stockholders' meeting at which a quorum is present), except that no amendment pursuant to the foregoing clause (iii) or (iv) may be made at such time as the Rights are not redeemable.

Expiration of Rights

The Rights will expire upon the earliest to occur of: (i) the close of business on November 2, 2026 (the "Final Expiration Date"), (ii) the close of business on November 2, 2024, if approval of the Tax Benefits Preservation Plan by our stockholders has not been received prior to such date, (iii) the time at which the Rights are redeemed or exchanged as provided in the Tax Benefits Preservation Plan, (iv) the close of business on the date set by our board of directors following a determination by our board of directors that the Tax Benefits Preservation Plan is no longer necessary or desirable for the preservation of Tax Benefits and (v) the close of business on the first day of a taxable year of ours to which our board of directors determines that no Tax Benefits may be carried forward.

In connection with our adoption of the Tax Benefits Preservation Plan referenced above, our board of directors classified a series of preferred stock designated as Series A Preferred Stock, on the terms set forth in the Articles Supplementary to our charter filed with the State Department of Assessments and Taxation of Maryland on November 2, 2023. The description herein of the Series A Preferred Stock is intended to provide a general description only, does not purport to be complete, and is qualified in its entirety by reference to the complete text of the Articles Supplementary, which is filed as an exhibit to the Annual Report on Form 10-K of which this exhibit is a part and is incorporated herein by reference.

Certain Provisions of the Maryland General Corporation Law and Our Charter and Bylaws

Our Board of Directors

Our charter and bylaws provide that the number of directors we have may be established only by our board of directors but may not be fewer than the minimum number required under the MGCL, which is one, and our bylaws provide that the number of our directors may not be more than 15. Because our board of directors has the power to amend our bylaws, it could amend our bylaws to change that range. Subject to the terms of any class or series of preferred stock, vacancies on our board of directors may be filled only by a majority of the remaining directors, even if the remaining directors do not constitute a quorum and, if our board of directors is classified, any director elected to fill a vacancy will hold office for the remainder of the full term of the directorship in which the vacancy occurred and until his or her successor is duly elected and qualifies.

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 our stockholders to serve until the next annual meeting of our stockholders and until his or her successor is duly elected and qualifies. A plurality of the votes cast in the election of directors is sufficient to elect a director, and holders of shares of common stock will have no right to cumulative voting in the election of directors. Consequently, at each annual meeting of stockholders, the holders of a majority of the shares of common stock generally will be able to elect all of our directors at any annual meeting. However, pursuant to our majority vote policy for the election of directors, in an uncontested election, any nominee who receives a greater number of votes "withheld" from his or her election than votes "for" such election is required to tender his or her resignation to our board of directors for its consideration.

Removal of Directors

Our charter provides that, subject to the rights of holders of any class or series of our preferred stock to elect or remove one or more directors, a director may be removed with or without cause and only by the affirmative vote of at least two-thirds of the votes entitled to be cast generally in the election of directors. This provision, when coupled with the exclusive power of our board of directors to fill vacancies on our board of directors, precludes stockholders from (1) removing incumbent directors except upon a substantial affirmative vote and (2) filling the vacancies created by such removal with their own nominees.

Business Combinations

Under the MGCL, certain "business combinations" (including a merger, consolidation, statutory share exchange or, in certain circumstances, an asset transfer or issuance or reclassification of equity securities) between a Maryland corporation and an interested stockholder (defined generally as any person who beneficially owns, directly or indirectly, 10% or more of the voting power of the corporation's outstanding voting stock or an affiliate or associate of the corporation who, at any time within the two-year period prior to the date in question, was the beneficial owner, directly or indirectly, of 10% or more of the voting power of the then outstanding voting stock of the corporation) or an affiliate of such an interested stockholder are prohibited for five years after the most recent date on which the interested stockholder becomes an interested stockholder. Thereafter, any such business combination must generally be recommended by the board of directors of such corporation and approved by the affirmative vote of at least (1) 80% of the votes entitled to be cast by holders of outstanding voting stock of the corporation and (2) two-thirds of the votes entitled to be cast by holders of voting stock of the corporation other than shares held by the interested stockholder with whom (or with whose affiliate) the business combination is to be effected or held by an affiliate or associate of the interested stockholder, unless, among other conditions, the corporation's common stockholders receive a minimum price (as defined in the MGCL) for their shares and the consideration is received in cash or in the same form as previously paid by the interested stockholder for its shares. A person is not an interested stockholder under the statute if the board of directors approved in advance the transaction by which the person otherwise would have become an interested stockholder. A Maryland corporation's board of directors may provide that its approval is subject to compliance with any terms and conditions determined by it.

These provisions of the MGCL do not apply, however, to business combinations that are approved or exempted by a Maryland corporation's board of directors prior to the time that the interested stockholder becomes an interested stockholder. Pursuant to the statute, our board of directors has by resolution exempted business combinations between us and any other person, provided that such business combination is first approved by our board of directors (including a majority of our directors who are not affiliates or associates of such person). As a result, any person described above may be able to enter into business combinations with us that may not be in the best interest of our stockholders, without compliance by our company with the supermajority vote requirements and other provisions of the statute.

The business combination statute may discourage others from trying to acquire control of us and increase the difficulty of consummating any offer.

Control Share Acquisitions

The MGCL 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 stockholders by the affirmative vote of at least two-thirds of the votes entitled to be cast on the matter, excluding shares of stock in the corporation in respect of which any of the following persons is entitled to exercise or direct the exercise of the voting power of such shares in the election of directors: (1) a person who makes or proposes to make a control share acquisition; (2) an officer of the corporation; or (3) a director of the corporation who is also an employee of the corporation. "Control shares" are voting shares of stock which, if aggregated with all other such shares of stock owned by the acquirer, or in respect of which the acquirer is able to exercise or direct the exercise of voting power (except solely by virtue of a revocable proxy), would entitle the acquirer to exercise voting power in electing directors within one of the following ranges of voting power: (1) one-tenth or more but less than one-third; (2) one-third or more but less than a majority; or (3) a majority or more of all voting power. Control shares do not include shares that the acquiring person 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, upon satisfaction of certain conditions (including an undertaking to pay expenses and delivering an "acquiring person statement" as described in the MGCL), may compel the board of directors to call a special meeting of stockholders to be held within 50 days of demand to consider the voting rights of the shares. 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 acquiring person does not deliver an "acquiring person statement" as required by the statute, then, subject to certain conditions and limitations, the corporation may redeem any or all of the control shares (except those for which voting rights have previously been approved) for fair value determined, without regard to the absence of voting rights for the control shares, as of the date of the last control share acquisition by the acquiror or, if a meeting of stockholders is held at which the voting rights of such shares are considered and not approved as of the date of such meeting. If voting rights for control shares are approved at a stockholders meeting and the acquirer becomes entitled to vote a majority of the shares entitled to vote, all other stockholders may exercise appraisal rights unless the charter or bylaws provide otherwise. The fair value of the shares as determined for purposes of such appraisal rights may not be less than the highest price per share paid by the acquirer in the control share acquisition.

The control share acquisition statute does not apply to (1) shares acquired in a merger, consolidation or statutory share exchange if the corporation is a party to the transaction or (2) acquisitions approved or exempted by the charter or bylaws of the corporation.

Our bylaws contain a provision exempting from the control share acquisition statute any and all acquisitions by any person of shares of our stock.

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 five provisions of the MGCL which provide for:

- a classified board;
- 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 in office and (if the board is classified) for the remainder of the full term of the class of directors in which the vacancy occurred; and
- a majority requirement for the calling of a stockholder-requested special meeting of stockholders.

We have elected in our charter to be subject to the section of Subtitle 8 that provides that vacancies on our board may be filled only by the remaining directors and (if our board is classified in the future) for the remainder of the full term of the directorship in which the vacancy occurred. Through provisions in our charter and bylaws unrelated to Subtitle 8, we (1) require the affirmative vote of stockholders entitled to cast not less than two-thirds of all of the votes entitled to be cast generally in the election of directors for the removal of any director from the board, with or without cause, (2) vest in the board the exclusive power to fix the number of directorships and (3) require, unless called by our chairman of the board, our chief executive officer, our president or our board of directors, the written request of stockholders entitled to cast a majority of all votes entitled to be cast at such a meeting to call a special meeting of our stockholders.

Meetings of Stockholders

Pursuant to our bylaws, a meeting of our stockholders for the election of directors and the transaction of any business will be held annually on a date and at the time and place set by our board of directors. The chairman of our board of directors, our chief executive officer, our president or our board of directors may call a special meeting of our stockholders. Subject to the provisions of our bylaws, a special meeting of our stockholders to act on any matter that may properly be brought before a meeting of our stockholders must also be called by our secretary upon the written request of the stockholders entitled to cast a majority of all the votes entitled to be cast at the meeting on such matter and containing the information required by our bylaws. Our secretary will inform the requesting stockholders of the reasonably estimated cost of preparing and delivering the notice of meeting (including our proxy materials), and the requesting stockholder must pay such estimated cost before our secretary is required to prepare and deliver the notice of the special meeting. Only the matters set forth in the notice of special meeting may be considered and acted upon at such meeting.

Amendment to Our Charter and Bylaws

Except for amendments to the provisions of our charter relating to the removal of directors and the restrictions on ownership and transfer of our stock, the vote required to amend these provisions (each of which must be advised by our board of directors and approved by the affirmative vote of stockholders entitled to cast not less than two-thirds of all the votes entitled to be cast on the matter) and amendments permitted to be made without stockholder approval under Maryland law, our charter generally may be amended only if advised by our board of directors and approved by the affirmative vote of stockholders entitled to cast a majority of all of the votes entitled to be cast on the matter.

Our board of directors has the exclusive power to adopt, alter or repeal any provision of our bylaws and to make new bylaws.

Advance Notice of Director Nominations and New Business

Our bylaws provide that, with respect to an annual meeting of stockholders, nominations of individuals for election to our board of directors and the proposal of other business to be considered by stockholders may be made only (1) pursuant to our notice of the meeting, (2) by or at the direction of our board of directors or (3) by a stockholder who was a stockholder of record as of the record date set by our board of directors for the purpose of determining stockholders entitled to vote at the meeting, at the time of giving the notice required by our bylaws and at the time of the meeting (and any postponement or adjournment thereof), who is entitled to vote at the meeting on such business or in the election of such nominee and who has provided notice to us within the time period, and containing the information and other materials, specified by the advance notice provisions set forth in our bylaws.

With respect to special meetings of stockholders, only the business specified in our notice of meeting may be brought before the meeting. Nominations of individuals for election to our board of directors may be made only (1) by or at the direction of our board of directors or (2) provided that the meeting has been called for the purpose of electing directors, by a stockholder who was a stockholder of record as of the record date set by our board of directors for the purpose of determining stockholders entitled to vote at the meeting, at the time of giving the notice required by our bylaws and at the time of the special meeting (and any postponement or adjournment thereof), who is entitled to vote at the meeting in the election of such nominee and who has provided notice to us within the time period, and containing the information and other materials, specified by the advance notice provisions set forth in our bylaws.

Indemnification and Limitation of Directors' and Officers' Liability

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 actual receipt of an improper benefit or profit in money, property or services or active and deliberate dishonesty that was established by a final judgment and was 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.

The MGCL requires us (unless our 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 a party by reason of his or her service in that capacity. The MGCL permits us to indemnify our 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:

- the act or omission of the director or officer was material to the matter giving rise to the proceeding and (1) was committed in bad faith or (2) 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.

Under the MGCL, we may not indemnify a director or officer in a suit by us or on our behalf in which the director or officer was adjudged liable to us or in a suit in which the director or officer was adjudged liable on the basis that personal benefit was improperly received. Nevertheless, a court may order indemnification if it determines that the director or officer is fairly and reasonably entitled to indemnification, even though the director or officer did not meet the prescribed standard of conduct or was adjudged liable on the basis that personal benefit was improperly received. However, indemnification for an adverse judgment in a suit by us or on our behalf, or for a judgment of liability on the basis that personal benefit was improperly received, is limited to expenses.

In addition, the MGCL permits us to advance reasonable expenses to a director or officer upon our 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 us; 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 us if it is ultimately determined that the director or officer did not meet the standard of conduct.

Our charter authorizes us to obligate ourselves and our bylaws obligate us, to the fullest extent permitted by Maryland law in effect from time to time, 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;

- any individual who, while a director or officer of our company and at our request, serves or has served as a director, officer, partner, manager, managing member or trustee of another corporation, real estate investment trust, partnership, limited liability company, joint venture, trust, employee benefit plan or any 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; or
- any individual who served any predecessor of our company, including Hannon Armstrong Capital, LLC, in a similar capacity, who is made or threatened to be made a party to or witness in the proceeding by reason of his or her service in such capacity.

Our charter and bylaws also permit us to indemnify and advance expenses to any employee or agent of our company or a predecessor of our company.

We have entered into indemnification agreements with each of our directors and executive officers that provide for indemnification to the maximum extent permitted by Maryland law.

Insofar as the foregoing provisions permit indemnification of directors, officers or persons controlling us for liability arising under the Securities Act, we have been informed that, in the opinion of the SEC, this indemnification is against public policy as expressed in the Securities Act and is therefore unenforceable.

SECOND AMENDED AND RESTATED

AGREEMENT OF LIMITED PARTNERSHIP

OF

HANNON ARMSTRONG SUSTAINABLE INFRASTRUCTURE, L.P.

a Delaware limited partnership

THE PARTNERSHIP INTERESTS ISSUED PURSUANT TO THIS AGREEMENT OF LIMITED PARTNERSHIP HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR UNDER THE SECURITIES OR "BLUE SKY" LAWS OF ANY STATE OR OTHER JURISDICTION AND MAY NOT BE SOLD OR TRANSFERRED UNLESS THEY ARE REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND ANY OTHER APPLICABLE SECURITIES OR "BLUE SKY" LAWS, OR UNLESS AN EXEMPTION FROM SUCH REGISTRATION IS AVAILABLE. SUCH PARTNERSHIP INTERESTS ARE SUBJECT TO THE RESTRICTIONS ON TRANSFER SET FORTH IN THIS AGREEMENT.

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THIS SECOND AMENDED AND RESTATED AGREEMENT OF LIMITED PARTNERSHIP OF HANNON ARMSTRONG SUSTAINABLE INFRASTRUCTURE, L.P., dated as of February 16, 2024, is entered into by and among Hannon Armstrong Sustainable Infrastructure Capital, Inc., a Maryland Corporation ("**Parent**"), HAC Holdings I LLC, a Delaware limited liability company ("**HAC I**"), HAC Holdings II LLC, a Delaware limited liability company ("**HAC II**"), and the Limited Partners (as defined herein).

WHEREAS, the Certificate of Limited Partnership of the Partnership was filed in the office of the Secretary of State of the State of Delaware on November 8, 2012;

WHEREAS, the Parent, as general partner entered into an Agreement of Limited Partnership, dated as of November 9, 2012 (the "**Original Agreement of Limited Partnership**"), with the limited partners named therein;

WHEREAS, the Parent, as general partner, entered into an Amended and Restated Agreement of Limited Partnership, dated as of April 23, 2013 (the "**Amended Agreement of Limited Partnership**"), with the limited partners named therein, which amended and restated the Original Agreement of Limited Partnership;

WHEREAS, the Parent intends to revoke its election to be treated as a real estate investment trust for U.S. federal income tax purposes (the "**De-REIT**"), as permitted under the Charter to be effective January 1, 2024;

WHEREAS, in connection with the De-REIT the Parent and certain of its subsidiaries conducted a series of restructuring transactions (the "**De-REIT Transactions**");

WHEREAS, in connection with the De-REIT Transactions, HAC I and HAC II were formed and became limited partners of the Partnership;

WHEREAS, in connection with the De-REIT Transactions, the limited partner interests of HAC I and HAC II will be recharacterized as general partner interests (the "**GP Interest Recharacterization**") and HAC I and HAC II will become additional general partners of the Partnership (the "**General Partner Additions**");

WHEREAS, pursuant to Section 14.02(a) of the Amended Agreement of Limited Partnership, the General Partner has the power, without the consent of the Limited Partners, to amend and restate the Amended Agreement of Limited Partnership to reflect the De-REIT, the General Partner Additions and the other amendments set forth in this Agreement; and

WHEREAS, the parties hereto desire to amend and restate the Amended Agreement of Limited Partnership in its entirety with this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE I

DEFINED TERMS

The following definitions shall be for all purposes, unless otherwise clearly indicated to the contrary, applied to the terms used in this Agreement.

"**Act**" means the Delaware Revised Uniform Limited Partnership Act (6 Del. C. § 17-101 *et seq.*), as it may be amended from time to time, and any successor to such statute.

"**Actions**" has the meaning set forth in **Section 7.07** hereof.

"**Additional Funds**" has the meaning set forth in **Section 4.04(a)** hereof.

"**Additional Limited Partner**" means a Person who is admitted to the Partnership as a Limited Partner pursuant to **Section 4.03** and **Section 12.02** hereof and who is shown as such on the books and records of the Partnership.

"**Adjusted Capital Account Deficit**" means, with respect to any Partner, the deficit balance, if any, in such Partner's Adjusted Partnership Account as of the end of the relevant Partnership Year.

"**Adjusted Partnership Account**" means the Capital Account maintained for each Partner as of the end of each Year (i) increased by any amounts which such Partner is obligated to restore pursuant to any provision of this Agreement or is deemed to be obligated to restore pursuant to the penultimate sentences of Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5) and (ii) decreased by the items described in Regulations 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). The foregoing definition of Adjusted Partnership Account is intended to comply with the provisions of Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

"**Adjustment Event**" has the meaning set forth in **Section 4.06(a)(i)** hereof.

"**Adjustment Factor**" means 1.0; **provided**, **however**, **that** in the event that:

(i) the Parent (a) declares or pays a dividend on its outstanding Parent Shares wholly or partly in Parent Shares or makes a distribution to all holders of its outstanding Parent Shares wholly or partly in Parent Shares, (b) splits or subdivides its outstanding Parent Shares or (c) effects a reverse stock split or otherwise combines its outstanding Parent Shares into a smaller number of Parent Shares, the Adjustment Factor shall be adjusted by multiplying the Adjustment Factor previously in effect by a fraction, (i) the numerator of which shall be the number of Parent Shares issued and outstanding on the record date for such dividend, distribution, split, subdivision, reverse split or combination (assuming for such purposes that such dividend, distribution, split, subdivision, reverse split or combination has occurred as of such time) and (ii) the denominator of which shall be the actual number of Parent Shares (determined without the above assumption) issued and outstanding on the record date for such dividend, distribution, split, subdivision, reverse split or combination;

(ii) the Parent distributes any rights, options or warrants to all holders of its Parent Shares to subscribe for or to purchase or to otherwise acquire Parent Shares (or other securities or rights convertible into, exchangeable for or exercisable for Parent Shares) at a price per share less than the Value of a Parent Share on the record date for such distribution (each a "**Distributed Right**"), then the Adjustment Factor shall be adjusted by multiplying the Adjustment Factor previously in effect by a fraction (a) the numerator of which shall be the number of Parent Shares issued and outstanding on the record date plus the maximum number of Parent Shares purchasable under such Distributed Rights and (b) the denominator of which shall be the number of Parent Shares issued and outstanding on the record date plus a fraction (1) the numerator of which is the maximum number of Parent Shares purchasable under such Distributed Rights times the minimum purchase price per Parent Share under such Distributed Rights and (2) the denominator of which is the Value of a Parent Share as of the record date; **provided**, **however**, **that** if any such Distributed Rights expire or become no longer exercisable, then the Adjustment Factor shall be adjusted, effective retroactive to the date of distribution of the Distributed Rights, to reflect a reduced maximum number of Parent Shares or any change in the minimum purchase price for the purposes of the above fraction;

(iii) the Parent shall, by dividend or otherwise, distribute to all holders of its Parent Shares evidences of its indebtedness or assets (including securities, but excluding any dividend or distribution referred to in subsection (i) above), which evidences of indebtedness or assets relate to assets not received by the Parent or its Subsidiaries pursuant to a *pro rata* distribution by the Partnership, then the Adjustment Factor shall be adjusted to equal the amount determined by multiplying the Adjustment Factor in effect immediately prior to the close of business on the date fixed for determination of stockholders of the Parent entitled to receive such distribution by a fraction (i) the numerator of which shall be such Value of a Parent Share on the date fixed for such determination and (ii) the denominator of which shall be the Value of a Parent Share on the dates fixed for such determination less the then fair market value (as determined by the General Partner, whose determination shall be conclusive) of the portion of the evidences of indebtedness or assets so distributed applicable to one Parent Share; and

(iv) an entity other than an Affiliate of the Parent shall become General Partner pursuant to any merger, consolidation or combination of the Parent with or into another entity (the "**Successor Entity**"), the Adjustment Factor shall be adjusted by multiplying the Adjustment Factor by the number of shares of the Successor Entity into which one Parent Share is converted pursuant to such merger, consolidation or combination, determined as of the date of such merger, consolidation or combination.

Any adjustments to the Adjustment Factor shall become effective immediately after the effective date of such event, retroactive to the record date, if any, for such event. Notwithstanding the foregoing, the Adjustment Factor shall not be adjusted in connection with an event described in clauses (i) or (ii) above if, in connection with such event, the Partnership makes a distribution of cash, Partnership Units, Parent Shares and/or rights, options or warrants to acquire Partnership Units and/or Parent Shares with respect to all applicable OP Units or effects a reverse split of, or otherwise combines, the OP Units, as applicable, that is comparable as a whole in all material respects with such an event, or if in connection with an event described in clause (iv) above, the consideration in **Section 11.02** hereof is paid. For the avoidance of doubt, the Tax Benefits Rights shall not be treated as an event affecting the Adjustment Factor until the Distribution Date, at which time either the General Partner shall cause the Partnership to distribute to the OP Units rights corresponding to the Tax Benefits Rights, or the Adjustment Factor shall be adjusted pursuant to clause (ii) above.

"**Affiliate**" means, with respect to any Person, (i) any Person directly or indirectly controlling or controlled by or under common control with such Person, (ii) any Person owning or controlling 10% or more of the outstanding voting interests of such Person, (iii) any Person of which such Person owns or controls 10% or more of the voting interests or (iv) any officer, director, general partner or trustee of such Person or any Person referred to in clauses (i), (ii), and (iii) above. For the purposes of this definition, "control" when used with respect to any Person means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise, and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

"**Agreement**" means this Second Amended and Restated Agreement of Limited Partnership of Hannon Armstrong Sustainable Infrastructure, L.P., as it may be amended, supplemented or restated from time to time.

"**Amended Agreement of Limited Partnership**" has the meaning set forth in the recitals.

"**Assignee**" means a Person to whom one or more Partnership Units have been Transferred in a manner permitted under this Agreement, but who has not become a Substituted Limited Partner, and who has the rights set forth in **Section 11.05** hereof.

"**Available Cash**" means, with respect to any period for which such calculation is being made, the amount of cash flow from operations available for distribution by the Partnership as determined by the General Partner in its sole and absolute discretion.

"**Business Day**" means any day except a Saturday, Sunday or other day on which commercial banks in New York, New York are authorized or required by law to close.

"**Bylaws**" means the Bylaws of the Parent, as amended, supplemented or restated from time to time.

"**Capital Account**" means, with respect to any Partner, the Capital Account maintained by the General Partner for such Partner on the Partnership's books and records in accordance with the following provisions:

A. To each Partner's Capital Account, there shall be added such Partner's Capital Contributions, such Partner's distributive share of Net Income and any items in the nature of income or gain that are specially allocated pursuant to **Section 6.03** hereof, and the principal amount of any Partnership liabilities assumed by such Partner or that are secured by any property distributed to such Partner.

B. From each Partner's Capital Account, there shall be subtracted the amount of cash and the Gross Asset Value of any property distributed to such Partner pursuant to any provision of this Agreement, such Partner's distributive share of Net Losses and any items in the nature of expenses or losses that are specially allocated pursuant to **Section 6.03** hereof, and the principal amount of any liabilities of such Partner assumed by the Partnership or that are secured by any property contributed by such Partner to the Partnership.

C. In the event any interest in the Partnership is Transferred in accordance with the terms of this Agreement, the transferee shall succeed to the Capital Account of the transferor to the extent that it relates to the Transferred interest.

D. In determining the principal amount of any liability for purposes of subsections (a) and (b) hereof, there shall be taken into account Code Section 752(c) and any other applicable provisions of the Code and Regulations.

E. The provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Regulations Sections 1.704-1(b) and 1.704-2, and shall be interpreted and applied in a manner consistent with such Regulations. If the General Partner shall determine that it is prudent to modify the manner in which the Capital Accounts are maintained in order to comply with such Regulations, the General Partner may make such modification **provided**, **that** such modification will not have a material effect on the amounts distributable to any Partner without such Partner's Consent. The Parent also shall (i) make any adjustments that are necessary or appropriate to maintain equality between the Capital Accounts of the Partners and the amount of Partnership capital reflected on the Partnership's balance sheet, as computed for book purposes, in accordance with Regulations Section 1.704-1(b)(2)(iv)(q) and (ii) make any appropriate modifications in the event that unanticipated events might otherwise cause this Agreement not to comply with Regulations Section 1.704-1(b) or Section 1.704-2.

“**Capital Account Deficit**” has the meaning set forth in **Section 13.02(c)** hereof.

“**Capital Account Limitation**” has the meaning set forth in **Section 4.07(b)** hereof.

“**Capital Contribution**” means, with respect to any Partner, the amount of money and the initial Gross Asset Value of any Contributed Property that such Partner contributes to the Partnership or is deemed to contribute pursuant to **Section 4.04** hereof.

“**Cash Amount**” means, with respect to a Tendering Partner, an amount of cash equal to the product of (A) the Value of a Parent Share and (B) such Tendering Partner’s Parent Shares Amount determined as of the date of receipt by the Parent of such Tendering Partner’s Notice of Redemption or, if such date is not a Business Day, the immediately preceding Business Day.

“**Certificate**” means the Certificate of Limited Partnership of the Partnership filed in the office of the Secretary of State of the State of Delaware on November 8, 2012, as amended from time to time in accordance with the terms hereof and the Act.

“**Charter**” means the Articles of Amendment and Restatement of the Parent as filed with the Maryland State Department of Assessment and Taxation, as amended, supplemented or restated from time to time.

“**Closing Price**” has the meaning set forth in the definition of “Value.”

“**Code**” means the Internal Revenue Code of 1986, as amended and in effect from time to time or any successor statute thereto, as interpreted by the applicable Regulations thereunder. Any reference herein to a specific section or sections of the Code shall be deemed to include a reference to any corresponding provision of future law.

“**Commission**” means the Securities and Exchange Commission.

“**Consent**” means the consent to, approval of, or vote in favor of a proposed action by a Partner given in accordance with **Article XIV** hereof.

“**Constituent Person**” has the meaning set forth in **Section 4.07(f)** hereof.

“**Contributed Property**” means each item of Property or other asset, in such form as may be permitted by the Act, but excluding cash, contributed or deemed contributed to the Partnership (or deemed contributed by the Partnership to a “new” partnership pursuant to Code Section 708) net of any liabilities assumed by the Partnership relating to such Contributed Property and any liability to which such Contributed Property is subject.

“**Conversion Date**” has the meaning set forth in **Section 4.07(b)** hereof.

“**Conversion Notice**” has the meaning set forth in **Section 4.07(b)** hereof.

“**Conversion Right**” has the meaning set forth in **Section 4.07(a)** hereof.

“**Debt**” means, as to any Person, as of any date of determination, (i) all indebtedness of such Person for borrowed money or for the deferred purchase price of property or services; (ii) all amounts owed by such Person to banks or other Persons in respect of reimbursement obligations under letters of credit, surety bonds and other similar instruments guaranteeing payment or other performance of obligations by such Person; (iii) all indebtedness for borrowed money or for the deferred purchase price of property or services secured by any lien on any property owned by such Person, to the extent attributable to such Person’s interest in such property, even though such Person has not assumed or become liable for the payment thereof; and (iv) lease obligations of such Person that, in accordance with generally accepted accounting principles, should be capitalized.

"**Depreciation**" means, for each Partnership Year or other applicable period, an amount equal to the federal income tax depreciation, amortization or other cost recovery deduction allowable with respect to an asset for such year or other period, except that if the Gross Asset Value of an asset differs from its adjusted basis for federal income tax purposes at the beginning of such year or period, Depreciation shall be in an amount that bears the same ratio to such beginning Gross Asset Value as the federal income tax depreciation, amortization or other cost recovery deduction for such year or other period bears to such beginning adjusted tax basis; **provided**, **however**, **that** if the federal income tax depreciation, amortization or other cost recovery deduction for such year or period is zero, Depreciation shall be determined with reference to such beginning Gross Asset Value using any reasonable method selected by the General Partner.

"**De-REIT**" has the meaning set forth in the recitals.

"**De-REIT Transactions**" has the meaning set forth in the recitals.

"**Distributed Right**" has the meaning set forth in the definition of "Adjustment Factor."

"**Distribution Date**" has the meaning ascribed to such term in the Tax Benefits Preservation Plan.

"**Economic Capital Account Balances**" has the meaning set forth in **Section 6.03(c)** hereof.

"**Equity Incentive Plan**" means any equity incentive plan hereafter adopted by the Partnership or the Parent.

"**ERISA**" means the Employee Retirement Income Security Act of 1974, as amended.

"**Exchange Act**" means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

"**Forced Conversion**" has the meaning set forth in **Section 4.07(c)** hereof.

"**Forced Conversion Notice**" has the meaning set forth in **Section 4.07(c)** hereof.

"**Funding Debt**" means the incurrence of any Debt for the purpose of providing funds to the Partnership by or on behalf of the Parent or any wholly owned subsidiary of the Parent.

"**General Partner**" means the Parent, HAC I and HAC II, and their successors and assigns, as general partners of the Partnership. The Parent, HAC I and HAC II may act individually or collectively as the General Partner.

"**General Partner Additions**" has the meaning set forth in the recitals.

"**General Partner Employees**" means an employee of the Partnership, the General Partner or any of their subsidiaries.

"**General Partner Interest**" means the Partnership Interest held by the General Partner, which Partnership Interest is an interest as a general partner under the Act as further described in **Section 4.01(b)**. A General Partner Interest may be expressed as a number of Partnership Units.

"**General Partner Loan**" has the meaning set forth in **Section 4.04(d)** hereof.

"**Gross Asset Value**" means, with respect to any asset, the asset's adjusted basis for federal income tax purposes, except as follows:

(a) The initial Gross Asset Value of any asset contributed by a Partner to the Partnership shall be the gross fair market value of such asset as determined by the General Partner in its sole discretion.

(b) The Gross Asset Values of all Partnership assets immediately prior to the occurrence of any event described in clause (i), clause (ii), clause (iii) or clause (iv) hereof shall be adjusted to equal their respective gross fair market values, as determined by the General Partner in its sole discretion using such reasonable method of valuation as it may adopt, as of the following times:

(i) the acquisition of an additional interest in the Partnership (other than in connection with the execution of this Agreement) by a new or existing Partner in exchange for more than a *de minimis* Capital Contribution, if the General Partner reasonably determines that such adjustment is necessary or appropriate to reflect the relative economic interests of the Partners in the Partnership; **provided that** the issuance of any LTIP Unit shall be deemed to require a recalculation pursuant to this subsection;

(ii) the distribution by the Partnership to a Partner of more than a *de minimis* amount of Property as consideration for an interest in the Partnership, if the General Partner reasonably determines that such adjustment is necessary or appropriate to reflect the relative economic interests of the Partners in the Partnership;

(iii) the liquidation of the Partnership within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g); and

(iv) at such other times as the General Partner shall reasonably determine necessary or advisable in order to comply with Regulations Sections 1.704-1(b) and 1.704-2.

(c) The Gross Asset Value of any Partnership asset distributed to a Partner shall be the gross fair market value of such asset on the date of distribution as determined by the distributee and the General Partner **provided**, **that**, if the distributee is the General Partner or if the distributee and the General Partner cannot agree on such a determination, such gross fair market value shall be determined by an independent third party experienced in the valuation of similar assets, selected by the General Partner in good faith.

(d) The Gross Asset Values of Partnership assets shall be increased (or decreased) to reflect any adjustments to the adjusted basis of such assets pursuant to Code Section 734(b) or Code Section 743(b), but only to the extent that such adjustments are taken into account in determining Capital Accounts pursuant to Regulations Section 1.704-1(b)(2)(iv)(m); **provided**, **however**, **that** Gross Asset Values shall not be adjusted pursuant to this subsection (d) to the extent that the General Partner reasonably determines that an adjustment pursuant to subsection (b) above is necessary or appropriate in connection with a transaction that would otherwise result in an adjustment pursuant to this subsection (d).

(e) If the Gross Asset Value of a Partnership asset has been determined or adjusted pursuant to subsection (a), subsection (b) or subsection (d) above, such Gross Asset Value shall thereafter be adjusted by the Depreciation taken into account with respect to such asset for purposes of computing Net Income and Net Losses.

"**HAC I**" has the meaning set forth in the preamble hereof.

"**HAC II**" has the meaning set forth in the preamble hereof.

"**Holder**" means either (a) a Partner or (b) an Assignee, owning a Partnership Unit, that is treated as a member of the Partnership for federal income tax purposes.

"**Incapacity**" or "**Incapacitated**" means, (i) as to any Partner who is an individual, death, total physical disability or entry by a court of competent jurisdiction adjudicating such Partner incompetent to manage such Partner's person or such Partner's estate; (ii) as to any Partner that is a corporation or limited liability company, the filing of a certificate of dissolution, or its equivalent, or the revocation of the corporation's charter; (iii) as to any Partner that is a partnership, the dissolution and commencement of winding up of the partnership; (iv) as to any Partner that is an estate, the distribution by the fiduciary of the estate's entire interest in the Partnership; (v) as to any trustee of a trust that is a Partner, the termination of the trust (but not the substitution of a new trustee); or (vi) as to any Partner, the bankruptcy of such Partner. For purposes of this definition, bankruptcy of a Partner shall be deemed to have occurred when (a) the Partner commences a voluntary proceeding seeking liquidation, reorganization or other relief of or against such Partner under any bankruptcy, insolvency or other similar law now or hereafter in effect, (b) the Partner is adjudged as bankrupt or insolvent, or a final and nonappealable order for relief under any bankruptcy, insolvency or similar law now or hereafter in effect has been entered against the Partner, (c) the Partner executes and delivers a general assignment for the benefit of the Partner's creditors, (d) the Partner files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the Partner in any proceeding of the nature described in clause (b) above, (e) the Partner seeks, consents to or acquiesces in the appointment of a trustee, receiver or liquidator for the Partner or for all or any substantial part of the Partner's properties, (f) any proceeding seeking liquidation, reorganization or other relief under any bankruptcy, insolvency or other similar law now or hereafter in effect has not been dismissed within 120 days after the commencement thereof, (g) the appointment without the Partner's consent or acquiescence of a trustee, receiver or liquidator has not been vacated or stayed within 90 days of such appointment, or (h) an appointment referred to in clause (g) above is not vacated within 90 days after the expiration of any such stay.

"**Indemnitee**" means (i) any Person made a party to a proceeding by reason of its status as (A) the General Partner or any successor thereto or (B) a member or a director of the General Partner or an officer of the Partnership, the General Partner or a Subsidiary thereof and (ii) such other Persons (including Affiliates of the General Partner or the Partnership) as the General Partner may designate from time to time (whether before or after the event giving rise to potential liability), in its sole and absolute discretion.

"**Investment Advisors Act**" means the Investment Advisors Act of 1940, as amended.

"**Investment Company Act**" means the Investment Company Act of 1940, as amended.

"**IRS**" means the Internal Revenue Service, which administers the internal revenue laws of the United States.

"**Junior Share**" means a share of capital stock of the Parent now or hereafter authorized or reclassified that has dividend rights, or rights upon liquidation, winding up and dissolution, that are junior in rank to the Parent Shares.

"**Junior Unit**" means a fractional share of the Partnership Interests that the General Partner has authorized pursuant to **Section 4.01**, **4.02**, or **4.03** hereof that has distribution rights, or rights upon liquidation, winding up and dissolution, that are junior in rank to the OP Units.

"**Limited Partner**" means any Person named as a Limited Partner in **Exhibit A** attached hereto, as such **Exhibit A** may be amended from time to time, or any Substituted Limited Partner or Additional Limited Partner, in such Person's capacity as a Limited Partner in the Partnership.

"**Limited Partner Interest**" means a Partnership Interest of a Limited Partner in the Partnership representing a fractional part of the Partnership Interests of all Limited Partners and includes any and all benefits to which the holder of such a Partnership Interest may be entitled as provided in this Agreement, together with all obligations of such Person to comply with the terms and provisions of this Agreement. A Limited Partner Interest may be expressed as a number of OP Units, LTIP Units, Preferred Units, Junior Units or other Partnership Units.

"**Liquidating Event**" has the meaning set forth in **Section 13.01** hereof.

"**Liquidating Gains**" has the meaning set forth in **Section 6.03(c)** hereof.

"**Liquidator**" has the meaning set forth in **Section 13.02(a)** hereof.

"**LTIP Award**" means each or any, as the context requires, LTIP Award issued under any Equity Incentive Plan.

"**LTIP Unit**" means a Partnership Unit which is designated as an LTIP Unit and which has the rights, preferences and other privileges designated in **Section 4.06** hereof and elsewhere in this Agreement in respect of Holders of LTIP Units. The allocation of LTIP Units among the Partners shall be set forth on **Exhibit A**, as may be amended from time to time.

"**LTIP Unitholder**" means a Partner that holds LTIP Units.

"**Majority in Interest of the Outside Limited Partners**" means Limited Partners (excluding for this purpose (i) any Limited Partner Interests held by the General Partner or its Subsidiaries, (ii) any Person of which the General Partner or its Subsidiaries directly or indirectly owns or controls more than 50% of the voting interests and (iii) any Person directly or indirectly owning or controlling more than 50% of the outstanding interests of the General Partner) holding more than 50% of the outstanding OP Units and any other Partnership Units voting as single class that are held by all Limited Partners who are not excluded for the purposes hereof.

"**Market Price**" has the meaning set forth in the definition of "Value."

"**Net Income**" or "**Net Loss**" means, for each Partnership Year of the Partnership, an amount equal to the Partnership's taxable income or loss for such year, determined in accordance with Code Section 703(a) (for this purpose, all items of income, gain, loss or deduction required to be stated separately pursuant to Code Section 703(a)(1) shall be included in taxable income or loss), with the following adjustments:

(a) Any income of the Partnership that is exempt from federal income tax and not otherwise taken into account in computing Net Income (or Net Loss) pursuant to this definition of “Net Income” or “Net Loss” shall be added to (or subtracted from, as the case may be) such taxable income (or loss);

(b) Any expenditure of the Partnership described in Code Section 705(a)(2)(B) or treated as a Code Section 705(a)(2)(B) expenditure pursuant to Regulations Section 1.704-1(b)(2)(iv)(i), and not otherwise taken into account in computing Net Income (or Net Loss) pursuant to this definition of “Net Income” or “Net Loss,” shall be subtracted from (or added to, as the case may be) such taxable income (or loss);

(c) In the event the Gross Asset Value of any Partnership asset is adjusted pursuant to subsection (b) or subsection (c) of the definition of “Gross Asset Value,” the amount of such adjustment shall be taken into account as gain or loss from the disposition of such asset for purposes of computing Net Income or Net Loss;

(d) Gain or loss resulting from any disposition of property with respect to which gain or loss is recognized for federal income tax purposes shall be computed by reference to the Gross Asset Value of the property disposed of, notwithstanding that the adjusted tax basis of such property differs from its Gross Asset Value;

(e) In lieu of the depreciation, amortization and other cost recovery deductions that would otherwise be taken into account in computing such taxable income or loss, there shall be taken into account Depreciation for such Partnership Year;

(f) To the extent that an adjustment to the adjusted tax basis of any Partnership asset pursuant to Code Section 734(b) or Code Section 743(b) is required pursuant to Regulations Section 1.704-1(b)(2)(iv)(m)(4) to be taken into account in determining Capital Accounts as a result of a distribution other than in liquidation of a Partner’s interest in the Partnership, the amount of such adjustment shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases the basis of the asset) from the disposition of the asset and shall be taken into account for purposes of computing Net Income or Net Loss; and

(g) Notwithstanding any other provision of this definition of “Net Income” or “Net Loss,” any item that is specially allocated pursuant to **Section 6.03** hereof shall not be taken into account in computing Net Income or Net Loss. The amounts of the items of Partnership income, gain, loss or deduction available to be specially allocated pursuant to **Section 6.03** hereof shall be determined by applying rules analogous to those set forth in this definition of “Net Income” or “Net Loss.”

“**New Securities**” means (i) any rights, options, warrants or convertible or exchangeable securities having the right to subscribe for or purchase Parent Shares, Preferred Shares or Junior Shares, except that “New Securities” shall not mean any Preferred Shares, Junior Shares or grants under the Equity Incentive Plans, (ii) any Debt issued by the Parent that provides any of the rights described in clause (i), or (iii) the Tax Benefits Rights.

“**Nonrecourse Deductions**” has the meaning set forth in Regulations Section 1.704-2(b)(1), and the amount of Nonrecourse Deductions for a Partnership Year shall be determined in accordance with the rules of Regulations Section 1.704-2(c).

“**Nonrecourse Liability**” has the meaning set forth in Regulations Section 1.752-1(a)(2).

“**Notice of Redemption**” means the Notice of Redemption substantially in the form of **Exhibit B** attached to this Agreement.

“**OP Unit**” means a fractional share of the Partnership Interests of all Partners issued pursuant to **Section 4.01** hereof, but does not include any LTIP Unit, Preferred Unit, Junior Unit or any other Partnership Unit specified in a Partnership Unit Designation as being other than an OP Unit; **provided**, **however**, **that** the General Partner Interest and the Limited Partner Interests shall have the differences in rights and privileges as specified in this Agreement.

“**OP Unit Economic Balance**” has the meaning set forth in **Section 6.03(c)** hereof.

“**Original Agreement of Limited Partnership**” has the meaning set forth in the recitals.

“**Outside Interest**” has the meaning set forth in **Section 5.02** hereof.

“**Parent**” has the meaning set forth in the preamble hereof.

“**Parent Share**” means a share of the Parent’s common stock, par value $0.01 per share. Where relevant in this Agreement, “Parent Share” includes shares of the Parent’s common stock, par value $0.01 per share, issued upon conversion of Preferred Shares or Junior Shares.

“**Parent Shares Amount**” means a number of Parent Shares equal to the product of (a) the number of Tendered Units and (b) the Adjustment Factor in effect on the Specified Redemption Date with respect to such Tendered Units; **provided**, **however**, **that** in the event that the Parent issues to all holders of Parent Shares as of a certain record date rights, options, warrants or convertible or exchangeable securities entitling the Parent’s stockholders to subscribe for or purchase Parent Shares, or any other securities or property (collectively, the “**Rights**”), with the record date for such Rights issuance falling within the period starting on the date of the Notice of Redemption and ending on the day immediately preceding the Specified Redemption Date, which Rights will not be distributed before the relevant Specified Redemption Date, then the Parent Shares Amount shall also include such Rights that a holder of that number of Parent Shares would be entitled to receive, expressed, where relevant hereunder, in a number of Parent Shares determined by the General Partner in good faith.

“**Partner**” means a General Partner or a Limited Partner, and “**Partners**” means the General Partner and the Limited Partners.

“**Partner Minimum Gain**” means an amount, with respect to each Partner Nonrecourse Debt, equal to the Partnership Minimum Gain that would result if such Partner Nonrecourse Debt were treated as a Nonrecourse Liability, determined in accordance with Regulations Section 1.704-2(i)(3).

“**Partner Nonrecourse Debt**” has the meaning set forth in Regulations Section 1.704-2(b)(4).

“**Partner Nonrecourse Deductions**” has the meaning set forth in Regulations Section 1.704-2(i)(2), and the amount of Partner Nonrecourse Deductions with respect to a Partner Nonrecourse Debt for a Partnership Year shall be determined in accordance with the rules of Regulations Section 1.704-2(i)(2).

“**Partnership**” means the limited partnership formed under the Act and pursuant to this Agreement, and any successor thereto.

“**Partnership Interest**” means an ownership interest in the Partnership held by either a Limited Partner or the General Partner and includes any and all benefits to which the holder of such a Partnership Interest may be entitled as provided in this Agreement, together with all obligations of such Person to comply with the terms and provisions of this Agreement. A

Partnership Interest may be expressed as a number of OP Units, LTIP Units, Preferred Units, Junior Units or other Partnership Units.

"**Partnership Minimum Gain**" has the meaning set forth in Regulations Section 1.704-2(b)(2), and the amount of Partnership Minimum Gain, as well as any net increase or decrease in Partnership Minimum Gain, for a Partnership Year shall be determined in accordance with the rules of Regulations Section 1.704-2(d).

"**Partnership Record Date**" means a record date established by the General Partner for the distribution of Available Cash pursuant to **Section 5.01** hereof, which record date shall generally be the same as the record date established by the Parent for a distribution to its stockholders of some or all of its portion of such distribution.

"**Partnership Representative**" has the meaning set forth in **Section 10.03(a)** hereof.

"**Partnership Unit**" means an OP Unit, an LTIP Unit, a Preferred Unit, a Junior Unit or any other fractional share of the Partnership Interests that the General Partner has authorized pursuant to **Section 4.01**, **4.02** or **4.04** hereof.

"**Partnership Unit Designation**" has the meaning set forth in **Section 4.02** hereof.

"**Partnership Unit Distribution**" has the meaning set forth in **Section 4.06(a)(ii)** hereof.

"**Partnership Year**" means the fiscal year of the Partnership and the Partnership's taxable year for federal income tax purposes, each of which shall be the calendar year unless otherwise required under the Code.

"**Percentage Interest**" means, as to a Partner holding a class or series of Partnership Interests, its interest in such class or series as determined by dividing the Partnership Units of such class or series owned by such Partner by the total number of Partnership Units of such class then outstanding as specified in **Exhibit A** attached hereto, as such **Exhibit A** may be amended from time to time. If the Partnership issues additional classes or series of Partnership Interests other than as contemplated herein, the interest in the Partnership among the classes or series of Partnership Interests shall be determined as set forth in the amendment to the Partnership Agreement setting forth the rights and privileges of such additional classes or series of Partnership Interest, if any, as contemplated by **Section 4.02**.

"**Person**" means an individual or a corporation, partnership (general or limited), trust, estate, custodian, nominee, unincorporated organization, association, limited liability company or any other individual or entity in its own or any representative capacity.

"**Preferred Share**" means a share of capital stock of the Parent now or hereafter authorized or reclassified that has dividend rights, or rights upon liquidation, winding up and dissolution, that are superior or prior to the Parent Shares.

"**Preferred Unit**" means a fractional share of the Partnership Interests that the General Partner has authorized pursuant to **Section 4.01**, **4.02** or **4.04** hereof that has distribution rights, or rights upon liquidation, winding up and dissolution, that are superior or prior to the OP Units.

"**Properties**" means any assets and property of the Partnership such as, but not limited to, interests in real property and personal property, including, without limitation, fee interests, interests in ground leases, interests in structural improvements of buildings, interests in limited liability companies, joint ventures or partnerships, interests in mortgages, and Debt instruments as the Partnership may hold from time to time and "**Property**" means any one such asset or property.

"**Publicly Traded**" means listed or admitted to trading on the New York Stock Exchange, the NYSE MKT LLC, the Nasdaq Global Market or another national securities exchange or any successor to the foregoing.

"**Redemption**" has the meaning set forth in **Section 8.06(a)** hereof.

"**Registration Rights Agreement**" means the Registration Rights Agreement entered into by the Parent and the persons listed on Schedule I thereto upon the completion of the Parent's initial public offering of Parent Shares.

"**Regulations**" means the applicable income tax regulations under the Code, whether such regulations are in proposed, temporary or final form, as such regulations may be amended from time to time (including corresponding provisions of succeeding regulations).

"**Regulatory Allocations**" has the meaning set forth in **Section 6.03(a)(vii)** hereof.

"**REIT Payment**" has the meaning set forth in **Section 15.11** hereof.

"**REIT**" means a real estate investment trust qualifying under Code Section 856.

"**Rights**" has the meaning set forth in the definition of "Parent Shares Amount."

"**Securities Act**" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

"**Services Agreement**" means any management, development or advisory agreement with a property and/or asset manager for the provision of property management, asset management, leasing, development and/or similar services with respect to the Properties and any agreement for the provision of services of accountants, legal counsel, appraisers, insurers, brokers, transfer agents, registrars, developers, financial advisors and other professional services.

"**Specified Redemption Date**" means the 10th Business Day following receipt by the General Partner of a Notice of Redemption.

"**Subsidiary**" means, with respect to any Person, any other Person (which is not an individual) of which a majority of (i) the voting power of the voting equity securities or (ii) the outstanding equity interests is owned, directly or indirectly, by such Person.

"**Substituted Limited Partner**" means a Person who is admitted as a Limited Partner to the Partnership pursuant to **Section 11.04** hereof.

"**Successor Entity**" has the meaning set forth in the definition of "Adjustment Factor."

"**Surviving Partnership**" has the meaning set forth in **Section 11.02(b)** hereof.

"**Target Balance**" has the meaning set forth in **Section 6.03(c)** hereof.

"**Tax Benefits Preservation Plan**" means that Tax Benefits Preservation Plan entered into on November 2, 2023.

"**Tax Benefits Rights**" has the meaning ascribed to the term "Rights" in the Tax Benefits Preservation Plan.

"**Tax Items**" has the meaning set forth in **Section 6.04(a)** hereof.

"**Tendered Units**" has the meaning set forth in **Section 8.06(a)** hereof.

"**Tendering Partner**" has the meaning set forth in **Section 8.06(a)** hereof.

"**Terminating Capital Transaction**" means any sale or other disposition of all or substantially all of the assets of the Partnership or a related series of transactions that, taken together, result in the sale or other disposition of all or substantially all of the assets of the Partnership.

"**Termination Transaction**" has the meaning set forth in **Section 11.02(b)** hereof.

"**Transaction**" has the meaning set forth in **Section 4.07(f)** hereof.

"**Transfer**," when used with respect to a Partnership Unit, or all or any portion of a Partnership Interest, means any sale, assignment, bequest, conveyance, devise, gift (outright or in trust), pledge, encumbrance, hypothecation, mortgage, exchange, transfer or other disposition or act of alienation, whether voluntary or involuntary or by operation of law; **provided**, **however**, **that** when the term is used in **Article XI** hereof, "Transfer" does not include (a) any Redemption of Partnership Units by the Partnership or the General Partner, or acquisition of Tendered Units by the General Partner, pursuant to **Section 8.06** hereof or (b) any redemption of Partnership Units pursuant to any Partnership Unit Designation. The terms "**Transferred**" and "**Transferring**" have correlative meanings.

"**Unvested Incentive Unit**" has the meaning set forth in **Section 4.06(c)(i)** hereof.

"**Value**" means, on any date of determination with respect to a Parent Share, the average of the daily Market Prices for ten consecutive trading days immediately preceding the date of determination except that, as provided in **Section 4.05(b)** hereof, the Market Price for the trading day immediately preceding the date of exercise of a stock option under any Equity Incentive Plan shall be substituted for such average of daily market prices for purposes of **Section 4.05** hereof; **provided**, **however**, **that** for purposes of **Section 8.06**, the "date of determination" shall be the date of receipt by the General Partner of a Notice of Redemption or, if such date is not a Business Day, the immediately preceding Business Day. The term "**Market Price**" on any date means, with respect to any class or series of outstanding Parent Shares, the Closing Price for such Parent Shares on such date. The "**Closing Price**" on any date means the last sale price for such Parent Shares, regular way, or, in case no such sale takes place on such day, the average of the closing bid and asked prices, regular way, for such Parent Shares, in either case as reported in the principal consolidated transaction reporting system with respect to securities listed or admitted to trading on the New York Stock Exchange, the NYSE MKT LLC, the Nasdaq Global Market or another national securities exchange or, if such Parent Shares are not listed on any such exchange, the last quoted price, or, if not so quoted, the principal other automated quotation system that may then be in use or, if such Parent Shares are not quoted by any such organization, the average of the closing bid and asked prices as furnished by a professional market maker making a market in such Parent Shares selected by the Board of Directors of the Parent or, in the event that no trading price is available for such Parent Shares, the fair market value of the Parent Shares, as determined in good faith by the Board of Directors of the Parent.

In the event that the Parent Shares Amount includes Rights that a holder of Parent Shares would be entitled to receive, then the Value of such Rights shall be determined by the General

Partner acting in good faith on the basis of such quotations and other information as it considers, in its reasonable judgment, appropriate.

"**Vested LTIP Unit**" has the meaning set forth in **Section 4.06(c)(i)** hereof.

"**Vesting Agreement**" means each or any, as the context implies, Equity Incentive Plan entered into by an LTIP Unitholder upon acceptance of an award of LTIP Units under an Equity Incentive Plan.

ARTICLE II

ORGANIZATIONAL MATTERS

Section 2.01. **Organization**. The Partnership is a limited partnership organized pursuant to the provisions of the Act and upon the terms and subject to the conditions set forth in this Agreement. Except as expressly provided herein to the contrary, the rights and obligations of the Partners and the administration and termination of the Partnership shall be governed by the Act. The Partnership Interest of each Partner shall be personal property for all purposes.

Section 2.02. **Name**. The name of the Partnership is "Hannon Armstrong Sustainable Infrastructure, L.P." The Partnership's business may be conducted under any other name or names deemed advisable by the General Partner, including the name of the General Partner or any Affiliate thereof. The words "Limited Partnership," "LP," "L.P.," "Ltd." or similar words or letters shall be included in the Partnership's name where necessary for the purposes of complying with the laws of any jurisdiction that so requires. The General Partner in its sole and absolute discretion may change the name of the Partnership at any time and from time to time and shall notify the Partners of such change in the next regular communication to the Partners.

Section 2.03. **Registered Office and Agent; Principal Office**. The address of the registered office of the Partnership in the State of Delaware is located at Corporation Service Company, 2711 Centerville Road, Wilmington, Delaware 19808, and the registered agent for service of process on the Partnership in the State of Delaware at such registered office is Corporation Service Company, 2711 Centerville Road, Wilmington, Delaware 19808. The principal office of the Partnership is located at One Park Place, Suite 200, Annapolis, Maryland 21401 or such other place as the General Partner may from time to time designate by notice to the Limited Partners. The Partnership may maintain offices at such other place or places within or outside the State of Delaware as the General Partner deems advisable.

Section 2.04. **Power of Attorney**.

(a) Each Limited Partner and each Assignee hereby irrevocably constitutes and appoints each General Partner, any Liquidator, and authorized officers and attorneys-in-fact of each, and each of those acting singly, in each case with full power of substitution, as its true and lawful agent and attorney-in-fact, with full power and authority in its name, place and stead to:

(i) execute, swear to, seal, acknowledge, deliver, file and record in the appropriate public offices (a) all certificates, documents and other instruments (including, without limitation, this Agreement and the Certificate and all amendments, supplements or restatements thereof) that the General Partner or the Liquidator deems appropriate or necessary to form, qualify or continue the existence or qualification of the Partnership as a limited partnership (or a partnership in which the limited partners have limited liability to the extent provided by applicable law) in the State of Delaware and in all other jurisdictions in which the Partnership may conduct business or own property; (b) all instruments that the General Partner or the Liquidator deems appropriate or necessary to reflect any amendment, change, modification or restatement of this Agreement in accordance with its terms; (c) all conveyances and other instruments or documents that the General Partner or the Liquidator deems appropriate or necessary to reflect the dissolution and liquidation of the Partnership pursuant to the terms of this Agreement, including, without limitation, a certificate of cancellation; (d) all conveyances and other instruments or documents that the General Partner or the Liquidator deems appropriate or necessary to reflect the distribution or exchange of assets of the Partnership pursuant to the terms of this Agreement; (e) all instruments relating to the admission, withdrawal, removal or substitution of any Partner pursuant to, or other events described in, **Article XI**, **Article XII** or **Article XIII** hereof or the Capital Contribution of any Partner; and (f) all certificates, documents and other instruments relating to the determination of the rights, preferences and privileges relating to Partnership Interests; and

(ii) execute, swear to, acknowledge and file all ballots, consents, approvals, waivers, certificates and other instruments appropriate or necessary, in the sole and absolute discretion of the General Partner or the Liquidator, to make, evidence, give, confirm or ratify any vote, consent, approval, agreement or other action that is made or given by the Partners hereunder or is consistent with the terms of this Agreement or appropriate or necessary, in the sole and absolute discretion of the General Partner or the Liquidator, to effectuate the terms or intent of this Agreement.

Nothing contained herein shall be construed as authorizing the General Partner or the Liquidator to amend this Agreement except in accordance with **Article XIV** hereof or as may be otherwise expressly provided for in this Agreement.

(b) The foregoing power of attorney is hereby declared to be irrevocable and a special power coupled with an interest, in recognition of the fact that each of the Limited Partners and Assignees will be relying upon the power of the General Partner or the Liquidator to act as contemplated by this Agreement in any filing or other action by it on behalf of the Partnership, and it shall survive and not be affected by the subsequent Incapacity of any Limited Partner or Assignee and the Transfer of all or any portion of such Limited Partner's or Assignee's Partnership Units or Partnership Interest and shall extend to such Limited Partner's or Assignee's heirs, successors, assigns and personal representatives. Each such Limited Partner or Assignee hereby agrees to be bound by any representation made by the General Partner or the Liquidator, acting in good faith pursuant to such power of attorney; and each such Limited Partner or Assignee hereby waives any and all defenses that may be available to contest, negate or disaffirm the action of the General Partner or the Liquidator, taken in good faith under such power of attorney. Each Limited Partner or Assignee shall execute and deliver to the General Partner or the Liquidator, within 15 days after receipt of the General Partner's or the Liquidator's request therefor, such further designation, powers of attorney and other instruments as the General Partner or the Liquidator, as the case may be, deems necessary to effectuate this Agreement and the purposes of the Partnership.

Section 2.05. **Term**. Pursuant to Sections 17-201(b) and 17-801 of the Act, the term of the Partnership commenced on November 8, 2012 and shall continue perpetually, unless it is dissolved pursuant to the provisions of **Article XIII** hereof or as otherwise provided by law.

Section 2.06. **Partnership Interests as Securities**. All Partnership Interests shall be securities within the meaning of, and governed by (i) Article 8 of the Delaware Uniform Commercial Code and (ii) Article 8 of the Uniform Commercial Code of any other applicable jurisdiction.

ARTICLE III

PURPOSE

Section 3.01. **Purpose and Business**. The purpose and nature of the Partnership is to conduct any business, enterprise or activity permitted by or under the Act. In connection with the foregoing, the Partnership shall have full power and authority to enter into, perform and carry out contracts of any kind, to borrow and lend money and to issue and guarantee evidence of indebtedness, whether or not secured by mortgage, deed of trust, pledge or other lien and, directly or indirectly, to acquire and construct additional Properties necessary, useful or desirable in connection with its business.

Section 3.02. **Powers**.

(a) The Partnership shall be empowered to do any and all acts and things necessary, appropriate, proper, advisable, incidental to or convenient for the furtherance and accomplishment of the purposes and business described herein and for the protection and benefit of the Partnership.

(b) The Partnership may contribute from time to time Partnership capital to one or more newly formed entities solely in exchange for equity interests therein (or in a wholly owned subsidiary entity thereof).

(c) Notwithstanding any other provision in this Agreement, the General Partner may cause the Partnership not to take, or to refrain from taking, any action that, in the judgment of the General Partner, in its sole and absolute discretion, (i) could violate any law or regulation of any governmental body or agency having jurisdiction over the General Partner, its securities or the Partnership or (ii) could result in either the Partnership or the General Partner being subject to regulation under the Investment Company Act.

Section 3.03. **Partnership Only for Partnership Purposes Specified**. The Partnership shall be a limited partnership formed pursuant to the Act to conduct its business in accordance with this Agreement. This Agreement shall not be deemed to create a company, venture or partnership between or among the Partners with respect to any activities whatsoever other than the activities within the purposes of the Partnership as specified in **Section 3.01** hereof. Except as otherwise provided in this Agreement, no Partner shall have any authority to act for, bind, commit or assume any obligation or responsibility on behalf of the Partnership, its properties or any other Partner. No Partner, in its capacity as a Partner under this Agreement, shall be responsible or liable for any indebtedness or obligation of another Partner, and the Partnership shall not be responsible or liable for any indebtedness or obligation of any Partner, incurred either before or after the execution and delivery of this Agreement by such Partner, except as to those responsibilities, liabilities, indebtedness or obligations incurred pursuant to and as limited by the terms of this Agreement and the Act.

Section 3.04. **Representations and Warranties by the Parties**.

(a) Each Partner (including, without limitation, each Additional Limited Partner or Substituted Limited Partner as a condition to becoming an Additional Limited Partner or a Substituted Limited Partner, respectively) represents and warrants to each other Partner that (i) the consummation of the transactions contemplated by this Agreement to be performed by such Partner will not result in a breach or violation of, or a default under, any material agreement by which such Partner or any of such Partner's property is bound, or any statute, regulation, order or other law to which such Partner is subject, (ii) subject to the last sentence of this **Section 3.04(a)**, such Partner is neither a "foreign person" within the meaning of Code

Section 1445(f) nor a “foreign partner” within the meaning of Code Section 1446(e), and (iii) this Agreement is binding upon, and enforceable against, such Partner in accordance with its terms. Notwithstanding anything contained herein to the contrary, in the event that the representation contained in the foregoing clause (ii) would be inaccurate if given by a Partner, such Partner (w) shall not be required to make and shall not be deemed to have made such representation, if it delivers to the General Partner in connection with or prior to its execution of this Agreement written notice that it may not truthfully make such representation, (x) hereby agrees that it is subject to, and hereby authorizes the General Partner to withhold, all withholdings to which such a “foreign person” or “foreign partner,” as applicable, is subject under the Code, including any withholding applicable to a Transfer of such Partner’s interest in the Partnership under Section 1446(f) and (y) hereby agrees to cooperate fully with the General Partner with respect to such withholdings, including by effecting the timely completion and delivery to the General Partner of all governmental forms required in connection therewith, and agrees to indemnify the General Partner for any withholding obligations that apply as a result of a failure to comply with Section 1446(f) in the event of a transfer of the Partner’s interest in the Partnership.

(b) Each Partner (including, without limitation, each Substituted Limited Partner as a condition to becoming a Substituted Limited Partner) represents, warrants and agrees that it has acquired and continues to hold its interest in the Partnership for its own account for investment purposes only and not for the purpose of, or with a view toward, the resale or distribution of all or any part thereof, and not with a view toward selling or otherwise distributing such interest or any part thereof at any particular time or under any predetermined circumstances. Each Partner further represents and warrants that it is a sophisticated investor, able and accustomed to handling sophisticated financial and tax matters for itself, particularly real estate investments, and that it has a sufficiently high net worth that it does not anticipate a need for the funds that it has invested in the Partnership in what it understands to be a highly speculative and illiquid investment.

(c) The representations and warranties contained in **Sections 3.04(a)** and **3.04(b)** hereof shall survive the execution and delivery of this Agreement by each Partner (and, in the case of an Additional Limited Partner or a Substituted Limited Partner, the admission of such Additional Limited Partner or Substituted Limited Partner as a Limited Partner in the Partnership) and the dissolution, liquidation and termination of the Partnership.

(d) Each Partner (including, without limitation, each Substituted Limited Partner as a condition to becoming a Substituted Limited Partner) hereby acknowledges that no representations as to potential profit, cash flows, funds from operations or yield, if any, in respect of the Partnership or the General Partner have been made by the General Partner, any Partner or any employee or representative or Affiliate of the General Partner or any Partner, and that projections and any other information, including, without limitation, financial and descriptive information and documentation, that may have been in any manner submitted to such Partner shall not constitute any representation or warranty of any kind or nature, express or implied.

(e) **Provision of Information**. Each Partner agrees to provide the Partnership with any information and documentation reasonably requested by the Partnership for the purpose of reducing any withholding on payments to the Partnership or otherwise complying with the requirements of any tax laws to which the Partnership is subject.

ARTICLE IV

CAPITAL CONTRIBUTIONS

Section 4.01. **Capital Contributions of the Partners**.

(a) **Capital Contributions**. Each Partner has made a Capital Contribution to the Partnership and owns Partnership Units in the amount and designation set forth for such Partner on **Exhibit A**, as the same may be amended from time to time by the General Partner to the extent necessary to reflect accurately sales, exchanges, conversions or other Transfers, redemptions, Capital Contributions, the issuance of additional Partnership Units, or similar events having an effect on a Partner's ownership of Partnership Units. Except as provided by law or in **Section 4.04**, **10.04** or **13.02(d)** hereof, the Partners shall have no obligation or right to make any additional Capital Contributions or loans to the Partnership except with the prior consent of the General Partner.

(b) **General Partner Interest**. At any time that the Partnership has more than one General Partner, all Partnership Interests held by any such General Partner shall be General Partner Interests except as provided in Section 8.06(f) with respect to any OP Units acquired by a General Partner after the date hereof. At any time that the Partnership has only one General Partner, the number of Partnership Units held by such General Partner equal to 1% of the Partnership Interests held by such General Partner shall be deemed to be the General Partner Interest of such General Partner as set forth on **Exhibit A**, and all other Partnership Interests held by such General Partner shall be deemed to be Limited Partner Interests and shall be held by such General Partner in its capacity as a Limited Partner in the Partnership.

Section 4.02. **Classes of Partnership Units**. Subject to **Section 4.03(a)** below, the Partnership shall have two classes of Partnership Units, entitled "OP Units" and "LTIP Units." Subject to **Section 4.09**, either OP Units or LTIP Units, at the election of the General Partner, in its sole and absolute discretion, may be issued in exchange for any Capital Contributions by such Partners and/or the provision of services by such Partners; provided that any Partnership Unit that is not specifically designated by the General Partner as being of a particular class shall be deemed to be an OP Unit.

Section 4.03. **Issuances of Additional Partnership Interests**.

(a) **General**. The General Partner may cause the Partnership to issue additional Partnership Interests, in the form of Partnership Units, for any Partnership purpose, at any time or from time to time, to the Partners (including the General Partner) or to other Persons, and to admit such Persons as Additional Limited Partners, for such consideration and on such terms and conditions as shall be established by the General Partner in its sole and absolute discretion, subject to Delaware law, all without the approval of any Limited Partners. Without limiting the foregoing, the General Partner is expressly authorized to cause the Partnership to issue Partnership Units (i) upon the conversion, redemption or exchange of any Debt, Partnership Units or other securities issued by the Partnership, (ii) for less than fair market value, so long as the General Partner concludes in good faith that such issuance is in the best interest of the Parent's stockholders and the Partnership and (iii) in connection with any merger of any other Person into the Partnership or any Subsidiary of the Partnership if the applicable merger agreement provides that Persons are to receive Partnership Units in exchange for their interests in the Person merging into the Partnership or any Subsidiary of the Partnership. Subject to Delaware law, any additional Partnership Interests may be issued in one or more classes, or one or more series of any of such classes, with such designations, preferences and relative, participating, optional or other special rights, powers and duties as shall be determined by the General Partner, in its sole and absolute discretion without the approval of any Limited Partner, and set forth in a written document thereafter attached to and made an exhibit to this Agreement (each, a "**Partnership Unit Designation**"). Without limiting the generality of the foregoing, the General Partner shall have authority to specify (a) the allocations of items of Partnership income, gain, loss, deduction and credit to each such class or series of Partnership Interests; (b) the right of each such class or series of Partnership Interests to share in Partnership distributions; (c) the rights of each such class or series of Partnership Interests upon dissolution and liquidation of the Partnership; (d) the voting rights, if any, of each such class or series of Partnership Interests; and (e) the conversion, redemption or exchange rights applicable to each such class or series of Partnership Interests. Nothing in this Agreement shall prohibit the General Partner from issuing Partnership Units for less than fair market value if the General Partner concludes in good faith that such issuance is in the best interest of the Partnership and the Parent's stockholders. Upon the issuance of any additional Partnership Interest, the General Partner shall amend **Exhibit A** as appropriate to reflect such issuance.

(b) **Issuances to the General Partner**. No additional Partnership Units shall be issued to the General Partner unless (i) the additional Partnership Units are issued to all Partners in proportion to their respective Percentage Interests with respect to the class of Partnership Units so issued, (ii) (a) the additional Partnership Units are (x) OP Units issued in connection with an issuance of Parent Shares or (y) Partnership Units (other than OP Units) issued in connection with an issuance of Preferred Shares, Junior Shares, New Securities or other interests in the General Partner (other than Parent Shares), which Preferred Shares, Junior Shares, New Securities or other interests have designations, preferences and other rights, terms and provisions that are substantially the same as the designations, preferences and other rights, terms and provisions of the additional Partnership Units issued to the General Partner and (b) the General Partner directly or indirectly contributes or otherwise causes to be transferred to the Partnership the cash proceeds or other consideration, if any, received in connection with the issuance of such Parent Shares, Preferred Shares, Junior Shares, New Securities or other interests in the General Partner or (iii) the additional Partnership Units are issued upon the conversion, redemption or exchange of Debt, Partnership Units or other securities issued by the Partnership. In the event that the Partnership issues additional Partnership Units pursuant to this **Section 4.03(b)**, the General Partner shall make such revisions to this Agreement (including but not limited to the revisions described in **Sections 6.02(b)** and **8.06**) as it determines are necessary to reflect the issuance of such additional Partnership Interests.

(c) **No Preemptive Rights**. No Person, including, without limitation, any Partner or Assignee, shall have any preemptive, preferential, participation or similar right or rights to subscribe for or acquire any Partnership Interest.

Section 4.04. **Additional Funds and Capital Contributions**.

(a) **General**. The General Partner may, at any time and from time to time, determine that the Partnership requires additional funds ("**Additional Funds**") for the acquisition or development of additional Properties, for the redemption of Partnership Units or for such other purposes as the General Partner may determine in its sole and absolute discretion. Additional Funds may be obtained by the Partnership, at the election of the General Partner, in any manner provided in, and in accordance with, the terms of this **Section 4.04** without the approval of any Limited Partners.

(b) **Additional Capital Contributions**. The General Partner, on behalf of the Partnership, may obtain any Additional Funds by accepting Capital Contributions from any Partners or other Persons. In connection with any such Capital Contribution (of cash or property), the General Partner is hereby authorized to cause the Partnership from time to time to issue additional Partnership Units (as set forth in **Section 4.02** above) in consideration therefor and the Percentage Interests of the General Partner and the Limited Partners shall be adjusted to reflect the issuance of such additional Partnership Units.

(c) **Loans by Third Parties**. The General Partner, on behalf of the Partnership, may obtain any Additional Funds by causing the Partnership to incur Debt to any Person upon such terms as the General Partner determines appropriate, including making such Debt convertible, redeemable or exchangeable for Partnership Units; **provided**, **however**, **that** the Partnership shall not incur any such Debt if any Partner would be personally liable for the repayment of such Debt (unless such Partner otherwise agrees).

(d) **General Partner Loans**. The General Partner, on behalf of the Partnership, may obtain any Additional Funds by causing the Partnership to incur Debt with the General Partner (a "**General Partner Loan**"), if (i) such Debt is, to the extent permitted by law, on substantially the same terms and conditions (including interest rate, repayment schedule, and conversion, redemption, repurchase and exchange rights) as Funding Debt incurred by the General Partner, the net proceeds of which are loaned to the Partnership to provide such Additional Funds or (ii) such Debt is on terms and conditions no less favorable to the Partnership than would be available to the Partnership from any third party; **provided**, **however**, **that** the Partnership shall not incur any such Debt if (a) a breach, violation or default of such Debt would be deemed to occur by virtue of the Transfer by any Limited Partner of any Partnership Interest or (b) such Debt is recourse to any Partner (unless the Partner otherwise agrees).

(e) **Issuance of Securities by the Parent**. The General Parent shall not issue any additional Parent Shares, Preferred Shares, Junior Shares or New Securities unless the Parent contributes directly or indirectly, including through HAC I and/or HAC II, the cash proceeds or other consideration, if any, received from the issuance of such additional Parent Shares, Preferred Shares, Junior Shares or New Securities, as the case may be, and from the exercise of the rights contained in any such additional New Securities, to the Partnership in exchange for (x) in the case of an issuance of Parent Shares, Partnership Units or (y) in the case of an issuance of Preferred Shares, Junior Shares or New Securities, Partnership Units with designations, preferences and other rights, terms and provisions that are substantially the same as the designations, preferences and other rights, terms and provisions of such Preferred Shares, Junior Shares or New Securities; **provided**, **however**, **that** notwithstanding the foregoing, the Parent may issue Parent Shares, Preferred Shares, Junior Shares or New Securities (a) pursuant to **Section 4.05** or **8.06(b)** hereof, (b) pursuant to a dividend or distribution (including any stock split) wholly or partly of Parent Shares, Preferred Shares, Junior Shares or New Securities to all of the holders of Parent Shares, Preferred Shares, Junior Shares or New Securities, as the case may be, (c) upon a conversion, redemption or exchange of Preferred Shares, (d) upon a conversion of Junior Shares into Parent Shares, (e) upon a conversion, redemption, exchange or exercise of New Securities or, (f) pursuant to share grants or awards made pursuant to any Equity Incentive Plan of the Parent. In the event of any issuance of additional Parent Shares, Preferred Shares, Junior Shares or New Securities by the General Partner, and the direct or indirect contribution to the Partnership, by the Parent, of the cash proceeds or other consideration received from such issuance, if any, the Partnership shall pay the Parent's expenses associated with such issuance, including any underwriting discounts or commissions (it being understood that if the proceeds actually received by the Parent are less than the gross proceeds of such issuance as a result of any underwriter's discount or other expenses paid or incurred by the Parent in connection with such issuance, then the Parent shall be deemed to have made a direct or indirect Capital Contribution to the Partnership in the amount of the gross proceeds of such issuance and the Partnership shall be deemed simultaneously to have reimbursed the Parent pursuant to **Section 7.04(b)** for the amount of such underwriter's discount or other expenses). Nothing in this Agreement shall prohibit the General Partner from issuing Partnership Units for less than fair market value if the General Partner concludes in good faith that such issuance is in the best interest of the Partnership and the Parent's stockholders, including without limitation any issuance of Partnership Interests corresponding to Parent Shares issued pursuant to any exercise of Tax Benefits Rights.

Section 4.05. **Equity Incentive Plan**.

(a) **Options Granted**. If at any time or from time to time, in connection with an Equity Incentive Plan, a stock option is duly exercised:

(i) the Parent shall, as soon as practicable after such exercise, make or cause to be made directly or indirectly a Capital Contribution to the Partnership in an amount equal to the exercise price paid to the Parent by such exercising party in connection with the exercise of such stock option.

(ii) Notwithstanding the amount of the Capital Contribution actually made pursuant to **Section 4.05(a)(i)** hereof, the Parent shall be deemed to have contributed directly or indirectly to the Partnership, as a Capital Contribution, in consideration of an additional Limited Partner Interest (expressed in and as additional Partnership Units), an amount equal to the Value of a Parent Share as of the date of exercise multiplied by the number of Parent Shares then being issued in connection with the exercise of such stock option.

(iii) An equitable Percentage Interest adjustment shall be made in which the Parent shall be treated as having made a cash contribution equal to the amount described in **Section 4.05(a)(ii)** hereof.

(b) **Special Valuation Rule**. For purposes of this **Section 4.05**, in determining the Value of a Parent Share, only the trading date immediately preceding the exercise of the relevant stock option under the Equity Incentive Plan shall be considered.

(c) **Future Equity Incentive Plans**. Nothing in this Agreement shall be construed or applied to preclude or restrain the Parent from adopting, modifying or terminating any Equity Incentive Plan, for the benefit of employees, directors or other business associates of the Parent, the Partnership or any of their Affiliates. The Limited Partners acknowledge and agree that, in the event that any such plan is adopted, modified or terminated by the Parent, amendments to this **Section 4.05** may become necessary or advisable and that any approval or consent of the Limited Partners required pursuant to the terms of this Agreement in order to effect any such amendments requested by the General Partner shall not be unreasonably withheld or delayed.

Section 4.06. **LTIP Units**.

(a) **Issuance of LTIP Units**. The General Partner may from time to time cause the Partnership to issue LTIP Units to Persons who provide services to or for the benefit of the Partnership, for such consideration as the General Partner may determine to be appropriate, and admit such Persons as Limited Partners. Subject to the following provisions of this **Section 4.06** and the special provisions of **Sections 6.03(c)** and **4.07**, LTIP Units shall be treated as OP Units, with all of the rights, privileges and obligations attendant thereto. For purposes of computing the Partners' Percentage Interests, holders of LTIP Units shall be treated as holders of OP Units and LTIP Units shall be treated as OP Units. In particular, the Partnership shall maintain at all times a one-to-one correspondence between LTIP Units and OP Units for conversion, distribution and other purposes, including without limitation complying with the following procedures:

(i) If an Adjustment Event (as defined below) occurs, then the General Partner shall make a corresponding adjustment to the LTIP Units to maintain a one-for-one conversion and economic equivalence ratio between OP Units and LTIP Units. The following shall be Adjustment Events: (A) the Partnership makes a distribution on all outstanding OP Units in Partnership Units, (B) the Partnership subdivides the outstanding OP Units into a greater number of units or combines the outstanding OP Units into a smaller number of units, or (C) the Partnership issues any Partnership Units in exchange for its outstanding OP Units by way of a reclassification or recapitalization of its OP Units. If more than one Adjustment Event occurs, the adjustment to the LTIP Units need be made only once using a single formula that takes into account each and every Adjustment Event as if all Adjustment Events occurred simultaneously. For the avoidance of doubt, the following shall not be Adjustment Events: (x) the issuance of Partnership Units in a financing, reorganization, acquisition or other similar business transaction, (y) the issuance of Partnership Units pursuant to any employee benefit or compensation plan or distribution reinvestment plan, or (z) the issuance of any Partnership Units to the Parent in respect of a capital contribution to the Partnership of proceeds from the sale of securities by the Parent. If the Partnership takes an action affecting the OP Units other than actions specifically described above as "**Adjustment Events**" and in the opinion of the General Partner such action would require an adjustment to the LTIP Units to maintain the one-to-one correspondence described above, the General Partner shall have the right to make such adjustment to the LTIP Units, to the extent permitted by law and by any Equity Incentive Plan, in such manner and at such time as the General Partner, in its sole discretion, may determine to be appropriate under the circumstances. If an adjustment is made to the LTIP Units as herein provided the Partnership shall promptly file in the books and records of the Partnership an officer's certificate setting forth such adjustment and a brief statement of the facts requiring such adjustment, which certificate shall be conclusive evidence of the correctness of such adjustment absent manifest error. Promptly after filing of such certificate, the Partnership shall mail a notice to each LTIP Unitholder setting forth the adjustment to such LTIP Unitholder's LTIP Units and the effective date of such adjustment; and

(ii) The LTIP Unitholders shall, when, as and if authorized and declared by the General Partner out of assets legally available for that purpose, be entitled to receive distributions in an amount per LTIP Unit equal to the distributions per OP Unit (the "**Partnership Unit Distribution**"), paid to holders of OP Units on such Partnership Record Date established by the General Partner with respect to such distribution. So long as any LTIP Units are outstanding, no distributions (whether in cash or in kind) shall be authorized, declared or paid on OP Units, unless equal distributions have been or contemporaneously are authorized, declared and paid on the LTIP Units. Subject to the terms of any LTIP Award, an LTIP Unitholder shall be entitled to transfer such LTIP Unitholder's LTIP Units to the same extent, and subject to the same restrictions as holders of OP Units are entitled to transfer their OP Units pursuant to **Article XI** of this Agreement.

(b) **Priority**. Subject to the provisions of this **Section 4.06** and the special provisions of **Sections 6.03(c)** and **4.09**, the LTIP Units shall rank pari passu with the OP Units as to the payment of regular and special periodic or other distributions. Immediately prior to any liquidation, dissolution or winding up of the Partnership, the General Partner shall exercise its right to cause a Forced Conversion with respect to the maximum number of LTIP Units then eligible for conversion, taking into account any allocations that occur in connection with the liquidation, dissolution or winding up, at a value determined by the General Partner in good faith using the value attributed to the Partnership Units in the context of the liquidation, dissolution or winding up (in which case the Conversion Date shall be the effective date of the liquidation, dissolution or winding up). As to the payment of distributions and as to distribution of assets upon liquidation, dissolution or winding up, any class or series of Partnership Units or Partnership Interests which by its terms specifies that it shall rank junior to, on a parity with, or senior to the OP Units shall also rank junior to, or pari passu with, or senior to, as the case may be, the LTIP Units. Subject to the terms of any Vesting Agreement, an LTIP Unitholder shall be entitled to transfer such LTIP Unitholder's LTIP Units to the same extent, and subject to the same restrictions as holders of OP Units are entitled to transfer their OP Units pursuant to **Article XI**.

(c) **Special Provisions**. LTIP Units shall be subject to the following special provisions:

(i) **Vesting Agreements**. LTIP Units may, in the sole discretion of the General Partner, be issued subject to vesting, forfeiture and additional restrictions on transfer pursuant to the terms of a Vesting Agreement. The terms of any Vesting Agreement may be modified by the General Partner from time to time in its sole discretion, subject to any restrictions on amendment imposed by the relevant Vesting Agreement or by the Equity Incentive Plan, if applicable. LTIP Units that have vested under the terms of a Vesting Agreement are referred to as "**Vested LTIP Units**"; all other LTIP Units shall be treated as "**Unvested Incentive Units**."

(ii) **Forfeiture**. Unless otherwise specified in the Vesting Agreement, upon the occurrence of any event specified in a Vesting Agreement as resulting in either the right of the Partnership or the General Partner to repurchase LTIP Units at a specified purchase price or some other forfeiture of any LTIP Units, then if the Partnership or the General Partner exercises such right to repurchase or forfeiture in accordance with the applicable Vesting Agreement, the relevant LTIP Units shall immediately, and without any further action, be treated as cancelled and no longer outstanding for any purpose. Unless otherwise specified in the Vesting Agreement, no consideration or other payment shall be due with respect to any LTIP Units that have been forfeited, other than any distributions declared with respect to a Partnership Record Date prior to the effective date of the forfeiture. In connection with any repurchase or forfeiture of LTIP Units, the balance of the portion of the Capital Account of the LTIP Unitholder that is attributable to all of such LTIP Unitholder's LTIP Units shall be reduced by the amount, if any, by which it exceeds the target balance contemplated by **Section 6.03(c)**, calculated with respect to such LTIP Unitholder's remaining LTIP Units, if any.

(iii) **Redemption**. The Redemption right provided to Limited Partners under **Section 8.06** shall not apply with respect to LTIP Units unless and until they are converted to OP Units as provided in clause (iv) below and **Section 4.07**.

(iv) **Conversion to OP Units**. Vested LTIP Units are eligible to be converted into OP Units under **Section 4.07**.

(d) **Voting**. LTIP Unitholders shall (a) have the same voting rights as a holder of OP Units, with the LTIP Units voting as a single class with the OP Units and having one vote per LTIP Unit; and (b) have the additional voting rights that are expressly set forth below. So long as any LTIP Units remain outstanding, the Partnership shall not, without the affirmative vote of the holders of at least a majority of the LTIP Units outstanding at the time, given in person or by proxy, either in writing or at a meeting (voting separately as a class), amend, alter or repeal, whether by merger, consolidation or otherwise, the provisions of this Agreement applicable to LTIP Units so as to materially and adversely affect any right, privilege or voting power of the LTIP Units or the LTIP Unitholders as such, unless such amendment, alteration, or repeal affects equally, ratably and proportionately the rights, privileges and voting powers of the holders of OP Units; but subject, in any event, to the following provisions:

(i) With respect to any Transaction, so long as the LTIP Units are treated in accordance with **Section 4.07(f)** hereof, the consummation of such Transaction shall not be deemed to materially and adversely affect such rights, preferences, privileges or voting powers of the LTIP Units or the LTIP Unitholders as such; and

(ii) Any creation or issuance of any Partnership Units or of any class or series of Partnership Interest including without limitation additional OP Units, LTIP Units or Preferred Units, whether ranking senior to, junior to, or on a parity with the LTIP Units with respect to distributions and the distribution of assets upon liquidation, dissolution or winding up, shall not be deemed to materially and adversely affect such rights, preferences, privileges or voting powers of the LTIP Units or the LTIP Unitholders as such.

The foregoing voting provisions will not apply if, at or prior to the time when the act with respect to which such vote would otherwise be required will be effected, all outstanding LTIP Units shall have been converted into OP Units.

Section 4.07. **Conversion of LTIP Units**.

(a) Subject to **Section 4.07(b)**, an LTIP Unitholder shall have the right (the "**Conversion Right**"), at such LTIP Unitholder's option, at any time to convert all or a portion of such LTIP Unitholder's Vested LTIP Units into OP Units; **provided**, **however**, **that** a holder may not exercise the Conversion Right for less than 100 Vested LTIP Units or, if such holder holds less than 100 Vested LTIP Units, all of the Vested LTIP Units held by such holder. LTIP Unitholders shall not have the right to convert Unvested Incentive Units into OP Units until they become Vested LTIP Units; **provided**, **however**, **that** when an LTIP Unitholder is notified of the expected occurrence of an event that will cause such LTIP Unitholder's Unvested Incentive Units to become Vested LTIP Units, such LTIP Unitholder may give the Partnership a Conversion Notice conditioned upon and effective as of the time of vesting and such Conversion Notice, unless subsequently revoked by the LTIP Unitholder, shall be accepted by the Partnership subject to such condition. The General Partner shall have the right at any time to cause a conversion of Vested LTIP Units into OP Units. In all cases, the conversion of any LTIP Units into OP Units shall be subject to the conditions and procedures set forth in this **Section 4.07**.

(b) A holder of Vested LTIP Units may convert such Vested LTIP Units into an equal number of fully paid and nonassessable OP Units, giving effect to all adjustments (if any) made pursuant to **Section 4.06**. Notwithstanding the foregoing, in no event may a holder of Vested LTIP Units convert a number of Vested LTIP Units that exceeds (x) the Economic Capital Account Balance of such Limited Partner, to the extent attributable to its ownership of LTIP Units, divided by (y) the OP Unit Economic Balance, in each case as determined as of the effective date of conversion (the "**Capital Account Limitation**"). In order to exercise an LTIP Unitholder's Conversion Right, such LTIP Unitholder shall deliver a notice (a "**Conversion Notice**") in the form attached as **Exhibit D** to the Partnership (with a copy to the General Partner) not less than 10 nor more than 60 days prior to a date (the "**Conversion Date**") specified in such Conversion Notice; **provided, however, that** if the General Partner has not given to the LTIP Unitholders notice of a proposed or upcoming Transaction (as defined below in **Section 4.07(f)**) at least 30 days prior to the effective date of such Transaction, then LTIP Unitholders shall have the right to deliver a Conversion Notice until the earlier of (x) the 10th day after such notice from the General Partner of a Transaction or (y) the third business day immediately preceding the effective date of such Transaction. A Conversion Notice shall be provided in the manner provided in **Section 15.01**. Each LTIP Unitholder covenants and agrees with the Partnership that all Vested LTIP Units to be converted pursuant to this **Section 4.07(b)** shall be free and clear of all liens. Notwithstanding anything herein to the contrary, a holder of LTIP Units may deliver a Notice of Redemption pursuant to **Section 8.06(a)** of this Agreement relating to those OP Units that will be issued to such holder upon conversion of such LTIP Units into OP Units in advance of the Conversion Date; **provided, however, that** the redemption of such OP Units by the Partnership shall in no event take place until after the Conversion Date. For clarity, it is noted that the objective of this paragraph is to put an LTIP Unitholder in a position where, if such LTIP Unitholder so wishes, the OP Units into which such LTIP Unitholder's Vested LTIP

Units will be converted can be redeemed by the Partnership simultaneously with such conversion, with the further consequence that, if the Parent elects to assume the Partnership's redemption obligation with respect to such OP Units under **Section 8.06(b)** of this Agreement by delivering to such holder Parent Shares rather than cash, then such LTIP Unitholder can have such Parent Shares issued to such LTIP Unitholder simultaneously with the conversion of such LTIP Unitholder's Vested LTIP Units into OP Units. The General Partner shall reasonably cooperate with an LTIP Unitholder to coordinate the timing of the different events described in the foregoing sentence.

(c) The Partnership, at any time at the election of the General Partner, may cause any number of Vested LTIP Units held by an LTIP Unitholder to be converted (a "**Forced Conversion**") into an equal number of OP Units, giving effect to all adjustments (if any) made pursuant to **Section 4.06**; **provided, however, that** the Partnership may not cause Forced Conversion of any LTIP Units that would not at the time be eligible for conversion at the option of such LTIP Unitholder pursuant to **Section 4.07(b)**. In order to exercise its right of Forced Conversion, the Partnership shall deliver a notice (a "**Forced Conversion Notice**") in the form attached as **Exhibit E** to the applicable LTIP Unitholder not less than ten nor more than 60 days prior to the Conversion Date specified in such Forced Conversion Notice. A Forced Conversion Notice shall be provided in the manner provided in **Section 15.01**.

(d) A conversion of Vested LTIP Units for which the holder thereof has given a Conversion Notice or the Partnership has given a Forced Conversion Notice shall occur automatically after the close of business on the applicable Conversion Date without any action on the part of such LTIP Unitholder, as of which time such LTIP Unitholder shall be credited on the books and records of the Partnership with the issuance as of the opening of business on the next day of the number of OP Units issuable upon such conversion. After the conversion of LTIP Units as aforesaid, the Partnership shall deliver to such LTIP Unitholder, upon such LITP Unitholder's written request, a certificate of the General Partner certifying the number of OP Units and remaining LTIP Units, if any, held by such person immediately after such conversion. The Assignee of any Limited Partner pursuant to **Article XI** hereof may exercise the rights of such Limited Partner pursuant to this **Section 4.07** and such Limited Partner shall be bound by the exercise of such rights by the Assignee.

(e) For purposes of making future allocations under **Section 6.03(c)** and applying the Capital Account Limitation, the portion of the Economic Capital Account Balance of the applicable LTIP Unitholder that is treated as attributable to such LTIP Unitholder's LTIP Units shall be reduced, as of the date of conversion, by the product of the number of LTIP Units converted and the OP Unit Economic Balance.

(f) If the Partnership or the Parent shall be a party to any transaction (including without limitation a merger, consolidation, unit exchange, self tender offer for all or substantially all OP Units or other business combination or reorganization, or sale of all or substantially all of the Partnership's assets, but excluding any transaction which constitutes an Adjustment Event) in each case as a result of which OP Units shall be exchanged for or converted into the right, or the holders of such Units shall otherwise be entitled, to receive cash, securities or other property or any combination thereof (any of the foregoing being referred to herein as a "**Transaction**"), then the General Partner shall, immediately prior to the Transaction, exercise its right to cause a Forced Conversion with respect to the maximum number of LTIP Units then eligible for conversion, taking into account any allocations that occur in connection with the Transaction or that would occur in connection with the Transaction if the assets of the Partnership were sold at the Transaction price or, if applicable, at a value determined by the General Partner in good faith using the value attributed to the Partnership Units in the context of the Transaction (in which case the Conversion Date shall be the effective date of the Transaction).

In anticipation of such Forced Conversion and the consummation of the Transaction, the Partnership shall use commercially reasonable efforts to cause each LTIP Unitholder to be afforded the right to receive in connection with such Transaction in consideration for the OP Units into which such LTIP Unitholder's LTIP Units will be converted the same kind and amount of cash, securities and other property (or any combination thereof) receivable upon the consummation of such Transaction by a holder of the same number of OP Units, assuming such holder of OP Units is not a Person with which the Partnership consolidated or into which the Partnership merged or which merged into the Partnership or to which such sale or transfer was made, as the case may be (a "**Constituent Person**"), or an affiliate of a Constituent Person. In the event that holders of OP Units have the opportunity to elect the form or type of consideration to be received upon consummation of the Transaction, prior to such Transaction the General Partner shall give prompt written notice to each LTIP Unitholder of such election, and shall use commercially reasonable efforts to afford the LTIP Unitholders the right to elect, by written notice to the General Partner, the form or type of consideration to be received upon conversion of each LTIP Unit held by such holder into OP Units in connection with such Transaction. If an LTIP Unitholder fails to make such an election, such holder (and any of its transferees) shall receive upon conversion of each LTIP Unit held by such LTIP Unitholder (or by any of such LTIP Unitholder's transferees) the same kind and amount of consideration that a holder of an OP Unit would receive if such OP Unitholder failed to make such an election.

Subject to the rights of the Partnership or the Parent under any Vesting Agreement and any Equity Incentive Plan, the Partnership shall use commercially reasonable efforts to cause the terms of any Transaction to be consistent with the provisions of this **Section 4.07(f)** and to enter into an agreement with the successor or purchasing entity, as the case may be, for the benefit of any LTIP Unitholders whose LTIP Units will not be converted into OP Units in connection with the Transaction that will (i) contain provisions enabling the holders of LTIP Units that remain outstanding after such Transaction to convert their LTIP Units into securities as comparable as reasonably possible under the circumstances to the OP Units and (ii) preserve as far as reasonably possible under the circumstances the distribution, special allocation, conversion, and other rights set forth in this Agreement for the benefit of the LTIP Unitholders.

Section 4.08. **Characterization as Profits Interests**. Any LTIP Units to be issued under this Agreement are intended to qualify as "profits interests" under IRS Revenue Procedures 93-27 and 2001-43, and the sections of this Agreement relating to such interests shall be interpreted and applied consistently therewith. In addition, the General Partner is hereby authorized upon publication of final Regulations in the Federal Register (or other official pronouncement), to amend this Agreement as it determines, in its sole discretion, to provide for: (i) the election of a safe harbor under Regulation Section 1.83-3(1) (or any similar provision) under which the fair market value of any LTIP Units that are transferred in connection with the performance of services are treated as being equal to the liquidation value of such Partnership Interests, (ii) an agreement by the Partnership to comply with all the requirements set forth in such regulations and IRS Notice 2005-43 (and any other guidance provided by the IRS with respect to such election) with respect to all LTIP Units transferred in connection with the performance of services while the election remains effective, (iii) the allocation of items of income, gains, deductions, and losses required by any final Regulations similar to proposed Regulation Sections 1.704-1(b)(4)(xii)(b) and (c), and (iv) any other related amendments. The Partners acknowledge and agree that the exercise by the General Partner of any discretion provided to it hereunder shall not be a modification or amendment to this Agreement.

Section 4.09. **No Interest; No Return**. No Partner shall be entitled to interest on its Capital Contribution or on such Partner's Capital Account. Except as provided herein or by law, no Partner shall have any right to demand or receive the return of its Capital Contribution from the Partnership.

Section 4.10. **Other Contribution Provisions**. In the event that any Partner is admitted to the Partnership and is given a Capital Account in exchange for services rendered to the Partnership, unless otherwise determined by the General Partner in its sole and absolute discretion, such transaction shall be treated by the Partnership and the affected Partner as if the Partnership had compensated such partner in cash and such Partner had contributed the cash to the capital of the Partnership. In addition, with the consent of the General Partner, one or more Limited Partners may enter into contribution agreements with the Partnership which have the effect of providing a guarantee of certain obligations of the Partnership.

Section 4.11. **Not Publicly Traded**. The General Partner, on behalf of the Partnership, shall use its best efforts not to take any action which would result in the Partnership being a "publicly traded partnership" under and as such term is defined in Code Section 7704(b), and by reason thereof, taxable as a corporation.

Section 4.12. **No Third Party Beneficiary**. No creditor or other third party having dealings with the Partnership shall have the right to enforce the right or obligation of any Partner to make Capital Contributions or loans or to pursue any other right or remedy hereunder or at law or in equity, it being understood and agreed that the provisions of this Agreement shall be solely for the benefit of, and may be enforced solely by, the parties hereto and their respective successors and assigns. None of the rights or obligations of the Partners herein set forth to make Capital Contributions or loans to the Partnership shall be deemed an asset of the Partnership for any purpose by any creditor or other third party, nor may such rights or obligations be sold, transferred or assigned by the Partnership or pledged or encumbered by the Partnership to secure any debt or other obligation of the Partnership or of any of the Partners. In addition, it is the intent of the parties hereto that no distribution to any Limited Partner shall be deemed a return of money or other property in violation of the Act. However, if any court of competent jurisdiction holds that, notwithstanding the provisions of this Agreement, any Limited Partner is obligated to return such money or property, such obligation shall be the obligation of such Limited Partner and not of the General Partner. Without limiting the generality of the foregoing, a deficit Capital Account of a Partner shall not be deemed to be a liability of such Partner nor an asset or property of the Partnership.

ARTICLE V

DISTRIBUTIONS

Section 5.01. **Requirement and Characterization of Distributions**. Subject to the terms of any Partnership Unit Designation, the General Partner shall cause the Partnership to distribute all or such portion of amounts, at such times, as the General Partner may in its sole and absolute discretion determine, of Available Cash generated by the Partnership during such quarter to the Holders of Partnership Units on such Partnership Record Date with respect to such quarter: (1) first, with respect to any Partnership Interests that are entitled to any preference in distribution, in accordance with the rights of such class(es) of Partnership Interests (and, within such class(es), *pro rata* in proportion to the respective Percentage Interests on such Partnership Record Date) and (2) second, with respect to any Partnership Interests that are not entitled to any preference in distribution, in accordance with the rights of such class of Partnership Interests (and, within such class, *pro rata* in proportion to the respective Percentage Interests on such Partnership Record Date) such that a holder of one OP Unit will receive the same amount of annual cash flow distributions from the Partnership as the amount of annual distributions paid to the holder of one Parent Share.

The General Partner in its sole and absolute discretion may distribute to the Holders Available Cash on a more frequent basis and provide for an appropriate Partnership Record Date.

Section 5.02. **Interests in Property Not Held Through the Partnership**. To the extent amounts distributed by the Partnership are attributable to amounts received from a property in which the General Partner or any Affiliate of the General Partner holds a direct or indirect interest (other than through the Partnership) (an "**Outside Interest**"), (i) such amounts distributed to the General Partner will be reduced so as to take into account amounts received pursuant to the Outside Interest and (ii) the amounts distributed to the Limited Partners will be increased to the extent necessary so that the overall effect of the distribution is to distribute what would have been distributed had such Outside Interest been held through the Partnership (treating any distribution made in respect of the Outside Interest as if such distribution had been received by the General Partner).

Section 5.03. **Distributions In-Kind**. No right is given to any Partner to demand and receive property other than cash as provided in this Agreement. The General Partner may determine, in its sole and absolute discretion, to make a distribution in-kind of Partnership assets to the Holders, and such assets shall be distributed in such a fashion as to ensure that the fair market value is distributed and allocated in accordance with **Articles V**, **VI** and **X** hereof.

Section 5.04. **Amounts Withheld**. All amounts withheld pursuant to the Code or any provisions of any state or local tax law and **Section 10.04** hereof with respect to any allocation, payment or distribution to any Holder shall be treated as amounts paid or distributed to such Holder pursuant to **Section 5.01** hereof for all purposes under this Agreement.

Section 5.05. **Distributions Upon Liquidation**. Notwithstanding the other provisions of this **Article V**, net proceeds from a Terminating Capital Transaction, and any other cash received or reductions in reserves made after commencement of the liquidation of the Partnership, shall be distributed to the Holders in accordance with **Section 13.02** hereof.

Section 5.06. **Distributions to Reflect Issuance of Additional Partnership Units**. In the event that the Partnership issues additional Partnership Units pursuant to the provisions of **Article IV** hereof, subject to **Section 7.03(d)**, the General Partner may make such revisions to this **Article V** as it determines are necessary or desirable to reflect the issuance of such additional Partnership Units, including, without limitation, making preferential distributions to certain classes of Partnership Units.

Section 5.07. **Restricted Distributions**. Notwithstanding any provision to the contrary contained in this Agreement, neither the Partnership nor the General Partner, on behalf of the Partnership, shall make a distribution to any Holder on account of its Partnership Interest or interest in Partnership Units if such distribution would violate Section 17-607 of the Act or other applicable law.

ARTICLE VI

ALLOCATIONS

Section 6.01. **Timing and Amount of Allocations of Net Income and Net Loss**. Net Income and Net Loss of the Partnership shall be determined and allocated with respect to each Partnership Year of the Partnership as of the end of each such year. Except as otherwise provided in this **Article VI**, and subject to **Section 11.06(c)** hereof, an allocation to a Holder of a share of Net Income or Net Loss shall be treated as an allocation of the same share of each item of income, gain, loss or deduction that is taken into account in computing Net Income or Net Loss.

Section 6.02. **General Allocations**.

(a) **Allocations of Net Income and Net Loss**.

(i) **Net Income**. Except as otherwise provided herein, Net Income for any Partnership Year or other applicable period shall be allocated in the following order and priority:

(A) First, to the General Partners in proportion to the cumulative Net Loss allocated to the General Partners pursuant to subparagraph (ii)(D) below until the cumulative Net Income allocated to the General Partners pursuant to this subparagraph (i)(A) equals the cumulative Net Loss allocated to the General Partners pursuant to subparagraph (ii)(D) below;

(B) Second, to the holders of any Partnership Interests that are entitled to any preference in distribution upon liquidation until the cumulative Net Income allocated under this subparagraph (i)(B) equals the cumulative Net Loss allocated to such Partners under subparagraph (ii)(C);

(C) Third, to the holders of any Partnership Units that are entitled to any preference in distribution in accordance with the rights of any other class of Partnership Units until each such Partnership Unit has been allocated, on a cumulative basis pursuant to this subparagraph (i)(C), Net Income equal to the amount of distributions received which are attributable to the preference of such class of Partnership Unit (and, within such class, *pro rata* in proportion to the respective Percentage Interests as of the last day of the period for which such allocation is made); and

(D) Thereafter, with respect to Partnership Units that are not entitled to any preference in distribution or with respect to which distributions are not limited to any preference in distribution, *pro rata* to each such class in accordance with the terms of such class (and, within such class, *pro rata* in proportion to the respective Percentage Interests as of the last day of the period for which such allocation is being made).

(ii) **Net Loss**. Except as otherwise provided herein, Net Loss for any Partnership Year or other applicable period shall be allocated in the following order and priority:

(A) First, to each holder of Partnership Units in proportion to and to the extent of the amount by which the cumulative Net Income allocated to such Partner pursuant to subparagraph (i)(D) above exceeds, on a cumulative basis, the sum of (a) distributions with respect to such Partnership Units pursuant to clause (2) of **Section 5.01** and (b) Net Loss allocated to such Partner pursuant to this subparagraph (ii)(A);

(B) Second, with respect to classes of Partnership Units that are not entitled to any preference in distribution or with respect to which distributions are not limited to any preference in distribution, *pro rata* to each such class in accordance with the terms of such class (it being understood that LTIP Units and OP Units are treated as the same class for this purpose) and within such class, *pro rata* in proportion to the respective Economic Capital Account Balances as of the last day of the period for which such allocation is being made; **provided**, **that** Net Loss shall not be allocated to any Partner pursuant to this subparagraph (ii)(B) to the extent that such allocation would cause such Partner to have an Adjusted Capital Account Deficit (or increase any existing Adjusted Capital Account Deficit) (determined in each case (1) with respect to a Partner who also holds classes of Partnership Units that are entitled to any preferences in distribution upon liquidation, by subtracting from such Partners' Adjusted Partnership Account the amount of such preferred distribution to be made upon liquidation and (2) by not including in the Partners' Adjusted Partnership Accounts any amount that a Partner is obligated to contribute to the Partnership with respect to any deficit in its Capital Account pursuant to **Section 13.02(d)**) at the end of such Partnership Year or other applicable period; and

(C) Third, with respect to classes of Partnership Units that are entitled to any preference in distribution upon liquidation, in reverse order of the priorities of each such class (and within each such class, *pro rata* in proportion to their respective Percentage Interests as of the last day of the period for which such allocation is being made); **provided**, **that** Net Loss shall not be allocated to any Partner pursuant to this subparagraph (ii)(C) to the extent that such allocation would cause such Partner to have an Adjusted Capital Account Deficit (or increase any existing Adjusted Capital Account Deficit) (determined in each case by not including in the Partners' Adjusted Partnership Accounts any amount that a Partner is obligated to contribute to the Partnership with respect to any deficit in its Capital Account pursuant to **Section 13.02(d)**) at the end of such Partnership Year or other applicable period;

(D) Thereafter, to the General Partners in proportion to their interests in the Partnership.

For purposes of determining allocations of Net Losses pursuant to **Section 6.02(a)(ii)**, an LTIP Unitholder shall be treated as having a separate Economic Capital Account Balance, and for this purpose a separate Capital Account with an appropriate share of Partnership Minimum Gain and Partner Minimum Gain shall be maintained, for each tranche of LTIP Units with a different issuance date that it holds and a separate Capital Account for its OP Units, if applicable, and the Economic Capital Account Balance of each holder of OP Units shall not include any Economic Capital Account Balance attributable to other series or classes of Partnership Units.

(b) **Allocations to Reflect Issuance of Additional Partnership Units**. In the event that the Partnership issues additional Partnership Units pursuant to the provisions of **Article IV** hereof, the General Partner may make such revisions to this **Section 6.02** as it determines are necessary or desirable to reflect the terms of the issuance of such additional Partnership Units.

Section 6.03. **Additional Allocation Provisions**. Notwithstanding the foregoing provisions of this **Article VI**:

(a) **Regulatory Allocations**.

(i) **Minimum Gain Chargeback**. Except as otherwise provided in Regulations Section 1.704-2(f), notwithstanding the provisions of **Section 6.02** hereof, or any other provision of this **Article VI**, if there is a net decrease in Partnership Minimum Gain during any Partnership Year, each Holder shall be specially allocated items of Partnership income and gain for such year (and, if necessary, subsequent years) in an amount equal to such Holder's share of the net decrease in Partnership Minimum Gain, as determined under Regulations Section 1.704-2(g). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each Holder pursuant thereto. The items to be allocated shall be determined in accordance with Regulations Sections 1.704-2(f)(6) and 1.704-2(j)(2). This **Section 6.03(a)(i)** is intended to qualify as a "minimum gain chargeback" within the meaning of Regulations Section 1.704-2(f) and shall be interpreted consistently therewith.

(ii) **Partner Minimum Gain Chargeback**. Except as otherwise provided in Regulations Section 1.704-2(i)(4) or in **Section 6.03(a)(i)** hereof, if there is a net decrease in Partner Minimum Gain attributable to a Partner Nonrecourse Debt during any

Partnership Year, each Holder who has a share of the Partner Minimum Gain attributable to such Partner Nonrecourse Debt, determined in accordance with Regulations Section 1.704-2(i)(5), shall be specially allocated items of Partnership income and gain for such year (and, if necessary, subsequent years) in an amount equal to such Holder's share of the net decrease in Partner Minimum Gain attributable to such Partner Nonrecourse Debt, determined in accordance with Regulations Section 1.704-2(i)(4). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each General Partner, Limited Partner and other Holder pursuant thereto. The items to be so allocated shall be determined in accordance with Regulations Sections 1.704-2(i)(4) and 1.704-2(j)(2). This **Section 6.03(a)(ii)** is intended to qualify as a "chargeback of partner nonrecourse debt minimum gain" within the meaning of Regulations Section 1.704-2(i) and shall be interpreted consistently therewith.

(iii) **Nonrecourse Deductions and Partner Nonrecourse Deductions**. Any Nonrecourse Deductions for any Partnership Year shall be specially allocated to the Holders of Partnership Units in accordance with their Partnership Units. Any Partner Nonrecourse Deductions for any Partnership Year shall be specially allocated to the Holder(s) who bears the economic risk of loss with respect to the Partner Nonrecourse Debt to which such Partner Nonrecourse Deductions are attributable, in accordance with Regulations Section 1.704-2(i).

(iv) **Qualified Income Offset**. If any Holder unexpectedly receives an adjustment, allocation or distribution described in Regulations Section 1.704-1(b)(2)(ii)(d)(4), (5), or (6), items of Partnership income and gain shall be allocated, in accordance with Regulations Section 1.704-1(b)(2)(ii)(d), to such Holder in an amount and manner sufficient to eliminate, to the extent required by such Regulations, the Adjusted Capital Account Deficit of such Holder as quickly as possible. It is intended that this **Section 6.03(a)(iv)** qualify and be construed as a "qualified income offset" within the meaning of Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

(v) **Gross Income Allocation**. In the event that any Holder has an Adjusted Capital Account Deficit at the end of any Partnership Year, each such Holder shall be specially allocated items of Partnership income and gain in the amount of such excess to eliminate such deficit as quickly as possible.

(vi) **Section 754 Adjustment**. To the extent that an adjustment to the adjusted tax basis of any Partnership asset pursuant to Code Section 734(b) or Code Section 743(b) is required, pursuant to Regulations Section 1.704-1(b)(2)(iv)(m)(2) or Regulations Section 1.704-1(b)(2)(iv)(m)(4), to be taken into account in determining Capital Accounts as the result of a distribution to a Holder in complete liquidation of its interest in the Partnership, the amount of such adjustment to the Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis), and such gain or loss shall be specially allocated to the Holders in accordance with their Partnership Units in the event that Regulations Section 1.704-1(b)(2)(iv)(m)(2) applies, or to the Holders to whom such distribution was made in the event that Regulations Section 1.704-1(b)(2)(iv)(m)(4) applies.

(vii) **Curative Allocations**. The allocations set forth in **Sections 6.03(a)(i)**, **(ii)**, **(iii)**, **(iv)**, **(v)**, and **(vi)** hereof (the "**Regulatory Allocations**") are intended to comply with certain regulatory requirements, including the requirements of Regulations Sections 1.704-1(b) and 1.704-2. Notwithstanding the provisions of **Section 6.01** hereof, the Regulatory Allocations shall be taken into account in allocating other items of income, gain, loss and deduction among the Holders of Partnership Units so that to the extent possible without violating the requirements giving rise to the Regulatory Allocations, the net amount of such allocations of other items and the Regulatory Allocations to each Holder of a

Partnership Unit shall be equal to the net amount that would have been allocated to each such Holder if the Regulatory Allocations had not occurred.

(b) **Allocation of Excess Nonrecourse Liabilities**. The Partnership shall allocate "nonrecourse liabilities" (within the meaning of Regulations Section 1.752-1(a)(2)) of the Partnership that are secured by multiple Properties under any reasonable method chosen by the General Partner in accordance with Regulations Section 1.752-3(a)(3) and (b). The Partnership shall allocate "excess nonrecourse liabilities" of the Partnership under any method approved under Regulations Section 1.752-3(a)(3) as chosen by the General Partner.

(c) **Special Allocations Regarding LTIP Units**. Notwithstanding the provisions of **Section 6.02** above, Liquidating Gains shall first be allocated to the LTIP Unitholders until the Economic Capital Account Balances of such Holders, to the extent attributable to their ownership of LTIP Units, are equal to (i) the OP Unit Economic Balance, multiplied by (ii) the number of their LTIP Units (the "**Target Balance**"). For this purpose, "**Liquidating Gains**" means net capital gains realized in connection with the actual or hypothetical sale of all or substantially all of the assets of the Partnership, including but not limited to net capital gain realized in connection with an adjustment to the Gross Asset Value of Partnership assets under Code Section 704(b). The "**Economic Capital Account Balances**" of the LTIP Unitholders will be equal to their Capital Account balances to the extent attributable to their ownership of LTIP Units, plus the amount of their allocable share of any Partner Minimum Gain or Partnership Minimum Gain attributable to such LTIP Units. Similarly, the "**OP Unit Economic Balance**" shall mean (i) the Capital Account balance of the General Partner, plus the amount of the General Partner's share of any Partner Minimum Gain or Partnership Minimum Gain, in either case to the extent attributable to the General Partner's ownership of OP Units and computed on a hypothetical basis after taking into account all allocations through the date on which any allocation is made under this **Section 6.03(c)** (including, without limitation, any expenses of the Partnership reimbursed to the General Partner pursuant to **Section 7.04(b)**), divided by (ii) the number of the General Partner's OP Units. Any such allocations shall be made among the LTIP Unitholders in proportion to the amounts required to be allocated to each under this **Section 6.03(c)**. Liquidating Gain allocated to an LTIP Unitholder under this **Section 6.03(c)** will be attributed to specific LTIP Units of such LTIP Unitholder for purposes of determining (i) allocations under this **Section 6.03(c)**, (ii) the effect of the forfeiture or conversion of specific LTIP Units on such LTIP Unitholder's Capital Account and (iii) the ability of such LTIP Unitholder to convert specific LTIP Units into OP Units. Such Liquidating Gain allocated to such LTIP Unitholder will generally be attributed in the following order: (i) first, to Vested LTIP Units held for more than two years, (ii) second, to Vested LTIP Units held for two years or less, (iii) third, to Unvested Incentive Units that have remaining vesting conditions that only require continued employment or service to the General Partner, the Partnership or an Affiliate of either for a certain period of time (with such Liquidating Gains being attributed in order of vesting from soonest vesting to latest vesting), and (iv) fourth, to other Unvested Incentive Units (with such Liquidating Gains being attributed in order of issuance from earliest issued to latest issued). Within each category, Liquidating Gain will be allocated seriatim (i.e., entirely to the first unit in a set, then entirely to the next unit in the set, and so on, until a full allocation is made to the last unit in the set) in the order of smallest Book-Up Target to largest Book-Up Target. For purposes of the previous sentence, "**Book-Up Target**" for an LTIP Unit means (i) initially, the OP Unit Economic Balance as determined on the date such LTIP Unit was granted and (ii) thereafter, the remaining amount, if any, required to be allocated to such LTIP Unit for the Economic Capital Account Balance of the holder of such LTIP Unit, to the extent attributable to such LTIP Unit, to be equal to the OP Unit Economic Balance. After giving effect to the special allocations set forth above, if, due to distributions with respect to OP Units in which an LTIP Unit does not participate, forfeitures or otherwise, the Economic Capital Account Balance of any present or former LTIP Unitholder attributable to such LTIP Unitholder's LTIP Units, exceeds the Target Balance, then Liquidating Losses shall be allocated to such LTIP Unitholder, or Liquidating

Gains shall be allocated to the other Partners, to reduce or eliminate the disparity; **provided, however, that** if Liquidating Losses or Liquidating Gains are insufficient to completely eliminate all such disparities, such losses or gains shall be allocated among Partners in a manner reasonably determined by the General Partner. For this purpose, "**Liquidating Losses**" means net capital losses realized in connection with the actual or hypothetical sale of all or substantially all of the assets of the Partnership, including but not limited to net capital loss realized in connection with an adjustment to the Gross Asset Value of Partnership assets under Code Section 704(b). In the event that Liquidating Gains or Liquidating Losses are allocated under this Section 6.03(c), Net Income allocable under clause 6.01(a)(i)(D) and any Net Losses shall be recomputed without regard to the Liquidating Gains or Liquidating Losses so allocated. The parties agree that the intent of this **Section 6.03(c)** is (i) to make the Capital Account balance associated with each LTIP Unit to be economically equivalent to the Capital Account balance associated with the General Partner's OP Units (on a per-OP Unit/LTIP Unit basis) and (ii) to allow conversion of an LTIP Unit (assuming prior vesting) into an OP Unit when sufficient Liquidating Gains have been allocated to such LTIP Unit pursuant to **Section 6.02(c)** so that either its initial Book-Up Target has been reduced to zero or the parity described in the definition of Target Balance has been achieved.

(d) **Allocations to Reflect Outside Interests**. Any income or loss to the Partnership associated with an Outside Interest shall be specially allocated so as to take into account amounts received by, and income or loss allocated to, the General Partner or any Affiliate of the General Partner with respect to such Outside Interest so that the overall effect is to allocate income or loss in the same manner as would have occurred had such Outside Interest been held through the Partnership (treating any allocation in respect of the Outside Interest as if such allocation had been made to the General Partner).

Section 6.04. **Tax Allocations**.

(a) **In General**. Except as otherwise provided in this **Section 6.04**, for income tax purposes under the Code and the Regulations each Partnership item of income, gain, loss and deduction (collectively, "**Tax Items**") shall be allocated among the Holders of Partnership Units in the same manner as its correlative item of "book" income, gain, loss or deduction is allocated pursuant to **Sections 6.02** and **6.03** hereof.

(b) **Allocations Respecting Section 704(c) Revaluations**. Notwithstanding **Section 6.04(a)** hereof, Tax Items with respect to Property that is contributed to the Partnership with a Gross Asset Value that varies from its basis in the hands of the contributing Partner immediately preceding the date of contribution shall be allocated among the Holders of Partnership Units for income tax purposes pursuant to Regulations promulgated under Code Section 704(c) so as to take into account such variation. The Partnership shall account for such variation under any method approved under Code Section 704(c) and the applicable Regulations as chosen by the General Partner. In the event that the Gross Asset Value of any partnership asset is adjusted pursuant to subsection (b) of the definition of "**Gross Asset Value**" (provided in **Article I** hereof), subsequent allocations of Tax Items with respect to such asset shall take account of the variation, if any, between the adjusted basis of such asset and its Gross Asset Value in the same manner as under Code Section 704(c) and the applicable Regulations or under any method approved under Code Section 7.04(c) and the applicable Regulations as chosen by the General Partner, including the aggregation methods applicable to securities partnerships, to the extent applicable and to the extent the General Partner decides to apply such methods.

ARTICLE VII

MANAGEMENT AND OPERATIONS OF BUSINESS

Section 7.01. **Management**.

(a) Except as otherwise expressly provided in this Agreement, all management powers over the business and affairs of the Partnership are and shall be exclusively vested in the General Partner, and no Limited Partner shall have any right to participate in or exercise control or management power over the business and affairs of the Partnership. The General Partner may not be removed by the Limited Partners, except with the consent of the General Partner. In addition to the powers now or hereafter granted to a general partner of a limited partnership under applicable law or that are granted to the General Partner under any other provision of this Agreement, the General Partner, subject to the other provisions hereof including **Section 7.03** and **Section 11.02**, shall have full power and authority to do all things deemed necessary or desirable by it to conduct the business of the Partnership, to exercise all powers set forth in **Section 3.02** hereof and to effectuate the purposes set forth in **Section 3.01** hereof, including, without limitation:

(i) the making of any expenditures, the lending or borrowing of money, the assumption or guarantee of, or other contracting for, indebtedness and other liabilities, the issuance of evidences of indebtedness (including the securing of same by deed to secure debt, mortgage, deed of trust or other lien or encumbrance on the Partnership's assets) and the incurring of any obligations that it deems necessary for the conduct of the activities of the Partnership;

(ii) the making of tax, regulatory and other filings, or rendering of periodic or other reports to governmental or other agencies having jurisdiction over the business or assets of the Partnership, the registration of any class of securities of the Partnership under the Exchange Act and the listing of any debt securities of the Partnership on any exchange;

(iii) subject to **Section 11.02** hereof, the acquisition, sale, lease, transfer, exchange or other disposition of any, all or substantially all of the assets of the Partnership (including, but not limited to, the exercise or grant of any conversion, option, privilege or subscription right or any other right available in connection with any assets at any time held by the Partnership) or the merger, consolidation, reorganization or other combination of the Partnership with or into another entity;

(iv) the mortgage, pledge, encumbrance or hypothecation of any assets of the Partnership, the use of the assets of the Partnership (including, without limitation, cash on hand) for any purpose consistent with the terms of this Agreement and on any terms that it sees fit, including, without limitation, the financing of the operations and activities of the General Partner, the Partnership or any of the Partnership's Subsidiaries, the lending of funds to other Persons (including, without limitation, the Partnership's Subsidiaries) and the repayment of obligations of the Partnership, its Subsidiaries and any other Person in which the Partnership has an equity investment, and the making of capital contributions to and equity investments in the Partnership's Subsidiaries;

(v) the use of the assets of the Partnership (including, without limitation, cash on hand) for any purpose consistent with the terms of this Agreement and on any terms it sees fit, including, without limitation, the financing of the conduct of the operations of the General Partner, the Partnership or any of the Partnership's Subsidiaries, the lending of funds to other Persons (including, without limitation, the General Partner and its Subsidiaries and the Partnership's Subsidiaries) and the repayment of obligations of the Partnership and its

Subsidiaries and any other Person in which the Partnership has an equity investment and the making of capital contributions to its Subsidiaries;

(vi) the management, operation, leasing, landscaping, repair, alteration, demolition, replacement or improvement of any Property, including, without limitation, any Contributed Property, or other asset of the Partnership or any Subsidiary, whether pursuant to a Services Agreement or otherwise;

(vii) the negotiation, execution and performance of any contracts, leases, conveyances or other instruments that the General Partner considers useful or necessary to the conduct of the Partnership's operations or the implementation of the General Partner's powers under this Agreement, including contracting with contractors, developers, consultants, accountants, legal counsel, other professional advisors and other agents and the payment of their expenses and compensation out of the Partnership's assets;

(viii) the distribution of Partnership cash or other Partnership assets in accordance with this Agreement, the holding, management, investment and reinvestment of cash and other assets of the Partnership and the collection and receipt of revenues, rents and income of the Partnership;

(ix) the maintenance of such insurance for the benefit of the Partnership and the Partners as the General Partner deems necessary or appropriate, including, without limitation, (i) casualty, liability and other insurance on the Properties and (ii) liability insurance for the Indemnitees hereunder;

(x) the formation of, or acquisition of an interest in, and the contribution of property to, any further limited or general partnerships, limited liability companies, joint ventures or other relationships that the General Partner deems desirable (including, without limitation, the acquisition of interests in, and the contributions of property to, any Subsidiary and any other Person in which it has an equity investment from time to time);

(xi) the filing of applications, communicating and otherwise dealing with any and all governmental agencies having jurisdiction over, or in any way affecting, the Partnership's assets or any other aspect of the Partnership business;

(xii) the control of any matters affecting the rights and obligations of the Partnership, including the settlement, compromise, submission to arbitration or any other form of dispute resolution, or abandonment, of any claim, cause of action, liability, debt or damages, due or owing to or from the Partnership, the commencement or defense of suits, legal proceedings, administrative proceedings, arbitrations or other forms of dispute resolution, and the representation of the Partnership in all suits or legal proceedings, administrative proceedings, arbitrations or other forms of dispute resolution, the incurring of legal expense, and the indemnification of any Person against liabilities and contingencies to the extent permitted by law;

(xiii) the undertaking of any action in connection with the Partnership's direct or indirect investment in any Subsidiary or any other Person (including, without limitation, the contribution or loan of funds by the Partnership to such Persons);

(xiv) except as otherwise specifically set forth in this Agreement, the determination of the fair market value of any Partnership property distributed in-kind using such reasonable method of valuation as it may adopt; **provided**, **that** such methods are otherwise consistent with the requirements of this Agreement;

(xv) the enforcement of any rights against any Partner pursuant to representations, warranties, covenants and indemnities relating to such Partner's contribution of property or assets to the Partnership;

(xvi) the exercise, directly or indirectly, through any attorney-in-fact acting under a general or limited power-of-attorney, of any right, including the right to vote, appurtenant to any asset or investment held by the Partnership;

(xvii) the exercise of any of the powers of the General Partner enumerated in this Agreement on behalf of or in connection with any Subsidiary of the Partnership or any other Person in which the Partnership has a direct or indirect interest, or jointly with any such Subsidiary or other Person;

(xviii) the exercise of any of the powers of the General Partner enumerated in this Agreement on behalf of any Person in which the Partnership does not have an interest, pursuant to contractual or other arrangements with such Person;

(xix) the making, execution and delivery of any and all deeds, leases, notes, deeds to secure Debt, mortgages, deeds of trust, security agreements, conveyances, contracts, guarantees, warranties, indemnities, waivers, releases or legal instruments or agreements in writing necessary or appropriate in the judgment of the General Partner for the accomplishment of any of the powers of the General Partner enumerated in this Agreement;

(xx) the issuance of additional Partnership Units, as appropriate and in the General Partner's sole and absolute discretion, in connection with Capital Contributions by Additional Limited Partners and additional Capital Contributions by Partners pursuant to **Article IV** hereof;

(xxi) the selection and dismissal of General Partner Employees (including, without limitation, employees having titles or offices such as president, vice president, secretary and treasurer), and agents, outside attorneys, accountants, consultants and contractors of the Partnership or the General Partner, the determination of their compensation and other terms of employment or hiring and the delegation to any such General Partner Employee the authority to conduct the business of the Partnership in accordance with the terms of this Agreement;

(xxii) the distribution of cash to acquire Partnership Units held by a Limited Partner in connection with a Limited Partner's exercise of its Redemption right under **Section 8.06** hereof;

(xxiii) the amendment and restatement of **Exhibit A** hereto to reflect accurately at all times the Capital Contributions and Percentage Interests of the Partners as the same are adjusted from time to time to the extent necessary to reflect redemptions, Capital Contributions, the issuance of Partnership Units, the admission of any Additional Limited Partner or any Substituted Limited Partner or otherwise, which amendment and restatement, notwithstanding anything in this Agreement to the contrary, shall not be deemed an amendment to this Agreement, as long as the matter or event being reflected in **Exhibit A** hereto otherwise is authorized by this Agreement;

(xxiv) the determination regarding whether a payment to a Partner who exercises its Redemption Right under **Section 8.06** that is assumed by the Parent will be paid in the form of the Cash Amount or the Parent Shares Amount, except as such determination may be limited by **Section 8.06**;

(xxv) the collection and receipt of revenues and income of the Partnership;

(xxvi) the registration of any class of securities of the Partnership under the Securities Act or the Exchange Act, and the listing of any debt securities of the Partnership on any exchange;

(xxvii) an election to dissolve the Partnership pursuant to **Section 13.01(b)** hereof; and

(xxviii) the taking of any action necessary or appropriate to prevent the Partnership or the General Partner from being subject to regulation under the Investment Company Act.

(b) Each of the Limited Partners agrees that, except as provided in **Section 7.03** hereof, the General Partner is authorized to execute, deliver and perform the above-mentioned agreements and transactions on behalf of the Partnership without any further act, approval or vote of the Partners, notwithstanding any other provision of this Agreement, the Act or any applicable law, rule or regulation.

(c) At all times from and after the date hereof, the General Partner may cause the Partnership to establish and maintain working capital and other reserves in such amounts as the General Partner, in its sole and absolute discretion, deems appropriate and reasonable from time to time.

(d) In exercising its authority under this Agreement, the General Partner may, but shall be under no obligation to, take into account the tax consequences to any Partner (including the General Partner) of any action taken (or not taken) by it. Except as may be provided in a separate written agreement between the Partnership and the Limited Partners, the General Partner and the Partnership shall not have liability to a Limited Partner under any circumstances as a result of an income tax liability incurred by such Limited Partner as a result of an action (or inaction) by the General Partner pursuant to its authority under this Agreement **provided**, **that** the General Partner has acted in good faith and pursuant to its authority under this Agreement.

Section 7.02. **Certificate of Limited Partnership**. To the extent that such action is determined by the General Partner to be reasonable and necessary or appropriate, the General Partner shall file amendments to and restatements of the Certificate and do all the things to maintain the Partnership as a limited partnership (or a partnership in which the limited partners have limited liability) under the laws of the State of Delaware and each other state, the District of Columbia or any other jurisdiction, in which the Partnership may elect to do business or own property. Except as otherwise required under the Act and **Section 13.04(b)**, the General Partner shall not be required, before or after filing, to deliver or mail a copy of the Certificate or any amendment thereto to any Limited Partner. The General Partner shall use all reasonable efforts to cause to be filed such other certificates or documents as may be reasonable and necessary or appropriate for the formation, continuation, qualification and operation of a limited partnership (or a partnership in which the limited partners have limited liability to the extent provided by applicable law) in the State of Delaware and any other state, or the District of Columbia or other jurisdiction, in which the Partnership may elect to do business or own property.

Section 7.03. **Restrictions on General Partner's Authority**.

(a) The General Partner may not take any action in contravention of an express prohibition or limitation of this Agreement without the written consent of a Majority in Interest of the Outside Limited Partners and may not (i) perform any act that would subject a Limited Partner to liability as a general partner in any jurisdiction or any other liability except as provided herein or under the Act; or (ii) enter into any contract, mortgage, loan or other agreement that expressly prohibits or restricts (A) the Parent or the Partnership from performing its specific obligations under **Section 8.06** hereof in full or (B) a Limited Partner from exercising its rights under **Section 8.06** hereof to effect a Redemption in full, except, in either case, with the written consent of a Majority in Interest of the Outside Limited Partners.

(b) The General Partner shall not, without the written consent of a Majority in Interest of the Outside Limited Partners, terminate this Agreement.

(c) Subject to **Section 14.02**, the General Partner shall have the exclusive power, without the prior consent of the Limited Partners, to amend this Agreement, including, without limitation, as may be required to facilitate or implement any of the following purposes:

(i) to add to the obligations of the General Partner or surrender any right or power granted to the General Partner or any Affiliate of the General Partner for the benefit of the Limited Partners;

(ii) to reflect the admission, substitution or withdrawal of Partners or the termination of the Partnership in accordance with this Agreement, and to amend **Exhibit A** in connection with such admission, substitution or withdrawal;

(iii) to reflect a change that is of an inconsequential nature or does not adversely affect the Limited Partners in any material respect, or to cure any ambiguity, correct or supplement any provision in this Agreement not inconsistent with law or with other provisions, or make other changes with respect to matters arising under this Agreement that will not be inconsistent with law or with the provisions of this Agreement;

(iv) to satisfy any requirements, conditions or guidelines contained in any order, directive, opinion, ruling or regulation of a federal or state agency or contained in federal or state law;

(v) set forth in the partnership agreement the designations, rights, powers, duties and preferences of the holders of any additional partnership units issued pursuant to the partnership agreement;

(vi) to reflect the Transfer of all or any part of a Partnership Interest among the General Partner and the Parent or any Subsidiary of the Parent;

(vii) to modify either or both the manner in which items of Net Income or Net Loss are allocated pursuant to **Article VI** or the manner in which Capital Accounts are adjusted, computed or maintained (but only to the extent set forth in the definition of "Capital Account" or contemplated by the Code or the Regulations);

(viii) to issue additional Partnership Interests in accordance with **Section 4.02**;

(ix) to reflect any other modification to this Agreement as is reasonably necessary for the business or operations of the Partnership or the General Partner; and

(x) the taking of any action necessary or appropriate to prevent the Partnership or the General Partner from being subject to regulation under the Investment Company Act.

The General Partner will provide notice to the Limited Partners whenever any action under this **Section 7.03(c)** is taken.

(d) No action may be taken by the General Partner, without the consent of each Partner adversely affected thereby, if such action would (i) convert a Limited Partner Interest in the Partnership into a General Partner Interest (except as a result of the General Partner acquiring such Partnership Interest), or (ii) modify the limited liability of a Limited Partner.

Section 7.04. **Reimbursement of the General Partner**.

(a) Except as provided in this **Section 7.04** and elsewhere in this Agreement (including the provisions of **Articles V** and **VI** regarding distributions, payments and allocations to which it may be entitled), the General Partner shall not be compensated for its services as general partner of the Partnership.

(b) The Partnership shall be responsible for and shall pay all the administrative and operating costs and expenses incurred by the Partnership in acquiring and holding the General Partner's assets, and the General Partner's administrative costs and expenses, and such expenses will be treated as expenses of the Partnership. Such expenses will include:

(i) all expenses relating to the General Partner's formation and continuity of existence;

(ii) all expenses relating to any offerings and registrations of securities by the Parent;

(iii) all expenses associated with the General Partner's preparation and filing of any periodic reports under federal, state or local laws or regulations;

(iv) all expenses associated with the General Partner's compliance with applicable laws, rules and regulations; and

(v) all other operating or administrative costs of the General Partner's incurred in the ordinary course of its business, not including any taxes imposed on the General Partners.

The General Partner is hereby authorized to pay compensation for accounting, administrative, legal, technical, management and other services rendered to the Partnership. Except to the extent provided in this Agreement, the General Partner and its Affiliates shall be reimbursed on a monthly basis, or such other basis as the General Partner may determine in its sole and absolute discretion, for all expenses that the General Partner and its Affiliates incur relating to the ownership and operation of, or for the benefit of, the Partnership (including, without limitation, administrative expenses); **provided**, **that** the amount of any such reimbursement shall be reduced by any interest earned by the General Partner with respect to bank accounts or other instruments or accounts held by it on behalf of the Partnership. The Partners acknowledge that all such expenses of the General Partner are deemed to be for the benefit of the Partnership. Such reimbursement shall be in addition to any reimbursement made as a result of indemnification pursuant to **Section 7.07** hereof. In the event that certain expenses are incurred for the benefit of the Partnership and other entities (including the General Partner), such expenses will be allocated to the Partnership and such other entities in such a manner as the General Partner in its sole and absolute discretion deems fair and reasonable. All payments and reimbursements hereunder shall be characterized for federal income tax purposes as expenses of the Partnership incurred on its behalf, and not as expenses of the General Partner.

(c) If the Parent shall elect to purchase from its stockholders Parent Shares for the purpose of delivering such Parent Shares to satisfy an obligation under any dividend reinvestment program adopted by the Parent, any employee stock purchase plan adopted by the Parent or any similar obligation or arrangement undertaken by the Parent in the future or for the purpose of retiring such Parent Shares, the purchase price paid by the Parent for such Parent Shares and any other expenses incurred by the Parent in connection with such purchase shall be considered expenses of the Partnership and shall be advanced to the Parent or reimbursed to the Parent, subject to the condition that: (1) if such Parent Shares subsequently are sold by the Parent, the Parent shall pay or cause to be paid to the Partnership any proceeds received by the Parent for such Parent Shares (which sales proceeds shall include the amount of dividends reinvested under any dividend reinvestment or similar program; **provided**, **that** a transfer of Parent Shares for Partnership Units pursuant to **Section 8.06** would not be considered a sale for such purposes); and (2) if such Parent Shares are not retransferred by the Parent within 30 days after the purchase thereof, or the Parent otherwise determines not to retransfer such Parent Shares, the Parent shall cause the Partnership to redeem a number of Partnership Units held by the Parent equal to the number of such Parent Shares, as adjusted (x) pursuant to **Section 7.07** (in the event the Parent acquires material assets, other than on behalf of the Partnership) and (y) for stock dividends and distributions, stock splits and subdivisions, reverse stock splits and combinations, distributions of rights, warrants or options, and distributions of evidences of indebtedness or assets relating to assets not received by the Parent pursuant to a *pro rata* distribution by the Partnership (in which case such advancement or reimbursement of expenses shall be treated as having been made as a distribution in redemption of such number of Partnership Units held by the Parent).

(d) As set forth in **Section 4.02**, the Parent shall be treated as having made a Capital Contribution in the amount of all expenses that it incurs relating to its offering of Parent Shares, Preferred Shares, Junior Shares or New Securities.

(e) If and to the extent any reimbursements to the General Partner pursuant to this **Section 7.04** constitute gross income of the General Partner (as opposed to the repayment of advances made by the General Partner on behalf of the Partnership), such amounts shall constitute guaranteed payments with respect to capital within the meaning of Code Section 707(c), shall be treated consistently therewith by the Partnership and all Partners, and shall not be treated as distributions for purposes of computing the Partners' Capital Accounts.

Section 7.05. **Outside Activities of the General Partner**. Without limiting the other powers granted to the General Partner under this Agreement, the General Partner and its officers, directors, employees, agents and Affiliates shall be entitled to and may have business interests and engage in business activities in addition to those relating to the Partnership, including business interests and activities that are in direct or indirect competition with the Partnership or that are enhanced by the activities of the Partnership. Neither the Partnership nor any Partner shall have any rights by virtue of this Agreement in any business ventures of the General Partner.

Section 7.06. **Contracts with Affiliates**.

(a) The Partnership may lend or contribute funds or other assets to its Subsidiaries or other Persons in which it has an equity investment, and such Persons may borrow funds from the Partnership, on terms and conditions established in the sole and absolute discretion of the General Partner. The foregoing authority shall not create any right or benefit in favor of any Subsidiary or any other Person.

(b) The Partnership may transfer assets to joint ventures, limited liability companies, partnerships, corporations, business trusts or other business entities in which it is or thereby becomes a participant upon such terms and subject to such conditions consistent with this Agreement and applicable law as the General Partner, in its sole and absolute discretion, believes to be advisable.

(c) Except as expressly permitted by this Agreement, neither the General Partner nor any of its Affiliates shall sell, transfer or convey any property to the Partnership, directly or indirectly, except pursuant to transactions that are determined by the General Partner in good faith to be fair and reasonable.

(d) The General Partner, in its sole and absolute discretion and without the approval of the Limited Partners, may propose and adopt on behalf of the Partnership employee benefit plans funded by the Partnership for the benefit of employees of the General Partner, the Partnership, Subsidiaries of the Partnership or any Affiliate of any of them in respect of services performed, directly or indirectly, for the benefit of the Partnership or any of the Partnership's Subsidiaries.

(e) The General Partner is expressly authorized to enter into, in the name and on behalf of the Partnership, any Services Agreement with Affiliates of any of the Partnership or the General Partner, on such terms as the General Partner, in its sole and absolute discretion, believes are advisable.

Section 7.07. **Indemnification**.

(a) To the fullest extent permitted by applicable law, the Partnership shall indemnify each Indemnitee from and against any and all losses, claims, damages, liabilities (whether joint or several), expenses (including, without limitation, attorney's fees and other legal fees and expenses), judgments, fines, settlements and other amounts arising from any and all claims, demands, actions, suits or proceedings, civil, criminal, administrative or investigative, that relate to the operations of the Partnership ("**Actions**") as set forth in this Agreement in which such Indemnitee may be involved, or is threatened to be involved, as a party or otherwise; **provided**, **however**, **that** the Partnership shall not indemnify an Indemnitee (1) for willful misconduct or a knowing violation of the law, (2) for any transaction for which such Indemnitee received an improper personal benefit in violation or breach of any provision of this Agreement, or (3) in the case of any criminal proceeding, the Indemnitee had reasonable cause to believe that the act or omission was unlawful. Without limitation, the foregoing indemnity shall extend to any liability of any Indemnitee, pursuant to a loan guaranty or otherwise, for any indebtedness of the Partnership or any Subsidiary of the Partnership (including, without limitation, any indebtedness which the Partnership or any Subsidiary of the Partnership has assumed or taken subject to), and the General Partner is hereby authorized and empowered, on behalf of the Partnership, to enter into one or more indemnity agreements consistent with the provisions of this **Section 7.07** in favor of any Indemnitee having or potentially having liability for any such indebtedness. The termination of any proceeding by judgment, order or settlement does not create a presumption that the Indemnitee did not meet the requisite standard of conduct set forth in this **Section 7.07(a)**. The termination of any proceeding by conviction of an Indemnitee or upon a plea of *nolo contendere* or its equivalent by an Indemnitee, or an entry of an order of probation against an Indemnitee prior to judgment, does not create a presumption that such Indemnitee acted in a manner contrary to that specified in this **Section 7.07(a)** with respect to the subject matter of such proceeding. Any indemnification pursuant to this **Section 7.07** shall be made only out of the assets of the Partnership and any insurance proceeds from the liability policy covering the General Partner and any Indemnitees, and neither the General Partner nor any Limited Partner shall have any obligation to contribute to the capital of the Partnership or otherwise provide funds to enable the Partnership to fund its obligations under this **Section 7.07**.

(b) To the fullest extent permitted by law, expenses incurred by an Indemnitee who is a party to a proceeding or otherwise subject to or the focus of or is involved in any Action shall be paid or reimbursed by the Partnership as incurred by the Indemnitee in advance of the final disposition of the Action upon receipt by the Partnership of (1) a written affirmation by the Indemnitee of the Indemnitee's good faith belief that the standard of conduct necessary for indemnification by the Partnership as authorized in this **Section 7.07(b)** has been met and (2) a written undertaking by or on behalf of the Indemnitee to repay the amount if it shall ultimately be determined that the standard of conduct has not been met.

(c) The indemnification provided by this **Section 7.07** shall be in addition to any other rights to which an Indemnitee or any other Person may be entitled under any agreement, pursuant to any vote of the Partners, as a matter of law or otherwise, and shall continue as to an Indemnitee who has ceased to serve in such capacity and shall inure to the benefit of the heirs, successors, assigns and administrators of the Indemnitee unless otherwise provided in a written agreement with such Indemnitee or in the writing pursuant to which such Indemnitee is indemnified.

(d) The Partnership may, but shall not be obligated to, purchase and maintain insurance, on behalf of any of the Indemnitees and such other Persons as the General Partner shall determine, against any liability that may be asserted against or expenses that may be incurred by such Person in connection with the Partnership's activities, regardless of whether the Partnership would have the power to indemnify such Person against such liability under the provisions of this Agreement.

(e) Any liabilities which an Indemnitee incurs as a result of acting on behalf of the Partnership or the General Partner (whether as a fiduciary or otherwise) in connection with the operation, administration or maintenance of an employee benefit plan or any related trust or funding mechanism (whether such liabilities are in the form of excise taxes assessed by the IRS, penalties assessed by the Department of Labor, restitutions to such a plan or trust or other funding mechanism or to a participant or beneficiary of such plan, trust or other funding mechanism, or otherwise) shall be treated as liabilities or judgments or fines under this **Section 7.07**, unless such liabilities arise as a result of (1) such Indemnitee's intentional misconduct or knowing violation of the law, (2) any transaction in which such Indemnitee received a personal benefit in violation or breach of any provision of this Agreement or applicable law, or (3) in the case of any criminal proceeding, the Indemnitee had reasonable cause to believe that the act or omission was unlawful.

(f) In no event may an Indemnitee subject any of the Partners to personal liability by reason of the indemnification provisions set forth in this Agreement.

(g) An Indemnitee shall not be denied indemnification in whole or in part under this **Section 7.07** because the Indemnitee had an interest in the transaction with respect to which the indemnification applies if the transaction was otherwise permitted by the terms of this Agreement.

(h) The provisions of this **Section 7.07** are for the benefit of the Indemnitees, their heirs, successors, assigns and administrators and shall not be deemed to create any rights for the benefit of any other Persons. Any amendment, modification or repeal of this **Section 7.07** or any provision hereof shall be prospective only and shall not in any way affect the obligations of the Partnership or the limitations on the Partnership's liability to any Indemnitee under this

Section 7.07 as in effect immediately prior to such amendment, modification or repeal with respect to claims arising from or relating to matters occurring, in whole or in part, prior to such amendment, modification or repeal, regardless of when such claims may arise or be asserted.

(i) If and to the extent any payments to the General Partner pursuant to this **Section 7.07** constitute gross income to the General Partner (as opposed to the repayment of advances made on behalf of the Partnership) such amounts shall be treated as "guaranteed payments" for the use of capital within the meaning of Code Section 707(c), shall be treated consistently therewith by the Partnership and all Partners, and shall not be treated as distributions for purposes of computing the Partners' Capital Accounts.

Section 7.08. **Liability of the General Partner**.

(a) Notwithstanding anything to the contrary set forth in this Agreement, neither the General Partner or any of its members, directors or officers shall be liable or accountable in damages or otherwise to the Partnership, any Partners or any Assignees for losses sustained, liabilities incurred or benefits not derived as a result of errors in judgment or mistakes of fact or law or of any act or omission if the General Partner or such member, director or officer acted in good faith.

(b) The Limited Partners expressly acknowledge that the General Partner is acting for the benefit of the Partnership, the Limited Partners and the stockholders of the Parent collectively and that the General Partner is under no obligation to give priority to the separate interests of the Limited Partners or the stockholders of the Parent (including, without limitation, the tax consequences to Limited Partners, Assignees or the stockholders of the Parent) in deciding whether to cause the Partnership to take (or decline to take) any actions. If there is a conflict between the interests of the stockholders of the Parent on one hand and the Limited Partners on the other, the Limited Partners expressly acknowledge that the General Partner will fulfill its fiduciary duties to such Limited Partners by acting in the best interests of the stockholders of the Parent. The General Partner shall not be liable under this Agreement to the Partnership or to any Partner for monetary damages for losses sustained, liabilities incurred, or benefits not derived by Limited Partners in connection with such decisions; **provided**, **that** the General Partner has acted in good faith.

(c) Subject to its obligations and duties as General Partner set forth in **Section 7.01(a)** hereof, the General Partner may exercise any of the powers granted to it by this Agreement and perform any of the duties imposed upon it hereunder either directly or by or through its employees or agents (subject to the supervision and control of the General Partner). The General Partner shall not be responsible for any misconduct or negligence on the part of any such agent appointed by it in good faith.

(d) To the extent that, at law or in equity, the General Partner has duties (including fiduciary duties) and liabilities relating thereto to the Partnership or the Limited Partners, the General Partner shall not be liable to the Partnership or to any other Partner for its good faith reliance on the provisions of this Agreement.

(e) Notwithstanding anything herein to the contrary, except for fraud, willful misconduct or gross negligence, or pursuant to any express indemnities given to the Partnership by any Partner pursuant to any other written instrument, no Partner shall have any personal liability whatsoever, to the Partnership or to the other Partner(s), for the debts or liabilities of the Partnership or the Partnership's obligations hereunder, and the full recourse of the other Partner(s) shall be limited to the interest of that Partner in the Partnership. To the fullest extent permitted by law, no officer, director, or member of the General Partner shall be liable to the Partnership for money damages except for (1) active and deliberate dishonesty established by a nonappealable final judgment or (2) actual receipt of an improper benefit or profit in money, property or services. Without limitation of the foregoing, and except for fraud, willful misconduct or gross negligence, or pursuant to any such express indemnity, no property or assets of any Partner, other than its interest in the Partnership, shall be subject to levy, execution or other enforcement procedures for the satisfaction of any judgment (or other judicial process) in favor of any other Partner(s) and arising out of, or in connection with, this Agreement. This Agreement is executed by the officers of the General Partner solely as officers of the same and not in their own individual capacities.

(f) Any amendment, modification or repeal of this **Section 7.08** or any provision hereof shall be prospective only and shall not in any way affect the limitations on the General Partner's, and its officers', directors' and members', liability to the Partnership and the Limited Partners under this **Section 7.08** as in effect immediately prior to such amendment, modification or repeal with respect to claims arising from or relating to matters occurring, in whole or in part, prior to such amendment, modification or repeal, regardless of when such claims may arise or be asserted.

Section 7.09. **Other Matters Concerning the General Partner**.

(a) The General Partner may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, bond, debenture or other paper or document believed by it in good faith to be genuine and to have been signed or presented by the proper party or parties.

(b) The General Partner may consult with legal counsel, accountants, appraisers, management consultants, investment bankers, architects, engineers, environmental consultants and other consultants and advisers selected by it, and any act taken or omitted to be taken in reliance upon the opinion of such Persons as to matters that the General Partner reasonably believe to be within such Person's professional or expert competence shall be conclusively presumed to have been done or omitted in good faith and in accordance with such opinion.

(c) The General Partner shall have the right, in respect of any of its powers or obligations hereunder, to act through any of its duly authorized officers and a duly appointed attorney or attorneys-in-fact. Each such attorney shall, to the extent provided by the General Partner in the power of attorney, have full power and authority to do and perform all and every act and duty that is permitted or required to be done by the General Partner hereunder.

(d) Notwithstanding any other provision of this Agreement or the Act, any action of the General Partner on behalf of the Partnership or any decision of the General Partner to refrain from acting on behalf of the Partnership, undertaken in the good faith belief that such action or omission is necessary or advisable in order to prevent the Partnership or the General Partner from being subject to regulation under the Investment Company Act.

Section 7.10. **Title to Partnership Assets**. Title to Partnership assets, whether real, personal or mixed and whether tangible or intangible, shall be deemed to be owned by the Partnership as an entity, and no Partner, individually or collectively with other Partners or Persons, shall have any ownership interest in such Partnership assets or any portion thereof. Title to any or all of the Partnership assets may be held in the name of the Partnership, the General Partner or one or more nominees, as the General Partner may determine, including Affiliates of the General Partner. The General Partner hereby declares and warrants that any Partnership assets for which legal title is held in the name of the General Partner or any nominee or Affiliate of the General Partner shall be held by the General Partner for the use and benefit of the Partnership in accordance with the provisions of this Agreement. All Partnership assets shall be recorded as the property of the Partnership in its books and records, irrespective of the name in which legal title to such Partnership assets is held.

Section 7.11. **Reliance by Third Parties**. Notwithstanding anything to the contrary in this Agreement, any Person dealing with the Partnership shall be entitled to assume that the General Partner has full power and authority, without the consent or approval of any other Partner or Person, to encumber, sell or otherwise use in any manner any and all assets of the Partnership and to enter into any contracts on behalf of the Partnership, and take any and all actions on behalf of the Partnership, and such Person shall be entitled to deal with the General Partner as if it were the Partnership's sole party in interest, both legally and beneficially. Each Limited Partner hereby waives any and all defenses or other remedies that may be available against such Person to contest, negate or disaffirm any action of the General Partner in connection with any such dealing. In no event shall any Person dealing with the General Partner or its representatives be obligated to ascertain that the terms of this Agreement have been complied with or to inquire into the necessity or expediency of any act or action of the General Partner or its representatives. Each and every certificate, document or other instrument executed on behalf of the Partnership by the General Partner or its representatives shall be conclusive evidence in favor of any and every Person relying in good faith thereon or claiming thereunder that (1) at the time of the execution and delivery of such certificate, document or instrument, this Agreement was in full force and effect, (2) the Person executing and delivering such certificate, document or instrument was duly authorized and empowered to do so for and on behalf of the Partnership, and (3) such certificate, document or instrument was duly executed and delivered in accordance with the terms and provisions of this Agreement and is binding upon the Partnership.

ARTICLE VIII

RIGHTS AND OBLIGATIONS OF LIMITED PARTNERS

Section 8.01. **Limitation of Liability**. The Limited Partners shall have no liability under this Agreement (other than for breach thereof) except as expressly provided in **Section 10.04**, **13.02(d)** or under the Act.

Section 8.02. **Management of Business**. No Limited Partner or Assignee (other than the General Partner, any of its Affiliates or any officer, member, employee, partner, agent or director of the General Partner, the Partnership or any of their Affiliates, in their capacity as such) shall take part in the operations, management or control (within the meaning of the Act) of the Partnership's business, transact any business in the Partnership's name or have the power to sign documents for or otherwise bind the Partnership. The transaction of any such business by the General Partner, any of its Affiliates or any officer, director, member, employee, partner, agent, representative, stockholder or trustee of the General Partner, the Partnership or any of their Affiliates, in their capacity as such, shall not affect, impair or eliminate the limitations on the liability of the Limited Partners or Assignees under this Agreement.

Section 8.03. **Outside Activities of Limited Partners**. Subject to any agreements entered into pursuant to **Section 7.06(e)** hereof and any other agreements entered into by a Limited Partner or its Affiliates with the General Partner, the Partnership or any Affiliate thereof (including, without limitation, any employment agreement), any Limited Partner and any Assignee, officer, director, employee, agent, trustee, Affiliate, member or shareholder of any Limited Partner shall be entitled to and may have business interests and engage in business activities in addition to those relating to the Partnership, including business interests and activities that are in direct or indirect competition with the Partnership or that are enhanced by the activities of the Partnership. Neither the Partnership nor any Partner shall have any rights by virtue of this Agreement in any business ventures of any Limited Partner or Assignee. Subject to such agreements, none of the Limited Partners nor any other Person shall have any rights by virtue of this Agreement or the partnership relationship established hereby in any business ventures of any other Person (other than the General Partner, to the extent expressly provided herein), and such Person shall have no obligation pursuant to this Agreement, subject to **Section 7.06(e)** hereof and any other agreements entered into by a Limited Partner or its Affiliates with the General Partner, the Partnership or any Affiliate thereof, to offer any interest in any such business ventures to the Partnership, any Limited Partner or any such other Person, even if such opportunity is of a character that, if presented to the Partnership, any Limited Partner or such other Person, could be taken by such Person.

Section 8.04. **Return of Capital**. Except pursuant to the rights of Redemption set forth in **Section 8.06** hereof, no Limited Partner shall be entitled to the withdrawal or return of its Capital Contribution, except to the extent of distributions made pursuant to this Agreement, upon termination of the Partnership as provided herein or upon a merger of the Parent or a sale by the Parent of all or substantially all of its assets pursuant to **Section 7.01(a)(iii)** hereof. Except to the extent provided in **Article VI** hereof or otherwise expressly provided in this Agreement, no Limited Partner or Assignee shall have priority over any other Limited Partner or Assignee either as to the return of Capital Contributions or as to profits, losses or distributions.

Section 8.05. **Adjustment Factor**. The Partnership shall notify any Limited Partner, on request, of the then current Adjustment Factor or any change made to the Adjustment Factor.

Section 8.06. **Redemption Rights**.

(a) On or after the date that is (i) with respect to a Limited Partner that is a MissionPoint Party (as defined in the Registration Rights Agreement), 180 days following the completion of the Parent's initial public offering of Parent Shares and (ii) with respect to a Limited Partner that is not a MissionPoint Party, one year following the completion of the Parent's initial public offering of Parent Shares, with respect to the OP Units (including any LTIP Units that are converted into OP Units) acquired on the Effective Date, each Limited Partner shall have the right (subject to the terms and conditions set forth herein and in any other such agreement, as applicable) to cause the Partnership to purchase all or a portion of the OP Units held by such Limited Partner (such OP Units being hereafter referred to as "**Tendered Units**") in exchange for the Cash Amount (a "**Redemption**") unless the terms of such OP Units or a separate agreement entered into between the Partnership and the holder of such OP Units provide that such OP Units are not entitled to a right of Redemption. The Tendering Partner shall have no right, with respect to any OP Units so redeemed, to receive any distributions paid on or after the Specified Redemption Date. Any Redemption shall be exercised pursuant to a Notice of Redemption delivered to the General Partner by the Limited Partner who is exercising the right (the "**Tendering Partner**"). The Cash Amount shall be payable to the Tendering Partner on the Specified Redemption Date.

(b) Notwithstanding **Section 8.06(a)** above, if a Limited Partner has delivered to the General Partner a Notice of Redemption then the Parent may, in its sole and absolute discretion, (subject to the limitations on ownership and transfer of Parent Shares set forth in the Charter) elect to assume and satisfy the Partnership's Redemption obligation and acquire some or all of the Tendered Units from the Tendering Partner in exchange for the Parent Shares Amount (as of the Specified Redemption Date) and, if the Parent so elects, the Tendering Partner shall sell the Tendered Units to the Parent in exchange for the Parent Shares Amount. In such event, the Tendering Partner shall have no right to cause the Partnership to redeem such Tendered Units. The Parent shall give such Tendering Partner written notice of its election on or before the close of business on the fifth Business Day after the its receipt of the Notice of Redemption.

(c) The Parent Shares Amount, if applicable, shall be delivered as duly authorized, validly issued, fully paid and nonassessable Parent Shares and, if applicable, free of any pledge, lien, encumbrance or restriction, other than those provided in the Charter or the Bylaws of the Parent, the Securities Act, relevant state securities or blue sky laws and any applicable registration rights agreement with respect to such Parent Shares entered into by the Tendering Partner. Notwithstanding any delay in such delivery (but subject to **Section 8.06(e)**), the Tendering Partner shall be deemed the owner of such Parent Shares for all purposes, including without limitation, rights to vote or consent, and receive dividends, as of the Specified Redemption Date. In addition, the Parent Shares for which the Partnership Units might be exchanged shall also bear such restrictive legends that the Parent determines are appropriate to mark transfer, ownership or other restrictions and limitations applicable to the Parent Shares.

(d) Each Limited Partner covenants and agrees with the General Partner that all Tendered Units shall be delivered to the Parent free and clear of all liens, claims and encumbrances whatsoever and should any such liens, claims and/or encumbrances exist or arise with respect to such Tendered Units, the Parent shall be under no obligation to acquire the same. Each Limited Partner further agrees that, in the event any state or local property transfer tax is payable as a result of the transfer of its Tendered Units to the Parent (or its designee), such Limited Partner shall assume and pay such transfer tax.

(e) Notwithstanding the provisions of **Section 8.06(a)**, **8.06(b)**, **8.06(c)** or any other provision of this Agreement, a Limited Partner (i) shall not be entitled to effect a Redemption for cash or an exchange for Parent Shares to the extent the ownership or right to acquire Parent Shares pursuant to such exchange by such Partner on the Specified Redemption Date could cause such Partner or any other Person to violate the restrictions on ownership and transfer of Parent Shares set forth in the Charter of the General Partner and (ii) shall have no rights under this Agreement to acquire Parent Shares which would otherwise be prohibited under the Charter. To the extent any attempted Redemption or exchange for Parent Shares would be in violation of this **Section 8.06(e)**, it shall be null and void *ab initio* and such Limited Partner shall not acquire any rights or economic interest in the cash otherwise payable upon such Redemption or the Parent Shares otherwise issuable upon such exchange.

(f) Notwithstanding anything herein to the contrary (but subject to **Section 8.06(e)**), with respect to any Redemption or exchange for Parent Shares pursuant to this **Section 8.06**: (i) a portion of the OP Units acquired by the Parent pursuant thereto and any and all future issuances shall automatically, and without further action required, be converted into and deemed to be General Partner Interests and all other OP Units shall be deemed to be Limited Partner Interests and held by the Parent in its capacity as a Limited Partner in the Partnership such that, immediately after such Redemption, the requirements of **Section 4.01(b)** continue to be met; (ii) without the consent of the General Partner, each Limited Partner may effect a Redemption only one time in each fiscal quarter; (iii) without the consent of the General Partner, each Limited Partner may not effect a Redemption for less than 1,000 OP Units or, if the Limited Partner holds less than 1,000 OP Units, all of the OP Units held by such Limited Partner; (iv) without the consent of the General Partner, each Limited Partner may not effect a Redemption during the period after the Partnership Record Date with respect to a distribution and before the record date established by the Parent for a distribution to its stockholders of some or all of its portion of such distribution; (v) the consummation of any Redemption or exchange for Parent Shares shall be subject to the expiration or termination of the applicable waiting period, if any, under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended; and (vi) each Tendering Partner shall continue to own all OP Units subject to any Redemption or exchange for Parent Shares, and be treated as a Limited Partner with respect to such OP Units for all purposes of this Agreement, until such OP Units are transferred to the Parent and paid for or exchanged on the Specified Redemption Date. Until a Specified Redemption Date, the Tendering Partner shall have no rights as a stockholder of the Parent with respect to such Tendering Partner's OP Units.

(g) In the event that the Partnership issues additional Partnership Interests to any Additional Limited Partner pursuant to **Section 4.04**, the General Partner shall make such revisions to this **Section 8.06** as it determines are necessary to reflect the issuance of such additional Partnership Interests.

(h) The Assignee of any Limited Partner may exercise the rights of such Limited Partner pursuant to this **Section 8.06**, and such Limited Partner shall be deemed to have assigned such rights to such Assignee and shall be bound by the exercise of such rights by such Assignee.

ARTICLE IX

BOOKS, RECORDS, ACCOUNTING AND REPORTS

Section 9.01. **Records and Accounting**.

(a) The Parent shall keep or cause to be kept at the principal office of the Partnership those records and documents required to be maintained by the Act and other books and records deemed by the General Partner to be appropriate with respect to the Partnership's business, including, without limitation, all books and records necessary to provide to the Limited Partners any information, lists and copies of documents required to be provided pursuant to **Section 8.05** or **9.03** hereof. Any records maintained by or on behalf of the Partnership in the regular course of its business may be kept on, or be in the form for, magnetic tape, photographs, micrographics or any other information storage device, **provided**, **that** the records so maintained are convertible into clearly legible written form within a reasonable period of time.

(b) The books of the Partnership shall be maintained, for financial and tax reporting purposes, on an accrual basis in accordance with generally accepted accounting principles, or on such other basis as the General Partner determines to be necessary or appropriate. To the extent permitted by sound accounting practices and principles, the Partnership and the Parent may operate with integrated or consolidated accounting records, operations and principles.

Section 9.02. **Partnership Year** . The Partnership Year of the Partnership shall be the calendar year, unless otherwise determined by the General Partner.

Section 9.03. **Reports**.

(a) As soon as practicable, but in no event later than the date on which the Parent mails its annual report to its stockholders, the General Partner shall cause to be mailed to each Limited Partner an annual report, as of the close of the most recently ended Partnership Year, containing financial statements of the Partnership, or of the Parent if such statements are prepared solely on a consolidated basis with the Partnership, for such Partnership Year, presented in accordance with generally accepted accounting principles, such statements to be audited by a nationally recognized firm of independent public accountants selected by the General Partner.

(b) If and to the extent that the Parent mails quarterly reports to its stockholders, as soon as practicable, but in no event later than the date on such reports are mailed, the General Partner shall cause to be mailed to each Limited Partner a report containing unaudited financial statements, as of the last day of such fiscal quarter, of the Partnership, or of the Parent if such statements are prepared solely on a consolidated basis with the Partnership, and such other information as may be required by applicable law or regulations, or as the General Partner determines to be appropriate.

(c) The General Partner shall have satisfied its obligations under **Section 9.03(a)** and **9.03(b)** hereof by posting or making available the reports required by this **Section 9.03** on the website maintained from time to time by the Parent provided that such reports are able to be printed or downloaded from such website or if such reports are available pursuant to the Commission's Electronic Data Gathering, Analysis and Retrieval system.

(d) At the request of any Limited Partner, the General Partner shall provide access to the General Partner's books, records and work paper upon which the reports required by this **Section 9.03** are based, to the extent required by the Act.

ARTICLE X

TAX MATTERS

Section 10.01. **Preparation of Tax Returns**. The Parent shall arrange for the preparation and timely filing of all returns with respect to Partnership income, gains, deductions, losses and other items required of the Partnership for federal and state income tax purposes and shall use all reasonable effort to furnish, within 90 days of the close of each taxable year, the tax information reasonably required by Limited Partners for federal and state income tax reporting purposes. The Limited Partners shall promptly provide the Parent with such information relating to the Contributed Properties, including tax basis and other relevant information, as may be reasonably requested by the Parent from time to time.

Section 10.02. **Tax Elections**. Except as otherwise provided herein, the Parent shall, in its sole and absolute discretion, determine whether to make any available election pursuant to the Code, including, but not limited to, the election under Code Section 754 and the election to use the "recurring item" method of accounting provided under Code Section 461(h) with respect to property taxes imposed on the Partnership's Properties. The Parent shall have the right to seek to revoke any such election (including, without limitation, any election under Code Sections 461(h) and 754) upon the Parent's determination in its sole and absolute discretion that such revocation is in the best interests of the Partners.

Section 10.03. **Partnership Representative**.

(a) The Parent shall act as or appoint the "Partnership Representative" within the meaning of Section 6223(a) of the Code and any similar provisions under any state, local or foreign tax law, and the Partnership Representative shall appoint a designated individual with substantial presence in the United States through which the Partnership Representative will act. As Partnership Representative, the Parent (or its appointee) shall have the right and obligation to take all actions authorized and required by the Code for the Partnership Representative. The Parent (or its appointee) shall have the right to retain professional assistance in respect of any audit of the Partnership by the IRS and all out-of-pocket expenses and fees incurred by the Parent (or its appointee) on behalf of the Partnership as Partnership Representative shall constitute Partnership expenses.

Section 10.04. **Withholding**. Each Limited Partner hereby authorizes the Partnership to withhold from or pay on behalf of or with respect to such Limited Partner any amount of federal, state, local or foreign taxes that the Parent determines that the Partnership is required to withhold or pay with respect to any amount distributable or allocable to such Limited Partner pursuant to this Agreement, including, without limitation, any taxes required to be withheld or paid by the Partnership pursuant to Code Sections 1441, 1442, 1445 or 1446, the Regulations thereunder, and related IRS guidance. Any amount paid on behalf of or with respect to a Limited Partner, in excess of any withheld amounts shall constitute a loan by the Partnership to such Limited Partner, which loan shall be repaid by such Limited Partner within 15 days after notice from the

Parent that such payment must be made unless (i) the Partnership withholds such payment from a distribution that would otherwise be made to the Limited Partner or (ii) the Parent determines, in its sole and absolute discretion, that such payment may be satisfied out of the Available Cash of the Partnership that would, but for such payment, be distributed to the Limited Partner. Each Limited Partner hereby unconditionally and irrevocably grants to the Partnership a security interest in such Limited Partner's Partnership Interest to secure such Limited Partner's obligation to pay to the Partnership any amounts required to be paid pursuant to this **Section 10.04**. In the event that a Limited Partner fails to pay any amounts owed to the Partnership pursuant to this **Section 10.04** when due, the Parent may, in its sole and absolute discretion, elect to make the payment to the Partnership on behalf of such defaulting Limited Partner, and in such event shall be deemed to have loaned such amount to such defaulting Limited Partner and shall succeed to all rights and remedies of the Partnership as against such defaulting Limited Partner (including, without limitation, the right to receive distributions). Any amounts payable by a Limited Partner hereunder shall bear interest at the base rate on corporate loans at large United States money center commercial banks, as published from time to time in The Wall Street Journal, plus four percentage points (but not higher than the maximum lawful rate) from the date such amount is due (*i.e*., 15 days after demand) until such amount is paid in full. Each Limited Partner shall take such actions as the Partnership or the Parent shall request in order to perfect or enforce the security interest created hereunder.

Section 10.05. **Organizational Expenses**. The Partnership shall elect to amortize expenses, if any, incurred by it in organizing the Partnership ratably over a 180-month period as provided in Code Section 709.

ARTICLE XI

TRANSFERS AND WITHDRAWALS

Section 11.01. **Transfer**.

(a) No part of the interest of a Partner shall be subject to the claims of any creditor, to any spouse for alimony or support, or to legal process, and may not be voluntarily or involuntarily alienated or encumbered except as may be specifically provided for in this Agreement.

(b) No Partnership Interest shall be Transferred, in whole or in part, except in accordance with the terms and conditions set forth in this **Article XI**. Any Transfer or purported Transfer of a Partnership Interest not made in accordance with this **Article XI** shall be null and void *ab initio* unless consented to by the General Partner in its sole and absolute discretion.

(c) No Transfer of any Partnership Interest may be made to a lender to the Partnership or any Person who is related (within the meaning of Section 1.752-4(b) of the Regulations) to any lender to the Partnership whose loan constitutes a Nonrecourse Liability, without the consent of the General Partner in its sole and absolute discretion; **provided**, **that** as a condition to such consent, the lender will be required to enter into an arrangement with the Partnership and the General Partner to redeem or exchange for Parent Shares any Partnership Units in which a security interest is held by such lender concurrently with such time as such lender would be deemed to be a partner in the Partnership for purposes of allocating liabilities to such lender under Code Section 752.

Section 11.02. **Transfer of General Partner's Partnership Interest**.

(a) The General Partner may not transfer any of its Partnership Interests except in connection with (i) a transaction permitted under **Section 11.02(b)**, (ii) any merger (including a triangular merger), consolidation or other combination with or into another Person following the consummation of which the equity holders of the surviving entity are substantially identical to the members or stockholders of the General Partner, (iii) a transfer of all or any part of a Partnership Interest among the General Partner and the Parent or any Subsidiary of the Parent, (iv) the Consent of a Majority in Interest of the Outside Limited Partners or (v) as otherwise expressly permitted under this Agreement, nor shall the General Partner withdraw as General Partner except in connection with a transaction permitted under **Section 11.02(b)** or any merger, consolidation, or other combination permitted under clause (ii) of this **Section 11.02(a)**.

(b) The General Partner shall not engage in any merger (including, without limitation, a triangular merger), consolidation or other combination with or into another Person (other than any transaction permitted by **Section 11.02(a)**), sale of all or substantially all of its assets or any reclassification, recapitalization or change of outstanding Parent Shares (other than a change in par value, or from par value to no par value, or as a result of a subdivision or combination as described in the definition of "Adjustment Factor") ("**Termination Transaction**"), unless (i) following such merger or other consolidation, substantially all of the assets of the surviving entity consist of Partnership Units; (ii) in connection with which all Partners (other than a General Partner engaged in any such merger, consolidation or other combination) who hold Partnership Units either will receive, or will have the right to receive, for each Partnership Unit an amount of cash, Parent Shares or other securities having a fair market or net asset value, as the case may be, equal to the net asset value of the Partnership Units being converted as of the month end period immediately prior to such conversion; **provided**, **however**, **that**, if in connection with the Termination Transaction, a purchase, tender or exchange offer shall have been made to and accepted by the holders of the percentage required for the approval of mergers under the organizational documents of the General Partner, each holder of Partnership Units shall receive, or shall have the right to receive without any right of Consent set forth above in this **Section 11.02(b)**, the amount of cash, Parent Shares or other securities which such holder would have received had it exercised the Redemption Right and received Parent Shares in exchange for its Partnership Units immediately prior to the expiration of such purchase, tender or exchange offer and had thereupon accepted such purchase, tender or exchange offer; or (iii) all of the following conditions are met: (A) substantially all of the assets directly or indirectly owned by the surviving entity are owned directly or indirectly by the Partnership or another limited partnership or limited liability company which is the survivor of a merger, consolidation or combination of assets with the Partnership (in each case, the "**Surviving Partnership**"), (B) the Limited Partners that held Partnership Units immediately prior to the consummation of such Termination Transaction own a percentage interest of the Surviving Partnership based on the relative fair market value of the net assets of the Partnership and the other net assets of the Surviving Partnership immediately prior to the consummation of such transaction; (C) the rights, preferences and privileges in the Surviving Partnership of such Limited Partners are at least as favorable as those in effect with respect to the Partnership Units immediately prior to the consummation of such transaction and as those applicable to any other limited partners or non-managing members of the Surviving Partnership; and (D) the rights of such Limited Partners include at least one of the following: (1) the right to redeem their interests in the Surviving Partnership for the consideration available to such persons pursuant to **Section 8.06** or (2) the right to redeem their interests in the Surviving Partnership for cash on terms substantially equivalent to those in effect with respect to their Partnership Units immediately prior to the consummation of such transaction, or, if the ultimate controlling person of the Surviving Partnership has publicly traded common equity securities, such common equity securities, with an exchange ratio based on the determination of relative fair market value of such securities and the Parent Shares.

(c) The General Partner shall not enter into an agreement or other arrangement providing for or facilitating the creation of a General Partner other than the General Partner, unless the successor General Partner executes and delivers a counterpart to this

Agreement in which such General Partner agrees to be fully bound by all of the terms and conditions contained herein that are applicable to a General Partner.

Section 11.03. **Transfer of Limited Partners' Partnership Interests**.

(a) No Limited Partner shall Transfer all or any portion of its Partnership Interest to any transferee without the written consent of the General Partner, which consent may be withheld in its sole and absolute discretion.

(b) Without limiting the generality of **Section 11.03(a)** hereof, it is expressly understood and agreed that the General Partner will not consent to any Transfer of all or any portion of any Partnership Interest pursuant to **Section 11.03(a)** above unless such Transfer meets each of the following conditions:

(i) The transferee in such Transfer assumes by operation of law or express agreement all of the obligations of the transferor Limited Partner under this Agreement with respect to such Transferred Partnership Interest; **provided**, **that** no such Transfer (unless made pursuant to a statutory merger or consolidation wherein all obligations and liabilities of the transferor Partner are assumed by a successor corporation by operation of law) shall relieve the transferor Partner of its obligations under this Agreement without the approval of the General Partner, in its sole and absolute discretion. Any transferee, whether or not admitted as a Substituted Limited Partner, shall take subject to the obligations of the transferor hereunder. Unless admitted as a Substituted Limited Partner, no transferee, whether by a voluntary Transfer, by operation of law or otherwise, shall have any rights hereunder, other than the rights of an Assignee as provided in **Section 11.05** hereof.

(ii) Such Transfer is effective as of the first day of a fiscal quarter of the Partnership.

(c) If a Limited Partner is subject to Incapacity, the executor, administrator, trustee, committee, guardian, conservator or receiver of such Limited Partner's estate shall have all the rights of a Limited Partner, but not more rights than those enjoyed by other Limited Partners, for the purpose of settling or managing the estate, and such power as the Incapacitated Limited Partner possessed to Transfer all or any part of its interest in the Partnership. The Incapacity of a Limited Partner, in and of itself, shall not dissolve or terminate the Partnership.

(d) In connection with any proposed Transfer of a Limited Partner Interest, the General Partner shall have the right to receive an opinion of counsel reasonably satisfactory to it to the effect that the proposed Transfer may be effected without registration under the Securities Act and will not otherwise violate any federal or state securities laws or regulations applicable to the Partnership or the Partnership Interests Transferred.

(e) No Transfer by a Limited Partner of its Partnership Interests (including any Redemption, any other acquisition of Partnership Units by the Partnership or the General Partner) may be made to or by any person, without the consent of the General Partner in its sole discretion, if (i) in the opinion of legal counsel for the Partnership, there is a significant risk that it would result in the Partnership being treated as an association taxable as a corporation or would result in a termination of the Partnership under Code Section 708, (ii) such Transfer would be effectuated through an "established securities market" or a "secondary market (or the substantial equivalent thereof)" within the meaning of Code Section 7704, or (iii) such Transfer would result in the Partnership being unable to qualify for one or more of the "safe harbors" set forth in Regulations Section 1.7704-1 (or such other guidance subsequently published by the IRS setting forth safe harbors under which interests will not be treated as "readily tradable on a secondary market (or the substantial equivalent thereof)" within the meaning of Code Section 7704) (the "**Safe Harbors**").

Section 11.04. **Substituted Limited Partners**.

(a) A transferee of the interest of a Limited Partner pursuant to a Transfer consented to by the General Partner pursuant to **Section 11.03(a)** may be admitted as a Substituted Limited Partner only with the consent of the General Partner, which consent may be given or withheld by the General Partner in its sole and absolute discretion. The failure or refusal by the General Partner to permit a transferee of any such interests to become a Substituted Limited Partner shall not give rise to any cause of action against the Partnership or the General Partner. Subject to the foregoing, an Assignee shall not be admitted as a Substituted Limited Partner until and unless it furnishes to the General Partner (i) evidence of acceptance, in form and substance satisfactory to the General Partner, of all the terms, conditions and applicable obligations of this Agreement, (ii) a counterpart signature page to this Agreement executed by such Assignee, and (iii) such other documents and instruments as may be required or advisable, in the sole and absolute discretion of the General Partner, to effect such Assignee's admission as a Substituted Limited Partner.

(b) A transferee who has been admitted as a Substituted Limited Partner in accordance with this **Article XI** shall have all the rights and powers and be subject to all the restrictions and liabilities of a Limited Partner under this Agreement.

(c) Upon the admission of a Substituted Limited Partner, the General Partner shall amend **Exhibit A** to reflect the name, address and number of Partnership Units of such Substituted Limited Partner and to eliminate or adjust, if necessary, the name, address and number of Partnership Units of the predecessor of such Substituted Limited Partner.

Section 11.05. **Assignees**. If the General Partner, in its sole and absolute discretion, does not consent to the admission of any transferee of any Partnership Interest as a Substituted Limited Partner in connection with a transfer permitted by the General Partner pursuant to **Section 11.03(a)**, such transferee shall be considered an Assignee for purposes of this Agreement. An Assignee shall be entitled to all the rights of an assignee of a limited partnership interest under the Act, including the right to receive distributions from the Partnership and the share of Net Income, Net Losses and other items of income, gain, loss, deduction and credit of the Partnership attributable to the Partnership Units assigned to such transferee and the rights to Transfer the Partnership Units only in accordance with the provisions of this **Article XI**, but shall not be deemed to be a holder of Partnership Units for any other purpose under this Agreement, and shall not be entitled to effect a Consent or vote or effect a Redemption with respect to such Partnership Units on any matter presented to the Limited Partners for approval (such right to Consent or vote or effect a Redemption, to the extent provided in this Agreement or under the Act, fully remaining with the transferor Limited Partner). In the event that any such transferee desires to make a further assignment of any such Partnership Units, such transferee shall be subject to all the provisions of this **Article XI** to the same extent and in the same manner as any Limited Partner desiring to make an assignment of Partnership Units.

Section 11.06. **General Provisions**.

(a) No Limited Partner may withdraw from the Partnership other than as a result of a permitted Transfer of all of such Limited Partner's Partnership Units in accordance with this **Article XI**, with respect to which the transferee becomes a Substituted Limited Partner, or pursuant to a redemption (or acquisition by the Parent) of all of its Partnership Units pursuant to a Redemption under **Section 8.06** hereof and/or pursuant to any Partnership Unit Designation.

(b) Any Limited Partner who shall Transfer all of its Partnership Units in a Transfer (i) consented to by the General Partner pursuant to this **Article XI** where such transferee was admitted as a Substituted Limited Partner, (ii) pursuant to the exercise of its rights to effect a redemption of all of its Partnership Units pursuant to a Redemption under **Section 8.06** hereof and/or pursuant to any Partnership Unit Designation, or (iii) to the General Partner, whether or not pursuant to **Section 8.06(b)** hereof, shall cease to be a Limited Partner.

(c) If any Partnership Unit is Transferred in compliance with the provisions of this **Article XI**, or is redeemed by the Partnership, or acquired by the Parent pursuant to **Section 8.06** hereof, on any day other than the first day of a Partnership Year, then Net Income, Net Losses, each item thereof and all other items of income, gain, loss, deduction and credit attributable to such Partnership Unit for such Partnership Year shall be allocated to the transferor Partner or the Tendering Partner, as the case may be, and, in the case of a Transfer or assignment other than a Redemption, to the transferee Partner, by taking into account their varying interests during the Partnership Year in accordance with Code Section 706(d) and the corresponding Regulations, using the "interim closing of the books" method or another permissible method selected by the General Partner (unless the General Partner in its sole and absolute discretion elects to adopt a daily, weekly or monthly proration period, in which case Net Income or Net Loss shall be allocated based upon the applicable method selected by the General Partner). All distributions of Available Cash attributable to such Partnership Unit with respect to which the Partnership Record Date is before the date of such Transfer, assignment or Redemption shall be made to the transferor Partner or the Tendering Partner, as the case may be, and, in the case of a Transfer other than a Redemption, all distributions of Available Cash thereafter attributable to such Partnership Unit shall be made to the transferee Partner.

(d) In no event may any Transfer or assignment of a Partnership Interest by any Partner (including any Redemption, any acquisition of Partnership Units by the General Partner or any other acquisition of Partnership Units by the Partnership) be made (i) to any person or entity who lacks the legal right, power or capacity to own a Partnership Interest; (ii) in violation of applicable law; (iii) of any component portion of a Partnership Interest, such as the Capital Account, or rights to distributions, separate and apart from all other components of a Partnership Interest; (iv) except with the consent of the General Partner, if such Transfer, in the opinion of counsel to the Partnership or the General Partner, would create a significant risk that such transfer would cause a termination of the Partnership for federal or state income tax purposes; (v) if such Transfer would, in the opinion of legal counsel to the Partnership, cause the Partnership to cease to be classified as a partnership for federal income tax purposes (except as a result of the Redemption (or acquisition by the General Partner) of all Partnership Units held by all Limited Partners); (vi) if such Transfer would cause the Partnership to become, with respect to any employee benefit plan subject to Title I of ERISA, a "party-in-interest" (as defined in ERISA Section 3(14)) or a "disqualified person" (as defined in Code Section 4975(c)); (vii) without the consent of the General Partner, to any benefit plan investor within the meaning of Department of Labor Regulations Section 2510.3-101(f); (viii) if such Transfer would, in the opinion of legal counsel to the Partnership or the General Partner, cause any portion of the assets of the Partnership to constitute assets of any employee benefit plan pursuant to Department of Labor Regulations Section 2510.3-101; (ix) if such Transfer requires the registration of such Partnership Interest pursuant to any applicable federal or state securities laws; (x) except with the consent of the General Partner, if such transfer would be effectuated through an "established securities market" or a "secondary market (or the substantial equivalent thereof)" within the meaning of Code Section 7704, could cause the Partnership to become a "publicly traded partnership" as such term is defined in Code Sections 469(k)(2) or 7704(b), or could cause the Partnership to fail one or more of the Safe Harbors; (xi) if such Transfer causes the Partnership (as opposed to the General Partner) to become a reporting company under the Exchange Act; or (xii) if such Transfer subjects the Partnership to regulation under the Investment Company Act, the Investment Advisors Act or ERISA.

ARTICLE XII

ADMISSION OF PARTNERS

Section 12.01. **Admission of Successor General Partner**. A successor to all or a part of the General Partner's General Partner Interest pursuant to **Section 11.02** hereof who is proposed to be admitted as a successor General Partner shall be admitted to the Partnership as the General Partner, effective immediately prior to such Transfer. Any such successor shall carry on the business of the Partnership without dissolution. In each case, the admission shall be subject to the successor General Partner executing and delivering to the Partnership an acceptance of all of the terms and conditions of this Agreement and such other documents or instruments as may be required to effect the admission. Concurrently with, and as evidence of, the admission of an Additional Limited Partner, the General Partner shall amend **Exhibit A** and the books and records of the Partnership to reflect the name, address and number of Partnership Units of such Additional Limited Partner.

Section 12.02. **Admission of Additional Limited Partners**.

(a) After the date hereof, a Person (other than an existing Partner) who makes a Capital Contribution to the Partnership in accordance with this Agreement shall be admitted to the Partnership as an Additional Limited Partner only upon furnishing to the General Partner (i) evidence of acceptance, in form and substance satisfactory to the General Partner, of all of the terms and conditions of this Agreement, including, without limitation, the power of attorney granted in **Section 2.04** hereof, (ii) a counterpart signature page to this Agreement executed by such Person, and (iii) such other documents or instruments as may be required in the sole and absolute discretion of the General Partner in order to effect such Person's admission as an Additional Limited Partner and the satisfaction of all the conditions set forth in this **Section 12.02**.

(b) Notwithstanding anything to the contrary in this **Section 12.02**, no Person shall be admitted as an Additional Limited Partner without the consent of the General Partner, which consent may be given or withheld in the General Partner's sole and absolute discretion. The admission of any Person as an Additional Limited Partner shall become effective on the date upon which the name of such Person is recorded on the books and records of the Partnership, following the consent of the General Partner to such admission.

(c) If any Additional Limited Partner is admitted to the Partnership on any day other than the first day of a Partnership Year, then Net Income, Net Losses, each item thereof and all other items of income, gain, loss, deduction and credit allocable among Partners and Assignees for such Partnership Year shall be allocated *pro rata* among such Additional Limited Partner and all other Partners and Assignees by taking into account their varying interests during the Partnership Year in accordance with Code Section 706(d), using the "interim closing of the books" method or another permissible method selected by the General Partner. Solely for purposes of making such allocations, each of such items for the calendar month in which an admission of any Additional Limited Partner occurs shall be allocated among all the Partners and Assignees including such Additional Limited Partner, in accordance with the principles described in **Section 11.06(c)** hereof. All distributions of Available Cash with respect to which the Partnership Record Date is before the date of such admission shall be made solely to Partners and Assignees other than the Additional Limited Partner, and all distributions of Available Cash thereafter shall be made to all the Partners and Assignees including such Additional Limited Partner.

Section 12.03. **Amendment of Agreement and Certificate of Limited Partnership**. For the admission to the Partnership of any Partner, the General Partner shall take all steps necessary and appropriate under the Act to amend the records of the Partnership and, if necessary, to prepare as soon as practical an amendment of this Agreement (including an amendment of **Exhibit A**) and, if required by law, shall prepare and file an amendment to the Certificate and may for this purpose exercise the power of attorney granted pursuant to **Section 2.04** hereof.

Section 12.04. **Limit on Number of Partners**. Unless otherwise permitted by the General Partner, no Person shall be admitted to the Partnership as an Additional Limited Partner if the effect of such admission would be to cause the Partnership to have a number of Partners that would cause the Partnership to become a reporting company under the Exchange Act.

Section 12.05. **Admission**. A Person shall be admitted to the Partnership as a Limited Partner of the Partnership only upon strict compliance, and not upon substantial compliance, with the requirements set forth in this Agreement for admission to the Partnership as an Additional Limited Partner.

ARTICLE XIII

DISSOLUTION, LIQUIDATION AND TERMINATION

Section 13.01. **Dissolution**. The Partnership shall not be dissolved by the admission of Additional Limited Partners or by the admission of a successor or additional General Partner in accordance with the terms of this Agreement. Upon the withdrawal of the General Partner, any successor General Partner shall continue the business of the Partnership without dissolution. However, the Partnership shall dissolve, and its affairs shall be wound up, upon the first to occur of any of the following (each a "**Liquidating Event**"):

(a) a final and nonappealable judgment is entered by a court of competent jurisdiction ruling that the General Partner is bankrupt or insolvent, or a final and nonappealable order for relief is entered by a court with appropriate jurisdiction against the Parent, in each case under any federal or state bankruptcy or insolvency laws as now or hereafter in effect, unless, prior to the entry of such order or judgment, a Majority in Interest of the remaining Outside Limited Partners agree in writing, in their sole and absolute discretion, to continue the business of the Partnership and to the appointment, effective as of a date prior to the date of such order or judgment, of a successor General Partner, to the extent no other General Partners remain;

(b) an election to dissolve the Partnership made by the General Partner in its sole and absolute discretion, with or without the Consent of a Majority in Interest of the Outside Limited Partners;

(c) entry of a decree of judicial dissolution of the Partnership pursuant to the provisions of the Act;

(d) the occurrence of a Terminating Capital Transaction;

(e) the Redemption (or acquisition by the Parent) of all Partnership Units other than Partnership Units held by the General Partner; or

(f) the Incapacity or withdrawal of the General Partner, unless all of the remaining Partners in their sole and absolute discretion agree in writing to continue the business of the Partnership and to the appointment, effective as of a date prior to the date of such Incapacity, of a substitute General Partner.

Section 13.02. **Winding Up**.

(a) Upon the occurrence of a Liquidating Event, the Partnership shall continue solely for the purposes of winding up its affairs in an orderly manner, liquidating its assets and satisfying the claims of its creditors and Partners. After the occurrence of a Liquidating Event, no Partner shall take any action that is inconsistent with, or not necessary to or appropriate for, the winding up of the Partnership's business and affairs. The General Partner or, in the event that there is no remaining General Partner or the General Partner has dissolved, become bankrupt within the meaning of the Act or ceased to operate, any Person elected by a Majority in Interest of the Outside Limited Partners (the General Partner or such other Person being referred to herein as the "**Liquidator**") shall be responsible for overseeing the winding up and dissolution of the Partnership and shall take full account of the Partnership's liabilities and property, and the Partnership property shall be liquidated as promptly as is consistent with obtaining the fair value thereof, and the proceeds therefrom (which may, to the extent determined by the General Partner, include shares of stock in the General Partner) shall be applied and distributed in the following order:

(i) First, to the satisfaction of all of the Partnership's Debts and liabilities to creditors other than the Partners and their Assignees (whether by payment or the making of reasonable provision for payment thereof);

(ii) Second, to the satisfaction of all of the Partnership's Debts and liabilities to the General Partner (whether by payment or the making of reasonable provision for payment thereof), including, but not limited to, amounts due as reimbursements under **Section 7.04** hereof;

(iii) Third, to the satisfaction of all of the Partnership's Debts and liabilities to the other Partners and any Assignees (whether by payment or the making of reasonable provision for payment thereof); and

(iv) Subject to **Section 13.02(c)**, the balance, if any, to the Partners in accordance with **Section 5.01**.

The General Partner shall not receive any additional compensation for any services performed pursuant to this **Article XIII**.

(b) Notwithstanding the provisions of **Section 13.02(a)** hereof that require liquidation of the assets of the Partnership, but subject to the order of priorities set forth therein, if prior to or upon dissolution of the Partnership the Liquidator determines that an immediate sale of part or all of the Partnership's assets would be impractical or would cause undue loss to the Partners, the Liquidator may, in its sole and absolute discretion, defer for a reasonable time the liquidation of any assets except those necessary to satisfy liabilities of the Partnership (including to those Partners as creditors) and/or distribute to the Partners, in lieu of cash, as tenants in common and in accordance with the provisions of **Section 13.02(a)** hereof, undivided interests in such Partnership assets as the Liquidator deems not suitable for liquidation. Any such distributions in kind shall be made only if, in the good faith judgment of the Liquidator, such distributions in kind are in the best interest of the Partners, and shall be subject to such conditions relating to the disposition and management of such properties as the Liquidator deems reasonable and equitable and to any agreements governing the operation of such properties at such time. The Liquidator shall determine the fair market value of any property distributed in kind using such reasonable method of valuation as it may adopt.

(c) In the event that the Partnership is "liquidated" within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g), distributions shall be made pursuant to this

Article XIII to the Partners and Assignees that have positive Capital Accounts in compliance with Regulations Section 1.704-1(b)(2)(ii)(b)(2) to the extent of, and in proportion to, positive Capital Account balances. If any Partner has a deficit balance in its Capital Account (after giving effect to all contributions, distributions and allocations for all taxable years, including the year during which such liquidation occurs) (a "**Capital Account Deficit**"), such Partner shall not be required to make any contribution to the capital of the Partnership with respect to such Capital Account Deficit and such Capital Account Deficit shall not be considered a debt owed to the Partnership or any other person for any purpose whatsoever.

(d) Notwithstanding the foregoing, (i) if a General Partner has a Capital Account Deficit, such General Partner shall contribute to the capital of the Partnership the amount necessary to restore such Capital Account Deficit balance to zero; and (ii) the second sentence of **Section 13.02(c)** shall not apply with respect to any other Partner to the extent, but only to the extent, that such Partner previously has agreed in writing, with the consent of such General Partner, to undertake an express obligation to restore all or any portion of a deficit that may exist in its Capital Account upon a liquidation of the Partnership.

(e) In the sole and absolute discretion of the General Partner or the Liquidator, a *pro rata* portion of the distributions that would otherwise be made to the Partners pursuant to this **Article XIII** may be:

(i) distributed to a trust established for the benefit of the General Partner and the Limited Partners for the purpose of liquidating Partnership assets, collecting amounts owed to the Partnership, and paying any contingent or unforeseen liabilities or obligations of the Partnership or of the General Partner arising out of or in connection with the Partnership and/or Partnership activities. The assets of any such trust shall be distributed to the General Partner and the Limited Partners, from time to time, in the reasonable discretion of the General Partner or the Liquidator, in the same proportions and amounts as would otherwise have been distributed to the General Partner and the Limited Partners pursuant to this Agreement; or

(ii) withheld or escrowed to provide a reasonable reserve for Partnership liabilities (contingent or otherwise) and to reflect the unrealized portion of any installment obligations owed to the Partnership, **provided**, **that** such withheld or escrowed amounts shall be distributed to the General Partner and Limited Partners in the manner and order of priority set forth in **Section 13.02(a)** hereof as soon as practicable.

Section 13.03. **Deemed Distribution and Recontribution**. Notwithstanding any other provision of this **Article XIII**, in the event that the Partnership is liquidated within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g), but no Liquidating Event has occurred, the Partnership's Property shall not be liquidated, the Partnership's liabilities shall not be paid or discharged and the Partnership's affairs shall not be wound up. Instead, for federal income tax purposes the Partnership shall be deemed to have contributed all of its assets and liabilities to a new partnership in exchange for an interest in the new partnership; and, immediately thereafter, distributed interests in the new partnership to the Partners in accordance with their respective Capital Accounts in liquidation of the Partnership, and the new partnership is deemed to continue the business of the Partnership. Nothing in this **Section 13.03** shall be deemed to have constituted any Assignee as a Substituted Limited Partner without compliance with the provisions of **Section 11.04** hereof.

Section 13.04. **Rights of Limited Partners**.

(a) Except as otherwise provided in this Agreement, (a) each Limited Partner shall look solely to the assets of the Partnership for the return of its Capital Contribution, (b) no Limited Partner shall have the right or power to demand or receive property other than cash from the Partnership, and (c) no Limited Partner (other than any Limited Partner who holds Preferred Units, to the extent specifically set forth herein and in the applicable Partnership Unit Designation) shall have priority over any other Limited Partner as to the return of its Capital Contributions, distributions or allocations.

(b) In addition to the other rights provided by this Agreement or by the Act, and except as limited by **Section 13.05(c)**, each Limited Partner shall have the right, for a purpose reasonably related to such Limited Partner's interest as a limited partner in the Partnership, upon written demand with a statement of the purpose of such demand and at such Limited Partner's own expense (including such copying and administrative charges as the General Partner may establish from time to time):

(i) to obtain a copy of any information mailed or electronically delivered to the Parent's stockholders, other than such information that is available pursuant to the Commission's Electronic Data Gathering, Analysis and Retrieval system;

(ii) to obtain a copy of this Agreement and the Certificate and all amendments thereto; and

(iii) to receive notification of any change to the Adjustment Factor, upon written request to the General Partner.

(c) Notwithstanding any other provision of this **Section 13.04**, the General Partner may keep confidential from the Limited Partners, for such period of time as the General Partner determines in its sole and absolute discretion to be reasonable, any information that (i) the General Partner reasonably believes to be in the nature of trade secrets or other information, the disclosure of which the General Partner in good faith believes is not in the best interests of the Partnership or could damage the Partnership or its business; or (ii) the Partnership is required by law or by agreements with an unaffiliated third party to keep confidential.

Section 13.05. **Notice of Dissolution**. In the event that a Liquidating Event occurs or an event occurs that would, but for an election or objection by one or more Partners pursuant to **Section 13.01** hereof, result in a dissolution of the Partnership, the General Partner shall, within 30 days thereafter, provide written notice thereof to each of the Partners and, in the General Partner's sole and absolute discretion or as required by the Act, to all other parties with whom the Partnership regularly conducts business (as determined in the sole and absolute discretion of the General Partner), and the General Partner may, or, if required by the Act, shall, publish notice thereof in a newspaper of general circulation in each place in which the Partnership regularly conducts business (as determined in the sole and absolute discretion of the General Partner).

Section 13.06. **Cancellation of Certificate of Limited Partnership**. Upon the completion of the liquidation of the Partnership cash and property as provided in **Section 13.02** hereof, the Partnership shall be terminated, a certificate of cancellation shall be filed with the State of Delaware, all qualifications of the Partnership as a foreign limited partnership or association in jurisdictions other than the State of Delaware shall be cancelled, and such other actions as may be necessary to terminate the Partnership shall be taken.

Section 13.07. **Reasonable Time for Winding-Up**. A reasonable time shall be allowed for the orderly winding-up of the business and affairs of the Partnership and the liquidation of its assets pursuant to **Section 13.02** hereof, in order to minimize any losses otherwise attendant upon such winding-up, and the provisions of this Agreement shall remain in effect between the Partners during the period of liquidation.

ARTICLE XIV

PROCEDURES FOR ACTIONS AND CONSENTS
OF PARTNERS; AMENDMENTS; MEETINGS

Section 14.01. **Procedures for Actions and Consents of Partners**. The actions requiring consent or approval of Limited Partners pursuant to this Agreement, including **Section 7.03** hereof, or otherwise pursuant to applicable law, are subject to the procedures set forth in this **Article XIV**.

Section 14.02. **Amendments**. No amendment to this Agreement may be made without the consent of the General Partner. The General Partner may amend this Agreement in any respect without the consent of the Limited Partners. Notwithstanding the foregoing, this Agreement shall not be amended, and no action may be taken by the General Partner, without the written consent of a Majority in Interest of the Outside Limited Partners, if such amendment or action would (i) alter or modify the Redemption rights as set forth in **Section 8.06** hereof or amend or modify any related definitions or (ii) amend this **Section 14.02** (to reduce the items requiring written consent of a Majority in Interest of the Outside Limited Partners described herein).

Section 14.03. **Meetings of the Partners**.

(a) Meetings of the Partners may be called by the General Partner and shall be called upon the receipt by the General Partner of a written request by a Majority in Interest of the Outside Limited Partners. The call shall state the nature of the business to be transacted. Notice of any such meeting shall be given to all Partners not less than seven days nor more than 30 days prior to the date of such meeting. Partners may vote in person or by proxy at such meeting. Whenever the vote or Consent of Partners is permitted or required under this Agreement, such vote or Consent may be given at a meeting of Partners or may be given in accordance with the procedure prescribed in **Section 14.03(b)** hereof.

(b) Any action required or permitted to be taken at a meeting of the Partners may be taken without a meeting if a written consent setting forth the action so taken is signed or electronic approval is provided by a majority of the Percentage Interests of the Partners (or such other percentage as is expressly required by this Agreement for the action in question). Such approvals may be obtained by the General Partner by means of written notice to the Limited Partners requiring them to respond in the negative by a reasonably specified time, but in no event less than 15 days, or to be deemed to have approved of the proposed action. Such consent may be in one instrument or in several instruments, and shall have the same force and effect as a vote of a majority of the Percentage Interests of the Partners (or such other percentage as is expressly required by this Agreement). Such consent shall be filed with the General Partner. An action so taken shall be deemed to have been taken at a meeting held on the effective date so certified.

(c) Each Limited Partner may authorize any Person or Persons to act for it by proxy on all matters in which a Limited Partner is entitled to participate, including waiving notice of any meeting, or voting or participating at a meeting. Every proxy must be signed by the Limited Partner or its attorney-in-fact. No proxy shall be valid after the expiration of 11 months from the date thereof unless otherwise provided in the proxy (or there is receipt of a proxy authorizing a later date). Every proxy shall be revocable at the pleasure of the Limited Partner executing it, such revocation to be effective upon the Partnership's receipt of written notice of such revocation from the Limited Partner executing such proxy. The use of proxies will be governed in the same manner as in the case of corporations organized under the Delaware General Corporation Law (including Section 212 thereof).

(d) Each meeting of Partners shall be conducted by the General Partner or such other Person as the General Partner may appoint pursuant to such rules for the conduct of the meeting as the General Partner or such other Person deems appropriate in its sole and absolute discretion. Without limitation, meetings of Partners may be conducted in the same manner as meetings of the General Partner's stockholders and may be held at the same time as, and as part of, the meetings of the General Partner's stockholders.

(e) On matters on which Limited Partners are entitled to vote, each Limited Partner holding OP Units shall have a vote equal to the number of OP Units held.

(f) Except as otherwise expressly provided in this Agreement, the Consent of Holders of Partnership Interests representing a majority of the Partnership Interests of the Limited Partners shall control.

ARTICLE XV

GENERAL PROVISIONS

Section 15.01. **Addresses and Notice**. Any notice, demand, request or report required or permitted to be given or made to a Partner or Assignee under this Agreement shall be in writing and shall be deemed given or made when delivered in person or when sent by first class United States mail or by other means of written communication (including by telecopy, facsimile, or commercial courier service) to the Partner or Assignee at the address set forth in **Exhibit A** or such other address of which the Partner shall notify the General Partner in writing.

Section 15.02. **Titles and Captions**. All article or section titles or captions in this Agreement are for convenience only. They shall not be deemed part of this Agreement and in no way define, limit, extend or describe the scope or intent of any provisions hereof. Except as specifically provided otherwise, references to "Articles" or "Sections" are to Articles and Sections of this Agreement.

Section 15.03. **Pronouns and Plurals**. Whenever the context may require, any pronouns used in this Agreement shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns, pronouns and verbs shall include the plural and *vice versa*.

Section 15.04. **Further Action**. The parties shall execute and deliver all documents, provide all information and take or refrain from taking action as may be necessary or appropriate to achieve the purposes of this Agreement.

Section 15.05. **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their heirs, executors, administrators, successors, legal representatives and permitted assigns.

Section 15.06. **Waiver**.

(a) No failure by any party to insist upon the strict performance of any covenant, duty, agreement or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof shall constitute waiver of any such breach or any other covenant, duty, agreement or condition.

(b) The restrictions, conditions and other limitations on the rights and benefits of the Limited Partners contained in this Agreement, and the duties, covenants and other requirements of performance or notice by the Limited Partners, are for the benefit of the Partnership and, except for an obligation to pay money to the Partnership, may be waived or relinquished by the General Partner, in its sole and absolute discretion, on behalf of the Partnership in one or more instances from time to time and at any time; **provided, however, that** any such waiver or relinquishment may not be made if it would have the effect of (i) creating liability for any other Limited Partner, (ii) causing the Partnership to cease to qualify as a limited partnership, (iii) reducing the amount of cash otherwise distributable to the Limited Partners (other than any such reduction that affects all of the Limited Partners holding the same class or series of Partnership Units on a uniform or pro rata basis, if approved by a Majority in Interest of the Outside Limited Partners holding such class or series of Partnership Units), (iv) resulting in the classification of the Partnership as an association or publicly traded partnership taxable as a corporation for federal income tax purposes or (v) violating the Securities Act, the Exchange Act or any state "blue sky" or other securities laws; and **provided, further, that** any waiver relating to compliance with restrictions in the Charter shall be made and shall be effective only as provided in the Charter.

Section 15.07. **Counterparts**. This Agreement may be executed in counterparts, all of which together shall constitute one agreement binding on all the parties hereto, notwithstanding that all such parties are not signatories to the original or the same counterpart. Each party shall become bound by this Agreement immediately upon affixing its signature hereto.

Section 15.08. **Applicable Law**. This Agreement shall be construed and enforced in accordance with and governed by the laws of the State of Delaware, without regard to the principles of conflicts of law. In the event of a conflict between any provision of this Agreement and any non-mandatory provision of the Act, the provisions of this Agreement shall control and take precedence.

Section 15.09. **Entire Agreement**. This Agreement contains all of the understandings and agreements between and among the Partners with respect to the subject matter of this Agreement and the rights, interests and obligations of the Partners with respect to the Partnership.

Section 15.10. **Invalidity of Provisions**. If any provision of this Agreement is or becomes invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not be affected thereby.

Section 15.11. **Limitation to Preserve REIT Qualification**. This **Section 15.11** only applies to periods prior to January 1, 2024. Notwithstanding anything else in this Agreement, to the extent that the amount paid, credited, distributed or reimbursed by the Partnership to the General Partner or its officers, directors, members, employees or agents, whether as a reimbursement, fee, expense or indemnity (a "**REIT Payment**"), would constitute gross income to the General Partner for purposes of Code Section 856(c)(2) or Code Section 856(c)(3), then, notwithstanding any other provision of this Agreement, the amount of such REIT Payments, as selected by the General Partner in its discretion from among items of potential distribution, reimbursement, fees, expenses and indemnities, shall be reduced for any Partnership Year so that the REIT Payments, as so reduced, for or with respect to the General Partner, shall not exceed the lesser of:

(i) an amount equal to the excess, if any, of (a) 4.9% of the General Partner's total gross income (but excluding the amount of any REIT Payments) for the Partnership Year that is described in subsections (A) through (H) of Code Section 856(c)(2) over (b) the amount of gross income (within the meaning of Code Section 856(c)(2)) derived by the General Partner from sources other than those described in subsections (A) through (H) of Code Section 856(c)(2) (but not including the amount of any REIT Payments); or

(ii) an amount equal to the excess, if any, of (a) 24% of the General Partner's total gross income (but excluding the amount of any REIT Payments) for the Partnership Year that is described in subsections (A) through (I) of Code Section 856(c)(3) over (b) the amount of gross income (within the meaning of Code Section 856(c)(3)) derived by the General Partner from sources other than those described in subsections (A) through (I) of Code Section 856(c)(3) (but not including the amount of any REIT Payments); **provided**, **however**, **that** REIT Payments in excess of the amounts set forth in clauses (i) and (ii) above may be made if the General Partner, as a condition precedent, obtains an opinion of tax counsel that the receipt of such excess amounts shall not adversely affect the General Partner's ability to qualify as a REIT. To the extent that REIT Payments may not be made in a Partnership Year as a consequence of the limitations set forth in this **Section 15.11**, such REIT Payments shall carry over and shall be treated as arising in the following Partnership Year. The purpose of the limitations contained in this **Section 15.11** is to prevent the General Partner from failing to qualify as a REIT under the Code by reason of the General Partner's share of items, including distributions, reimbursements, fees, expenses or indemnities, receivable directly or indirectly from the Partnership, and this **Section 15.11** shall be interpreted and applied to effectuate such purpose.

Section 15.12. **No Partition**. No Partner nor any successor-in-interest to a Partner shall have the right while this Agreement remains in effect to have any property of the Partnership partitioned, or to file a complaint or institute any proceeding at law or in equity to have such property of the Partnership partitioned, and each Partner, on behalf of itself and its successors and assigns hereby waives any such right. It is the intention of the Partners that the rights of the parties hereto and their successors-in-interest to Partnership property, as among themselves, shall be governed by the terms of this Agreement, and that the rights of the Partners and their successors-in-interest shall be subject to the limitations and restrictions as set forth in this Agreement.

Section 15.13. **No Third-Party Rights Created Hereby**. The provisions of this Agreement are solely for the purpose of defining the interests of the Partners, *inter se*; and no other person, firm or entity (*i.e.*, a party who is not a signatory hereto or a permitted successor to such signatory hereto) shall have any right, power, title or interest by way of subrogation or otherwise, in and to the rights, powers, title and provisions of this Agreement. No creditor or other third party having dealings with the Partnership (other than as expressly set forth herein with respect to Indemnitees) shall have the right to enforce the right or obligation of any Partner to make Capital Contributions or loans to the Partnership or to pursue any other right or remedy hereunder or at law or in equity. None of the rights or obligations of the Partners herein set forth to make Capital Contributions or loans to the Partnership shall be deemed an asset of the Partnership for any purpose by any creditor or other third party, nor may any such rights or obligations be sold, transferred or assigned by the Partnership or pledged or encumbered by the Partnership to secure any debt or other obligation of the Partnership or any of the Partners.

Section 15.14. **No Rights as Stockholders of the Parent**. Nothing contained in this Agreement shall be construed as conferring upon the Holders of Partnership Units any rights whatsoever as stockholders of the Parent, including without limitation any right to receive dividends or other distributions made to stockholders of the Parent, or to vote or to consent or receive notice as stockholders in respect of any meeting of stockholders for the election of directors of the Parent or any other matter.

Section 15.15. **Creditors**. Other than as expressly set forth herein with respect to Indemnitees, none of the provisions of this Agreement shall be for the benefit of, or shall be enforceable by, any creditor of the Partnership.

[*signature page follows*]

IN WITNESS WHEREOF, this Agreement of Limited Partnership has been executed as of the date first written above.

GENERAL PARTNER:

HANNON ARMSTRONG SUSTAINABLE INFRASTRUCTURE CAPITAL, INC.

By: /s/ Jeffrey A. Lipson
Name: Jeffrey A. Lipson
Title: President and Chief Executive Officer

HAC HOLDINGS I LLC

By: /s/ Jeffrey A. Lipson
Name: Jeffrey A. Lipson
Title: President and Chief Executive Officer

HAC HOLDINGS II LLC

By: /s/ Jeffrey A. Lipson
Name: Jeffrey A. Lipson
Title: President and Chief Executive Officer

Exhibit A
PARTNERS AND PARTNERSHIP UNITS

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Exhibit B

NOTICE OF REDEMPTION

To: Hannon Armstrong Sustainable Infrastructure Capital, Inc.
HAC Holdings I LLC
HAC Holdings II LLC

One Park Place, Suite 200
Annapolis, Maryland 21401

The undersigned Limited Partner or Assignee hereby irrevocably tenders for Redemption _______ OP Units in Hannon Armstrong Sustainable Infrastructure, L.P. in accordance with the terms of the Second Amended and Restated Agreement of Limited Partnership of Hannon Armstrong Sustainable Infrastructure, L.P., dated as of February 16, 2024 (the "Agreement"), and the Redemption rights referred to therein. The undersigned Limited Partner or Assignee:

(a) undertakes (i) to surrender such OP Units and any certificate therefor at the closing of the Redemption and (ii) to furnish to the General Partner, prior to the Specified Redemption Date, the documentation, instruments and information required under Section 8.06 of the Agreement;

(b) directs that the certified check representing the Cash Amount, or the Parent Shares Amount, as applicable, deliverable upon the closing of such Redemption be delivered to the address specified below;

(c) represents, warrants, certifies and agrees that:

(i) the undersigned Limited Partner or Assignee is a Qualifying Party,

(ii) the undersigned Limited Partner or Assignee has, and at the closing of the Redemption will have, good, marketable and unencumbered title to such OP Units, free and clear of the rights or interests of any other person or entity,

(iii) the undersigned Limited Partner or Assignee has, and at the closing of the Redemption will have, the full right, power and authority to tender and surrender such Partnership Units as provided herein, and

(iv) the undersigned Limited Partner or Assignee has obtained the consent or approval of all persons and entities, if any, having the right to consent to or approve such tender and surrender; and

(d) acknowledges that he will continue to own such OP Units until and unless either (1) such OP Units are acquired by the General Partner pursuant to Section 8.06(b) of the Agreement or (2) such Redemption transaction closes.

All capitalized terms used herein and not otherwise defined shall have the same meaning ascribed to them respectively in the Agreement.

Dated: __

Name of Limited Partner or Assignee:

__

__
(Signature of Limited Partner or Assignee)

__
(Street Address)

______
(City) (State) (Zip Code)

Signature Medallion Guaranteed by:

__

Issue Check Payable/Parent Shares to:

Name:
Please insert social security or identifying number:

AMENDMENT AND WAIVER TO AMENDED AND RESTATED EMPLOYMENT AGREEMENT

The Amended and Restated Employment Agreement by and between Hannon Armstrong Sustainable Infrastructure Capital, Inc. (the "**Company**") and Richard R. Santoroski (the "**Employee**") which took effect on April 5, 2022 (the "**Agreement**") is hereby amended pursuant to this Amendment and Waiver to Amended and Restated Employment Agreement (the " **Amendment and Waiver**"). This Amendment and Waiver shall be effective as of January 26, 2024.

The parties, for good and valuable consideration, the sufficiency of which is hereby acknowledged, hereby agree as follows:

1. Section 2 is hereby amended and restated as follows:

"Duties. The Employee agrees to be employed by the Company in such capacities as the Company may from time to time direct, it being the intent of the parties that the Employee will serve in the capacity of Executive Vice President, Chief Risk Officer and Head, Portfolio Management, and as such, the Employee shall faithfully perform for the Company the duties of such office and shall have such responsibilities as are customary for an Executive Vice President, Chief Risk Officer and Head, Portfolio Management employed by a public company of similar size and nature. During the term of this Agreement, the Employee will devote substantially all of his time and attention during normal business hours to, and use his best efforts to advance, the business and welfare of the Company, its affiliates, subsidiaries and successors in interest. It is understood and agreed that the Employee and the Company may agree at any time for the Employee to work a reduced schedule relative to the Employee's historic hours and duties. During the term of his employment with the Company, the Employee shall not engage in any other employment activities for any third party for any direct or indirect remuneration without the prior written consent of the Company."

2. Section 3(a) is hereby amended and restated as follows:

"For all services provided by the Employee, the Company shall pay Employee a salary at the minimum rate of $420,000 per annum (such annual salary, the "**Annual Salary**"), in accordance with the customary payroll practices of the Company applicable to senior executives from time to time. Once increased, the Annual Salary shall not thereafter be decreased; provided, however, that should the Employee and the Company agree for the Employee to work a reduced schedule as provided in Section 2 above, then the parties agree that a salary equal to 80% of the Annual Salary shall be paid for the time period to which the reduced schedule applies.

3. By signing below, the Employee acknowledges and agrees that his reduced work schedule reflected in the amendment to Section 2 of the Agreement, above, and the reduction to his salary, reflected in the amendment to Section 3(a) of the Agreement, above, do not constitute "Good Reason," as such term is defined in Section 7(e) of the Agreement, and the Employee hereby waives any claim that the amendments to the Agreement described in paragraphs 1 and 2 above constitute "Good Reason," as such term is defined in Section 7(e) of the Agreement.

4. Except as expressly provided herein, the terms and conditions of the Agreement remain unmodified. All capitalized terms not defined herein shall have the meaning set forth in the Agreement. This Amendment and Waiver shall be governed by the same provisions as set forth in Section 15 of the Agreement. If any part of this Amendment and Waiver is held by a

court of competent jurisdiction to be void or unenforceable, the remaining provisions shall continue with full force and effect.

[*Remainder of the Page Intentionally Left Blank*]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date(s) indicated below.

HANNON ARMSTRONG SUSTAINABLE INFRASTRUCTURE CAPITAL, INC.

___/s/ Jeffrey A. Lipson___________________
By: Jeffrey A. Lipson

Title: President & Chief Executive Officer

Date: January 26, 2024

RICHARD R. SANTOROSKI

____/s/ Richard R. Santoroski_________________
By: Richard R. Santoroski

Date: January 26, 2024

AMENDMENT AND WAIVER TO AMENDED AND RESTATED EMPLOYMENT AGREEMENT

The Amended and Restated Employment Agreement by and between Hannon Armstrong Sustainable Infrastructure Capital, Inc. (the "**Company**") and Jeffrey W. Eckel (the "**Executive**") which took effect on March 1, 2023 (the "**Agreement**") is hereby amended pursuant to this Amendment and Waiver to Amended and Restated Employment Agreement (the " **Amendment and Waiver**"). This Amendment and Waiver shall be effective as of February 15, 2024.

The parties, for good and valuable consideration, the sufficiency of which is hereby acknowledged, hereby agree as follows:

1. Section 4.2 is hereby amended and restated as follows:

"4.2 **Bonus**. For each fiscal year during the Term, the Executive shall be eligible to receive a bonus with a target amount equal to at least 237% of his Annual Salary, subject to satisfaction of both Company and individual performance goals as determined by the Compensation Committee (each, an "Annual Bonus"). The Compensation Committee may award the Executive an Annual Bonus in excess of the target amount if warranted under the applicable performance metrics. The Annual Bonus for 2023 shall be paid in cash no later than March 15, 2024. For any other year during the Term, the Executive shall be granted an equity-based award equal to the Annual Bonus for the prior fiscal year no later than the March 15 following the fiscal year to which such Annual Bonus relates, with the vesting date for each such award to comply with the minimum vesting requirements set forth in the Company's Equity Incentive Plan."

2. Section 4.5 is hereby amended and restated as follows:

"4.5 **Equity Incentive Compensation**. During the Term, notwithstanding anything to the contrary in any plan or award agreement or other governing document of the Company, all equity, equity-based and incentive awards previously granted by the Company to the Executive (including, without limitation, any equity or equity-based awards under the Company's equity incentive plans (the "Equity Incentive Plans")) and outstanding as of the Effective Date shall continue to vest based on the Executive's continued service as Executive Chairman in accordance with the other terms and conditions of the Company's Equity Incentive Plans and the underlying award agreements, and the transition of the Executive's position from President and Chief Executive Officer to Executive Chairman shall not constitute a Termination of Service (as defined in the Equity Incentive Plans). As of the Effective Date, the Executive became eligible to participate in the Company's Equity Incentive Plan in effect at such time and, as of March 1, 2023, was granted an award based on a target value in the amount of $3,285,750 (the "Original Award Amount"), which awards shall be subject to the vesting requirements for executives of the Company as set forth in the Long-Term Incentive Plan approved by the Board at such time. Without limiting the foregoing and in addition to the March 1, 2023 grant of the Original Award Amount, on or around March 1, 2024, the Executive shall be eligible to receive an award under the Company's Equity Incentive Plan in effect at such time, based on a target value at grant in the amount of $1,647,000, which award shall be subject to the vesting requirements for executives of the Company as set forth in the Long-Term Incentive Plan approved by the Board at such time. The Executive shall be eligible for additional regular annual grants of restricted stock, stock options or other awards under the Equity Incentive Plan on such terms and in such amounts (if any) as may be determined by the Compensation Committee in its sole discretion. Notwithstanding anything to the contrary in any plan or award agreement or other governing document, (a) the Executive (or the Executive's estate or beneficiaries, as applicable) shall have the right to direct the Company or an affiliate to satisfy the minimum statutory tax withholding obligations arising with respect to such awards by withholding from the shares that would otherwise be delivered such number of shares having a fair market value equal to such minimum statutory tax withholding obligation and (b) the Executive (or the Executive's estate or beneficiaries, as applicable) shall be permitted to "net exercise" any stock options granted to Executive during the Term by the Company by directing the Company to withhold from the number of shares that would otherwise be issued upon exercise of the stock option such number of shares having a fair market value as of the date of exercise equal to the exercise price of the option plus the fair market value equal to any minimum statutory tax withholding obligation (or portion thereof that the Executive has elected to net exercise)."

3. By signing below, the Executive acknowledges and agrees that the payment of his 2024 Bonus as equity, reflected in the amendment to Section 4.2 of the Agreement, above, and the reduction to his equity incentive compensation, reflected in the amendment to Section 4.5 of the Agreement, above, do not constitute "Good Reason," as such term is defined in Section 6.2(a) of the Agreement, and the Executive hereby waives any claim that the amendments to the Agreement described in paragraphs 1 and 2 above constitute "Good Reason," as such term is defined in Section 6.2(a) of the Agreement.

4. Except as expressly provided herein, the terms and conditions of the Agreement remain unmodified. All capitalized terms not defined herein shall have the meaning set forth in the Agreement. This Amendment and Waiver shall be governed by the same provisions as set forth in Section 8 of the Agreement. If any part of this Amendment and Waiver is held by a court of competent jurisdiction to be void or unenforceable, the remaining provisions shall continue with full force and effect.

[*Remainder of the Page Intentionally Left Blank*]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date(s) indicated below.

HANNON ARMSTRONG SUSTAINABLE INFRASTRUCTURE CAPITAL, INC.

__/s/ Katherine McGregor Dent________________
By: Katherine McGregor Dent

Title: Chief Human Resources Officer

Date: February 15, 2024

JEFFREY W. ECKEL

___/s/ Jeffrey W. Eckel______________________
By: Jeffrey W. Eckel

Date: February 15, 2024

EXHIBIT 21.1
SUBSIDIARIES OF THE REGISTRANT

Subsidiary	Jurisdiction
HA 7V Solar Ranch LLC	Delaware
HA AllStrong LLC	Delaware
HA Antelope DSR 3 LLC	Delaware
HA Athena Capital Holdings LLC	Delaware
HA Athos III Lender LLC	Delaware
HA Baldy Mesa Lender LLC	Delaware
HA Brazoria 2 LLC	Delaware
HA Brazoria West LLC	Delaware
HA Buckeye Holdings LLC	Delaware
HA Chap Springs LLC	Delaware
HA Cielo Lender LLC	Delaware
HA Clear Fork Creek LLC	Delaware
HA Clover Creek LLC	Delaware
HA CLP Funding LLC	Delaware
HA Coy Hill Road LLC	Delaware
HA CS Equity Holdings LLC	Delaware
HA CS5 Equity LLC	Delaware
HA CS6 Equity LLC	Delaware
HA CS7 Equity LLC	Delaware
HA C-PACE 2019-1 Issuer LLC	Delaware
HA C-PACE SAC LLC	Delaware
HA Daggett Lender LLC	Delaware
HA Daggett 2 Lender LLC	Delaware
HA Daybreak Holdings LLC	Delaware
HA Demeter Capital Lender LLC	Delaware
HA Double Butte Lender LLC	Delaware
HA Driving Range A LLC	Delaware
HA Driving Range C LLC	Delaware
HA EECI Lender LLC	Delaware
HA EECI LLC	Delaware
HA Eland LLC	Delaware
HA EMaaS Lender LLC	Delaware
HA Empower Fund 1 LLC	Delaware
HA Felix Lender LLC	Delaware
HA FMAC Holdings LLC	Delaware
HA FMAC K102 LLC	Delaware
HA FMAC KG02 LLC	Delaware
HA FMAC KG03 LLC	Delaware
HA Galileo LLC	Delaware
HA Galileo 2 LLC	Delaware
HA Gaskell West 2 LLC	Delaware
HA Gaskell West 3 LLC	Delaware
HA Geo Transport LLC	Delaware
HA Hawkeye LLC	Delaware
HA Hector 4 LLC	Delaware
HA Hector LLC	Delaware
HA High Mesa LLC	Delaware
HA Howard Fleet Lender LLC	Delaware
HA INV Buckeye LLC	Delaware
HA INV Gunsight LLC	Delaware
HA JBLM Funding LLC	Delaware
HA Jessup Lender LLC	Delaware
HA Juniper LLC	Delaware

Subsidiary	Jurisdiction
HA Juniper II LLC	Maryland
HA Jupiter LLC	Delaware
HA LA Fleet Lender LLC	Delaware
HA Land Financing Depositor LLC	Delaware
HA Land Financing Issuer LLC	Delaware
HA Land Financing Issuer 2 LLC	Delaware
HA Land Financing Member 2 LLC	Delaware
HA Land Lease I LLC	Delaware
HA Land Lease II LLC	Delaware
HA Land Lease Holdings LLC	Delaware
HA Land Lease Holdings II LLC	Delaware
HA Lighthouse LLC	Delaware
HA MHPI Funding LLC	Delaware
HA Oak Trail LLC	Delaware
HA P3 Holdings	Maryland
HA PACE Origination LLC	Delaware
HA PACE Warehouse LLC	Delaware
HA PanelCo Lender LLC	Delaware
HA Poseidon Capital Lender LLC	Delaware
HA Rabbitbrush LLC	Delaware
HA Radian Lender LLC	Delaware
HA Ridgeback 2021 LLC	Delaware
HA Ridgeback 2022 LLC	Delaware
HA RNG 1 Lender LLC	Delaware
HA RNG 2 Lender LLC	Delaware
HA San Pablo Raceway LLC	Delaware
HA Skipjack LLC	Delaware
HA Spencer Road LLC	Delaware
HA Spokane Fleet Lender LLC	Delaware
HA SRC Holdings LLC	Delaware
HA SRC Lender LLC	Delaware
HA SRC Lender 2 LLC	Delaware
HA Sun Streams LLC	Delaware
HA Sunrise LLC	Delaware
HA SunStrong Capital LLC	Delaware
HA Thrive LLC	Delaware
HA Thrive 2 LL	Delaware
HA VA Carver Creek I LLC	Delaware
HA Virginia Land LLC	Delaware
HA Wetlands LLC	Maryland
HA WG Funding LLC	Maryland
HA Whalers LLC	Delaware
HA Wildcat LLC	Delaware
HA Wildflower Lender LLC	Delaware
HA Willow Springs 3 LLC	Delaware
HA Wind I LLC	Delaware
HA Wind II LLC	Delaware
Hannie Mae Goco LLC	Maryland
Hannie Mae II LLC	Maryland
Hannie Mae IV LLC	Maryland
Hannie Mae V LLC	Maryland
Hannie Mae XI LLC	Maryland
Hannie Mae XII LLC	Maryland
Hannie Mae XIII LLC	Maryland
Hannie Mae XIV LLC	Maryland
Hannie Mae XVII LLC	Maryland

Subsidiary	Jurisdiction
Hannie Mae XVIII LLC	Maryland
Hannie Mae XIX LLC	Maryland
Hannie Mae XX LLC	Delaware
Hannie Mae XXII LLC	Delaware
Hannie Mae XXIII LLC	Delaware
Hannie Mae XXIV LLC	Delaware
Hannie Mae XXV LLC	Delaware
Hannie Mae LLC	Virginia
Hannie Mae SRS Funding LLC	Maryland
Hannon Armstrong Capital, LLC	Maryland
Hannon Armstrong KCS Funding LLC	Maryland
Hannon Armstrong Securities, LLC	Maryland
Hannon Armstrong Sustainable Infrastructure, L.P.	Delaware
HASI Antelope Expansion 2 LLC	Delaware
HASI Argus LLC	Delaware
HASI C&D Lender LLC	Delaware
HASI Calhoun Lender LLC	Delaware
HASI Cali Sun 1 LLC	Delaware
HASI Cavalier A Lender LLC	Delaware
HASI Condor Lender LLC	Delaware
HASI Crystal Hill Lender LLC	Delaware
HASI Cumberland LLC	Delaware
HASI ECON 101 LLC	Delaware
HASI Efficiency Lender II LLC	Delaware
HASI Egypt Road Lender LLC	Delaware
HASI FMAC KG08 LLC	Delaware
HASI Gemini Lender LLC	Delaware
HASI Harmony Issuer	Delaware
HASI High Valley Lender LLC	Delaware
HASI Jones Farm Lender LLC	Delaware
HASI Julius Capital Lender LLC	Delaware
HASI Juniper Capital Lender 1 LLC	Delaware
HASI Keamuku Lender LLC	Delaware
HASI Land Financing Issuer 3 LLC	Delaware
HASI Land Financing Member 3 LLC	Delaware
HASI Luna Valley Lender LLC	Delaware
HASI Mcfarland A Lender LLC	Delaware
HASI OBS OP A LLC	Maryland
HASI Pullman Lender LLC	Delaware
HASI Raceway Lender LLC	Delaware
HASI Raven Capital Lender 1 LLC	Delaware
HASI Rosamond South I Lender LLC	Delaware
HASI Sabal LLC	Delaware
HASI Saturn Storage LLC	Delaware
HASI Spring Grove II Lender LLC	Delaware
HASI SYB I LLC	Maryland
HASI SYB 2017-1 LLC	Delaware
HASI SYB Trust 2016-2 Holdings LLC	Delaware
HASI Vikings Lender LLC	Delaware
HASI West Line Lender LLC	Delaware
HAT Holdings I LLC	Maryland
HAT Holdings II LLC	Maryland
HAT OBS OP A LLC	Maryland
HAT OBS OP 5 LLC	Maryland
HAT Scorpio Capital Lender LLC	Delaware
HAT SYB I LLC	Maryland

Subsidiary	Jurisdiction
HAT SYB Trust 2016-2 Holdings LLC	Delaware
HAT Terrier Acquisition LLC	Delaware
HAT Terrier Capital Lender LLC	Maryland
HAT Ultralight Capital Lender LLC	Delaware
HAT Ultralight Capital Lender 2 LLC	Maryland
HAT V3 Capital Member LLC	Delaware
HAT V3 Capital Lender LLC	Delaware
Lannie Mae LLC	Maryland
Lannie Mae Depositor LLC	Maryland
Rhea Borrower (HASI) LLC	Delaware
Rhea Borrower (HAT I) LLC	Delaware
Rhea Borrower (HAT II) LLC	Delaware
Ridgeback 2021 Class A LLC	Delaware
Ridgeback 2022 Class A LLC	Delaware
Strong Upwind Holdings LLC	Delaware
Strong Upwind Holdings II LLC	Delaware
Strong Upwind Holdings III LLC	Delaware
Strong Upwind Residual LLC	Delaware
SunStrong Capital Lender Holdings LLC	Maryland
SunStrong Capital Lender LLC	Maryland
SunStrong Capital Lender 2 LLC	Maryland
SunStrong Capital Lender 3 LLC	Maryland
SunStrong Capital Lender 6 LLC	Maryland

Exhibit 23.1

Consent of Independent Registered Public Accounting Firm

We consent to the incorporation by reference in the following Registration Statements:

(1) Registration Statement (Form S-8 No. 333-188070) pertaining to the 2013 Hannon Armstrong Sustainable Infrastructure Capital, Inc. Equity Incentive Plan,
(2) Registration Statement (Form S-3 No. 333-198158) of Hannon Armstrong Sustainable Infrastructure Capital, Inc.,
(3) Registration Statement (Form S-8 No. 333-212913) pertaining to the 2013 Hannon Armstrong Sustainable Infrastructure Capital, Inc. Equity Incentive Plan,
(4) Registration Statement (Form S-8 No. 333-230548) pertaining to the 2013 Hannon Armstrong Sustainable Infrastructure Capital, Inc. Equity Incentive Plan,
(5) Registration Statement (Form S-3ASR No. 333-263169) of Hannon Armstrong Sustainable Infrastructure Capital, Inc.,
(6) Registration Statement (Form S-3ASR No. 333-265594) of Hannon Armstrong Sustainable Infrastructure Capital, Inc.,
(7) Registration Statement (Form S-8 No. 333-265595) pertaining to the 2022 Hannon Armstrong Sustainable Infrastructure Capital, Inc. Equity Incentive Plan
(8) Registration Statement (Form S-3ASR No. 333-269145) of Hannon Armstrong Sustainable Infrastructure Capital, Inc., and
(9) Registration Statement (Form S-3ASR No. 333-275969) of Hannon Armstrong Sustainable Infrastructure Capital, Inc.

of our reports dated February 16, 2024, with respect to the consolidated financial statements of Hannon Armstrong Sustainable Infrastructure Capital, Inc. and the effectiveness of internal control over financial reporting of Hannon Armstrong Sustainable Infrastructure Capital, Inc. included in this Annual Report (Form 10-K) of Hannon Armstrong Sustainable Infrastructure Capital, Inc. for the year ended December 31, 2023.

/s/ Ernst & Young LLP

Tysons, Virginia
February 16, 2024

EXHIBIT 31.1
CERTIFICATIONS

I, Jeffrey A. Lipson, certify that:

1. I have reviewed this Annual Report on Form 10-K of Hannon Armstrong Sustainable Infrastructure Capital, Inc. (the “registrant”);
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(s) 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 controls 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: February 16, 2024

By: /s/ Jeffrey A. Lipson
Name: Jeffrey A. Lipson
Title: Chief Executive Officer and President

EXHIBIT 31.2
CERTIFICATIONS

I, Marc T. Pangburn, certify that:

1. I have reviewed this Annual Report on Form 10-K of Hannon Armstrong Sustainable Infrastructure Capital, Inc. (the "registrant");

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(s) 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 controls 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: February 16, 2024

By: /s/ Marc T. Pangburn
Name: Marc T. Pangburn
Title: Chief Financial Officer and Executive Vice President

EXHIBIT 32.1
CERTIFICATION PURSUANT TO SECTION 906
OF THE SARBANES-OXLEY ACT OF 2002, 10 U.S.C. SECTION 1350

In connection with the Annual Report on Form 10-K of Hannon Armstrong Sustainable Infrastructure Capital, Inc. (the “Company”) for the period ended December 31, 2023 to be filed with the Securities and Exchange Commission on or about the date hereof (the “report”), I, Jeffrey A. Lipson, Chief Executive Officer and President of the Company, certify, pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, 18 U.S.C. Section 1350, that:

1. The report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

2. The information contained in the report fairly presents, in all material respects, the financial condition and results of operations of the Company.

It is not intended that this statement be deemed to be filed for purposes of the Securities Exchange Act of 1934.

Date: February 16, 2024

By: /s/ Jeffrey A. Lipson
Name: Jeffrey A. Lipson
Title: Chief Executive Officer and President

EXHIBIT 32.2
CERTIFICATION PURSUANT TO SECTION 906
OF THE SARBANES-OXLEY ACT OF 2002, 10 U.S.C. SECTION 1350

In connection with the Annual Report on Form 10-K of Hannon Armstrong Sustainable Infrastructure Capital, Inc. (the "Company") for the period ended December 31, 2023 to be filed with the Securities and Exchange Commission on or about the date hereof (the "report"), I, Marc T. Pangburn, Chief Financial Officer and Executive Vice President of the Company, certify, pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, 18 U.S.C. Section 1350, that:

1. The report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

2. The information contained in the report fairly presents, in all material respects, the financial condition and results of operations of the Company.

It is not intended that this statement be deemed to be filed for purposes of the Securities Exchange Act of 1934.

Date: February 16, 2024

By:	/s/ Marc T. Pangburn
Name:	Marc T. Pangburn
Title:	Chief Financial Officer and Executive Vice President

Hannon Armstrong Sustainable Infrastructure Capital, Inc.
Recovery Policy
Relating to
Erroneously Awarded Incentive Compensation

1. **INTRODUCTION.**

1.1 This policy provides for the recovery of erroneously awarded incentive compensation and is designed to comply with, and will be interpreted to be consistent with, Section 10D of the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"), Rule 10D-1 promulgated under the Exchange Act ("**Rule 10D-1**") and Section 303A.14 of the New York Stock Exchange (" **NYSE**") Listed Company Manual.

2. **DEFINITIONS**.

The capitalized terms used in this Recovery Policy have the following meanings.

1.1 "**Accounting Restatement**" means an accounting restatement of the Company's financial statements due to the Company's material noncompliance with any financial reporting requirement under the securities laws, including any required accounting restatement to correct an error in previously issued financial statements that is material to the previously issued financial statements, or that would result in a material misstatement if the error were corrected in the current period or left uncorrected in the current period.

1.2 “**Administrator**” means the person, committee or other body appointed by the Company to administer this Recovery Policy. The Administrator shall be the fully independent Compensation Committee of the Company or another committee comprised of independent directors of the Company.

1.3 "**Applicable Period**" means the three completed fiscal years immediately before the date on which the Company is required to prepare an Accounting Restatement, as well as any transition period (that results from a change in the Company's fiscal year) within or immediately following those three completed fiscal years (except that a transition period that comprises a period of at least nine months counts as a completed fiscal year).

1.4 **"Board"** means the Board of Directors of the Company.

1.5 “**Code**” means the Internal Revenue Code of 1986, as amended.

1.6 “**Company**” means Hannon Armstrong Sustainable Infrastructure Capital, Inc.

1.7 "**Covered Executive**" means any of the Company's current and former Executive Officers.

1.8 “**Erroneously Awarded Compensation** ” means the difference, if any, between the Incentive-Based Compensation Received by a Covered Executive and the amount of Incentive-Based Compensation that would have been Received had the compensation been determined based on the restated amounts (determined without regard to any taxes paid or withheld in respect of the Incentive-Based Compensation).

1.9 "**Executive Officer**" means any executive officer of the Company as defined in Rule 10D-1 and the NYSE Listing Standards, as the same may be amended from time to time.

1.10 The "**date on which the Company is required to prepare an Accounting Restatement**" is the earlier of (a) the date on which the Board or the Audit Committee of the Board concludes, or reasonably should have concluded, that the Company is required to prepare an Accounting Restatement or (b) the date a court, regulator or other legally authorized body directs the Company to prepare an Accounting Restatement, in each case regardless of if or when any restated financial statements are filed with the SEC.

1.11 "**Financial Reporting Measure**" means any measure that is determined and presented in accordance with the accounting principles used in preparing the Company's financial statements, and any measure that is derived wholly or in part from such measure. Financial Reporting Measures include stock price and TSR. The measure in question does not need to be reported within the Company's financial statements or contained in a filing with the Securities Exchange Commission to be a Financial Reporting Measure.

1.12 "**Incentive-Based Compensation**" means any compensation that is granted, earned or vested based wholly or in part on achieving a Financial Reporting Measure. When evaluating whether the Recovery Policy applies to Incentive-Based Compensation, the compensation is treated as Received in the Company's financial reporting period during which a Financial Reporting Measure specified in the relevant award is achieved, even if the compensation is paid or awarded in a later period.

1.13 "**Listing Standards**" means the listing standards as promulgated by the NYSE or other national securities exchange on which the Company's common stock may be listed.

1.14 "**NYSE"** means the New York Stock Exchange or any other national securities exchange on which the Company's common stock may be listed and which has a policy similar to the Recovery Policy**.**

1.15 "**Policy**" means this Recovery Policy.

1.16 "**Received**" or **"Receipt"** means, with respect to any Incentive-based Compensation, actual or deemed receipt, and Incentive-Based Compensation shall be treated as Received in the Company's fiscal period during which the Financial Reporting Measure specified in the Incentive-Based Compensation award is attained, even if the payment or grant of the Incentive-Based Compensation to the Executive Officer occurs after the end of that period.

1.17 **"SEC"** means the Securities and Exchange Commission.

1.18 "**Section 409A**" means Section 409A of the Code and the Treasury Regulations promulgated thereunder.

1.19 **"TSR"** means total stockholder return.

3. **APPLICATION OF RECOVERY POLICY.**

1.1 This Recovery Policy applies to any Incentive-Based Compensation that a Covered Executive Receives after becoming a Covered Executive, if the Covered Executive so served at any time during the performance period in respect of which Receipt of such Incentive-Based Compensation is determined.

1.2 This Recovery Policy only applies to Incentive-Based Compensation that has been Received while the Company has a class of securities listed on the NYSE.

4. **TRIGGER OF RECOVERY.**

1.1 The Company will recover reasonably promptly the amount of any Erroneously Awarded Compensation that has been Received by any Covered Executive during the Applicable Period when the Company is required to prepare an Accounting Restatement. The obligation to recover or recoup does not depend on if or when restated financial statements are filed. The Administrator shall determine the timing and method for reasonably prompt recovery.

5. **DETERMINATION OF ERRONOUSLY AWARDED COMPENSATION**

1.1 The Administrator will determine in its discretion any amounts of Erroneously Awarded Compensation.

1.2 If Erroneously Awarded Compensation was based in whole or in part on achievement of a share price or TSR measure, and the Erroneously Awarded Compensation cannot be determined directly by mathematical recalculation based on the Accounting Restatement, the Administrator must determine the amount of Erroneously Awarded Compensation based on a reasonable estimate of the effect of the Accounting Restatement on the share price or TSR upon which the Incentive-Based Compensation was Received. The Administrator in its discretion shall be authorized to engage advisors and experts at the Company's expense to assist in making any determinations hereunder.

1.3 The Administrator shall document the determination of any reasonable estimates used to determine Erroneously Awarded Compensation and provide that documentation to the NYSE.

6. **EXECUTIVE OFFICER NOTIFICATIONS**

1.1 The Administrator shall:

1.1.1 Determine in its sole discretion the amount of any Erroneously Awarded Compensation that was Received by each current and former Executive Officer;

1.1.2 Promptly notify each such current and former Executive Officer of the amount of any Erroneously Awarded Compensation; and

1.1.3 Demand repayment, return and/or forfeiture of such compensation, as applicable.

7. **METHOD OF RECOVERY**

1.1 The Administrator shall have discretion to determine the appropriate means of recovering Erroneously Awarded Compensation based on the particular facts and circumstances.

1.2 The Administrator may in its sole discretion:

1.1.1 Seek reimbursement of all or part of any cash or equity-based awards;

1.1.2 Cancel earlier cash or equity-based awards, whether vested or unvested, paid or unpaid;

1.1.3 Cancel or offset against any planned future cash or equity-based awards;

1.1.4 Forfeit deferred compensation, subject to compliance with Section 409A; or

1.1.5 Use any other method authorized by applicable law or contract.

8. **EXCEPTIONS TO RECOVERY**

1.1 Erroneously Awarded Compensation need not be recovered if and to the extent that the Administrator determines that recovery would be impracticable and one or more of the following limited conditions apply:

1.1.1 The direct expense paid to a third party to assist in enforcing the Recovery Policy would exceed the amount to be recovered. Before concluding that it would be impracticable to recover any amount of Erroneously Awarded Compensation based on expense of enforcement, the Administrator must make a reasonable attempt to recover such Erroneously Awarded Compensation, document such reasonable attempt to recover and provide that documentation to the NYSE.

1.1.2 Recovery would violate the home country law of the Company where that law was adopted before November 28, 2022. Before concluding that it would be impracticable to recover any amount of Erroneously Awarded Compensation based on violation of home country law of the Company, the Administrator must satisfy the applicable opinion and disclosure requirements of Rule 10D-1 and the Listing Standards; or

1.1.3 Recovery would likely cause a plan otherwise qualified under Section 401(a) of the Code to fail to meet the requirements of Section 401(a)(13) of the Code or Section 411(a) of the Code and the regulations promulgated thereunder.

9. **PROHIBITION ON INDEMNIFICATION**

1.1 Notwithstanding the terms of any indemnification or insurance policy or any contractual arrangement with any Covered Executive that may be interpreted to the contrary, the Company may not indemnify any Covered Executives against the loss of any Erroneously Awarded Compensation, including any payment of or reimbursement for the cost of third-party insurance purchased by any Covered Executives to fund potential clawback obligations under this recovery policy.

10. **SEC DISCLOSURE**

1.1 The Company shall file all disclosures with respect to this Recovery Policy required by any applicable SEC rules.

11. **ADMINISTRATION**

1.1 This Recovery Policy shall be administered by the Administrator, and any determinations made by the Administrator shall be final and binding on all affected individuals.

1.2 The Administrator is authorized to interpret and construe this Recovery Policy and to make all determinations necessary, appropriate, or advisable for the administration of this Recovery Policy and for the Company's compliance with the Listing Standards, Section 10D, Rule 10D-1 and any other applicable law, regulation, rule or interpretation promulgated or issued in connection with the Recovery Policy.

12. **AMENDMENT AND TERMINATION**

1.1 The Administrator or the Board may amend this Recovery Policy from time to time in its discretion and shall amend this Recovery Policy as it deems necessary. Notwithstanding anything in this Section to the contrary, no amendment or termination of this Recovery Policy shall be effective if such amendment or termination would (after taking into account any actions taken by the Company contemporaneously with such amendment or termination) cause the Company to violate any securities laws or Listing Standards.

13. **OTHER RECOVERY RIGHTS**

1.1 This Recovery Policy shall be binding and enforceable against all Executive Officers and, to the extent required by applicable law or guidance from the SEC or the NYSE, their beneficiaries, heirs, executors, administrators or other legal representatives. The Administrator intends that this Recovery Policy will be applied to the fullest extent required by applicable law. Any employment agreement, equity award agreement, compensatory plan or any other agreement or arrangement with an Executive Officer shall be deemed to include, as a condition to the grant of any benefit thereunder, an agreement by the Executive Officer to abide by the terms of this Recovery Policy. Any right of recovery under this Recovery Policy is in addition to, and not in lieu of, any other remedies or rights of recovery that may be available to the Company under applicable law, regulation or rule or pursuant to the terms of any policy of the Company or any provision in any employment agreement, equity award agreement, compensatory plan, agreement or other arrangement.