

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

FORM 10-Q

(Mark One)

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

For the quarterly period ended September 30, 2022

OR

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

For the transition period ended _____ to _____

Commission file number 001-36594

Xenia Hotels & Resorts, Inc.

(Exact Name of Registrant as Specified in Its Charter)

Maryland
(State of Incorporation)

20-0141677
(I.R.S. Employer Identification No.)

**200 S. Orange Avenue
Suite 2700, Orlando, Florida**
(Address of Principal Executive Offices)

32801
(Zip Code)

(407) 246-8100

(Registrant's telephone number, including area code)

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

Title of each class	Trading Symbol	Name of each exchange on which registered
Common Stock	XHR	New York Stock Exchange

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, smaller reporting company, or an emerging growth company. See definition 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 is a shell company (as defined in Rule 12b-2 of the Exchange Act). ☐ Yes ☒ No

As of October 31, 2022, there were 113,847,779 shares of the registrant's common stock outstanding.

XENIA HOTELS & RESORTS, INC.
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PART I. FINANCIAL INFORMATION

Item 1. Financial Statements

XENIA HOTELS & RESORTS, INC.
Condensed Consolidated Balance Sheets
As of September 30, 2022 and December 31, 2021
(Dollar amounts in thousands, except per share data)

	September 30, 2022	December 31, 2021
	(Unaudited)	(Audited)
Assets		
Investment properties:		
Land	\$ 460,615	\$ 431,427
Buildings and other improvements	3,091,556	2,856,671
Total	\$ 3,552,171	\$ 3,288,098
Less: accumulated depreciation	(945,659)	(888,717)
Net investment properties	\$ 2,606,512	\$ 2,399,381
Cash and cash equivalents	259,885	517,377
Restricted cash and escrows	50,788	36,854
Accounts and rents receivable, net of allowance for doubtful accounts	38,709	28,528
Intangible assets, net of accumulated amortization of \$2,604 and \$2,231, respectively	5,162	5,446
Other assets	62,371	65,109
Assets held for sale (Note 4)	68,939	34,621
Total assets	\$ 3,092,366	\$ 3,087,316
Liabilities		
Debt, net of loan premiums, discounts and unamortized deferred financing costs (Note 5)	\$ 1,429,518	\$ 1,494,231
Accounts payable and accrued expenses	107,823	84,051
Distributions payable	11,660	89
Other liabilities	80,864	68,559
Liabilities associated with assets held for sale (Note 4)	3,532	2,305
Total liabilities	\$ 1,633,397	\$ 1,649,235
Commitments and Contingencies (Note 12)		
Stockholders' equity		
Common stock, \$0.01 par value, 500,000,000 shares authorized, 114,263,213 and 114,306,727 shares issued and outstanding as of September 30, 2022 and December 31, 2021, respectively	\$ 1,143	\$ 1,143
Additional paid in capital	2,089,463	2,090,393
Accumulated other comprehensive income (loss)	94	(4,089)
Accumulated distributions in excess of net earnings	(647,248)	(656,461)
Total Company stockholders' equity	\$ 1,443,452	\$ 1,430,986
Non-controlling interests	15,517	7,095
Total equity	\$ 1,458,969	\$ 1,438,081
Total liabilities and equity	\$ 3,092,366	\$ 3,087,316

See accompanying notes to the condensed consolidated financial statements.

XENIA HOTELS & RESORTS, INC.
Condensed Consolidated Statements of Operations and Comprehensive Income (Loss)
For the Three and Nine Months Ended September 30, 2022 and 2021
(Unaudited)
(Dollar amounts in thousands, except per share data)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2022	2021	2022	2021
Revenues:				
Rooms revenues	\$ 142,604	\$ 109,753	\$ 431,382	\$ 260,594
Food and beverage revenues	76,153	44,004	240,669	105,739
Other revenues	21,911	19,027	62,415	46,277
Total revenues	\$ 240,668	\$ 172,784	\$ 734,466	\$ 412,610
Expenses:				
Rooms expenses	36,163	27,099	101,803	65,024
Food and beverage expenses	55,888	33,764	161,796	80,534
Other direct expenses	6,155	5,059	17,815	12,993
Other indirect expenses	64,590	50,902	181,509	132,276
Management and franchise fees	9,083	6,025	27,758	15,009
Total hotel operating expenses	\$ 171,879	\$ 122,849	\$ 490,681	\$ 305,836
Depreciation and amortization	34,311	32,076	99,127	98,281
Real estate taxes, personal property taxes and insurance	11,228	9,731	33,452	31,268
Ground lease expense	685	405	2,035	1,187
General and administrative expenses	8,972	7,466	25,841	22,484
Gain on business interruption insurance	(2,487)	—	(2,487)	(1,116)
Impairment and other losses	—	1,759	1,278	14,072
Total expenses	\$ 224,588	\$ 174,286	\$ 649,927	\$ 472,012
Operating income (loss)	\$ 16,080	\$ (1,502)	\$ 84,539	\$ (59,402)
Other income (loss)	1,767	186	2,671	(2,503)
Interest expense	(20,583)	(21,358)	(61,474)	(59,799)
Loss on extinguishment of debt	—	—	(294)	(1,356)
Net income (loss) before income taxes	\$ (2,736)	\$ (22,674)	\$ 25,442	\$ (123,060)
Income tax benefit (expense)	1,029	(43)	(4,148)	(377)
Net income (loss)	\$ (1,707)	\$ (22,717)	\$ 21,294	\$ (123,437)
Net loss (income) attributable to non-controlling interests (Note 1)	44	524	(633)	2,855
Net income (loss) attributable to common stockholders	\$ (1,663)	\$ (22,193)	\$ 20,661	\$ (120,582)

XENIA HOTELS & RESORTS, INC.
Condensed Consolidated Statements of Operations and Comprehensive Income (Loss), Continued
For the Three and Nine Months Ended September 30, 2022 and 2021
(Unaudited)
(Dollar amounts in thousands, except per share data)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2022	2021	2022	2021
Basic and diluted income (loss) per share				
Net income (loss) per share available to common stockholders - basic and diluted	\$ (0.01)	\$ (0.20)	\$ 0.18	\$ (1.06)
Weighted-average number of common shares (basic)	114,322,269	113,809,212	114,334,110	113,798,761
Weighted-average number of common shares (diluted)	114,322,269	113,809,212	114,719,309	113,798,761
Comprehensive income (loss):				
Net income (loss)	\$ (1,707)	\$ (22,717)	\$ 21,294	\$ (123,437)
Other comprehensive income (loss):				
Unrealized gain (loss) on interest rate derivative instruments	36	(163)	2,932	2,389
Reclassification adjustment for amounts recognized in net (loss) income (interest expense)	(147)	1,598	1,697	5,999
	\$ (1,818)	\$ (21,282)	\$ 25,923	\$ (115,049)
Comprehensive loss (income) attributable to non-controlling interests (Note 1)	47	490	(1,079)	2,649
Comprehensive income (loss) attributable to the Company	\$ (1,771)	\$ (20,792)	\$ 24,844	\$ (112,400)

See accompanying notes to the condensed consolidated financial statements.

XENIA HOTELS & RESORTS, INC.
Condensed Consolidated Statements of Changes in Equity
For the Three Months Ended September 30, 2022 and 2021
(Unaudited)
(Dollar amounts in thousands, except per share data)

	<u>Common Stock</u>							
	<u>Shares</u>	<u>Amount</u>	<u>Additional paid in capital</u>	<u>Accumulated other comprehensive income (loss)</u>	<u>Distributions in excess of retained earnings</u>	<u>Non-controlling interests of Operating Partnership</u>	<u>Total</u>	
Balance at June 30, 2022	114,353,273	\$ 1,144	\$ 2,091,042	\$ 202	\$ (634,137)	\$ 13,330	\$ 1,471,581	
Net loss	—	—	—	—	(1,663)	(44)	(1,707)	
Repurchase of common shares, net	(120,978)	\$ (1)	\$ (1,877)	\$ —	\$ —	\$ —	\$ (1,878)	
Dividends, common share / units (\$0.10)	—	—	—	—	(11,448)	(204)	(11,652)	
Share-based compensation	40,871	—	435	—	—	2,438	2,873	
Shares redeemed to satisfy tax withholding on vested share-based compensation	(9,953)	—	(137)	—	—	—	(137)	
Other comprehensive loss:								
Unrealized gain on interest rate derivative instruments	—	—	—	35	—	1	36	
Reclassification adjustment for amounts recognized in net loss	—	—	—	(143)	—	(4)	(147)	
Balance at September 30, 2022	<u>114,263,213</u>	<u>\$ 1,143</u>	<u>\$ 2,089,463</u>	<u>\$ 94</u>	<u>\$ (647,248)</u>	<u>\$ 15,517</u>	<u>\$ 1,458,969</u>	
Balance at June 30, 2021	114,209,134	\$ 1,142	\$ 2,089,550	\$ (7,644)	\$ (611,391)	\$ 3,437	\$ 1,475,094	
Net loss	—	—	—	—	(22,193)	(524)	(22,717)	
Share-based compensation	—	—	779	—	—	2,172	2,951	
Other comprehensive loss:								
Unrealized loss on interest rate derivative instruments	—	—	—	(160)	—	(3)	(163)	
Reclassification adjustment for amounts recognized in net loss	—	—	—	1,561	—	37	1,598	
Balance at September 30, 2021	<u>114,209,134</u>	<u>\$ 1,142</u>	<u>\$ 2,090,329</u>	<u>\$ (6,243)</u>	<u>\$ (633,584)</u>	<u>\$ 5,119</u>	<u>\$ 1,456,763</u>	

See accompanying notes to the condensed consolidated financial statements.

XENIA HOTELS & RESORTS, INC.
Condensed Consolidated Statements of Changes in Equity
For the Nine Months Ended September 30, 2022 and 2021
(Unaudited)
(Dollar amounts in thousands, except per share data)

	<u>Common Stock</u>		<u>Additional paid in capital</u>	<u>Accumulated other comprehensive income (loss)</u>	<u>Distributions in excess of retained earnings</u>	<u>Non-controlling Interests of Operating Partnership</u>	<u>Total</u>
	<u>Shares</u>	<u>Amount</u>					
Balance at December 31, 2021	114,306,727	\$ 1,143	\$ 2,090,393	\$ (4,089)	\$ (656,461)	\$ 7,095	\$ 1,438,081
Net income	—	—	—	—	20,661	633	21,294
Repurchase of common shares, net	(120,978)	(1)	(1,877)	—	—	—	(1,878)
Dividends, common share / units (\$0.10)	—	—	—	—	(11,448)	(204)	(11,652)
Share-based compensation	103,895	1	1,387	—	—	7,547	8,935
Shares redeemed to satisfy tax withholding on vested share-based compensation	(26,431)	—	(440)	—	—	—	(440)
Other comprehensive income:							
Unrealized gain on interest rate derivative instruments	—	—	—	2,535	—	397	2,932
Reclassification adjustment for amounts recognized in net income	—	—	—	1,648	—	49	1,697
Balance at September 30, 2022	<u>114,263,213</u>	<u>\$ 1,143</u>	<u>\$ 2,089,463</u>	<u>\$ 94</u>	<u>\$ (647,248)</u>	<u>\$ 15,517</u>	<u>\$ 1,458,969</u>
Balance at December 31, 2020	113,755,513	\$ 1,138	\$ 2,080,364	\$ (14,425)	\$ (513,002)	\$ 12,788	\$ 1,566,863
Net loss	—	—	—	—	(120,582)	(2,855)	(123,437)
Share-based compensation	72,692	—	2,694	—	—	6,661	9,355
Shares redeemed to satisfy tax withholding on vested share-based compensation	(18,993)	—	(318)	—	—	—	(318)
Redemption of Operating Partnership Units	399,922	4	7,589	—	—	(11,681)	(4,088)
Other comprehensive income:							
Unrealized gain on interest rate derivative instruments	—	—	—	2,334	—	55	2,389
Reclassification adjustment for amounts recognized in net loss	—	—	—	5,848	—	151	5,999
Balance at September 30, 2021	<u>114,209,134</u>	<u>\$ 1,142</u>	<u>\$ 2,090,329</u>	<u>\$ (6,243)</u>	<u>\$ (633,584)</u>	<u>\$ 5,119</u>	<u>\$ 1,456,763</u>

See accompanying notes to the condensed consolidated financial statements.

XENIA HOTELS & RESORTS, INC.
Condensed Consolidated Statements of Cash Flows
For the Nine Months Ended September 30, 2022 and 2021
(Unaudited)
(Dollar amounts in thousands)

	Nine Months Ended September 30,	
	2022	2021
Cash flows from operating activities:		
Net income (loss)	\$ 21,294	\$ (123,437)
Adjustments to reconcile net income (loss) to net cash provided by operating activities:		
Depreciation	98,709	97,478
Non-cash ground rent and amortization of other intangibles	418	803
Amortization of debt premiums, discounts, and financing costs	3,925	4,615
Loss on extinguishment of debt	294	1,356
Impairment and other losses	—	13,072
Gain on insurance recoveries	(3,550)	—
Share-based compensation expense	8,598	8,813
Deferred interest expense	(409)	—
Changes in assets and liabilities:		
Accounts and rents receivable	(10,435)	(15,683)
Other assets	1,013	1,343
Accounts payable and accrued expenses	25,282	28,742
Other liabilities	12,755	12,251
Net cash provided by operating activities	<u>\$ 157,894</u>	<u>\$ 29,353</u>
Cash flows from investing activities:		
Purchase of investment properties	(328,493)	—
Capital expenditures	(40,682)	(19,150)
Proceeds from sale of investment properties	32,820	—
Proceeds from property insurance	3,723	—
Performance guaranty payments	1,695	2,524
Net cash used in investing activities	<u>\$ (330,937)</u>	<u>\$ (16,626)</u>
Cash flows from financing activities:		
Payoff of mortgage debt	(65,000)	(56,750)
Principal payments of mortgage debt	(3,093)	(4,888)
Principal payments on Corporate Credit Facility Term Loan	—	(150,000)
Payments on the Revolving Credit Facility	—	(163,093)
Proceeds from Senior Notes	—	500,000
Payment of loan fees and issuance costs	—	(10,233)
Repurchase of common shares	(1,878)	—
Redemption of Operating Partnership Units	—	(4,088)
Shares redeemed to satisfy tax withholding on vested share-based compensation	(490)	(443)
Dividends and dividend equivalents	(54)	(54)
Net cash (used in) provided by financing activities	<u>\$ (70,515)</u>	<u>\$ 110,451</u>
Net (decrease) increase in cash and cash equivalents and restricted cash	<u>(243,558)</u>	<u>123,178</u>
Cash and cash equivalents and restricted cash, at beginning of period	554,231	428,786
Cash and cash equivalents and restricted cash, at end of period	<u><u>\$ 310,673</u></u>	<u><u>\$ 551,964</u></u>

XENIA HOTELS & RESORTS, INC.
Condensed Consolidated Statements of Cash Flows, Continued
For the Nine Months Ended September 30, 2022 and 2021
(Unaudited)
(Dollar amounts in thousands)

	Nine Months Ended September 30,	
	2022	2021
Supplemental disclosure of cash flow information:		
The following table provides a reconciliation of cash and cash equivalents and restricted cash reported within the condensed consolidated balance sheets to the amount shown in the condensed consolidated statements of cash flows:		
Cash and cash equivalents	\$ 259,885	\$ 517,464
Restricted cash	50,788	34,500
Total cash and cash equivalents and restricted cash shown in the condensed consolidated statements of cash flows	<u>\$ 310,673</u>	<u>\$ 551,964</u>
The following represent cash paid during the periods presented for the following:		
Cash paid for interest, net of capitalized interest	\$ 59,898	\$ 55,427
Cash paid for taxes	2,100	163
Supplemental schedule of non-cash investing and financing activities:		
Accrued capital expenditures	\$ 2,252	\$ 206
Distributions Payable	11,660	—

See accompanying notes to the condensed consolidated financial statements.

XENIA HOTELS & RESORTS, INC.
Notes to the Condensed Consolidated Financial Statements (Unaudited)
September 30, 2022

1. Organization

Xenia Hotels & Resorts, Inc. (the "Company" or "Xenia") is a Maryland corporation that invests in uniquely positioned luxury and upper upscale hotels and resorts with a focus on the top 25 lodging markets as well as key leisure destinations in the United States.

Substantially all of the Company's assets are held by, and all the operations are conducted through, XHR LP (the "Operating Partnership"). XHR GP, Inc. is the sole general partner of XHR LP and is wholly-owned by the Company. As of September 30, 2022, the Company collectively owned 97.1% of the common limited partnership units issued by the Operating Partnership ("Operating Partnership Units"). The remaining 2.9% of the Operating Partnership Units are owned by the other limited partners comprised of certain of our current executive officers and current and prior members of our Board of Directors and includes vested and unvested long-term incentive plan ("LTIP") partnership units. LTIP partnership units may or may not vest based on the passage of time and whether certain market-based performance objectives are met.

Xenia operates as a real estate investment trust ("REIT"). To qualify as a REIT the Company cannot operate or manage its hotels. Therefore, the Operating Partnership and its subsidiaries lease the hotel properties to XHR Holding, Inc. and its subsidiaries (collectively with its subsidiaries, "XHR Holding"), the Company's taxable REIT subsidiary ("TRS"), which engages third-party eligible independent contractors to manage the hotels.

As of September 30, 2022 and 2021, the Company owned 34 and 35 lodging properties, respectively.

Ongoing Recovery from COVID-19

The Company's hotel portfolio began to see improvements in leisure demand during the second half of 2020, a trend that accelerated in 2021 and has continued in 2022. During the first half of 2022, operations continued to improve including a continuation of strong leisure bookings, higher levels of business transient demand and improving group demand in certain markets. In the third quarter of 2022, while the Company experienced its typical seasonal decline in leisure demand it also saw a broader acceleration of business transient and group business particularly following the Labor Day holiday period.

Despite this improvement, there remains uncertainty regarding the pace of recovery and whether and when business travel and larger group meetings will return to pre-pandemic levels. As the recovery continues, we expect that the pace will vary from market to market and may be uneven in nature. Additionally, there has been increasing uncertainty regarding the broader economic environment as higher levels of inflation have persisted along with rising interest rates and increased concerns of a recession in the near term.

2. Summary of Significant Accounting Policies

The unaudited interim condensed consolidated financial statements and related notes have been prepared on an accrual basis of accounting in accordance with accounting principles generally accepted in the United States of America ("U.S. GAAP" or "GAAP") and in conformity with the rules and regulations of the Securities and Exchange Commission ("SEC") applicable to financial information. Certain information and footnote disclosures normally included in financial statements prepared in accordance with U.S. GAAP have been omitted in accordance with the rules and regulations of the SEC. The unaudited condensed consolidated financial statements include normal recurring adjustments, which management considers necessary for the fair presentation of the condensed consolidated balance sheets, condensed consolidated statements of operations and comprehensive income (loss), condensed consolidated statements of changes in equity and condensed consolidated statements of cash flows for the periods presented. The unaudited condensed consolidated financial statements should be read in conjunction with the consolidated financial statements and notes thereto as of and for the year ended December 31, 2021, included in the Company's Annual Report on Form 10-K filed with the SEC on March 1, 2022. Operating results for the three and nine months ended September 30, 2022 are not necessarily indicative of actual operating results for the entire year.

Basis of Presentation

The condensed consolidated financial statements include the accounts of the Company, the Operating Partnership, and XHR Holding. The Company's subsidiaries generally consist of limited liability companies, limited partnerships and the TRS. The effects of all inter-company transactions have been eliminated.

Reclassifications

Certain prior year amounts in these condensed consolidated financial statements have been reclassified to conform to the presentation as of and for the three and nine months ended September 30, 2022.

Use of Estimates

The preparation of the condensed consolidated financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, disclosure of contingent assets and liabilities, and revenues and expenses. These estimates are prepared using management's best judgment, after considering past, current and expected future economic conditions. Actual results could differ from these estimates.

Risks and Uncertainties

As a result of the COVID-19 pandemic, the majority of the Company's hotels and resorts temporarily suspended operations for certain periods of time during 2020. All of the Company's hotels had resumed operations by the end of May 2021. The Company's portfolio consists of luxury and upper upscale hotels and resorts, which generally offer restaurant and bar venues, large meeting facilities and event space, and amenities, including spas and golf courses, some of which had limited operations due to operating restrictions and staffing challenges. The Company continues to monitor the evolving situation and guidance from federal, state and local governmental and public health authorities and additional actions may be taken or required based on their recommendations and regulations in place. Under these circumstances, there may be developments that require further adjustments to operations.

The Company cannot predict with certainty the full extent and duration of the effects of the COVID-19 pandemic on its business, operating margins, results of operations, cash flows, financial condition, the market price of its common stock, its ability to make distributions to its shareholders, its access to equity and credit markets or its ability to service its indebtedness. Further, the Company continues to monitor and evaluate the challenges associated with inflationary pressures, rising interest rates, a potential domestic and/or global recession, the evolving workforce landscape, particularly related to industry-wide labor shortages and increases in cost of labor, as well as ongoing supply chain issues which may continue to impact the hotels' ability to source operating supplies and other materials. Additionally, the effects of the pandemic or other economic challenges could materially and adversely affect the Company's ability to consummate acquisitions and dispositions of hotel properties in the near term.

For the nine months ended September 30, 2022, the Company had a geographical concentration of revenues generated from hotels in the Orlando, Florida, Phoenix, Arizona and San Diego, California markets that exceeded 10% of total revenues for the period then ended. For the nine months ended September 30, 2021, the Company had a geographical concentration of revenues generated from hotels in the Orlando, Florida, Phoenix, Arizona, San Diego, California and Houston, Texas markets that exceeded 10% of total revenues for the period then ended. To the extent that there are adverse changes in these markets, or the industry sectors that operate in these markets, our business and operating results could be negatively impacted.

Consolidation

The Company evaluates its investments in partially owned entities to determine whether such entities may be a variable interest entity ("VIE") or voting interest entity. If the entity is a VIE, the determination of whether the Company is the primary beneficiary must be made. The primary beneficiary determination is based on a qualitative assessment as to whether the entity has (i) power to direct significant activities of the VIE and (ii) an obligation to absorb losses or the right to receive benefits that could be potentially significant to the VIE. The Company will consolidate a VIE if it is deemed to be the primary beneficiary. The equity method of accounting is applied to entities in which the Company is not the primary beneficiary, or the entity is not a VIE and over which the Company does not have effective control but can exercise influence over the entity with respect to its operations and major decisions.

The Operating Partnership is a VIE. The Company's significant asset is its investment in the Operating Partnership, as described in Note 1, and consequently, substantially all of the Company's assets and liabilities represent those assets and liabilities of the Operating Partnership.

Cash and Cash Equivalents

The Company considers all demand deposits, money market accounts and investments in certificates of deposit and repurchase agreements purchased, and similar accounts with a maturity of three months or less, at the date of purchase, to be cash

equivalents. The Company maintains its cash and cash equivalents at various financial institutions. The combined account balances at one or more institutions generally exceed the Federal Depositary Insurance Corporation ("FDIC") insurance coverage and, as a result, there is a concentration of credit risk related to amounts on deposit in excess of FDIC insurance coverage. The Company believes that the risk is not significant as the Company does not anticipate non-performance by the financial institutions.

Restricted Cash and Escrows

Restricted cash primarily relates to furniture, fixtures and equipment replacement reserves ("FF&E reserves") as required per the terms of the Company's management and franchise agreements, cash held in restricted escrows for real estate taxes and insurance, capital spending reserves and, at times, disposition-related holdback escrows.

Acquisition of Real Estate

Investments in hotel properties, including land and land improvements, buildings and building improvements, furniture, fixtures and equipment, and identifiable intangibles assets, will generally be accounted for as asset acquisitions. Acquired assets are recorded at their relative fair value based on total accumulated costs of the acquisition. Direct acquisition-related costs are capitalized as a component of the acquired assets. This includes all costs related to finding, analyzing and negotiating a transaction.

The allocation of the purchase price is an area that requires judgment and significant estimates. Tangible and intangible assets typically include land, buildings and improvements, furniture and fixtures, inventory, acquired above market and below market leases, in-place lease value, advance bookings, and any assumed financing that is determined to be above or below market terms (all as applicable). Acquisition-date fair values of assets and assumed liabilities are determined based on replacement costs, appraised values, and estimated fair values using methods similar to those used by independent appraisers and that use appropriate discount and/or capitalization rates and available market information.

Impairment

Long-lived assets and intangibles

The Company assesses the carrying values of the respective long-lived assets, whenever events or changes in circumstances indicate that the carrying amounts of these assets may not be fully recoverable. Events or circumstances that may cause a review include, but are not limited to, when (1) a hotel property experiences a significant decrease in the market price of the long-lived asset, (2) a hotel property experiences a current or projected loss from operations combined with a history of operating or cash flow losses, (3) it becomes more likely than not that a hotel property will be sold before the end of its useful life, (4) an accumulation of costs is significantly in excess of the amount originally expected for the acquisition, construction or renovation of a long-lived asset, (5) adverse changes in demand occur for lodging at a specific property due to declining national or local economic conditions and/or new hotel construction in markets where the hotel is located, (6) there is a significant adverse change in legal factors or in the business climate that could affect the value of the long-lived asset and/or (7) there is a significant adverse change in the extent or manner in which a long-lived asset is being used or in its physical condition. If it is determined that the carrying value is not recoverable because the undiscounted cash flows do not exceed carrying value, the Company records an impairment charge to the extent that the carrying value exceeds fair value.

In June 2021, the Company concluded that it intended to sell the 352-room Marriott Charleston Town Center, in Charleston, West Virginia and began marketing the property. As a result of multiple bids from qualified buyers and ongoing price discussions, management determined, based on a probability weighted-average undiscounted cash flow analysis, that the hotel was impaired as the estimated undiscounted cash flows were less than the carrying value of the hotel as of June 30, 2021. Management determined the impairment loss as the excess of carrying value over the estimated fair value. As a result, for the three and six months ended June 30, 2021, the Company recorded an impairment loss of approximately \$12.3 million. In August 2021, the Company entered into an agreement to sell the property for a sale price of \$5.0 million and the buyer funded an at-risk deposit. Upon meeting held for sale criteria, the Company recorded an additional impairment loss of \$0.3 million for the three and nine months ended September 30, 2021 related to estimated closing costs.

Involuntary Conversion

In August 2021, Hurricane Ida impacted Loews New Orleans Hotel located in New Orleans, Louisiana. As a result, the Company recorded an impairment loss of \$0.5 million for the three and nine months ended September 30, 2021, which represents the write off of the estimated historical cost, net of accumulated depreciation, of property damaged during the

hurricane. Additionally, the Company expensed \$1.0 million of hurricane-related repair and cleanup costs for the three and nine months ended September 30, 2021. In March 2022, the Company recorded additional hurricane-related repair and cleanup costs of \$1.3 million. These amounts are included in impairment and other losses on the condensed consolidated statements of operations and comprehensive income (loss) for the three and nine months ended September 30, 2022 and 2021.

Insurance Recoveries

Insurance proceeds received in excess of recognized losses are treated as gain and are not recorded until contingencies are resolved. During the three and nine months ended September 30, 2022, the Company recorded insurance proceeds related to damage sustained at Loews New Orleans Hotel during Hurricane Ida. These insurance proceeds were in excess of recognized losses and resulted in a gain on insurance recovery of \$1.0 million and \$3.6 million, respectively, for the three and nine months ended September 30, 2022, which are included in other income (loss) on the condensed consolidated statements of operations and comprehensive income (loss) for the periods then ended.

The Company may also be entitled to business interruption proceeds for losses occurring at certain properties; however, an insurance recovery receivable will not be recorded until a final settlement has been reached with the insurance company. During the three and nine months ended September 30, 2022, the Company recognized \$1.5 million in business interruption insurance proceeds for a portion of lost income associated with cancellations at Loews New Orleans Hotel due to the impact of Hurricane Ida in August 2021 as well as \$1.0 million in proceeds for lost income associated with cancellations for properties in Texas due to the impact of the Texas winter storms in February 2021. During the nine months ended September 30, 2021, the Company recognized \$1.1 million in business interruption insurance proceeds for a portion of lost revenues associated with cancellations related to the COVID-19 pandemic. These amounts are included in gain on business interruption insurance on the condensed consolidated statements of operations and comprehensive income (loss) for the period then ended.

Investment Properties Held for Sale

In determining whether to classify an investment property as held for sale, the Company considers whether: (i) management has committed to a plan to sell the investment property; (ii) the investment property is available for immediate sale, in its present condition; (iii) the Company is actively marketing the investment property for sale at a price that is reasonable in relation to its fair value; (iv) the Company has initiated a program to locate a buyer; (v) the Company believes that the sale of the investment property is probable; (vi) the Company has received a significant non-refundable deposit for the purchase of the property; and (vii) actions required for the Company to complete the plan indicate that it is unlikely that any significant changes will be made to the plan.

If all of the above criteria are met, the Company classifies the investment property as held for sale. On the day that these criteria are met, the Company suspends depreciation and amortization on the investment properties held for sale. The investment properties, other assets and liabilities associated with those investment properties that are held for sale are classified separately on the consolidated balance sheet for the most recent reporting period, and are presented at the lesser of the carrying value or fair value, less costs to sell.

Additionally, if the sale constitutes a strategic shift with a major effect on operations, as defined in ASU 2014-08 Reporting Discontinued Operations and Disclosures of Disposals of Components of an Entity ("ASU 2014-08"), the operations for the investment properties held for sale are classified on the consolidated statement of operations and comprehensive income (loss) as discontinued operations for all periods presented.

Disposition of Real Estate

The Company accounts for dispositions of real estate in accordance with ASU 2017-05, Other Income - Gains and Losses from the Derecognition of Nonfinancial Assets ("Subtopic 610-20") for the transactions between the Company and unrelated third-parties that are not considered a customer in the ordinary course of business. Typically, the real estate assets disposed of do not represent the transfer of a business or contain a material amount of financial assets, if any. The real estate assets promised in a sales contract are typically nonfinancial assets (i.e. land or a leasehold interest in land, buildings, furniture, fixtures and equipment) or in substance nonfinancial assets. The Company recognizes a gain or loss in full when the real estate is sold, provided (a) there is a valid contract and (b) transfer of control has occurred.

Revenues

Revenues consist of amounts derived from hotel operations, including the sale of rooms for lodging accommodations, food and beverage, and other ancillary revenue generated by hotel amenities including spa, parking, golf, resort fees and other services.

Revenues are generated from various distribution channels including but not limited to direct bookings, global distribution systems and Internet travel sites. Room transaction prices are based on an individual hotel's location, room type and the bundle of services included in the reservation and are set by the hotel daily. Any discounts, including advance purchase, loyalty point redemptions or promotions are recognized at the discounted rate whereas rebates and incentives are recorded as a reduction in rooms revenues when earned. Revenues from online channels are generally recognized net of commission fees, unless the end price paid by the guest is known. Rooms revenue is recognized over the length of stay that the hotel room is occupied by the guest. Cash received from a guest prior to check-in is recorded as an advance deposit and is generally recognized as rooms revenue at the time the room reservation has become non-cancellable, upon occupancy or upon expiration of the re-booking date. Advance deposits are included in other liabilities on the condensed consolidated balance sheets. Payment of any remaining balance is typically due from the guest upon check-out. Sales, use, occupancy, and similar taxes are collected and presented on a net basis (excluded from revenues).

Food and beverage transaction prices are based on the stated price for the specific food or beverage and varies depending on type, venue and hotel location. Service charges are typically a percentage of food and beverage prices and meeting space rental. Food and beverage revenue is recognized at the point in time in which the goods and/or services are rendered to the guest. Cash received in advance of an event is recorded as either a security or advance deposit. Security and advance deposits are recognized as revenue when it becomes non-cancellable or at the time the food and beverage goods and services are rendered to the guest. Payment for the remaining balance of food and beverage goods and services is due upon delivery and completion of such goods and services.

Parking and audio visual fees are recognized at the time services are provided to the guest at the stated price for the service or goods. In parking and audio visual contracts in which the Company has control over the services provided, the Company is considered the principal in the agreement and recognizes the related revenues gross of associated costs. If the Company does not have control over the services in the contract, the Company is considered the agent and records the related revenues net of associated costs.

Resort and amenity fees, spa, golf and other ancillary amenity revenues are recognized at the point in time the goods or services have been rendered to the guest at the stated price for the service or amenity.

Share-Based Compensation

The Company maintains a share-based incentive plan that provides for the grant of stock options, stock awards, restricted stock units, LTIP units and other equity-based awards. Share-based compensation is measured at the estimated fair value of the award on the date of grant, adjusted for forfeitures as they occur, and recognized as an expense on a straight-line basis over the longest vesting period for each grant for the entire award. The determination of fair value of these awards is subjective and involves significant estimates and assumptions including expected volatility of the Company's share price, expected dividend yield, expected term and assumptions of whether certain of these awards will achieve performance thresholds. Share-based compensation is included in general and administrative expenses in the condensed consolidated statements of operations and comprehensive income (loss) and capitalized in buildings and other improvements in the condensed consolidated balance sheets for certain employees that manage property developments, renovations and capital improvements.

3. Revenues

The following represents total revenues disaggregated by primary geographical markets (as defined by STR, Inc. ("STR")) for the three and nine months ended September 30, 2022 and 2021 (in thousands):

Primary Markets	Three Months Ended September 30, 2022	Nine Months Ended September 30, 2022
Orlando, FL	\$ 26,635	\$ 99,780
Phoenix, AZ	17,382	78,974
San Diego, CA	28,937	74,998
Houston, TX	17,442	62,517
Dallas, TX	14,311	45,714
Atlanta, GA	15,636	42,333
Denver, CO	14,180	37,184
San Francisco/San Mateo, CA	13,369	35,658
Washington, DC-MD-VA	11,348	32,388
Nashville, TN	13,573	30,424
Other	67,855	194,496
Total	\$ 240,668	\$ 734,466

Primary Markets	Three Months Ended September 30, 2021	Nine Months Ended September 30, 2021
Orlando, FL	\$ 19,269	\$ 52,231
Phoenix, AZ	12,901	45,327
San Diego, CA	23,073	42,947
Houston, TX	15,117	42,639
Denver, CO	11,762	26,902
Atlanta, GA	10,868	24,861
Dallas, TX	9,284	20,726
Florida Keys	5,202	18,339
Washington, DC-MD-VA	7,672	17,081
Savannah, GA	5,832	15,525
Other	51,804	106,032
Total	\$ 172,784	\$ 412,610

4. Investment Properties

From time to time, the Company evaluates acquisition opportunities based on our investment criteria and/or the opportunistic disposition of our hotels in order to take advantage of market conditions or in situations where the hotels no longer fit within our strategic objectives.

Acquisitions

On March 29, 2022, the Company acquired a fee-simple interest in the 346-room W Nashville located in Nashville, Tennessee for a purchase price of \$328.5 million including acquisition costs and a \$1.3 million credit related to an unfinished portion of the hotel provided by seller at closing.

The acquisition of W Nashville was funded with cash on hand and was accounted for as an asset acquisition resulting in the related acquisition costs being capitalized as part of the purchase price. The results of operations for W Nashville have been

included in the Company's condensed consolidated statements of operations and comprehensive income (loss) since its acquisition date.

The Company recorded the identifiable assets and liabilities, including intangible assets and liabilities, acquired in the asset acquisition at the acquisition date relative fair value, which is based on the total accumulated costs of the acquisition. The following represents the purchase price allocation of the hotel acquired during the nine months ended September 30, 2022 (in thousands):

	September 30, 2022
Land	\$ 36,364
Buildings and improvements	264,766
Furniture, fixtures, and equipment	31,091
Intangible and other assets ⁽¹⁾	232
Intangible liability ⁽²⁾	(3,960)
Total purchase price⁽³⁾	\$ 328,493

- (1) As part of the purchase price allocation for W Nashville, the Company allocated \$0.1 million to advance bookings that will be amortized over 1.3 years as well as \$0.1 million allocated to food inventory.
- (2) As part of the purchase price allocation for W Nashville, the Company allocated \$4.0 million to a liability associated with key money received by the seller from the third-party hotel manager. This liability will be amortized over 29.8 years and in the event of early termination is payable to the third-party hotel manager on a pro rata basis for the remaining portion of the term of the hotel management agreement.
- (3) The total cost capitalized includes acquisition costs as the transaction was accounted for as an asset acquisition.

Dispositions

In November 2021, the Company entered into an agreement to sell the 191-room Kimpton Hotel Monaco Chicago in Chicago, Illinois for a sale price of \$36.0 million. The sale closed in January 2022 and did not result in a gain or loss after previously recording an impairment of \$15.7 million during the year ended December 31, 2021. Proceeds from the sale were used for general corporate purposes.

The operating results of the hotel that was sold during the nine months ended September 30, 2022 are included in the Company's condensed consolidated financial statements as part of continuing operations as the disposition did not represent a strategic shift nor did it have a major impact on the Company's results of operations.

Held for Sale

In August 2022, the Company entered into an agreement to sell the 115-room Bohemian Hotel Celebration, Autograph Collection, in Celebration, Florida for a sale price of approximately \$27.8 million and the buyer funded an at-risk deposit. The sale closed on October 20, 2022 for an estimated gain of approximately \$12.6 million. Net cash proceeds from the sale, after transaction closing costs, were \$25.5 million. The Company also retained the approximately \$0.3 million balance in the FF&E reserve. As of September 30, 2022, the hotel's assets and liabilities were classified as held for sale on the condensed consolidated balance sheet for the period then ended.

In September 2022, the Company entered into an agreement to sell the 189-room Kimpton Hotel Monaco Denver in Denver, Colorado for a sale price of approximately \$69.8 million. The buyer funded an at-risk deposit and the sale is subject to customary closing conditions and certain third-party approvals. The sale is expected to close in the fourth quarter of 2022. As of September 30, 2022, the hotel's assets and liabilities were classified as held for sale on the condensed consolidated balance sheet for the period then ended.

The following represents the major classes of assets and liabilities associated with assets held for sale as of September 30, 2022 (in thousands):

	September 30, 2022
Land	\$ 6,975
Buildings and other improvements	102,463
Total	\$ 109,438
Less: accumulated depreciation	(41,463)
Net investment properties	\$ 67,975
Accounts and rents receivable, net of allowance for doubtful accounts	368
Other assets	596
Total assets held for sale	\$ 68,939
Accounts payable and accrued expenses	2,766
Other liabilities	766
Total liabilities associated with assets held for sale	\$ 3,532

The operating results of the two hotels that were held for sale as of September 30, 2022 are included in the Company's condensed consolidated statements of operations and comprehensive income (loss) for the three and nine months ended September 30, 2022 and 2021, respectively.

5. Debt

Debt as of September 30, 2022 and December 31, 2021 consisted of the following (dollar amounts in thousands):

	Rate Type	Rate ⁽¹⁾	Maturity Date	Balance Outstanding as of	
				September 30, 2022	December 31, 2021
Mortgage Loans					
Renaissance Atlanta Waverly Hotel & Convention Center	Fixed ⁽²⁾	4.45 %	8/14/2024	\$ 100,000	\$ 100,000
Andaz Napa	Partially Fixed ⁽³⁾	4.43 %	9/13/2024	54,830	55,640
The Ritz-Carlton, Pentagon City	Fixed ⁽⁴⁾	— %	—	—	65,000
Grand Bohemian Hotel Orlando, Autograph Collection	Fixed	4.53 %	3/1/2026	55,967	56,796
Marriott San Francisco Airport Waterfront	Fixed	4.63 %	5/1/2027	110,649	112,102
Total Mortgage Loans		4.52 % ⁽⁵⁾		\$ 321,446	\$ 389,538
Corporate Credit Facilities					
Corporate Credit Facility Term Loan \$125M	Variable ⁽⁶⁾	4.47 %	9/13/2024	125,000	125,000
Revolving Credit Facility	Variable ⁽⁷⁾	5.37 %	2/28/2024	—	—
Total Corporate Credit Facilities				\$ 125,000	\$ 125,000
2020 Senior Notes \$500M	Fixed	6.38 %	8/15/2025	500,000	500,000
2021 Senior Notes \$500M	Fixed	4.88 %	6/1/2029	500,000	500,000
Loan premiums, discounts and unamortized deferred financing costs, net ⁽⁸⁾				(16,928)	(20,307)
Total Debt, net of loan premiums, discounts and unamortized deferred financing costs		5.28 % ⁽⁵⁾		\$ 1,429,518	\$ 1,494,231

(1) The rates shown represent the annual interest rates as of September 30, 2022. The variable index for the Renaissance Atlanta Waverly Hotel & Convention Center mortgage loan is daily SOFR and for the Andaz Napa mortgage loan is one-month LIBOR. The variable index for the corporate credit facilities reflects a 25 basis point LIBOR floor which is applicable for the value of all corporate credit facilities not subject to an interest rate hedge.

(2) A variable interest rate loan for which the interest rate has been fixed through October 2022, after which the rate reverts to variable.

(3) A variable interest rate loan for which the interest rate has been fixed on \$25 million of the balance through October 2022, after which the rate reverts to variable.

- (4) A variable interest rate loan for which the interest rate was fixed through January 2023. The outstanding balance of this mortgage loan was repaid in January 2022 and the two interest rate swaps associated with this loan were terminated in connection with the repayment.
- (5) Represents the weighted-average interest rate as of September 30, 2022.
- (6) The spread to LIBOR may vary, as it is determined by the Company's leverage ratio. The applicable interest rate was set to the highest level of grid-based pricing during the covenant waiver period, however, with the delivery of the compliance certificates under the corporate credit facilities for the fiscal quarter ending June 30, 2022, the Company exited the covenant waiver period and the applicable interest rate has reverted to pricing based on the Company's leverage ratio.
- (7) Commitments under the revolving credit facility totaled \$523 million through February 2022, after which the total commitments decreased to \$450 million through maturity in February 2024. The spread to LIBOR may vary, as it is determined by the Company's leverage ratio. The applicable interest rate was set to the highest level of grid-based pricing during the covenant waiver period, however, with the delivery of the compliance certificates under the corporate credit facilities for the fiscal quarter ending June 30, 2022, the Company exited the covenant waiver period and the applicable interest rate has reverted to pricing based on the Company's leverage ratio.
- (8) Includes loan premiums, discounts and deferred financing costs, net of accumulated amortization.

Mortgage Loans

Of the total outstanding debt at September 30, 2022, none of the mortgage loans were recourse to the Company. As of September 30, 2022, the Company was not in compliance with its debt covenants on one mortgage loan which did not result in an event of default but allows the lender the option to institute a cash sweep until covenant compliance is achieved for a period of time specified in the loan agreement. The cash sweep permits the lender to withdraw excess cash generated by the property into a separate bank account that they control, which may be used to reduce the outstanding loan balance. The mortgage loan agreements require contributions to be made to FF&E reserves. In addition, certain quarterly financial covenants have been waived for a period of time specified in the respective amended loan agreements and certain financial covenants have been adjusted following the waiver periods.

In January 2022, the Company repaid in full the \$65.0 million outstanding balance on the mortgage loan collateralized by The Ritz-Carlton, Pentagon City.

Corporate Credit Facilities

Certain financial covenants related to the Company's amended corporate credit facilities were suspended until the date that the compliance certificates demonstrating compliance with the financial covenants thereunder for the fiscal quarter ending June 30, 2022 were delivered (such period, the "covenant waiver period"). Certain financial covenants that were suspended during the covenant waiver period resumed quarterly testing beginning with the fiscal quarter ending June 30, 2022 but remain at modified covenant levels through the second quarter in 2023 (such period, unless earlier terminated by the Operating Partnership in accordance with the terms of the amended corporate credit facilities, the "permitted variations"). In addition, the amended corporate credit facilities had certain restrictions and covenants which were applicable during the covenant waiver period, including (i) mandatory prepayment requirements, (ii) affirmative covenants related to the pledge of equity of certain subsidiaries and (iii) negative covenants restricting certain acquisitions, investments, capital expenditures, ground leases and distributions. A minimum liquidity covenant also applied during the covenant waiver period.

The Company determined that it met the modified financial covenants for the quarter ended June 30, 2022 and delivered the compliance certificates demonstrating such compliance under the amended corporate credit facilities and, as a result, is no longer subject to the additional restrictions and covenants that applied during the covenant waiver period, other than in respect of certain restrictions and covenants related to the pledge of equity of certain subsidiaries which remain applicable until after the end of the permitted variations period.

As of September 30, 2022, there was no outstanding balance on the revolving credit facility. During the three and nine months ended September 30, 2022, the Company incurred unused commitment fees of approximately \$0.3 million and \$1.1 million, respectively, and did not incur interest expense. During the three and nine months ended September 30, 2021, the Company incurred unused commitment fees of approximately \$0.4 million and \$1.0 million, respectively, and interest expense of \$1.9 million for the nine months ended September 30, 2021.

Senior Notes

The indentures governing the Senior Notes contain customary covenants that limit the Operating Partnership's ability and, in certain circumstances, the ability of its subsidiaries, to borrow money, create liens on assets, make distributions and pay dividends, redeem or repurchase stock, make certain types of investments, sell stock in certain subsidiaries, enter into

agreements that restrict dividends or other payments from subsidiaries, enter into transactions with affiliates, issue guarantees of indebtedness and sell assets or merge with other companies. These limitations are subject to a number of important exceptions and qualifications set forth in the indentures.

Debt Outstanding

Total debt outstanding as of September 30, 2022 and December 31, 2021 was \$1,446 million and \$1,515 million, respectively, and had a weighted-average interest rate of 5.28% and 5.18% per annum, respectively. The following table shows scheduled principal payments and debt maturities for the next five years and thereafter (in thousands):

	As of September 30, 2022	Weighted- Average Interest Rate
2022	\$ 1,356	4.65%
2023	5,537	4.65%
2024	280,275	4.45%
2025	503,512	6.36%
2026	54,380	4.53%
Thereafter	601,386	4.83%
Total Debt	\$ 1,446,446	5.28%
Revolving Credit Facility (matures in 2024)	—	5.37%
Loan premiums, discounts and unamortized deferred financing costs, net	(16,928)	—
Debt, net of loan premiums, discounts and unamortized deferred financing costs	\$ 1,429,518	5.28%

In connection with the repayment of one mortgage loan during the nine months ended September 30, 2022, the Company wrote off the related unamortized deferred financing costs of \$0.3 million, which is included in loss on extinguishment of debt on the condensed consolidated statements of operations and comprehensive income (loss) for the period then ended.

6. Derivatives

The Company primarily uses interest rate swaps as part of its interest rate risk management strategy for variable rate debt. As of September 30, 2022, all interest rate swaps were designated as cash flow hedges and involve the receipt of variable rate payments from a counterparty in exchange for making fixed rate payments over the life of the agreements without exchange of the underlying notional amount. Unrealized gains and losses of hedging instruments are reported in other comprehensive income or loss on the condensed consolidated statements of operations and comprehensive income (loss). Amounts reported in accumulated other comprehensive income (loss) related to currently outstanding derivatives are recognized as an adjustment to income or loss through interest expense as interest payments are made on the Company's variable rate debt. During the nine months ended September 30, 2022, the Company terminated two interest rate swaps prior to their maturity and incurred swap termination costs of \$1.6 million which is included in other income (loss) on the condensed consolidated statements of operations and comprehensive income (loss) for the period then ended.

Derivative instruments held by the Company with the right of offset in a net asset position were included in other assets on the condensed consolidated balance sheets.

The following table summarizes the terms of the derivative financial instruments held by the Company as of September 30, 2022 and December 31, 2021, respectively (in thousands):

Hedged Debt	Type	Fixed Rate	Index	Effective Date	Maturity	September 30, 2022		December 31, 2021	
						Notional Amounts	Estimated Fair Value	Notional Amounts	Estimated Fair Value
Mortgage Debt	Swap	1.83%	1-Month LIBOR	1/15/2016	10/22/2022	\$ 50,000	\$ 39	\$ 50,000	\$ (591)
Mortgage Debt	Swap	1.83%	1-Month LIBOR	1/15/2016	10/22/2022	25,000	20	25,000	(295)
Mortgage Debt	Swap	1.84%	1-Month LIBOR	1/15/2016	10/22/2022	25,000	19	25,000	(297)
Mortgage Debt	Swap	1.83%	1-Month LIBOR	1/15/2016	10/22/2022	25,000	20	25,000	(296)
\$125M Term Loan	Swap	1.91%	1-Month LIBOR	10/13/2017	9/13/2022	—	—	40,000	(445)
\$125M Term Loan	Swap	1.92%	1-Month LIBOR	10/13/2017	9/13/2022	—	—	40,000	(446)
\$125M Term Loan	Swap	1.92%	1-Month LIBOR	10/13/2017	9/13/2022	—	—	25,000	(279)
\$125M Term Loan	Swap	1.92%	1-Month LIBOR	10/13/2017	9/13/2022	—	—	20,000	(223)
Mortgage Debt ⁽¹⁾	Swap	2.80%	1-Month LIBOR	6/1/2018	2/1/2023	—	—	24,000	(598)
Mortgage Debt ⁽¹⁾	Swap	2.89%	1-Month LIBOR	1/17/2019	2/1/2023	—	—	41,000	(1,061)
						<u>\$ 125,000</u>	<u>\$ 98</u>	<u>\$ 315,000</u>	<u>\$ (4,531)</u>

(1) The Company terminated two interest rate swaps prior to maturity in connection with the repayment of the mortgage loan collateralized by The Ritz-Carlton, Pentagon City in January 2022.

The table below details the location in the condensed consolidated financial statements of the gains and losses recognized on derivative financial instruments designated as cash flow hedges for the three and nine months ended September 30, 2022 and 2021 (in thousands):

		Three Months Ended September 30,		Nine Months Ended September 30,	
		2022	2021	2022	2021
Effect of derivative instruments:	Location in Statements of Operations and Comprehensive Income (Loss):				
Gain (loss) recognized in other comprehensive income (loss)	Unrealized gain (loss) on interest rate derivative instruments	\$ 36	\$ (163)	\$ 2,932	\$ 2,389
(Loss) gain reclassified from accumulated other comprehensive income (loss) to net income (loss)	Reclassification adjustment for amounts recognized in net income (loss) (interest expense)	\$ (147)	\$ 1,598	\$ 1,697	\$ 5,999
Total interest expense in which effects of cash flow hedges are recorded	Interest expense	\$ 20,583	\$ 21,358	\$ 61,474	\$ 59,799
Realized loss on termination of derivative instruments	Other income (loss)	\$ —	\$ —	\$ (1,555)	\$ (2,779)

The Company expects approximately \$0.1 million will be reclassified from accumulated other comprehensive income (loss) as a reduction to interest expense in the next 12 months.

7. Fair Value Measurements

The Company defines fair value based on the price that would be received upon sale of an asset or the exit price that would be paid to transfer a liability in an orderly transaction between market participants at the measurement date. The Company uses a fair value hierarchy that prioritizes observable and unobservable inputs used to measure fair value. The fair value hierarchy consists of three broad levels, which are described below:

- Level 1 - Quoted prices for identical assets or liabilities in active markets that the entity has the ability to access.
- Level 2 - Observable inputs, other than quoted prices included in Level 1, such as quoted prices for similar assets and liabilities in active markets; quoted prices for identical or similar assets and liabilities in markets that are not active; or other inputs that are observable or can be corroborated by observable market data.
- Level 3 - Unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the assets and liabilities. This includes certain pricing models, discounted cash flow methodologies and similar techniques that use significant unobservable inputs.

The Company has estimated the fair value of its financial and non-financial instruments using available market information and valuation methodologies it believes to be appropriate for these purposes. Considerable judgment and a high degree of subjectivity are involved in developing these estimates and, accordingly, they are not necessarily indicative of amounts that would be realized upon disposition.

For assets and liabilities measured at fair value on a recurring basis and non-recurring basis, quantitative disclosure of their fair values is included in the condensed consolidated balance sheets as of as of September 30, 2022 and December 31, 2021 (in thousands):

Location on Condensed Consolidated Balance Sheets/Description of Instrument	Fair Value Measurement Date			
	September 30, 2022		December 31, 2021	
	Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)	Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Recurring measurements				
<i>Other assets</i>				
Interest rate swaps ⁽¹⁾	\$ 98	\$ —	\$ —	\$ —
<i>Other liabilities</i>				
Interest rate swaps ⁽¹⁾	\$ —	\$ —	\$ (4,531)	\$ —
Non-recurring measurements				
<i>Net investment properties</i>				
Kimpton Hotel Monaco Chicago	\$ —	\$ —	\$ 34,093	\$ —

(1) Interest rate swap fair values are netted as applicable per the terms of the respective master netting agreements.

Recurring Measurements

The fair value of each derivative instrument is based on a discounted cash flow analysis of the expected cash flows under each arrangement. This analysis reflects the contractual terms of the derivative instrument, including the period to maturity, and utilizes observable market-based inputs, including interest rate curves and implied volatilities, which are classified within Level 2 of the fair value hierarchy. The Company also incorporates credit value adjustments to appropriately reflect each parties' nonperformance risk in the fair value measurement, which utilizes Level 3 inputs such as estimates of current credit spreads. However, the Company has assessed that the credit valuation adjustments are not significant to the overall valuation of the derivatives and, as a result, its derivative valuations in their entirety are classified within Level 2 of the fair value hierarchy.

Non-Recurring Measurements

Investment Properties

In November 2021, the Company entered into an agreement to sell the 191-room Kimpton Hotel Monaco Chicago for \$36.0 million. Management estimated the future undiscounted cash flows for the scenario of a shortened hold period and for holding the asset long-term. Based on the results of the probability weighted-average undiscounted cash flow analysis, management determined the hotel was impaired as the estimated undiscounted cash flows were less than the carrying value of the hotel as of December 31, 2021. Management determined the impairment loss as the difference between the carrying value and the estimated fair value. The fair value was estimated using Level 2 assumptions, including values from market participants. As a result, for the year ended December 31, 2021, the Company recorded an impairment loss of \$15.7 million, which is included in impairment and other losses on the consolidated statement of operations and comprehensive income (loss) for the period then ended. The sale closed in January 2022.

In June 2021, the Company concluded that it intended to sell the 352-room Marriott Charleston Town Center, in Charleston West Virginia and began marketing the property. Based on multiple bids from qualified buyers and ongoing price discussions, the Company expected the hotel to be sold for a price that was less than its net book value. As a result, for the three and six months ended June 30, 2021, the Company recorded an impairment loss of approximately \$12.3 million. The Company subsequently recorded an additional impairment loss of \$0.3 million for the three and nine months ended September 30, 2021 related to estimated closing costs. These impairment losses are included in impairment and other losses on the condensed consolidated statements of operations and comprehensive income (loss) for the periods then ended. The sale closed in November 2021.

Financial Instruments Not Measured at Fair Value

The table below represents the fair value of financial instruments presented at carrying values in the condensed consolidated balance sheets as of September 30, 2022 and December 31, 2021 (in thousands):

	September 30, 2022		December 31, 2021	
	Carrying Value	Estimated Fair Value	Carrying Value	Estimated Fair Value
Total Mortgage and Corporate Credit Facility Term Loan	\$ 446,446	\$ 423,247	\$ 514,538	\$ 503,265
Senior Notes	1,000,000	904,698	1,000,000	1,055,323
Revolving Credit Facility	—	—	—	—
Total	<u>\$ 1,446,446</u>	<u>\$ 1,327,945</u>	<u>\$ 1,514,538</u>	<u>\$ 1,558,588</u>

The Company estimated the fair value of its total debt, net of discounts, using a weighted-average effective interest rate of 6.19% and 5.23% per annum as of September 30, 2022 and December 31, 2021, respectively. The assumptions reflect the terms currently available to borrowers with credit profiles similar to the Company's. The Company has determined that its debt instrument valuations are classified in Level 2 of the fair value hierarchy.

8. Income Taxes

The Company estimated the TRS income tax expense for the three and nine months ended September 30, 2022 using an estimated federal and state combined effective tax rate of 14.57% and recognized an income tax benefit of \$1.0 million and income tax expense of \$4.1 million, respectively.

The Company estimated the TRS income tax expense for the three and nine months ended September 30, 2021 using an estimated federal and state combined effective tax rate of 3.00% and recognized an income tax expense of \$43 thousand and \$0.4 million, respectively. The income tax expense for three and nine months ended September 30, 2021 was primarily attributed to state taxes levied on gross receipts.

9. Stockholders' Equity

Common Stock

The Company maintains an "At-the-Market" ("ATM") program pursuant to an Equity Distribution Agreement ("ATM Agreement") with Wells Fargo Securities, LLC, Robert W. Baird & Co. Incorporated, Jefferies LLC, KeyBanc Capital Markets

Inc. and Raymond James & Associates, Inc. In accordance with the terms of the ATM Agreement, which was amended and upsized in May 2021, the Company may from time to time offer and sell shares of its common stock having an aggregate offering price of up to \$200 million. No shares were sold under the ATM Agreement during the three and nine months ended September 30, 2022 and 2021 and, as of September 30, 2022, \$200 million of common stock remained available for issuance. As of September 30, 2022, and December 31, 2021, the Company had accumulated offering related costs included in other assets on the condensed consolidated balance sheets of \$1.0 million and \$0.7 million, respectively. These amounts will be reclassified to additional paid in capital to offset proceeds from the sale of common stock. Any remaining accumulated offering costs will be written off when the existing registration statement expires in August 2023.

The Board of Directors has authorized a stock repurchase program pursuant to which the Company is authorized to purchase up to \$175 million of the Company's outstanding common stock in the open market, in privately negotiated transactions or otherwise, including pursuant to Rule 10b5-1 plans (the "Repurchase Program"). The Repurchase Program does not have an expiration date. This Repurchase Program may be suspended or discontinued at any time and does not obligate the Company to acquire any particular amount of shares. During the three and nine months ended September 30, 2022, 120,978 shares were repurchased under the Repurchase Program, at a weighted-average price of \$15.52 per share for an aggregate purchase price of \$1.9 million. No shares were purchased as part of the Repurchase Program during the nine months ended September 30, 2021. As of September 30, 2022, the Company had approximately \$92.8 million remaining under its share repurchase authorization.

The Company was prohibited under the terms of the amended corporate credit facilities from making repurchases of the Company's common stock until the Company achieved compliance with applicable debt covenants and the Company's covenant waiver period ended. Those restrictions expired upon the Company exiting the covenant waiver period with the delivery of the compliance certificates under the corporate credit facilities for the fiscal quarter ending June 30, 2022.

Distributions

The Company declared the following dividends during the three and nine months ended September 30, 2022:

Dividend per Share/Unit	For the Quarter Ended	Record Date	Payable Date
\$0.10	September 30, 2022	September 30, 2022	October 14, 2022

The Company suspended its quarterly dividend beginning in the second quarter of 2020 through the second quarter of 2022 in order to preserve liquidity. The Company's ability to make distributions was limited by the provisions of the Company's amended corporate credit facilities. Those restrictions expired as a result of the Company exiting the covenant waiver period with the delivery of the compliance certificates under the corporate credit facilities for the fiscal quarter ending June 30, 2022.

Non-Controlling Interest of Common Units in Operating Partnership

As of September 30, 2022, the Operating Partnership had 3,427,285 LTIP Units outstanding, representing a 2.9% partnership interest held by the limited partners. Of the 3,427,285 LTIP Units outstanding at September 30, 2022, 1,098,691 units had vested and had yet to be converted or redeemed. Only vested LTIP Units may be converted to common units of the Operating Partnership, which in turn can be tendered for redemption per the terms of the partnership agreement of the Operating Partnership.

10. Earnings Per Share

Basic earnings per common share is calculated by dividing net income or loss available to common stockholders by the weighted-average number of common shares outstanding during the period. Diluted earnings per common share is calculated by dividing net income or loss available to common stockholders by the weighted-average number of common shares outstanding during the period plus any shares that could potentially be outstanding during the period. Any anti-dilutive shares have been excluded from the diluted earnings per share calculation.

Unvested share-based awards that contain nonforfeitable rights to dividends or dividend equivalents (whether paid or unpaid) are participating securities and are included in the computation of earnings per share pursuant to the two-class method. Accordingly, distributed and undistributed earnings attributable to unvested share-based compensation have been excluded, as applicable, from net income or loss available to common stockholders used in the basic and diluted earnings per share calculations.

Income or loss allocated to non-controlling interests in the Operating Partnership has been excluded from the numerator and Operating Partnership Units and LTIP Units in the Operating Partnership have been omitted from the denominator for the purpose of computing diluted earnings per share since including these amounts in the numerator and denominator would have no impact.

The following table reconciles net income (loss) attributable to common stockholders to basic and diluted earnings per share (in thousands, except share and per share data):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2022	2021	2022	2021
Numerator:				
Net income (loss) attributable to common stockholders	\$ (1,663)	\$ (22,193)	\$ 20,661	\$ (120,582)
Dividends paid on unvested share-based compensation	(119)	—	(119)	—
Undistributed earnings attributable to unvested share-based compensation	—	—	(19)	—
Net income (loss) available to common stockholders	<u>\$ (1,782)</u>	<u>\$ (22,193)</u>	<u>\$ 20,523</u>	<u>\$ (120,582)</u>
Denominator:				
Weighted-average shares outstanding - Basic	114,322,269	113,809,212	114,334,110	113,798,761
Effect of dilutive share-based compensation ⁽¹⁾	—	—	385,199	—
Weighted-average shares outstanding - Diluted	<u>114,322,269</u>	<u>113,809,212</u>	<u>114,719,309</u>	<u>113,798,761</u>
Basic and diluted income (loss) per share:				
Net income (loss) per share available to common stockholders - basic and diluted	<u>\$ (0.01)</u>	<u>\$ (0.20)</u>	<u>\$ 0.18</u>	<u>\$ (1.06)</u>

(1) During the three months ended September 30, 2022, the Company excluded 351,892 anti-dilutive shares from its calculation of diluted earnings per share. During the three and nine months ended September 30, 2021, the Company excluded 580,479 and 563,820 anti-dilutive shares from its calculation of diluted earnings per share, respectively.

11. Share-Based Compensation

2015 Incentive Award Plan

Restricted Stock Unit Grants

The Compensation Committee of the Board of Directors approved the following grants of restricted stock units to certain Company employees:

Grant Date	Grant Description	Time-Based Grants	Performance-Based Grants	Weighted-Average Grant Date Fair Value
February 2022	2022 Restricted Stock Units	91,272	47,944	\$ 16.09
April 2022	2022 Restricted Stock Units	3,068	—	\$ 19.29
June 2022	2022 Restricted Stock Units	5,568	—	\$ 15.82

Each award of time-based Restricted Stock Units will vest as follows, subject to continued employment with the Company or its affiliates through each applicable vesting date: 33% on the first anniversary of the vesting commencement date, 33% on the second anniversary of the vesting commencement date, and 34% on the third anniversary of the vesting commencement date.

The performance-based Restricted Stock Units are designated twenty-five percent (25%) as absolute total stockholder return ("TSR") units and seventy-five percent (75%) as relative TSR share units. The absolute TSR share units vest based on achievement of varying levels of the Company's TSR over the three-year performance period. The relative TSR share units vest

based on the ranking of the Company's TSR as compared to a defined peer group over the three-year performance period. Vesting of performance-based Restricted Stock Units is also subject to continued employment with the Company or its affiliates through the applicable vesting date.

In March 2022, pursuant to the Company's Director Compensation Program, 451 fully vested shares of common stock with a grant date fair value of \$18.50 per share were granted to a non-employee director in connection with such non-employee director's appointment to the Company's Board of Directors.

LTIP Unit Grants

The Compensation Committee of the Board of Directors approved the issuance of the following awards under the 2015 Incentive Award Plan:

Grant Date	Grant Description	Time-Based LTIP Units	Performance-Based Class A LTIP Units	Weighted-Average Grant Date Fair Value
February 2022	2022 LTIP Units	101,474	816,843	\$ 10.49

Each award of time-based LTIP Units will vest as follows, subject to continued employment with the Company or its affiliates through each applicable vesting date: 33% on the first anniversary of the vesting commencement date, 33% on the second anniversary of the vesting commencement date, and 34% on the third anniversary of the vesting commencement date.

A portion of each award of Class A LTIP Units are designated as a number of "base units". The base units are designated twenty-five percent (25%) as absolute TSR base units, and vest based on achievement of varying levels of the Company's TSR over the three-year performance period. The other seventy-five percent (75%) of the base units are designated as relative TSR base units and vest based on the ranking of the Company's TSR as compared to a defined peer group over the three-year performance period. Vesting of Class A LTIP Units is also subject to continued employment with the Company or its affiliates through the vesting date.

LTIP Units (other than unvested Class A LTIP Units), whether vested or unvested, receive the same quarterly per-unit distributions as common units in the Operating Partnership, which equal the per-share distributions on the common stock of the Company. Class A LTIP Units that have not vested receive a quarterly per-unit distribution equal to 10% of the distribution paid on common units in the Operating Partnership.

In May 2022, pursuant to the Company's Director Compensation Program, the Company approved the issuance of 41,496 fully vested LTIP Units to eight of its non-employee directors which had a grant date fair value of \$19.28 per unit.

The following is a summary of the unvested incentive awards under the 2015 Incentive Award Plan as of September 30, 2022:

	2015 Incentive Award Plan Restricted Stock Units	2015 Incentive Award Plan LTIP Units⁽¹⁾	Total
Unvested as of December 31, 2021	261,727	1,500,317	1,762,044
Granted	148,303	959,813	1,108,116
Vested ⁽²⁾	(103,895)	(131,536)	(235,431)
Forfeited	(8,894)	—	(8,894)
Unvested as of September 30, 2022	297,241	2,328,594	2,625,835
Weighted-average fair value of unvested shares/units	\$ 14.96	\$ 11.42	\$ 11.82

(1) Includes time-based LTIP Units and performance-based Class A LTIP Units.

(2) During the nine months ended September 30, 2022 and 2021, 26,431 and 18,993 shares of common stock, respectively, were withheld by the Company upon the settlement of the applicable awards in order to satisfy federal and state tax withholding requirements on the vesting of restricted stock units under the 2015 Incentive Award Plan.

The grant date fair values of the vested common stock, time-based Restricted Stock Units and time-based LTIP Units were determined based on the closing price of the Company's common stock on the grant date and compensation expense is recognized on a straight-line basis over the vesting period. The grant date fair values of performance-based awards are determined based on a Monte Carlo simulation method with the following assumptions and compensation expense is recognized on a straight-line basis over the performance period:

Performance Award Grant Date	Percentage of Total Award	Grant Date Fair Value by Component (in dollars)	Volatility	Interest Rate	Dividend Yield
February 25, 2022					
Absolute TSR Restricted Stock Units	25%	\$9.72	41.28%	0.68% - 1.72%	—%
Relative TSR Restricted Stock Units	75%	\$11.70	41.28%	0.68% - 1.72%	—%
Absolute TSR Class A LTIP Units	25%	\$9.62	41.28%	0.68% - 1.72%	—%
Relative TSR Class A LTIP Units	75%	\$11.33	41.28%	0.68% - 1.72%	—%

The absolute and relative total stockholder returns are market conditions as defined by Accounting Standard Codification ("ASC") 718, Compensation - Stock Compensation. Market conditions include provisions wherein the vesting condition is met through the achievement of a specific value of the Company's common stock, which is total stockholder return in this case. Market conditions differ from other performance awards under ASC 718 in that the probability of attaining the condition (and thus vesting of the units or shares) is reflected in the initial grant date fair value of the award.

Accordingly, it is not appropriate to reconsider the probability of vesting in the award subsequent to the initial measurement of the award, nor is it appropriate to reverse any of the expense if the condition is not met. As such, once the expense for these awards is measured, the expense must be recognized over the vesting period regardless of whether the target is met, or at what level the target is met. Expense may only be reversed if the holder of the instrument forfeits the award as a result of the holder's termination of service to the Company prior to vesting.

For the three and nine months ended September 30, 2022, the Company recognized approximately \$2.8 million and \$7.8 million of share-based compensation expense (net of forfeitures) related to fully vested Restricted Stock Units and LTIP Units provided to its executive officers and certain corporate employees. In addition, for the nine months ended September 30, 2022, the Company recognized \$0.8 million of share-based compensation expense related to grants to the Board of Directors and for the three and nine months ended September 30, 2022 capitalized approximately \$0.1 million and \$0.3 million (net of forfeitures) related to Restricted Stock Units provided to certain other employees who oversee development and capital projects on behalf of the Company. As of September 30, 2022, there was \$15.0 million of total unrecognized compensation costs related to unvested Restricted Stock Units, Class A LTIP Units and Time-Based LTIP Units issued under the 2015 Incentive Award Plan, which are expected to be recognized over a remaining weighted-average period of 1.78 additional years.

For the three and nine months ended September 30, 2021, the Company recognized approximately \$2.9 million and \$8.0 million of share-based compensation expense (net of forfeitures) related to Restricted Stock Units and LTIP Units provided to certain of its executive officers and other members of management. In addition, for the nine months ended September 30, 2021, the Company recognized \$0.8 million of share-based compensation expense related to grants to the Board of Directors and for the three and nine months ended September 30, 2021 capitalized approximately \$0.1 million and \$0.5 million, respectively, related to Restricted Stock Units provided to certain members of management who oversee development and capital projects on behalf of the Company.

12. Commitments and Contingencies

Leases

The Company is a lessee to long-term ground, parking, and its corporate office leases, which are accounted for as operating leases. The following is a summary of the Company's leases as of and for the nine months ended September 30, 2022 (dollar amounts in thousands):

	September 30, 2022
Weighted-average remaining lease term, including reasonably certain extension options ⁽¹⁾	20 years
Weighted-average discount rate	5.70%
ROU asset ⁽²⁾	\$ 18,934
Lease liability ⁽³⁾	\$ 20,143
Operating lease rent expense	\$ 1,616
Variable lease costs	2,796
Total rent and variable lease costs	\$ 4,412

(1) The weighted-average remaining lease term including all available extension options is approximately 56 years.

(2) The ROU asset is included in other assets on the condensed consolidated balance sheet as of September 30, 2022.

(3) The lease liability is included in other liabilities on the condensed consolidated balance sheet as of September 30, 2022.

The following table shows the remaining lease payments, which includes reasonably certain extension options, for the next five years and thereafter reconciled to the lease liability as of September 30, 2022 (in thousands):

	Year Ending December 31, 2022
2022 (excluding the nine months ended September 30, 2022)	\$ 533
2023	2,142
2024	2,157
2025	2,172
2026	2,188
Thereafter	26,648
Total undiscounted lease payments	\$ 35,840
Less imputed interest	(15,697)
Lease liability ⁽¹⁾	\$ 20,143

(1) The lease liability is included in other liabilities on the condensed consolidated balance sheet as of September 30, 2022.

Management and Franchise Agreements

In order to maintain its qualification as a REIT, the Company cannot directly or indirectly operate any of its hotels. The Company leases each hotel to TRS lessees, which in turn engage property managers to manage the hotels. Each hotel is operated pursuant to a hotel management agreement with an independent third-party hotel management company.

Pursuant to the hotel management agreements, the management company controls the day-to-day operation of each hotel, and the Company is granted limited approval rights with respect to certain of the management company's actions. The hotel management agreements typically contain a two-tiered fee structure, wherein the management company receives a base management fee and, if certain financial thresholds are met or exceeded, an incentive management fee. Many hotel management agreements also require the maintenance of a capital reserve fund based on a percentage of hotel revenues to be used for capital expenditures to maintain the quality of the hotels.

Management agreements for brand-managed hotels have terms generally ranging from 5 to 32 years and allow for one or more renewal periods at the option of the hotel manager. Assuming all renewal periods are exercised, the average remaining term is 25 years. Management agreements for franchised hotels generally contain initial terms between 10 and 18 years with an average remaining initial term of approximately four years.

The Company is generally limited in its ability to sell, lease or otherwise transfer hotels unless the transferee assumes the related hotel management agreement. However, most agreements include owner rights to terminate the agreements on the basis

of the manager's failure to meet certain performance-based metrics. Typically, these criteria are subject to the manager's ability to 'cure' and avoid termination by payment to the Company of specified deficiency amounts (or, in some instances, waiver of the right to receive specified future management fees).

Franchise agreements contain initial terms of 15 to 20 years, with an average remaining initial term of approximately seven years. The franchise agreements require royalty fees based on a percentage of gross rooms revenue and, for certain hotels, an additional fee based on a percentage of gross food and beverage revenue. In addition, franchise agreements require fees for marketing, reservation or other program fees based on a percentage of gross rooms revenue. Many franchise agreements also require the maintenance of a capital reserve fund based on a percentage of hotel revenues to be used for capital expenditures to maintain the quality of the hotels.

For the three and nine months ended September 30, 2022, the Company incurred management and franchise fee expenses of \$9.1 million and \$27.8 million, respectively, and for the three and nine months ended September 30, 2021 incurred expenses of \$6.0 million and \$15.0 million respectively, which are included on the condensed consolidated statements of operations and comprehensive income (loss) for the periods then ended.

Reserve Requirements

Certain franchise and management agreements require the Company to reserve funds relating to replacements and renewals of the hotels' furniture, fixtures and equipment. As of September 30, 2022 and December 31, 2021, the Company had a balance of \$42.7 million and \$29.3 million, respectively, in reserves for such future improvements. This amount is included in restricted cash and escrows on the condensed consolidated balance sheets as of September 30, 2022 and December 31, 2021, respectively.

Renovation and Construction Commitments

As of September 30, 2022, the Company had various contracts outstanding with third-parties in connection with the renovation of certain of its hotel properties. The remaining commitments under these contracts as of September 30, 2022 totaled \$10.7 million.

Legal

The Company is subject, from time to time, to various legal proceedings and claims that arise in the ordinary course of business. While the resolution of these matters cannot be predicted with certainty, management believes, based on currently available information, that the final outcome of such matters will not have a material adverse effect on the financial condition of the Company.

13. Subsequent Events

In August 2022, the Company entered into an agreement to sell the 115-room Bohemian Hotel Celebration, Autograph Collection, in Celebration, Florida for a sale price of approximately \$27.8 million and the buyer funded an at-risk deposit. The sale closed on October 20, 2022 for an estimated gain of approximately \$12.6 million. Net cash proceeds from the sale, after transaction closing costs, were \$25.5 million. The Company also retained the approximately \$0.3 million balance in the FF&E reserve.

In October 2022, 415,434 shares were repurchased under the Repurchase Program, at a weighted-average price of \$15.18 per share for an aggregate purchase price of \$6.3 million.

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

Certain statements in this Quarterly Report on Form 10-Q, other than purely historical information, are "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995, Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended (the "Exchange Act"). These statements include statements about Xenia's plans, objectives, strategies, financial performance and outlook, trends, the amount and timing of future cash distributions, prospects or future events and involve known and unknown risks that are difficult to predict. As a result, our actual financial results, performance, achievements or prospects may differ materially from those expressed or implied by these forward-looking statements. In some cases, you can identify forward-looking statements by the use of words such as "may," "could," "expect," "intend," "plan," "seek," "anticipate," "believe," "estimate," "guidance," "predict," "potential," "continue," "likely," "will," "would," "illustrative" and variations of these terms and similar expressions, or the negative of these terms or similar expressions. Such forward-looking statements are necessarily based upon estimates and assumptions that, while considered reasonable by Xenia and its management based on their knowledge and understanding of the business and industry, are inherently uncertain. These statements are not guarantees of future performance, and stockholders should not place undue reliance on forward-looking statements. Forward-looking statements in this Form 10-Q include, among others, statements about our plans, strategies and the ongoing impact of the COVID-19 recovery and other macroeconomic factors, including inflation, rising interest rates and increased concerns over a near-term recession, on our business, including on the demand for travel (including leisure travel and transient and group business travel), capital expenditures, supply chain issues, the ability to consummate acquisitions and dispositions of hotel properties, liquidity, staffing and derivations thereof, financial performance, prospects or future events. There are a number of risks, uncertainties and other important factors, many of which are beyond our control, that could cause our actual results to differ materially from the forward-looking statements contained in this Quarterly Report on Form 10-Q. Such risks, uncertainties and other important factors include, among others: the factors set forth under "Part I-Item 1A. Risk Factors" and "Part II-Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations" in our Annual Report on Form 10-K filed with the U.S. Securities and Exchange Commission (the "SEC") on March 1, 2022, as may be updated elsewhere in this report; and the information set forth in other Quarterly Reports on Form 10-Q and Current Reports on Form 8-K that we have filed or will file with the SEC; the short- and longer-term effects of the COVID-19 pandemic, including on the demand for travel (including leisure travel and transient and group business travel), and levels of consumer confidence; actions that governments, businesses, and individuals take in response to the COVID-19 pandemic or any resurgence of the disease or its variants, including limiting or banning travel and implementation of social distancing requirements; the impact of the COVID-19 pandemic, and actions taken in response to the COVID-19 pandemic or any resurgence of the disease or its variants, on global and regional economies, travel, and economic activity, including the duration and magnitude of its impact on staffing levels, impacts to supply chains, and consumer discretionary spending; the broad distribution of COVID-19 vaccines and boosters and wide acceptance by the general population of such vaccines and boosters; the effectiveness of the vaccines and boosters; the ability of third-party managers or other partners to successfully navigate the impacts of the COVID-19 pandemic including labor shortages; the pace of recovery following the COVID-19 pandemic or any resurgence of the disease or its variants; COVID-19 may cause us to incur additional expenses; our ability to successfully negotiate amendments and covenant waivers under our indebtedness; our ability to comply with contractual covenants; business, financial and operating risks inherent to real estate investments and the lodging industry; seasonal and cyclical volatility in the lodging industry; adverse changes in specialized industries, such as the energy, technology and/or tourism industries that result in a sustained downturn of related businesses and corporate spending that may negatively impact our revenues and results of operations; difficulties in procuring required products caused by supply chain disruptions; macroeconomic and other factors beyond our control that can adversely affect and reduce demand for hotel rooms, food and beverage services, and/or meeting facilities, including inflation; contraction in the U.S. and/or global economy or low levels of economic growth; inflationary pressures which increases our labor and other costs of providing services to guests and meeting hotel brand standards, as well as costs related to construction and other capital expenditures, increases in interest rates, property and other taxes, and insurance which could result in reduced operating profit margins; levels of spending in business and leisure segments as well as consumer confidence; declines in occupancy and average daily rate; decreased demand for business travel due to technological advancements and preferences for virtual over in-person meetings and/or changes in guest and consumer preferences, including consideration of the impact of travel on the environment; fluctuations in the supply of hotels, due to hotel construction and/or renovation and expansion of existing hotels, and demand for hotel rooms; changes in the competitive environment in the lodging industry, including due to consolidation of management companies, franchisors and online travel agencies, and changes in the markets where we own hotels; events beyond our control, such as war, terrorist or cyber-attacks, mass casualty events, government shutdowns and closures, travel-related health concerns, and natural disasters; cyber incidents and information technology failures, including unauthorized access to our computer systems and/or our vendors' computer systems, and our third-party management companies' or franchisors' computer systems and/or their vendors' computer systems; our inability to directly operate our properties and reliance on third-party hotel management companies to operate and manage our hotels; our ability to maintain good relationships with our third-party hotel management companies and franchisors; our failure to maintain and/or comply with brand operating standards; our ability to maintain our brand licenses at our hotels; relationships with labor unions and changes in labor laws (including increases in minimum wages); loss

of our senior management team or key corporate personnel; our ability to identify and consummate acquisitions and dispositions of hotels; our ability to integrate and successfully operate any hotel properties acquired in the future and the risks associated with these hotel properties; the impact of hotel renovations, repositionings, redevelopments and re-branding activities; our ability to access capital for renovations and acquisitions and general operating needs on terms and at times that are acceptable to us; the fixed cost nature of hotel ownership; our ability to service, restructure or refinance our debt on terms and at times that are acceptable to us; changes in interest rates and operating costs, including labor and service related costs; compliance with regulatory regimes and local laws; uninsured or under insured losses, including those relating to natural disasters, the physical effects of climate change, civil unrest, terrorism or cyber-attacks; changes in distribution channels, such as through internet travel intermediaries or websites that facilitate short-term rental of homes and apartments from owners; the amount of debt that we currently have or may incur in the future; provisions in our debt agreements that may restrict the operation of our business; our organizational and governance structure; our status as a real estate investment trust ("REIT"); our taxable REIT subsidiary ("TRS") lessee structure; the cost of compliance with and liabilities under environmental, health and safety laws; adverse litigation judgments or settlements; changes in real estate and zoning laws; increases in insurance or other fixed costs and increases in real property tax valuations or rates; changes in federal, state or local tax law, including legislative, administrative, regulatory or other actions affecting REITs; changes in governmental regulations or interpretations thereof; and estimates relating to our ability to make distributions to our stockholders in the future.

These factors are not necessarily all of the important factors that could cause our actual financial results, performance, achievements or prospects to differ materially from those expressed in or implied by any of our forward-looking statements. Other unknown or unpredictable factors also could harm our results. All forward-looking statements attributable to us or persons acting on our behalf are expressly qualified in their entirety by the cautionary statements set forth above. Forward-looking statements speak only as of the date they are made, and we do not undertake or assume any obligation to update publicly any of these forward-looking statements to reflect actual results, new information or future events, changes in assumptions or changes in other factors affecting forward-looking statements, except to the extent required by applicable laws. If we update one or more forward-looking statements, no inference should be drawn that we will make additional updates with respect to those or other forward-looking statements.

The following discussion and analysis should be read in conjunction with the Company's Unaudited Condensed Consolidated Financial Statements and accompanying notes, which appear elsewhere in this Quarterly Report on Form 10-Q.

Overview

Xenia Hotels & Resorts, Inc. ("we", "us", "our", "Xenia" or the "Company") is a self-advised and self-administered REIT that invests in uniquely positioned luxury and upper upscale hotels and resorts with a focus on top 25 lodging as well as key leisure destinations in the United States. As of September 30, 2022, we owned 34 hotels, comprising 9,812 rooms, across 14 states. Our hotels are operated and/or licensed by industry leaders such as Marriott, Hyatt, Kimpton, Fairmont, Loews, Hilton, The Kessler Collection and Davidson.

Ongoing Impact of and Recovery from COVID-19

The onset and global spread of the COVID-19 pandemic led federal, state and local governments in the United States to impose measures intended to control its spread, including restrictions on freedom of movement and business operations, and also to implement multi-step phased policies of re-opening regions of the country. The effects of the COVID-19 pandemic on the hotel industry were significant and unprecedented.

Our hotel portfolio began to see improvements in leisure demand during the second half of 2020, a trend that accelerated in 2021 and has continued in 2022. During the first half of 2022, operations continued to improve including a continuation of strong leisure bookings, higher levels of business transient demand and improving group demand in certain markets resulting in total portfolio ADR climbing above 2019 levels for the comparable period. In the third quarter of 2022, while we experienced our typical seasonal decline in leisure demand, we also saw a broader acceleration of business transient and group business particularly following the Labor Day holiday period. Despite this improvement, there remains uncertainty regarding the pace of recovery and whether and when business travel and larger group meetings will return to pre-pandemic levels. As the recovery continues, we expect that the pace will vary from market to market and may be uneven in nature.

Additionally, there has been increasing uncertainty regarding the broader economic environment as higher levels of inflation have persisted along with rising interest rates and increased concerns of a recession in the near term. We rely on our ability to raise room rates and prices of other products and services to keep pace with inflation. Our hotel operators generally possess the ability to adjust room rates daily, except for certain group or corporate rates contractually committed to in advance, in a stable macroeconomic environment. However, our operators may be unable to raise rates faster than inflation, or even at the same rate, when inflation levels are high due to competitive pressures or prevailing economic conditions.

Basis of Presentation

The accompanying condensed consolidated financial statements include the accounts of the Company, the Operating Partnership, and XHR Holding. The Company's subsidiaries generally consist of limited liability companies, limited partnerships and the TRS. The effects of all inter-company transactions have been eliminated. Corporate costs directly associated with our principal executive offices, personnel and other administrative costs are reflected as general and administrative expenses on the condensed consolidated statements of operations and comprehensive income (loss).

Our Revenues and Expenses

Our revenue is primarily derived from hotel operations, including rooms revenue, food and beverage revenue and other revenue, which consists of parking, spa, resort fees, other guest services, and tenant leases, among other items.

Our operating costs and expenses consist of the costs to provide hotel services, including rooms expense, food and beverage expense, other direct and indirect operating expenses, and management and franchise fees. Rooms expense includes housekeeping wages and associated payroll taxes, room supplies, laundry services and front desk costs. Food and beverage expense primarily includes the cost of food, beverages and associated labor. Other direct and indirect hotel expenses include labor and other costs associated with the other operating department revenue, as well as labor and other costs associated with general and administrative departments, sales and marketing, information technology and telecommunications, repairs and maintenance and utility costs. We enter into management agreements with independent third-party management companies to operate our hotels. The management companies typically earn base and incentive management fees based on the levels of revenues and profitability of each individual hotel.

Key Indicators of Operating Performance

We measure hotel results of operations and the operating performance of our business by evaluating financial and nonfinancial metrics such as Revenue Per Available Room ("RevPAR"); average daily rate ("ADR"); occupancy rate ("occupancy"); earnings before interest, income taxes, depreciation and amortization for real estate ("EBITDAre") and Adjusted EBITDAre; and funds from operations ("FFO") and Adjusted FFO. We evaluate individual hotel and company-wide performance with comparisons to budgets, prior periods and competing properties. RevPAR, ADR, and occupancy may be impacted by macroeconomic factors as well as regional and local economies and events. See "Non-GAAP Financial Measures" for further discussion of the Company's use, definitions and limitations of EBITDAre, Adjusted EBITDAre, FFO and Adjusted FFO and the reasons management believes these financial measures are useful to investors.

Results of Operations

Lodging Industry Overview

The U.S. lodging industry historically exhibits a strong correlation to U.S. GDP, which increased at an estimated annual rate of approximately 2.6% during the third quarter of 2022, according to the U.S. Department of Commerce, compared to the decrease in annual rate growth trend from the first and second quarters of 2022 of 1.4% and 0.9%, respectively. The increase during the third quarter reflected increases in exports, consumer spending, nonresidential fixed investment, federal government spending, and state and local government spending that were partially offset by decreases in residential fixed investment, private inventory investments and imports. In addition, the unemployment rate fell to 3.5% in September from 3.6% in June and March. The unemployment rate has declined considerably from the April 2020 high of 14.7%.

The U.S. lodging industry was more acutely impacted by the COVID-19 pandemic than the overall U.S. economy and other industries and has not experienced the same level of recovery as the U.S. economy which is largely due to the persistence of the COVID-19 pandemic and its variants and sentiment towards business and leisure travel as a result of the pandemic. While the U.S. lodging industry has rebounded significantly, we believe there remains room for additional growth, particularly for upper upscale and luxury hotels. Further, we continue to monitor and evaluate the challenges associated with inflationary pressures and rising interest rates, the evolving workforce landscape, as well as ongoing supply chain issues which may continue to impact the hotels' ability to source operating supplies and other materials.

Demand increased 5.6% and 13.4%, respectively, during the three and nine months ended September 30, 2022. New hotel supply increased by 1.1% and 2.4%, respectively, during the same period. The increase in demand led to increases in industry RevPAR of 16.6% and 34.9% for the three and nine months ended September 30, 2022 compared to 2021, which was driven by an increase in occupancy of 4.5% and 10.8% coupled with an 11.6% and 21.8% increase in ADR, respectively. All U.S. data for the three and nine months ended September 30, 2022 are per industry reports.

Third Quarter 2022 Overview

Our total portfolio RevPAR, which includes the results of hotels sold or acquired for the period of ownership by the Company, increased 32.5% and 70.6% to \$157.91 and \$162.69 for the three and nine months ended September 30, 2022 compared to \$119.17 and \$95.35 for the three and nine months ended September 30, 2021, respectively. The increase in our total portfolio RevPAR for the three and nine months ended September 30, 2022 compared to the same period in 2021 was driven by increases in leisure transient business and improving business transient and corporate group demand.

Net loss decreased 92.5% for the three months ended September 30, 2022 compared to the three months ended September 30, 2021, which was primarily attributed to an increase in operating income of \$15.8 million from the 33-comparable hotels owned during the three months ended September 30, 2022 and 2021 as a result of the ongoing recovery from the COVID-19 pandemic, a \$2.5 million increase in gain on business interruption insurance, a \$1.8 million reduction in impairment and other losses, an increase in other income of \$1.6 million in 2022 compared to 2021 primarily from insurance proceeds in excess of recognized losses related to damage sustained at Loews New Orleans Hotel during Hurricane Ida, a \$1.0 million income tax benefit and a \$0.8 million reduction in interest expense. These increases were partially offset by a \$1.5 million increase in corporate general and administrative expenses and a \$0.9 million decrease in operating income attributed to the acquisition of W Nashville.

Net income increased 117.3% for the nine months ended September 30, 2022 compared to net loss in nine months ended September 30, 2021, which was primarily attributed to an increase in operating income of \$131.1 million from the 33-comparable hotels owned during the nine months ended September 30, 2022 and 2021 as a result of the ongoing recovery from the COVID-19 pandemic, an \$12.8 million reduction in impairment and other losses, other income of \$2.7 million in 2022 from insurance proceeds in excess of recognized losses related to damage sustained at Loews New Orleans Hotel during Hurricane Ida compared to other loss of \$2.5 million in 2021 from the termination of four interest rate hedges, a \$1.4 million increase in gain on business interruption insurance, a \$1.1 million reduction in operating loss attributed to the sale of hotels in November 2021 and January 2022, a \$1.1 million reduction in loss on extinguishment of debt and a \$0.9 million increase in operating income attributed to the acquisition of W Nashville. These increases were partially offset by a \$3.8 million increase in income tax expense, a \$3.4 million increase in corporate general and administrative expenses and a \$1.7 million increase in interest expense primarily attributed to a higher weighted-average interest rate.

Adjusted EBITDA and Adjusted FFO attributable to common stock and unit holders for the three and nine months ended September 30, 2022 increased 52.1% and 225.4%, and 132.9% and 3,561.3%, respectively, compared to three and nine months ended September 30, 2021, which was attributable to the extent and timing of the impact of and recovery from the COVID-19 pandemic on our results of operations. Refer to "Non-GAAP Financial Measures" for the definition of these financial measures, a description of the reasons we believe they are useful to investors as key supplemental measures of our operating performance and the reconciliation of these non-GAAP financial measures to net income (loss) attributable to common stock and unit holders.

Operating Information Comparison

The following table sets forth certain operating information for the three and nine months ended September 30, 2022 and 2021:

	Nine Months Ended September 30,		Change
	2022	2021	
Number of properties at January 1	34	35	(1)
Properties acquired	1	—	1
Properties disposed	(1)	—	(1)
Number of properties at September 30	34	35	(1)
Number of rooms at January 1	9,659	10,011	(352)
Rooms in properties acquired	346	—	346
Rooms in properties disposed ⁽¹⁾	(193)	—	(193)
Number of rooms at September 30	9,812	10,011	(199)

	Three Months Ended September 30,			Increase	Nine Months Ended September 30,			Increase
	2022	2021			2022	2021		
Total Portfolio Statistics:								
Occupancy ⁽²⁾	63.4 %	53.7 %	970 bps		63.0 %	45.2 %	1,780 bps	
ADR ⁽²⁾	\$ 249.02	\$ 221.91	12.2 %		\$ 258.05	\$ 211.13	22.2 %	
RevPAR ⁽²⁾	\$ 157.91	\$ 119.17	32.5 %		\$ 162.69	\$ 95.35	70.6 %	

(1) During the nine months ended September 30, 2022, the Company disposed of one hotel with 191 rooms and reduced the room count by two at Hyatt Regency Scottsdale Resort & Spa at Gainey Ranch.

(2) For hotels acquired during the applicable period, includes operating statistics since the date of acquisition. For hotels disposed of during the period, operating results and statistics are included through the date of the respective disposition. The nine months ended September 30, 2021 includes hotels that had suspended operations for a portion of the period presented.

Revenues

Revenues consists of rooms, food and beverage, and other revenues from our hotels, as follows (in thousands):

	Three Months Ended September 30,				Nine Months Ended September 30,			
	2022	2021	Increase	% Change	2022	2021	Increase	% Change
Revenues:								
Rooms revenues	\$ 142,604	\$ 109,753	\$ 32,851	29.9 %	\$ 431,382	\$ 260,594	\$ 170,788	65.5 %
Food and beverage revenues	76,153	44,004	32,149	73.1 %	240,669	105,739	134,930	127.6 %
Other revenues	21,911	19,027	2,884	15.2 %	62,415	46,277	16,138	34.9 %
Total revenues	\$ 240,668	\$ 172,784	\$ 67,884	39.3 %	\$ 734,466	\$ 412,610	\$ 321,856	78.0 %

Rooms revenues

Rooms revenues increased by \$32.9 million, or 29.9%, to \$142.6 million for the three months ended September 30, 2022 from \$109.8 million for the three months ended September 30, 2021 primarily due to increases in occupancy and ADR due to the ongoing recovery from the COVID-19 pandemic. Additionally, the acquisition of W Nashville in March 2022 contributed to the increase in rooms revenue by \$7.1 million. The increase is net of a reduction of \$4.0 million attributed to the sale of Marriott Charleston Town Center in November 2021 and Kimpton Hotel Monaco Chicago in January 2022 (collectively, "the hotels sold in November

Rooms revenues increased by \$170.8 million, or 65.5%, to \$431.4 million for the nine months ended September 30, 2022 from \$260.6 million for the nine months ended September 30, 2021 primarily due to increases in occupancy and ADR due to the ongoing recovery from the COVID-19 pandemic. Additionally, the acquisition of W Nashville in March 2022 contributed to the increase in rooms revenue by \$16.2 million. This increase is net of a reduction of \$8.1 million attributed to the hotels sold in November 2021 and January 2022.

Food and beverage revenues

Food and beverage revenues increased by \$32.1 million, or 73.1%, to \$76.2 million for the three months ended September 30, 2022 from \$44.0 million for the three months ended September 30, 2021 primarily due to increases in occupancy due to the ongoing recovery from the COVID-19 pandemic. Additionally, the acquisition of W Nashville in March 2022 contributed to the increase in food and beverage revenue by \$5.7 million. This increase is net of a reduction of \$1.1 million attributed to the hotels sold in November 2021 and January 2022.

Food and beverage revenues increased by \$134.9 million, or 127.6%, to \$240.7 million for the nine months ended September 30, 2022 from \$105.7 million for the nine months ended September 30, 2021 primarily due to increases in occupancy due to the ongoing recovery from the COVID-19 pandemic. Additionally, the acquisition of W Nashville in March 2022 contributed to the increase in food and beverage revenue by \$12.8 million. This increase is net of a reduction of \$1.9 million in food and beverage revenues attributed to the hotels sold in November 2021 and January 2022.

Other revenues

Other revenues increased by \$2.9 million, or 15.2%, to \$21.9 million for the three months ended September 30, 2022 from \$19.0 million for the three months ended September 30, 2021 primarily due to the ongoing recovery from the COVID-19 pandemic. This increase includes \$1.0 million in additional revenues from attrition as well as \$0.8 million attributed to the acquisition of W Nashville in March 2022. These increases are net of a reduction of \$0.3 million attributed to the hotels sold in November 2021 and January 2022.

Other revenues increased by \$16.1 million, or 34.9%, to \$62.4 million for the nine months ended September 30, 2022 from \$46.3 million for the nine months ended September 30, 2021 primarily due to the ongoing recovery from the COVID-19 pandemic. This increase includes \$6.0 million in additional revenues from cancellations and attrition as well as \$1.4 million attributed to the acquisition of W Nashville in March 2022. These increases are net of a reduction of \$0.7 million attributed to the hotels sold in November 2021 and January 2022.

Hotel Operating Expenses

Hotel operating expenses consist of the following (in thousands):

	Three Months Ended September 30,				Nine Months Ended September 30,			
	2022	2021	Increase	% Change	2022	2021	Increase	% Change
Hotel operating expenses:								
Rooms expenses	\$ 36,163	\$ 27,099	\$ 9,064	33.4 %	\$ 101,803	\$ 65,024	\$ 36,779	56.6 %
Food and beverage expenses	55,888	33,764	22,124	65.5 %	161,796	80,534	81,262	100.9 %
Other direct expenses	6,155	5,059	1,096	21.7 %	17,815	12,993	4,822	37.1 %
Other indirect expenses	64,590	50,902	13,688	26.9 %	181,509	132,276	49,233	37.2 %
Management and franchise fees	9,083	6,025	3,058	50.8 %	27,758	15,009	12,749	84.9 %
Total hotel operating expenses	\$ 171,879	\$ 122,849	\$ 49,030	39.9 %	\$ 490,681	\$ 305,836	\$ 184,845	60.4 %

Total hotel operating expenses

In general, hotel operating costs fluctuate based on various factors, including occupancy, labor costs, utilities and insurance costs. Luxury and upper upscale hotels generally have higher fixed costs than other types of hotels due to the level of services and amenities provided to guests.

Total hotel operating expenses increased \$49.0 million, or 39.9%, to \$171.9 million for the three months ended September 30, 2022 from \$122.8 million for the three months ended September 30, 2021 primarily due to increases in occupancy and other related operating costs due to the ongoing recovery from the COVID-19 pandemic. Additionally, W Nashville contributed to the increase in hotel operating expenses by \$10.0 million. The increase in total hotel operating expenses is net of a reduction of \$4.2 million attributed to the hotels sold in November 2021 and January 2022.

Total hotel operating expenses increased \$184.8 million, or 60.4%, to \$490.7 million for the nine months ended September 30, 2022 from \$305.8 million for the nine months ended September 30, 2021 primarily due to increases in occupancy and other related operating costs due to the ongoing recovery from the COVID-19 pandemic. Additionally, W Nashville contributed to the increase in hotel operating expenses by \$20.7 million. The increase in total hotel operating expenses is net of a reduction of \$9.5 million attributed to the hotels sold in November 2021 and January 2022.

Corporate and Other Expenses

Corporate and other expenses consist of the following (in thousands):

	Three Months Ended September 30,		Increase / (Decrease)	% Change	Nine Months Ended September 30,		Increase / (Decrease)	% Change
	2022	2021			2022	2021		
Depreciation and amortization	\$ 34,311	\$ 32,076	\$ 2,235	7.0 %	\$ 99,127	\$ 98,281	\$ 846	0.9 %
Real estate taxes, personal property taxes and insurance	11,228	9,731	1,497	15.4 %	33,452	31,268	2,184	7.0 %
Ground lease expense	685	405	280	69.1 %	2,035	1,187	848	71.4 %
General and administrative expenses	8,972	7,466	1,506	20.2 %	25,841	22,484	3,357	14.9 %
Gain on business interruption insurance	(2,487)	—	(2,487)	— %	(2,487)	(1,116)	(1,371)	(122.8) %
Impairment and other losses	—	1,759	(1,759)	(100.0) %	1,278	14,072	(12,794)	(90.9) %
Total corporate and other expenses	\$ 52,709	\$ 51,437	\$ 1,272	2.5 %	\$ 159,246	\$ 166,176	\$ (6,930)	(4.2) %

Depreciation and amortization

Depreciation and amortization expense increased \$2.2 million, or 7.0%, and \$0.8 million, or 0.9%, to \$34.3 million and \$99.1 million for the three and nine months ended September 30, 2022 from \$32.1 million and \$98.3 million for the three and nine months ended September 30, 2021. This increase was primarily attributed to the acquisition of W Nashville in March 2022, partially offset by reduction attributed to the timing of fully depreciated assets during the comparable periods and a reduction in depreciation expense related to the hotels sold in November 2021 and January 2022.

Real estate taxes, personal property taxes and insurance

Real estate taxes, personal property taxes and insurance expense increased \$1.5 million, or 15.4%, and \$2.2 million, or 7.0%, to \$11.2 million and \$33.5 million for the three and nine months ended September 30, 2022 from \$9.7 million and \$31.3 million for the three and nine months ended September 30, 2021. This year-to-date increase was primarily attributed to increases in insurance premiums of \$2.3 million, \$1.8 million attributed for the acquisition of W Nashville in March 2022 and a \$1.5 million non-recurring property tax refund received in 2021. These increases were partially offset by a \$2.0 million reduction in real estate taxes and a \$1.2 million reduction related to the hotels sold in November 2021 and January 2022.

Ground lease expense

Ground lease expense increased \$0.3 million, or 69.1%, and \$0.8 million, or 71.4%, to \$0.7 million and \$2.0 million for the three and nine months ended September 30, 2022 from \$0.4 million and \$1.2 million for the three and nine months ended September 30, 2021. The increase was primarily attributable to an increase in percentage rent in 2022, which is based on revenues at certain hotels with ground leases, compared to 2021.

General and administrative expenses

General and administrative expenses increased \$1.5 million, or 20.2% and \$3.4 million, or 14.9%, to \$9.0 million and \$25.8 million for the three and nine months ended September 30, 2022 from \$7.5 million and \$22.5 million for the three and nine months ended September 30, 2021 primarily due to increases in employee-related expenses.

Gain on business interruption insurance

Gain on business interruption insurance was \$2.5 million for the three and nine months ended September 30, 2022, which was attributed to \$1.5 million in insurance proceeds for a portion of lost income associated with cancellations at Loews New Orleans Hotel due to the impact of Hurricane Ida in August 2021 as well as \$1.0 million in proceeds for lost income associated with cancellations for properties in Texas due to the impact of the Texas winter storms in February 2021. Gain on business interruption insurance was \$1.1 million for the nine months ended September 30, 2021, which was attributed to insurance proceeds for a portion of lost revenue associated with cancellations related to the COVID-19 pandemic.

Impairment and other losses

In August 2021, Hurricane Ida impacted Loews New Orleans Hotel located in New Orleans, Louisiana. During the nine months ended September 30, 2022, the Company expensed additional hurricane-related repair and cleanup costs of \$1.3 million.

During the three and six months ended June 30, 2021, the Company concluded that it intended to sell the 352-room Marriott Charleston Town Center, in Charleston, West Virginia and began marketing the property. Based on multiple bids from qualified buyers and ongoing price discussions, the Company expected the hotel to be sold for a price that was less than its net book value. As a result, an impairment loss of approximately \$12.3 million was recorded for the three and six months ended June 30, 2021. The Company subsequently recorded an additional impairment loss of \$0.3 million for the three and nine months ended September 30, 2021 related to estimated closing costs. In addition, during the three and nine months ended September 30, 2021, the Company recorded an impairment loss of \$0.5 million related to Loews New Orleans Hotel which sustained damage from Hurricane Ida and expensed \$1.0 million of hurricane-related repair and cleanup costs.

Non-Operating Income and Expenses

Non-operating income and expenses consist of the following (in thousands):

	Three Months Ended September 30,				Nine Months Ended September 30,			
	2022	2021	Increase / (Decrease)	% Change	2022	2021	Increase / (Decrease)	% Change
Non-operating income and expenses:								
Other income (loss)	\$ 1,767	\$ 186	1,581	850.0 %	2,671	(2,503)	5,174	206.7 %
Interest expense	(20,583)	(21,358)	(775)	(3.6)%	(61,474)	(59,799)	1,675	2.8 %
Loss on extinguishment of debt	—	—	—	— %	(294)	(1,356)	1,062	78.3 %
Income tax benefit (expense)	1,029	(43)	1,072	2,493.0 %	(4,148)	(377)	(3,771)	(1,000.3)%

Other income (loss)

Other income increased \$1.6 million, or 850.0%, and \$5.2 million, or 206.7%, to \$1.8 million and \$2.7 million for the three and nine months ended September 30, 2022 from income of \$0.2 million and a loss of \$2.5 million for the three and nine months ended September 30, 2021. The increase was primarily attributed to a gain of \$1.0 million and \$3.6 million from insurance proceeds settlements in excess of recognized losses associated with hurricane-related damage at Loews New Orleans Hotel as well as increased interest income of \$0.6 million and \$0.8 million for the three and nine months ended September 30, 2022, respectively, offset by \$1.6 million of costs associated with the termination of two interest rate hedges for the nine months

ended September 30, 2022. Additionally, there were \$2.8 million of costs associated with the termination of four interest rate hedges for the nine months ended September 30, 2021.

Interest expense

Interest expense decreased \$0.8 million, or 3.6%, to \$20.6 million for the three months ended September 30, 2022 from \$21.4 million for the three months ended September 30, 2021. The decrease was primarily due to the payoff of one mortgage loan in January 2022, a reduction in interest payments to swap counterparties and a reduced spread on credit facility interest based on a pricing grid with the delivery of compliance certificates under the corporate credit facilities. This decrease was partially offset by rising interest rates on variable rate debt.

Interest expense increased \$1.7 million, or 2.8%, to \$61.5 million for the nine months ended September 30, 2022 from \$59.8 million for the nine months ended September 30, 2021. The increase was primarily due to an increase in the weighted-average interest rate, partially offset by a decrease in the outstanding debt as of September 30, 2022 compared to 2021. Refer to Note 5 in the accompanying condensed consolidated financial statements for further discussion.

Loss on extinguishment of debt

The loss on extinguishment of debt of \$0.3 million for the nine months ended September 30, 2022 was attributable to the write-off of unamortized debt issuance costs upon the early repayment of one mortgage loan. The loss on extinguishment of debt of \$1.4 million for the three and nine months ended September 30, 2021 was attributable to the write off of unamortized debt issuance costs upon the early repayment of the corporate credit facility term loan that was due to mature in August 2023 and one mortgage loan.

Income tax benefit (expense)

Income tax benefit increased \$1.1 million, or 2,493.0%, to \$1.0 million for the three months ended September 30, 2022 from income tax expense of \$43 thousand for the three months September 30, 2021 and income tax expense increased \$3.8 million, or 1,000.3%, to \$4.1 million for the nine months ended September 30, 2022 from \$0.4 million for the nine months ended September 30, 2021. The increase from prior year was primarily attributed to higher projected taxable income related to the recovery from the COVID-19 pandemic and the acquisition of W Nashville in March 2022 coupled with an increase in the effective tax rate for the first three quarters of 2022 compared to 2021. These increases were partially offset by the use of federal and state net operating loss carryforwards.

Liquidity and Capital Resources

We expect to meet our short-term liquidity requirements from cash on hand, cash flow from hotel operations, use of our unencumbered asset base, asset dispositions, borrowings under our revolving credit facility, and proceeds from various capital market transactions, including issuances of debt and equity securities. The objectives of our cash management policy are to maintain the availability of liquidity and minimize operational costs.

On a long-term basis, our objectives are to maximize revenue and profits generated by our existing properties and acquired hotels, to further enhance the value of our portfolio and produce an attractive current yield, as well as to generate sustainable and predictable cash flow from our operations to distribute to our common stock and unit holders. We believe successful improvements to the performance of our portfolio will result in increased operating cash flows over time. Additionally, we may meet our long-term liquidity requirements through additional borrowings, the issuance of equity and debt securities, which may not be available on advantageous terms or at all, and/or proceeds from the sales of hotels.

In 2017, the U.K. Financial Conduct Authority (“FCA”) announced that it intends to phase out LIBOR, and in 2021, it announced that all LIBOR settings will either cease to be provided by any administrator or no longer be representative immediately after December 31, 2021, in the case of 1 week and 2 month USD settings, and immediately after June 30, 2023, in the case of the remaining USD settings. The U.S. Federal Reserve (the “Federal Reserve”) has also advised banks to cease entering into new contracts that use USD LIBOR as a reference rate. The Alternative Reference Rate Committee, a committee convened by the Federal Reserve that includes major market participants, identified the Secured Overnight Financing Rate (“SOFR”), a new index calculated by short-term repurchase agreements, backed by U.S. Treasury securities, as its preferred alternative rate for LIBOR in the U.S. Any changes in the methods by which LIBOR is determined or regulatory activity related to LIBOR’s phaseout could cause LIBOR to perform differently than in the past or cease to exist. The consequences of these developments cannot be entirely predicted, but could have an uncertain impact on our cost of funds, our receipts or payments under agreements that rely on LIBOR, and the valuation of derivative or other contracts to which we are a party, any of which could impact our results of operations and cash flows. We are currently monitoring and evaluating the related risks in connection with transitioning contracts to SOFR or a new alternative rate, including resulting value transfer that may occur.

Liquidity

As of September 30, 2022, we had \$259.9 million of consolidated cash and cash equivalents and \$50.8 million of restricted cash and escrows. The restricted cash as of September 30, 2022 primarily consisted of \$42.7 million related to FF&E reserves as required per the terms of our management and franchise agreements, cash held in restricted escrows of \$4.7 million primarily for real estate taxes and mortgage escrows and \$3.4 million in deposits made for capital projects.

As of September 30, 2022, there was no outstanding balance on our revolving credit facility and the full \$450 million is available to be borrowed. Proceeds from future borrowings may be used for working capital, general corporate or other purposes permitted by the amended revolving credit agreement.

In May 2021, we upsized the ATM Agreement and, as a result, we had \$200 million available for sale under the ATM Agreement as of September 30, 2022. The terms of the amended revolving credit facility imposed restrictions on the use of proceeds raised from equity issuances, however those restrictions expired as a result of the Company exiting the covenant waiver period with the delivery of the compliance certificates under the corporate credit facilities for the fiscal quarter ending June 30, 2022.

We remain committed to increasing total shareholder returns through the following priorities: (1) maximize revenue and profits generated by our existing properties and acquired hotels, including the continued focused management of expenses, (2) further enhance the value of our portfolio and produce an attractive current yield and (3) generate sustainable and predictable cash flow from our operations to distribute to our common stock and unit holders. Future determinations regarding the declaration and payment of dividends will be at the discretion of our Board of Directors and will depend on then-existing conditions, including our results of operations, payout ratio, capital requirements, financial condition, prospects, contractual arrangements, any limitations on payment of dividends present in our current and future debt agreements, maintaining our REIT status and other factors that our Board of Directors may deem relevant.

Debt and Loan Covenants

As of September 30, 2022, our outstanding total debt was \$1.4 billion and had a weighted-average interest rate of 5.28%.

Mortgage Loans

In January 2022, we repaid in full the \$65.0 million outstanding balance on the mortgage loan collateralized by The Ritz-Carlton, Pentagon City. Our mortgage loan agreements require contributions to be made to FF&E reserves. In addition, certain quarterly financial covenants were waived for a period of time specified in the respective amended loan agreements and certain financial covenants have been adjusted following the waiver periods.

Corporate Credit Facilities

Certain financial covenants related to our amended corporate credit facilities were suspended until the date that the compliance certificates demonstrating compliance with the financial covenants thereunder for the fiscal quarter ending June 30, 2022 were delivered (such period, the "covenant waiver period"). Certain financial covenants that were suspended during the covenant waiver period resumed quarterly testing beginning with the fiscal quarter ending June 30, 2022 but remain at modified covenant levels through the second quarter in 2023 (such period, unless earlier terminated by the Operating Partnership in accordance with the terms of the amended corporate credit facilities, the "permitted variations period"). In addition, the amended corporate credit facilities had certain restrictions and covenants which were applicable during the covenant waiver period, including (i) mandatory prepayment requirements, (ii) affirmative covenants related to the pledge of equity of certain subsidiaries and (iii) negative covenants restricting certain acquisitions, investments, capital expenditures, ground leases and distributions. A minimum liquidity covenant also applied during the covenant waiver period.

We determined that we met our modified financial covenants for the quarter ended June 30, 2022 and delivered the compliance certificates demonstrating such compliance under the amended corporate credit facilities and, as a result, are no longer subject to the additional restrictions and covenants that applied during the covenant waiver period, other than in respect of certain restrictions and covenants related to the pledge of equity of certain subsidiaries which remain applicable until after the end of the permitted variations period.

Senior Notes

The indentures governing the Senior Notes contain customary covenants that limit the Operating Partnership's ability and, in certain circumstances, the ability of its subsidiaries, to borrow money, create liens on assets, make distributions and pay dividends, redeem or repurchase stock, make certain types of investments, sell stock in certain subsidiaries, enter into agreements that restrict dividends or other payments from subsidiaries, enter into transactions with affiliates, issue guarantees of

indebtedness and sell assets or merge with other companies. These limitations are subject to a number of important exceptions and qualifications set forth in the indentures.

Debt Covenants

As of September 30, 2022, we were not in compliance with its debt covenants on one mortgage loan which did not result in an event of default but allows the lender the option to institute a cash sweep until covenant compliance is achieved for a period of time specified in the loan agreement. The cash sweep permits the lender to withdraw excess cash generated by the property into a separate bank account that they control, which may be used to reduce the outstanding loan balance.

Derivatives

As of September 30, 2022, we had four interest rate swaps with an aggregate notional amount of \$125.0 million. These swaps fix a portion of the variable interest rate on two of our mortgage loans for a portion of the term of each respective mortgage loan. Our remaining interest rate swaps expired in October 2022 which increases our exposure to rising interest rates. In addition, two interest rate swaps were terminated in January 2022 in connection with the repayment of a \$65.0 million mortgage loan.

Capital Markets

We maintain an established "At-the-Market" ("ATM") program pursuant to an Equity Distribution Agreement ("ATM Agreement") with Wells Fargo Securities, LLC, Robert W. Baird & Co. Incorporated, Jefferies LLC, KeyBanc Capital Markets Inc. and Raymond James & Associates, Inc. In accordance with the terms of the ATM Agreement, which was amended and upsized in May 2021, we may from time to time offer and sell shares of our common stock having an aggregate offering price up to \$200 million. No shares were sold under the ATM Agreement during the three and nine months ended September 30, 2022 and, as of September 30, 2022, \$200 million of common stock remained available for issuance.

Our Board of Directors has authorized a stock repurchase program pursuant to which we are authorized to purchase up to \$175 million of our outstanding common stock in the open market, in privately negotiated transactions or otherwise, including pursuant to Rule 10b5-1 plans (the "Repurchase Program"). The Repurchase Program does not have an expiration date. This Repurchase Program may be suspended or discontinued at any time and does not obligate us to acquire any particular amount of shares. During the three and nine months ended September 30, 2022, 120,978 shares were repurchased under the Repurchase Program, at a weighted-average price of \$15.52 per share for an aggregate purchase price of \$1.9 million. No shares were purchased as part of the Repurchase Program during the nine months ended September 30, 2021. As of September 30, 2022, we had approximately \$92.8 million remaining under our share repurchase authorization.

The terms of our amended corporate credit facilities prohibited us from making repurchases of our common stock until we achieved compliance with applicable debt covenants, however, these restrictions expired as a result of our exit from the covenant waiver period with the delivery of the compliance certificates under the corporate credit facilities for the fiscal quarter ending June 30, 2022.

Capital Expenditures and Reserve Funds

We maintain each of our properties in good repair and condition and in conformity with applicable laws and regulations, franchise agreements and management agreements. Routine capital expenditures are administered by the hotel management companies. However, we have approval rights over the capital expenditures as part of the annual budget process for each of our properties. From time to time, certain of our hotels may undergo renovations as a result of our decision to expand or upgrade portions of the hotels, such as guest rooms, public space, meeting space and/or restaurants, in order to better compete with other hotels in our markets. In addition, upon the acquisition of a hotel we may be required to complete a property improvement plan in order to bring the hotel into compliance with the respective brand standards. If permitted by the terms of the management agreement, funding for a renovation will first come from the FF&E reserves. We are obligated to maintain reserve funds with respect to certain agreements with our hotel management companies, franchisors and lenders to provide funds, generally 3% to 5% of hotel revenues, sufficient to cover the cost of certain capital improvements to the hotels and to periodically replace and update furniture, fixtures and equipment. Certain of the agreements require that we reserve this cash in separate accounts. To the extent that the FF&E reserves are not available or adequate to cover the cost of the renovation, we may fund a portion of the renovation with cash on hand, borrowings from our revolving credit facility and/or other sources of available liquidity. We have been, and will continue to be, prudent with respect to our capital spending, taking into account our cash flows from operations.

As of September 30, 2022 and December 31, 2021, we had a total of \$42.7 million and \$29.3 million, respectively, of FF&E reserves. During the three and nine months ended September 30, 2022 we made total capital expenditures of \$18.8 million and \$40.7 million, respectively, and during the three and nine months ended September 30, 2021, we made total capital expenditures of \$7.3 million and \$19.2 million, respectively.

Off-Balance Sheet Arrangements

As of September 30, 2022, we had various contracts outstanding with third-parties in connection with the renovation of certain of our hotel properties. The remaining commitments under these contracts as of September 30, 2022 totaled \$10.7 million.

Sources and Uses of Cash

Our principal sources of cash are cash flows from operations, borrowing under debt financings, including draws on our revolving credit facility, and from various types of equity offerings or the sale of our hotels. As a result of the impact the COVID-19 pandemic has had on our business, along with rising rates of inflation and interest rates and implications of a potential recession and related market impacts, certain sources of capital may not be as readily available to us as they have been historically or may come at higher costs. Our principal uses of cash are asset acquisitions, capital investments, routine debt service and debt repayments, operating costs, corporate expenses and dividends. We may also elect to use cash to buy back our common stock in the future under the Repurchase Program.

Comparison of the Nine Months Ended September 30, 2022 to the Nine Months Ended September 30, 2021

The table below presents summary cash flow information for the condensed consolidated statements of cash flows (in thousands):

	Nine Months Ended September 30,	
	2022	2021
Net cash provided by operating activities	\$ 157,894	\$ 29,353
Net cash used in investing activities	(330,937)	(16,626)
Net cash (used in) provided by financing activities	(70,515)	110,451
Net (decrease) increase in cash and cash equivalents and restricted cash	\$ (243,558)	\$ 123,178
Cash and cash equivalents and restricted cash, at beginning of period	554,231	428,786
Cash and cash equivalents and restricted cash, at end of period	\$ 310,673	\$ 551,964

Operating

- Cash provided by operating activities was \$157.9 million and \$29.4 million for the nine months ended September 30, 2022 and 2021, respectively. Cash flows from operating activities generally consist of the net cash generated by our hotel operations, partially offset by the cash paid for interest, corporate expenses and other working capital changes. Our cash flows from operating activities may also be affected by changes in our portfolio resulting from hotel acquisitions, dispositions or renovations. The net increase in cash from operating activities during the nine months ended September 30, 2022 was primarily due to an increase in hotel operating income attributed to a recovery from the impact of the COVID-19 pandemic and the acquisition of W Nashville in March 2022, net of reductions from the hotels sold in November 2021 and January 2022. Refer to the "Results of Operations" section for further discussion of our operating results for the three and nine months ended September 30, 2022 and 2021.

Investing

- Cash used in investing activities was \$330.9 million and \$16.6 million for the nine months ended September 30, 2022 and 2021, respectively. Cash used in investing activities for the nine months ended September 30, 2022 was attributed to \$328.5 million for the acquisition of W Nashville and \$40.7 million in capital improvements at our hotel properties, which was partially offset by net proceeds of \$32.8 million from the disposition of Kimpton Hotel Monaco Chicago, \$3.7 million of proceeds from property insurance and \$1.7 million of performance guaranty payments received that were recorded as a reduction in the respective hotel's cost basis. Cash used in investing activities for the nine months ended September 30, 2021 was attributed to \$19.2 million in capital improvements at our hotel properties, which was partially offset by \$2.5 million of performance guaranty payments received that were recorded as a reduction in the respective hotel's cost basis.

Financing

- Cash used in financing activities was \$70.5 million and cash provided by financing activities was \$110.5 million for the nine months ended September 30, 2022 and 2021, respectively. Cash used in financing activities for the nine months ended September 30, 2022 was attributed the repayment of mortgage debt totaling \$65.0 million, principal payments of mortgage debt totaling \$3.1 million, the repurchase of common stock totaling \$1.9 million and shares redeemed to satisfy tax withholding on vested share-based compensation of \$0.5 million. Cash provided by financing activities for the nine months ended September 30, 2021 was primarily attributed \$500.0 million in proceeds from the

issuance of the 2021 Senior Notes, offset by the repayment of the revolving credit facility of \$163.1 million, the repayment of one corporate credit facility term loan totaling \$150.0 million, the repayment of mortgage debt totaling \$56.8 million, payment of loan fees and issuance costs of \$10.2 million, principal payments of mortgage debt totaling \$4.9 million, redemption of Operating Partnership Units for common stock and cash of \$4.1 million, and shares redeemed to satisfy tax withholding on vested share-based compensation of \$0.4 million.

Non-GAAP Financial Measures

We consider the following non-GAAP financial measures to be useful to investors as key supplemental measures of our operating performance: EBITDA, EBITDAre, Adjusted EBITDAre, FFO and Adjusted FFO. These non-GAAP financial measures should be considered along with, but not as alternatives to, net income or loss, operating profit, cash from operations, or any other operating performance measure as prescribed per GAAP.

EBITDA, EBITDAre and Adjusted EBITDAre

EBITDA is a commonly used measure of performance in many industries and is defined as net income or loss (calculated in accordance with GAAP) excluding interest expense, provision for income taxes (including income taxes applicable to sale of assets) and depreciation and amortization. We consider EBITDA useful to investors in evaluating and facilitating comparisons of our operating performance between periods and between REITs by removing the impact of our capital structure (primarily interest expense) and asset base (primarily depreciation and amortization) from our operating results, even though EBITDA does not represent an amount that accrues directly to common stockholders. In addition, EBITDA is used as one measure in determining the value of hotel acquisitions and dispositions and, along with FFO and Adjusted FFO, is used by management in the annual budget process for compensation programs.

We calculate EBITDAre in accordance with standards established by the National Association of Real Estate Investment Trusts ("Nareit"). Nareit defines EBITDAre as EBITDA plus or minus losses and gains on the disposition of depreciated property, including gains or losses on change of control, plus impairments of depreciated property and of investments in unconsolidated affiliates caused by a decrease in the value of depreciated property in the affiliate, and adjustments to reflect the entity's share of EBITDAre of unconsolidated affiliates.

We further adjust EBITDAre to exclude the impact of non-controlling interests in consolidated entities other than our Operating Partnership Units because our Operating Partnership Units may be redeemed for common stock. We also adjust EBITDAre for certain additional items such as depreciation and amortization related to corporate assets, hotel property acquisition, terminated transaction and pre-opening expenses, amortization of share-based compensation, non-cash ground rent and straight-line rent expense, the cumulative effect of changes in accounting principles, and other costs we believe do not represent recurring operations and are not indicative of the performance of our underlying hotel property entities. We believe it is meaningful for investors to understand Adjusted EBITDAre attributable to all common stock and unit holders. We believe Adjusted EBITDAre attributable to common stock and unit holders provides investors with another useful financial measure in evaluating and facilitating comparison of operating performance between periods and between REITs that report similar measures.

FFO and Adjusted FFO

We calculate FFO in accordance with standards established by Nareit, as amended in the December 2018 restatement white paper, which defines FFO as net income or loss (calculated in accordance with GAAP), excluding real estate-related depreciation, amortization and impairments, gains or losses from sales of real estate, the cumulative effect of changes in accounting principles, similar adjustments for unconsolidated partnerships and consolidated variable interest entities, and items classified by GAAP as extraordinary. Historical cost accounting for real estate assets implicitly assumes that the value of real estate assets diminishes predictably over time. Since real estate values instead have historically risen or fallen with market conditions, most industry investors consider presentations of operating results for real estate companies that use historical cost accounting to be insufficient by themselves. We believe that the presentation of FFO provides useful supplemental information to investors regarding operating performance by excluding the effect of real estate depreciation and amortization, gains or losses from sales for real estate, impairments of real estate assets, extraordinary items and the portion of these items related to unconsolidated entities, all of which are based on historical cost accounting and which may be of lesser significance in evaluating current performance. We believe that the presentation of FFO can facilitate comparisons of operating performance between periods and between REITs, even though FFO does not represent an amount that accrues directly to common stockholders. Our calculation of FFO may not be comparable to measures calculated by other companies who do not use the Nareit definition of FFO or do not calculate FFO per diluted share in accordance with Nareit guidance. Additionally, FFO may not be helpful when comparing us to non-REITs. We present FFO attributable to common stock and unit holders, which includes our Operating Partnership Units because our Operating Partnership Units may be redeemed for common stock. We believe it is meaningful for the investor to understand FFO attributable to common stock and unit holders.

We further adjust FFO for certain additional items that are not in Nareit's definition of FFO such as hotel property acquisition, terminated transaction and pre-opening expenses, amortization of debt origination costs and share-based compensation, non-cash ground rent and straight-line rent expense, and other items we believe do not represent recurring operations. We believe that Adjusted FFO provides investors with useful supplemental information that may facilitate comparisons of ongoing operating performance between periods and between REITs that make similar adjustments to FFO and is beneficial to investors' complete understanding of our operating performance.

The following is a reconciliation of net income (loss) to EBITDA, EBITDAre and Adjusted EBITDAre attributable to common stock and unit holders for the three and nine months ended September 30, 2022 and 2021 (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2022	2021	2022	2021
Net income (loss)	\$ (1,707)	\$ (22,717)	\$ 21,294	\$ (123,437)
Adjustments:				
Interest expense	20,583	21,358	61,474	59,799
Income tax expense (benefit)	(1,029)	43	4,148	377
Depreciation and amortization	34,311	32,076	99,127	98,281
EBITDA	\$ 52,158	\$ 30,760	\$ 186,043	\$ 35,020
Impairment of investment properties ⁽¹⁾	—	759	—	13,072
EBITDAre	\$ 52,158	\$ 31,519	\$ 186,043	\$ 48,092
Reconciliation to Adjusted EBITDAre				
Depreciation and amortization related to corporate assets	\$ (105)	\$ (104)	\$ (311)	\$ (306)
Gain on insurance recoveries ⁽²⁾	(1,037)	—	(3,550)	—
Loss on extinguishment of debt	—	—	294	1,356
Amortization of share-based compensation expense	2,813	2,875	8,598	8,813
Non-cash ground rent and straight-line rent expense	3	33	35	84
Other non-recurring expenses ⁽³⁾	4	1,068	1,296	1,092
Adjusted EBITDAre attributable to common stock and unit holders	<u>\$ 53,836</u>	<u>\$ 35,391</u>	<u>\$ 192,405</u>	<u>\$ 59,131</u>

(1) During the three and nine months ended September 30, 2021, the Company recorded a \$0.3 million and \$12.6 million impairment loss, respectively, related to Marriott Charleston Town Center, which was attributed to its net book value exceeding the undiscounted cash flows over a shortened hold period. Additionally, during the third quarter of 2021, Loews New Orleans Hotel was impacted by Hurricane Ida and the Company recorded an impairment loss of \$0.5 million, which represents the write off of the net book value of property damaged during the storm.

(2) During the three and nine months ended September 30, 2022, the Company recorded \$1.0 million and \$3.6 million, respectively, of insurance proceeds in excess of recognized losses related to damage sustained at Loews New Orleans Hotel during Hurricane Ida in August 2021. These gains on insurance recovery are included in other income (loss) on the condensed consolidated statement of operations and comprehensive income (loss) for the periods then ended.

(3) During the nine months ended September 30, 2022, the Company recorded hurricane-related repair and cleanup costs of \$1.3 million and during the three and nine months ended September 30, 2021, the Company recorded estimated hurricane-related repair and cleanup costs of \$1.0 million. These amounts are included in impairment and other losses on the condensed consolidated statement of operations and comprehensive income (loss) for the period then ended.

The following is a reconciliation of net income (loss) to FFO and Adjusted FFO attributable to common stock and unit holders for the three and nine months ended September 30, 2022 and 2021 (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2022	2021	2022	2021
Net income (loss)	\$ (1,707)	\$ (22,717)	\$ 21,294	\$ (123,437)
Adjustments:				
Depreciation and amortization related to investment properties	34,206	31,972	98,816	97,975
Impairment of investment properties ⁽¹⁾	—	759	—	13,072
FFO attributable to common stock and unit holders	\$ 32,499	\$ 10,014	\$ 120,110	\$ (12,390)
Reconciliation to Adjusted FFO				
Gain on insurance recoveries ⁽²⁾	\$ (1,037)	\$ —	\$ (3,550)	\$ —
Loss on extinguishment of debt	—	—	294	1,356
Loan related costs, net of adjustment related to non-controlling interests ⁽³⁾	1,308	1,291	3,925	4,615
Amortization of share-based compensation expense	2,813	2,875	8,598	8,813
Non-cash ground rent and straight-line rent expense	3	33	35	84
Other non-recurring expenses ⁽⁴⁾	4	1,068	1,296	1,092
Adjusted FFO attributable to common stock and unit holders	\$ 35,590	\$ 15,281	\$ 130,708	\$ 3,570

- (1) During the three and nine months ended September 30, 2021, the Company recorded a \$0.3 million and \$12.6 million impairment loss, respectively, related to Marriott Charleston Town Center, which was attributed to its net book value exceeding the undiscounted cash flows over a shortened hold period. Additionally, during the third quarter of 2021, Loews New Orleans Hotel was impacted by Hurricane Ida and the Company recorded an impairment loss of \$0.5 million, which represents the write off of the net book value of property damaged during the storm.
- (2) During the three and nine months ended September 30, 2022, the Company recorded \$1.0 million and \$3.6 million, respectively, of insurance proceeds in excess of recognized losses related to damage sustained at Loews New Orleans Hotel during Hurricane Ida in August 2021. These gains on insurance recovery are included in other income (loss) on the condensed consolidated statement of operations and comprehensive income (loss) for the periods then ended.
- (3) Loan related costs include amortization of debt premiums, discounts and deferred loan origination costs.
- (4) During the nine months ended September 30, 2022, the Company recorded hurricane-related repair and cleanup costs of \$1.3 million and during the three and nine months ended September 30, 2021, the Company recorded estimated hurricane-related repair and cleanup costs of \$1.0 million. These amounts are included in impairment and other losses on the condensed consolidated statement of operations and comprehensive income (loss) for the period then ended.

Use and Limitations of Non-GAAP Financial Measures

EBITDA, EBITDAre, Adjusted EBITDAre, FFO, and Adjusted FFO do not represent cash generated from operating activities under GAAP and should not be considered as alternatives to net income or loss, operating profit, cash flows from operations or any other operating performance measure prescribed by GAAP. Although we present and use EBITDA, EBITDAre, Adjusted EBITDAre, FFO and Adjusted FFO because we believe they are useful to investors in evaluating and facilitating comparisons of our operating performance between periods and between REITs that report similar measures, the use of these non-GAAP measures has certain limitations as analytical tools. These non-GAAP financial measures are not measures of our liquidity, nor are they indicative of funds available to meet our cash needs, including our ability to fund capital expenditures, contractual commitments, working capital, service debt or make cash distributions. These measurements do not reflect cash expenditures for long-term assets and other items that we have incurred and will incur. These non-GAAP financial measures may include funds that may not be available for discretionary use due to functional requirements to conserve funds for capital expenditures, property acquisitions, and other commitments and uncertainties. These non-GAAP financial measures as presented may not be comparable to non-GAAP financial measures as calculated by other real estate companies.

We compensate for these limitations by separately considering the impact of the excluded items to the extent they are material to operating decisions or assessments of our operating performance. Our reconciliations to the most comparable GAAP financial measures, and our condensed consolidated statements of operations and comprehensive income (loss), include interest expense, and other excluded items, all of which should be considered when evaluating our performance, as well as the usefulness of our non-GAAP financial measures. These non-GAAP financial measures reflect additional ways of viewing our operations that we believe, when viewed with our GAAP results and the reconciliations to the corresponding GAAP financial measures, provide a more complete understanding of factors and trends affecting our business than could be obtained absent this disclosure. We strongly encourage investors to review our financial information in its entirety and not to rely on a single financial measure.

Critical Accounting Policies and Estimates

The preparation of financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amount of assets and liabilities at the date of our financial statements and the reported amounts of revenues and expenses during the reporting period. Actual amounts may differ significantly from these estimates and assumptions. We evaluate our estimates, assumptions and judgments to confirm that they are reasonable and appropriate on an ongoing basis, based on information that is then available to us as well as our experience relating to various matters. All of our significant accounting policies, including certain critical accounting policies, are disclosed in our Annual Report on Form 10-K for the year ended December 31, 2021 and Note 2 in the accompanying condensed consolidated financial statements included herein.

Seasonality

Demand in the lodging industry is affected by recurring seasonal patterns, which are greatly influenced by overall economic cycles, the geographic locations of the hotels and the customer mix at the hotels. The impact of the COVID-19 pandemic has and may continue to disrupt our historical seasonal patterns.

New Accounting Pronouncements Not Yet Implemented

See Note 2 in the accompanying condensed consolidated financial statements included herein for additional information related to recently issued accounting pronouncements.

Item 3. Quantitative and Qualitative Disclosures About Market Risk

We are subject to market risk associated with changes in interest rates both in terms of variable rate debt and the price of new fixed rate debt upon maturity of existing debt and for acquisitions. Our exposure to market risk has not materially changed from what we previously disclosed in our Annual Report on Form 10-K for the year ended December 31, 2021.

Our interest rate risk management objectives are to limit the impact of interest rate changes on earnings and cash flows and to lower our overall borrowing costs. If market rates of interest on all of our variable rate debt as of September 30, 2022 permanently increased or decreased by 1%, the increase or decrease in interest expense on our variable rate debt would decrease or increase future earnings and cash flows by approximately \$1.5 million per annum. If market rates of interest on all of our variable rate debt as of December 31, 2021 permanently increased or decreased by 1%, the increase or decrease in interest expense on our variable rate debt would decrease or increase future earnings and cash flows by approximately \$0.3 million per annum.

With regard to our variable rate financing, we assess interest rate cash flow risk by continually identifying and monitoring changes in interest rate exposures that may adversely impact expected future cash flows and by evaluating hedging opportunities. We maintain risk management control systems to monitor interest rate cash flow risk attributable to both of our outstanding or forecasted debt obligations as well as our potential offsetting hedge positions. The risk management control systems involve the use of analytical techniques, including cash flow sensitivity analysis, to estimate the expected impact of changes in interest rates on our future cash flows.

We monitor interest rate risk using a variety of techniques, including periodically evaluating fixed interest rate quotes on all variable rate debt and the costs associated with converting to fixed rate debt. Also, existing fixed and variable rate loans that are scheduled to mature in the next two years are evaluated for possible early refinancing or extension due to consideration given to current interest rates. We have taken steps to reduce our variable rate debt exposure by paying off property-level mortgage debt and entering into various interest rate swap agreements to hedge the interest rate exposure risk related to several variable rate loans. Our interest rate swaps expired in October 2022 which increases our exposure to rising interest rates. Refer to Note 5 in the accompanying condensed consolidated financial statements included herein, for our debt principal amounts and weighted-average interest rates by year and expected maturity to evaluate the expected cash flows and sensitivity to interest rate changes. Refer to Note 6 in the accompanying condensed consolidated financial statements for more information on our interest rate swap derivatives.

We may use derivative instruments to hedge exposures to changes in interest rates on loans secured by our properties. To the extent we do, we are exposed to credit risk and market risk. Credit risk is the failure of the counterparty to perform under the terms of the derivative contract. We maintain credit policies with regard to our counterparties that we believe reduce overall credit risk. These policies include evaluating and monitoring our counterparties' financial condition, including their credit ratings, and entering into agreements with counterparties based on established credit limit policies. Market risk is the adverse effect on the value of a financial instrument that results from a change in interest rates. The market risk associated with interest rate contracts is managed by establishing and monitoring parameters that limit the types and degree of market risk that may be undertaken.

The following table provides information about our financial instruments that are sensitive to changes in interest rates. For debt obligations outstanding as of September 30, 2022, the following table presents principal repayments and related weighted-average interest rates by contractual maturity dates (in thousands):

	2022	2023	2024	2025	2026	Thereafter	Total	Fair Value
Maturing debt⁽¹⁾:								
Fixed rate debt ⁽²⁾	\$ 1,086	\$ 4,457	\$ 126,795	\$ 503,512	\$ 54,380	\$ 601,386	\$ 1,291,616	\$ 1,176,754
Variable rate debt	270	1,080	153,480	—	—	—	154,830	151,191
Total	\$ 1,356	\$ 5,537	\$ 280,275	\$ 503,512	\$ 54,380	\$ 601,386	\$ 1,446,446	\$ 1,327,945
Weighted-average interest rate on debt:								
Fixed rate debt ⁽²⁾	4.55%	4.55%	4.41%	6.36%	4.53%	4.83%	5.36%	6.08%
Variable rate debt	5.04%	5.04%	4.57%	—%	—%	—%	4.58%	7.07%

(1) Excludes net mortgage loan premiums, discounts and unamortized deferred loan costs. See Item 7A of our most recent Annual Report on Form 10-K and Note 5 in the accompanying condensed consolidated financial statements included herein.

(2) Includes all fixed rate debt and all variable rate debt that was swapped to fixed rates as of September 30, 2022.

Item 4. Controls and Procedures

Disclosure Controls and Procedures. As required by Rules 13a-15(b) and 15d-15(b) under the Exchange Act, our management, including our principal executive officer and our principal financial officer evaluated, as of the end of the period covered by this quarterly report, the effectiveness of our disclosure controls and procedures as defined in Rules 13a-15(e) and Rule 15d-15(e) of the Exchange Act. Based on that evaluation, our principal executive officer and our principal financial officer concluded that our disclosure controls and procedures, as of the end of the period covered by this quarterly report, were effective at a reasonable assurance level for the purpose of ensuring that information required to be disclosed by us in this quarterly report is recorded, processed, summarized and reported within the time periods specified by the rules and forms of the Exchange Act and is accumulated and communicated to management, including our principal executive officer and our principal financial officer as appropriate, to allow timely decisions regarding required disclosures.

Changes in Internal Control Over Financial Reporting. There has been no change in the Company's internal control over financial reporting during the Company's most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting.

Part II. OTHER INFORMATION

Item 1. Legal Proceedings

We are involved in various claims and lawsuits arising in the normal course of business, including proceedings involving tort and other general liability claims, related to our ownership of hotel properties. Most occurrences involving liability are covered by insurance with solvent insurance carriers. We recognize a liability when we believe a loss is probable and reasonably estimable. We currently believe that the ultimate outcome of any such lawsuits and proceedings will not, individually or in the aggregate, have a material effect on our consolidated financial position, results of operations, or liquidity.

Item 1A. Risk Factors

None.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds

None.

Issuer Purchases of Equity Securities

The following table sets forth information regarding the Company's purchases of shares of its common stock pursuant to its Share Repurchase Program during the period ended September 30, 2022:

Period	Total Number of Shares Purchased	Weighted- Average Price Paid Per Share	Total Numbers of Shares Purchased as Part of Publicly Announced Plans	Maximum Number (or Approximate Dollar Value) of Shares That May Yet Be Purchased Under the Program (in thousands)
July 1 to July 31, 2022	—	\$ —	—	\$ 94,657
August 1 to August 31, 2022	—	\$ —	—	\$ 94,657
September 1 to September 31, 2022	120,978	\$ 15.52	120,978	\$ 92,779
Total	<u>120,978</u>	<u>\$ 15.52</u>	<u>120,978</u>	

Item 3. Defaults Upon Senior Securities

None.

Item 4. Mine Safety Disclosures

Not applicable.

Item 5. Other Information

On and effective as of October 31, 2022, our Board of Directors adopted the Third Amended and Restated Bylaws (the "Bylaws") to, among other things:

- Enhance procedural mechanics and disclosure requirements in connection with stockholder nominations of directors made in connection with annual and special meetings of stockholders, including, without limitation, as follows:
 - Addressing matters relating to Rule 14a-19 under the Securities Exchange Act of 1934, as amended (the "Exchange Act") (e.g., by clarifying that (i) the Company will disregard any proxy authority granted in favor of (or voted in favor of) nominees submitted by stockholders if the stockholder does not comply with Rule 14a-19; and (ii) stockholders must also comply with the requirements to provide notices required under Rule 14a-19 in timely manner and deliver reasonable evidence Rule 14a-19 requirements have been met);
 - Requiring proposed nominees to provide certain certifications to the Company, including that the proposed nominee agrees to serve on the Board if elected and will notify that Company if the proposed nominee becomes unwilling or unable to serve; and
 - Prohibiting a stockholder from nominating more individuals than there are directors to be elected and prohibiting the substitution or replacement of a proposed nominee following the expiration of the applicable deadline
- Make various other updates to the provisions governing stockholder meetings.

The foregoing summary of the Bylaws does not purport to be complete and is qualified in its entirety by reference to the full text of the Bylaws, as amended, a copy of which is filed as Exhibit 3.6 to this Quarterly Report on Form 10-Q and incorporated herein by reference.

Item 6. Exhibits

Exhibit Number	Exhibit Description
<u>2.1</u>	Purchase and Sale Agreement dated as of February 25, 2022, among Nashville Gulch Hotel LLC and XHR Acquisitions, LLC (incorporated by reference to Exhibit 2.1 to the Company's Quarterly Report on Form 10-Q (File No. 001-36594) filed on May 3, 2022)
<u>3.1</u>	Articles of Restatement of Xenia Hotels & Resorts, Inc., as filed on November 10, 2015 with the Maryland Department of Assessments and Taxation (incorporated by reference to Exhibit 3.2 to the Company's Quarterly Report on Form 10-Q (File No. 001-36594) filed on November 12, 2015)
<u>3.2</u>	Articles Supplementary of Xenia Hotels and Resorts, Inc., as filed on November 10, 2015 with the Maryland Department of Assessments and Taxation (incorporated by reference to Exhibit 3.1 to the Company's Quarterly Report on Form 10-Q (File No. 001-36594) filed on November 12, 2015)
<u>3.3</u>	Articles Supplementary of Xenia Hotels and Resorts, Inc., as filed on March 15, 2017 with the Maryland Department of Assessments and Taxation (incorporated by reference to Exhibit 3.1 to the Company's Current Report on Form 8-K (File No. 001-36594) filed on March 15, 2017)
<u>3.4</u>	Articles of Amendment of Xenia Hotels and Resorts, Inc., as filed on May 22, 2018 with the Maryland Department of Assessments and Taxation (incorporated by reference to Exhibit 3.1 to the Company's Current Report on Form 8-K (File No. 001-36594) filed on May 23, 2018)
<u>3.5</u>	Articles Supplementary of Xenia Hotels and Resorts, Inc., as filed on May 22, 2018 with the Maryland Department of Assessments and Taxation (incorporated by reference to Exhibit 3.2 to the Company's Current Report on Form 8-K (File No. 001-36594) filed on May 23, 2018)
<u>3.6</u> *	Third Amended and Restated Bylaws of Xenia Hotels & Resorts, Inc.
<u>31.1</u> *	Certification of Chief Executive Officer Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
<u>31.2</u> *	Certification of Chief Financial Officer Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
<u>32.1</u> *	Certification of Chief Executive Officer and Chief Financial Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
101.INS	XBRL Instance Document - The instance document does not appear in the interactive data file because its XBRL tags are embedded within the inline XBRL document.
101.SCH*	Inline XBRL Taxonomy Extension Schema Document
101.CAL*	Inline XBRL Taxonomy Extension Calculation Linkbase Document
101.DEF*	Inline XBRL Taxonomy Extension Definition Linkbase Document
101.LAB*	Inline XBRL Taxonomy Extension Label Linkbase Document
101.PRE*	Inline XBRL Taxonomy Extension Presentation Linkbase Document
104	Cover Page Interactive Data File (formatted as Inline XBRL and contained in Exhibit 101)

* Filed herewith

+ Schedules and exhibits have been omitted pursuant to Item 601(b)(2) of Regulation S-K. The Company hereby agrees to furnish supplementally copies of any of the omitted schedules and exhibits upon request by the Securities and Exchange Commission; provided, however, that the Company may request confidential treatment pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended, for any schedule or exhibit so furnished.

SIGNATURES

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

Xenia Hotels & Resorts, Inc.

November 2, 2022

/s/ MARCEL VERBAAS

Marcel Verbaas
Chairman and Chief Executive Officer
(Principal Executive Officer)

/s/ ATISH SHAH

Atish Shah
Executive Vice President, Chief Financial Officer and Treasurer
(Principal Financial Officer)

/s/ JOSEPH T. JOHNSON

Joseph T. Johnson
Senior Vice President and Chief Accounting Officer
(Principal Accounting Officer)

XENIA HOTELS & RESORTS, INC.

THIRD AMENDED & RESTATED BYLAWS ARTICLE I

OFFICES

Section 1. PRINCIPAL OFFICE. The principal office of the Corporation in the State of Maryland shall be located at such place as the Board of Directors may designate.

Section 2. ADDITIONAL OFFICES. The Corporation may have additional offices, including a principal executive office, at such places as the Board of Directors may from time to time determine or the business of the Corporation may require.

ARTICLE II MEETINGS OF STOCKHOLDERS

Section 1. PLACE. All meetings of stockholders shall be held at the principal executive office of the Corporation or at such other place as shall be set in accordance with these Bylaws and stated in the notice of the meeting.

Section 2. ANNUAL MEETING. An annual meeting of stockholders for the election of directors and the transaction of any business within the powers of the Corporation shall be held on the date and at the time and place set by the Board of Directors.

Section 3. SPECIAL MEETINGS.

(a) General. Each of the chair of the board, chief executive officer, president and Board of Directors may call a special meeting of stockholders. Except as provided in subsection (b)(4) of this Section 3, a special meeting of stockholders shall be held on the date and at the time and place set by the chair of the board, chief executive officer, president or Board of Directors, whoever has called the meeting. Subject to subsection (b) of this Section 3, a special meeting of stockholders shall also be called by the secretary of the Corporation to act on any matter that may properly be considered at a meeting of stockholders upon the written request of stockholders entitled to cast not less than a majority of all the votes entitled to be cast on such matter at such meeting.

(b) Stockholder-Requested Special Meetings.

(1) Any stockholder of record seeking to have stockholders request a special meeting shall, by sending written notice to the secretary (the "Record Date Request Notice") by registered mail, return receipt requested, request the Board of Directors to fix a record date to determine the stockholders entitled to request a special meeting (the "Request Record Date"). The Record Date Request Notice shall set forth the purpose of the meeting and the matters proposed to be acted on at it, shall be signed by one or more stockholders of record as of the date of signature (or their agents duly authorized in a writing accompanying the Record Date Request Notice), shall bear the date of signature of each such stockholder (or such agent) and shall set forth all information and certifications relating to each such stockholder, each individual whom the stockholder proposes to nominate for

election or reelection as a director and each matter proposed to be acted on at the meeting required by paragraphs (a)(3) and (4) of Section 11 of this Article II . Upon receiving the Record Date Request Notice, the Board of Directors may fix a Request Record Date. The Request Record Date shall not precede and shall not be more than ten days after the close of business on the date on which the resolution fixing the Request Record Date is adopted by the Board of Directors. If the Board of Directors, within ten days after the date on which a valid Record Date Request Notice is received, fails to adopt a resolution fixing the Request Record Date, the Request Record Date shall be the close of business on the tenth day after the first date on which a Record Date Request Notice is received by the secretary.

(2) In order for any stockholder to request a special meeting to act on any matter that may properly be considered at a meeting of stockholders, one or more written requests for a special meeting (collectively, the “Special Meeting Request”) signed by stockholders of record (or their agents duly authorized in a writing accompanying the request) as of the Request Record Date entitled to cast not less than a majority of all of the votes entitled to be cast on such matter at such meeting (the “Special Meeting Percentage”) shall be delivered to the secretary. In addition, the Special Meeting Request shall (a) set forth the purpose of the meeting and the matters proposed to be acted on at it (which shall be limited to those lawful matters set forth in the Record Date Request Notice received by the secretary), (b) bear the date of signature of each such stockholder (or such agent) signing the Special Meeting Request, (c) set forth (i) the name and address, as they appear in the Corporation’s books, of each stockholder signing such request (or on whose behalf the Special Meeting Request is signed), (ii) the class, series and number of all shares of stock of the Corporation which are owned (beneficially or of record) by each such stockholder and (iii) the nominee holder for, and number of, shares of stock of the Corporation owned beneficially but not of record by such stockholder, (d) be sent to the secretary by registered mail, return receipt requested, and (e) be received by the secretary within 60 days after the Request Record Date. Any requesting stockholder (or agent duly authorized in a writing accompanying the revocation of the Special Meeting Request) may revoke his, her or its request for a special meeting at any time by written revocation delivered to the secretary.

(3) The secretary shall inform the requesting stockholders of the reasonably estimated cost of preparing and mailing or delivering the notice of the meeting (including the Corporation’s proxy materials). The secretary shall not be required to call a special meeting upon stockholder request and such meeting shall not be held unless, in addition to the Special Meeting Request required by paragraph (2) of this Section 3(b), the secretary receives payment of such reasonably estimated cost prior to the preparation and mailing or delivery of such notice of the meeting.

(4) In the case of any special meeting called by the secretary upon the request of stockholders (a “Stockholder-Requested Meeting”), such meeting shall be held at such place, date and time as may be designated by the Board of Directors; *provided*, however, that the date of any Stockholder-Requested Meeting shall be not more than 90 days after the record date for such meeting (the “Meeting Record Date”); and *provided further* that if the Board of Directors fails to designate, within ten days after the date that a valid Special Meeting Request is actually received by the secretary (the “Delivery Date”), a date and time for a Stockholder-Requested Meeting, then such meeting shall be held at 2:00 p.m., Eastern Time, on the 90th day after the Meeting Record Date or, if such 90th day is not a Business Day (as defined below), on the first preceding Business Day; and *provided further* that in the event that the Board of Directors fails to designate a place for a Stockholder-Requested Meeting within ten days after the Delivery Date, then such meeting shall be held at the principal executive office of the Corporation. In fixing a date for a Stockholder-Requested Meeting, the Board of Directors may consider such factors as it deems relevant, including, without limitation, the nature of the matters to be considered, the facts and circumstances surrounding any request for the meeting and any plan of the Board of Directors to call an annual meeting or a special meeting. In the case of any Stockholder-Requested Meeting, if the Board of Directors fails to fix a Meeting Record Date that is a date

within 30 days after the Delivery Date, then the close of business on the 30th day after the Delivery Date shall be the Meeting Record Date. The Board of Directors may revoke the notice for any Stockholder-Requested Meeting in the event that the requesting stockholders fail to comply with the provisions of paragraph (3) of this Section 3(b).

(5) If written revocations of the Special Meeting Request have been delivered to the secretary and the result is that stockholders of record (or their agents duly authorized in writing), as of the Request Record Date, entitled to cast less than the Special Meeting Percentage have delivered, and not revoked, requests for a special meeting on the matter to the secretary: (i) if the notice of meeting has not already been delivered, the secretary shall refrain from delivering the notice of the meeting and send to all requesting stockholders who have not revoked such requests written notice of any revocation of a request for a special meeting on the matter, or (ii) if the notice of meeting has been delivered and if the secretary first sends to all requesting stockholders who have not revoked requests for a special meeting on the matter written notice of any revocation of a request for the special meeting and written notice of the Corporation's intention to revoke the notice of the meeting or for the chair of the meeting to adjourn the meeting without action on the matter, (A) the secretary may revoke the notice of the meeting at any time before ten days before the commencement of the meeting or (B) the chair of the meeting may call the meeting to order and adjourn the meeting without acting on the matter. Any request for a special meeting received after a revocation by the secretary of a notice of a meeting shall be considered a request for a new special meeting.

(6) The chair of the board, chief executive officer, president or Board of Directors may appoint regionally or nationally recognized independent inspectors of elections to act as the agent of the Corporation for the purpose of promptly performing a ministerial review of the validity of any purported Special Meeting Request received by the secretary. For the purpose of permitting the inspectors to perform such review, no such purported Special Meeting Request shall be deemed to have been received by the secretary until the earlier of (i) five Business Days after actual receipt by the secretary of such purported request and (ii) such date as the independent inspectors certify to the Corporation that the valid requests received by the secretary represent, as of the Request Record Date, stockholders of record entitled to cast not less than the Special Meeting Percentage. Nothing contained in this paragraph (6) shall in any way be construed to suggest or imply that the Corporation or any stockholder shall not be entitled to contest the validity of any request, whether during or after such five Business Day period, or to take any other action (including, without limitation, the commencement, prosecution or defense of any litigation with respect thereto, and the seeking of injunctive relief in such litigation).

(7) For purposes of these Bylaws, "Business Day" shall mean any day other than a Saturday, a Sunday or a day on which banking institutions in the State of Florida are authorized or obligated by law or executive order to close.

Section 4. NOTICE. Not less than ten nor more than 90 days before each meeting of stockholders, the secretary shall give to each stockholder entitled to vote at such meeting and to each stockholder not entitled to vote who is entitled to notice of the meeting notice in writing or by electronic transmission stating the time and place of the meeting and, in the case of a special meeting or as otherwise may be required by any statute, the purpose for which the meeting is called, by mail, by presenting it to such stockholder personally, by leaving it at the stockholder's residence or usual place of business, by electronic transmission or by any other means permitted by Maryland law. If mailed, such notice shall be deemed to be given when deposited in the United States mail addressed to the stockholder at the stockholder's address as it appears on the records of the Corporation, with postage thereon prepaid. If transmitted electronically, such notice shall be deemed to be given when transmitted to the stockholder by an electronic transmission to any address or number of the stockholder at which the stockholder receives electronic transmissions. The Corporation may give a single notice to all stockholders who share an address, which single notice shall be effective as to any stockholder at such address, unless such stockholder objects to receiving such single notice or revokes a prior consent to receiving such single notice. Failure to give notice of any meeting to one

or more stockholders, or any irregularity in such notice, shall not affect the validity of any meeting fixed in accordance with this Article II or the validity of any proceedings at any such meeting.

Subject to Section 11(a) of this Article II, any business of the Corporation may be transacted at an annual meeting of stockholders without being specifically designated in the notice, except such business as is required by any statute to be stated in such notice. No business shall be transacted at a special meeting of stockholders except as specifically designated in the notice. The Corporation may postpone or cancel a meeting of stockholders by making a public announcement (as defined in Section 11(c)(4) of this Article II) of such postponement or cancellation prior to the meeting. Notice of the date, time and place to which the meeting is postponed shall be given not less than ten days prior to such date and otherwise in the manner set forth in this section.

Section 5. ORGANIZATION AND CONDUCT. Unless the Board of Directors appoints another individual to be chair of the meeting and such individual is present at such meeting, every meeting of stockholders shall be conducted by the chair of the board or, in the case of a vacancy in the office or absence of the chair of the board, by one of the following officers present at the meeting in the following order: the vice chair of the board, if there is one, the chief executive officer, the president, the vice presidents in their order of rank and, within each rank, in order of seniority, the secretary or, in the absence of such officers, a chair chosen by the stockholders by the vote of a majority of the votes cast by stockholders present in person or by proxy. The secretary, or in the secretary's absence, an assistant secretary, or in the absence of both the secretary and all assistant secretaries, an individual appointed by the Board of Directors or in the absence of such appointment, an individual appointed by the chair of the meeting shall act as secretary. In the event that the secretary presides at a meeting of stockholders, an assistant secretary, or in the absence of all assistant secretaries, an individual appointed by the Board of Directors or the chair of the meeting shall record the minutes of the meeting. Even if present at the meeting, the person holding office named herein may delegate to another person the power to act as chair or secretary of the meeting. The order of business and all other matters of procedure at any meeting of stockholders shall be determined by the chair of the meeting. The chair of the meeting may prescribe such rules, regulations and procedures and take such action as, in the discretion of the chair and without any action by the stockholders, are appropriate for the proper conduct of the meeting, including, without limitation, (a) restricting admission to the time set for the commencement of the meeting; (b) limiting attendance at the meeting to stockholders of record of the Corporation, their duly authorized proxies and such other individuals as the chair of the meeting may determine; (c) limiting participation at the meeting on any matter to stockholders of record of the Corporation entitled to vote on such matter, their duly authorized proxies and other such individuals as the chair of the meeting may determine; (d) limiting the time allotted to questions or comments; (e) determining when and for how long the polls should be opened and when the polls should be closed; (f) maintaining order and security at the meeting; (g) removing any stockholder or any other individual who refuses to comply with meeting procedures, rules or guidelines as set forth by the chair of the meeting; (h) concluding a meeting or recessing or adjourning the meeting, whether or not a quorum is present, to a later date and time and at a place either (i) announced at the meeting or (ii) provided at a future time through means announced at the meeting; and (i) complying with any state and local laws and regulations concerning safety and security. Unless otherwise determined by the chair of the meeting, meetings of stockholders shall not be required to be held in accordance with the rules of parliamentary procedure.

Section 6. QUORUM. At any meeting of stockholders, the presence in person or by proxy of stockholders entitled to cast a majority of all the votes entitled to be cast at such meeting on any matter shall constitute a quorum; but this section shall not affect any requirement under any statute or the charter of the Corporation (the "Charter") for the vote necessary for the approval of any matter. If such quorum is not established at any meeting of the stockholders, the chair of the meeting may adjourn the meeting *sine die* or from time to time to a date not more than 120 days after the original record date without notice other than announcement at the meeting. The date, time and

place of the meeting, as reconvened, shall be either (i) announced at the meeting or (ii) provided at a future time through means announced at the meeting. At such adjourned meeting at which a quorum shall be present, any business may be transacted which might have been transacted at the meeting as originally notified.

The stockholders present either in person or by proxy, at a meeting which has been duly called and at which a quorum has been established, may continue to transact business until adjournment, notwithstanding the withdrawal from the meeting of enough stockholders to leave fewer than would be required to establish a quorum.

Section 7. VOTING. Except as otherwise provided in this Section, a nominee for director shall be elected by a majority of the total votes cast for and against such nominee at a meeting of stockholders duly called and at which a quorum is present. However, directors shall be elected by a plurality of votes cast at a meeting of stockholders duly called and at which a quorum is present for which (a) the secretary of the Corporation receives notice that a stockholder has nominated an individual for election as a director in compliance with (1) the requirements of advance notice of Proposed Nominees (as defined in Section 11(a)(3)(i) of this Article II) set forth in Section 11 of this Article II or (2) the requirements of Proxy Access Nominees (as defined in Section 14(a)(1) of this Article II) set forth in Section 14 of this Article II and (b) such nomination has not been withdrawn by such stockholder on or before the close of business on the tenth day before the date of filing of the definitive proxy statement of the Corporation with the Securities and Exchange Commission, and, as a result of which, there are more nominees than the number of directors to be elected at the meeting. Each share entitles the holder thereof to vote for as many individuals as there are directors to be elected and for whose election the holder is entitled to vote. A majority of the votes cast at a meeting of stockholders duly called and at which a quorum is present shall be sufficient to approve any other matter which may properly come before the meeting, unless more than a majority of the votes cast is required by statute or by the Charter.

Unless otherwise provided by statute or by the Charter, each outstanding share, regardless of class, entitles the holder thereof to cast one vote on each matter submitted to a vote at a meeting of stockholders. Voting on any question or in any election may be *viva voce* unless the chair of the meeting shall order that voting be by ballot or otherwise.

Section 8. PROXIES. A holder of record of shares of stock of the Corporation may cast votes in person or by proxy (a) executed by the stockholder or by the stockholder's duly authorized agent in any manner permitted by law, (b) that is compliant with Maryland law and these Bylaws, and (c) that is filed with the procedure established for the meeting. Such proxy or evidence of authorization of such proxy shall be filed with the secretary of the Corporation before or at the meeting. No proxy shall be valid more than eleven months after its date unless otherwise provided in the proxy.

Any stockholder directly or indirectly soliciting proxies from other stockholders must use a proxy card color other than white, which shall be reserved for the exclusive use by the Board.

Section 9. VOTING OF STOCK BY CERTAIN HOLDERS. Stock of the Corporation registered in the name of a corporation, limited liability company, partnership, joint venture, trust or other entity, if entitled to be voted, may be voted by the president or a vice president, managing member, manager, general partner or trustee thereof, as the case may be, or a proxy appointed by any of the foregoing individuals, unless some other person who has been appointed to vote such stock pursuant to a bylaw or a resolution of the governing body of such corporation or other entity or agreement of the partners of a partnership presents a certified copy of such bylaw, resolution or agreement, in which case such person may vote such stock. Any trustee or fiduciary, in such capacity, may vote stock registered in such trustee's or fiduciary's name, either in person or by proxy.

Shares of stock of the Corporation directly or indirectly owned by it shall not be voted at any meeting and shall not be counted in determining the total number of outstanding shares entitled to be voted at any given time, unless they are held by it in a fiduciary capacity, in which case they may be voted and shall be counted in determining the total number of outstanding shares at any given time.

The Board of Directors may adopt by resolution a procedure by which a stockholder may certify in writing to the Corporation that any shares of stock registered in the name of the stockholder are held for the account of a specified person other than the stockholder. The resolution shall set forth the class of stockholders who may make the certification, the purpose for which the certification may be made, the form of certification and the information to be contained in it; if the certification is with respect to a record date, the time after the record date within which the certification must be received by the Corporation; and any other provisions with respect to the procedure which the Board of Directors considers necessary or desirable. On receipt by the Corporation of such certification, the person specified in the certification shall be regarded as, for the purposes set forth in the certification, the holder of record of the specified stock in place of the stockholder who makes the certification.

Section 10. INSPECTORS. The Board of Directors or the chair of the meeting may appoint, before or at the meeting, one or more inspectors for the meeting and any successor to the inspector. Except as otherwise provided by the chair of the meeting, the inspectors, if any, shall (i) determine the number of shares of stock represented at the meeting, in person or by proxy, and the validity and effect of proxies, (ii) receive and tabulate all votes, ballots or consents, (iii) report such tabulation to the chair of the meeting, (iv) hear and determine all challenges and questions arising in connection with the right to vote, and (v) do such acts as are proper to fairly conduct the election or vote. Each such report shall be in writing and signed by the inspector or by a majority of them if there is more than one inspector acting at such meeting. If there is more than one inspector, the report of a majority shall be the report of the inspectors. The report of the inspector or inspectors on the number of shares represented at the meeting and the results of the voting shall be *prima facie* evidence thereof.

Section 11. ADVANCE NOTICE OF STOCKHOLDER NOMINEES FOR DIRECTOR AND OTHER STOCKHOLDER PROPOSALS.

(a) Annual Meetings of Stockholders.

(1) Nominations of individuals for election to the Board of Directors and the proposal of other business to be considered by the stockholders may be made at an annual meeting of stockholders (i) pursuant to the Corporation's notice of meeting, (ii) by or at the direction of the Board of Directors, (iii) by any stockholder of the Corporation who was a stockholder of record at the record date set by the Board of Directors for the purpose of determining stockholders entitled to vote at the annual meeting, at the time of giving of notice by the stockholder as provided for in this Section 11(a) and at the time of the annual meeting (or any postponement or adjournment thereof), who is entitled to vote at the meeting in the election of each individual so nominated or on any such other business and who has complied with the notice procedures in this Section 11(a) or (iv) by any Eligible Stockholder (as defined in Section 14(c)(1) of this Article II) who complies with the procedures set forth in Section 14 of this Article II.

(2) For any nomination or other business to be properly brought before an annual meeting by a stockholder pursuant to clause (iii) of paragraph (a)(1) of this Section 11, the stockholder must have given timely notice thereof in writing to the secretary of the Corporation and any such other business must otherwise be a proper matter for action by the stockholders. To be timely, a stockholder's notice shall set forth all information required under this Section 11 and shall be delivered to the secretary at the principal executive office of the Corporation not earlier than the 150th day nor later than 5:00 p.m., Eastern Time, on the 120th day prior to the first anniversary of the

date of the proxy statement (as defined in Section 11(c)(4) of this Article II) for the preceding year's annual meeting; provided, however, that in connection with the Corporation's first annual meeting or in the event that the date of the annual meeting is advanced or delayed by more than 30 days from the first anniversary of the date of the preceding year's annual meeting, in order for notice by the stockholder to be timely, such notice must be so delivered not earlier than the 150th day prior to the date of such annual meeting and not later than 5:00 p.m., Eastern Time, on the later of the 120th day prior to the date of such annual meeting, as originally convened, or the tenth day following the day on which public announcement of the date of such meeting is first made. The public announcement of a postponement or adjournment of an annual meeting shall not commence a new time period for the giving of a stockholder's notice as described above.

(3) To be in proper form for purposes of clause (iii) of paragraph (a)(1) of this Section 11, such stockholder's notice shall set forth:

(i) as to each individual whom the stockholder proposes to nominate for election or reelection as a director (each, a "Proposed Nominee"), all information relating to the Proposed Nominee that would be required to be disclosed in connection with the solicitation of proxies for the election of the Proposed Nominee as a director in an election contest (even if an election contest is not involved), or would otherwise be required in connection with such solicitation, in each case pursuant to Regulation 14A (or any successor provision) under the Exchange Act;

(ii) as to any other business that the stockholder proposes to bring before the meeting, a description of such business, the stockholder's reasons for proposing such business at the meeting and any material interest in such business of such stockholder or any Stockholder Associated Person (as defined below), individually or in the aggregate, including any anticipated benefit to the stockholder or the Stockholder Associated Person therefrom;

(iii) as to the stockholder giving the notice, any Proposed Nominee and any Stockholder Associated Person,

(A) the class, series and number of all shares of stock or other securities of the Corporation or any affiliate thereof (collectively, the "Company Securities"), if any, which are owned (beneficially or of record) by such stockholder, Proposed Nominee or Stockholder Associated Person, the date on which each such Company Security was acquired and the investment intent of such acquisition, and any short interest (including any opportunity to profit or share in any benefit from any decrease in the price of such stock or other security) in any Company Securities of any such person,

(B) the nominee holder for, and number of, any Company Securities owned beneficially but not of record by such stockholder, Proposed Nominee or Stockholder Associated Person,

(C) whether and the extent to which such stockholder, Proposed Nominee or Stockholder Associated Person, directly or indirectly (through brokers, nominees or otherwise), is subject to or during the last six months has engaged in any hedging, derivative or other transaction or series of transactions or entered into any other agreement, arrangement or understanding (including any short interest, any borrowing or lending of securities or any proxy or voting agreement), the effect or intent of which is to (I) manage risk or benefit of changes in the price of (x) Company Securities or (y) any security of any entity that was listed in the Peer Group in the Stock Performance Graph in the most recent annual report to security holders of the Corporation (a "Peer Group Company") for such stockholder, Proposed Nominee or Stockholder Associated Person or (II) increase or

decrease the voting power of such stockholder, Proposed Nominee or Stockholder Associated Person in the Corporation or any affiliate thereof (or, as applicable, in any Peer Group Company) disproportionately to such person's economic interest in the Company Securities (or, as applicable, in any Peer Group Company); and

(D) any substantial interest, direct or indirect (including, without limitation, any existing or prospective commercial, business or contractual relationship with the Corporation), by security holdings or otherwise, of such stockholder, Proposed Nominee or Stockholder Associated Person, in the Corporation or any affiliate thereof, other than an interest arising from the ownership of Company Securities where such stockholder, Proposed Nominee or Stockholder Associated Person receives no extra or special benefit not shared on a *pro rata* basis by all other holders of the same class or series;

(iv) as to the stockholder giving the notice, any Stockholder Associated Person with an interest or ownership referred to in clauses (ii) or (iii) of this paragraph (3) of this Section 11(a) and any Proposed Nominee,

(A) the name and address of such stockholder, as they appear on the Corporation's stock ledger, and the current name and business address, if different, of each such Stockholder Associated Person and any Proposed Nominee and

(B) the investment strategy or objective, if any, of such stockholder and each such Stockholder Associated Person who is not an individual and a copy of the prospectus, offering memorandum or similar document, if any, provided to investors or potential investors in such stockholder and each such Stockholder Associated Person;

(v) the name and address of any person who contacted or was contacted by the stockholder giving the notice or any Stockholder Associated Person about the Proposed Nominee or other business proposal prior to the date of such stockholder's notice; and

(vi) to the extent known by the stockholder giving the notice, the name and address of any other stockholder supporting the nominee for election or reelection as a director or the proposal of other business on the date of such stockholder's notice.

(4) Such stockholder's notice shall, with respect to any Proposed Nominee, be accompanied by (i) a certificate executed by the Proposed Nominee (A) certifying that such Proposed Nominee (a) is not, and will not become, a party to any agreement, arrangement or understanding with any person or entity other than the Corporation in connection with service or action as a director that has not been disclosed to the Corporation and (b) will serve as a director of the Corporation if elected and will notify the Corporation simultaneously with the notification to the stockholder of the Proposed Nominee's unwillingness or inability to serve as a director; and (B) attaching a completed Proposed Nominee questionnaire (which questionnaire shall be provided by the Corporation, upon request, to the stockholder providing the notice and shall include all information relating to the Proposed Nominee that would be required to be disclosed in connection with the solicitation of proxies for the election of the Proposed Nominee as a director in an election contest (even if an election contest is not involved), or would otherwise be required in connection with such solicitation, in each case pursuant to Regulation 14A (or any successor provision) under the Exchange Act and the rules thereunder, or would be required pursuant to the rules of any national securities exchange on which any securities of the Corporation are listed or over-the-counter market on which any securities of the Corporation are traded) and (ii) a certificate executed by the stockholder certifying that such stockholder will comply with Rule 14a-19 promulgated under the Exchange Act in connection with its solicitation of proxies in support of any Proposed Nominee.

(5) Notwithstanding anything in this subsection (a) of this Section 11 to the contrary, in the event that the number of directors to be elected to the Board of Directors is increased, and there is no public announcement of such action at least 130 days prior to the first anniversary of the date of the proxy statement (as defined in Section 11 (c)(4) of this Article II) for the preceding year's annual meeting, a stockholder's notice required by clause (iii) of paragraph (a)(1) of this Section 11 shall also be considered timely, but only with respect to nominees for any new positions created by such increase, if it shall be delivered to the secretary at the principal executive office of the Corporation not later than 5:00 p.m., Eastern Time, on the tenth day following the day on which such public announcement is first made by the Corporation.

(6) For purposes of this Section 11, "Stockholder Associated Person" of any stockholder shall mean

(i) any person acting in concert with such stockholder or another Stockholder Associated Person, (ii) any beneficial owner of shares of stock of the Corporation owned of record or beneficially by such stockholder (other than a stockholder that is a depositary) and (iii) any person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such stockholder or such Stockholder Associated Person.

(b) Special Meetings of Stockholders. Only such business shall be conducted at a special meeting of stockholders as shall have been brought before the meeting pursuant to the Corporation's notice of meeting and, except as contemplated by and in accordance with the next two sentences of this Section 11(b), no stockholder may nominate an individual for election to the Board of Directors or make a proposal of other business to be considered at a special meeting. Nominations of individuals for election to the Board of Directors may be made at a special meeting of stockholders at which directors are to be elected only (1) by or at the direction of the Board of Directors, (2) by a stockholder that has requested that a special meeting be called for the purpose of electing directors in compliance with Section 3 of this Article II and that has supplied the information and certifications required by paragraphs (a)(3) and (4) of this of this Section 11 with respect to each individual whom the stockholder proposes to nominate for election of directors or (3) provided that the special meeting has been called in accordance with Section 3(a) of this Article II for the purpose of electing directors, by any stockholder of the Corporation who is a stockholder of record at the record date set by the Board of Directors for the purpose of determining stockholders entitled to vote at the special meeting, at the time of giving of notice provided for in this Section 11 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 each individual so nominated and who has complied with the notice procedures set forth in this Section 11. In the event the Corporation calls a special meeting of stockholders for the purpose of electing one or more individuals to the Board of Directors, any stockholder may nominate an individual or individuals (as the case may be) for election as a director as specified in the Corporation's notice of meeting, if the stockholder's notice, containing the information and certifications required by paragraphs (a)(3) and (4) of this Section 11, is delivered to the secretary at the principal executive office of the Corporation not earlier than the 120th day prior to such special meeting and not later than 5:00 p.m., Eastern Time, on the later of the 90th day prior to such special meeting or the tenth day following the day on which public announcement is first made of the date of the special meeting and of the nominees proposed by the Board of Directors to be elected at such meeting. The public announcement of a postponement or adjournment of a special meeting shall not commence a new time period for the giving of a stockholder's notice as described above.

(c) General.

(1) If any information or certification submitted pursuant to this Section 11 by any stockholder proposing a nominee for election as a director or any proposal for other business at a meeting of stockholders, including any certification from a Proposed Nominee, shall be inaccurate in any material respect, such information or certification may be deemed not to have been provided in accordance with this Section 11. Any such stockholder

shall notify the Corporation of any inaccuracy or change (within two Business Days of becoming aware of such inaccuracy or change) in any such information or certification. Upon written request by the secretary or the Board of Directors, any such stockholder, Proposed Nominee or Proxy Nominee, as applicable, shall provide, within five Business Days of delivery of such request (or such other period as may be specified in such request), (i) written verification, satisfactory, in the discretion of the Board of Directors or any authorized officer of the Corporation, to demonstrate the accuracy of any information submitted by the stockholder pursuant to this Section 11, (ii) a written update of any information (including, if requested by the Corporation, written confirmation by such stockholder that it continues to intend to bring such nomination or other business proposal before the meeting) submitted by the stockholder pursuant to this Section 11 as of an earlier date and (iii) an updated certification by each Proposed Nominee or Proxy Nominee, as applicable, that such individual will serve as a director of the Corporation if elected. If a stockholder, Proposed Nominee or Proxy Nominee, as applicable, fails to provide such written verification, written update or written certification within such period, the information as to which such written verification, written update or written certification was requested may be deemed not to have been provided in accordance with this Section 11.

(2) Only such individuals who are nominated in accordance with this Section 11 or Section 14 of this Article II, as applicable, shall be eligible for election by stockholders as directors, and only such business shall be conducted at a meeting of stockholders as shall have been brought before the meeting in accordance with this Section 11. For the avoidance of doubt, a stockholder proposing a Proposed Nominee or Proxy Nominee, as applicable, shall have no right to (i) nominate a number of Proposed Nominees that exceed the number of directors to be elected at a meeting or (ii) substitute or replace any Proposed Nominee or Proxy Nominee, as applicable, unless such substitute or replacement is nominated in accordance with this Section 11 or Section 14 of this Article II, as applicable (including the timely provision of all information and certifications with respect to such substitute or replacement Proposed Nominee or Proxy Nominee, as applicable, in accordance with the deadlines set forth in this Section 11 or Section 14 of this Article II, as applicable). If the Corporation provides notice to a stockholder that the number of Proposed Nominees proposed by such stockholder exceeds the number of directors to be elected at a meeting, the stockholder shall provide written notice to the Corporation within five Business Days stating the names of the Proposed Nominees that have been withdrawn so that the number of Proposed Nominees proposed by such stockholder no longer exceeds the number of directors to be elected at a meeting. If any individual who is nominated in accordance with this Section 11 or Section 14, as applicable, becomes unwilling or unable to serve on the Board of Directors, then the nomination with respect to such individual shall no longer be valid and no votes may validly be cast for such individual. The chair of the meeting shall have the power to determine whether a nomination or any other business proposed to be brought before the meeting was made or proposed, as the case may be, in accordance with this Section 11 or Section 14 of this Article II, as applicable.

(3) Notwithstanding the foregoing provisions of this Section 11, the Corporation shall disregard any proxy authority granted in favor of, or votes for, director nominees other than the Corporation's nominees if the stockholder or Stockholder Associated Person (each, a "Soliciting Stockholder") soliciting proxies in support of such director nominees abandons the solicitation or does not (i) comply with Rule 14a-19 promulgated under the Exchange Act, including any failure by the Soliciting Stockholder to (A) provide the Corporation with any notices required thereunder in a timely manner or (B) comply with the requirements of Rule 14a-19(a)(2) and Rule 14a-19(a)(3) promulgated under the Exchange Act or (ii) timely provide sufficient evidence in the judgment of the Board of Directors sufficient to satisfy the Corporation that such Soliciting Stockholder has met the requirements of Rule 14a-19(a)(3) promulgated under the Exchange Act in accordance with the following sentence. Upon request by the Corporation, if any Soliciting Stockholder provides notice pursuant to Rule 14a-19(b) promulgated under the Exchange Act (or is not required to provide notice because the information required by Rule 14a-19(b) has been provided in a preliminary or definitive proxy statement previously filed by such Soliciting Stockholder), such

Soliciting Stockholder shall deliver to the Corporation, no later than five Business Days prior to the applicable meeting, sufficient evidence in the judgment of the Board of Directors that it has met the requirements of Rule 14a-19(a)(3) promulgated under the Exchange Act.

(4) For purposes of this Section 11 and Section 14, as applicable, “the date of the proxy statement” shall have the same meaning as “the date of the company’s proxy statement released to shareholders” as used in Rule 14a-8(e) promulgated under the Exchange Act, as interpreted by the Securities and Exchange Commission from time to time. “Public announcement” shall mean disclosure (A) in a press release reported by the Dow Jones News Service, Associated Press, Business Wire, PR Newswire or other widely circulated news or wire service or (B) in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to the Exchange Act.

(5) Notwithstanding the foregoing provisions of this Section 11, a stockholder shall also comply with all applicable requirements of state law and of the Exchange Act and the rules and regulations thereunder with respect to the matters set forth in this Section 11. Nothing in this Section 11 shall be deemed to affect any right of a stockholder to request inclusion of a proposal in, or the right of the Corporation to omit a proposal from, any proxy statement filed by the Corporation with the Securities and Exchange Commission pursuant to Rule 14a-8 (or any successor provision) under the Exchange Act. Nothing in this Section 11 shall require disclosure of revocable proxies received by the stockholder or Stockholder Associated Person pursuant to a solicitation of proxies after the filing of an effective Schedule 14A by such stockholder or Stockholder Associated Person under Section 14(a) of the Exchange Act.

Section 12. CONTROL SHARE ACQUISITION ACT. Notwithstanding any other provision of the Charter or these Bylaws, Title 3, Subtitle 7 of the Maryland General Corporation Law, or any successor statute (the “MGCL”), shall not apply to any acquisition by any person of shares of stock of the Corporation. This section may be repealed, in whole or in part, at any time, whether before or after an acquisition of control shares and, upon such repeal, may, to the extent provided by any successor bylaw, apply to any prior or subsequent control share acquisition.

Section 13. STOCKHOLDERS’ CONSENT IN LIEU OF MEETING. Any action required or permitted to be taken at any meeting of stockholders may be taken without a meeting if a unanimous consent setting forth the action is given in writing or by electronic transmission by each stockholder entitled to vote on the matter and filed with the minutes of proceedings of the stockholders.

Section 14. PROXY ACCESS.

(a) Subject to the provisions of this Section 14, if any Eligible Stockholder or group of up to 20 Eligible Stockholders submits to the Corporation a Proxy Access Notice (as defined below) that complies with this Section 14 and such Eligible Stockholder or group of Eligible Stockholders otherwise satisfies all the terms and conditions of this Section 14 (such Eligible Stockholder or group of Eligible Stockholders, a “Nominating Stockholder”), the Corporation shall include in its proxy statement, its form of proxy and ballot, as applicable (collectively, “proxy materials”), for any annual meeting of stockholders for which the Board of Directors solicits proxies with respect to the election of directors, in addition to any persons nominated for election by the Board of Directors:

(1) the name of any person or persons nominated by such Nominating Stockholder for election to the Board of Directors at such annual meeting of stockholders who meets the requirements of this Section 14 (a “Proxy Access Nominee”);

(2) the information provided to the secretary of the Corporation concerning the Proxy Access Nominee and the Nominating Stockholder that is required to be disclosed in the proxy materials by the rules and regulations promulgated under the Exchange Act (the “Required Information”);

(3) subject to the other applicable provisions of this Section 14, if the Nominating Stockholder so elects, a written statement in support of the Proxy Access Nominee’s candidacy for election to the Board of Directors, not to exceed 500 words, that is not contrary to any of the Securities and Exchange Commission’s proxy rules, including Rule 14a-9 under the Exchange Act (a “Supporting Statement”); and

(4) any other information that the Corporation or the Board of Directors determines, in its discretion, to include in the proxy materials relating to the nomination of the Proxy Access Nominee, including, without limitation, any statement in opposition to the nomination and any of the information provided pursuant to this Section 14.

(b) Maximum Number of Proxy Access Nominees.

(1) The Corporation shall not be required to include in the proxy materials for an annual meeting of stockholders more Proxy Access Nominees than the greater of (i) two and (ii) that number of directors constituting 20% of the total number of directors of the Corporation on the last day on which a Proxy Access Notice may be submitted pursuant to this Section 14 (rounded down to the nearest whole number) (the “Maximum Number”). The Maximum Number for a particular annual meeting shall be reduced by: (A) the number of Proxy Access Nominees who are subsequently withdrawn or that the Board of Directors itself decides to nominate for election at such annual meeting of stockholders (including, without limitation, any person who is or will be nominated by the Board of Directors pursuant to any agreement or understanding with one or more stockholders to avoid such person being formally proposed as a Proxy Access Nominee), and (B) the number of incumbent directors who had been Proxy Access Nominees with respect to any of the preceding two annual meetings of stockholders and whose reelection at the upcoming annual meeting of stockholders is being recommended by the Board of Directors (including, without limitation, any person who was nominated by the Board of Directors pursuant to any agreement or understanding with one or more stockholders to avoid such person being formally proposed as a Proxy Access Nominee). In the event that one or more vacancies for any reason occurs on the Board of Directors after the deadline set forth in Section 14(d) but before the date of the annual meeting of stockholders, and the Board of Directors resolves to reduce the size of the Board of Directors in connection therewith, the Maximum Number shall be calculated based on the number of directors as so reduced.

(2) Any Nominating Stockholder submitting more than one Proxy Access Nominee for inclusion in the Corporation’s proxy materials shall rank such Proxy Access Nominees based on the order that the Nominating Stockholder desires such Proxy Access Nominees to be selected for inclusion in the Corporation’s proxy materials in the event that the total number of Proxy Access Nominees submitted by Nominating Stockholders exceeds the Maximum Number. In the event that the number of Proxy Access Nominees submitted by Nominating Stockholders exceeds the Maximum Number, the highest ranking Proxy Access Nominee from each Nominating Stockholder will be included in the Corporation’s proxy materials until the Maximum Number is reached, going in order from largest to smallest of the number of shares of Common Stock, par value \$0.01 per share (the “Common Stock”) of the Corporation owned by each Nominating Stockholder as disclosed in each Nominating Stockholder’s Proxy Access Notice. If the Maximum Number is not reached after the highest ranking Proxy Access Nominee of each Nominating Stockholder has been selected, this process will be repeated as many times as necessary until the Maximum Number is reached. If, after the deadline for submitting a Proxy Access Notice as set forth in Section 14 (d), a Nominating Stockholder ceases to satisfy the requirements of this Section 14 or withdraws its nomination or a Proxy Access Nominee ceases to satisfy the requirements of this Section 14 or

becomes unwilling or unable to serve on the Board of Directors, whether before or after the mailing of definitive proxy materials, then the nomination shall be disregarded, and the Corporation: (A) shall not be required to include in its proxy materials the disregarded Proxy Access Nominee and (B) may otherwise communicate to its stockholders, including without limitation by amending or supplementing its proxy materials, that the Proxy Access Nominee will not be included as a Proxy Access Nominee in the proxy materials and the election of such Proxy Access Nominee will not be voted on at the annual meeting of stockholders.

(c) Eligibility of Nominating Stockholder.

(1) An “Eligible Stockholder” is a person who has either (i) been a record holder of the shares of Common Stock used to satisfy the eligibility requirements in this Section 14(c) continuously for the three-year period specified in Subsection (2) below or (ii) provides to the secretary of the Corporation, within the time period referred to in Section 14(d), evidence of continuous ownership of such shares for such three-year period from one or more securities intermediaries in a form that satisfies the requirements as established by the Securities and Exchange Commission for a stockholder proposal under Rule 14a-8 (or any successor provision) under the Exchange Act.

(2) An Eligible Stockholder or group of up to 20 Eligible Stockholders may submit a nomination in accordance with this Section 14 only if the person or each member of the group, as applicable, has continuously owned at least the Minimum Number (as defined below) of shares of the Corporation’s outstanding Common Stock throughout the three-year period preceding and including the date of submission of the Proxy Access Notice, and continues to own at least the Minimum Number through the date of the annual meeting of stockholders. Two or more funds that are (i) under common management and investment control, (ii) under common management and funded primarily by a single employer or (iii) a “group of investment companies,” as such term is defined in Section 12(d)(1)(G)(ii) of the Investment Company Act of 1940, as amended, (two or more funds referred to under any of clause (A), (B) or (C), collectively, a “Qualifying Fund”) shall be treated as one Eligible Stockholder. For the avoidance of doubt, in the event of a nomination by a group of Eligible Stockholders, any and all requirements and obligations for an individual Eligible Stockholder that are set forth in this Section 14, including the minimum holding period, shall apply to each member of such group; provided, however, that the Minimum Number shall apply to the ownership of the group in the aggregate; *provided further*, that each member of such group has owned at least 0.1% of the number of outstanding shares of Common Stock as of the most recent date for which such amount is given in any filing by the Corporation with the Securities and Exchange Commission prior to the submission of the Proxy Access Notice for the three-year period specified in this Subsection (2). Should any stockholder withdraw from a group of Eligible Stockholders at any time prior to the annual meeting of stockholders, the group of Eligible Stockholders shall only be deemed to own the shares held by the remaining members of the group.

(3) The “Minimum Number” of shares of Common Stock means three percent (3%) of the number of outstanding shares of Common Stock as of the most recent date for which such amount is given in any filing by the Corporation with the Securities and Exchange Commission prior to the submission of the Proxy Access Notice.

(4) For purposes of this Section 14, an Eligible Stockholder “owns” only those outstanding shares of the Common Stock as to which the Eligible Stockholder possesses both:

- (i) the full voting and investment rights pertaining to the shares; and
- (ii) the full economic interest in (including the opportunity for profit and risk of loss on) such

shares;

provided, that the number of shares calculated in accordance with clauses (i) and (ii) shall not include any shares:
(A) sold by such Eligible Stockholder or any of its affiliates in any transaction that has not been settled or closed,

(B) borrowed by such Eligible Stockholder or any of its affiliates for any purpose or purchased by such Eligible Stockholder or any of its affiliates pursuant to an agreement to resell, or (C) subject to any option, warrant, forward contract, swap, contract of sale, other derivative or similar agreement entered into by such Eligible Stockholder or any of its affiliates, whether any such instrument or agreement is to be settled with shares, cash or other property based on the notional amount or value of outstanding shares of the Corporation, in any such case which instrument or agreement has, or is intended to have, the purpose or effect of: (I) reducing in any manner, to any extent or at any time in the future, such Eligible Stockholder's or any of its affiliates' full right to vote or direct the voting of any such shares, and/or (II) hedging, offsetting, or altering to any degree, gain or loss arising from the full economic ownership of such shares by such Eligible Stockholder or any of its affiliates. An Eligible Stockholder "owns" shares held in the name of a nominee or other intermediary so long as the Eligible Stockholder retains the right to instruct how the shares are voted with respect to the election of directors and possesses the full economic interest in the shares. An Eligible Stockholder's ownership of shares shall be deemed to continue during any period in which the Eligible Stockholder has delegated any voting power by means of a proxy, power of attorney, or other similar instrument or arrangement that is revocable at any time by the Eligible Stockholder. An Eligible Stockholder's ownership of shares shall be deemed to continue during any period in which the Eligible Stockholder has loaned such shares; provided that the Eligible Stockholder has the power to recall such loaned shares on no more than three Business Days' notice and includes in the Proxy Access Notice an agreement that it will (I) promptly recall such loaned shares upon being notified that any of its Proxy Access Nominees will be included in the Corporation's proxy materials pursuant to this Section 14 and (II) continue to hold such recalled shares (including the right to vote such shares) through the date of the annual meeting of stockholders. The terms "owned," "owning" and other variations of the word "own" shall have correlative meanings. Each Nominating Stockholder shall furnish any other information that may reasonably be required by the Board of Directors to verify such stockholder's continuous ownership of at least the Minimum Number during the three-year period referred to above.

(5) No person may be in more than one group constituting a Nominating Stockholder, and if any person appears as a member of more than one group, it shall be deemed to be a member of the group that owns the greatest aggregate number of shares of the Common Stock as reflected in the Proxy Access Notice, and no shares may be attributed as owned by more than one person constituting a Nominating Stockholder under this Section 14.

(d) To nominate a Proxy Access Nominee, the Nominating Stockholder must, not earlier than the 150th day nor later than 5:00 p.m., Eastern Time, on the 120th day prior to the first anniversary of the date of the proxy statement for the preceding year's annual meeting (provided, however, that in the event that the date of the annual meeting of stockholders is advanced or delayed by more than thirty (30) days from the first anniversary of the date of the preceding year's annual meeting, the Proxy Access Notice (as defined blow) to be timely must be received by the secretary not earlier than the 150th day prior to the date of such annual meeting and not later than 5:00 p.m., Eastern Time, on the later of the 120th day prior to the date of such annual meeting, as originally convened, or the tenth (10th) day following the day on which public announcement of the date of such annual meeting is first made) submit to the secretary of the Corporation at the principal executive offices of the Corporation all of the following information and documents (collectively, the "Proxy Access Notice"):

(1) A Schedule 14N (or any successor form) relating to the Proxy Access Nominee, completed and filed with the Securities and Exchange Commission by the Nominating Stockholder as applicable, in accordance with the Securities and Exchange Commission's rules;

(2) A written notice of the nomination of such Proxy Access Nominee that includes the following additional information, agreements, representations and warranties by the Nominating Stockholder (including each group member):

- (i) the information, representations, certifications and agreements required with respect to the nomination of directors pursuant to Section 11(a) of this Article II;
- (ii) the details of any relationship that existed within the past three years and that would have been described pursuant to Item 6(e) of Schedule 14N (or any successor item) if it existed on the date of submission of the Schedule 14N;
- (iii) a representation and warranty that the Nominating Stockholder did not acquire, and is not holding, securities of the Corporation for the purpose or with the effect of influencing or changing control of the Corporation;
- (iv) a representation and warranty that the Proxy Access Nominee's candidacy or, if elected, Board of Directors membership, would not violate the Charter, these Bylaws, or any applicable state or federal law or the rules of any stock exchange on which the Common Stock is traded;
- (v) a representation and warranty that the Proxy Access Nominee:
 - (A) does not have any direct or indirect material relationship with the Corporation and otherwise would qualify as an "independent director" under the rules of the primary stock exchange on which the Common Stock is traded and any applicable rules of the Securities and Exchange Commission;
 - (B) would meet the audit committee independence requirements under the rules of the Securities and Exchange Commission and of the principal stock exchange on which the Common Stock is traded;
 - (C) would qualify as a "non-employee director" for the purposes of Rule 16b-3 under the Exchange Act (or any successor rule);
 - (D) would qualify as an "outside director" for the purposes of Section 162(m) of the Internal Revenue Code of 1986, as amended (or any successor provision);
 - (E) is not and has not been, within the past three years, an officer, director, affiliate or representative of a competitor, as defined under Section 8 of the Clayton Antitrust Act of 1914, as amended, and if the Proxy Access Nominee has held any such position during this period, details thereof; and
 - (F) is not and has not been subject to any event specified in Rule 506(d)(1) of Regulation D (or any successor rule) under the Securities Act of 1933, as amended, or Item 401(f) of Regulation S-K (or any successor rule) under the Exchange Act, without reference to whether the event is material to an evaluation of the ability or integrity of the Proxy Access Nominee;
- (vi) a representation and warranty that the Nominating Stockholder satisfies the eligibility requirements set forth in Section 14(c), has provided evidence of ownership to the extent required by Section 14(c) (1), and such evidence of ownership is true, complete and correct in all respects;
- (vii) a representation and warranty that the Nominating Stockholder intends to continue to satisfy the eligibility requirements described in Section 14(c) through the date of the annual meeting of stockholders;
- (viii) a statement as to whether or not the Nominating Stockholder intends to continue to hold the Minimum Number of shares for at least one year following the annual meeting of stockholders;

(ix) a representation and warranty that the Nominating Stockholder will not engage in or support, directly or indirectly, a “solicitation” within the meaning of Rule 14a-1(l) (without reference to the exception in Section 14a-1(l)(2)(iv)) (or any successor rules) with respect to the annual meeting of stockholders, other than a solicitation in support of the Proxy Access Nominee or any nominee of the Board of Directors;

(x) a representation and warranty that the Nominating Stockholder will not use any proxy card other than the Corporation’s proxy card in soliciting stockholders in connection with the election of a Proxy Access Nominee at the annual meeting of stockholders;

(xi) if desired by the Nominating Stockholder, a Supporting Statement;

(xii) in the case of a nomination by a group of Eligible Stockholders, the designation by all group members of one group member that is authorized to act on behalf of all group members with respect to matters relating to the nomination, including withdrawal of the nomination;

(xiii) in the case of any Eligible Stockholder that is a Qualifying Fund consisting of two or more funds, documentation demonstrating that the funds are eligible to be treated as a Qualifying Fund and that each such fund comprising the Qualifying Fund otherwise meets the requirements set forth in this Section 14; and

(xiv) a representation and warranty that the Nominating Stockholder has not nominated and will not nominate for election any individual as director at the annual meeting of stockholders other than its Proxy Access Nominee(s).

(3) An executed agreement pursuant to which the Nominating Stockholder (including each group member) agrees:

(i) to comply with all applicable laws, rules and regulations in connection with the nomination, solicitation and election;

(ii) to file with the Securities and Exchange Commission any solicitation or other communication with the Corporation’s stockholders relating to any Proxy Access Nominee or one or more of the Corporation’s directors or director nominees, regardless of whether any such filing is required under any law, rule or regulation or whether any exemption from filing is available for such materials under any law, rule or regulation;

(iii) to assume all liability stemming from an action, suit or proceeding concerning any actual or alleged legal or regulatory violation arising out of any communication by the Nominating Stockholder with the Corporation, its stockholders or any other person in connection with the nomination or election of directors, including, without limitation, the Proxy Access Notice;

(iv) to indemnify and hold harmless (jointly and severally with all other group members, in the case of a group member) the Corporation and each of its directors, officers and employees individually against any liability, loss, damages, expenses, demands, claims or other costs (including reasonable attorneys’ fees and disbursements of counsel) incurred in connection with any threatened or pending action, suit or proceeding, whether legal, administrative or investigative, against the Corporation or any of its directors, officers or employees arising out of any nomination submitted by the Nominating Stockholder (including, without limitation, relating to any breach or alleged breach of its obligations, agreements, representations or warranties or the contents of the Required Information or the Supporting Statement) pursuant to this Section 14;

(v) in the event that (A) any information included in the Proxy Access Notice, or any other communication by the Nominating Stockholder (including with respect to any group member) with the Corporation, its stockholders or any other person in connection with the nomination or election of directors ceases to be true and accurate in all material respects (or omits a material fact necessary to make the statements made not misleading), or

(B) the Nominating Stockholder (including any group member) fails to continue to satisfy the eligibility requirements described in Section 14(c), the Nominating Stockholder shall promptly (and in any event within 48 hours of discovering such misstatement, omission or failure) (I) in the case of clause (A) above, notify the Corporation and any other recipient of such communication of the misstatement or omission in such previously provided information and of the information that is required to correct the misstatement or omission, and (II) in the case of clause (B) above, notify the Corporation why, and in what regard, the Nominating Stockholder fails to comply with the eligibility requirements described in Section 14(c) (it being understood that providing any such notification referenced in clauses (I) and (II) above shall not be deemed to cure any defect or limit the Corporation's rights to omit a Proxy Access Nominee from its proxy materials as provided in this Section 14); and

(4) An executed agreement by the Proxy Access Nominee:

(i) to provide to the Corporation a completed copy of the Corporation's director questionnaire and such other information as the Corporation may reasonably request;

(ii) that the Proxy Access Nominee (A) consents to be named in the proxy materials as a nominee and, if elected, to serve on the Board of Directors and (B) has read and agrees to adhere to the Corporation's Corporate Governance Guidelines and any other Corporation policies and guidelines applicable to directors generally; and

(iii) that the Proxy Access Nominee is not and will not become a party to (A) any agreement, arrangement or understanding with any person or entity other than the Corporation with respect to direct or indirect compensation, reimbursement or indemnification in connection with service or action as a director of the Corporation that has not been disclosed to the Corporation in writing, (B) any agreement, arrangement or understanding with any person or entity as to how the Proxy Access Nominee would vote or act on any issue or question as a director (a "Voting Commitment") that has not been disclosed to the Corporation in writing, or (C) any Voting Commitment that could limit or interfere with the Proxy Access Nominee's ability to comply, if elected as a director of the Corporation, with its fiduciary duties under applicable law or with the Corporation's Corporate Governance Guidelines and any other Corporation policies and guidelines applicable to directors generally.

The information and documents required by this Section 14(d) shall be: (I) provided with respect to and executed by each group member, in the case of information applicable to group members; and (II) provided with respect to the persons specified in Instruction 1 to Items 6(c) and (d) of Schedule 14N (or any successor item) if and to the extent applicable to a Nominating Stockholder or group member. The Proxy Access Notice shall be deemed submitted on the date on which all the information and documents referred to in this Section 14(d) (other than such information and documents contemplated to be provided after the date the Proxy Access Notice is provided) have been delivered to or, if sent by mail, received by the secretary of the Corporation. For the avoidance of doubt, in no event shall any adjournment or postponement of an annual meeting of stockholders or the public announcement thereof commence a new time period for the giving of a Proxy Access Notice pursuant to this Section 14.

(e) Exceptions and Clarifications.

(1) Notwithstanding anything to the contrary contained in this Section 14, (I) the Corporation may omit from its proxy materials any Proxy Access Nominee and any information concerning such Proxy Access Nominee (including a Nominating Stockholder's Supporting Statement), (II) any nomination shall be disregarded, and (III) no vote on such Proxy Access Nominee will occur (notwithstanding that proxies in respect of such vote

may have been received by the Corporation), and the Nominating Stockholder may not, after the last day on which a Proxy Access Notice would be timely, cure in any way any defect preventing the nomination of the Proxy Access Nominee, if:

(i) the Corporation receives a notice pursuant to Section 11(a) of this Article II that a stockholder intends to nominate a candidate for director at the annual meeting of stockholders;

(ii) the Nominating Stockholder or the designated lead group member, as applicable, or any qualified representative thereof, does not appear at the annual meeting of stockholders to present the nomination submitted pursuant to this Section 14 or the Nominating Stockholder withdraws its nomination prior to the annual meeting of stockholders;

(iii) the Board of Directors determines that such Proxy Access Nominee's nomination or election to the Board of Directors would result in the Corporation violating or failing to be in compliance with the Charter, these Bylaws or any applicable law, rule or regulation to which the Corporation is subject, including any rules or regulations of any stock exchange on which the Common Stock is traded;

(iv) the Proxy Access Nominee was nominated for election to the Board of Directors pursuant to this Section 14 at one of the Corporation's two preceding annual meetings of stockholders and (A) its nomination was withdrawn, (B) such Proxy Access Nominee became ineligible to serve as a Proxy Access Nominee or as a director or (C) such Proxy Access Nominee received a vote of less than 25% of the shares of Common Stock entitled to vote for such Proxy Access Nominee; or

(v) (A) the Nominating Stockholder fails to continue to satisfy the eligibility requirements described in Section 14(c), (B) any of the representations and warranties made in the Proxy Access Notice was not or ceases to be true, complete and correct in all material respects (or omits to state a material fact necessary to make the statements made therein not misleading), (C) the Proxy Access Nominee becomes unwilling or unable to serve on the Board of Directors or (D) the Nominating Stockholder or the Proxy Access Nominee materially violates or breaches any of its agreements, representations or warranties in this Section 14.

(2) Notwithstanding anything to the contrary contained in this Section 14, the Corporation may omit from its proxy materials, or may supplement or correct, any information, including all or any portion of the Supporting Statement or the Required Information included in the Proxy Access Notice, if: (i) such information is not true and correct in all material respects or omits a material statement necessary to make the statements therein not misleading; (ii) such information directly or indirectly impugns the character, integrity or personal reputation of, or, without factual foundation, directly or indirectly makes charges concerning improper, illegal or immoral conduct or associations with respect to, any person; or (iii) the inclusion of such information in the proxy materials would otherwise violate the Securities and Exchange Commission's proxy rules or any other applicable law, rule or regulation. Once submitted with a Proxy Access Notice, a Supporting Statement may not be amended, supplemented or modified by the Proxy Access Nominee or Nominating Stockholder.

(3) For the avoidance of doubt, the Corporation may solicit against, and include in the proxy materials its own statement relating to, any Proxy Access Nominee.

(4) This Section 14 provides the exclusive method for a stockholder to include nominees for election to the Board of Directors in the Corporation's proxy materials (including, without limitation, any proxy card or written ballot).

(5) The interpretation of, and compliance with, any provision of this Section 14, including the representations, warranties and covenants contained herein, shall be determined by the Board of Directors or, in the discretion of the Board of Directors, one or more of its designees, in each case acting in good faith.

Section 15. TELEPHONE AND REMOTE COMMUNICATIONS. The Board of Directors or chair of a meeting of stockholders may permit one or more stockholders to participate in a meeting by means of a conference telephone or other communications equipment in any manner permitted by Maryland law. In addition, the Board of Directors may determine that a meeting not be held at any place, but instead be held solely by means of remote communications in any manner permitted by Maryland law. Participation in a meeting by these means constitutes presence in person at the meeting.

ARTICLE III DIRECTORS

Section 1. GENERAL POWERS. The business and affairs of the Corporation shall be managed under the direction of the Board of Directors.

Section 2. NUMBER, TENURE AND RESIGNATION. A majority of the entire Board of Directors may establish, increase or decrease the number of directors, provided that the number thereof shall never be less than the minimum number required by the MGCL, nor more than 15, and further provided that the tenure of office of a director shall not be affected by any decrease in the number of directors. Any director of the Corporation may resign at any time by delivering his or her resignation to the Board of Directors, the chair of the board or the secretary. Any resignation shall take effect immediately upon its receipt or at such later time specified in the resignation. The acceptance of a resignation shall not be necessary to make it effective unless otherwise stated in the resignation.

Section 3. ANNUAL AND REGULAR MEETINGS. An annual meeting of the Board of Directors shall be held immediately after and at the same place as the annual meeting of stockholders, no notice other than this Bylaw being necessary. In the event such meeting is not so held, the meeting may be held at such time and place as shall be specified in a notice given as hereinafter provided for special meetings of the Board of Directors. The Board of Directors may provide, by resolution, the time and place of regular meetings of the Board of Directors without other notice than such resolution.

Section 4. SPECIAL MEETINGS. Special meetings of the Board of Directors may be called by or at the request of the chair of the board, the chief executive officer, the president or a majority of the directors then in office. The person or persons authorized to call special meetings of the Board of Directors may fix the time and place of any special meeting of the Board of Directors called by them. The Board of Directors may provide, by resolution, the time and place of special meetings of the Board of Directors without other notice than such resolution.

Section 5. NOTICE. Notice of any special meeting of the Board of Directors shall be delivered personally or by telephone, electronic mail, facsimile transmission, courier or United States mail to each director at his or her business or residence address. Notice by personal delivery, telephone, electronic mail or facsimile transmission shall be given at least 24 hours prior to the meeting. Notice by United States mail shall be given at least three days prior to the meeting. Notice by courier shall be given at least two days prior to the meeting. Telephone notice shall be deemed to be given when the director or his or her agent is personally given such notice in a telephone call to which the director or his or her agent is a party. Electronic mail notice shall be deemed to be given upon transmission of the message to the electronic mail address given to the Corporation by the director. Facsimile transmission notice shall

be deemed to be given upon completion of the transmission of the message to the number given to the Corporation by the director and receipt of a completed answer-back indicating receipt. Notice by United States mail shall be deemed to be given when deposited in the United States mail properly addressed, with postage thereon prepaid. Notice by courier shall be deemed to be given when deposited with or delivered to a courier properly addressed. Neither the business to be transacted at, nor the purpose of, any annual, regular or special meeting of the Board of Directors need be stated in the notice, unless specifically required by statute or these Bylaws.

Section 6. QUORUM. A majority of the directors shall constitute a quorum for transaction of business at any meeting of the Board of Directors, provided that, if less than a majority of such directors is present at such meeting, a majority of the directors present may adjourn the meeting from time to time without further notice, and provided further that if, pursuant to applicable law, the Charter or these Bylaws, the vote of a majority or other percentage of a particular group of directors is required for action, a quorum must also include a majority or such other percentage of such group.

The directors present at a meeting which has been duly called and at which a quorum has been established may continue to transact business until adjournment, notwithstanding the withdrawal from the meeting of enough directors to leave fewer than required to establish a quorum.

Section 7. VOTING. The action of a majority of the directors present at a meeting at which a quorum is present shall be the action of the Board of Directors, unless the concurrence of a greater proportion is required for such action by applicable law, the Charter or these Bylaws. If enough directors have withdrawn from a meeting to leave fewer than required to establish a quorum, but the meeting is not adjourned, the action of the majority of that number of directors necessary to constitute a quorum at such meeting shall be the action of the Board of Directors, unless the concurrence of a greater proportion is required for such action by applicable law, the Charter or these Bylaws.

Section 8. ORGANIZATION. At each meeting of the Board of Directors, the chair of the board or, in the absence of the chair, the vice chair of the board, if any, shall act as chair of the meeting. In the absence of both the chair and vice chair of the board, the chief executive officer or, in the absence of the chief executive officer, the president or, in the absence of the president, a director chosen by a majority of the directors present shall act as chair of the meeting. The secretary or, in his or her absence, an assistant secretary of the Corporation or, in the absence of the secretary and all assistant secretaries, an individual appointed by the chair of the meeting shall act as secretary of the meeting.

Section 9. TELEPHONE MEETINGS. Directors may participate in a meeting by means of a conference telephone or other communications equipment if all persons participating in the meeting can hear each other at the same time. Participation in a meeting by these means shall constitute presence in person at the meeting.

Section 10. CONSENT BY DIRECTORS WITHOUT A MEETING. Any action required or permitted to be taken at any meeting of the Board of Directors may be taken without a meeting, if a consent in writing or by electronic transmission to such action is given by each director and is filed with the minutes of proceedings of the Board of Directors.

Section 11. VACANCIES. If for any reason any or all of the directors cease to be directors, such event shall not terminate the Corporation or affect these Bylaws or the powers of the remaining directors hereunder. Any vacancy on the Board of Directors for any cause other than an increase in the number of directors may be filled by a majority of the remaining directors, even if such majority is less than a quorum. Any vacancy in the number of directors created by an increase in the number of directors may be filled by a majority of the entire Board of

Directors. Any individual so elected as director shall serve until the next annual meeting of stockholders and until his or her successor is duly elected and qualifies.

Section 12. COMPENSATION. Directors shall not receive any stated salary for their services as directors but, by resolution of the Board of Directors, may receive compensation per year and/or per meeting and/or per visit to real property or other facilities owned or leased by the Corporation and for any service or activity they performed or engaged in as directors. Directors may be reimbursed for expenses of attendance, if any, at each annual, regular or special meeting of the Board of Directors or of any committee thereof and for their expenses, if any, in connection with each property visit and any other service or activity they perform or engage in as directors; but nothing herein contained shall be construed to preclude any directors from serving the Corporation in any other capacity and receiving compensation therefor.

Section 13. RELIANCE. Each director and officer of the Corporation shall, in the performance of his or her duties with respect to the Corporation, be entitled to rely on any information, opinion, report or statement, including any financial statement or other financial data, prepared or presented by an officer or employee of the Corporation whom the director or officer reasonably believes to be reliable and competent in the matters presented, by a lawyer, certified public accountant or other person, as to a matter which the director or officer reasonably believes to be within the person's professional or expert competence, or, with respect to a director, by a committee of the Board of Directors on which the director does not serve, as to a matter within its designated authority, if the director reasonably believes the committee to merit confidence.

Section 14. RATIFICATION. The Board of Directors or the stockholders may ratify any action or inaction by the Corporation or its officers to the extent that the Board of Directors or the stockholders could have originally authorized the matter, and if so ratified, shall have the same force and effect as if originally duly authorized, and such ratification shall be binding upon the Corporation and its stockholders. Any action or inaction questioned in any stockholders' derivative proceeding or any other proceeding on the ground of lack of authority, defective or irregular execution, adverse interest of a director, officer or stockholder, non-disclosure, miscomputation, the application of improper principles or practices of accounting or otherwise, may be ratified, before or after judgment, by the Board of Directors or by the stockholders, and such ratification shall constitute a bar to any claim or execution of any judgment in respect of such questioned action or inaction.

Section 15. CERTAIN RIGHTS OF DIRECTORS AND OFFICERS. Any director or officer, in his or her personal capacity or in a capacity as an affiliate, employee or agent of any other person, or otherwise, may have business interests and engage in business activities similar to, in addition to or in competition with those of or relating to the Corporation.

Section 16. EMERGENCY PROVISIONS. Notwithstanding any other provision in the Charter or these Bylaws, this Section 16 shall apply during the existence of any catastrophe, or other similar emergency condition, as a result of which a quorum of the Board of Directors under Article III of these Bylaws cannot readily be obtained (an "Emergency"). During any Emergency, unless otherwise provided by the Board of Directors, (i) a meeting of the Board of Directors or a committee thereof may be called by any director or officer by any means feasible under the circumstances; (ii) notice of any meeting of the Board of Directors during such an Emergency may be given less than 24 hours prior to the meeting to as many directors and by such means as may be feasible at the time, including publication, television or radio; and (iii) the number of directors necessary to constitute a quorum shall be one-third of the entire Board of Directors.

ARTICLE IV COMMITTEES

Section 1. NUMBER, TENURE AND QUALIFICATIONS. The Board of Directors may appoint from among its members an Executive Committee, an Audit Committee, a Compensation Committee, a Nominating and Corporate Governance Committee and other committees, composed of one or more directors, to serve at the pleasure of the Board of Directors. In the absence of any member of any such committee, the members thereof present at any meeting, whether or not they constitute a quorum, may appoint another director to act in the place of such absent member.

Section 2. POWERS. The Board of Directors may delegate to committees appointed under Section 1 of this Article IV any of the powers of the Board of Directors, except as prohibited by law. Except as may be otherwise provided by the Board of Directors, any committee may delegate some or all of its power and authority to one or more subcommittees, composed of one or more directors, as the committee deems appropriate in its sole and absolute discretion.

Section 3. MEETINGS. Notice of committee meetings shall be given in the same manner as notice for special meetings of the Board of Directors. A majority of the members of the committee shall constitute a quorum for the transaction of business at any meeting of the committee. The act of a majority of the committee members present at a meeting shall be the act of such committee. The Board of Directors or the members of any committee, by the vote of a majority of the membership of such committee, may designate a chair of any committee, and such chair or, in the absence of a chair, any two members of any committee (if there are at least two members of the committee) may fix the time and place of its meeting unless the Board of Directors shall otherwise provide.

Section 4. TELEPHONE MEETINGS. Members of a committee of the Board of Directors may participate in a meeting by means of a conference telephone or other communications equipment if all persons participating in the meeting can hear each other at the same time. Participation in a meeting by these means shall constitute presence in person at the meeting.

Section 5. CONSENT BY COMMITTEES WITHOUT A MEETING. Any action required or permitted to be taken at any meeting of a committee of the Board of Directors may be taken without a meeting, if a consent in writing or by electronic transmission to such action is given by each member of the committee and is filed with the minutes of proceedings of such committee.

Section 6. VACANCIES. Subject to the provisions hereof, the Board of Directors shall have the power at any time to change the membership of any committee, to fill any vacancy, to designate an alternate member to replace any absent or disqualified member or to dissolve any such committee.

ARTICLE V OFFICERS

Section 1. GENERAL PROVISIONS. The officers of the Corporation shall include a president, a secretary and a treasurer and may include a chair of the board, a vice chair of the board, a chief executive officer, one or more vice presidents, a chief operating officer, a chief financial officer, one or more assistant secretaries and one or more assistant treasurers. In addition, the Board of Directors may from time to time elect such other officers with such powers and duties as it shall deem necessary or desirable. The officers of the Corporation shall be elected annually by the Board of Directors, except that the chief executive officer or president may from time to time appoint one or more vice presidents, assistant secretaries and assistant treasurers or other officers. Each officer shall serve until his or her successor is elected and qualifies or until his or her death, or his or her resignation or removal in the manner hereinafter provided. Any two or more offices except president and vice president may be held by the same person.

Election of an officer or agent shall not of itself create contract rights between the Corporation and such officer or agent.

Section 2. REMOVAL AND RESIGNATION. Any officer or agent of the Corporation may be removed, with or without cause, by the Board of Directors if in its judgment the best interests of the Corporation would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Any officer of the Corporation may resign at any time by delivering his or her resignation to the Board of Directors, the chair of the board, the chief executive officer, the president or the secretary. Any resignation shall take effect immediately upon its receipt or at such later time specified in the resignation. The acceptance of a resignation shall not be necessary to make it effective unless otherwise stated in the resignation. Such resignation shall be without prejudice to the contract rights, if any, of the Corporation.

Section 3. VACANCIES. A vacancy in any office may be filled by the Board of Directors for the balance of the term.

Section 4. CHAIR OF THE BOARD. The Board of Directors may designate from among its members a chair of the board, who shall not, solely by reason of these Bylaws, be an officer of the Corporation. The Board of Directors may designate the chair of the board as an executive or non-executive chair. The chair of the board shall preside over the meetings of the Board of Directors. The chair of the board shall perform such other duties as may be assigned to him or her by these Bylaws or the Board of Directors.

Section 5. CHIEF EXECUTIVE OFFICER. The Board of Directors may designate a chief executive officer. In the absence of such designation, the chair of the board shall be the chief executive officer of the Corporation. The chief executive officer shall have general responsibility for implementation of the policies of the Corporation, as determined by the Board of Directors, and for the management of the business and affairs of the Corporation. He or she may execute any deed, mortgage, bond, contract or other instrument, except in cases where the execution thereof shall be expressly delegated by the Board of Directors or by these Bylaws to some other officer or agent of the Corporation or shall be required by law to be otherwise executed; and in general shall perform all duties incident to the office of chief executive officer and such other duties as may be prescribed by the Board of Directors from time to time.

Section 6. CHIEF OPERATING OFFICER. The Board of Directors may designate a chief operating officer. The chief operating officer shall have the responsibilities and duties as determined by the Board of Directors or the chief executive officer.

Section 7. CHIEF FINANCIAL OFFICER. The Board of Directors may designate a chief financial officer. The chief financial officer shall have the responsibilities and duties as determined by the Board of Directors or the chief executive officer.

Section 8. PRESIDENT. In the absence of a chief executive officer, the president shall in general supervise and control all of the business and affairs of the Corporation. In the absence of a designation of a chief operating officer by the Board of Directors, the president shall be the chief operating officer. He or she may execute any deed, mortgage, bond, contract or other instrument, except in cases where the execution thereof shall be expressly delegated by the Board of Directors or by these Bylaws to some other officer or agent of the Corporation or shall be required by law to be otherwise executed; and in general shall perform all duties incident to the office of president and such other duties as may be prescribed by the Board of Directors from time to time.

Section 9. VICE PRESIDENTS. In the absence of the president or in the event of a vacancy in such office, the vice president (or in the event there be more than one vice president, the vice presidents in the order designated

at the time of their election or, in the absence of any designation, then in the order of their election) shall perform the duties of the president and when so acting shall have all the powers of and be subject to all the restrictions upon the president; and shall perform such other duties as from time to time may be assigned to such vice president by the chief executive officer, the president or the Board of Directors. The Board of Directors may designate one or more vice presidents as executive vice president, senior vice president or vice president for particular areas of responsibility.

Section 10. SECRETARY. The secretary shall (a) keep the minutes of the proceedings of the stockholders, the Board of Directors and committees of the Board of Directors in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law; (c) be custodian of the corporate records and of the seal of the Corporation; (d) keep a register of the post office address of each stockholder which shall be furnished to the secretary by such stockholder; (e) have general charge of the stock transfer books of the Corporation; and (f) in general perform such other duties as from time to time may be assigned to him or her by the chief executive officer, the president or the Board of Directors.

Section 11. TREASURER. The treasurer shall have the custody of the funds and securities of the Corporation, shall keep full and accurate accounts of receipts and disbursements in books belonging to the Corporation, shall deposit all moneys and other valuable effects in the name and to the credit of the Corporation in such depositories as may be designated by the Board of Directors and in general perform such other duties as from time to time may be assigned to him or her by the chief executive officer, the president or the Board of Directors. In the absence of a designation of a chief financial officer by the Board of Directors, the treasurer shall be the chief financial officer of the Corporation.

The treasurer shall disburse the funds of the Corporation as may be ordered by the Board of Directors, taking proper vouchers for such disbursements, and shall render to the president and Board of Directors, at the regular meetings of the Board of Directors or whenever it may so require, an account of all his or her transactions as treasurer and of the financial condition of the Corporation.

Section 12. ASSISTANT SECRETARIES AND ASSISTANT TREASURERS. The assistant secretaries and assistant treasurers, in general, shall perform such duties as shall be assigned to them by the secretary or treasurer, respectively, or by the chief executive officer, the president or the Board of Directors.

Section 13. COMPENSATION. The compensation of the officers shall be fixed from time to time by or under the authority of the Board of Directors and no officer shall be prevented from receiving such compensation by reason of the fact that he or she is also a director.

ARTICLE VI

CONTRACTS, CHECKS AND DEPOSITS

Section 1. CONTRACTS. The Board of Directors may authorize any officer or agent to enter into any contract or to execute and deliver any instrument in the name of and on behalf of the Corporation and such authority may be general or confined to specific instances. Any agreement, deed, mortgage, lease or other document shall be valid and binding upon the Corporation when duly authorized or ratified by action of the Board of Directors and executed by an authorized person.

Section 2. CHECKS AND DRAFTS. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Corporation shall be signed by such officer or agent of the Corporation in such manner as shall from time to time be determined by the Board of Directors.

Section 3. DEPOSITS. All funds of the Corporation not otherwise employed shall be deposited or invested from time to time to the credit of the Corporation as the Board of Directors, the chief executive officer, the president, the chief financial officer or any other officer designated by the Board of Directors may determine.

ARTICLE VII STOCK

Section 1. CERTIFICATES. Except as may be otherwise provided by the Board of Directors, stockholders of the Corporation are not entitled to certificates representing the shares of stock held by them. In the event that the Corporation issues shares of stock represented by certificates, such certificates shall be in such form as prescribed by the Board of Directors or a duly authorized officer, shall contain the statements and information required by the MGCL and shall be signed by the officers of the Corporation in any manner permitted by the MGCL. In the event that the Corporation issues shares of stock without certificates, to the extent then required by the MGCL, the Corporation shall provide to the record holders of such shares a written statement of the information required by the MGCL to be included on stock certificates. There shall be no differences in the rights and obligations of stockholders based on whether or not their shares are represented by certificates.

Section 2. TRANSFERS. All transfers of shares of stock shall be made on the books of the Corporation, by the holder of the shares, in person or by his or her attorney, in such manner as the Board of Directors or any officer of the Corporation may prescribe and, if such shares are certificated, upon surrender of certificates duly endorsed. The issuance of a new certificate upon the transfer of certificated shares is subject to the determination of the Board of Directors that such shares shall no longer be represented by certificates. Upon the transfer of any uncertificated shares, the Corporation shall provide to the record holders of such shares, to the extent then required by the MGCL, a written statement of the information required by the MGCL to be included on stock certificates.

The Corporation shall be entitled to treat the holder of record of any share of stock as the holder in fact thereof and, accordingly, shall not be bound to recognize any equitable or other claim to or interest in such share or on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise expressly provided by the laws of the State of Maryland.

Notwithstanding the foregoing, transfers of shares of any class or series of stock will be subject in all respects to the Charter and all of the terms and conditions contained therein.

Section 3. REPLACEMENT CERTIFICATE. Any officer of the Corporation may direct a new certificate or certificates to be issued in place of any certificate or certificates theretofore issued by the Corporation alleged to have been lost, destroyed, stolen or mutilated, upon the making of an affidavit of that fact by the person claiming the certificate to be lost, destroyed, stolen or mutilated; provided, however, if such shares have ceased to be certificated, no new certificate shall be issued unless requested in writing by such stockholder and the Board of Directors has determined that such certificates may be issued. Unless otherwise determined by an officer of the Corporation, the owner of such lost, destroyed, stolen or mutilated certificate or certificates, or his or her legal representative, shall be required, as a condition precedent to the issuance of a new certificate or certificates, to give the Corporation a bond in such sums as it may direct as indemnity against any claim that may be made against the Corporation.

Section 4. FIXING OF RECORD DATE. The Board of Directors may set, in advance, a record date for the purpose of determining stockholders entitled to notice of or to vote at any meeting of stockholders or determining stockholders entitled to receive payment of any dividend or the allotment of any other rights, or in order to make a determination of stockholders for any other proper purpose. Such date, in any case, shall not be prior to the close of

business on the day the record date is fixed and shall be not more than 90 days and, in the case of a meeting of stockholders, not less than ten days, before the date on which the meeting or particular action requiring such determination of stockholders of record is to be held or taken.

When a record date for the determination of stockholders entitled to notice of and to vote at any meeting of stockholders has been set as provided in this section, such record date shall continue to apply to the meeting if adjourned or postponed, except if the meeting is adjourned or postponed to a date more than 120 days after the record date originally fixed for the meeting, in which case a new record date for such meeting shall be determined as set forth herein.

Section 5. STOCK LEDGER. The Corporation shall maintain at its principal office or at the office of its counsel, accountants or transfer agent, an original or duplicate stock ledger containing the name and address of each stockholder and the number of shares of each class held by such stockholder.

Section 6. FRACTIONAL STOCK; ISSUANCE OF UNITS. The Board of Directors may authorize the Corporation to issue fractional shares of stock or authorize the issuance of scrip, all on such terms and under such conditions as it may determine. Notwithstanding any other provision of the Charter or these Bylaws, the Board of Directors may authorize the issuance of units consisting of different securities of the Corporation. Any security issued in a unit shall have the same characteristics as any identical securities issued by the Corporation, except that the Board of Directors may provide that for a specified period securities of the Corporation issued in such unit may be transferred on the books of the Corporation only in such unit.

ARTICLE VIII ACCOUNTING YEAR

The Board of Directors shall have the power, from time to time, to fix the fiscal year of the Corporation by a duly adopted resolution.

ARTICLE IX DISTRIBUTIONS

Section 1. AUTHORIZATION. Dividends and other distributions upon the stock of the Corporation may be authorized by the Board of Directors, subject to the provisions of law and the Charter. Dividends and other distributions may be paid in cash, property or stock of the Corporation, subject to the provisions of law and the Charter.

Section 2. CONTINGENCIES. Before payment of any dividends or other distributions, there may be set aside out of any assets of the Corporation available for dividends or other distributions such sum or sums as the Board of Directors may from time to time, in its absolute discretion, think proper as a reserve fund for contingencies, for equalizing dividends or other distributions, for repairing or maintaining any property of the Corporation or for such other purpose as the Board of Directors shall determine, and the Board of Directors may modify or abolish any such reserve.

ARTICLE X INVESTMENT POLICY

Subject to the provisions of the Charter, the Board of Directors may from time to time adopt, amend, revise or terminate any policy or policies with respect to investments by the Corporation as it shall deem appropriate in its sole discretion.

ARTICLE XI SEAL

Section 1. SEAL. The Board of Directors may authorize the adoption of a seal by the Corporation. The seal shall contain the name of the Corporation and the year of its incorporation and the words "Incorporated Maryland." The Board of Directors may authorize one or more duplicate seals and provide for the custody thereof.

Section 2. AFFIXING SEAL. Whenever the Corporation is permitted or required to affix its seal to a document, it shall be sufficient to meet the requirements of any law, rule or regulation relating to a seal to place the word "(SEAL)" adjacent to the signature of the person authorized to execute the document on behalf of the Corporation.

ARTICLE XII INDEMNIFICATION AND ADVANCE OF

EXPENSES

To the maximum extent permitted by Maryland law in effect from time to time, the Corporation shall indemnify and, without requiring a preliminary determination of the ultimate entitlement to indemnification, shall pay or reimburse reasonable expenses in advance of final disposition of a proceeding to (a) any individual who is a present or former director or officer of the Corporation 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 (b) any individual who, while a director or officer of the Corporation and at the request of the Corporation, serves or has served as a director, officer, partner, member, manager 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. The rights to indemnification and advance of expenses provided by the Charter and these Bylaws shall vest immediately upon election of a director or officer. The Corporation may, with the approval of the Board of Directors, provide such indemnification and advance for expenses to an individual who served a predecessor of the Corporation in any of the capacities described in (a) or (b) above and to any employee or agent of the Corporation or a predecessor of the Corporation. The indemnification and payment or reimbursement of expenses provided in these Bylaws shall not be deemed exclusive of or limit in any way other rights to which any person seeking indemnification or payment or reimbursement of expenses may be or may become entitled under any bylaw, resolution, insurance, agreement or otherwise.

Neither the amendment nor repeal of this Article XII, nor the adoption or amendment of any other provision of the Charter or these Bylaws inconsistent with this Article XII, shall apply to or affect in any respect the applicability of the preceding paragraph of this Article XII with respect to any act or failure to act which occurred prior to such amendment, repeal or adoption.

ARTICLE XIII WAIVER OF NOTICE

Whenever any notice of a meeting is required to be given pursuant to the Charter or these Bylaws or pursuant to applicable law, a waiver thereof in writing or by electronic transmission, given by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice. Neither the business to be transacted at nor the purpose of any meeting need be set forth in the waiver of notice of such meeting, unless specifically required by statute. The attendance of any person at any meeting shall constitute a waiver of notice of such meeting, except where such person attends a meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting has not been lawfully called or convened.

ARTICLE XIV

EXCLUSIVE FORUM FOR CERTAIN LITIGATION

Unless the Corporation consents in writing to the selection of an alternative forum, the Circuit Court for Baltimore City, Maryland, or, if that Court does not have jurisdiction, the United States District Court for the District of Maryland, Baltimore Division, shall be the sole and exclusive forum for (a) any derivative action or proceeding brought on behalf of the Corporation, (b) any action asserting a claim of breach of any duty owed by any director or officer or other employee of the Corporation to the Corporation or to the stockholders of the Corporation, (c) any action asserting a claim against the Corporation or any director or officer or other employee of the Corporation arising pursuant to any provision of the MGCL, the Charter or these Bylaws, or (d) any action asserting a claim against the Corporation or any director or officer or other employee of the Corporation that is governed by the internal affairs doctrine.

ARTICLE XV AMENDMENT OF BYLAWS

The Board of Directors shall have the power to adopt, alter or repeal any provision of these Bylaws and to make new Bylaws; *provided*, *however*, that, the stockholders shall have the power, by the affirmative vote of the holders of a majority of the outstanding shares of Common Stock, to alter or repeal any provision of these Bylaws and to adopt new Bylaws pursuant to a binding proposal that is submitted to the stockholders for approval at a duly called annual meeting or special meeting of stockholders by a stockholder (who provides to the Secretary of the Corporation a timely notice of such proposal which satisfies the notice procedures and all other relevant provisions of Section 3 and Section 11 of Article II of these Bylaws, as applicable, and is otherwise permitted by applicable law (the “Notice of Bylaw Amendment Proposal”)) that (i) Owned (as defined below) shares of Common Stock in the amount and for the duration of time specified in Rule 14(a)-8 under the Exchange Act on the date the Notice of Bylaw Amendment Proposal is delivered or mailed to and received by the Secretary of the Corporation in accordance with Section 3 and Section 11 of Article II of these Bylaws, as applicable, and the close of business on the record date for determining the stockholders entitled to vote at such annual meeting or special meeting of stockholders; and (ii) continuously Owns (as defined below) such shares of Common Stock through the date of such annual meeting or special meeting of stockholders (and any postponement or adjournment thereof).

For purposes of this Article XV, a stockholder shall be deemed to “Own” only those outstanding shares of Common Stock as to which such stockholder possesses both (i) the full voting and investment rights pertaining to the shares and (ii) the full economic interest in (including the opportunity for profit from and risk of loss on) such shares; *provided* that the number of shares calculated in accordance with clauses (i) and (ii) shall not include any shares (A)

sold by such stockholder or any of its Affiliates (as defined below) in any transaction that has not been settled or closed, including short sales, (B) borrowed by such stockholder or any of its Affiliates for any purpose or purchased by such stockholder or any of its Affiliates pursuant to an agreement to resell, (C) that are subject to any option, warrant, forward contract, swap, contract of sale, other derivative or similar instrument, agreement, arrangement or understanding entered into by such stockholder or any of its Affiliates, whether any such instrument, agreement, arrangement or understanding is to be settled with shares or with cash based on the notional amount or value of shares of outstanding Common Stock, in any such case which instrument, agreement, arrangement or understanding has, or is intended to have, the purpose or effect of (1) reducing in any manner, to any extent or at any time in the future, such stockholder's or its Affiliate's full right to vote or direct the voting of any such shares and/or (2) hedging, offsetting or altering to any degree any gain or loss arising from the full economic ownership of such shares by such stockholder or its Affiliate or (D) for which the stockholder has transferred the right to vote the shares other than by means of a proxy, power of attorney or other instrument or arrangement that is unconditionally revocable at any time by the stockholder and that expressly directs the proxy holder to vote at the direction of the stockholder. In addition, a stockholder shall be deemed to "Own" shares of Common Stock held in the name of a nominee or other intermediary so long as the stockholder retains the full right to instruct how the shares are voted with respect to the election of directors and possesses the full economic interest in the shares of Common Stock. A stockholder's Ownership of shares of Common Stock shall be deemed to continue during any period in which the stockholder has loaned such shares provided that the stockholder has the power to recall such loaned shares on three Business Days' notice and has in fact recalled such loaned shares as of the time the Notice of Bylaw Amendment Proposal is provided and through the date of the relevant annual meeting or special meeting of stockholders. For purposes of this Article XV, the terms "Owned," "Owning" and other variations of the word "Own" shall have correlative meanings. Whether outstanding shares of Common Stock are "Owned" for these purposes shall be determined by the Board of Directors, in its sole discretion. In addition, for purposes of this Article XV, the term "Affiliate" or "Affiliates" shall have the meaning ascribed thereto under the Exchange Act.

Certification of Chief Executive Officer Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002

I, Marcel Verbaas, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Xenia Hotels & Resorts, Inc.;
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 control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) 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: November 2, 2022

/s/ MARCEL VERBAAS

Marcel Verbaas

*Chairman and Chief Executive Officer
(Principal Executive Officer)*

Certification of Chief Financial Officer Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002

I, Atish Shah, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Xenia Hotels & Resorts, Inc.;
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 control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) 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: November 2, 2022

/s/ ATISH SHAH

Atish Shah

*Executive Vice President, Chief Financial Officer and Treasurer
(Principal Financial Officer)*

**Certification of Chief Executive Officer and Chief Financial Officer
Pursuant To 18 U.S.C. Section 1350,
as Adopted Pursuant to
Section 906 of The Sarbanes-Oxley Act of 2002**

In connection with the Quarterly Report of Xenia Hotels & Resorts, Inc. ("XHR") on Form 10-Q for the period ended September 30, 2022 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), the undersigned officers of XHR certify, pursuant to 18 U.S.C. section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that to such officers' knowledge:

- (1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of XHR.

Date: November 2, 2022

/s/ MARCEL VERBAAS

Marcel Verbaas

*Chairman and Chief Executive Officer
(Principal Executive Officer)*

/s/ ATISH SHAH

Atish Shah

*Executive Vice President, Chief Financial Officer and Treasurer
(Principal Financial Officer)*

A signed original of this written statement required by Section 906 has been provided to XHR and will be retained by XHR and furnished to the Securities and Exchange Commission or its staff upon request.

The foregoing certification is being furnished solely pursuant to 18 U.S.C. Section 1350 and is not being filed as a part of the Report or on a separate disclosure document.