

CBL & ASSOCIATES PROPERTIES INC  
Form POSASR  
September 20, 2012

As filed with the Securities and Exchange Commission on September 20, 2012  
Registration No. 333-182515

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UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

Post-Effective Amendment No. 1 to  
FORM S-3  
REGISTRATION STATEMENT  
UNDER THE SECURITIES ACT OF 1933

CBL & ASSOCIATES PROPERTIES, INC.  
(Exact name of registrant as specified in its charter)

Delaware  
(State or other jurisdiction of incorporation or  
organization)

62-1545718  
(I.R.S. Employer  
Identification No.)

CBL Center  
2030 Hamilton Place Blvd., Suite 500  
Chattanooga, Tennessee 37421-6000  
(423) 855-0001

(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

Stephen D. Lebovitz  
President and Chief Executive Officer  
CBL Center, Suite 500  
2030 Hamilton Place Blvd.  
Chattanooga, Tennessee 37421-6000  
(423) 855-0001

(Name, address, including zip code, and telephone number, including area code, of agent for service)

With Copies To:  
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Approximate date of commencement of proposed sale to the public: From time to time after the effective date of this registration statement, as determined by market conditions and other factors.

If the only securities being registered on this Form are being offered pursuant to dividend or interest reinvestment plans, please check the following box.  F

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, check the following box.  S

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If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. £

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If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. £

If this Form is a registration statement pursuant to General Instruction I.D. or a post-effective amendment thereto that shall become effective upon filing with the Commission pursuant to Rule 462(e) under the Securities Act, check the following box.S

If this Form is a post-effective amendment to a registration statement filed pursuant to General Instruction I.D. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box. £

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

Large accelerated filer S

Accelerated filer £

Non-accelerated filer £ (Do not check if a smaller reporting company)

Smaller reporting company £

CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities to be Registered	Amount to be Registered	Proposed Maximum Offering Price Per Unit	Proposed Maximum Aggregate Offering Price	Amount of Registration Fee(1)
Preferred Stock (par value \$.01 per share)	(1)	(1)	(1)	\$0
Common Stock (par value \$.01 per share)	(1)(2)	(1)	(1)	\$0
Depository Shares, representing Preferred Stock (par value \$.01 per share)	(1)(3)	(1)	(1)	\$0
Warrants	(1)	(1)	(1)	\$0
Debt Securities	(1)	(1)	(1)	\$0
Rights	(1)	(1)	(1)	\$0
Units	(1)(4)	(1)	(1)	\$0

- An unspecified aggregate offering price or number of the securities of each identified class is being registered, as may from time to time be offered at indeterminate prices. Separate consideration may or may not be received for
- (1) securities that are issuable on exercise, conversion or exchange of other securities or that are issued in Units or represented by Depository Shares. In accordance with Rules 456(b) and 457(r), the Registrant is deferring payment of all of the registration fee.
  - (2) There is also being registered hereunder (i) an indeterminate number of shares of Common Stock that may be offered and sold from time to time for the account of persons other than the Registrant and (ii) an indeterminate number of shares of Common Stock as shall be issuable upon exercise of Common Stock Warrants or conversion of Preferred Stock registered hereunder.
  - (3) To be represented by Depository Receipts representing an interest in Preferred Stock.
  - (4) There is being registered an indeterminate amount and number of Units to be issued under a unit agreement, representing an interest in two or more securities, which may or may not be separable from one another.

EXPLANATORY NOTE

On July 2, 2012, CBL & Associates Properties, Inc. (the “Company”) filed an Automatic Shelf Registration Statement on Form S-3, File No. 333-182515, for the registration of an unspecified aggregate offering price or number of the securities of each class identified therein as being registered, as may from time to time be offered at indeterminate prices (the “Original Registration Statement”). The Original Registration Statement was not officially accepted by the Securities and Exchange Commission's EDGAR electronic filing system until the morning of July 3, 2012, when the SEC's EDGAR Filer Technical Support personnel manually overrode an incorrect “duplicative filing” error that had caused the filing to be suspended when originally transmitted, due to an error in the EDGAR software which the Company understands the SEC is working to resolve. This Post-Effective Amendment No. 1 is being filed solely to change the date on the cover page of the prospectus included in Part I of the Original Registration Statement to July 3, 2012, to correspond to the date on which EDGAR officially “accepted” the filing, and to include the additional required consents of Deloitte & Touche LLP. Accordingly, this Post-Effective Amendment No. 1 amends only the cover page of the prospectus in Part I of the Original Registration Statement and Item 16 of Part II of the Original Registration Statement and the related Exhibit Index. This Amendment does not update, amend or modify any other information, statement or disclosure contained in the Original Registration Statement. This Post-Effective Amendment No. 1 shall become effective immediately upon filing in accordance with Rule 462(e) under the Securities Act.

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PROSPECTUS

CBL & Associates Properties, Inc.

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PREFERRED STOCK, COMMON STOCK, DEPOSITARY SHARES,  
WARRANTS, DEBT SECURITIES, RIGHTS, UNITS

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CBL & Associates Properties, Inc. may from time to time offer and sell, in one or more offerings and in one or more series:

- shares of our preferred stock, par value \$.01 per share;
- shares of our common stock, par value \$.01 per share;
- fractional interests in shares of our preferred stock represented by depositary shares;
- senior and/or subordinated debt securities;
- warrants for the purchase of shares of our common stock, shares of our preferred stock (or depositary shares representing a fractional interest therein) and/or debt securities;
- rights to purchase shares of our common stock, shares of our preferred stock (or depositary shares representing a fractional interest therein) and/or debt securities; and
- units consisting of two or more of these classes or series of securities.

This prospectus may also be used to offer securities to be issued to limited partners of CBL & Associates Limited Partnership in exchange for partnership interests, or to cover the resale of any of the securities described herein by one or more selling security holders.

We, or any selling security holders to be identified in the future, may offer these securities in amounts, at prices and on terms determined at the time or times of offering. We may offer any of such securities separately or together, in separate classes or series. The specific terms of any securities to be offered, including the amounts of such securities and the prices at which they are to be offered as well as the specific plan of distribution for any securities to be offered, will be described in a supplement to this prospectus. We also may authorize one or more free writing prospectuses to be provided to you in connection with an offering. We may offer and sell the offered securities directly to you, through agents that we select, or to or through underwriters or dealers that we select. If we use agents, underwriters or dealers to sell these securities, a prospectus supplement will name them and describe their compensation, as well as the net proceeds we expect to receive from such sales.

The following equity securities are currently listed on the New York Stock Exchange: (i) our common stock is listed under the symbol "CBL"; (ii) our depositary shares, each representing 1/10th of a share of our 7.75% Series C cumulative redeemable preferred stock, are listed under the symbol "CBLprC"; and (iii) our depositary shares, each representing 1/10th of a share of our 7.375% Series D cumulative redeemable preferred stock, are listed under the symbol "CBLprD." Any common stock offered pursuant to a prospectus supplement will be listed on the New York Stock Exchange, subject to official notice of issuance.

You should read this prospectus, the prospectus supplement for the specific security being offered and any related free writing prospectus carefully before you invest in any of our securities. Our securities may not be sold without delivery of both this prospectus and the applicable prospectus supplement describing the method and terms of the offering of such offered securities.

Investing in our securities involves risks. You should carefully consider the information under the heading "Risk Factors" on page 4 of this prospectus before you make an investment in any of our offered securities.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or passed upon the adequacy or accuracy of this prospectus. Any representation to the contrary is a criminal offense.

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The date of this prospectus is July 3, 2012.

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## ABOUT THIS PROSPECTUS

This prospectus is part of an “automatic shelf” registration statement that we filed with the United States Securities and Exchange Commission, or SEC, as a “well-known seasoned issuer” as defined in Rule 405 under the Securities Act of 1933, as amended (the “Securities Act”), using a “shelf” registration process. Under the shelf registration process, using this prospectus, together with a prospectus supplement, we may sell, from time to time, in one or more offerings, any of the offered securities described in this prospectus. This prospectus provides you with a general description of each type of security we may offer. Each time we offer one or more of such securities, a prospectus supplement will be provided that will contain specific information about the terms of that offering. We also may authorize one or more free writing prospectuses to be provided to you in connection with an offering. The prospectus supplement and any related free writing prospectus may also add to, update or change information contained in this prospectus.

Accordingly, to the extent inconsistent, information included or incorporated by reference in this prospectus will be superseded by the information contained in the applicable prospectus supplement and any related free writing prospectus related to such securities. You should read this prospectus, the applicable prospectus supplement and any related free writing prospectus, as well as the information incorporated by reference in this prospectus or a prospectus supplement, before making an investment in any of our offered securities. See “How to Obtain More Information” and “Incorporation of Information Filed with the SEC” for more information.

You should rely only on the information contained in, or incorporated by reference into, this prospectus, the applicable prospectus supplement and any related free writing prospectus. Neither we nor any underwriter have authorized anyone to provide you with different or inconsistent information, and if anyone provides you with different or inconsistent information you should not rely on it. This document may be used only in jurisdictions where offers and sales of the offered securities are permitted. You should not assume that information contained in this prospectus, any prospectus supplement, any related free writing prospectus, or any document incorporated by reference into this prospectus or any prospectus supplement, is accurate as of any date other than the date on the front page of the document that contains the information, regardless of when this prospectus, any prospectus supplement or any related free writing prospectus is delivered or when any sale of offered securities occurs.

In this prospectus, we use the terms “the Company,” “we,” “our” and “us” to refer to CBL & Associates Properties, Inc. and its subsidiaries, except where it is made clear that the term means only the parent company. The term “you” refers to a prospective investor.

## HOW TO OBTAIN MORE INFORMATION

We are subject to the informational requirements of the Securities Exchange Act of 1934, as amended (the “Exchange Act”). In accordance with those requirements we file annual, quarterly and interim reports, proxy and information statements and other information with the SEC. The reports and other information can be inspected and copied at the SEC's Public Reference Room at 100 F Street, N.E., Washington, D.C. 20549. Copies of this material can be obtained by mail from the Public Reference Room of the SEC at 100 F Street, N.E., Washington, D.C. 20549 at prescribed rates. The public may obtain information on the operation of the Public Reference Room by calling the SEC at 1-800-SEC-0330. The SEC maintains an Internet website (<http://www.sec.gov>) that contains reports, proxy and information statements and other materials that are filed through the SEC's Electronic Data Gathering, Analysis and Retrieval (EDGAR) system. Our website address is [cblproperties.com](http://cblproperties.com). The reference to our website address does not constitute incorporation by reference of the information contained on the website, which is not part of this prospectus. We have filed with the SEC a registration statement on Form S-3 under the Securities Act with respect to the securities offered by this prospectus. This prospectus does not contain all of the information contained or incorporated by reference in that registration statement. We have omitted certain parts of the registration statement, as permitted by the rules and regulations of the SEC. You may inspect and copy the registration statement, including exhibits, schedules, reports and other information that we have filed with the SEC, as described in the preceding paragraph. Forms of the indenture and other documents establishing the terms of the offered securities are filed as exhibits to the registration statement or will be filed through an amendment to our registration statement on Form S-3 or under cover of a Current Report on Form 8-K and incorporated in this prospectus by reference. Statements contained in this prospectus concerning the contents of any document to which we may refer you are not





necessarily complete and in each instance we refer you to the applicable document filed with the SEC for more complete information.

#### INCORPORATION OF INFORMATION FILED WITH THE SEC

The SEC allows us to “incorporate by reference” the information contained in documents that we have filed or will file with them, which means that we can disclose important information to you by referring to those documents. The information incorporated by reference is considered to be part of this prospectus. Information in this prospectus supersedes information incorporated by reference that we filed with the SEC prior to the date of this prospectus. Information that we file later with the SEC, which is considered part of this prospectus from the date that we file each such document, will automatically update and supersede this information. We incorporate by reference the documents listed below and any filings we will make with the SEC under our SEC File Number 1-12494 under Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act after the date of this prospectus and prior to the termination of the offering of securities hereby (other than, in each case, documents or information deemed to have been furnished and not filed in accordance with SEC rules).

The Company's Annual Report on Form 10-K for the year ended December 31, 2011 filed on February 29, 2012, as amended by Amendment No. 1 thereto on Form 10-K/A filed on March 30, 2012 (as amended, our “2011 Annual Report”).

The Company's Quarterly Report on Form 10-Q for the quarterly period ended March 31, 2012 as filed on May 10, 2012 (our “March 2012 Quarterly Report”).

Current Reports on Form 8-K dated and filed on the following dates:

Dated	Filed
February 7, 2012	February 13, 2012
May 7, 2012	May 10, 2012
June 1, 2012	June 1, 2012

The description of our common stock contained in our Registration Statement on Form 8-A dated October 25, 1993, and any amendment or report filed for the purpose of updating such description.

The description of the Depositary Shares, each representing 1/10<sup>th</sup> of a share of our Series C Preferred Stock contained in our Registration Statement on Form 8-A, filed on August 21, 2003, and any amendment or report filed for the purpose of updating such description.

The description of the Depositary Shares, each representing 1/10<sup>th</sup> of a share of our Series D Preferred Stock contained in our Registration Statement on Form 8-A, filed on December 10, 2004, and any amendment or report filed for the purpose of updating such description.

We will provide to you without charge, upon your written or oral request, a copy of any or all documents incorporated by reference in this prospectus (other than exhibits to such documents, unless such exhibits are specifically incorporated by reference into such documents or into this prospectus). Such requests should be directed to our Investor Relations Department, CBL Center, 2030 Hamilton Place Blvd., Suite 500, Chattanooga, Tennessee 37421-6000 (telephone number (423) 855-0001).

#### FORWARD-LOOKING STATEMENTS

This prospectus, any prospectus supplement and any related free writing prospectus, and the documents incorporated by reference herein and therein, as well as other written reports and oral statements made from time to time by the Company, may include forward-looking statements within the meaning of Section 27A of the Securities Act, Section 21E of the Exchange Act and the safe harbor provisions of the Private Securities Litigation Reform Act

of 1995, as amended. All statements other than statements of historical fact should be considered to be forward-looking statements.

Forward-looking statements can often be identified by the use of forward-looking terminology, such as “will,” “may,” “should,” “could,” “believes,” “expects,” “anticipates,” “estimates,” “intends,” “projects,” “goals,” “objectives,” “targets,” “pursues,” “seeks,” and variations of these words and similar expressions. Any forward-looking statement speaks only as of the date on which it is made and is qualified in its entirety by reference to the factors discussed throughout this prospectus, any prospectus supplement or related free writing prospectus, and in documents incorporated by reference. We do not undertake to update or revise any forward-looking statement to reflect events or circumstances after the date on which it is made.

Although we believe the expectations reflected in any forward-looking statements are based on reasonable assumptions, forward-looking statements are not guarantees of future performance or results and we can give no assurance that these expectations will be attained. It is possible that actual results may differ materially from those indicated by these forward-looking statements due to a variety of known and unknown risks and uncertainties. Some of the factors that could cause actual results to differ include, without limitation:

- general industry, economic and business conditions;
- interest rate fluctuations;
- costs and availability of capital, and capital requirements;
- cost and availability of real estate properties;
- inability to consummate acquisition opportunities and other risks associated with acquisitions;
- competition from other companies and retail formats;
- changes in retail rental rates in our markets;
- shifts in customer demands;
- tenant bankruptcies or store closings;
- changes in vacancy rates at our properties;
- changes in operating expenses;
- changes in applicable laws, rules and regulations;
- the ability to obtain suitable equity and/or debt financing and the continued availability of financing in the amounts and on the terms necessary to support our future business; and
- other risks referenced from time to time in filings with the SEC and those factors listed or incorporated by reference into this prospectus under the heading “Risk Factors.”

Additional factors that could cause actual results to differ materially from those expressed in the forward-looking statements are discussed in the reports we file with the SEC and which are incorporated by reference herein. See “Incorporation of Information Filed with the SEC.” In addition, other factors not identified could also have such an effect. We cannot give you any assurance that the forward-looking statements included or incorporated by reference in this prospectus, any prospectus supplement or any related free writing prospectus will prove to be accurate. In light of the significant uncertainties inherent in the forward-looking statements included or incorporated

by reference in this prospectus, any prospectus supplement or any related free writing prospectus, you should not regard the inclusion of this information as a representation by us or any other person that the results or conditions described in those statements or objectives and plans will be achieved.

#### RATIO OF EARNINGS TO FIXED CHARGES AND RATIO OF EARNINGS TO COMBINED FIXED CHARGES AND PREFERRED STOCK DIVIDENDS

##### Ratio of Earnings to Fixed Charges

The table below presents our consolidated ratios of earnings to fixed charges for each of the periods indicated. We compute the ratio of earnings to fixed charges by dividing earnings by fixed charges. For this purpose, earnings is the sum of net income before discontinued operations, equity in earnings of unconsolidated affiliates, noncontrolling interests' share of earnings (excluding those that have not incurred fixed charges) and fixed charges (excluding capitalized interest), plus distributed income from unconsolidated affiliates. In this context, fixed charges consist of interest expense (including interest cost capitalized), amortization of debt issuance costs, the portion of rent expense representing an interest factor, and preferred dividend requirements of consolidated subsidiaries, if any.

Three Months Ended	Year Ended December 31,				
March 31, 2012	2011	2010	2009 (1)	2008	2007
1.46x	1.45x	1.33x	—	1.12x	1.43x

(1) Total earnings for the year ended December 31, 2009 were inadequate to cover fixed charges by \$28,516.

##### Ratio of Earnings to Combined Fixed Charges and Preferred Stock Dividends

The table below presents our consolidated ratios of earnings to combined fixed charges and preferred stock dividends for each of the periods indicated. We computed these ratios by dividing earnings by combined fixed charges and preferred stock dividends. The terms “earnings” and “fixed charges” have the meanings assigned above. The ratios are based solely on historical financial information and no pro forma adjustments have been made.

Three Months Ended	Year Ended December 31,				
March 31, 2012	2011	2010	2009 (1)	2008	2007
1.26x	1.27x	1.21x	—	1.06x	1.30x

(1) Total earnings for the year ended December 31, 2009 were inadequate to cover combined fixed charges and preferred stock dividends by \$50,334.

#### RISK FACTORS

Investing in our securities involves certain risks. In deciding whether to invest in our securities, you should carefully consider the risks described under “Risk Factors” in our 2011 Annual Report and March 2012 Quarterly Report, in addition to the other information contained in this prospectus, any accompanying prospectus supplement and any related free writing prospectus and the information incorporated by reference herein and therein.

The risks and uncertainties described in this prospectus, our 2011 Annual Report and our March 2012 Quarterly Report are not the only ones we face. Additional risks not currently known to us or that we currently deem immaterial also may impair or harm our financial results and business operations. If any of the events or circumstances described in the risk factors actually occur our business may suffer, the trading price of our common stock or other securities could decline and you could lose all or part of your investment. Statements in or portions of a future document incorporated by reference in this prospectus, including, without limitation, those relating to risk factors, may update and supersede statements in and portions of this prospectus or such incorporated documents.

**CBL & ASSOCIATES PROPERTIES, INC.**

We are a self-managed, self-administered, fully integrated real estate development trust (“REIT”) that is engaged in the ownership, development, acquisition, leasing, management and operation of regional shopping malls, open-air centers, associated centers, community centers and office properties. We currently own interests in a portfolio of properties, consisting of enclosed regional malls, open-air centers (including one mixed-use center), associated centers (each of which is part of a regional shopping mall complex), community centers, office buildings (including our corporate office building), and joint venture investments in similar types of properties. We may also own from time to time shopping center properties that are under development or construction, as well as options to acquire certain shopping center development sites. Our shopping center properties are located in 27 states, but are primarily in the southeastern and midwestern United States. We have elected to be taxed as a REIT for federal income tax purposes.

We conduct substantially all of our business through CBL & Associates Limited Partnership (our “Operating Partnership”). We currently own an indirect majority interest in the Operating Partnership, and one of our wholly owned subsidiaries, CBL Holdings I, Inc., a Delaware corporation, is its sole general partner. To comply with certain technical requirements of the Internal Revenue Code of 1986, as amended (the “Internal Revenue Code”) applicable to REITs, our property management and development activities are carried out through CBL & Associates Management, Inc. (our “Management Company”). Our Operating Partnership owns 100% of the preferred and common stock of the Management Company.

In order for us to maintain our qualification as a REIT for federal income tax purposes, our Certificate of Incorporation provides for an ownership limit which generally prohibits, with certain exceptions, direct or constructive ownership by one person, as defined in our Certificate of Incorporation, of equity securities representing more than 6% of the combined total value of our outstanding equity securities. Additionally, in order to maintain our qualification as a REIT for U.S. federal income tax purposes, we must distribute each year at least 90% of our taxable income, computed without regard to net capital gains or the dividends-paid deduction, and subject to certain other adjustments. See “Material U.S. Federal Income Tax Considerations” herein for additional information concerning these requirements.

We were organized on July 13, 1993 as a Delaware corporation to acquire substantially all of the real estate properties owned by our predecessor company, CBL & Associates, Inc., and its affiliates.

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Our principal executive offices are located at CBL Center, 2030 Hamilton Place Blvd., Suite 500, Chattanooga, Tennessee 37421-6000, and our telephone number is (423) 855-0001. Our website address is: [cblproperties.com](http://cblproperties.com). The reference to our website address does not constitute incorporation by reference of the information contained on the website, which should not be considered part of this prospectus.

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## UPDATE OF SELECTED FINANCIAL DATA

## Comprehensive Income

Effective January 1, 2012, we adopted Accounting Standards Update (“ASU”) No. 2011-05, Presentation of Comprehensive Income, and ASU No. 2011-12, Deferral of the Effective Date for Amendments to the Presentation of Reclassifications of Items Out of Accumulated Other Comprehensive Income in Accounting Standards Update No. 2011-05. These ASUs changed the presentation format of our consolidated financial statements but did not have an impact on the amounts reported in those statements. The following table revises certain historical information to illustrate the new presentation required by these ASUs for the periods presented:

CBL & Associates Properties, Inc.

Consolidated Statements of Comprehensive Income

(Unaudited; in thousands)

	Year Ended December 31,		
	2011	2010	2009
Net income (loss)	\$ 184,994	\$ 98,170	\$ (7,065 )
Other comprehensive income (loss):			
Net unrealized gain (loss) on available-for-sale securities	(214 )	8,402	(168 )
Reclassification to net income (loss) of realized loss on available-for-sale securities	22	114	—
Net unrealized gain (loss) on hedging instruments	(5,521 )	2,742	12,614
Net unrealized gain (loss) on foreign currency translation adjustment	—	(156 )	6,942
Reclassification to net income (loss) of realized loss on foreign currency translation adjustment	—	169	65
Total other comprehensive income (loss)	(5,713 )	11,271	19,453
Comprehensive income	179,281	109,441	12,388
Comprehensive (income) loss attributable to noncontrolling interests in:			
Operating partnership	(24,558 )	(14,925 )	11,669
Other consolidated subsidiaries	(25,217 )	(25,001 )	(25,769 )
Comprehensive income (loss) attributable to the Company	\$ 129,506	\$ 69,515	\$ (1,712 )

## Discontinued Operations

In March 2012, we completed the sale of the second phase of Settlers Ridge, a community center located in Robinson Township, PA. We recorded a gain of \$883 attributable to the sale in the first quarter of 2012. We recorded a loss on impairment of real estate of \$4,457 in the second quarter of 2011 to write down the book value of this property to its then estimated fair value. The results of operations for this property were reclassified to discontinued operations during the quarter ended March 31, 2012. The following table revises certain historical information as reported in our 2011 Annual Report to reflect the results of operations of this property as discontinued operations for the year ended December 31, 2011 (there were no results of operations for this property for the years ended December 31, 2010 and 2009 as development on the project began in the third quarter of 2010 and the property was not placed into operation until 2011):



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(in thousands except per share amounts)

	As Reported in Form 10-K For The Year Ended December 31, 2011, As Amended	Reclassify Settlers Ridge Phase II to Discontinued Operations (unaudited)	As Adjusted For The Year Ended December 31, 2011 (unaudited)
Total revenues	\$1,067,340	\$(609 )	\$1,066,731
Total operating expenses	709,673	(4,754 )	704,919
Income from operations	\$357,667	\$4,145	\$361,812
Income from continuing operations	\$155,754	\$4,146	\$159,900
Operating income (loss) of discontinued operations	29,241	(4,146 )	25,095
Loss on discontinued operations	(1 )	— )	(1 )
Net income	184,994	—	184,994
Net income attributable to noncontrolling interests in:			
Operating partnership	(25,841 )	— )	(25,841 )
Other consolidated subsidiaries	(25,217 )	— )	(25,217 )
Net income attributable to the Company	133,936	—	133,936
Preferred dividends	(42,376 )	— )	(42,376 )
Net income attributable to common shareholders	\$91,560	\$—	\$91,560
Basic per share data attributable to common shareholders:			
Income from continuing operations, net of preferred dividends	\$0.46	\$0.03	\$0.49
Discontinued operations	0.16	(0.03 )	0.13
Net income attributable to common shareholders	\$0.62	\$—	\$0.62
Weighted average common shares outstanding	148,289	148,289	148,289
Diluted per share data attributable to common shareholders:			
Income from continuing operations, net of preferred dividends	\$0.46	\$0.03	\$0.49
Discontinued operations	0.16	(0.03 )	0.13
Net income attributable to common shareholders	\$0.62	\$—	\$0.62
Weighted average common and potential dilutive common shares outstanding	148,334	148,334	148,334
Amounts attributable to common shareholders:			
Income from continuing operations, net of preferred dividends	\$68,780	\$3,230	\$72,010
Discontinued operations	22,780	(3,230 )	19,550
Net income attributable to common shareholders	\$91,560	\$—	\$91,560





## USE OF PROCEEDS

We intend to use the net proceeds from the sale of the offered securities for general corporate purposes, unless otherwise specified in the prospectus supplement relating to a specific offering or in any free writing prospectus we have authorized for use in connection with any such offering. Our general corporate purposes may include, among other things, repayment of existing debt, financing capital commitments and financing future acquisitions. We may invest any funds not required immediately for such purposes in short-term investment grade securities.

We will not receive proceeds from any sales of securities by persons other than the Company, except as may otherwise be stated in any applicable prospectus supplement or free writing prospectus.

## DESCRIPTION OF CAPITAL STOCK

The following is a summary of the material rights of our capital stock and related provisions of our amended and restated certificate of incorporation, amended and restated bylaws and the provisions of applicable law. The following description of our capital stock does not purport to be complete and is subject to, and qualified in its entirety by reference to, our amended and restated certificate of incorporation, as amended (the "Certificate of Incorporation"), and amended and restated bylaws, as amended (the "Bylaws"), which we have included as exhibits to our 2011 Annual Report that is incorporated by reference into this prospectus.

Under our Certificate of Incorporation, we have authority to issue 365,000,000 shares of all classes of capital stock, consisting of 350,000,000 shares of common stock, par value \$.01 per share, and 15,000,000 shares of preferred stock, par value \$.01 per share. As of June 29, 2012, we had 158,560,145 shares of common stock outstanding, 460,000 shares of our 7.75% Series C cumulative redeemable preferred stock, par value \$.01 per share ("Series C Preferred Stock") outstanding and 1,815,000 shares of our 7.375% Series D cumulative redeemable preferred stock, par value \$.01 per share ("Series D Preferred Stock") outstanding.

Our common stock is listed on the New York Stock Exchange under the symbol "CBL." Our depositary shares representing 1/10th of a share of our Series C Preferred Stock are listed on the New York Stock Exchange under the symbol "CBLprC." Our depositary shares representing 1/10th of a share of our Series D Preferred Stock are listed on the New York Stock Exchange under the symbol "CBLprD."

Pursuant to rights granted to us and the other limited partners in the partnership agreement of the Operating Partnership, each of the limited partners may, subject to certain conditions, exchange its limited partnership interests in the Operating Partnership for shares of our common stock or their cash equivalent, at the Company's election.

### Description of Preferred Stock

Subject to the limitations prescribed by our Certificate of Incorporation, our Board of Directors is authorized to fix the number of shares constituting each series of preferred stock and to fix the designations, powers, preferences and rights of each series and the qualifications, limitations and restrictions thereof, all without any further vote or action by our stockholders. In particular, the Board of Directors may determine for each such series any dividend rate, the date, if any, on which dividends will accumulate, the dates, if any, on which dividends will be payable, any redemption rights of such series, any sinking fund provisions, liquidation rights and preferences, and any conversion rights and voting rights. The preferred stock could have voting or conversion rights that could adversely affect the voting power or other rights of holders of our common stock. Also, the issuance of preferred stock could decrease the amount of earnings and assets available for distribution to holders of our common stock.

The preferred stock will, when issued, be fully paid and non-assessable and, unless otherwise provided in the preferred stock designations, will have no preemptive rights. Under Delaware law, holders of our preferred stock generally are not responsible for our debts or obligations. Both our preferred stock and our common stock are subject to certain ownership restrictions designed to help us maintain our qualification as a REIT under the Internal Revenue Code, which are described below under "Description of Common Stock - Restrictions on Transfer."



On August 22, 2003, we issued 4,600,000 depositary shares in a public offering, each representing one-tenth of a share of our Series C Preferred Stock. The Series C Preferred Stock has a liquidation preference of \$250.00 per share (\$25.00 per depositary share). Dividends on the Series C Preferred Stock are cumulative, accrue from the date of issuance and are payable quarterly in arrears at a rate of \$19.375 per share (\$1.9375 per depositary share) per annum. We generally must be current in our dividend payments on the Series C Preferred Stock in order to pay dividends on our common stock. The Series C Preferred Stock has no voting rights, other than limited voting rights concerning the election of additional directors in the event of certain preferred dividend arrearages. The Series C Preferred Stock has no stated maturity, is not subject to any sinking fund or mandatory redemption, and is not convertible into any other securities of the Company. The Series C Preferred Stock could not be redeemed by the Company prior to August 22, 2008. Since that date, the Company has had the right to redeem the shares, in whole or in part, at any time for a cash redemption price of \$250.00 per share (\$25.00 per depositary share) plus accrued and unpaid dividends.

On December 13, 2004, we issued 7,000,000 depositary shares in a public offering, each representing one-tenth of a share of our Series D Preferred Stock. The Series D Preferred Stock has a liquidation preference of \$250.00 per share (\$25.00 per depositary share). Dividends on the Series D Preferred Stock are cumulative, accrue from the date of issuance and are payable quarterly in arrears at a rate of \$18.4375 per share (\$1.84375 per depositary share) per annum. We generally must be current in our dividend payments on the Series D Preferred Stock in order to pay dividends on our common stock. The Series D Preferred Stock has no voting rights, other than limited voting rights concerning the election of additional directors in the event of certain preferred dividend arrearages. The Series D Preferred Stock has no stated maturity, is not subject to any sinking fund or mandatory redemption, and is not convertible into any other securities of the Company. The Series D Preferred Stock could not be redeemed by the Company prior to December 13, 2009. Since that date, the Company has had the right to redeem the shares, in whole or in part, at any time for a cash redemption price of \$250.00 per share (\$25.00 per depositary share) plus accrued and unpaid dividends.

In March 2010, we completed an underwritten public offering resulting in the issuance of an additional 6,300,000 depositary shares, each representing 1/10th of a share of our Series D Preferred Stock, and in October 2010, we completed an underwritten public offering resulting in the issuance of an additional 4,850,000 depositary shares, each representing 1/10th of a share of our Series D Preferred Stock. Accordingly, as of June 29, 2012 there are outstanding a total of 18,150,000 depositary shares, each representing 1/10th of a share of our Series D Preferred Stock.

The rights, preferences, privileges and restrictions of any additional series of our preferred stock will be fixed by the certificate of designations relating to the series. A prospectus supplement and, as applicable, any free writing prospectus relating to each series will describe the terms of any offered preferred stock, including:

- the title and stated value of such preferred stock;
- the number of shares of that preferred stock offered, the liquidation preference per share and the offering price of such preferred stock;
- the dividend rates, periods and/or payment dates or methods of calculation thereof applicable to such preferred stock;
- whether dividends will be cumulative or non-cumulative and, if cumulative, the date from which dividends on such preferred stock will accumulate;
- any voting rights applicable to such preferred stock;
- the procedures for any auction and remarketing, if any, for such preferred stock;
- the sinking fund provisions, if any, applicable to such preferred stock;
- the provisions for redemption, if any, applicable to such preferred stock;
- any listing of such preferred stock on any securities exchange;

the terms and conditions, if any, upon which such preferred stock will be convertible into shares of common stock, including the conversion price (or manner of calculation of the conversion price) and conversion period;

- a discussion of material U.S. federal income tax considerations applicable to such preferred stock;
- any limitations on issuance of any series of preferred stock ranking senior to or on a parity with such series of preferred stock as to dividend rights and rights upon our liquidation, dissolution or winding up;

in addition to those limitations described elsewhere in this prospectus and any prospectus supplement, any other limitations on actual and constructive ownership and restrictions on transfer of such preferred stock, in each case as may be appropriate to preserve our status as a REIT; and

- any other specific terms, preferences, rights, limitations or restrictions of such preferred stock.

Unless otherwise specified in the applicable prospectus supplement or in any related free writing prospectus, any offered series of preferred stock will, with respect to dividend rights and rights upon our liquidation, dissolution or winding up, rank:

- senior to all classes or series of common stock and to all equity securities issued by us the terms of which expressly provide that those equity securities rank junior to such preferred stock;
- on a parity with all equity securities issued by us the terms of which so provide or which do not expressly provide that those equity securities rank junior or senior to such preferred stock; and
- junior to all equity securities issued by us the terms of which expressly provide that those equity securities rank senior to such preferred stock.

The term “equity securities” in the preceding discussion does not include convertible debt securities.

#### Description of Common Stock

The following summary description sets forth certain general terms and provisions of the common stock to which any prospectus supplement, and any applicable free writing prospectus, may relate.

##### Voting Rights

Holders of our common stock are entitled to one vote per share on all matters voted on by stockholders, including elections of directors, and, except as otherwise required by law or as provided in our Certificate of Incorporation, the holders of those shares exclusively possess all voting power. Under our Certificate of Incorporation, directors are elected by the affirmative vote of the holders of a plurality of the shares of the common stock present or represented at the annual meeting of stockholders. Our Certificate of Incorporation does not provide for cumulative voting in the election of directors.

##### Dividend and Liquidation Rights

Subject to any preferential rights of any outstanding series of preferred stock, the holders of common stock are entitled to dividends which may be declared from time to time by our Board of Directors from funds which are legally available, and upon liquidation are entitled to receive pro rata all of our assets available for distribution to such holders. Holders of common stock are not entitled to any preemptive rights. All of the outstanding shares of our common stock are fully paid and non-assessable. Under Delaware law, holders of our common stock generally are not responsible for our debts or obligations.

##### Restrictions on Transfer

For us to qualify as a REIT under the Internal Revenue Code, not more than 50% in value of our outstanding capital stock may be owned, directly or indirectly, by five or fewer individuals (as defined in the

Internal Revenue Code to include certain entities) during the last half of any taxable year. In addition, our capital stock must be beneficially owned by 100 or more persons during at least 335 days of a taxable year of 12 months or during a proportionate part of a shorter taxable year and certain percentages of our gross income must be from particular activities.

To ensure that we remain a qualified REIT, our Certificate of Incorporation contains provisions, collectively referred to as the ownership limit provision, restricting the acquisition of shares of our capital stock. The affirmative vote of 66 2/3% of our outstanding voting stock is required to amend this provision.

The ownership limit provision provides that, subject to certain exceptions specified in our Certificate of Incorporation: No person (other than Charles Lebovitz, members of the Richard Jacobs Group (as defined), members of the David Jacobs Group (as defined) and their respective affiliates under the applicable attribution rules of the Internal Revenue Code) may own, or be deemed to own by virtue of the attribution provisions of the Internal Revenue Code, more than 6% of the value of our outstanding capital stock.

Subject to certain restrictions, Charles Lebovitz and his respective affiliates (as defined under the applicable attribution rules of the Internal Revenue Code) may own beneficially or constructively in the aggregate up to 25.4% of the value of the outstanding shares of our capital stock.

Subject to certain restrictions, of the group comprised of Richard Jacobs and his respective affiliates and David Jacobs and his respective affiliates (in each case, as defined under the applicable attribution rules of the Internal Revenue Code), any individual person (that is, any person who is treated as an individual for purposes of Section 542(a)(2) of the Internal Revenue Code) may own beneficially or constructively in the aggregate up to 13.9% of the value of the outstanding shares of our capital stock.

Subject to certain restrictions, any two individuals of the group comprised of Richard Jacobs and his respective affiliates or of the group comprised of David Jacobs and his respective affiliates may own beneficially or constructively in the aggregate up to 19.9% of the value of the outstanding shares of our capital stock. The group comprised of Richard Jacobs and his respective affiliates and the group comprised of David Jacobs and his respective affiliates, in the aggregate, is also limited to owning, in the aggregate, up to 19.9% of the value of the outstanding shares of our capital stock.

Subject to certain restrictions, the overall group composed of Charles Lebovitz and his respective affiliates, Richard Jacobs and his respective affiliates and David Jacobs and his respective affiliates, may own beneficially or constructively in the aggregate up to 37.99% of the value of the outstanding shares of our capital stock.

The ownership limit is the percentage limitation on ownership applicable to any given person or group pursuant to the ownership limit provisions described above.

Our Board of Directors may, subject to certain conditions, waive the applicable ownership limit upon receipt of a ruling from the IRS or an opinion of counsel to the effect that such ownership will not jeopardize our status as a REIT. The ownership limit provision will cease to apply only if both our Board of Directors and the holders of a majority of our outstanding voting stock vote to approve the termination of our status as a REIT.

Any issuance or transfer of capital stock to any person (A) in excess of the applicable ownership limit, (B) which would cause us to be beneficially owned by fewer than 100 persons or (C) which would result in the Company being "closely held" within the meaning of Section 856(h) of the Internal Revenue Code, will be null and void and the intended transferee will acquire no rights to the stock. Our Certificate of Incorporation provides that any acquisition and continued holding or ownership of our capital stock constitutes a continuous representation of compliance with the applicable ownership limit by the beneficial or constructive owner of such stock.

Any purported transfer or other event that would, if effective, violate the ownership limit or cause the Company to be “closely held” within the meaning of Section 856(h) of the Internal Revenue Code, will be deemed void ab initio with respect to that number of shares of our capital stock that would be owned by the transferee in excess of the applicable ownership limit provision. Such shares would automatically be transferred to a trust, the trustee of which would be designated by us but would not be affiliated with us or with the party prohibited from owning such shares by the ownership limit provision. The trust would be for the exclusive benefit of a charitable beneficiary to be designated by us.

Any shares so held in trust will be issued and outstanding shares of our capital stock, entitled to the same rights and privileges as all other issued and outstanding shares of capital stock of the same class and series. All dividends and other distributions paid by us with respect to the shares held in trust will be held by the trustee for the benefit of the designated charitable beneficiary. The trustee will have the power to vote all shares held in trust from and after the date the shares are deemed to be transferred into trust. The prohibited owner will be required to repay any dividends or other distributions received by it which are attributable to the shares held in trust if the record date for such dividends or distributions was on or after the date those shares were transferred to the trust. We can take all measures we deem necessary in order to recover such amounts, including, if necessary, withholding any portion of future dividends payable on other shares of our capital stock held by such prohibited owner.

The trustee will have the exclusive right to designate a permitted transferee to acquire the shares held in trust without violating the applicable ownership limitations for an amount equal to the fair market value (determined at the time of transfer to this permitted transferee) of those shares. The trustee will pay to the aforementioned prohibited owner the lesser of: (a) the value of the shares at the time they were transferred to the trust and (b) the price received by the trustee from the sale of such shares to the permitted transferee. The excess (if any) of (x) the sale proceeds from the transfer to the permitted transferee over (y) the amount paid to the prohibited owner, will be distributed to the charitable beneficiary.

We or our designee will have the right to purchase any shares-in-trust, within a limited period of time, at a price per share equal to the lesser of (i) the price per share in the transaction that created such shares-in-trust and (ii) the market price per share on the date we, or our designee, exercise such right to purchase such shares-in-trust.

The ownership limit provision will not be automatically removed even if the REIT provisions of the Internal Revenue Code are changed so as to no longer contain any ownership concentration limitation or if the ownership concentration limitation is increased. Except as otherwise described above, any change in the ownership limit would require an amendment to our Certificate of Incorporation. Such an amendment would require a 66 2/3% vote of the outstanding voting stock. In addition to preserving our status as a REIT, the ownership limit may have the effect of precluding an acquisition of control of the Company without the approval of our Board of Directors.

All certificates representing shares of any class of stock will bear a legend referring to the restrictions described above.

All persons who own, directly or by virtue of the attribution provisions of the Internal Revenue Code, more than 5% (or such other percentage as may be required by the Treasury Regulations promulgated under the Internal Revenue Code) of the value of our outstanding shares of capital stock must file an affidavit with us containing the information specified in our Certificate of Incorporation before January 30 of each year. In addition, each stockholder will, upon demand, be required to disclose to us in writing such information with respect to the direct, indirect and constructive ownership of shares of capital stock as our Board of Directors deems necessary to comply with the provisions of the Internal Revenue Code applicable to a REIT or to comply with the requirements of any taxing authority or governmental agency.

#### Limitation of Liability of Directors

Our Certificate of Incorporation provides that a director will not be personally liable for monetary damages to us or our stockholders for breach of fiduciary duty as a director, except for liability (i) for any breach of the director's duty of loyalty to us or our stockholders; (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; (iii) pursuant to Section 174 of the Delaware General



Corporation Law (regarding certain unlawful distributions); or (iv) for any transaction from which the director derived an improper personal benefit.

While our Certificate of Incorporation provides directors with protection from awards for monetary damages for breaches of their duty of care, it does not eliminate such duty. Accordingly, our Certificate of Incorporation will have no effect on the availability of equitable remedies such as an injunction or rescission based on a director's breach of his or her duty of care. The provisions of our Certificate of Incorporation described above apply to our officers only if the respective officer is also one of our directors and is acting in his or her capacity as director, and do not apply to our officers who are not directors.

#### Indemnification Agreements

We have entered into indemnification agreements with each of our officers and directors. The indemnification agreements require, among other things, that we indemnify our officers and directors to the fullest extent permitted by law, and advance to our officers and directors all related expenses, subject to reimbursement if it is subsequently determined that indemnification is not permitted. We must also indemnify and advance all expenses incurred by officers and directors who are successful in seeking to enforce their rights under the indemnification agreements, and cover officers and directors under our directors' and officers' liability insurance, provided that such insurance is commercially available at reasonable expense. Although the form of indemnification agreement offers substantially the same scope of coverage afforded by provisions in our Certificate of Incorporation and Bylaws, it provides greater assurance to directors and officers that indemnification will be available because, as a contract, it cannot be modified unilaterally in the future by our Board of Directors or by the stockholders to eliminate the rights it provides.

#### Other Provisions of Our Certificate of Incorporation and Bylaws

Our Certificate of Incorporation and Bylaws include a number of provisions that may have the effect of encouraging persons considering unsolicited tender offers or other unilateral takeover proposals to negotiate with our Board of Directors rather than pursue non-negotiated takeover attempts. These provisions include:

Classified Board of Directors; Removal Only for Cause. Historically, our Certificate of Incorporation has provided for a Board of Directors divided into three classes, with one class to be elected each year to serve for a three-year term. As a result, at least two annual meetings of stockholders could have been required for the stockholders to change a majority of our Board of Directors. At our 2011 annual meeting, however, our stockholders approved an amendment to our Certificate of Incorporation to provide for the annual election of directors to be phased in over time, so that the current terms of our directors would not be affected. Pursuant to this amendment:

- each of the three directors elected at our 2012 annual meeting were elected for a one-year term that expires at our annual meeting of stockholders in 2013;

- our three current directors elected in 2010, whose terms expire at the 2013 annual meeting, will continue to serve until the expiration of their term at the 2013 annual meeting of stockholders and, together with the directors elected at the 2012 annual meeting, will stand for election to a one-year term at the 2013 annual meeting; and

- thereafter, beginning with the 2014 annual meeting of stockholders, all directors will be elected annually.

In addition, our stockholders can only remove directors for cause and only by a vote of 75% of the outstanding voting stock. The classification of directors (until it is completely phased out as described above) and the inability of stockholders to remove directors without cause make it more difficult to change the composition of our Board of Directors. The provisions of our Certificate of Incorporation relating to the classification of our Board of Directors may only be amended by a 66 2/3% vote of the outstanding voting stock and the provision relating to the removal for cause may only be amended by a 75% vote of the outstanding voting stock.



**Advance Notice Requirements.** Our Bylaws establish advance notice procedures with regard to stockholder proposals relating to the nomination of candidates for election as directors or new business to be brought before meetings of our stockholders. These procedures provide that notice of such stockholder proposals must be timely given in writing to our Secretary prior to the meeting at which the action is to be taken. Generally, to be timely, notice must be received at our principal executive offices not less than 60 days nor more than 90 days prior to the first anniversary of the preceding year's annual meeting date. The notice must contain certain information specified in the Bylaws.

**Written Consent of Stockholders.** Our Certificate of Incorporation requires all stockholder actions to be taken by a vote of the stockholders at an annual or special meeting and does not permit action by stockholder consent. These provisions of our Certificate of Incorporation may be amended only by a vote of 80% of the outstanding voting stock.

**Bylaw Amendments.** Amending our Bylaws requires either the approval of our Board of Directors or the vote of 66 2/3% of our outstanding voting stock.

#### **Delaware Anti-Takeover Statute**

We are a Delaware corporation subject to Section 203 of the Delaware General Corporation Law. In general, Section 203 prevents an "interested stockholder" (defined generally as a person owning 15% or more of a company's outstanding voting stock) from engaging in a "business combination" (as defined in Section 203) with us for three years following the date that person becomes an interested stockholder unless:

- (a) before that person became an interested holder, our Board of Directors approved the transaction in which the interested holder became an interested stockholder or approved the business combination, upon completion of the transaction that resulted in the interested stockholder becoming an interested stockholder, the interested stockholder owns 85% of our voting stock outstanding at the time the transaction commenced
- (b) (excluding stock held by directors who are also officers and by employee stock plans that do not provide employees with the right to determine confidentially whether shares held subject to the plan will be tendered in a tender or exchange offer), or simultaneously with or following the transaction in which that person became an interested stockholder, the business combination is approved by our Board of Directors and authorized at a meeting of stockholders by the
- (c) affirmative vote of the holders of at least two-thirds of our outstanding voting stock not owned by the interested stockholder.

Under Section 203, these restrictions also do not apply to certain business combinations proposed by an interested stockholder following the announcement or notification of certain extraordinary transactions involving us and a person who was not an interested stockholder during the previous three years or who became an interested stockholder with the approval of a majority of our directors, if that extraordinary transaction is approved or not opposed by a majority of the directors who were directors before any person became an interested stockholder in the previous three years or who were recommended for election or elected to succeed such directors by a majority of directors then in office.

#### **DESCRIPTION OF DEPOSITARY SHARES**

We may issue depositary shares, each of which will represent a fractional interest of a share of a particular class or series of our preferred stock, as specified in the applicable prospectus supplement and any related free writing prospectus. Shares of a class or series of preferred stock represented by depositary shares will be deposited under a separate deposit agreement among us, the depositary named therein and the holders from time to time of the depositary receipts issued by the preferred stock depositary which will evidence the depositary shares. Subject to the terms of the applicable deposit agreement, each owner of a depositary receipt will be entitled, in proportion to the fractional interest of a share of a particular class or series of preferred stock represented by the depositary shares evidenced by that depositary receipt, to all the rights and preferences of the class or series of preferred stock represented by those depositary shares (including dividend, voting, conversion, redemption and liquidation rights).

The depositary shares will be evidenced by depositary receipts issued pursuant to the applicable deposit agreement. Immediately following the issuance and delivery of a class or series of preferred stock by us to the preferred stock depositary, we will cause the preferred stock depositary to issue, on our behalf, the depositary receipts.

The particular terms of any deposit agreement will be described in an applicable prospectus supplement and any related free writing prospectus, together with a description of the terms of the related depositary shares and underlying class or series of preferred stock offered thereby. Such description will include, to the extent applicable to the underlying series of preferred stock, each of the matters specified above in the section captioned "Description of Capital Stock - Description of Preferred Stock."

#### DESCRIPTION OF DEBT SECURITIES

The following description, together with the additional information we include in any applicable prospectus supplement and any related free writing prospectus, summarizes the material terms and provisions of the debt securities that we may offer under this prospectus. While the terms we have summarized below will generally apply to any future debt securities we may offer under this prospectus, we will describe the particular terms of any debt securities that we may offer in more detail in the applicable prospectus supplement and any related free writing prospectus. The terms of any debt securities we offer under a prospectus supplement or related free writing prospectus may differ from the terms we describe below.

We will issue any senior notes under the senior indenture which we will enter into with the trustee named in the senior indenture. We will issue any subordinated notes under the subordinated indenture which we will enter into with the trustee named in the subordinated indenture. We have filed forms of these documents as exhibits to the registration statement of which this prospectus is a part. We use the term "indentures" to refer to both the senior indenture and the subordinated indenture.

The indentures will be qualified under the Trust Indenture Act of 1939. We use the term "trustee" to refer to either the senior trustee or the subordinated trustee, as applicable.

The following summaries of material provisions of the senior notes, the subordinated notes and the indentures are subject to, and qualified in their entirety by reference to, all the provisions of the indenture, including any supplemental indenture, applicable to a particular series of debt securities. We urge you to read the applicable prospectus supplement, and any related free writing prospectus, related to the debt securities that we sell under this prospectus, as well as the complete indentures, including any supplemental indentures, that contain the terms of the debt securities. Except as we may otherwise indicate, the terms of the senior indenture and the subordinated indenture are identical.

#### General

The indentures do not limit the aggregate principal amount of debt securities that may be issued thereunder. The debt securities may be issued from time to time in one or more series, in each case as we establish in one or more supplemental indentures. We need not issue all debt securities of one series at the same time. Unless we otherwise provide, we may reopen a series, without the consent of the holders of the series, for issuances of additional securities of that series.

We will describe in the applicable prospectus supplement and any related free writing prospectus the terms relating to a series of debt securities, including without limitation:

- the title and any series designation of such debt securities;
- the principal amount being offered, and, if a series, the total amount authorized and the total amount outstanding;
- any limit on the amount of such debt securities that may be issued;
- whether or not we will issue the series of debt securities in global form and, if so, the terms and who the depositary will be;

the maturity date(s) of such debt securities;  
the principal amount due at maturity, the portion of the principal amount of the debt securities of the series which will be payable upon acceleration if other than the full principal amount, and whether such debt securities will be issued with any original issue discount;  
whether and under what circumstances, if any, we will pay additional amounts on any debt securities held by a person who is not a United States person for tax purposes, and whether we can redeem the debt securities if we have to pay such additional amounts;  
the interest rate(s) applicable to such debt securities, which may be fixed or variable, or the method for determining the rate, the date interest will begin to accrue, the dates interest will be payable and the regular record dates for interest payment dates or the method for determining such dates;  
whether such debt securities will be secured or unsecured, and the terms of any secured debt;  
the provisions relating to any guarantee of any series of debt securities;  
the terms of the subordination applicable to any series of subordinated debt securities;  
any addition or modification to, and any deletion of, any covenant or event of default with respect to the debt securities of any series;  
the place or places where (i) payments on such debt securities will be payable, (ii) debt securities of each series may be surrendered for registration of transfer and exchange and (iii) notices to or demands up on us or the trustee with respect to debt securities of any series may be served, if other than the corporate trust office of the trustee;  
any applicable restrictions on the transfer, sale or other assignment of such debt securities;  
our right, if any, to defer payment of interest on such debt securities, and the maximum length of any such deferral period;  
the date, if any, after which, the conditions upon which, and the price at which we may, at our option, redeem the series of debt securities pursuant to any optional or provisional redemption provisions, and any other applicable terms of those redemption provisions;  
any provisions for a sinking fund, purchase or other analogous fund applicable to such debt securities;  
the date, if any, on which, and the price at which we are obligated, pursuant to any mandatory sinking fund or analogous fund provisions or otherwise, to redeem, or at the holder's option to purchase, such series of debt securities;  
a discussion of material United States federal income tax considerations applicable to such debt securities;  
information describing any book-entry features for such series of debt securities;  
if applicable, the procedures for any auction and remarketing of such debt securities;  
the denominations in which we will issue the series of debt securities, if other than denominations of \$1,000 and any integral multiple thereof;  
if other than U.S. dollars, the currency in which such series of debt securities will be denominated; and  
any other specific terms, preferences, rights or limitations of, or restrictions on, such debt securities, including any restrictive covenants or events of default provided with respect to such debt securities that are in addition to those described in this prospectus, and any terms which may be required by us or advisable under applicable laws or regulations or advisable in connection with the marketing of such debt securities.  
One or more series of any such debt securities may be issued as discounted debt securities (bearing no interest or interest at a rate which at the time of issuance is below market rates), to be sold at a substantial discount below their stated principal amount. Material United States federal income tax consequences and other special

considerations applicable to any such discounted debt securities will be described in the prospectus supplement relating thereto.

#### Conversion or Exchange Rights

We will set forth in the applicable prospectus supplement and any related free writing prospectus the terms, if any, on which a series of debt securities may be convertible into or exchangeable for our common stock or other securities, including the conversion or exchange rate, as applicable, or how it will be calculated, and the applicable conversion or exchange period. We will include provisions as to whether conversion or exchange is mandatory, at the option of the holder or at our option. We may include provisions pursuant to which the number of our securities that the holders of the series of debt securities receive upon conversion or exchange would, under the circumstances described in those provisions, be subject to adjustment, or pursuant to which those holders would, under those circumstances, receive other property upon conversion or exchange, for example in the event of our merger or consolidation with another entity.

#### Consolidation, Merger or Sale

The indentures in the forms initially filed as exhibits to the registration statement of which this prospectus is a part do not contain any covenant that restricts our ability to merge or consolidate, or sell, convey, transfer or otherwise dispose of all or substantially all of our assets. However, any successor of ours or acquiror of such assets must assume all of our obligations under the indentures and the debt securities.

If the debt securities are convertible into our other securities, any person with whom we consolidate or merge or to whom we sell all of our property must make provisions for the conversion of the debt securities into securities similar to the debt securities which the holders of the debt securities would have received if they had converted the debt securities before the consolidation, merger or sale.

#### Events of Default Under the Indentures

The following are events of default under the indentures with respect to any series of debt securities that we may issue:

• if we fail to pay interest when due and payable and our failure continues for 30 days and the time for payment has not been extended or deferred;

• if we fail to pay, when due and payable, the principal, or premium, if any, or any payment required by any sinking or analogous fund established with respect to the debt securities of any series, and the time for payment has not been extended or delayed;

• if we fail to observe or perform any other covenant contained in the debt securities or the indentures, other than a covenant solely for the benefit of another series of debt securities, and our failure continues for 90 days after we receive notice from the trustee or holders of at least 25% in aggregate principal amount of the outstanding debt securities of the applicable series; and

• if specified events of bankruptcy, insolvency or reorganization occur.

If an event of default with respect to debt securities of any series occurs and is continuing, other than an event of default specified in the last bullet point above, the trustee or the holders of at least 25% in aggregate principal amount of the outstanding debt securities of that series, by notice to us in writing, and to the trustee if notice is given by such holders, may declare the unpaid principal or, premium, if any, and accrued interest, if any, due and payable immediately. If an event of default specified in the last bullet point above occurs with respect to us, the principal amount of and accrued interest, if any, of each series of debt securities then outstanding shall be due and payable without any notice or other action on the part of the trustee or any holder.

The holders of a majority in principal amount of the outstanding debt securities of an affected series may waive any default or event of default with respect to the series and its consequences, except defaults or events of

default regarding payment of principal, premium, if any, or interest, unless we have cured the default or event of default in accordance with the applicable indenture.

Subject to the terms of the indentures, if an event of default under an indenture shall occur and be continuing, the trustee will be under no obligation to exercise any of its rights or powers under such indenture at the request or direction of any of the holders of the applicable series of debt securities, unless such holders have offered the trustee reasonable indemnity. The holders of a majority in principal amount of the outstanding debt securities of any series will have the right to direct the time, method and place of conducting any proceeding for any remedy available to the trustee, or exercising any trust or power conferred on the trustee, with respect to the debt securities of that series, provided that:

- the direction so given by the holder is not in conflict with any law or the applicable indenture; and
- subject to its duties under the Trust Indenture Act of 1939, the trustee need not take any action that might involve it in personal liability or might be unduly prejudicial to the holders not involved in the proceeding.

A holder of the debt securities of any series will only have the right to institute a proceeding under the indentures or to appoint a receiver or trustee, or to seek other remedies if:

- the holder has given written notice to the trustee of a continuing event of default with respect to that series;
- the holders of at least 25% in aggregate principal amount of the outstanding debt securities of that series have made written request, and such holders have offered reasonable indemnity to the trustee, to institute the proceeding as trustee; and
- the trustee does not institute the proceeding, and does not receive from the holders of a majority in aggregate principal amount of the outstanding debt securities of that series other conflicting directions, within 90 days after the notice, request and offer.

These limitations do not apply to a suit instituted by a holder of debt securities if we default in the payment of the principal, premium, if any, or interest on, the debt securities.

We will periodically file statements with the trustee regarding our compliance with the covenants in the indentures.

#### Modification of Indentures; Waiver

We and the trustee may change an indenture without the consent of any holders with respect to specific matters, including:

- to fix any ambiguity, omission, defect or inconsistency in the indenture;
- to comply with the provisions described above under “-Consolidation, Merger or Sale”;
- to comply with any requirements of the SEC in connection with the qualification of any indenture under the Trust Indenture Act of 1939;
- to evidence and provide for the acceptance of appointment by a successor trustee;
- to provide for uncertificated debt securities;
- to add any additional events of default;
- to provide for the issuance of and establish the form and terms and conditions of any series of debt securities as provided in an indenture, to establish the form of any certifications required to be furnished pursuant to an indenture or any series of debt securities, or to add to the rights of the holders of any series of debt securities;

to add to, change or eliminate any of the provisions of an indenture in respect of one or more series of debt securities; provided, however, that any such addition, change or elimination not otherwise permitted without the consent of any security holders as described herein shall (i) neither (A) apply to any debt security of any series created prior to the execution of such supplemental indenture and entitled to the benefit of such provision nor (B) modify the rights of the holder of any such debt security with respect to such provision or (ii) become effective only when there is no such debt security outstanding;

to add to our covenants such new covenants, restrictions, conditions or provisions for the protection of the holders, to make the occurrence, or the occurrence and the continuance, of a default in any such additional covenants, restrictions, conditions or provisions an event of default, or to surrender any of our rights or powers under the indenture; or

to make any other provisions with respect to matters or questions arising under an indenture, provided that such action shall not adversely affect the interests of holders or any related coupons in any material respect.

In addition, under the indentures, the rights of holders of a series of debt securities may be changed by us and the trustee with the written consent of the holders of at least a majority in aggregate principal amount of the outstanding debt securities of each series that is affected. However, we and the trustee may make the following changes only with the consent of each holder of any outstanding debt securities affected:

- changing the stated fixed maturity of, or any payment date of any installment of interest on, the debt securities;
- reducing the principal amount, reducing the rate of interest on, or reducing any premium payable upon the redemption of any debt securities; or
- reducing the percentage of debt securities, the holders of which are required to consent to any supplemental indenture.

#### Defeasance and Discharge

The indentures allow us to elect, if we so provide with respect to the debt securities of any series, to terminate (and be deemed to have satisfied) any and all obligations in respect of such debt securities, except for certain obligations:

- to register the transfer or exchange of debt securities,
  - to replace stolen, lost or mutilated debt securities,
  - to maintain paying agencies and hold monies for payment in trust, and,
  - if so specified with respect to the debt securities of a certain series, to pay the principal of (and premium, if any) and interest, if any, on such specified debt securities),
- on the 91st day after the deposit with the trustee, in trust, of money and/or U.S. government obligations which through the payment of interest and principal thereof in accordance with their terms will provide money in an amount sufficient to pay any installment of principal (and premium, if any (and interest, if any)), on and any mandatory sinking fund payments in respect of such debt securities on the stated maturity of such payments in accordance with the terms of the indenture and such debt securities; provided that no event of default or event which with the giving of notice or lapse of time or both would become an event of default with respect to such securities shall have occurred and be continuing on the date of such deposit or at any time during the period ending on the 91st day after such date. Such a trust may be established only if, among other things, we have delivered to the trustee an opinion of counsel (who may be counsel to us) to the effect that, based upon applicable U.S. federal income tax law or a ruling published by the U.S. Internal Revenue Service (which opinion must be based on a change in applicable U.S. federal income tax law after the date of the indenture or a ruling published by the U.S. Internal Revenue Service after the

date of the indenture), such a defeasance and discharge will not be deemed, or result in, a taxable event with respect to holders of such debt securities. The designation of such provisions, U.S. federal income tax consequences and other considerations applicable thereto will be described in the prospectus supplement relating thereto. If so specified with respect to the debt securities of a series, such a trust may be established only if establishment of the trust would not cause the debt securities of any such series listed on any nationally recognized securities exchange to be de-listed as a result thereof.

#### Form, Exchange and Transfer

We will issue the debt securities of each series only in fully registered form without coupons and, unless we otherwise specify in the applicable prospectus supplement and any related free writing prospectus, in denominations of \$1,000 and any integral multiple thereof. The indentures provide that we may issue debt securities of a series in temporary or permanent global form and as book-entry securities that will be deposited with, or on behalf of, The Depository Trust Company or another depository named by us and identified in a prospectus supplement and any related free writing prospectus with respect to that series.

At the option of the holder, subject to the terms of the indentures and the limitations applicable to global securities described in the applicable prospectus supplement, the holder of the debt securities of any series can exchange the debt securities for other debt securities of the same series, in any authorized denomination and of like tenor and aggregate principal amount.

Subject to the terms of the indentures and the limitations applicable to global securities set forth in the applicable prospectus supplement, holders of the debt securities may present the debt securities for exchange or for registration of transfer, duly endorsed or with the form of transfer endorsed thereon duly executed if so required by us or the security registrar, at the office of the security registrar or at the office of any transfer agent designated by us for this purpose. Unless otherwise provided in the debt securities that the holder presents for transfer or exchange, we will make no service charge for any registration of transfer or exchange, but we may require payment of any taxes or other governmental charges.

We will name in the applicable prospectus supplement and any related free writing prospectus the security registrar, and any transfer agent in addition to the security registrar, that we initially designate for any debt securities. We may at any time designate additional transfer agents or rescind the designation of any transfer agent or approve a change in the office through which any transfer agent acts, except that we will be required to maintain a transfer agent in each place of payment for the debt securities of each series.

If we elect to redeem the debt securities of any series, we will not be required to:

issue, register the transfer of, or exchange any debt securities of any series being redeemed in part during a period beginning at the opening of business 15 days before the day of mailing of a notice of redemption of any debt securities that may be selected for redemption and ending at the close of business on the day of the mailing; or register the transfer of or exchange any debt securities so selected for redemption, in whole or in part, except the unredeemed portion of any debt securities we are redeeming in part.

#### Repurchases on the Open Market

The Company or any affiliate of the Company may at any time, or from time to time, repurchase any debt security in the open market or otherwise. Such debt securities may, at the option of the Company or the relevant affiliate of the Company, be held, resold or surrendered to the trustee for cancellation.

#### Information Concerning the Trustee

The trustee, other than during the occurrence and continuance of an event of default under an indenture, undertakes to perform only those duties as are specifically set forth in the applicable indenture. Upon an event of default under an indenture, the trustee must use the same degree of care as a prudent person would exercise or use in

the conduct of his or her own affairs. Subject to this provision, the trustee is under no obligation to exercise any of the powers given it by the indentures at the request of any holder of debt securities unless it is offered reasonable security and indemnity against the costs, expenses and liabilities that it might incur.

#### Payment and Paying Agents

Unless we otherwise indicate in the applicable prospectus supplement, we will make payment of the interest on any debt securities on any interest payment date to the person in whose name the debt securities, or one or more predecessor securities, are registered at the close of business on the regular record date for the interest.

We will pay principal of, and any premium and interest on, the debt securities of a particular series at the office of the paying agents designated by us, except that, unless we otherwise indicate in the applicable prospectus supplement, we may make payments of principal or interest by check which we will mail to the holder or by wire transfer to certain holders. Unless we otherwise indicate in a prospectus supplement and any related free writing prospectus, we will designate an office or agency of the trustee in the City of New York as our paying agent for payments with respect to debt securities of each series. We will name in the applicable prospectus supplement or any related free writing prospectus any other paying agents that we initially designate for the debt securities of a particular series. We will maintain a paying agent in each place of payment for the debt securities of a particular series.

All money we pay to a paying agent or the trustee for the payment of the principal of or any premium or interest on any debt securities which remains unclaimed at the end of two years after such principal, premium or interest has become due and payable (or such other shorter period set forth in any applicable escheat or abandoned or unclaimed property law) will be repaid to us, and the holder of the debt security thereafter may look only to us for payment thereof.

#### Governing Law

The indentures and the debt securities will be governed by and construed in accordance with the laws of the State of New York, except to the extent that the Trust Indenture Act of 1939 is applicable.

#### Subordination of Subordinated Debt Securities

The subordinated debt securities will be subordinate and junior in priority of payment to certain of our other indebtedness to the extent described in a prospectus supplement.

## DESCRIPTION OF WARRANTS

We may issue warrants for the purchase of shares of our common stock, shares of our preferred stock (or depositary shares representing a fractional interest therein), or debt securities. We may issue warrants independently of or together with any other securities offered by us in any prospectus supplement and any related free writing prospectus, and we may attach the warrants to, or issue them separately from, shares of common stock, shares of preferred stock, depositary shares representing a fractional interest in preferred stock, or debt securities. We will issue each series of warrants under a separate warrant agreement to be entered into between us and a bank or trust company, as warrant agent, all as set forth in the prospectus supplement and any related free writing prospectus relating to the particular issue of offered warrants. The warrant agent will act solely as our agent in connection with the warrant certificates relating to the warrants and will not assume any obligation or relationship of agency or trust with any holders of warrant certificates or beneficial owners of warrants.

The applicable prospectus supplement and any related free writing prospectus will describe the terms of the warrants, including as applicable:

- the offering price applicable to the warrants;
- the number of warrants being offered;



the aggregate number or amount of underlying securities purchasable upon exercise of the warrants and a description of any terms of such underlying securities not already set forth in this prospectus or the applicable prospectus supplement;

the date on which the right to exercise the warrants will commence, and the date on which the right will expire;

the exercise price (including any provisions for adjustments to the exercise price), the manner of exercise and the circumstances, if any, that will cause the warrants to be automatically exercised;

the date, if any, after which the warrants and any underlying securities will be transferable separately;

the number of warrants outstanding, if any;

any material United States federal income tax consequences applicable to the warrants;

the rights, if any, we have to redeem the warrants;

the terms, if any, on which we may accelerate the date by which the warrants must be exercised; and

any other terms of the warrants, including terms, procedures and limitations relating to the exchange and exercise of the warrants.

Warrants will be offered and exercisable for United States dollars only and will be in registered form only.

Holder of warrants will be able to exchange warrant certificates for new warrant certificates of different denominations, present warrants for registration of transfer, and exercise warrants at the corporate trust office of the warrant agent or any other office as indicated in the applicable prospectus supplement and any related free writing prospectus. Prior to the exercise of any warrants, holders of the warrants to purchase shares of common stock, preferred stock or depositary shares representing fractional interests in preferred stock will not have any rights of holders of shares of such common stock or preferred stock or depositary shares, including the right to receive payments of dividends, if any, or to exercise any applicable right to vote.

The preceding summary, as well as the more detailed summaries of certain provisions of any offered warrants and the associated warrant agreements that will be contained in the applicable prospectus supplement and any related free writing prospectus, do not purport to be complete and are subject to, and are qualified in their entirety by reference to, all the provisions of the warrant agreement and the warrant certificates relating to any such offered series of warrants, which we will file with the SEC and incorporate by reference as an exhibit to the registration statement of which this prospectus is a part at or prior to the time of the issuance of any series of warrants.

Please refer to the sections captioned "Description of Capital Stock - Description of Common Stock," "Description of Capital Stock - Description of Preferred Stock," "Description of Depositary Shares" and "Description of Debt Securities" above for a general description of the shares of common stock, shares of preferred stock, depositary shares representing fractional interests in shares of preferred stock and debt securities, respectively, that may be acquired upon the exercise of one or more series of warrants, including a description of certain restrictions on the ownership of our common stock and preferred stock designed to preserve our status as a REIT.

#### DESCRIPTION OF RIGHTS

We may issue, as a dividend at no cost, to holders of record of our securities or any class or series thereof on the applicable record date, rights for the purchase of shares of our common stock, shares of our preferred stock, depositary shares representing fractional interests in shares of our preferred stock, or debt securities. If such rights are so issued to existing holders of securities, each stockholder right will entitle the registered holder thereof to purchase the securities issuable upon exercise of such rights pursuant to the terms set forth in the applicable prospectus supplement and any related free writing prospectus.

Each series of rights will be issued under a separate rights agreement which we will enter into with a bank or trust company, as rights agent, all as set forth in the applicable prospectus supplement and any related free writing

prospectus. The rights agent will act solely as our agent in connection with the certificates relating to the rights and will not assume any obligation or relationship of agency or trust with any holders of rights certificates or beneficial owners of rights. We will file the rights agreement and the rights certificates relating to each series of rights with the SEC, and incorporate them by reference as an exhibit to the registration statement of which this prospectus is a part on or before the time we issue a series of rights.

The applicable prospectus supplement and any related free writing prospectus will describe the terms of any rights we issue, including as applicable:

- the record date for determining the persons entitled to participate in the rights distribution;
- the identity of any subscription or rights agent for such rights;
- the aggregate number or amount of underlying securities purchasable upon exercise of the rights and the applicable exercise or subscription price, as well as a description of the terms of such underlying securities to the extent not already set forth elsewhere in this prospectus or in the applicable prospectus supplement;
- the aggregate number of rights being issued;
- the date, if any, on and after which the rights may be transferable separately;
- the date on which the right to exercise the rights commences and the date on which such right expires;
- the number of rights outstanding, if any;
- any material United States federal income tax consequences applicable to the rights; and
- any other terms of the rights, including the terms, procedures and limitations relating to the distribution, exchange and exercise of the rights.

Rights will be exercisable for United States dollars only and will be in registered form only. In addition to the terms of the rights and the securities issuable upon exercise thereof, the applicable prospectus supplement and any related free writing prospectus may describe, for a holder of such rights who validly exercises all rights issued to such holder, how to subscribe for unsubscribed securities, issuable pursuant to unexercised rights issued to other holders, to the extent such rights have not been exercised.

Holders of rights will not be entitled, by virtue of being such holders, to vote, to consent, to receive interest or dividend payments, to receive notice with respect to any meeting of stockholders for the election of our directors or any other matter, or to exercise any rights whatsoever as holders of the underlying securities, except to the extent (if any) described in the applicable prospectus supplement.

#### DESCRIPTION OF UNITS

We may issue securities in units, each consisting of two or more types of securities, in any combination. For example, we might issue units consisting of a combination of debt securities and warrants to purchase common stock. The holder of a unit will have the rights and obligations of a holder of each included security. If we issue units, the prospectus supplement and any related free writing prospectus relating to the units will contain the information described above with regard to each of the securities that is a component of the units. In addition, the prospectus supplement and any related free writing prospectus relating to units will describe the terms of any units we issue, including as applicable:

- the title of any series of units;
- the date, if any, on and after which the securities comprising such units may be transferable separately, and any other terms and conditions applicable to such transfers;
- any material provisions relating to the issuance, payment, settlement, transfer or exchange of the units or of the securities comprising the units, including information with respect to any applicable book-entry procedures;

- whether we will apply to have such units traded on any securities exchange or securities quotation system;
- any material United States federal income tax consequences applicable to such units, including how, for United States federal income tax purposes, the purchase price paid for the units is to be allocated among the component securities; and
- any other material terms and conditions relating to the units or to the securities included in each unit.

#### MATERIAL U.S. FEDERAL INCOME TAX CONSIDERATIONS

The following summary of the material U.S. federal income tax considerations associated with an investment in our securities is based on current law, is for general information only, and is not tax advice. This summary is based on the Internal Revenue Code, Treasury Regulations, administrative interpretations and judicial decisions, all as currently in effect, and all of which are subject to differing interpretations or to change, possibly with retroactive effect. We have not sought any ruling from the Internal Revenue Service with respect to the statements made and the conclusions reached in the following summary, and there can be no assurance that the Internal Revenue Service will not assert, and that a court will not sustain, a position contrary to any of the tax consequences described below. Furthermore, the following discussion is not exhaustive of all possible tax considerations applicable to our C