

NEW YORK MORTGAGE TRUST INC  
Form 424B5  
October 06, 2017

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Filed Pursuant to Rule 424(b)(5)  
Registration No. 333-213316

**CALCULATION OF REGISTRATION FEE**

<b>Title of Each Class of Securities to be Registered</b>	<b>Maximum Aggregate Offering Price</b>	<b>Amount of Registration Fee <sup>(1)</sup></b>
8.00% Series D Fixed-to-Floating Rate Cumulative Redeemable Preferred Stock, \$0.01 par value per share	\$143,750,000	\$17,896.88

(1) Calculated in accordance with Rules 457(o) and 457(r) of the Securities Act of 1933, as amended (the "Securities Act"). Payment of the registration fee at the time of filing of the registrant's registration statement on Form S-3, filed with the Securities and Exchange Commission on August 25, 2016 (File No. 333-213316) (the "Registration Statement"), was deferred pursuant to Rules 456(b) and 457(r) under the Securities Act. This paragraph shall be deemed to update the "Calculation of Registration Fee" table in the Registration Statement.

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PROSPECTUS SUPPLEMENT  
(To Prospectus Dated August 25, 2016)

5,000,000 Shares

8.00% Series D Fixed-to-Floating Rate Cumulative Redeemable Preferred Stock (Liquidation Preference \$25.00 Per Share)

*New York Mortgage Trust, Inc., a Maryland corporation, is offering to the public 5,000,000 shares of its 8.00% Series D Fixed-to-Floating Rate Cumulative Redeemable Preferred Stock, which we refer to in this prospectus supplement as the Series D Preferred Stock. This is an original issuance of the Series D Preferred Stock. Holders of Series D Preferred Stock will be entitled to receive cumulative cash dividends (i) from and including the original issue date to, but excluding, October 15, 2027 at a fixed rate equal to 8.00% per annum of the \$25.00 per share liquidation preference (equivalent to \$2.00 per annum per share) and (ii) from and including October 15, 2027 at a floating rate equal to three-month LIBOR plus a spread of 5.695% per annum of the \$25.00 per share liquidation preference. Dividends will be payable quarterly in arrears on or about the 15th day of January, April, July and October of each year, when and as declared, beginning on January 15, 2018 (long first dividend period). Dividends will accumulate and be cumulative from, and including, the date of original issuance of the Series D Preferred Stock.*

*The Series D Preferred Stock is not redeemable by us prior to October 15, 2027, except under circumstances where it is necessary to preserve our qualification as a real estate investment trust, or REIT, for U.S. federal income tax purposes and except as described below upon the occurrence of a Change of Control (as defined herein). On or after October 15, 2027, we may, at our option, subject to certain procedural requirements, redeem any or all of the shares of the Series D Preferred Stock for cash at a redemption price of \$25.00 per share, plus any accumulated and unpaid dividends thereon (whether or not authorized or declared) to, but excluding, the redemption date, without interest. In addition, upon the occurrence of a Change of Control, we may, at our option, subject to certain procedural requirements, redeem any or all of the shares of Series D Preferred Stock within 120 days after the first date on which such Change of Control occurred, for cash at a redemption price of \$25.00 per share, plus any accumulated and unpaid dividends thereon (whether or not authorized or declared) to, but excluding, the redemption date, without interest. The Series D Preferred Stock has no stated maturity, is not subject to any sinking fund or mandatory redemption, and will remain outstanding indefinitely unless repurchased or redeemed by us or converted into shares of our common stock, par value \$0.01 per share, or our common stock, in connection with a Change of Control by the holders of Series D Preferred Stock.*

*Upon the occurrence of a Change of Control, each holder of Series D Preferred Stock will have the right (subject to our election to redeem the Series D Preferred Stock in whole or in part, as described above, prior to the Change of Control Conversion Date (as defined herein)) to convert some or all of the shares of the Series D Preferred Stock held by such holder on the Change of Control Conversion Date into a number of shares of our common stock per share of Series D Preferred Stock equal to the lesser of:*

*the quotient obtained by dividing (i) the sum of the \$25.00 liquidation preference per share of the Series D Preferred Stock plus the amount of any accumulated and unpaid dividends thereon (whether or not authorized or declared) to, but not including, the Change of Control Conversion Date (unless the Change of Control Conversion Date is after a dividend record date (as defined herein) and prior to the corresponding dividend payment date (as defined herein) for the Series D Preferred Stock, in which case no additional amount for such accumulated and unpaid dividends will be included in this sum) by (ii) the Common Stock Price (as defined herein); and*

*7.96178 (the "Share Cap"), subject to certain adjustments as explained herein;*

*in each case, on the terms and subject to the conditions described in this prospectus supplement, including provisions for the receipt, under specified circumstances, of alternative consideration as described in this prospectus supplement.*

*No current market exists for the Series D Preferred Stock. We have applied to list the shares of the Series D Preferred Stock on the Nasdaq Global Select Market, under the symbol "NYMTN." If the application is approved, trading of the Series D Preferred Stock on the Nasdaq Global Select Market is expected to begin within 30 days after the date of initial issuance of the Series D Preferred Stock. Our common stock is traded on the Nasdaq Global Select Market*

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under the symbol "NYMT".

*There are restrictions on transfer and ownership of the Series D Preferred Stock intended to preserve our qualification as a REIT. Please see the sections entitled "Description of the Series D Preferred Stock Restrictions on Transfer and Ownership" in this prospectus supplement and "Description of Common Stock Restrictions on Ownership and Transfer" in the accompanying prospectus. In addition, except under limited circumstances as described in this prospectus supplement, holders of the Series D Preferred Stock generally do not have any voting rights.*

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*Investing in the Series D Preferred Stock involves a high degree of risk. The Series D Preferred Stock has not been rated and is subject to risks associated with non-rated securities. See "Risk Factors" beginning on page S-9 of this prospectus supplement and in the documents incorporated by reference in this prospectus supplement and the accompanying prospectus.*

	<i>Per Share</i>	<i>Total<sup>(1)</sup></i>
<i>Price to the public</i>	<i>\$25.00</i>	<i>\$125,000,000</i>
<i>Underwriting discounts and commissions</i>	<i>\$0.7875</i>	<i>\$3,937,500</i>
<i>Proceeds to us (before expenses)</i>	<i>\$24.2125</i>	<i>\$121,062,500</i>

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(1)

*Assumes no exercise of the underwriters' option to purchase additional shares as described below.*

*Neither the U.S. Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or determined if this prospectus supplement or the accompanying prospectus to which it relates is truthful or complete. Any representation to the contrary is a criminal offense.*

*The underwriters have an option to purchase a maximum of 750,000 additional shares of our Series D Preferred Stock solely to cover over-allotments, if any, on the same terms and conditions set forth above within 30 days of the date of this prospectus supplement.*

*Delivery of the shares of the Series D Preferred Stock will be made on or about October 13, 2017, only in book-entry form through The Depository Trust Company.*

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*Joint Book-Running Managers*

*Morgan Stanley*

*UBS Investment Bank*

*Keefe, Bruyette & Woods  
A Stifel Company*

*The date of this prospectus supplement is October 5, 2017.*

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You should rely only on the information contained or incorporated by reference in this prospectus supplement, the accompanying prospectus or any applicable free writing prospectus. We have not, and the underwriters have not, authorized anyone to provide you with different information.

We are not, and the underwriters are not, making an offer of the shares of Series D Preferred Stock covered by this prospectus supplement and the accompanying prospectus in any jurisdiction where the offer is not permitted.

You should assume that the information appearing in this prospectus supplement, the accompanying prospectus, any applicable free writing prospectus and the documents incorporated by reference herein or therein is accurate only as of their respective dates or on the date or dates which are specified in these documents. Our business, financial condition, liquidity, results of operations and prospects

may have changed since those dates.

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**ABOUT THIS PROSPECTUS SUPPLEMENT**

This document consists of two parts. The first part is the prospectus supplement, which describes the specific terms of the offering, and also adds to and updates information contained in the accompanying prospectus and the documents incorporated by reference into this prospectus supplement and the accompanying prospectus. The second part is the accompanying prospectus, which describes more general information, some of which may not apply to this offering. Before you buy any shares of our Series D Preferred Stock, it is important for you to read and consider the information contained in this prospectus supplement and the accompanying prospectus together with additional information described under the headings "Information Incorporated by Reference" and "Where You Can Find More Information."

If the information set forth in this prospectus supplement differs in any way from the information set forth in the accompanying prospectus or any documents incorporated by reference herein or therein that are filed with the Securities and Exchange Commission, or SEC, prior to the date of this prospectus supplement, you should rely on the information set forth in this prospectus supplement.

In this prospectus supplement, we refer to New York Mortgage Trust, Inc., a Maryland corporation, together with its consolidated subsidiaries, as "we," "us," "the Company," or "our," unless we specifically state otherwise or the context indicates otherwise. In addition, the following defines certain of the commonly used terms in this prospectus supplement.

"Agency ARMs" refers to Agency RMBS comprised of adjustable-rate and hybrid adjustable-rate RMBS;

"Agency fixed-rate RMBS" refers to Agency RMBS comprised of fixed-rate RMBS;

"Agency IOs" refers to IOs that represent the right to the interest components of the cash flow from a pool of residential mortgage loans issued or guaranteed by a GSE or an agency of the U.S. government;

"Agency RMBS" refers to RMBS representing interests in or obligations backed by pools of residential mortgage loans issued or guaranteed by a federally chartered corporation, such as the Federal National Mortgage Association ("Fannie Mae") or the Federal Home Loan Mortgage Corporation ("Freddie Mac" and together with Fannie Mae, the "GSEs"), or an agency of the U.S. government, such as the Government National Mortgage Association ("Ginnie Mae");

"ARMs" refers to adjustable-rate residential mortgage loans;

"CMBS" refers to commercial mortgage-backed securities comprised of commercial mortgage pass-through securities, as well as IO or PO securities that represent the right to a specific component of the cash flow from a pool of commercial mortgage loans;

"CLOs" refers to collateralized loan obligations;

"Consolidated K-Series" refers to, as of June 30, 2017 and December 31, 2016, six and five separate Freddie Mac-sponsored multi-family loan K-Series securitizations, respectively, of which we, or one of our special purpose entities ("SPEs"), own the first loss PO securities, certain IO securities and other class securities;

"distressed residential loans" refers to pools of performing, re-performing and, to a lesser extent, non-performing fixed-rate and adjustable-rate, fully amortizing, interest-only and balloon, seasoned mortgage loans secured by first liens on one- to four-family properties;

"IOs" refers collectively to interest only and inverse interest only mortgage-backed securities that represent the right to the interest component of the cash flow from a pool of mortgage loans;

"multi-family CMBS" refers to CMBS backed by commercial mortgage loans on multi-family properties

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"non-Agency RMBS" refers to RMBS backed by prime jumbo mortgage loans and re-performing and non-performing loans;

"POs" refers to mortgage-backed securities that represent the right to the principal component of the cash flow from a pool of mortgage loans;

"prime ARM loans" and "residential securitized loans" each refers to prime credit quality residential ARM loans held in securitization trusts; and

"RMBS" refers to residential mortgage-backed securities that are adjustable-rate, hybrid adjustable-rate, fixed-rate, interest only and inverse interest only, and principal only securities.



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**FORWARD-LOOKING STATEMENTS**

When used in this prospectus supplement and in the accompanying prospectus and in the documents incorporated herein and therein by reference, in future filings with the SEC or in press releases or other written or oral communications issued or made by us, statements which are not historical in nature, including those containing words such as "believe," "expect," "anticipate," "estimate," "plan," "continue," "intend," "should," "would," "could," "goal," "objective," "will," "may" or similar expressions, are intended to identify "forward-looking statements" within the meaning of Section 27A of the Securities Act of 1933, as amended, or the Securities Act, and Section 21E of the Securities Exchange Act of 1934, as amended, or Exchange Act, and, as such, may involve known and unknown risks, uncertainties and assumptions.

Forward-looking statements are based on our beliefs, assumptions and expectations of our future performance, taking into account all information currently available to us. These beliefs, assumptions and expectations are subject to risks and uncertainties and can change as a result of many possible events or factors, not all of which are known to us. If a change occurs, our business, financial condition, liquidity and results of operations may vary materially from those expressed in our forward-looking statements. The following factors are examples of those factors that could cause actual results to vary from our forward-looking statements: changes in interest rates and the market value of our securities; changes in credit spreads; the impact of the downgrade of the long-term credit ratings of the United States, Fannie Mae, Freddie Mac and Ginnie Mae; market volatility; changes in the prepayment rates on the mortgage loans underlying our investment securities; increased rates of default and/or decreased recovery rates on our assets; delay in identifying and acquiring our targeted assets; our ability to borrow to finance our assets; changes in government laws, regulations or policies affecting our business, including actions taken by the U.S. Federal Reserve and the U.S. Treasury and those relating to Fannie Mae, Freddie Mac or Ginnie Mae; our ability to maintain our qualification as a real estate investment trust for federal tax purposes; our ability to maintain our exemption from registration under the Investment Company Act of 1940, as amended; and risks associated with investing in real estate assets, including changes in business conditions and the general economy. These and other risks, uncertainties and factors, including the risk factors described below and in Item 1A of our Annual Report on Form 10-K for the year ended December 31, 2016, as updated by our subsequent filings under the Exchange Act, could cause our actual results to differ materially from those projected in any forward-looking statements we make. All forward-looking statements speak only as of the date on which they are made. New risks and uncertainties arise over time and it is not possible to predict those events or how they may affect us. Except as required by law, we are not obligated to, and do not intend to, update or revise any forward-looking statements, whether as a result of new information, future events or otherwise.

**WHERE YOU CAN FIND MORE INFORMATION**

We are subject to the informational requirements of the Exchange Act, and, in accordance with those requirements, file reports, proxy statements and other information with the SEC. Such reports, proxy statements and other information, as well as the registration statement and the exhibits and schedules thereto, can be inspected at the public reference facilities maintained by the SEC at 100 F Street, N.E., Washington, D.C. 20549. Copies of such materials may be obtained from the SEC at prescribed rates. Information about the operation of the public reference facilities may be obtained by calling the SEC at 1-800-SEC-0330. The SEC also maintains a website that contains reports, proxy statements and other information regarding registrants, including us, that file such information electronically with the SEC. The address of the SEC's website is [www.sec.gov](http://www.sec.gov). Our common stock, our 7.75% Series B Cumulative Redeemable Preferred Stock, \$0.01 par value per share, and our 7.875% Series C Cumulative Redeemable Preferred Stock, \$0.01 par value per share, are listed on the Nasdaq Global Select Market. We have applied to list the Series D Preferred Stock on the Nasdaq Global Select Market. Our corporate website is located at [www.nymtrust.com](http://www.nymtrust.com). Our internet website and the information contained therein or connected

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thereto do not constitute a part of this prospectus supplement, the accompanying prospectus or any amendment or supplement thereto.

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 supplement and the accompanying prospectus. This prospectus supplement and the accompanying prospectus, which form a part of the registration statement, do not contain all of the information set forth in the registration statement and its exhibits and schedules, certain parts of which are omitted in accordance with the SEC's rules and regulations. For further information about us and the Series D Preferred Stock, we refer you to the registration statement and to such exhibits and schedules. Statements contained in this prospectus supplement and the accompanying prospectus concerning the provisions of any document filed as an exhibit to the registration statement or otherwise filed with the SEC are not necessarily complete, and in each instance reference is made to the copy of such document so filed. Each such statement is qualified in its entirety by such reference.

**INFORMATION INCORPORATED BY REFERENCE**

The SEC allows us to "incorporate by reference" into this prospectus supplement and the accompanying prospectus the information we file with the SEC, which means that we can disclose important business, financial and other information to you by referring you to other documents separately filed with the SEC. The information incorporated by reference is considered to be part of this prospectus supplement and the accompanying prospectus from the date we file that document. Any reports filed by us with the SEC after the date of this prospectus supplement and before the date that the offering of the securities by means of this prospectus supplement and the accompanying prospectus is terminated will automatically update and, where applicable, supersede any information contained in this prospectus supplement and the accompanying prospectus or incorporated by reference in this prospectus supplement and the accompanying prospectus.

We incorporate by reference the following documents or information filed with the SEC and any subsequent filings we make with the SEC under Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act after the date of this prospectus supplement and prior to completion of the offering of the Series D Preferred Stock described in this prospectus supplement and the accompanying prospectus (other than, in each case, documents or information deemed to have been furnished and not filed in accordance with SEC rules):

our Annual Report on Form 10-K for the fiscal year ended December 31, 2016;

our Quarterly Reports on Form 10-Q filed on May 9, 2017 and August 7, 2017;

our Current Reports on Form 8-K filed on January 17, 2017, January 23, 2017, February 10, 2017, March 16, 2017, May 15, 2017, June 14, 2017, August 11, 2017, September 14, 2017 and September 19, 2017;

the information specifically incorporated by reference into our Annual Report on Form 10-K for the year ended December 31, 2016 from our definitive proxy statement on Schedule 14A filed on March 28, 2017;

the description of our common stock in our Registration Statement on Form 8-A filed on June 3, 2008;

the description of our Series B Preferred Stock in our Registration Statement on Form 8-A filed on May 31, 2013; and

the description of our Series C Preferred Stock in our Registration Statement on Form 8-A filed on April 21, 2015.

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We will provide without charge to each person, including any beneficial owner, to whom this prospectus supplement and the accompanying prospectus are delivered, upon his or her written or oral request, a copy of any or all documents referred to above that have been or may be incorporated by reference into this prospectus supplement and the accompanying prospectus, excluding exhibits to those documents unless they are specifically incorporated by reference into those documents. You may request those documents from us by writing to New York Mortgage Trust, Inc., c/o Investor Relations, 275 Madison Avenue, New York, New York 10016 or by calling Investor Relations at (646) 216-2363.

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**SUMMARY**

*The following summary is qualified in its entirety by the more detailed information included elsewhere or incorporated by reference into this prospectus supplement and the accompanying prospectus. Because this is a summary, it may not contain all of the information that is important to you. You should read the entire prospectus supplement and the accompanying prospectus, including the section entitled "Risk Factors" and the documents incorporated by reference herein before making an investment decision.*

**The Company**

We are a real estate investment trust, or REIT, for federal income tax purposes, in the business of acquiring, investing in, financing and managing mortgage-related and residential housing-related assets and financial assets. Our objective is to deliver long-term stable distributions to our stockholders over changing economic conditions through a combination of net interest margin and net realized capital gains from a diversified investment portfolio. Our portfolio includes credit sensitive assets and investments sourced from distressed markets in recent years that create the potential for capital gains, as well as more traditional types of mortgage-related investments that generate interest income.

Our investment portfolio includes residential mortgage loans, including second mortgages and loans sourced from distressed markets, non-Agency RMBS, multi-family CMBS, preferred equity and joint venture equity investments in, and mezzanine loans to, owners of multi-family properties, equity and debt securities issued by entities that invest in residential and commercial real estate and Agency RMBS. Subject to maintaining our qualification as a REIT, we also may opportunistically acquire and manage various other types of mortgage-related, residential housing-related and financial assets that we believe will compensate us appropriately for the risks associated with them, including, without limitation, collateralized mortgage obligations and securities issued by newly originated residential securitizations, including credit sensitive securities from these securitizations.

In recent years, we have transitioned our portfolio to one focused increasingly on residential and multi-family credit assets, which we believe will benefit from improving credit metrics. Consistent with this approach to capital allocation, we acquired an additional \$215.5 million of residential and multi-family credit assets during the six months ended June 30, 2017. The investment and capital allocation decisions of the Company and our external managers depend on prevailing market conditions, among other factors, and may change over time in response to opportunities available in different economic and capital market environments. Given current market conditions, we anticipate continuing our pursuit of credit assets, but will also consider deploying capital to non-credit assets, including, without limitation, Agency RMBS, that we believe will compensate us appropriately for the risks associated with them.

We seek to achieve a balanced and diverse funding mix to finance our assets and operations. We currently rely primarily on a combination of short-term borrowings, such as repurchase agreements with terms typically of 30 days, longer term repurchase agreement borrowings with terms between one year and 18 months and longer term structured financings, such as securitizations, with terms longer than one year.

We internally manage a significant portion of our portfolio, including Agency ARMs, Agency fixed-rate RMBS, non-Agency RMBS, residential securitized loans, second mortgage loans, multi-family CMBS and preferred equity and joint venture equity investments in, and mezzanine loans to, owners of multi-family properties. In addition, as part of our investment strategy, we also utilize certain external investment managers to manage specific asset types that we target or own. Accordingly, Headlands Asset Management, LLC, or Headlands, provides investment management services with respect to our investments in distressed residential mortgage loans, and The Midway Group, L.P., or Midway, provides investment management services with respect to our investments in Agency IOs.

We have elected to be taxed as a REIT and have complied, and intend to continue to comply, with the provisions of the Internal Revenue Code of 1986, as amended, or the Code, with respect thereto.

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Accordingly, we do not expect to be subject to federal income tax on our REIT taxable income that we currently distribute to our stockholders if certain asset, income and ownership tests and recordkeeping requirements are fulfilled. Even if we maintain our qualification as a REIT, we expect to be subject to some federal, state and local taxes on our income generated in our taxable REIT subsidiaries, or TRSs.

Our principal executive offices are located at 275 Madison Avenue, New York, New York 10016, and our telephone number is (212) 792-0107. Our website is [www.nymtrust.com](http://www.nymtrust.com). Our website and the information contained at or connected to our website do not constitute a part of this prospectus supplement or the accompanying prospectus.

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**The Offering**

*The following is a brief summary of certain terms of this offering. For a more complete description of the terms of the Series D Preferred Stock, see "Description of the Series D Preferred Stock" in this prospectus supplement and "Description of Preferred Stock" in the accompanying prospectus.*

*In this prospectus supplement, (i) our "Junior Stock" means our common stock, par value \$0.01 per share, and any class or series of stock we may issue in the future that by its terms ranks junior to the Series D Preferred Stock with respect to the payment of dividends and other distributions and the distribution of assets in the event of our liquidation, dissolution, or winding up, (ii) our "Parity Stock" means our 7.75% Series B Cumulative Redeemable Preferred Stock, par value \$0.01 per share, or the "Series B Preferred Stock", our 7.875% Series C Cumulative Redeemable Preferred Stock, par value \$0.01 per share, or the "Series C Preferred Stock", and any other class or series of stock issued by us from time to time that by its terms ranks on parity with the Series B Preferred Stock, Series C Preferred Stock and Series D Preferred Stock with respect to the payment of dividends and other distributions and the distribution of assets in the event of our liquidation, dissolution or winding up, and (iii) our "Senior Stock" means any class or series of stock we may issue in the future that by its terms ranks senior to the Series D Preferred Stock with respect to the payment of dividends and other distributions and the distribution of assets in the event of our liquidation, dissolution or winding up. The term "stock" does not include any convertible or exchangeable debt securities we may issue in the future.*

Issuer	New York Mortgage Trust, Inc.
Securities Offered	5,000,000 shares of our 8.00% Series D Fixed-to-Floating Rate Cumulative Redeemable Preferred Stock, \$0.01 par value per share (plus up to an additional 750,000 shares of our 8.00% Series D Fixed-to-Floating Rate Cumulative Redeemable Preferred Stock that we will issue and sell in the event the underwriters exercise their over-allotment option).
Dividends	<p>Holders of the Series D Preferred Stock will be entitled to receive cumulative cash dividends (i) from and including the original issue date to, but excluding, October 15, 2027 (the "Fixed Rate Period") at a fixed rate equal to 8.00% per annum of the \$25.00 per share liquidation preference (equivalent to \$2.00 per annum per share) and (ii) from and including October 15, 2027 (the "Floating Rate Period"), at a floating rate equal to three-month LIBOR as calculated on each dividend determination date plus a spread of 5.695% per annum of the \$25.00 per share liquidation preference.</p> <p>Dividends will be payable quarterly in arrears on the 15th day of each January, April, July and October (each a "dividend payment date"), when and as authorized and declared, provided that if any dividend payment date is not a business day, then the dividend which would otherwise have been payable on that dividend payment date may be paid on the next succeeding business day. Dividends will accumulate and be cumulative from, and including, the date of original issuance, which is expected to be October 13, 2017. The first dividend is scheduled to be payable on January 15, 2018 (long first dividend period) in the amount of \$0.51111 per share and will be paid to the persons who are the holders of record of the Series D Preferred Stock at</p>

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No Maturity	<p>the close of business on the corresponding record date, which will be January 1, 2018. The Series D Preferred Stock has no stated maturity and will not be subject to any sinking fund or mandatory redemption. Shares of the Series D Preferred Stock will remain outstanding indefinitely unless we decide to redeem or otherwise repurchase them or they become convertible and are converted as described below under " Conversion Rights." We are not required to set apart for payment the funds to redeem the Series D Preferred Stock.</p>
Optional Redemption	<p>The Series D Preferred Stock is not redeemable by us prior to October 15, 2027, except pursuant to Article VII of our charter, including under circumstances intended to preserve our qualification as a REIT for U.S. federal income tax purposes and except as described below under " Special Optional Redemption." On and after October 15, 2027, we may, at our option, subject to certain procedural requirements, redeem the Series D Preferred Stock, in whole or in part, at any time or from time to time, for cash at a redemption price equal to \$25.00 per share, plus any accumulated and unpaid dividends thereon (whether or not authorized or declared) to, but excluding, the date fixed for redemption, without interest. Please see the section entitled "Description of the Series D Preferred Stock Redemption Optional Redemption."</p>
Special Optional Redemption	<p>Upon the occurrence of a Change of Control, we may, at our option, subject to certain procedural requirements, redeem the Series D Preferred Stock, in whole or in part, within 120 days after the first date on which such Change of Control occurred, for cash at a redemption price of \$25.00 per share, plus any accumulated and unpaid dividends thereon (whether or not authorized or declared) to, but not including, the date fixed for redemption. If, prior to the Change of Control Conversion Date (as defined herein), we have provided notice of our election to redeem some or all of the shares of Series D Preferred Stock (whether pursuant to our optional redemption right described above or this special optional redemption right), the holders of Series D Preferred Stock will not have the conversion right described below under " Conversion Rights" with respect to the shares of Series D Preferred Stock called for redemption. Please see the section entitled "Description of the Series D Preferred Stock Redemption" in this prospectus supplement. A "Change of Control" is deemed to occur when, after the original issuance of the Series D Preferred Stock, the following have occurred and are continuing:</p> <p>the acquisition by any person, including any syndicate or group deemed to be a "person" under Section 13(d)(3) of the Exchange Act of beneficial ownership, directly or indirectly, through a purchase, merger or other acquisition transaction or</p>

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series of purchases, mergers or other acquisition transactions of our capital stock entitling that person to exercise more than 50% of the total voting power of all our capital stock entitled to vote generally in the election of our directors (except that such person will be deemed to have beneficial ownership of all securities that such person has the right to acquire, whether such right is currently exercisable or is exercisable only upon the occurrence of a subsequent condition); and

Conversion Rights

following the closing of any transaction referred to in the bullet point above, neither we nor the acquiring or surviving entity has a class of common securities (or American Depositary Receipts representing such securities) listed on the New York Stock Exchange (the "NYSE"), the NYSE MKT LLC (the "NYSE MKT") or the Nasdaq Stock Market, or listed or quoted on an exchange or quotation system that is a successor to the NYSE, the NYSE MKT or the Nasdaq Stock Market.

Upon the occurrence of a Change of Control, each holder of Series D Preferred Stock will have the right (unless we have exercised our right to redeem the Series D Preferred Stock in whole or part, as described above under " Optional Redemption" or " Special Optional Redemption," prior to the Change of Control Conversion Date) to convert some or all of the shares of Series D Preferred Stock held by such holder on the Change of Control Conversion Date into a number of shares of our common stock per share of Series D Preferred Stock to be converted equal to the lesser of:

the quotient obtained by dividing (i) the sum of the \$25.00 liquidation preference per share of Series D Preferred Stock plus the amount of any accumulated and unpaid dividends thereon (whether or not authorized or declared) to, but excluding, the Change of Control Conversion Date (unless the Change of Control Conversion Date is after a dividend record date (as defined herein) and prior to the corresponding dividend payment date (as defined herein) for the Series D Preferred Stock, in which case no additional amount for such accumulated and unpaid dividends will be included in this sum) by (ii) the Common Stock Price (as defined herein); and

7.96178, or the Share Cap, subject to adjustments to the Share Cap for any share splits (including those effected pursuant to a distribution of our common stock to existing holders of our common stock), subdivisions or combinations of our common stock; in each case, on the terms and subject to the conditions described in this prospectus supplement, including provisions for the receipt, under specified circumstances, of alternative consideration as described in this prospectus supplement.



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	<p>For definitions of "Change of Control Conversion Right," "Change of Control Conversion Date" and "Common Stock Price" and a description of certain adjustments and provisions for the receipt of alternative consideration that may be applicable to the conversion of Series D Preferred Stock in the event of a Change of Control, and for other important information, please see the section entitled "Description of the Series D Preferred Stock Conversion Rights."</p>
Liquidation Preference	<p>If we liquidate, dissolve or wind up, holders of the Series D Preferred Stock will have the right to receive \$25.00 per share, plus any accumulated and unpaid dividends thereon (whether or not authorized or declared) to, but excluding, the date of payment, without interest, before any payment is made to the holders of our common stock and the holders of any other Junior Stock we may issue in the future. Please see the section entitled "Description of the Series D Preferred Stock Liquidation Preference."</p>
Ranking	<p>The Series D Preferred Stock will rank, with respect to rights to the payment of dividends and the distribution of assets upon our liquidation, dissolution or winding up, (1) senior to all classes or series of our common stock and any other Junior Stock we may issue in the future; (2) on a parity with our Parity Stock; (3) junior to any Senior Stock we may issue in the future; and (4) effectively junior to all of our existing and future indebtedness (including indebtedness convertible into or exchangeable for our common stock or preferred stock) and to the indebtedness of any of our existing or future subsidiaries. Please see the section entitled "Description of the Series D Preferred Stock Ranking."</p>
Voting Rights	<p>Holders of Series D Preferred Stock will generally have no voting rights. However, if dividends on the Series D Preferred Stock are in arrears for six or more quarterly dividend periods (whether or not consecutive), the number of directors constituting our board of directors will automatically be increased by two (if not already increased by two by reason of the election of directors by holders of any other class or series of Parity Stock upon which like voting rights have been conferred and are exercisable) and the holders of the Series D Preferred Stock, voting together as a single class with the holders of any Parity Stock upon which like voting rights have been conferred and are exercisable and which are entitled to vote as a class with the Series D Preferred Stock in the election referred to below, will be entitled to vote for the election of two additional directors to serve on our board of directors until we pay, or declare and set apart funds for the payment of, all dividends accumulated on the Series D Preferred Stock for all past dividend periods and the then current dividend period. In addition, the affirmative vote of the holders of at least two-thirds of the outstanding shares of Series D Preferred Stock, voting</p>

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	<p>together as a single class with the holders of any Parity Stock upon which like voting rights have been conferred and are exercisable, is required for us (a) to authorize or issue shares of any class or series of Senior Stock, or (b) to amend, alter or repeal any provision of our charter so as to materially and adversely affect any rights of the Series D Preferred Stock or to take certain other actions. Please see the section entitled "Description of the Series D Preferred Stock Voting Rights."</p>
Information Rights	<p>During any period in which we are not subject to Section 13 or 15(d) of the Exchange Act and any shares of Series D Preferred Stock are outstanding, we will use our best efforts to transmit through our website at <a href="http://www.nymtrust.com">http://www.nymtrust.com</a> (or other permissible means under the Exchange Act) copies of the Annual Reports on Form 10-K and Quarterly Reports on Form 10-Q that we would have been required to file with the SEC pursuant to Section 13 or 15(d) of the Exchange Act if we were subject thereto (other than any exhibits that would have been required). We will use our best efforts to provide such reports on our website within 15 days after the respective dates by which we would have been required to file such reports with the SEC if we were subject to Section 13 or 15(d) of the Exchange Act and we were a "non-accelerated filer" within the meaning of the Exchange Act.</p>
Listing	<p>No current market exists for the Series D Preferred Stock. We have filed an application to list the Series D Preferred Stock on the Nasdaq Global Select Market under the symbol "NYMTN." If approved for listing, we expect that trading on the Nasdaq Global Select Market will commence within 30 days after the date of initial issuance of the Series D Preferred Stock. The underwriters have advised us that they intend to make a market in the Series D Preferred Stock prior to the commencement of any trading on the Nasdaq Global Select Market, but they are not obligated to do so and may discontinue market making at any time without notice. We cannot assure you that a market for the Series D Preferred Stock will develop prior to commencement of trading on the Nasdaq Global Select Market or, if developed, will be maintained or will provide you with adequate liquidity.</p>
Restrictions on Transfer and Ownership	<p>In order to ensure that we remain a qualified REIT for federal income tax purposes, our charter, including the articles supplementary setting forth the terms of the Series D Preferred Stock, or the Articles Supplementary, provides that generally no person may own, or be deemed to own by virtue of the attribution provisions of the Code, either (i) more than 9.9% in value of the aggregate of our outstanding shares of capital stock or (ii) more than 9.9% in value or number of shares, whichever is more restrictive, of the aggregate of shares of our outstanding common stock. These provisions may restrict the ability of a</p>

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	holder of Series D Preferred Stock to convert such stock into our common stock. Our board of directors may, in its sole discretion, exempt a person from the 9.9% ownership limits under certain circumstances. Please see the sections entitled "Description of the Series D Preferred Stock Restrictions on Transfer and Ownership" in this prospectus supplement and "Description of Preferred Stock Restrictions on Ownership and Transfer; Change of Control Provisions" and "Description of Common Stock Restrictions on Ownership and Transfer" in the accompanying prospectus.
Book Entry and Form	The Series D Preferred Stock will be represented by one or more global certificates in definitive, fully registered form deposited with a custodian for, and registered in the name of, a nominee of The Depository Trust Company.
Use of Proceeds	We expect to use the net proceeds of this offering to acquire certain of our targeted assets and various other types of mortgage-related and financial assets that we may target from time to time. We may also use net proceeds for general working capital purposes, including the repayment of indebtedness. See "Use of Proceeds."
Federal Income Tax Considerations	For a discussion of the U.S. federal income tax consequences of purchasing, owning and disposing of the Series D Preferred Stock and any common stock received upon conversion of the Series D Preferred Stock, please see the section entitled "Additional Material Federal Income Tax Considerations."
Risk Factors	An investment in the Series D Preferred Stock is subject to risks. Please refer to "Risk Factors" and other information included or incorporated by reference in this prospectus supplement and the accompanying prospectus for a discussion of factors you should carefully consider before investing in shares of our Series D Preferred Stock.

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**RISK FACTORS**

*Investing in shares of the Series D Preferred Stock involves a high degree of risk. Please see the risks described below in addition to the risk factors included in our most recent annual report on Form 10-K and other information that we file from time to time with the SEC. Such risks are not the only risks we face. Additional risks and uncertainties not currently known to us or that we currently deem to be immaterial may also materially adversely affect us and the market value of the Series D Preferred Stock. The risks described could affect our business, financial condition, liquidity, results of operations, prospects, and the market value of the Series D Preferred Stock. In such a case, you may lose all or part of your original investment. You should consider carefully the risks described below and in these reports, as well as other information and data set forth in this prospectus supplement, the accompanying prospectus and the documents incorporated by reference herein and therein before making an investment decision with respect to the shares of the Series D Preferred Stock.*

**Risks Related to the Offering**

***The Series D Preferred Stock ranks junior to all of our indebtedness and other liabilities and any Senior Stock we may issue in the future and your interests could be diluted by the issuance of additional shares of preferred stock and by other transactions.***

In the event of our bankruptcy, liquidation, dissolution or winding-up of our affairs, our assets will be available to pay obligations on the Series D Preferred Stock only after all of our indebtedness and other liabilities have been paid. The rights of holders of the Series D Preferred Stock to participate in the distribution of our assets will rank junior to the prior claims of our current and future creditors and any future series or class of preferred stock we may issue that ranks senior to the Series D Preferred Stock. In addition, the Series D Preferred Stock would effectively rank junior to all indebtedness and other liabilities of any existing or future subsidiaries. Such subsidiaries are or would be separate legal entities and have or will have no legal obligation to pay any amounts to us in respect of dividends due on the Series D Preferred Stock. If we are forced to liquidate our assets to pay our creditors, we may not have sufficient assets to pay amounts due on any or all of the Series D Preferred Stock then outstanding. We have incurred and may in the future incur substantial amounts of debt and other obligations that will rank senior to the Series D Preferred Stock.

Future offerings of debt or senior equity securities may adversely affect the market price of the Series D Preferred Stock. Moreover, under the terms of certain of our securitizations or structured financings, our operating flexibility is constrained and, if we decide to issue debt or senior equity securities in the future, it is possible that these securities will be governed by an indenture or other instrument containing covenants or other provisions that will further restrict our operating flexibility. Additionally, any convertible or exchangeable securities that we issue in the future may have rights, preferences and privileges more favorable than those of the Series D Preferred Stock and may result in dilution to owners of the Series D Preferred Stock. We and, indirectly, our stockholders, will bear the cost of issuing and servicing such securities. Because our decision to issue debt or equity securities in any future offering will depend on market conditions and other factors beyond our control, we cannot predict or estimate the amount, timing or nature of our future offerings. Thus, holders of the Series D Preferred Stock will bear the risk of our future offerings reducing the market price of the Series D Preferred Stock and diluting the value of their holdings in us.

***The Series D Preferred Stock has not been rated.***

We have not sought to obtain a rating for the Series D Preferred Stock, and the Series D Preferred Stock may never be rated. It is possible, however, that one or more rating agencies might independently determine to assign a rating to the Series D Preferred Stock or that we may elect to obtain a rating of our Series D Preferred Stock in the future. Furthermore, we may elect to issue other securities for which we

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may seek to obtain a rating. If any ratings are assigned to the Series D Preferred Stock in the future or if we issue other securities with a rating, such ratings, if they are lower than market expectations or are subsequently lowered or withdrawn, could adversely affect the market for or the market value of the Series D Preferred Stock.

Ratings only reflect the views of the issuing rating agency or agencies and such ratings could at any time be revised downward or withdrawn entirely at the discretion of the issuing rating agency. Further, a rating is not a recommendation to purchase, sell or hold any particular security, including the Series D Preferred Stock. In addition, ratings do not reflect market prices or suitability of a security for a particular investor and any future rating of the Series D Preferred Stock may not reflect all risks related to the Company and its business, or the structure or market value of the Series D Preferred Stock.

***We may issue additional shares of Series D Preferred Stock and additional shares or series of preferred stock that rank on parity with the Series D Preferred Stock as to dividend rights, rights upon liquidation or voting rights.***

We are allowed to issue additional shares of Series D Preferred Stock and additional classes or series of preferred stock that would rank equally to the Series D Preferred Stock as to dividend payments and rights upon our liquidation, dissolution or winding up of our affairs, which we refer to in this prospectus supplement as Parity Stock, pursuant to our charter, including the Articles Supplementary, without any vote of the holders of the Series D Preferred Stock. The issuance of additional shares of Series D Preferred Stock and additional classes or series of Parity Stock, including the issuance of additional shares of our Series B Preferred Stock and our Series C Preferred Stock, could have the effect of reducing the amounts available to the Series D Preferred Stock issued in this offering upon our liquidation or dissolution or the winding up of our affairs. It also may reduce dividend payments on the Series D Preferred Stock issued in this offering if we do not have sufficient funds to pay dividends on all Series D Preferred Stock outstanding and other classes of stock with equal priority with respect to dividends.

In addition, although holders of Series D Preferred Stock are entitled to limited voting rights, as described in "Description of the Series D Preferred Stock Voting Rights," with respect to certain matters, the Series D Preferred Stock will vote as a class along with all other classes or series of our preferred stock that we have issued and may in the future issue upon which like voting rights have been conferred and are exercisable, including our Series B Preferred Stock and our Series C Preferred Stock. As a result, the voting rights of holders of Series D Preferred Stock may be significantly diluted, and the holders of such other series of preferred stock that we have issued and may in the future issue may be able to control or significantly influence the outcome of any vote.

Future issuances and sales of Series D Preferred Stock or Parity Stock, including our Series B Preferred Stock and our Series C Preferred Stock, or the perception that such issuances and sales could occur, may cause prevailing market prices for the Series D Preferred Stock and our common stock to decline and may adversely affect our ability to raise additional capital in the financial markets at times and prices favorable to us.

***We may not be able to pay dividends or other distributions on the Series D Preferred Stock.***

Under Maryland law, no distributions on capital stock may be made if, after giving effect to the distribution, (a) the corporation would not be able to pay the indebtedness of the corporation as such indebtedness becomes due in the usual course of business or, (b) except in certain limited circumstances when distributions are made from net earnings, the corporation's total assets would be less than the sum of the corporation's total liabilities plus, unless the charter provides otherwise (which our charter does, with respect to the Series B Preferred Stock, Series C Preferred Stock and Series D Preferred Stock), the amount that would be needed, if the corporation were to be dissolved at the time of the distribution, to satisfy the preferential rights upon dissolution of stockholders whose preferential rights on dissolution are superior to those receiving the distribution. There can be no guarantee that we will have sufficient cash to

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pay dividends on the Series D Preferred Stock. Our ability to pay dividends may be impaired if any of the risks described in this prospectus supplement and the accompanying prospectus or incorporated by reference in this prospectus supplement and in the accompanying prospectus were to occur. In addition, payment of our dividends depends upon our earnings, our financial condition, maintenance of our REIT qualification and other factors as our board of directors may deem relevant from time to time. We cannot assure you that our business will generate sufficient cash flow from operations or that future borrowings will be available to us in an amount sufficient to enable us to make distributions on our common stock and preferred stock, including the Series D Preferred Stock offered by this prospectus supplement, to pay our indebtedness or to fund our other liquidity needs.

***The historical levels of three-month LIBOR are not an indication of the future levels of three-month LIBOR.***

From and after October 15, 2027, the dividend rate for the Series D Preferred Stock will be determined based on three-month LIBOR. In the past, the level of three-month LIBOR has experienced significant fluctuations. Historical levels, fluctuations and trends of three-month LIBOR are not necessarily indicative of future levels. Any historical upward or downward trend in three-month LIBOR is not an indication that three-month LIBOR is more or less likely to increase or decrease at any time during the floating rate period, and you should not take the historical levels of three-month LIBOR as an indication of its future performance.

Although the actual three-month LIBOR on a dividend payment date or at other times during a Dividend Period (as defined herein) may be higher than the three-month LIBOR on the applicable Dividend Determination Date (as defined herein), you will not benefit from the three-month LIBOR at any time other than on the Dividend Determination Date for such Dividend Period. As a result, changes in the three-month LIBOR on and after October 15, 2027 may not result in a comparable change in the market value of the Series D Preferred Stock.

***Increased regulatory oversight, changes in the method pursuant to which the LIBOR rates are determined and potential phasing out of LIBOR after 2021 may adversely affect the value of the Series D Preferred Stock.***

Regulators and law enforcement agencies in the United Kingdom and elsewhere are conducting civil and criminal investigations into whether the banks that contribute to the British Bankers' Association (the "BBA") in connection with the calculation of daily LIBOR may have been under-reporting or otherwise manipulating or attempting to manipulate LIBOR. A number of BBA member banks have entered into settlements with their regulators and law enforcement agencies with respect to this alleged manipulation of LIBOR. On July 27, 2017, the Financial Conduct Authority (the "FCA") announced that it will no longer persuade or compel banks to submit LIBOR rates after 2021 (the "FCA Announcement").

It is not possible to predict the effect of the FCA Announcement, any changes in the methods pursuant to which the LIBOR rates are determined and any other reforms to LIBOR that will be enacted in the U.K. and elsewhere, which may adversely affect the trading market for LIBOR-based securities or result in the phasing out of LIBOR as a reference rate for securities. In addition, any changes announced by the FCA, including the FCA Announcement, the ICE Benchmark Administration Limited (the independent administrator of LIBOR) or any other successor governance or oversight body, or future changes adopted by such body, in the method pursuant to which the LIBOR rates are determined may result in a sudden or prolonged increase or decrease in the reported LIBOR rates. If that were to occur, the level of dividends would be affected and, to the extent that the value of your Series D Preferred Stock is affected by reported LIBOR rates, the value of the Series D Preferred Stock may be materially affected. Further, if a LIBOR rate is not available on the applicable Dividend Determination Date, the terms of the Series D Preferred Stock will require that we use alternative determination procedures including, under certain circumstances, if the calculation agent for the Series D Preferred Stock determines that the LIBOR base rate has been discontinued, then it will determine whether to use a substitute or successor base rate that it has determined in its sole discretion is most comparable to the LIBOR base rate, which may result in different than expected dividends and could materially affect the value of the Series D Preferred Stock. See "Description of the Series D Preferred Stock Dividends."

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***You may not be able to exercise conversion rights upon a Change of Control. If exercisable, the change of control conversion rights described in this prospectus supplement may not adequately compensate you. These change of control conversion rights may also make it more difficult for a party to acquire us or discourage a party from acquiring us.***

Upon the occurrence of a Change of Control, each holder of the Series D Preferred Stock will have the right (unless, prior to the Change of Control Conversion Date, we have provided notice of our election to redeem some or all of the shares of Series D Preferred Stock held by such holder as described under "Description of the Series D Preferred Stock Redemption Optional Redemption" or " Special Optional Redemption," in which case such holder will have the right only with respect to shares of Series D Preferred Stock that are not called for redemption) to convert some or all of such holder's Series D Preferred Stock into shares of our common stock (or under specified circumstances certain alternative consideration). Notwithstanding that we generally may not redeem the Series D Preferred Stock prior to October 15, 2027, we have a special optional redemption right to redeem the Series D Preferred Stock in the event of a Change of Control, and holders of the Series D Preferred Stock will not have the right to convert any shares that we have elected to redeem prior to the Change of Control Conversion Date. Please see the sections entitled "Description of the Series D Preferred Stock Redemption Special Optional Redemption" and "Description of the Series D Preferred Stock Conversion Rights."

If we do not elect to redeem the Series D Preferred Stock prior to the Change of Control Conversion Date, then upon an exercise of the conversion rights provided to the holders of our Series D Preferred Stock, the holders of Series D Preferred Stock will be limited to a maximum number of shares of our common stock (or, if applicable, the Alternative Conversion Consideration (as defined below)) equal to the Share Cap multiplied by the number of shares of Series D Preferred Stock converted. If the Common Stock Price is less than \$3.14 per share (which is 50% of the per share closing sale price of our common stock reported on the Nasdaq Global Select Market on October 4, 2017), subject to adjustment in certain circumstances, the holders of the Series D Preferred Stock will receive a maximum of 7.96178 shares of our common stock per share of Series D Preferred Stock, which may result in a holder receiving shares of common stock (or Alternative Conversion Consideration, as applicable) with a value that is less than the liquidation preference of the Series D Preferred Stock plus any accumulated and unpaid dividends.

In addition, the Change of Control conversion feature of the Series D Preferred Stock may have the effect of discouraging a third party from making an acquisition proposal for us or of delaying, deferring or preventing certain of our change of control transactions under circumstances that otherwise could provide the holders of our common stock and Series D Preferred Stock with the opportunity to realize a premium over the then-current market price of such stock or that stockholders may otherwise believe is in their best interests.

***The market price of the Series D Preferred Stock could be substantially affected by various factors.***

The market price of the Series D Preferred Stock will depend on many factors, which may change from time to time, including:

prevailing interest rates, increases in which may have an adverse effect on the market price of the Series D Preferred Stock;

trading prices of common and preferred equity securities issued by REITs and other similar companies;

the annual yield from distributions on the Series D Preferred Stock as compared to yields on other financial instruments;

general economic and financial market conditions;

government action or regulation;

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the financial condition, performance and prospects of us and our competitors;

changes in financial estimates or recommendations by securities analysts with respect to us, our competitors or our industry;

our issuance of additional preferred equity or debt securities; and

actual or anticipated variations in quarterly operating results of us and our competitors.

As a result of these and other factors, investors who purchase the Series D Preferred Stock in this offering may experience a decrease, which could be substantial and rapid, in the market price of the Series D Preferred Stock, including decreases unrelated to our operating performance or prospects.

***Our charter, including the Articles Supplementary, contains restrictions upon transfer and ownership of our capital stock and common stock, which may impair the ability of holders to acquire the Series D Preferred Stock or convert Series D Preferred Stock into our common stock.***

Our charter, including the Articles Supplementary, contains restrictions on transfer and ownership of our capital stock and common stock intended to assist us in maintaining our qualification as a REIT for federal income tax purposes. Our charter provides that generally no person may own, or be deemed to own by virtue of the attribution provisions of the Code, either (i) more than 9.9% in value of the aggregate of our outstanding shares of capital stock or (ii) more than 9.9% in value or number of shares, whichever is more restrictive, of the aggregate of shares of our outstanding common stock. See "Description of the Series D Preferred Stock Restrictions on Transfer and Ownership of Stock" in this prospectus supplement. You should consider these ownership limitations prior to your purchase of the Series D Preferred Stock. No holder of Series D Preferred Stock will be entitled to convert such stock into our common stock to the extent that receipt of shares of our common stock would cause the holder to exceed any of the ownership limitations contained in our charter. In addition, these restrictions could have anti-takeover effects and could reduce the possibility that a third party will attempt to acquire control of us, which could adversely affect the market price of the Series D Preferred Stock.

***As a holder of Series D Preferred Stock, you will have extremely limited voting rights.***

Your voting rights as a holder of Series D Preferred Stock will be limited. Our common stock is the only class of our securities that carries full voting rights. Holders of Series D Preferred Stock may vote only (a) to elect two additional directors to our board of directors, as described in the section entitled "Description of the Series D Preferred Stock Voting Rights," in the event that six quarterly dividends (whether or not consecutive) payable on the Series D Preferred Stock (or another class or series of Parity Stock upon which like voting rights have been conferred) are in arrears, (b) on amendments to our charter that materially and adversely affect the rights of the holders of Series D Preferred Stock or (c) to authorize, increase or create additional classes or series of our shares that are senior to the Series D Preferred Stock. The Series D Preferred Stock will vote together as a single class along with all other classes or series of our Parity Stock upon which like voting rights have been conferred and are exercisable on each of these matters, including our Series B Preferred Stock and our Series C Preferred Stock. However, holders of any Parity Stock, including our Series B Preferred Stock and our Series C Preferred Stock, shall not be entitled to vote together as a class with the holders of Series D Preferred Stock as to any charter amendment described in (b) above if holders of Series D Preferred Stock are affected unequally by such amendment. As a result, the voting rights of holders of Series D Preferred Stock may be significantly diluted, and the holders of such other series of preferred stock that we may issue may be able to control or significantly influence the outcome of any vote. Other than the limited circumstances described in this prospectus supplement, holders of Series D Preferred Stock will not have any voting rights. Please see the section entitled "Description of the Series D Preferred Stock Voting Rights."



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***The Series D Preferred Stock is a new issue of securities and does not have an established trading market, which may negatively affect its value and your ability to transfer and sell your shares.***

The Series D Preferred Stock is a new issue of securities and currently no market exists for the Series D Preferred Stock. We have applied to list the Series D Preferred Stock on the Nasdaq Global Select Market. However, we cannot assure you that the Series D Preferred Stock will be approved for listing on the Nasdaq Global Select Market. Even if so approved, trading of the Series D Preferred Stock on the Nasdaq Global Select Market is not expected to begin until some time during the period ending 30 days after the date of initial issuance of the Series D Preferred Stock and, in any event, a trading market on the Nasdaq Global Select Market for the Series D Preferred Stock may never develop or, even if one develops, may not be maintained and may not provide you with adequate liquidity. The underwriters have advised us that they intend to make a market in the Series D Preferred Stock prior to the commencement of any trading on the Nasdaq Global Select Market, but they are not obligated to do so and may discontinue market making at any time without notice. The liquidity of any market for the Series D Preferred Stock that may develop will depend on a number of factors, including prevailing interest rates, the dividend rate on our common stock, our financial condition and operating results, the number of holders of the Series D Preferred Stock, the market for similar securities and the interest of securities dealers in making a market in the Series D Preferred Stock. As a result, the ability to transfer or sell the Series D Preferred Stock and the amount you receive upon any sale or transfer of the Series D Preferred Stock could be adversely affected.

***If our common stock is delisted, your ability to transfer or sell your shares of the Series D Preferred Stock may be limited and the market value of the Series D Preferred Stock will likely be materially adversely affected.***

Other than in connection with a Change of Control, the Series D Preferred Stock does not contain provisions that are intended to protect you if our common stock is delisted from the Nasdaq Stock Market. Since the Series D Preferred Stock has no stated maturity date, you may be forced to hold your shares of the Series D Preferred Stock and receive stated dividends on the Series D Preferred Stock when, as and if authorized by our board of directors and paid by us with no assurance as to ever receiving the liquidation value thereof. In addition, if our common stock is delisted from the Nasdaq Stock Market, it is likely that the Series D Preferred Stock will be delisted from the Nasdaq Stock Market as well. Accordingly, if our common stock is delisted from the Nasdaq Stock Market, your ability to transfer or sell your shares of the Series D Preferred Stock may be limited and the market value of the Series D Preferred Stock will likely be materially adversely affected.

***The allocation of the net proceeds of this offering among our targeted assets, and the timing of the deployment of these proceeds is subject to, among other things, then prevailing market conditions and the availability of targeted assets.***

Our allocation of the net proceeds of this offering among our targeted assets is subject to our investment guidelines and our REIT qualification. We will make determinations as to the percentage of the net proceeds of this offering that will be invested in each of our targeted assets and the timing of the deployment of the net proceeds of this offering. These determinations will depend on then prevailing market conditions and may change over time in response to opportunities available in different interest rate, economic and credit environments. Until appropriate assets can be identified, we may decide to use the net proceeds of this offering for general corporate purposes, including to pay down our short-term debt, or to invest the net proceeds in interest-bearing short-term investments, including funds which are consistent with our REIT election. These investments are expected to provide a lower net return than we seek to achieve from our targeted assets. In addition, prior to the time we have fully used the net proceeds of this offering to acquire our targeted assets, we may fund our quarterly dividends out of such net proceeds.

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**USE OF PROCEEDS**

We estimate that the net proceeds of this offering will be approximately \$120.8 million (or approximately \$138.9 million if the underwriters exercise their option to purchase additional shares in full), after deduction of underwriting discounts and of estimated offering expenses of approximately \$300,000 payable by us.

We expect to use the net proceeds of this offering to acquire certain of our targeted assets and various other types of mortgage-related and financial assets that we may target from time to time. We may also use net proceeds for general working capital purposes, including the repayment of indebtedness.

Pending these uses, we intend to maintain the net offering proceeds in interest-bearing, short-term, marketable investment grade securities or (interest or non-interest bearing) checking (or escrow) accounts or money market accounts that are consistent with our intention to maintain our qualification as a REIT. These investments may include, for example, government securities other than agency securities, certificates of deposit and interest-bearing bank deposits. These investments are expected to provide a lower net return than we will seek to achieve from our targeted assets.

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The following table sets forth our ratio of earnings to combined fixed charges and preferred stock dividends for each of the periods presented.

	<b>Six Months Ended June 30, 2017</b>	<b>2016</b>	<b>Year Ended December 31,</b>			
		<b>2015</b>	<b>2014</b>	<b>2013</b>	<b>2012</b>	
Ratio of earnings to combined fixed charges and preferred stock dividends	1.86	2.16	2.79	5.35	3.69	4.28

For each period, we computed the ratio of earnings to combined fixed charges and preferred stock dividends by dividing earnings by the sum of fixed charges and dividends on then-outstanding shares of preferred stock. Fixed charges consist of interest costs, whether expensed or capitalized, and amortization of financing costs, but exclude interest expense on multi-family collateralized debt obligations of the Consolidated K-Series, which we are required to consolidate in our financial statements under generally accepted accounting principles in the U.S. We do not have any claim to the assets (other than the securities represented by our first loss pieces) or obligations for the Liabilities of the Consolidated K-Series. For the period January 1, 2011 to June 4, 2013, no shares of preferred stock were outstanding. For the period June 4, 2013 to June 30, 2017, 3,000,000 shares of our Series B Preferred Stock were issued and outstanding. For the period April 22, 2015 to June 30, 2017, 3,600,000 shares of our Series C Preferred Stock were issued and outstanding.

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**DESCRIPTION OF THE SERIES D PREFERRED STOCK**

*This description of certain terms of the Series D Preferred Stock supplements, and, to the extent inconsistent therewith, replaces, the description of the general terms and provisions of our preferred stock set forth in the accompanying prospectus. The description of certain terms of the Series D Preferred Stock in this prospectus supplement does not purport to be complete and is in all respects subject to, and qualified in its entirety by references to the relevant provisions of our charter, including the articles supplementary designating the terms of the Series D Preferred Stock, our bylaws and Maryland law. Copies of our charter and our bylaws are filed as exhibits to the registration statement of which this prospectus supplement and accompanying prospectus form a part.*

**General**

Pursuant to our charter, we are currently authorized to designate and issue up to 200,000,000 shares of preferred stock, \$0.01 par value per share, in one or more classes or series and, subject to the limitations prescribed by our charter and Maryland law, with such terms of each class or series of preferred stock, including preferences, conversion or other rights, voting power, restrictions, limitations as to dividends or other distributions, qualifications, and terms and conditions of redemption and the number of shares constituting any class or series, as our board of directors may determine, without any vote or action by our stockholders. As of the date of this prospectus supplement, we have available for issuance 189,860,000 authorized but undesignated and unissued shares of preferred stock.

As of the date of this prospectus supplement, we are currently authorized to issue up to 6,000,000 shares of our Series B Preferred Stock and 4,140,000 shares of our Series C Preferred Stock and have 3,000,000 shares of our Series B Preferred Stock and 3,600,000 shares of our Series C Preferred Stock issued and outstanding.

In connection with this offering, our board of directors and a committee of the board will, as permitted by our charter and Maryland law, classify and designate a new series of preferred stock with the rights set forth herein consisting of shares designated as the 8.00% Series D Fixed-to-Floating Rate Cumulative Redeemable Preferred Stock, \$0.01 par value per share, which we refer to herein as the Series D Preferred Stock, by adopting and filing the articles supplementary classifying and designating such shares with the State Department of Assessments and Taxation of Maryland. Our board of directors may, without the approval of holders of Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock or our common stock, designate additional classes or series of authorized preferred stock ranking junior to or on parity with the Series D Preferred Stock or designate additional shares of the Series D Preferred Stock and authorize the issuance of such shares.

We have applied to list the shares of the Series D Preferred Stock on the Nasdaq Global Select Market under the symbol "NYMTN." If listing is approved, we expect trading to commence within 30 days after the initial delivery of the shares of Series D Preferred Stock.

The registrar, transfer agent and dividend and redemption price disbursing agent in respect of the Series D Preferred Stock will be American Stock Transfer & Trust Company, LLC.

**Maturity**

The Series D Preferred Stock has no stated maturity and will not be subject to any sinking fund or mandatory redemption. Shares of the Series D Preferred Stock will remain outstanding indefinitely unless we decide to redeem or otherwise repurchase them or they become convertible and are converted as described below under " Conversion Rights." We are not required to set apart for payment the funds to redeem the Series D Preferred Stock.

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**Ranking**

The Series D Preferred Stock will rank, with respect to rights to the payment of dividends and other distributions and the distribution of assets upon our liquidation, dissolution or winding up:

senior to all classes or series of our common stock and any other Junior Stock we may issue;

on a parity with our Parity Stock;

junior to any Senior Stock we may issue; and

effectively junior to all of our existing and future indebtedness (including indebtedness convertible into or exchangeable for our common stock or preferred stock) and the indebtedness of our existing and future subsidiaries.

**Dividends**

Holders of shares of the Series D Preferred Stock are entitled to receive, when, as and if authorized by our board of directors and declared by us, out of funds legally available for the payment of dividends, cumulative cash dividends. The initial dividend rate for the Series D Preferred Stock from and including the date of original issuance to, but excluding, October 15, 2027 (the "Fixed Rate Period") will be 8.00% of the \$25.00 per share liquidation preference per annum (equivalent to \$2.00 per annum per share). On and after October 15, 2027 (the "Floating Rate Period"), dividends on the Series D Preferred Stock will accumulate at a percentage of the \$25.00 liquidation preference equal to an annual floating rate of the Three-Month LIBOR Rate (as defined below) as calculated on each applicable Dividend Determination Date (as defined below) plus a spread of 5.695%. Dividends on the Series D Preferred Stock will accumulate daily and with respect to any shares of Series D Preferred Stock issued before January 15, 2018, will be cumulative from, and including, October 13, 2017 (the "original issue date"), or, with respect to any shares of Series D Preferred Stock issued after January 14, 2018, will be cumulative from the most recent Dividend Payment Date to which dividends have been paid in full (or declared and the record date for determining holders entitled to payment thereof has passed), and will be payable quarterly in arrears on the 15th day of each January, April, July and October (each, a "dividend payment date"); provided that if any dividend payment date is not a business day, as defined in the articles supplementary designating the Series D Preferred Stock, then the dividend which would otherwise have been payable on that dividend payment date may be paid on the next succeeding business day with the same force and effect as if paid on such dividend payment date. No interest, additional dividends or sums in lieu of interest will be payable for the period from and after that dividend payment date to that next succeeding business day. The first dividend on the Series D Preferred Stock is scheduled to be payable on or about January 15, 2018 (long first Dividend Period), in the amount of \$0.51111 per share. Any dividends payable on the Series D Preferred Stock during the Fixed Rate Period, including dividends payable for the first Dividend Period and any partial Dividend Period, will be computed on the basis of a 360-day year consisting of twelve 30-day months. Any dividends payable on the Series D Preferred Stock during the Floating Rate Period, including dividends payable for any partial Dividend Period, will be computed by multiplying the floating rate for that Dividend Period by a fraction, the numerator of which will be the actual number of days elapsed during that Dividend Period and the denominator of which will be 360, and by multiplying the result by the aggregate liquidation preference of the Series D Preferred Stock. Dividends will be payable to holders of record as they appear on our stock records at the close of business on the applicable record date, which will be the first day of the calendar month (whether or not a business day) in which the applicable Dividend Payment Date falls (each, a "dividend record date"). The dividends payable on any dividend payment date shall include dividends accumulated to, but not including, such dividend payment date.

On any Dividend Determination Date, "three-month LIBOR" will be equal to the offered rate for deposits in U.S. dollars having an index maturity of three months, in amounts of at least US\$1,000,000, as

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such rate appears on "Reuters Page LIBOR01" (or any successor or replacement page) at approximately 11:00 a.m., London time, on such Dividend Determination Date. If on a Dividend Determination Date, such rate does not appear on the "Reuters Page LIBOR01" as of 11:00 a.m., London time, or if the "Reuters Page LIBOR01" is not available on such date, the calculation agent will obtain such rate from Bloomberg L.P.'s page "BBAM" (or any successor or replacement page). If the calculation agent determines that three-month LIBOR has been discontinued, then it will determine whether to use a substitute or successor base rate that it has determined in its sole discretion is most comparable to three-month LIBOR, provided that if the calculation agent determines there is an industry accepted successor base rate, the calculation agent shall use such successor base rate. If the calculation agent has determined a substitute or successor base rate in accordance with the foregoing, the calculation agent in its sole discretion may also implement changes to the business day convention, the definition of business day, the Dividend Determination Date and any method for obtaining the substitute or successor base rate if such rate is unavailable on the relevant business day, in a manner that is consistent with industry accepted practices for such substitute or successor base rate. Unless the calculation agent determines to use a substitute or successor base rate as so provided, the following will apply: If no offered rate appears on "Reuters Page LIBOR01" (or any successor or replacement page) or Bloomberg L.P. page "BBAM" (or any successor or replacement page) on a Dividend Determination Date at approximately 11:00 a.m., London time, then the calculation agent (after consultation with us) will select four major banks in the London interbank market and shall request each of their principal London offices to provide a quotation of the rate at which three-month deposits in U.S. dollars in amounts of at least US\$1,000,000 are offered by it to prime banks in the London interbank market, on that date and at that time, that is representative of single transactions at that time. If at least two quotations are provided, three-month LIBOR will be the arithmetic average of the quotations provided. Otherwise, the calculation agent will select three major banks in New York City and shall request each of them to provide a quotation of the rate offered by them at approximately 11:00 a.m., New York City time, on the Dividend Determination Date for loans in U.S. dollars to leading European banks having an index maturity of three months for the applicable interest period in an amount of at least US\$1,000,000 that is representative of single transactions at that time. If three quotations are provided, three-month LIBOR will be the arithmetic average of the quotations provided. If no quotation is provided as described above, then the calculation agent, after consulting such sources as it deems comparable to any of the foregoing quotations or display page, or any such source as it deems reasonable from which to estimate three-month LIBOR or any of the foregoing lending rates, shall determine three-month LIBOR for the second London Business Day immediately preceding the first day of such Dividend Period in its sole discretion.

The calculation agent's determination of any interest rate, and its calculation of the amount of dividends for any Dividend Period, will be on file at our principal offices, will be made available to any holder of Series D Preferred Stock upon request and will be final and binding in the absence of manifest error.

All percentages resulting from any of the above calculations will be rounded, if necessary, to the nearest one hundred-thousandth of a percentage point, with five one-millionths of a percentage point rounded upwards (e.g., 9.876545% (or .09876545) being rounded to 9.87655% (or .0987655)) and all dollar amounts used in or resulting from such calculations will be rounded to the nearest cent (with one-half cent being rounded upwards).

"Dividend Determination Date" means the London Business Day (as defined below) immediately preceding the first date of the applicable Dividend Period.

"Dividend Period" means the period from, and including, a dividend payment date to, but excluding, the next succeeding dividend payment date, except for the initial Dividend Period, which will be the period from, and including, the original issue date of the Series D Preferred Stock to, but excluding, January 15, 2018.

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"London Business Day" means any day on which dealings in deposits in U.S. dollars are transacted in the London interbank market.

"Reuters Page LIBOR01" means the display so designated on the Reuters 3000 Xtra (or such other page as may replace the LIBOR01 page on that service, or such other service as may be nominated by the ICE Benchmark Administration Limited, or ICE, or its successor, or such other entity assuming the responsibility of ICE or its successor in the event ICE or its successor no longer does so, as the successor service, for the purpose of displaying London interbank offered rates for U.S. dollar deposits).

No dividends on shares of Series D Preferred Stock may be authorized by our board of directors or paid or set apart for payment by us at any time when the terms and provisions of any agreement of ours, including any agreement relating to our indebtedness, prohibit the authorization, payment or setting apart for payment thereof or provide that the authorization, payment or setting apart for payment thereof would constitute a breach of the agreement or a default under the agreement, or if the authorization, payment or setting apart for payment is restricted or prohibited by law. You should review the information appearing above under "Risk Factors We may not be able to pay dividends or other distributions on the Series D Preferred Stock" for more information as to, among other things, other circumstances under which we may be unable to pay dividends on the Series D Preferred Stock.

Notwithstanding the foregoing, dividends on the Series D Preferred Stock will accumulate whether or not (i) the terms and provisions of any laws or agreements referred to in the preceding paragraph at any time prohibit the current payment of dividends, (ii) we have earnings, (iii) there are funds legally available for the payment of those dividends and (iv) those dividends are declared. No interest, or sum in lieu of interest, will be payable in respect of any dividend payment or payments on the Series D Preferred Stock which may be in arrears, and holders of Series D Preferred Stock will not be entitled to any dividends in excess of full cumulative dividends described above. Any dividend payment made on the Series D Preferred Stock will first be credited against the earliest accumulated but unpaid dividend due with respect to those shares.

Future dividends on our common stock and preferred stock, including the Series D Preferred Stock offered pursuant to this prospectus supplement, will be at the discretion of our board of directors and will depend on, among other things, our results of operations, cash flow from operations, financial condition and capital requirements, the annual distribution requirements under the REIT provisions of the Code, applicable law, any debt service requirements and any other factors our board of directors deems relevant. Accordingly, we cannot guarantee that we will be able to make cash distributions on the Series D Preferred Stock or what the actual dividends will be for any future period.

Except as noted below, unless full cumulative dividends on the Series D Preferred Stock have been or contemporaneously are declared and paid or declared and a sum sufficient for the payment thereof is set apart for payment for all past Dividend Periods, no dividends (other than in shares of our common stock or other Junior Stock we may issue) may be declared or paid or set apart for payment upon our common stock or other Junior Stock or our Parity Stock and no other distribution may be declared or made upon our common stock or other Junior Stock or our Parity Stock. In addition, our common stock and other Junior Stock or Parity Stock we may issue may not be redeemed, purchased or otherwise acquired for any consideration (or any moneys be paid to or made available for a sinking fund for the redemption of any such securities) by us (except by conversion into or exchange for shares of, or options, warrants or rights to purchase or subscribe for, our common stock or other Junior Stock we may issue or pursuant to an exchange offer made on the same terms to all holders of Series D Preferred Stock and all Parity Stock). The foregoing will not, however, prevent the redemption, purchase or acquisition by us of shares of any class or series of stock for the purpose of enforcing restrictions on transfer and ownership of our stock contained in our charter, including in order to preserve our qualification as a REIT, or the redemption, purchase or acquisition by us of shares of our common stock for purposes of and in compliance with any incentive or benefit plan of ours.

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When dividends are not paid in full (or a sum sufficient for such full payment is not so set apart) upon the Series D Preferred Stock and our Parity Stock, all dividends declared upon the Series D Preferred Stock and such Parity Stock must be declared pro rata so that the amount of dividends declared per share of Series D Preferred Stock and such Parity Stock will in all cases bear to each other the same ratio that accumulated dividends per share on the Series D Preferred Stock and such Parity Stock (which will not include any accrual in respect of unpaid dividends for prior Dividend Periods if such other Parity Stock do not have a cumulative dividend) bear to each other. No interest, or sum of money in lieu of interest, will be payable in respect of any dividend payment or payments on the Series D Preferred Stock which may be in arrears.

**Liquidation Preference**

In the event of our voluntary or involuntary liquidation, dissolution or winding up, the holders of Series D Preferred Stock will be entitled to be paid out of the assets we have legally available for distribution to our stockholders, subject to the preferential rights of the holders of any classes or series Senior Stock, a liquidation preference of \$25.00 per share, plus any accumulated and unpaid dividends thereon (whether or not authorized or declared) to, but excluding, the payment date, before any distribution of assets is made to holders of common stock or other Junior Stock we may issue; and the holders of Series D Preferred Stock will not be entitled to any further payment.

In the event that, upon any such voluntary or involuntary liquidation, dissolution or winding up, our available assets are insufficient to pay the amount of the liquidating distributions on all outstanding shares of Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock and any other Parity Stock we may issue, then the holders of Series B Preferred Stock, Series C Preferred Stock, Series D Preferred Stock and such other Parity Stock will share ratably in any such distribution of assets in proportion to the full liquidating distributions to which they would otherwise be respectively entitled.

Notice of any such liquidation will be given no fewer than 30 days and no more than 60 days prior to the payment date, to each holder of record of Series D Preferred Stock at the address of such holder as it appears on our stock records. After payment of the full amount of the liquidating distributions to which they are entitled, the holders of Series D Preferred Stock will have no right or claim to any of our remaining assets. The consolidation, conversion or merger of us with or into any other corporation, trust or entity or of any other entity with or into us, the sale, lease, transfer or conveyance of all or substantially all of our property or business or a statutory share exchange, will not be deemed to constitute a liquidation, dissolution or winding up of us (although such events may give rise to the special optional redemption and contingent conversion rights described below).

In determining whether a distribution (other than upon voluntary or involuntary liquidation), by dividend, redemption or other acquisition of shares of stock or otherwise, is permitted under Maryland law with respect to any share of any class or series of our stock, amounts that would be needed, if we were to be dissolved at the time of the distribution, to satisfy the preferential rights upon dissolution of holders of shares of Series D Preferred Stock will not be added to our total liabilities.

**Redemption**

The Series D Preferred Stock is not redeemable by us prior to October 15, 2027, except under circumstances where it is necessary to preserve our qualification as a REIT for U.S. federal income tax purposes (please see " Restrictions on Transfer and Ownership" below and "Restrictions on Ownership and Transfer" in the accompanying prospectus) and except as described below under " Special Optional Redemption" upon the occurrence of a Change of Control (as defined below).

*Optional Redemption.* On and after October 15, 2027, we may, at our option, upon not less than 30 nor more than 60 days' notice, redeem the Series D Preferred Stock, in whole or in part, at any time or from time to time, for cash at a redemption price of \$25.00 per share, plus any accumulated and unpaid



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dividends thereon (whether or not authorized or declared) to, but excluding, the redemption date, without interest.

*Special Optional Redemption.* Upon the occurrence of a Change of Control, we may, at our option, upon not less than 30 nor more than 60 days' notice, redeem the Series D Preferred Stock, in whole or in part, within 120 days after the first date on which such Change of Control occurred, for cash at a redemption price of \$25.00 per share, plus any accumulated and unpaid dividends thereon (whether or not authorized or declared) to, but excluding, the redemption date. If, prior to the Change of Control Conversion Date, we have provided notice of our election to redeem some or all of the shares of Series D Preferred Stock (whether pursuant to our optional redemption right described above under "Optional Redemption" or this special optional redemption right), the holders of Series D Preferred Stock will not have the Change of Control Conversion Right (as defined below) described below under "Conversion Rights" with respect to the shares called for redemption.

A "Change of Control" is deemed to occur when, after the original issuance of the Series D Preferred Stock, the following have occurred and are continuing:

the acquisition by any person, including any syndicate or group deemed to be a "person" under Section 13(d)(3) of the Exchange Act, of beneficial ownership, directly or indirectly, through a purchase, merger or other acquisition transaction or series of purchases, mergers or other acquisition transactions of our capital stock entitling that person to exercise more than 50% of the total voting power of all our capital stock entitled to vote generally in the election of our directors (except that such person will be deemed to have beneficial ownership of all securities that such person has the right to acquire, whether such right is currently exercisable or is exercisable only upon the occurrence of a subsequent condition); and

following the closing of any transaction referred to in the bullet point above, neither we nor the acquiring or surviving entity has a class of common securities (or American Depositary Receipts representing such securities) listed on the NYSE, the NYSE MKT LLC or the Nasdaq Stock Market, or listed or quoted on an exchange or quotation system that is a successor to the NYSE, the NYSE MKT LLC or the Nasdaq Stock Market, or listed or quoted on a successor to the foregoing exchanges.

*Redemption Procedures.* In the event we elect to redeem Series D Preferred Stock pursuant to our optional redemption right or our special optional redemption right, the notice of redemption will be given to each holder of record of Series D Preferred Stock called for redemption at such holder's address as it appears on our stock records and will state the following:

the redemption date;

the number of shares of Series D Preferred Stock to be redeemed;

the redemption price;

the place or places where certificates (if any) for the Series D Preferred Stock are to be surrendered for payment of the redemption price;

that dividends on the shares to be redeemed will cease to accumulate on the redemption date;

if applicable, that such redemption is being made in connection with a Change of Control and, in that case, a brief description of the transaction or transactions constituting such Change of Control; and

if such redemption is being made in connection with a Change of Control, that the holders of the shares of Series D Preferred Stock being so called for redemption will not be able to tender such shares of Series D Preferred Stock for conversion in connection with the Change of Control and that each share of Series D Preferred Stock tendered for conversion that is called, prior to the Change of Control Conversion Date, for redemption will be redeemed on the related date of redemption instead of converted on the Change of Control Conversion Date.



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If less than all of the Series D Preferred Stock held by any holder is to be redeemed, the notice given to such holder shall also specify the number of shares of Series D Preferred Stock held by such holder to be redeemed. No failure to give such notice or any defect thereto or in the giving thereof will affect the validity of the proceedings for the redemption of any shares of Series D Preferred Stock, except as to the holder to whom notice was defective or not given. Notwithstanding the foregoing, no notice of redemption will be required where we elect to redeem Series D Preferred Stock to preserve our status as a REIT.

Holders of shares of Series D Preferred Stock to be redeemed must surrender such shares at the place designated in the notice of redemption and will be entitled to the redemption price and any accumulated and unpaid dividends payable upon the redemption following the surrender.

If notice of redemption of any shares of Series D Preferred Stock has been given and if we have irrevocably set apart for payment the funds necessary for redemption (including any accumulated and unpaid dividends) in trust for the benefit of the holders of the shares of Series D Preferred Stock so called for redemption, then from and after the redemption date (unless we default in providing for the payment of the redemption price plus accumulated and unpaid dividends, if any), dividends will cease to accumulate on those shares of Series D Preferred Stock, those shares of Series D Preferred Stock will no longer be deemed outstanding and all rights of the holders of those shares will terminate, except the right to receive the redemption price plus accumulated and unpaid dividends, if any, payable upon redemption.

If any redemption date is not a business day, then the redemption price and accumulated and unpaid dividends, if any, payable upon redemption may be paid on the next business day and no interest, additional dividends or other sums will accumulate on the amount payable for the period from and after that redemption date to that next business day.

If less than all of the outstanding shares of Series D Preferred Stock are to be redeemed, the shares of Series D Preferred Stock to be redeemed will be selected pro rata (as nearly as may be practicable without creating fractional shares) or by any other equitable method that we determine will not result in the automatic transfer of any shares of Series B Preferred Stock to a trust pursuant to our charter. See "Restrictions on Transfer and Ownership" in this prospectus supplement and in accompanying prospectus under the heading "Restrictions on Ownership and Transfer."

Immediately prior to any redemption of Series D Preferred Stock, we will pay, in cash, any accumulated and unpaid dividends to, but excluding, the redemption date, unless a redemption date falls after a dividend record date and prior to the corresponding dividend payment date, in which case each holder of Series D Preferred Stock at the close of business on such dividend record date will be entitled to the dividend payable on such shares on the corresponding dividend payment date notwithstanding the redemption of such shares before such dividend payment date. Except as provided above, we will make no payment or allowance for unpaid dividends, whether or not in arrears, on shares of the Series D Preferred Stock to be redeemed.

Unless full cumulative dividends on all shares of Series D Preferred Stock have been or contemporaneously are declared and paid or declared and a sum sufficient for the payment thereof has been or contemporaneously is set apart for payment for all past Dividend Periods, no shares of Series D Preferred Stock may be redeemed unless all outstanding shares of Series D Preferred Stock are simultaneously redeemed, and we may not purchase or otherwise acquire directly or indirectly any shares of Series D Preferred Stock (except by conversion into or exchange for shares of, or options, warrants or rights to purchase or subscribe for, our common stock or other Junior Stock we may issue or pursuant to a purchase or exchange offer made on the same terms to all holders of Series D Preferred Stock and all classes or series of Parity Stock); provided, however, that the foregoing will not prevent the redemption, purchase or acquisition by us of shares of Series D Preferred Stock for the purpose of enforcing restrictions on ownership and transfer of our stock contained in our charter, including in order to preserve our qualification as a REIT.

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Subject to applicable law, we may purchase shares of Series D Preferred Stock in the open market, by tender or by privately negotiated transactions. Any shares of Series D Preferred Stock that we acquire, by redemption or otherwise, shall be reclassified as authorized but unissued shares of preferred stock, without designation as to class or series, and may thereafter be issued as any class or series of preferred stock.

**Conversion Rights**

Upon the occurrence of a Change of Control, each holder of Series D Preferred Stock will have the right (unless, prior to the Change of Control Conversion Date, we have provided notice of our election to redeem some or all of the shares of Series D Preferred Stock held by such holder as described above under "Redemption," in which case such holder will have the right only with respect to shares of Series D Preferred Stock that are not called for redemption) to convert some or all of the shares of the Series D Preferred Stock held by such holder (the "Change of Control Conversion Right") on the Change of Control Conversion Date into a number of shares of our common stock per share of Series D Preferred Stock (the "Common Stock Conversion Consideration") equal to the lesser of:

the quotient obtained by dividing (i) the sum of the \$25.00 liquidation preference per share of Series D Preferred Stock, plus any accumulated and unpaid dividends thereon (whether or not authorized or declared) to, but excluding, the Change of Control Conversion Date (unless the Change of Control Conversion Date is after a dividend record date and prior to the corresponding dividend payment date for the Series D Preferred Stock, in which case no additional amount for such accumulated and unpaid dividends to be paid on such dividend payment date will be included in this sum) by (ii) the Common Stock Price, as defined below (such quotient, the "Conversion Rate"); and

7.96178, or the "Share Cap," subject to certain adjustments as described below.

Notwithstanding anything in the articles supplementary designating the Series D Preferred Stock to the contrary and except as otherwise required by law, the persons who are the holders of record of shares of Series D Preferred Stock at the close of business on a dividend record date will be entitled to receive the dividend payable on the corresponding dividend payment date notwithstanding the conversion of those shares after such dividend record date and on or prior to such dividend payment date and, in such case, the full amount of such dividend will be paid on such dividend payment date to the persons who were the holders of record at the close of business on such dividend record date. Except as provided above, we will make no allowance for unpaid dividends that are not in arrears on the shares of Series D Preferred Stock to be converted.

The Share Cap is subject to pro rata adjustments for any share splits (including those effected pursuant to a distribution of our common stock to existing holders of our common stock), subdivisions or combinations (in each case, a "Share Split") with respect to our common stock as follows: the adjusted Share Cap as the result of a Share Split will be the number of shares of our common stock that is equivalent to the product obtained by multiplying (i) the Share Cap in effect immediately prior to such Share Split by (ii) a fraction, the numerator of which is the number of shares of our common stock outstanding immediately after giving effect to such Share Split and the denominator of which is the number of shares of our common stock outstanding immediately prior to such Share Split.

For the avoidance of doubt, subject to the immediately succeeding paragraph, the aggregate number of shares of our common stock (or equivalent Alternative Conversion Consideration (as defined below), as applicable) issuable or deliverable, as applicable, in connection with the exercise of the Change of Control Conversion Right will not exceed the product of the Share Cap times the aggregate number of shares of the Series D Preferred Stock issued and outstanding at the Change of Control Conversion Date (or equivalent Alternative Conversion Consideration, as applicable) (the "Exchange Cap"). The Exchange Cap is subject to pro rata adjustments for any Share Splits on the same basis as the corresponding adjustment to the Share Cap.

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In the case of a Change of Control pursuant to which our common stock is or will be converted into cash, securities or other property or assets (including any combination thereof) (the "Alternative Form Consideration"), a holder of Series D Preferred Stock will receive upon conversion of such shares of the Series D Preferred Stock the kind and amount of Alternative Form Consideration which such holder would have owned or been entitled to receive upon the Change of Control had such holder held a number of shares of our common stock equal to the Common Stock Conversion Consideration immediately prior to the effective time of the Change of Control (the "Alternative Conversion Consideration"). The Common Stock Conversion Consideration or the Alternative Conversion Consideration, whichever shall be applicable to a Change of Control, is referred to as the "Conversion Consideration."

If the holders of our common stock have the opportunity to elect the form of consideration to be received in the Change of Control, the Conversion Consideration in respect of such Change of Control will be deemed to be the kind and amount of consideration actually received by holders of a majority of the outstanding shares of our common stock that made or voted for such an election (if electing between two types of consideration) or holders of a plurality of the outstanding shares of our common stock that made or voted for such an election (if electing between more than two types of consideration), as the case may be, and will be subject to any limitations to which all holders of our common stock are subject, including, without limitation, pro rata reductions applicable to any portion of the consideration payable in such Change of Control.

We will not issue fractional shares of our common stock upon the conversion of the Series D Preferred Stock in connection with a Change of Control. Instead, we will make a cash payment equal to the value of such fractional shares based upon the Common Stock Price used in determining the Common Stock Conversion Consideration for such Change of Control.

Within 15 days following the occurrence of a Change of Control, provided that we have not exercised our right to redeem all shares of Series D Preferred Stock pursuant to the redemption provisions described above, we will provide to holders of Series D Preferred Stock a notice of occurrence of the Change of Control that describes the resulting Change of Control Conversion Right, which notice shall be delivered to the holders of record of the shares of Series D Preferred Stock to their addresses as they appear on our stock records. No failure to give such notice or any defect thereto or in the giving thereof will affect the validity of the proceedings for the conversion of any shares of Series D Preferred Stock except as to the holder to whom notice was defective or not given. This notice will state the following:

the events constituting the Change of Control;

the date of the Change of Control;

the last date on which the holders of Series D Preferred Stock may exercise their Change of Control Conversion Right;

the method and period for calculating the Common Stock Price;

the Change of Control Conversion Date;

that if, prior to the Change of Control Conversion Date, we have provided notice of our election to redeem all or any shares of Series D Preferred Stock, holders of Series D Preferred Stock that are subject to such redemption will not be able to convert the shares of Series D Preferred Stock called for redemption and such shares will be redeemed on the related redemption date, even if such shares have already been tendered for conversion pursuant to the Change of Control Conversion Right;

if applicable, the type and amount of Alternative Conversion Consideration entitled to be received per share of Series D Preferred Stock;

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the name and address of the paying agent, transfer agent and conversion agent for the Series D Preferred Stock;

the procedures that the holders of Series D Preferred Stock must follow to exercise the Change of Control Conversion Right (including procedures for surrendering shares of Series D Preferred Stock for conversion through the facilities of a Depository (as defined below)), including the form of conversion notice to be delivered by such holders as described below; and

the last date on which holders of Series D Preferred Stock may withdraw shares of Series D Preferred Stock surrendered for conversion and the procedures that such holders must follow to effect such a withdrawal.

Under such circumstances, we also will issue a press release containing such notice for publication on the Dow Jones & Company, Inc., Wall Street Journal, Business Wire, PR Newswire or Bloomberg Business News (or, if these organizations are not in existence at the time of issuance of the press release, such other news or press organization as is reasonably calculated to broadly disseminate the relevant information to the public), and post a notice on our website (if any), in any event prior to the opening of business on the first business day following any date on which we provide the notice described above to the holders of Series D Preferred Stock.

To exercise the Change of Control Conversion Right, the holders of Series D Preferred Stock will be required to deliver, on or before the close of business on the Change of Control Conversion Date, the certificates (if any) representing the shares of Series D Preferred Stock to be converted, duly endorsed for transfer (or, in the case of any shares of Series D Preferred Stock held in book-entry form through a Depository or shares directly registered with the transfer agent therefor, to deliver, on or before the close of business on the Change of Control Conversion Date, the shares of Series D Preferred Stock to be converted through the facilities of such Depository or through such transfer agent, respectively), together with a written conversion notice in the form provided by us, duly completed, to our transfer agent. The conversion notice must state:

the relevant Change of Control Conversion Date;

the number of shares of Series D Preferred Stock to be converted; and

that the shares of the Series D Preferred Stock are to be converted pursuant to the applicable provisions of the articles supplementary designating the Series D Preferred Stock.

The "Change of Control Conversion Date" is the date the Series D Preferred Stock is to be converted, which will be a business day selected by us that is no fewer than 20 days nor more than 35 days after the date on which we provide the notice described above to the holders of Series D Preferred Stock.

The "Common Stock Price" is (i) if the consideration to be received in the Change of Control by the holders of our common stock is solely cash, the amount of cash consideration per share of our common stock or (ii) if the consideration to be received in the Change of Control by holders of our common stock is other than solely cash (x) the average of the closing sale prices per share of our common stock (or, if no closing sale price is reported, the average of the closing bid and ask prices per share or, if more than one in either case, the average of the average closing bid and the average closing ask prices per share) for the ten consecutive trading days immediately preceding, but not including, the date on which such Change of Control occurred as reported on the principal U.S. securities exchange on which our common stock is then traded, or (y) if our common stock is not then listed for trading on a U.S. securities exchange, the average of the last quoted bid prices for our common stock in the over-the-counter market as reported by OTC Markets Group Inc. or similar organization for the ten consecutive trading days immediately preceding, but not including, the date on which such Change of Control occurred.

Holders of Series D Preferred Stock may withdraw any notice of exercise of a Change of Control Conversion Right (in whole or in part) by a written notice of withdrawal delivered to our transfer agent

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prior to the close of business on the business day prior to the Change of Control Conversion Date. The notice of withdrawal delivered by any holder must state:

the number of withdrawn shares of Series D Preferred Stock;

if certificated shares of Series D Preferred Stock have been surrendered for conversion, the certificate numbers of the withdrawn shares of Series D Preferred Stock; and

the number of shares of Series D Preferred Stock, if any, which remain subject to the holder's conversion notice.

Notwithstanding the foregoing, if any shares of Series D Preferred Stock are held in book-entry form through The Depository Trust Company ("DTC") or a similar depository (each, a "Depository"), the conversion notice and/or the notice of withdrawal, as applicable, must comply with applicable procedures, if any, of the applicable Depository.

Shares of Series D Preferred Stock as to which the Change of Control Conversion Right has been properly exercised and for which the conversion notice has not been properly withdrawn will be converted into the applicable Conversion Consideration in accordance with the Change of Control Conversion Right on the Change of Control Conversion Date, unless prior to the Change of Control Conversion Date we have provided notice of our election to redeem some or all of the shares of Series D Preferred Stock, as described above under "Redemption," in which case only the shares of Series D Preferred Stock properly surrendered for conversion and not properly withdrawn that are not called for redemption will be converted as aforesaid. If we elect to redeem shares of Series D Preferred Stock that would otherwise be converted into the applicable Conversion Consideration on a Change of Control Conversion Date, such shares of Series D Preferred Stock will not be so converted and the holders of such shares will be entitled to receive on the applicable redemption date the redemption price described above under "Redemption Optional Redemption" or "Redemption Special Optional Redemption," as applicable.

We will deliver all securities, cash and any other property owing upon conversion no later than the third business day following the Change of Control Conversion Date. Notwithstanding the foregoing, the persons entitled to receive any shares of our common stock or other securities delivered on conversion will be deemed to have become the holders of record thereof as of the Change of Control Conversion Date.

In connection with the exercise of any Change of Control Conversion Right, we will comply with all applicable federal and state securities laws and stock exchange rules in connection with any conversion of shares of the Series D Preferred Stock into shares of our common stock or other property. Notwithstanding any other provision of the Series D Preferred Stock, no holder of Series D Preferred Stock will be entitled to convert such shares of the Series D Preferred Stock into shares of our common stock to the extent that receipt of such shares of common stock would cause such holder (or any other person) to violate the applicable restrictions on transfer and ownership of our stock contained in our charter, unless we provide an exemption from this limitation to such holder pursuant to the terms of our charter. Please see the sections entitled "Restrictions on Transfer and Ownership" below and "Restrictions on Ownership and Transfer" in the accompanying prospectus.

The Change of Control conversion feature may make it more difficult for a third party to acquire us or discourage a party from acquiring us. See "Risk Factors You may not be able to exercise conversion rights upon a Change of Control. If exercisable, the change of control conversion rights described in this prospectus supplement may not adequately compensate you. These change of control conversion rights may also make it more difficult for a party to acquire us or discourage a party from acquiring us."

Except as provided above in connection with a Change of Control, the Series D Preferred Stock is not convertible into or exchangeable for any other securities or property.

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**Voting Rights**

Holders of Series D Preferred Stock will not have any voting rights, except as set forth below.

Whenever dividends on any shares of Series D Preferred Stock are in arrears for six or more full quarterly Dividend Periods, whether or not consecutive, the number of directors constituting our board of directors will be automatically increased by two (if not already increased by two by reason of the election of directors by the holders of any other class or series of Parity Stock upon which like voting rights have been conferred and are exercisable) and the holders of Series D Preferred Stock, voting as a single class with holders of the Parity Stock upon which like voting rights have been conferred and are exercisable, will be entitled to vote for the election of those two additional directors at a special meeting called by us at the request of the holders of record of at least 25% of the outstanding shares of Series D Preferred Stock and all other classes or series of Parity Stock upon which like voting rights have been conferred and are exercisable to be held no later than 90 days after our receipt of such request (unless the request is received less than 90 days before the date fixed for the next annual or special meeting of our stockholders, in which case such vote will be held at the earlier of the next annual or special meeting of the stockholders to the extent permitted by applicable law), and at each subsequent annual meeting until all dividends accumulated on the Series D Preferred Stock for all past Dividend Periods and the then current Dividend Period will have been fully paid or declared and a sum sufficient for the payment thereof set apart for payment. In that case, the right of holders of Series D Preferred Stock to elect any directors will cease and, unless there are other classes or series of Parity Stock upon which like voting rights have been conferred and are exercisable, the term of office of any directors elected by holders of Series D Preferred Stock will immediately terminate and the number of directors constituting the board of directors will be reduced accordingly. For the avoidance of doubt, in no event will the total number of directors elected by holders of Series D Preferred Stock (voting together as a single class with the Parity Stock upon which like voting rights have been conferred and are exercisable) pursuant to these voting rights exceed two. The directors elected by the holders of the Series D Preferred Stock and the holders of the Parity Stock upon which like voting rights have been conferred and are exercisable will be elected by a plurality of the votes cast by the holders of the outstanding shares of Series D Preferred Stock when they have the voting rights described in this paragraph and the Parity Stock upon which like voting rights have been conferred and are exercisable (voting together as a single class) to serve until our next annual meeting of stockholders and until their successors are duly elected and qualify or until such directors' right to hold the office terminates as described above, whichever occurs earlier.

On each matter on which holders of Series D Preferred Stock are entitled to vote, each share of Series D Preferred Stock will be entitled to one vote, except that when shares of any other class or series of preferred stock we may issue, including the Parity Stock, have the right to vote with the Series D Preferred Stock as a single class on any matter, the Series D Preferred Stock, the Parity Stock and each such other class or series of stock will have one vote for each \$25.00 of liquidation preference (excluding accumulated dividends). If, at any time when the voting rights conferred upon the Series D Preferred Stock are exercisable, any vacancy in the office of a director elected by the holders of the Parity Stock upon which like voting rights have been conferred and are exercisable will occur, then such vacancy may be filled only by the remaining director or by vote of the holders of the outstanding Series D Preferred Stock and any other classes or series of Parity Stock upon which like voting rights have been conferred and are exercisable.

Any director elected by holders of shares of Series D Preferred Stock and any class or series of Parity Stock upon which like voting rights have been conferred and are exercisable may be removed at any time, with or without cause, only by the vote of, and may not be removed otherwise than by the vote of, the holders of record of a majority of the outstanding shares of Series D Preferred Stock and any such class or series of Parity Stock we may issue when they have the voting rights described above (voting as a single class with all other classes or series of Parity Stock upon which like voting rights have been conferred and are exercisable).



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So long as any shares of Series D Preferred Stock remain outstanding, we will not, without the affirmative vote or consent of the holders of at least two-thirds of the shares of Series D Preferred Stock, and Parity Stock upon which like voting rights have been conferred and are exercisable (voting together as a single class), (i) authorize, create, or increase the authorized or issued amount of, any class or series of Senior Stock or reclassify any of our authorized stock into such shares, or create or authorize or issue any obligation or security convertible into or evidencing the right to purchase any such shares or (ii) amend, alter or repeal the provisions of our charter, whether by merger, conversion, consolidation or otherwise, so as to materially and adversely affect any right, preference, privilege or voting power of the Series D Preferred Stock (each, an "Event"); provided, however, with respect to the occurrence of any Event set forth in clause (ii) above, so long as the Series D Preferred Stock remains outstanding with the terms thereof materially unchanged, or the holders of Series D Preferred Stock receive shares of stock or other equity interests with rights, preferences, privileges and voting powers substantially the same as those of the Series D Preferred Stock, taking into account that upon the occurrence of an Event we may not be the successor entity, the occurrence of any such Event will not be deemed to materially and adversely affect the rights, preferences, privileges or voting power of holders of Series D Preferred Stock; and, provided further, that any increase in the amount of the authorized or issued Series D Preferred Stock or the creation or issuance, or any increase in the amounts authorized of any Parity Stock, including the Series B Preferred Stock and Series C Preferred Stock or Junior Stock will not be deemed to materially and adversely affect the rights, preferences, privileges or voting powers of holders of Series D Preferred Stock. Notwithstanding the foregoing, holders of any class or series of Parity Stock, including the Series B Preferred Stock and the Series C Preferred Stock, shall not be entitled to vote together as a class with the holders of the Series D Preferred Stock on any amendment, alteration or repeal of any provision of our charter unless such action affects the holders of the Series D Preferred Stock and such other class or series of Parity Stock, including the Series B Preferred Stock and the Series C Preferred Stock, equally.

The foregoing voting provisions will not apply if, at or prior to the time when the act with respect to which such vote would otherwise be required shall be effected, all outstanding shares of Series D Preferred Stock have been redeemed or called for redemption upon proper notice and sufficient funds have been irrevocably set apart to effect such redemption.

Except as expressly stated in the articles supplementary designating the Series D Preferred Stock, the Series D Preferred Stock will not have any relative, participating, optional or other special voting rights or powers and the consent of the holders thereof will not be required for the taking of any corporate action. The holders of Series D Preferred Stock will have exclusive voting rights on any amendment to our charter that would alter the contract rights, as expressly set forth in the charter, of only the Series D Preferred Stock.

**Information Rights**

During any period in which we are not subject to Section 13 or 15(d) of the Exchange Act and any shares of Series D Preferred Stock are outstanding, we will use our best efforts to (i) transmit through our website at <http://www.nymtrust.com> (or other permissible means under the Exchange Act) copies of the Annual Reports on Form 10-K and Quarterly Reports on Form 10-Q that we would have been required to file with the SEC pursuant to Section 13 or 15(d) of the Exchange Act if we were subject thereto (other than any exhibits that would have been required). We will use our best efforts to provide such reports on our website within 15 days after the respective dates by which we would have been required to file such reports with the SEC if we were subject to Section 13 or 15(d) of the Exchange Act and we were a "non-accelerated filer" within the meaning of the Exchange Act.

**Restrictions on Transfer and Ownership**

The Articles Supplementary will provide that the aggregate stock ownership limitation included in our charter (as described under "Description of Common Stock Restrictions on Ownership and Transfer" in

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the accompanying prospectus) applies to ownership of shares of Series D Preferred Stock. Our charter provides that generally no person may own, or be deemed to own by virtue of the attribution provisions of the Code, either (i) more than 9.9% in value of the aggregate of our outstanding shares of capital stock or (ii) more than 9.9% in value or number of shares, whichever is more restrictive, of the aggregate of shares of our outstanding common stock. See "Description of Common Stock Restrictions on Ownership and Transfer" and "Description of Preferred Stock Restrictions on Ownership and Transfer; Change of Control Provisions" in the accompanying prospectus. No holder of Series D Preferred Stock will be entitled to convert any shares of Series D Preferred Stock into shares of our common stock to the extent that receipt of shares of our common stock would cause such holder or any other person to exceed the ownership limits contained in our charter. Our board of directors may, in its sole discretion, exempt a person from any of the ownership limits, as described under "Description of Common Stock Restrictions on Ownership and Transfer" and "Description of Preferred Stock Restrictions on Ownership; Change of Control Provisions" in the accompanying prospectus.

**Preemptive Rights**

No holders of Series D Preferred Stock will, as holders of Series D Preferred Stock, have any preemptive rights to purchase or subscribe for our common stock or any of our other securities.

**Book-Entry Procedures**

DTC will act as securities depository for the Series D Preferred Stock, which will only be issued in the form of global securities held in book-entry form. We will not issue certificates to you for the shares of Series D Preferred Stock that you purchase, unless DTC's services are discontinued as described below.

Title to book-entry interests in the Series D Preferred Stock will pass by book-entry registration of the transfer within the records of DTC in accordance with its procedures. Book-entry interests in the securities may be transferred within DTC in accordance with procedures established for these purposes by DTC. Each person owning a beneficial interest in shares of the Series D Preferred Stock must rely on the procedures of DTC and the participant through which such person owns its interest to exercise its rights as a holder of the Series D Preferred Stock.

DTC has advised us that it is a limited-purpose trust company organized under the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code and a "clearing agency" registered under the provisions of Section 17A of the Exchange Act. DTC holds securities that its participants ("Direct Participants") deposit with DTC. DTC also facilitates the settlement among Direct Participants of securities transactions, such as transfers and pledges, in deposited securities through electronic computerized book-entry changes in Direct Participants' accounts, thereby eliminating the need for physical movement of securities certificates. Direct Participants include securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. Access to the DTC system is also available to others such as securities brokers and dealers, including the underwriters, banks and trust companies that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants"). The rules applicable to DTC and its Direct and Indirect Participants are on file with the SEC.

When you purchase shares of Series D Preferred Stock within the DTC system, the purchase must be by or through a Direct Participant. The Direct Participant will receive a credit for the Series D Preferred Stock on DTC's records. You will be considered to be the "beneficial owner" of the Series D Preferred Stock. Your beneficial ownership interest will be recorded on the Direct and Indirect Participants' records, but DTC will have no knowledge of your individual ownership. DTC's records reflect only the identity of the Direct Participants to whose accounts shares of Series D Preferred Stock are credited.

You will not receive written confirmation from DTC of your purchase. The Direct or Indirect Participants through whom you purchased the Series D Preferred Stock should send you written

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confirmations providing details of your transactions, as well as periodic statements of your holdings. The Direct and Indirect Participants are responsible for keeping an accurate account of the holdings of their customers like you.

Transfers of ownership interests held through Direct and Indirect Participants will be accomplished by entries on the books of Direct and Indirect Participants acting on behalf of the beneficial owners.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to beneficial owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time.

We understand that, under DTC's existing practices, in the event that we request any action of the holders, or an owner of a beneficial interest in a global security, such as you, desires to take any action which a holder is entitled to take under our charter (including the articles supplementary designating the Series D Preferred Stock), DTC would authorize the Direct Participants holding the relevant shares to take such action, and those Direct Participants and any Indirect Participants would authorize beneficial owners owning through those Direct and Indirect Participants to take such action or would otherwise act upon the instructions of beneficial owners owning through them.

Any redemption notices with respect to the Series D Preferred Stock will be sent to Cede & Co. If less than all of the outstanding shares of Series D Preferred Stock are being redeemed, DTC will reduce each Direct Participant's holdings of shares of Series D Preferred Stock in accordance with its procedures.

In those instances where a vote is required, neither DTC nor Cede & Co. itself will consent or vote with respect to the shares of Series D Preferred Stock. Under its usual procedures, DTC would mail an omnibus proxy to us as soon as possible after the record date. The omnibus proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants whose accounts the shares of Series D Preferred Stock are credited to on the record date, which are identified in a listing attached to the omnibus proxy.

Dividends on the Series D Preferred Stock will be made directly to DTC's nominee (or its successor, if applicable). DTC's practice is to credit participants' accounts on the relevant payment date in accordance with their respective holdings shown on DTC's records unless DTC has reason to believe that it will not receive payment on that payment date.

Payments by Direct and Indirect Participants to beneficial owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name." These payments will be the responsibility of the participant and not of DTC, us or any agent of ours.

DTC may discontinue providing its services as securities depository with respect to the Series D Preferred Stock at any time by giving reasonable notice to us. Additionally, we may decide to discontinue the book-entry only system of transfers with respect to the Series D Preferred Stock. In that event, we will print and deliver certificates in fully registered form for the Series D Preferred Stock. If DTC notifies us that it is unwilling to continue as securities depository, or it is unable to continue or ceases to be a clearing agency registered under the Exchange Act and a successor depository is not appointed by us within 90 days after receiving such notice or becoming aware that DTC is no longer so registered, we will issue the Series D Preferred Stock in definitive form, at our expense, upon registration of transfer of, or in exchange for, such global security.

According to DTC, the foregoing information with respect to DTC has been provided to the financial community for informational purposes only and is not intended to serve as a representation, warranty or contract modification of any kind.

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**Global Clearance and Settlement Procedures**

Initial settlement for the Series D Preferred Stock will be made in immediately available funds. Secondary market trading among DTC's Participants will occur in the ordinary way in accordance with DTC's rules and will be settled in immediately available funds using DTC's Same-Day Funds Settlement System.

**Calculation Agent**

American Stock Transfer & Trust Company, LLC, or any other firm appointed by us, will be the "calculation agent" for the Series D Preferred Stock.

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**ADDITIONAL MATERIAL FEDERAL INCOME TAX CONSIDERATIONS**

The following is a summary of additional material federal tax considerations with respect to the ownership of our Series D Preferred Stock. This summary supplements and, where applicable, supersedes the discussion under "Material Federal Income Tax Considerations" in the accompanying prospectus, and should be read together with such discussion.

**Taxation of Our Company**

The first sentence of the second to the last bullet point of the discussion in the accompanying prospectus under "Material Federal Income Tax Considerations Taxation of Our Company" is replaced in its entirety with the following:

If we acquire any asset from a C corporation, or a corporation generally subject to full corporate-level tax, in a merger or other transaction in which we acquire a basis in the asset that is determined by reference either to the C corporation's basis in the asset or to another asset, we will pay tax at the highest regular corporate rate applicable if we recognize gain on the sale or disposition of the asset during the 5-year period after we acquire the asset.

**Distribution Requirements**

We may satisfy the REIT annual distribution requirement by making taxable distributions of our stock. On August 11, 2017, the Internal Revenue Service ("IRS") issued Revenue Procedure 2017-45 authorizing elective cash/stock dividends to be made by publicly offered REITs (e.g., REITs that are required to file annual and periodic reports with the SEC under the Exchange Act). Pursuant to Revenue Procedure 2017-45, effective for distributions declared on or after August 11, 2017, the IRS will treat the distribution of stock pursuant to an elective cash/stock dividend as a distribution of property under Section 301 of the Internal Revenue Code (e.g., a taxable dividend to the extent of our earnings and profits), as long as at least 20% of the total dividend is available in cash and certain other parameters detailed in the Revenue Procedure are satisfied. Stockholders receiving such a dividend, including stockholders electing to receive cash, thus may incur a tax liability that exceeds the amount of cash received by them in the distribution.

Table of Contents**UNDERWRITING**

Morgan Stanley & Co. LLC, UBS Securities LLC and Keefe, Bruyette & Woods, Inc. are acting as joint book-running managers of the offering and as representatives of the underwriters named below. Subject to the terms and conditions stated in the underwriting agreement dated the date of this prospectus supplement, each underwriter named below has severally agreed to purchase, and we have agreed to sell to that underwriter, the number of shares of 8.00% Series D Fixed-to-Floating Rate Cumulative Redeemable Preferred Stock set forth opposite the underwriter's name.

<b>Underwriter</b>	<b>Number of Shares</b>
Morgan Stanley & Co. LLC	2,125,000
UBS Securities LLC	2,125,000
Keefe, Bruyette & Woods, Inc.	750,000
Total	5,000,000

The underwriting agreement provides that the obligations of the underwriters to purchase the shares included in this offering are subject to approval of legal matters by counsel and to other conditions. The underwriters are obligated to purchase all the shares (other than those covered by the option to purchase additional shares described below) if they purchase any of the shares.

The underwriters initially propose to offer the shares of Series D Preferred Stock directly to the public at the public offering price set forth on the cover page of this prospectus supplement and to certain dealers at a price that represents a concession not in excess of \$0.50 per share below the public offering price. Any underwriters may allow, and such dealers may re-allow, a concession not in excess of \$0.45 per share to other underwriters or to certain dealers. If the shares are not sold at the initial price to the public, the underwriters may change the offering price and the other selling terms. The offering of the shares by the underwriters is subject to receipt and acceptance and subject to the underwriters' right to reject any order in whole or in part.

If the underwriters sell more shares than the total number set forth in the table above, we have granted to the underwriters an option, exercisable for 30 days from the date of this prospectus supplement, to purchase up to 750,000 additional shares at the public offering price less the underwriting discount. The underwriters may exercise the option solely for the purpose of covering over-allotments, if any, in connection with this offering. To the extent the option is exercised, each underwriter must purchase a number of additional shares approximately proportionate to that underwriter's initial purchase commitment. Any shares issued or sold under the option will be issued and sold on the same terms and conditions as the other shares that are the subject of this offering.

We have agreed that, except for the Series D Preferred Stock to be issued hereunder, we will not, without the prior written consent of the representatives (which consent may be withheld in the representatives' sole discretion), directly or indirectly, issue, sell, offer, agree to sell, contract or grant any option to sell (including, without limitation, pursuant to any short sale), pledge, make any short sale of, maintain any short position with respect to, transfer, establish or maintain an open "put equivalent position" within the meaning of Rule 16a-1(h) under the Exchange Act, enter into any swap, derivative transaction or other arrangement (whether such transaction is to be settled by delivery of common stock, other securities, cash or other consideration) that transfers to another, in whole or in part, any of the economic consequences of ownership, or otherwise dispose of any shares of Series D Preferred Stock or similar securities (for the avoidance of doubt, excluding our common stock), options or warrants to acquire shares thereof, or securities exchangeable or exercisable for or convertible into shares thereof, or publicly announce an intention to do any of the foregoing, for a period commencing on the date hereof and continuing through the close of trading on the date 30 days after the date of this prospectus supplement.

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We have applied to have the Series D Preferred Stock listed on the Nasdaq Global Select Market under the symbol "NYMTN." If the application is approved, trading of the Series D Preferred Stock on the Nasdaq Global Select Market is expected to begin within 30 days after the date of initial issuance of the Series D Preferred Stock.

The following table shows the underwriting discounts and commissions that we are to pay to the underwriters in connection with this offering. These amounts are shown assuming both no exercise and full exercise of the underwriters' over-allotment option.

	Per Share	Without Exercise of Option	With Full Exercise of Option
Public offering price	\$ 25.00	\$ 125,000,000	\$ 143,750,000
Underwriting discount	\$ 0.7875	\$ 3,937,500	\$ 4,528,125
Proceeds, before expenses, to us	\$ 24.2125	\$ 121,062,500	\$ 139,221,875

We estimate that our total expenses incurred in connection with this offering, excluding the underwriting discounts, will be approximately \$300,000.

In connection with the offering, the underwriters may purchase and sell shares in the open market. Purchases and sales in the open market may include short sales, purchases to cover short positions, which may include purchases pursuant to the over-allotment option, and stabilizing purchases.

Short sales involve secondary market sales by the underwriters of a greater number of shares than they are required to purchase in the offering.

"Covered" short sales are sales of shares in an amount up to the number of shares represented by the underwriters' over-allotment option.

"Naked" short sales are sales of shares in an amount in excess of the number of shares represented by the underwriters' over-allotment option.

Covering transactions involve purchases of shares either pursuant to the over-allotment option or in the open market after the distribution has been completed in order to cover short positions.

To close a naked short position, the underwriters must purchase shares in the open market after the distribution has been completed. A naked short position is more likely to be created if the underwriters are concerned that there may be downward pressure on the price of the shares in the open market after pricing that could adversely affect investors who purchase in the offering.

To close a covered short position, the underwriters must purchase shares in the open market after the distribution has been completed or must exercise the over-allotment option. In determining the source of shares to close the covered short position, the underwriters will consider, among other things, the price of shares available for purchase in the open market as compared to the price at which they may purchase shares through the over-allotment option.

Stabilizing transactions involve bids to purchase shares so long as the stabilizing bids do not exceed a specified maximum.

Purchases to cover short positions and stabilizing purchases, as well as other purchases by the underwriters for their own accounts, may have the effect of preventing or retarding a decline in the market price of the shares. They may also cause the price of the shares to be higher than the price that would otherwise exist in the open market in the absence of these transactions. The underwriters may conduct these transactions on the Nasdaq Global Select Market, in the over-the-counter market or otherwise. If the underwriters commence any of these transactions, they may discontinue them at any time.





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The underwriters have performed commercial banking, investment banking and advisory services for us from time to time for which they have received customary fees and reimbursement of expenses. The underwriters may, from time to time, engage in transactions with and perform services for us in the ordinary course of their business for which they may receive customary fees and reimbursement of expenses.

We have agreed to indemnify the underwriters against certain liabilities, including liabilities under the Securities Act, or to contribute to payments the underwriters may be required to make because of any of those liabilities.

**Settlement**

We expect that delivery of the shares of Series D Preferred Stock will be made to investors on October 13, 2017, which will be the fifth business day following the date of this prospectus supplement (such settlement being referred to as "T+5"). Under Rule 15c6-1 under the Exchange Act, trades in the secondary market are required to settle in two business days, unless the parties to any such trade expressly agree otherwise. Accordingly, purchasers who wish to trade shares of Series D Preferred Stock prior to October 13, 2017 will be required, by virtue of the fact that the shares of Series D Preferred Stock initially settle in T+5, to specify an alternative settlement arrangement at the time of any such trade to prevent a failed settlement. Purchasers of the shares of Series D Preferred Stock who wish to trade shares of Series D Preferred Stock prior to their date of delivery hereunder should consult their advisors.

**EXPERTS**

The audited consolidated financial statements, financial statement schedule and management's assessment of the effectiveness of internal control over financial reporting incorporated by reference in this prospectus supplement and the accompanying prospectus and elsewhere in the registration statement have been so incorporated by reference in reliance upon the reports of Grant Thornton LLP, independent registered public accountants, upon the authority of said firm as experts in accounting and auditing.

**LEGAL MATTERS**

Certain legal matters in connection with this offering will be passed upon for us by Vinson & Elkins L.L.P. and, with respect to certain matters of Maryland law, Venable LLP. Certain legal matters will be passed upon for the underwriters by Skadden, Arps, Slate, Meagher & Flom LLP.

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**PROSPECTUS**

**Common Stock  
Preferred Stock  
Debt Securities**

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We may offer and sell, from time to time, in one or more offerings, the common stock, preferred stock and debt securities described in this prospectus. We may offer and sell these securities to or through one or more underwriters, dealers and agents, or directly to purchasers, on a continuous or delayed basis.

The specific terms of any securities to be offered, and the specific manner in which they may be offered, will be described in one or more supplements to this prospectus. This prospectus may not be used to consummate sales of any of these securities unless it is accompanied by a prospectus supplement. Before investing, you should carefully read this prospectus and any related prospectus supplement.

Our shares of common stock are listed on The Nasdaq Global Select Market, or NASDAQ, under the symbol "NYMT." The last reported sale price of our common stock on NASDAQ on August 24, 2016, was \$6.03 per share. Our shares of 7.75% Series B Cumulative Redeemable Preferred Stock are listed on NASDAQ under the symbol "NYMTP." Our shares of 7.875% Series C Cumulative Redeemable Preferred Stock are listed on NASDAQ under the symbol "NYMTO."

To preserve our qualification as a real estate investment trust for federal income tax purposes, among other purposes, we impose certain restrictions on the ownership and transfer of our capital stock. See "Description of Common Stock Restrictions on Ownership and Transfer" and "Description of Preferred Stock Restrictions on Ownership and Transfer; Change of Control Provisions."

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**Investing in our securities involves substantial risks. You should carefully read and consider the information under "*Risk Factors*" on page 3 of this prospectus and any prospectus supplement before making a decision to purchase these securities.**

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

**The date of this prospectus is August 25, 2016.**

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**ABOUT THIS PROSPECTUS**

This prospectus is part of a shelf registration statement that we have filed with the Securities and Exchange Commission ("SEC"). Under this shelf registration statement, we may offer and sell any combination of our common stock, preferred stock and debt securities in one or more offerings. This prospectus provides you with a general description of the securities we may offer. Each time we offer to sell securities under this shelf registration statement, we will provide a prospectus supplement that will contain specific information about the terms of that offering. The prospectus supplement may add, update or change information contained in or incorporated by reference into this prospectus. Before you buy any of our securities, it is important for you to consider the information contained in or incorporated by reference into this prospectus and any accompanying prospectus supplement together with additional information described under the headings "Incorporation by Reference of Information Filed with the SEC" and "Where You Can Find More Information."

The SEC allows us to incorporate by reference information that we file with them, which means that we can disclose important information to you by referring you to those documents. The information incorporated by reference is considered to be a part of this prospectus, and information that we file later with the SEC will automatically update and supersede this information. You should rely only on the information contained in or incorporated by reference into this prospectus, any accompanying prospectus supplement or any applicable free writing prospectus. We have not authorized anyone to provide you with information different from that contained in this prospectus. No dealer, salesperson or other person is authorized to give any information or to represent anything not contained in or incorporated by reference into this prospectus, any accompanying prospectus supplement or any applicable free writing prospectus. If anyone provides you with different, inconsistent or unauthorized information or representations, you must not rely on them. This prospectus and the accompanying prospectus supplement are an offer to sell only the securities offered hereby, but only under circumstances and in jurisdictions where it is lawful to do so. You should assume that the information appearing in this prospectus or any accompanying prospectus supplement is accurate as of the date on its respective cover, and that any information incorporated by reference into this prospectus or any accompanying prospectus supplement is accurate only as of the date of the document incorporated by reference, unless we indicate otherwise. Our business, financial condition, results of operations and prospects may have changed since that date.

In this prospectus, we refer to New York Mortgage Trust, Inc., together with its consolidated subsidiaries, as "we," "us," "our company" or "our," unless we specifically state otherwise or the context indicates otherwise. In addition, the following defines certain of the commonly used terms in this prospectus.

"Agency ARMs" refers to Agency RMBS comprised of adjustable-rate and hybrid adjustable-rate RMBS;

"Agency IOs" refers to IOs that represent the right to the interest components of the cash flow from a pool of residential mortgage loans issued or guaranteed by a GSE or an agency of the United States ("U.S.") government;

"Agency RMBS" refers to RMBS representing interests in or obligations backed by pools of residential mortgage loans issued or guaranteed by a federally chartered corporation, such as the Federal National Mortgage Association ("Fannie Mae") or the Federal Home Loan Mortgage Corporation ("Freddie Mac" and together with Fannie Mae, the "GSEs"), or an agency of the U.S. government, such as the Government National Mortgage Association ("Ginnie Mae");

"ARMs" refers to adjustable-rate residential mortgage loans;

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"CMBS" refers to commercial mortgage-backed securities comprised of commercial mortgage pass-through securities, as well as IO or PO securities that represent the right to a specific component of the cash flow from a pool of commercial mortgage loans;

"CLO" refers to collateralized loan obligation;

"distressed residential loans" refers to pools of performing, re-performing fixed-rate and adjustable-rate, fully amortizing, interest-only and balloon, seasoned mortgage loans secured by first liens on one- to four-family properties;

"IOs" refers collectively to interest only and inverse interest only mortgage-backed securities that represent the right to the interest component of the cash flow from a pool of mortgage loans;

"multi-family CMBS" refers to CMBS backed by commercial mortgage loans on multi-family properties;

"non-Agency RMBS" refers to RMBS backed by prime jumbo mortgage loans, including re-performing and non-performing loans;

"POs" refers to mortgage-backed securities that represent the right to the principal component of the cash flow from a pool of mortgage loans;

"prime ARM loans" and "residential securitized loans" each refer to prime credit quality residential ARM loans held in securitization trusts; and

"RMBS" refers to residential mortgage-backed securities that are adjustable-rate, hybrid adjustable-rate, fixed-rate, interest only and inverse interest only, or principal only securities.

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**CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS**

When used in this prospectus and in any accompanying prospectus supplement, in filings with the SEC or in press releases or other written or oral communications issued or made by us, statements which are not historical in nature, including those containing words such as "believe," "expect," "anticipate," "estimate," "plan," "continue," "intend," "should," "would," "could," "goal," "objective," "will," "may" or similar expressions, are intended to identify "forward-looking statements" within the meaning of Section 27A of the Securities Act of 1933, as amended (the "Securities Act"), and Section 21E of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and, as such, may involve known and unknown risks, uncertainties and assumptions.

Forward-looking statements are based on our beliefs, assumptions and expectations of our future performance, taking into account all information currently available to us. These beliefs, assumptions and expectations are subject to risks and uncertainties and can change as a result of many possible events or factors, not all of which are known to us. If a change occurs, our business, financial condition, liquidity and results of operations may vary materially from those expressed in our forward-looking statements. The following factors are examples of those factors that could cause actual results to vary from our forward-looking statements: changes in interest rates and the market value of our securities, changes in credit spreads, the impact of the downgrade of the long-term credit ratings of the U.S., Fannie Mae, Freddie Mac and Ginnie Mae; market volatility; changes in the prepayment rates on the mortgage loans underlying our investment securities; increased rates of default and/or decreased recovery rates on our assets; delays in identifying and acquiring our targeted assets; our ability to borrow to finance our assets; changes in government laws, regulations or policies affecting our business, including actions taken by the U.S. Federal Reserve and the U.S. Treasury and those relating to Fannie Mae, Freddie Mac or Ginnie Mae; changes to our relationships with our external managers; our ability to maintain our qualification as a real estate investment trust ("REIT") for federal tax purposes; our ability to maintain our exemption from registration under the Investment Company Act of 1940, as amended; and risks associated with investing in real estate assets, including changes in business conditions and the general economy. These and other risks, uncertainties and factors, including the risk factors described below and in Item 1A of our most recently filed Annual Report on Form 10-K, as updated by those risk factors included in our subsequent filings with the SEC under the Exchange Act, could cause our actual results to differ materially from those projected in any forward-looking statements we make. All forward-looking statements speak only as of the date on which they are made. New risks and uncertainties arise over time and it is not possible to predict those events or how they may affect us. Except as required by law, we are not obligated to, and do not intend to, update or revise any forward-looking statements, whether as a result of new information, future events or otherwise.

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**OUR COMPANY**

**General**

We are a REIT in the business of acquiring, investing in, financing and managing primarily mortgage-related assets and financial assets. Our objective is to deliver long-term stable distributions to our stockholders over changing economic conditions through a combination of net interest margin and net realized capital gains from a diversified investment portfolio. Our portfolio includes credit sensitive assets and investments sourced from distressed markets in recent years that create the potential for capital gains, as well as more traditional types of mortgage-related investments that generate interest income.

Our investment portfolio includes residential mortgage loans, including second mortgages and loans sourced from distressed markets, non-Agency RMBS, multi-family CMBS, preferred equity and joint venture equity investments in, and mezzanine loans to, owners of multi-family properties, equity and debt securities issued by entities that invest in residential and commercial real estate and Agency RMBS. Subject to maintaining our qualification as a REIT, we also may opportunistically acquire and manage various other types of mortgage-related and financial assets that we believe will compensate us appropriately for the risks associated with them, including, without limitation, collateralized mortgage obligations and securities issued by newly originated residential securitizations, including credit sensitive securities from these securitizations.

We internally manage a certain portion of our portfolio, including Agency ARMs, fixed-rate Agency RMBS, non-Agency RMBS, residential securitized loans, second mortgage loans, multi-family CMBS and preferred equity and joint venture equity investments in, and mezzanine loans to, owners of multi-family properties. In addition, as part of our investment strategy, we also contract with certain external investment managers to manage specific asset types targeted by us. We are a party to separate investment management agreements with Headlands Asset Management, LLC, or Headlands, and The Midway Group, L.P., or Midway, with Headlands providing investment management services with respect to our investments in certain distressed residential mortgage loans and Midway providing investment management services with respect to our investments in Agency IOs.

We have elected to be taxed as a REIT and have complied, and intend to continue to comply, with the provisions of the Internal Revenue Code of 1986, as amended, or the Code, with respect thereto. Accordingly, we do not expect to be subject to federal income tax on our REIT taxable income that we currently distribute to our stockholders if certain asset, income and ownership tests and recordkeeping requirements are fulfilled. Even if we maintain our qualification as a REIT, we expect to be subject to some federal, state and local taxes on our income generated in our taxable REIT subsidiaries, or TRSs.

**Corporate Offices**

We are a Maryland corporation that was formed in 2003. Our principal executive offices are located at 275 Madison Avenue, New York, New York 10016, and our telephone number is (212) 792-0107. Our website address is [www.nymtrust.com](http://www.nymtrust.com). Our website and the information contained at or connected to our website do not constitute a part of this prospectus or any accompanying prospectus supplement.

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**RISK FACTORS**

Investing in our securities involves substantial risks, including the risk that you might lose your entire investment. Before making an investment decision, you should carefully read and consider all of the information contained in or incorporated by reference into this prospectus, including the risk factors described in our filings with the SEC that are incorporated by reference into this prospectus. For a description of the reports and documents incorporated by reference into this prospectus, and information about where you can find them, see "Where You Can Find More Information" and "Incorporation by Reference of Information Filed with the SEC" below. Any one of the risks discussed could cause actual results to differ materially from expectations and could adversely affect our business, financial condition and results of operations. Additional risks and uncertainties not presently known to us or not identified, may also materially and adversely affect our business, financial condition and results of operations.



Table of Contents**RATIO OF EARNINGS TO FIXED CHARGES AND OF EARNINGS TO COMBINED  
FIXED CHARGES AND PREFERRED STOCK DIVIDENDS**

The following table sets forth our consolidated ratios of earnings to fixed charges and of earnings to combined fixed charges and preferred stock dividends for the six months ended June 30, 2016, and for each of the last five fiscal years.

	<b>Six Months Ended June 30, 2016</b>	<b>Year Ended December 31,</b>				
		<b>2015</b>	<b>2014</b>	<b>2013</b>	<b>2012</b>	<b>2011</b>
Ratio of earnings to fixed charges	1.69	1.74	1.75	1.57	1.49	3.74
Ratio of earnings to combined fixed charges and preferred stock dividends	1.61	1.67	1.72	1.54	1.49	3.74

For each period, we computed the ratio of earnings to fixed charges by dividing earnings by fixed charges. For each period, we computed the ratio of earnings to combined fixed charges and preferred stock dividends by dividing earnings by the sum of fixed charges and dividends on then-outstanding shares of preferred stock. Fixed charges consist of interest costs, whether expensed or capitalized, and amortization of financing costs. For the period January 1, 2011 to June 4, 2013, no shares of preferred stock were outstanding. For the period June 4, 2013 to June 30, 2016, 3,000,000 shares of our 7.75% Series B Cumulative Redeemable Preferred Stock, \$0.01 par value per share, or our Series B Preferred Stock, were issued and outstanding. For the period April 22, 2015 to June 30, 2016, 3,600,000 shares of our 7.875% Series C Cumulative Redeemable Preferred Stock, \$0.01 par value per share, or our Series C Preferred Stock, were issued and outstanding.

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**USE OF PROCEEDS**

Unless otherwise set forth in a prospectus supplement, we will add the net proceeds from sales of securities to our general corporate funds, which we may use for new investments in accordance with our investment strategy in place at such time, to repay indebtedness or for other general corporate purposes. Any specific allocation of the net proceeds of an offering of securities to a specific purpose will be determined at the time of such offering and will be described in the related prospectus supplement.

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**DESCRIPTION OF THE SECURITIES WE MAY OFFER**

This prospectus contains a summary description of the common stock, preferred stock and debt securities that we may offer from time to time. As further described in this prospectus, these summary descriptions are not meant to be complete descriptions of each security. The particular terms of any security will be described in the accompanying prospectus supplement and other offering material. The accompanying prospectus supplement may update, change or add to the terms and conditions of the securities as described in this prospectus.

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**DESCRIPTION OF COMMON STOCK**

*The following summary description of our common stock does not purport to be complete and is subject to and qualified in its entirety by reference to Maryland law and to our charter and our bylaws, copies of which are filed as exhibits to the registration statement of which this prospectus is a part. See "Where You Can Find More Information."*

**General**

Our charter provides that we may issue up to 400,000,000 shares of common stock, \$0.01 par value per share. As of August 24, 2016, 109,569,315 shares of our common stock were issued and outstanding. Under Maryland law, our stockholders are not generally liable for our debts or obligations. Our charter authorizes our board of directors to amend our charter to increase or decrease the aggregate number of shares of capital stock of any class or series that we have the authority to issue, without stockholder approval.

**Voting Rights of Common Stock**

Except as provided with respect to any other class or series of shares of our stock and subject to the provisions of our charter regarding restrictions on the transfer and ownership of shares of common stock, each outstanding share of common stock entitles the holder to one vote on all matters submitted to a vote of stockholders, including the election of directors and, the holders of our common stock possess the exclusive voting power. There is no cumulative voting in the election of directors, which means that the holders of a majority of our outstanding shares of stock entitled to vote thereon can elect all of the directors then standing for election. Under Maryland law, a Maryland corporation generally cannot dissolve, amend its charter, merge, convert, sell all or substantially all of its assets, or engage in a share exchange or engage in similar transactions outside the ordinary course of business unless approved by the affirmative vote of stockholders holding at least two-thirds of the shares entitled to vote on the matter, unless a lesser percentage (but not less than a majority of all the votes entitled to be cast on the matter) is set forth in the corporation's charter. Our charter provides for approval by a majority of all the votes entitled to be cast on the matter for the matters described in the preceding sentence, except for certain charter amendments related to the amendment of our charter, the removal of our directors, the classification and issuance of common and preferred stock and the restrictions on transfer and ownership of shares.

**Dividends, Liquidation and Other Rights**

All of our outstanding shares of common stock are duly authorized, fully paid and nonassessable. Holders of our shares of common stock are entitled to receive dividends when authorized by our board of directors and declared by us out of assets legally available for the payment of dividends. They also are entitled to share ratably in our assets legally available for distribution to our stockholders in the event of our liquidation, dissolution or winding up, after payment of or adequate provision for all of our known debts and liabilities. These rights are subject to the preferential rights of any other class or series of our stock and to the provisions of our charter regarding restrictions on ownership and transfer of our stock.

Holders of our shares of common stock have no appraisal, preference, conversion, exchange, sinking fund or redemption rights and have no preemptive rights to subscribe for any of our securities. Subject to the restrictions on transfer and ownership of capital stock contained in our charter and to the ability of the board of directors to create shares of common stock with differing voting rights, all shares of common stock have equal dividend, liquidation and other rights.

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**Power to Issue Additional Shares of Common Stock**

Our charter also authorizes our board of directors to amend our charter to increase or decrease the aggregate number of shares of capital stock of any class or series that we have the authority to issue, to reclassify any unissued shares of our common stock into any other classes or series of classes of our stock, to establish the number of shares in each class or series and to set the preferences, conversion and other rights, voting powers, restrictions, limitations as to dividends or other distributions, qualifications and terms and conditions of redemption for each such class or series. We believe that the power of our board of directors to take these actions provides us with increased flexibility in structuring possible future financings and acquisitions and in meeting other needs that might arise. The additional classes or series, as well as our common stock, are available for issuance without further action by our stockholders, unless stockholder action is required by applicable law or the rules of any stock exchange or automated quotation system on which our securities may be listed or traded. Although our board of directors has no intention at the present time of doing so, it could authorize us to issue a class or series that could, depending upon the terms of such class or series, delay, defer or prevent a transaction or a change in control of us that might involve a premium price for our common stock or otherwise be in the best interest of holders of our common stock.

**Restrictions on Ownership and Transfer**

In order to qualify as a REIT under the Internal Revenue Code, our shares of 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, other than our first REIT taxable year. Also, no more than 50% of the value of our outstanding shares of capital stock may be owned, directly or constructively, 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, if certain "disqualified organizations" hold our stock, although the law on the matter is unclear, a tax might be imposed on us if a portion of our assets is treated as a taxable mortgage pool. In addition, a tax will be imposed on us if certain disqualified organizations hold our stock and we hold a residual interest in a real estate mortgage investment conduit, or REMIC.

To help us to qualify as a REIT, among other purposes, our charter, subject to certain exceptions, contains restrictions on the number of shares of our capital stock that a person may own and prohibits certain entities from owning our stock. As amended, our charter provides that generally no person may own, or be deemed to own by virtue of the attribution provisions of the Internal Revenue Code, either (i) more than 9.9% in value of the aggregate of our outstanding shares of capital stock or (ii) more than 9.9% in value or number of shares, whichever is more restrictive, of the outstanding shares of our common stock. Our board of directors is permitted under our charter to increase or decrease the common stock ownership limit and the aggregate stock ownership limit from time to time, and to waive these ownership limits (prospectively or retroactively) on a case by case basis so long as the waiver will not allow five or fewer individuals to beneficially own more than 49.9% in value of our outstanding capital stock or otherwise cause us to fail to comply with applicable REIT ownership requirements under the Internal Revenue Code. Our charter prohibits the following "disqualified organizations" from owning our stock: the U.S.; any state or political subdivision of the U.S.; any foreign government; any international organization; any agency or instrumentality of any of the foregoing; any other tax-exempt organization, other than a farmer's cooperative described in Section 521 of the Internal Revenue Code, that is exempt from both income taxation and from taxation under the unrelated business taxable income provisions of the Internal Revenue Code and any rural electrical or telephone cooperative.

Our charter also prohibits any person from (a) beneficially or constructively owning shares of our capital stock that would result in our being "closely held" under Section 856(h) of the Internal Revenue Code and (b) transferring shares of our capital stock if such transfer would result in our capital stock being beneficially owned by fewer than 100 persons. Any person who acquires or attempts

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or intends to acquire beneficial ownership of shares of our capital stock that will or may violate any of the foregoing restrictions on transferability and ownership will be required to give notice immediately to us and provide us with such other information as we may request in order to determine the effect of such transfer on our status as a REIT. The foregoing restrictions on transfer and ownership will not apply if our board of directors determines that it is no longer in our best interests to attempt to qualify, or to continue to qualify, as a REIT.

Our board of directors, in its sole discretion, may exempt (prospectively or retroactively) a person from the above ownership limits and any of the restrictions described in the first sentence of the paragraph directly above. However, the board of directors may not grant an exemption to any person unless the board of directors obtains such representations, covenants and undertakings as the board of directors may deem appropriate in order to determine that granting the exemption would not result in our losing our status as a REIT. As a condition of granting the exemption, our board of directors may require a ruling from the Internal Revenue Service, or the IRS, or an opinion of counsel, in either case in form and substance satisfactory to the board of directors, in its sole discretion, in order to determine or ensure our status as a REIT.

Any transfer that results in our shares of stock being owned by fewer than 100 persons will be void. However, if any transfer of our shares of stock occurs which, if effective, would result in any person beneficially or constructively owning shares of stock in excess or in violation of the above transfer or ownership limitations, known as a prohibited owner, then that number of shares of stock, the beneficial or constructive ownership of which otherwise would cause such person to violate the transfer or ownership limitations (rounded up to the nearest whole share), will be automatically transferred to a charitable trust for the exclusive benefit of a charitable beneficiary, and the prohibited owner will not acquire any rights in such shares. This automatic transfer will be considered effective as of the close of business on the business day before the violative transfer. If the transfer to the charitable trust would not be effective for any reason to prevent the violation of the above transfer or ownership limitations, then the transfer of that number of shares of stock that otherwise would cause any person to violate the above limitations will be void. Shares of stock held in the charitable trust will continue to constitute issued and outstanding shares of our stock. The prohibited owner will not benefit economically from ownership of any shares of stock held in the charitable trust, will have no rights to dividends or other distributions and will not possess any rights to vote or other rights attributable to the shares of stock held in the charitable trust. The trustee of the charitable trust will be designated by us and must be unaffiliated with us or any prohibited owner and will have all voting rights and rights to dividends or other distributions with respect to shares of stock held in the charitable trust, and these rights will be exercised for the exclusive benefit of the trust's charitable beneficiary. Any dividend or other distribution paid before our discovery that shares of stock have been transferred to the trustee will be paid by the recipient of such dividend or distribution to the trustee upon demand, and any dividend or other distribution authorized but unpaid will be paid when due to the trustee. Any dividend or other distribution so paid to the trustee will be held in trust for the trust's charitable beneficiary. Subject to Maryland law, effective as of the date that such shares of stock have been transferred to the trustee, the trustee, in its sole discretion, will have the authority to:

rescind as void any vote cast by a prohibited owner prior to our discovery that such shares have been transferred to the trustee; and

recast such vote in accordance with the desires of the trustee acting for the benefit of the trust's beneficiary.

However, if we have already taken irreversible corporate action, then the trustee will not have the authority to rescind and recast such vote.

Within 20 days of receiving notice from us that shares of stock have been transferred to the charitable trust, and unless we buy the shares first as described below, the trustee will sell the shares of

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stock held in the charitable trust to a person, designated by the trustee, whose ownership of the shares will not violate the ownership limitations in our charter. Upon the sale, the interest of the charitable beneficiary in the shares sold will terminate and the trustee will distribute the net proceeds of the sale to the prohibited owner and to the charitable beneficiary. The prohibited owner will receive the lesser of:

the price paid by the prohibited owner for the shares or, if the prohibited owner did not give value for the shares in connection with the event causing the shares to be held in the charitable trust (for example, in the case of a gift or devise), the market price of the shares on the day of the event causing the shares to be held in the charitable trust; and

the price per share received by the trustee from the sale or other disposition of the shares held in the charitable trust (less any commission and other expenses of a sale).

The trustee may reduce the amount payable to the prohibited owner by the amount of dividends and distributions paid to the prohibited owner that are owed by the prohibited owner to the trustee. Any net sale proceeds in excess of the amount payable to the prohibited owner will be paid immediately to the charitable beneficiary. If, before our discovery that shares of stock have been transferred to the charitable trust, such shares are sold by a prohibited owner, then:

such shares will be deemed to have been sold on behalf of the charitable trust; and

to the extent that the prohibited owner received an amount for such shares that exceeds the amount that the prohibited owner was entitled to receive as described above, the excess must be paid to the trustee upon demand.

In addition, shares of stock held in the charitable trust will be deemed to have been offered for sale to us, or our designee, at a price per share equal to the lesser of:

the price per share in the transaction that resulted in such transfer to the charitable trust (or, in the case of a gift or devise, the market price at the time of the gift or devise); and

the market price on the date we, or our designee, accept such offer.

We may reduce the amount payable to the prohibited owner by the amount of dividends and other distributions paid to the prohibited owner that are owed by the prohibited owner to the trustee. We may pay the amount of such reduction to the trustee for the benefit of the charitable beneficiary. We will have the right to accept the offer until the trustee has sold the shares of stock held in the charitable trust. Upon such a sale to us, the interest of the charitable beneficiary in the shares sold will terminate and the trustee will distribute the net proceeds of the sale to the prohibited owner and any dividends or other distributions held by the trustee will be paid to the charitable beneficiary.

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

Every holder of more than 5% (or such lower percentage as required by the Internal Revenue Code or the regulations promulgated thereunder) in value of all classes or series of our capital stock, including shares of common stock, within 30 days after the end of each taxable year, will be required to give written notice to us stating the name and address of such holder, the number of shares of each class and series of shares of our stock that the holder beneficially owns and a description of the manner in which the shares are held. Each holder shall provide to us such additional information as we may request in order to determine the effect, if any, of the holder's beneficial ownership on our status as a REIT and to ensure compliance with our ownership limitations. In addition, each stockholder shall upon demand be required to provide to us such information as we may request, in good faith, in order to determine our status as a REIT and to comply with the requirements of any taxing authority or governmental authority or to determine such compliance.

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Our ownership limitations could delay, defer or prevent a transaction or a change in control of us that might involve a premium price for holders of our common stock or might otherwise be in the best interest of our stockholders.

**Transfer Agent and Registrar**

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



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**DESCRIPTION OF PREFERRED STOCK**

*The following summary description of our preferred stock does not purport to be complete and is subject to and qualified in its entirety by reference to Maryland law and to our charter and our bylaws, copies of which are filed as exhibits to the registration statement of which this prospectus is a part. See "Where You Can Find More Information."*

**General**

Our charter authorizes our board of directors to issue 200,000,000 shares of preferred stock, \$0.01 par value per share, in one or more series and with rights, preferences, privileges and restrictions that our board of directors may fix or designate without any further vote or action by our stockholders. As of August 24, 2016, 3,000,000 shares of our Series B Preferred Stock and 3,600,000 shares of our Series C Preferred Stock were issued and outstanding.

**Power to Issue Additional Shares of Preferred Stock**

Our charter authorizes our board of directors to reclassify any unissued shares of common stock into preferred stock, to classify any unissued shares of preferred stock and to reclassify any previously classified but unissued shares of any series of preferred stock previously authorized by our board of directors. We believe that the power of our board of directors to take these actions provides us with increased flexibility in structuring possible future financings and acquisitions and in meeting other needs that might arise. Prior to issuance of shares of each class or series of preferred stock, our board of directors is required by Maryland law and our charter to set the preferences, conversion or other rights, voting powers, restrictions, limitations as to dividends or other distributions, qualifications and terms and conditions of redemption for each class or series. The additional classes or series, as well as our common stock, are available for issuance without further action by our stockholders, unless stockholder action is required by applicable law or the rules of any stock exchange or automated quotation system on which our securities may be listed or traded. Although our board of directors has no intention at the present time of doing so, it could authorize us to issue a class or series that could, depending upon the terms of such class or series, delay, defer or prevent a transaction or a change in control of us that might involve a premium price for our preferred stock or otherwise be in the best interest of holders of our preferred stock.

**Terms**

When we issue preferred stock, it will be fully paid and nonassessable. The preferred stock will not have any preemptive rights.

Articles supplementary that will become part of our charter will reflect the specific terms of any new series of preferred stock offered. A prospectus supplement will describe these specific terms, including:

the title and stated value;

the number of shares, liquidation preference and offering price;

the dividend rate, dividend periods and payment dates;

the date on which dividends begin to accrue or accumulate;

any auction and remarketing procedures;

any retirement or sinking fund requirement;

the price and the terms and conditions of any redemption right;



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any listing on any securities exchange;

the price and the terms and conditions of any conversion or exchange right;

any voting rights;

the relative ranking and preferences as to dividends, liquidation, dissolution or winding up;

any limitations on issuing any series of preferred stock ranking senior to or on a parity with the series of preferred stock as to dividends, liquidation, dissolution or winding up;

any limitations or restrictions on direct or beneficial ownership and restrictions on transfer; and

any other specific terms, preferences, rights, limitations or restrictions.

**Series B Preferred Stock**

Our Series B Preferred Stock generally provides for the following rights, preferences and obligations:

*Ranking.* Our Series B Preferred Stock ranks, with respect to rights to the payment of dividends and the distribution of assets upon our liquidation, dissolution or winding up:

senior to all classes or series of our common stock and to all other equity securities issued by us other than equity securities referred to immediately below;

on a parity with all equity securities issued by us with terms specifically providing that those equity securities rank on a parity with our Series B Preferred Stock with respect to rights to the payment of dividends and the distribution of assets upon our liquidation, dissolution or winding up, including our Series C Preferred Stock;

junior to all equity securities issued by us with terms specifically providing that those equity securities rank senior to our Series B Preferred Stock with respect to rights to the payment of dividends and the distribution of assets upon our liquidation, dissolution or winding up; and

effectively junior to all of our existing and future indebtedness (including indebtedness convertible into our common stock or preferred stock) and to the indebtedness of our existing and future subsidiaries.

*Dividend Rights.* Shares of our Series B Preferred Stock accrue cumulative cash dividends at an annual rate of 7.75% on the \$25.00 per share liquidation preference, equivalent to an annual amount of \$1.9375 per share per year.

*Liquidation Rights.* In the event of our voluntary or involuntary liquidation, dissolution or winding up, the holders of our Series B Preferred Stock will be entitled to be paid out of the assets we have legally available for distribution to our stockholders, subject to the preferential rights of the holders of any class or series of our equity securities ranking senior to our Series B Preferred Stock with respect to the distribution of assets upon liquidation, dissolution or winding up, a

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liquidation preference of \$25.00 per share, plus an amount equal to any accumulated and unpaid dividends (whether or not earned or declared) to, but not including, the date of payment, before any distribution of assets is made to holders of our common stock or any other class or series of our equity securities we may issue that ranks junior to our Series B Preferred Stock as to liquidation rights.

*Redemption Provisions.* Shares of our Series B Preferred Stock are not redeemable by us prior to June 4, 2018, except in certain limited circumstances. On and after June 4, 2018, we may, at our option, upon not less than 30 nor more than 60 days' written notice, redeem the Series B

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Preferred Stock, in whole or in part, at any time or from time to time, for cash at a redemption price of \$25.00 per share, plus any accumulated and unpaid dividends thereon to, but not including, the date fixed for redemption. Shares of our Series B Preferred Stock have no stated maturity and are not subject to any sinking fund or mandatory redemption provisions.

*Voting Rights.* Holders of our Series B Preferred Stock will generally have no voting rights. However, if we do not pay dividends on our Series B Preferred Stock for six or more quarterly dividend periods (whether or not consecutive), the holders of our Series B Preferred Stock, voting together as a single class with the holders of all other classes or series of our preferred stock upon which like voting rights have been conferred and are exercisable and which are entitled to vote as a class with our Series B Preferred Stock in the election referred to below, including our Series C Preferred Stock, will be entitled to vote for the election of two additional directors to serve on our board of directors until we pay, or declare and set apart funds for the payment of, all dividends accumulated on our Series B Preferred Stock for all past dividend periods and the then current dividend period. In addition, the affirmative vote of the holders of at least two-thirds of the outstanding shares of our Series B Preferred Stock, voting together as a single class with the holders of all other classes of our preferred stock we may issue upon which like voting rights have been conferred and are exercisable, including our Series C Preferred Stock, is required for us (a) to authorize or issue shares of any class or series of stock ranking senior to our Series B Preferred Stock with respect to the payment of dividends or the distribution of assets on liquidation, dissolution or winding up, or (b) to amend any provision of our charter so as to materially and adversely affect any rights of our Series B Preferred Stock or to take certain other actions.

*Conversion and Preemptive Rights.* Except in connection with certain changes in control of our company, shares of our Series B Preferred Stock are not convertible or exchangeable for any of our other securities or property, and holders of our Series B Preferred Stock have no preemptive rights to subscribe for any securities of our company.

For additional information regarding our Series B Preferred Stock, see our Registration Statement on Form 8-A filed with the SEC on May 31, 2013. See "Where You Can Obtain More Information."

**Series C Preferred Stock**

Our Series C Preferred Stock generally provides for the following rights, preferences and obligations:

*Ranking.* Our Series C Preferred Stock ranks, with respect to rights to the payment of dividends and the distribution of assets upon our liquidation, dissolution or winding up:

senior to all classes or series of our common stock and to all other equity securities issued by us other than equity securities referred to immediately below;

on a parity with all equity securities issued by us with terms specifically providing that those equity securities rank on a parity with our Series C Preferred Stock with respect to rights to the payment of dividends and the distribution of assets upon our liquidation, dissolution or winding up, including our Series B Preferred Stock;

junior to all equity securities issued by us with terms specifically providing that those equity securities rank senior to our Series C Preferred Stock with respect to rights to the payment of dividends and the distribution of assets upon our liquidation, dissolution or winding up; and

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effectively junior to all of our existing and future indebtedness (including indebtedness convertible into our common stock or preferred stock) and to the indebtedness of our existing and future subsidiaries.

*Dividend Rights.* Shares of our Series C Preferred Stock accrue cumulative cash dividends at an annual rate of 7.875% on the \$25.00 per share liquidation preference, equivalent to an annual amount of \$1.96875 per share per year.

*Liquidation Rights.* In the event of our voluntary or involuntary liquidation, dissolution or winding up, the holders of our Series C Preferred Stock will be entitled to be paid out of the assets we have legally available for distribution to our stockholders, subject to the preferential rights of the holders of any class or series of our equity securities ranking senior to our Series C Preferred Stock with respect to the distribution of assets upon liquidation, dissolution or winding up, a liquidation preference of \$25.00 per share, plus an amount equal to any accumulated and unpaid dividends (whether or not earned or declared) to, but not including, the date of payment, before any distribution of assets is made to holders of our common stock or any other class or series of our equity securities we may issue that ranks junior to our Series C Preferred Stock as to liquidation rights.

*Redemption Provisions.* Shares of our Series C Preferred Stock are not redeemable by us prior to April 22, 2020, except in certain limited circumstances. On and after April 22, 2020, we may, at our option, upon not less than 30 nor more than 60 days' written notice, redeem the Series C Preferred Stock, in whole or in part, at any time or from time to time, for cash at a redemption price of \$25.00 per share, plus any accumulated and unpaid dividends thereon to, but not including, the date fixed for redemption. Shares of our Series C Preferred Stock have no stated maturity and are not subject to any sinking fund or mandatory redemption provisions.

*Voting Rights.* Holders of our Series C Preferred Stock will generally have no voting rights. However, if we do not pay dividends on our Series C Preferred Stock for six or more quarterly dividend periods (whether or not consecutive), the holders of our Series C Preferred Stock, voting together as a single class with the holders of all other classes or series of our preferred stock upon which like voting rights have been conferred and are exercisable and which are entitled to vote as a class with our Series C Preferred Stock in the election referred to below, including our Series B Preferred Stock, will be entitled to vote for the election of two additional directors to serve on our board of directors until we pay, or declare and set apart funds for the payment of, all dividends accumulated on our Series C Preferred Stock for all past dividend periods and the then current dividend period. In addition, the affirmative vote of the holders of at least two-thirds of the outstanding shares of our Series C Preferred Stock, voting together as a single class with the holders of all other classes of our preferred stock we may issue upon which like voting rights have been conferred and are exercisable, including our Series B Preferred Stock, is required for us (a) to authorize or issue shares of any class or series of stock ranking senior to our Series C Preferred Stock with respect to the payment of dividends or the distribution of assets on liquidation, dissolution or winding up, or (b) to amend any provision of our charter so as to materially and adversely affect any rights of our Series C Preferred Stock or to take certain other actions.

*Conversion and Preemptive Rights.* Except in connection with certain changes in control of our company, shares of our Series C Preferred Stock are not convertible or exchangeable for any of our other securities or property, and holders of our Series C Preferred Stock have no preemptive rights to subscribe for any securities of our company.

For additional information regarding our Series C Preferred Stock, see our Registration Statement on Form 8-A filed with the SEC on April 21, 2015. See "Where You Can Obtain More Information."

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**Restrictions on Ownership and Transfer; Change of Control Provisions**

As discussed above under "Description of Common Stock Restrictions on Ownership and Transfer," our charter contains restrictions on ownership and transfers of our capital stock. In addition, the articles supplementary designating the terms of a series of our preferred stock may also contain additional provisions restricting the ownership and transfer of such series. The applicable prospectus supplement will specify any additional ownership limitation relating to a series of preferred stock.

For a discussion of provisions in our charter that may have the effect of delaying, deferring or preventing a change of control, see "Certain Provisions of Maryland Law and Our Charter and Bylaws."

**Transfer Agent**

The transfer agent and registrar for each series of our preferred stock will be American Stock Transfer & Trust Company, LLC unless a different transfer agent is named in the applicable prospectus supplement. The transfer agent and registrar for our Series B Preferred Stock and Series C Preferred Stock is American Stock Transfer & Trust Company, LLC.

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**DESCRIPTION OF DEBT SECURITIES**

**General**

The debt securities offered by this prospectus will be our direct unsecured general obligations. This prospectus describes certain general terms of the debt securities offered through this prospectus. In the following discussion, we refer to any of our direct unsecured general obligations as the "Debt Securities." When we offer to sell a particular series of Debt Securities, we will describe the specific terms of that series in a prospectus supplement or any free writing prospectus. The Debt Securities will be issued under an open-ended Indenture (for Debt Securities) between us and a trustee to be selected by us at or about the time we offer our Debt Securities. The open-ended Indenture (for Debt Securities) is incorporated by reference into the registration statement of which this prospectus is a part and is filed as an exhibit to the registration statement. In this prospectus we refer to the Indenture (for Debt Securities) as the "Debt Securities Indenture." We refer to the trustee under any Debt Securities Indenture as the "Debt Securities Trustee."

The prospectus supplement or any free writing prospectus applicable to a particular series of Debt Securities may state that a particular series of Debt Securities will be our subordinated obligations. The form of Debt Securities Indenture referred to above includes optional provisions (designated by brackets ("[ ]")) that we would expect to appear in a separate indenture for subordinated debt securities in the event we issue subordinated debt securities. In the following discussion, we refer to any of our subordinated obligations as the "Subordinated Debt Securities." Unless the applicable prospectus supplement or any free writing prospectus provides otherwise, we will use a separate Debt Securities Indenture for any Subordinated Debt Securities that we may issue. Our Debt Securities Indenture will be qualified under the Trust Indenture Act of 1939, as amended, or the Trust Indenture Act, and you should refer to the Trust Indenture Act for the provisions that apply to the Debt Securities.

We have summarized selected provisions of the Debt Securities Indenture below. Each Debt Securities Indenture will be independent of any other Debt Securities Indenture unless otherwise stated in a prospectus supplement or any free writing prospectus. The summary that follows is not complete and the summary is qualified in its entirety by reference to the provisions of the applicable Debt Securities Indenture. You should consult the applicable Debt Securities, Debt Securities Indenture, any supplemental indentures, officers' certificates and other related documents for more complete information on the Debt Securities. These documents appear as exhibits to, or are incorporated by reference into, the registration statement of which this prospectus is a part, or will appear as exhibits to other documents that we will file with the SEC, which will be incorporated by reference into this prospectus. In the summary below, we have included references to applicable section numbers of the Debt Securities Indenture so that you can easily locate these provisions.

**Ranking**

Our Debt Securities that are not designated Subordinated Debt Securities will be effectively subordinated to all secured indebtedness that we have outstanding from time to time to the extent of the value of the collateral securing such secured indebtedness. Our Debt Securities that are designated Subordinated Debt Securities will be subordinate to all outstanding secured indebtedness as well as Debt Securities that are not designated Subordinated Debt Securities. We incur indebtedness from time to time to finance many of our assets pursuant to repurchase agreements and certain other structured finance instruments, such as the trust preferred securities issued by our subsidiary, Hypotheca Capital, LLC, or Hypotheca, pursuant to which we guarantee the payment of notes by Hypotheca that back the trust preferred securities issued by it. This indebtedness is deemed to be secured indebtedness. As a result, we have a significant amount of secured indebtedness at any given time in relation to our



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total assets. The Debt Securities Indenture does not limit the amount of secured indebtedness that we may issue or incur.

Our ability to meet our financial obligations with respect to any future Debt Securities, and cash needs generally, is dependent on our operating cash flow, our ability to access various sources of short- and long-term liquidity, including repurchase agreements, financing and the capital markets. Holders of our Debt Securities will effectively have a junior position to claims of our creditors, including trade creditors, debt holders, secured creditors, taxing authorities and guarantee holders.

**Provisions of a Particular Series**

The Debt Securities may from time to time be issued in one or more series. You should consult the prospectus supplement or free writing prospectus relating to any particular series of Debt Securities for the following information:

the title of the Debt Securities;

any limit on the aggregate principal amount of the Debt Securities of the series of which they are a part;

the date(s), or method for determining the date(s), on which the principal of the Debt Securities will be payable;

the rate, including the method of determination, if applicable, at which the Debt Securities will bear interest, if any, and:

the date from which the interest will accrue;

the dates on which we will pay interest;

to whom the interest is payable, if other than the registered holder;

our ability, if any, to defer interest payments and any related restrictions during any interest deferral period; and

the record date for any interest payable on any interest payment date;

the place where:

the principal of, premium, if any, and interest on the Debt Securities will be payable;

you may register the transfer of the Debt Securities;

you may exchange the Debt Securities; and

you may serve notices and demands upon us regarding the Debt Securities;

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the security registrar for the Debt Securities and whether the principal of the Debt Securities is payable without presentment or surrender of them;

the terms and conditions upon which we may elect to redeem any Debt Securities, including any replacement capital or similar covenants limiting our ability to redeem any Subordinated Debt Securities;

the denominations in which we may issue Debt Securities, if other than \$1,000 and integral multiples of \$1,000;

the terms and conditions upon which the Debt Securities must be redeemed or purchased due to our obligations pursuant to any sinking fund or other mandatory redemption or tender provisions, or at the holder's option, including any applicable exceptions to notice requirements;

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the currency, if other than U.S. currency, in which payments on the Debt Securities will be payable;

the terms according to which elections can be made by us or the holder regarding payments on the Debt Securities in currency other than the currency in which the Debt Securities are stated to be payable;

if any Debt Securities are denominated in a currency other than U.S. dollars or in a composite currency, the obligations or instruments that will be considered eligible obligations with respect to such Debt Securities and any additional provisions for the reimbursement of our company's indebtedness with respect to such Debt Securities after the satisfaction or discharge thereof;

if payments are to be made on the Debt Securities in securities or other property, the type and amount of the securities and other property or the method by which the amount shall be determined;

the manner in which we will determine any amounts payable on the Debt Securities that are to be determined with reference to an index or other fact or event ascertainable outside of the applicable indenture;

if other than the entire principal amount, the portion of the principal amount of the Debt Securities payable upon declaration of acceleration of their maturity;

any addition to the events of default applicable to any Debt Securities and any addition to our covenants for the benefit of the holders of the Debt Securities;

the terms applicable to any rights to convert Debt Securities into or exchange them for other of our securities or those of any other entity;

whether we are issuing Debt Securities as global securities, and if so:

the terms and conditions upon which the global securities may be exchanged for certificated Debt Securities;

the depositary for the global securities; and

the form of legend to be set forth on the global securities;

whether we are issuing the Debt Securities as bearer certificates;

any limitations on transfer or exchange of Debt Securities or the right to obtain registration of their transfer, and the terms and amount of any service charge required for registration of transfer or exchange;

any exceptions to the provisions governing payments due on legal holidays, or any variations in the definition of business day with respect to the Debt Securities;

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any collateral security, assurance, guarantee or other credit enhancement applicable to the Debt Securities;

any other terms of the Debt Securities not in conflict with the provisions of the applicable Debt Securities Indenture; and

the material federal income tax consequences applicable to the Debt Securities.

For more information, see Section 3.01 of the applicable Debt Securities Indenture.

Debt Securities may be sold at a substantial discount below their principal amount. You should consult the applicable prospectus supplement or free writing prospectus for a description of certain

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material federal income tax considerations that may apply to Debt Securities sold at an original issue discount or denominated in a currency other than U.S. dollars.

Unless the applicable prospectus supplement or free writing prospectus states otherwise, the covenants contained in the applicable indenture will not afford holders of Debt Securities protection in the event we have a change in control or are involved in a highly-leveraged transaction.

**Subordination**

The applicable prospectus supplement or free writing prospectus may provide that a series of Debt Securities will be Subordinated Debt Securities, subordinate and junior in right of payment to all of our Senior Indebtedness, as defined below. If so, we will issue these securities under a separate Debt Securities Indenture for Subordinated Debt Securities. For more information, see Article XV of the form of Debt Securities Indenture.

Unless the applicable prospectus supplement or free writing prospectus states otherwise, in the event:

there occur certain acts of bankruptcy, insolvency, liquidation, dissolution or other winding up of our company;

any Senior Indebtedness is not paid when due;

any applicable grace period with respect to other defaults with respect to any Senior Indebtedness has ended, the default has not been cured or waived and the maturity of such Senior Indebtedness has been accelerated because of the default; or

the maturity of the Subordinated Debt Securities of any series has been accelerated because of a default and Senior Indebtedness is then outstanding;

then no payment of principal of, including redemption and sinking fund payments, or any premium or interest on, the Subordinated Debt Securities may be made until all amounts due to holders of Senior Indebtedness have been paid in full.

Upon any distribution of our assets to creditors upon any dissolution, winding up, liquidation or reorganization, whether voluntary or involuntary or in bankruptcy, insolvency, receivership or other proceedings, all principal of, and any premium and interest due or to become due on, all outstanding Senior Indebtedness must be paid in full before the holders of the Subordinated Debt Securities are entitled to payment. For more information, see Section 15.02 of the applicable Debt Securities Indenture. The rights of the holders of the Subordinated Debt Securities will be subrogated to the rights of the holders of Senior Indebtedness to receive payments or distributions applicable to Senior Indebtedness until all amounts owing on the Subordinated Debt Securities are paid in full. For more information, see Section 15.04 of the applicable Debt Securities Indenture.

Unless the applicable prospectus supplement or free writing prospectus states otherwise, the term "Senior Indebtedness" means all:

obligations (other than non-recourse obligations and the indebtedness issued under the applicable Subordinated Debt Securities Indenture) of, or guaranteed or assumed by, us:

for borrowed money (including both senior and subordinated indebtedness for borrowed money, but excluding the Subordinated Debt Securities); or

for the payment of money relating to any lease that is capitalized on our consolidated balance sheet in accordance with generally accepted accounting principles;

indebtedness evidenced by bonds, debentures, notes or other similar instruments;



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obligations with respect to letters of credit, bankers' acceptances or similar facilities issued for our account;

obligations issued or assumed as the deferred purchase price of property or services (excluding trade accounts payable or accrued liabilities arising in the ordinary course);

obligations for claims, as defined in section 101(5) of the United States Bankruptcy Code of 1978, as amended, in respect of derivative products such as interest and foreign exchange rate contracts, commodity contracts and similar arrangements; and

obligations of another person for which we have guaranteed or assumed direct or indirect responsibility or liability.

In the case of any such indebtedness or obligations, Senior Indebtedness includes amendments, renewals, extensions, modifications and refundings, whether existing as of the date of the Subordinated Debt Securities Indenture or subsequently incurred by us.

The Subordinated Debt Securities Indenture does not limit the aggregate amount of Senior Indebtedness we may issue.

**Form, Exchange and Transfer**

Unless the applicable prospectus supplement or free writing prospectus states otherwise, we will issue Debt Securities only in fully registered form without coupons and in denominations of \$1,000 and integral multiples of that amount. For more information, see Sections 2.01 and 3.02 of the applicable Debt Securities Indenture.

Holders may present Debt Securities for exchange or for registration of transfer, duly endorsed or accompanied by a duly executed instrument of transfer, at the office of the security registrar or at the office of any transfer agent we may designate. Exchanges and transfers are subject to the terms of the applicable indenture and applicable limitations for global securities. We may designate ourselves the security registrar.

No charge will be made for any registration of transfer or exchange of Debt Securities, but we may require payment of a sum sufficient to cover any tax or other governmental charge that the holder must pay in connection with the transaction. Any transfer or exchange will become effective upon the security registrar or transfer agent, as the case may be, being satisfied with the documents of title and identity of the person making the request. For more information, see Section 3.05 of the applicable Debt Securities Indenture.

The applicable prospectus supplement or free writing prospectus will state the name of any transfer agent, in addition to the security registrar initially designated by us, for any Debt Securities. We may at any time designate additional transfer agents or withdraw the designation of any transfer agent or make a change in the office through which any transfer agent acts. We must, however, maintain a transfer agent in each place of payment for the Debt Securities of each series. For more information, see Section 6.02 of the applicable Debt Securities Indenture.

We will not be required to issue, register the transfer of, or exchange any:

Debt Securities or any tranche of any Debt Securities 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 called for redemption and ending at the close of business on the day of mailing; or

Debt Securities selected for redemption except the unredeemed portion of any Debt Securities being partially redeemed.

For more information, see Section 3.05 of the applicable Debt Securities Indenture.

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**Payment and Paying Agents**

Unless the applicable prospectus supplement or free writing prospectus states otherwise, we will pay interest on a Debt Security on any interest payment date to the person in whose name the Debt Security is registered at the close of business on the regular record date for the interest payment. For more information, see Section 3.07 of the applicable Debt Securities Indenture.

Unless the applicable prospectus supplement or free writing prospectus provides otherwise, we will pay principal and any premium and interest on Debt Securities at the office of the paying agent whom we will designate for this purpose. Unless the applicable prospectus supplement or free writing prospectus states otherwise, the corporate trust office of the Debt Securities Trustee in New York City will be designated as our sole paying agent for payments with respect to Debt Securities of each series. Any other paying agents initially designated by us for the Debt Securities of a particular series will be named in the applicable prospectus supplement or free writing prospectus. We may at any time add or delete paying agents or change the office through which any paying agent acts. We must, however, maintain a paying agent in each place of payment for the Debt Securities of a particular series. For more information, see Section 6.02 of the applicable Debt Securities Indenture.

All money we pay to a paying agent for the payment of the principal and any premium or interest on any Debt Security that remains unclaimed at the end of two years after payment is due will be repaid to us. After that date, the holder of that Debt Security shall be deemed an unsecured general creditor and may look only to us for these payments. For more information, see Section 6.03 of the applicable Debt Securities Indenture.

**Redemption**

You should consult the applicable prospectus supplement or free writing prospectus for any terms regarding optional or mandatory redemption of Debt Securities. Except for any provisions in the applicable prospectus supplement or free writing prospectus regarding Debt Securities redeemable at the holder's option, Debt Securities may be redeemed only upon notice by mail not less than 30 nor more than 60 days prior to the redemption date. Further, if less than all of the Debt Securities of a series, or any tranche of a series, are to be redeemed, the Debt Securities to be redeemed will be selected by the Debt Securities Trustee by the method provided for the particular series. In the absence of a selection provision, the Debt Securities Trustee will select a fair and appropriate method of selection. For more information, see Sections 4.02, 4.03 and 4.04 of the applicable Debt Securities Indenture.

A notice of redemption we provide may state:

that redemption is conditioned upon receipt by the paying agent on or before the redemption date of money sufficient to pay the principal of and any premium and interest on the Debt Securities; and

that if the money has not been received, the notice will be ineffective and we will not be required to redeem the Debt Securities.

For more information, see Section 4.04 of the applicable Debt Securities Indenture.

**Consolidation, Merger and Sale of Assets**

We may not consolidate with or merge into any other corporation, nor may we transfer or lease substantially all of our assets and property to any other person, unless:

the corporation formed by the consolidation or into which we are merged, or the person that acquires by conveyance or transfer, or that leases, substantially all of our property and assets:



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is organized and validly existing under the laws of any domestic jurisdiction; and

expressly assumes by supplemental indenture our obligations on the Debt Securities and under the applicable indentures;

immediately after giving effect to the transaction, no event of default, and no event that (after notice or lapse of time or both) would become an event of default, has occurred and is continuing; and

we have delivered to the Debt Securities Trustee an officer's certificate and opinion of counsel as provided in the applicable indentures.

For more information, see Section 11.01 of the applicable Debt Securities Indenture.

**Events of Default**

Unless the applicable prospectus supplement or free writing prospectus states otherwise, "event of default" under the applicable indenture with respect to Debt Securities of any series means any of the following:

failure to pay any interest due on any Debt Security of that series within 30 days after it becomes due;

failure to pay principal or premium, if any, when due on any Debt Security of that series;

failure to make any required sinking fund payment when due on any Debt Securities of that series;

breach of or failure to perform any other covenant or warranty in the applicable indenture with respect to Debt Securities of that series for 60 days (subject to extension under certain circumstances for another 120 days) after we receive notice from the Debt Securities Trustee, or we and the Debt Securities Trustee receive notice from the holders of at least 33% in principal amount of the Debt Securities of that series outstanding under the applicable indenture according to the provisions of the applicable indenture;

certain events of bankruptcy, insolvency or reorganization; and

any other event of default set forth in the applicable prospectus supplement or free writing prospectus.

For more information, see Section 8.01 of the applicable Debt Securities Indenture.

An event of default with respect to a particular series of Debt Securities does not necessarily constitute an event of default with respect to the Debt Securities of any other series issued under the applicable indenture.

If an event of default with respect to a particular series of Debt Securities occurs and is continuing, either the Debt Securities Trustee or the holders of at least 33% in principal amount of the outstanding Debt Securities of that series may declare the principal amount of all of the Debt Securities of that series to be due and payable immediately. If the Debt Securities of that series are discount Debt Securities or similar Debt Securities, only the portion of the principal amount as specified in the applicable prospectus supplement or free writing prospectus may be immediately due and payable. If an event of default occurs and is continuing with respect to all series of Debt Securities issued under a Debt Securities Indenture, including all events of default relating to bankruptcy, insolvency or reorganization, the Debt Securities Trustee or the holders of at least 33% in principal amount of the outstanding Debt Securities of all series issued under that Debt Securities Indenture, considered together, may declare an acceleration of the principal amount of all series of Debt



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Securities issued under that Debt Securities Indenture. There is no automatic acceleration, even in the event of our bankruptcy or insolvency.

The applicable prospectus supplement or free writing prospectus may provide, with respect to a series of Debt Securities to which a credit enhancement is applicable, that the provider of the credit enhancement may, if a default has occurred and is continuing with respect to the series, have all or any part of the rights with respect to remedies that would otherwise have been exercisable by the holder of that series.

At any time after a declaration of acceleration with respect to the Debt Securities of a particular series, and before a judgment or decree for payment of the money due has been obtained, the event of default giving rise to the declaration of acceleration will, without further action, be deemed to have been waived, and the declaration and its consequences will be deemed to have been rescinded and annulled, if:

we have paid or deposited with the Debt Securities Trustee a sum sufficient to pay:

all overdue interest on all Debt Securities of the particular series;

the principal of and any premium on any Debt Securities of that series that have become due otherwise than by the declaration of acceleration and any interest at the rate prescribed in the Debt Securities;

interest upon overdue interest at the rate prescribed in the Debt Securities, to the extent payment is lawful; and

all amounts due to the Debt Securities Trustee under the applicable indenture; and

any other event of default with respect to the Debt Securities of the particular series, other than the failure to pay the principal of the Debt Securities of that series that has become due solely by the declaration of acceleration, has been cured or waived as provided in the applicable indenture.

For more information, see Section 8.02 of the applicable Debt Securities Indenture.

The applicable Debt Securities Indenture includes provisions as to the duties of the Debt Securities Trustee in case an event of default occurs and is continuing. Consistent with these provisions, the Debt Securities Trustee will be under no obligation to exercise any of its rights or powers at the request or direction of any of the holders unless those holders have offered to the Debt Securities Trustee reasonable security or indemnity against the costs, expenses and liabilities that may be incurred by it in compliance with such request or direction. For more information, see Section 9.03 of the applicable Debt Securities Indenture. Subject to these provisions for indemnification, the holders of a majority in principal amount of the outstanding Debt Securities of any series may direct the time, method and place of conducting any proceeding for any remedy available to the Debt Securities Trustee, or exercising any trust or power conferred on the Debt Securities Trustee, with respect to the Debt Securities of that series. For more information, see Section 8.12 of the applicable Debt Securities Indenture.

No holder of Debt Securities may institute any proceeding regarding the applicable indenture, or for the appointment of a receiver or a trustee, or for any other remedy under the applicable indenture unless:

the holder has previously given to the Debt Securities Trustee written notice of a continuing event of default of that particular series;

the holders of at least a majority in principal amount of the outstanding Debt Securities of all series with respect to which an event of default has occurred and is continuing have made a

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written request to the Debt Securities Trustee, and have offered reasonable indemnity to the Debt Securities Trustee, to institute the proceeding as trustee; and

the Debt Securities Trustee has failed to institute the proceeding, and has not received from the holders of a majority in principal amount of the outstanding Debt Securities of that series a direction inconsistent with the request, within 60 days after notice, request and offer of reasonable indemnity.

For more information, see Section 8.07 of the applicable Debt Securities Indenture.

The preceding limitations do not apply, however, to a suit instituted by a holder of a Debt Security for the enforcement of payment of the principal of or any premium or interest on the Debt Securities on or after the applicable due date stated in the Debt Securities. For more information, see Section 8.08 of the applicable Debt Securities Indenture.

We must furnish annually to the Debt Securities Trustee a statement by an appropriate officer as to that officer's knowledge of our compliance with all conditions and covenants under each of the indentures for Debt Securities. Our compliance is to be determined without regard to any grace period or notice requirement under the respective indenture. For more information, see Sections 6.05 and 6.06 of the applicable Debt Securities Indenture.

**Modification and Waiver**

We and the Debt Securities Trustee, without the consent of the holders of the Debt Securities, may enter into one or more supplemental indentures for any of the following purposes:

to evidence the assumption by any permitted successor of our covenants in the applicable indenture and the Debt Securities;

to add one or more covenants or other provisions for the benefit of the holders of outstanding Debt Securities or to surrender any right or power conferred upon us by the applicable indenture;

to add any additional events of default;

to change or eliminate any provision of the applicable indenture or add any new provision to it, but if this action would adversely affect the interests of the holders of any particular series of Debt Securities in any material respect, the action will not become effective with respect to that series while any Debt Securities of that series remain outstanding under the applicable indenture;

to provide collateral security for the Debt Securities;

to establish the form or terms of Debt Securities according to the provisions of the applicable indenture;

to provide for the authentication and delivery of bearer securities (and coupons representing any interest thereon) and for procedures for the registration, exchange and replacement of such bearer securities and for the giving of notice to, and the solicitation of the vote or consent of, the holders of such bearer securities, and for all related incidental matters;

to evidence the acceptance of appointment of a successor Debt Securities Trustee under the applicable indenture with respect to one or more series of the Debt Securities and to add to or change any of the provisions of the applicable indenture as necessary to provide for trust administration under the applicable indenture by more than one trustee;

to provide for the procedures required to permit the use of a non-certificated system of registration for any series of Debt Securities;

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to change any place where:

the principal of and any premium and interest on any Debt Securities are payable;

any Debt Securities may be surrendered for registration of transfer or exchange; or

notices and demands to or upon us regarding Debt Securities and the applicable indentures may be served; or

to cure any ambiguity or inconsistency, but only by means of changes or additions that will not adversely affect the interests of the holders of Debt Securities of any series in any material respect.

For more information, see Section 12.01 of the applicable Debt Securities Indenture.

The holders of at least a majority in aggregate principal amount of the outstanding Debt Securities of any series may waive:

compliance by us with certain provisions of the applicable indenture (see Section 6.06 of the applicable Debt Securities Indenture); and

any past default under the applicable indenture, except a default in the payment of principal, premium or interest and certain covenants and provisions of the applicable indenture that cannot be modified or amended without consent of the holder of each outstanding Debt Security of the series affected (see Section 8.13 of the applicable Debt Securities Indenture).

The Trust Indenture Act of 1939 may be amended after the date of the applicable indenture to require changes to the indenture. In this event, the indenture will be deemed to have been amended so as to effect the changes, and we and the Debt Securities Trustee may, without the consent of any holders, enter into one or more supplemental indentures to evidence or effect the amendment. For more information, see Section 12.01 of the applicable Debt Securities Indenture.

Except as provided in this section, the consent of the holders of a majority in aggregate principal amount of the outstanding Debt Securities of all series issued pursuant to a Debt Securities Indenture, considered as one class, is required to change in any manner the applicable indenture pursuant to one or more supplemental indentures. If there are Debt Securities of more than one series outstanding under a Debt Securities Indenture and less than all of such series are directly affected by a proposed supplemental indenture, however, only the consent of the holders of a majority in aggregate principal amount of the outstanding Debt Securities of all series directly affected, considered as one class, will be required. Furthermore, if the Debt Securities of any series have been issued in more than one tranche and if the proposed supplemental indenture directly affects the rights of the holders of one or more, but not all, tranches, only the consent of the holders of a majority in aggregate principal amount of the outstanding Debt Securities of all tranches directly affected, considered as one class, will be required. In addition, an amendment or modification:

may not, without the consent of the holder of each outstanding Debt Security affected:

change the maturity of the principal of, or any installment of principal of or interest on, any Debt Securities;

reduce the principal amount or the rate of interest, or the amount of any installment of interest, or change the method of calculating the rate of interest;

reduce any premium payable upon the redemption of the Debt Securities;

reduce the amount of the principal of any Debt Security originally issued at a discount from the stated principal amount that would be due and payable upon a declaration of acceleration of maturity;

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change the currency or other property in which a Debt Security or premium or interest on a Debt Security is payable; or

impair the right to institute suit for the enforcement of any payment on or after the stated maturity, or in the case of redemption, on or after the redemption date, of any Debt Securities;

may not reduce the percentage of principal amount requirement for consent of the holders for any supplemental indenture, or for any waiver of compliance with any provision of or any default under the applicable indenture, or reduce the requirements for quorum or voting, without the consent of the holder of each outstanding Debt Security of each series or tranche affected; and

may not modify provisions of the applicable indenture relating to supplemental indentures, waivers of certain covenants and waivers of past defaults with respect to the Debt Securities of any series, or any tranche of a series, without the consent of the holder of each outstanding Debt Security affected.

A supplemental indenture will be deemed not to affect the rights under the applicable indenture of the holders of any series or tranche of the Debt Securities if the supplemental indenture:

changes or eliminates any covenant or other provision of the applicable indenture expressly included solely for the benefit of one or more other particular series of Debt Securities or tranches thereof; or

modifies the rights of the holders of Debt Securities of any other series or tranches with respect to any covenant or other provision.

For more information, see Section 12.02 of the applicable Debt Securities Indenture.

If we solicit from holders of the Debt Securities any type of action, we may at our option by board resolution fix in advance a record date for the determination of the holders entitled to vote on the action. We shall have no obligation, however, to do so. If we fix a record date, the action may be taken before or after the record date, but only the holders of record at the close of business on the record date shall be deemed to be holders for the purposes of determining whether holders of the requisite proportion of the outstanding Debt Securities have authorized the action. For that purpose, the outstanding Debt Securities shall be computed as of the record date. Any holder action shall bind every future holder of the same security and the holder of every security issued upon the registration of transfer of or in exchange for or in lieu of the security in respect of anything done or permitted by the Debt Securities Trustee or us in reliance on that action, whether or not notation of the action is made upon the security. For more information, see Section 1.04 of the applicable Debt Securities Indenture.

**Defeasance**

Unless the applicable prospectus supplement or free writing prospectus provides otherwise, any Debt Security, or portion of the principal amount of a Debt Security, will be deemed to have been paid for purposes of the applicable indenture, and, at our election, our entire indebtedness in respect of the Debt Security, or portion thereof, will be deemed to have been satisfied and discharged, if we have irrevocably deposited with the Debt Securities Trustee or any paying agent other than us, in trust money, certain eligible obligations, as defined in the applicable indenture, or a combination of the two, sufficient to pay principal of and any premium and interest due and to become due on the Debt Security or portion thereof, and other required documentation. Included among the documentation we are required to deliver to be deemed to have our indebtedness deemed satisfied and discharged with respect to a Debt Security pursuant to the preceding sentence is an opinion of counsel to the effect that, as a result of a change in law occurring after the date of the applicable Debt Security Indenture,



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the holders of such Debt Security, or portions thereof, will not recognize income, gain or loss for U.S. federal income tax purposes as a result of the satisfaction and discharge of our indebtedness in respect thereof and will be subject to U.S. federal income tax on the same amounts, at the same times and in the same manner as if such satisfaction and discharge had not been effected. For more information, see Section 7.01 of the applicable Debt Securities Indenture. For this purpose, unless the applicable prospectus supplement or free writing prospectus provides otherwise, eligible obligations include direct obligations of, or obligations unconditionally guaranteed by, the U.S., entitled to the benefit of full faith and credit of the U.S., and certificates, depositary receipts or other instruments that evidence a direct ownership interest in those obligations or in any specific interest or principal payments due in respect of those obligations.

**Resignation, Removal of Debt Securities Trustee; Appointment of Successor**

The Debt Securities Trustee may resign at any time by giving written notice to us or may be removed at any time by an action of the holders of a majority in principal amount of outstanding Debt Securities delivered to the Debt Securities Trustee and us. No resignation or removal of the Debt Securities Trustee and no appointment of a successor trustee will become effective until a successor trustee accepts appointment in accordance with the requirements of the applicable indenture. So long as no event of default or event that would become an event of default (after notice or lapse of time or both) has occurred and is continuing, and except with respect to a Debt Securities Trustee appointed by an action of the holders, if we have delivered to the Debt Securities Trustee a resolution of our board of directors appointing a successor trustee and the successor trustee has accepted the appointment in accordance with the terms of the applicable indenture, the Debt Securities Trustee will be deemed to have resigned and the successor trustee will be deemed to have been appointed as trustee in accordance with the applicable indenture. For more information, see Section 9.10 of the applicable Debt Securities Indenture.

**Notices**

We will give notices to holders of Debt Securities by mail to their addresses as they appear in the Debt Security Register. For more information, see Section 1.06 of the applicable Debt Securities Indenture.

**Title**

The Debt Securities Trustee and its agents, and we and our agents, may treat the person in whose name a Debt Security is registered as the absolute owner of that Debt Security, whether or not that Debt Security may be overdue, for the purpose of making payment and for all other purposes. For more information, see Section 3.08 of the applicable Debt Securities Indenture.

**Governing Law**

The Debt Securities Indentures and the Debt Securities, including any Subordinated Debt Securities Indentures and Subordinated Debt Securities, will be governed by, and construed in accordance with, the law of the State of New York. For more information, see Section 1.12 of the applicable Debt Securities Indenture.

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**GLOBAL SECURITIES**

We may issue some or all of our securities of any series as global securities. We will register each global security in the name of a depositary identified in the applicable prospectus supplement. The global securities will be deposited with a depositary or nominee or custodian for the depositary and will bear a legend regarding restrictions on exchanges and registration of transfer as discussed below and any other matters to be provided pursuant to the indenture.

As long as the depositary or its nominee is the registered holder of a global security, that person will be considered the sole owner and holder of the global security and the securities represented by it for all purposes under the securities and the indenture. Except in limited circumstances, owners of a beneficial interest in a global security:

will not be entitled to have the global security or any securities represented by it registered in their names;

will not receive or be entitled to receive physical delivery of certificated securities in exchange for the global security; and

will not be considered to be the owners or holders of the global security or any securities represented by it for any purposes under the securities or the indenture.

We will make all payments of principal and any premium and interest on a global security to the depositary or its nominee as the holder of the global security. The laws of some jurisdictions require that certain purchasers of securities take physical delivery of securities in definitive form. These laws may impair the ability to transfer beneficial interests in a global security.

Ownership of beneficial interests in a global security will be limited to institutions having accounts with the depositary or its nominee, called "participants" for purposes of this discussion, and to persons that hold beneficial interests through participants. When a global security is issued, the depositary will credit on its book-entry, registration and transfer system the principal amounts of securities represented by the global security to the accounts of its participants. Ownership of beneficial interests in a global security will be shown only on, and the transfer of those ownership interests will be effected only through, records maintained by:

the depositary, with respect to participants' interests; or

any participant, with respect to interests of persons held by the participants on their behalf.

Payments by participants to owners of beneficial interests held through the participants will be the responsibility of the participants. The depositary may from time to time adopt various policies and procedures governing payments, transfers, exchanges and other matters relating to beneficial interests in a global security. None of the following will have any responsibility or liability for any aspect of the depositary's or any participant's records relating to, or for payments made on account of, beneficial interests in a global security, or for maintaining, supervising or reviewing any records relating to those beneficial interests:

us or our affiliates;

the trustee under any indenture; or

any agent of any of the above.

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**CERTAIN PROVISIONS OF MARYLAND LAW AND OUR CHARTER AND BYLAWS**

*The following description of certain provisions of Maryland law and our charter and bylaws is only a summary. For a complete description, we refer you to the applicable Maryland law, our charter and our bylaws. Our charter and bylaws are filed as exhibits to the registration statement of which this prospectus is a part. See "Where You Can Find More Information."*

**Number of Directors; Vacancies**

Our charter and bylaws provide that the number of our directors may only be increased or decreased by a vote of a majority of the members of our board of directors. Our board of directors is currently comprised of six directors. Our charter provides that any vacancy, including a vacancy created by an increase in the number of directors, may be filled only by a majority of the remaining directors, even if the remaining directors do not constitute a quorum.

**Removal of Directors**

Subject to the rights of holders of our preferred stock to elect or remove directors, our charter provides that a director may be removed at any time upon the affirmative vote of at least two-thirds of the votes entitled to be cast generally in the election of directors. Absent removal of all of our directors, this provision, when coupled with the provision in our bylaws authorizing our board of directors to fill vacant directorships, may preclude stockholders from removing incumbent directors and filling the vacancies created by such removal with their own nominees.

**Amendment to the Charter**

Generally, our charter may be amended only by the affirmative vote of the holders of not less than a majority of all of the votes entitled to be cast on the matter. However, provisions in our charter related to (1) amendments to our charter, (2) removal of directors, (3) the power of our board of directors to classify and cause us to issue additional shares of common and preferred stock and (4) except as set forth in the sentence immediately below, the restrictions on transfer and ownership, may only be amended by the affirmative vote of the holders of two-thirds of all of the votes entitled to be cast on the matter. In addition, our board of directors may from time to time increase or decrease the common stock ownership limit and the aggregate stock ownership limit without stockholder approval.

**Dissolution**

Our dissolution must be approved by the affirmative vote of the holders of not less than a majority of all of the votes entitled to be cast on the matter.

**Business Combinations**

Maryland law prohibits "business combinations" between us and an interested stockholder or an affiliate of an interested stockholder for five years after the most recent date on which the interested stockholder becomes an interested stockholder. These business combinations include a merger, consolidation, share exchange, or, in circumstances specified in the statute, an asset transfer or issuance or reclassification of equity securities. Maryland law defines an interested stockholder as:

any person or entity who beneficially owns, directly or indirectly, 10% or more of the voting power of our stock; or

an affiliate or associate of ours who, at any time within the two year period prior to the date in question, was the beneficial owner, directly or indirectly, of 10% or more of the voting power of our then outstanding voting stock.

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A person is not an interested stockholder if our board of directors approves in advance the transaction by which the person otherwise would have become an interested stockholder. However, in approving a transaction, our board of directors may provide that its approval is subject to compliance, at or after the time of approval, with any terms and conditions determined by our board of directors.

After the five-year prohibition, any business combination between us and an interested stockholder generally must be recommended by our board of directors and approved by the affirmative vote of at least:

80% of the votes entitled to be cast by holders of our then-outstanding shares of voting stock; and

two-thirds of the votes entitled to be cast by holders of our voting stock other than stock held by the interested stockholder with whom or with whose affiliate the business combination is to be effected or stock held by an affiliate or associate of the interested stockholder.

These super-majority vote requirements do not apply if our common stockholders receive a minimum price, as defined under Maryland law, for their shares in the form of cash or other consideration in the same form as previously paid by the interested stockholder for its stock.

The statute permits various exemptions from its provisions, including business combinations that are approved by our board of directors before the time that the interested stockholder becomes an interested stockholder.

As permitted by the Maryland General Corporation Law, our board of directors has adopted a resolution that the business combination provisions of the Maryland General Corporation Law will not apply to us. There is no assurance that our board of directors will not amend or repeal this resolution in the future.

**Control Share Acquisitions**

Maryland law provides that "control shares" of a Maryland corporation acquired in a "control share acquisition" have no voting rights unless approved by the affirmative vote of at least two-thirds of the votes entitled to be cast on the matter. Shares owned by the acquiror or by officers or directors who are our employees are excluded from the shares entitled to vote on the matter. "Control shares" are voting shares that, if aggregated with all other shares currently owned by the acquiring person, or in respect of which the acquiring person is able to exercise or direct the exercise of voting power (except solely by virtue of a revocable proxy), would entitle the acquiring person to exercise voting power in electing directors within one of the following ranges of voting power:

one-tenth or more but less than one-third;

one-third or more but less than a majority; or

a majority or more of all voting power.

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

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

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If voting rights are not approved at the stockholders meeting or if the acquiring person does not deliver an acquiring person statement required by Maryland law, then, subject to certain conditions and limitations, we may redeem any or all of the control shares, except those for which voting rights have previously been approved, for fair value. Fair value is determined, without regard to the absence of voting rights for the control shares, as of the date of the last control share acquisition by the acquiror or as of any meeting of stockholders at which the voting rights of the shares were considered and not approved. If voting rights for control shares are approved at a stockholders meeting and the acquiror becomes entitled to vote a majority of the shares entitled to vote, all other stockholders may exercise appraisal rights. The fair value of the shares for purposes of these appraisal rights may not be less than the highest price per share paid by the acquiror in the control share acquisition. The control share acquisition statute does not apply to shares acquired in a merger, consolidation or share exchange if we are a party to the transaction, nor does it apply to acquisitions approved by or exempted by our charter or bylaws.

Our bylaws contain a provision exempting any and all acquisitions of our shares of stock from the control shares provisions of Maryland law. Nothing prevents our board of directors from amending or repealing this provision in the future.

**Limitation of Liability and Indemnification**

Maryland law permits a corporation to include in its charter a provision eliminating the liability of its directors and officers to the corporation and its stockholders for money damages, except for liability resulting from:

actual receipt of an improper benefit or profit in money, property or services; or

a final judgment based upon a finding of active and deliberate dishonesty by the director or officer that was material to the cause of action adjudicated.

Our charter contains such a provision that eliminates such liability to the maximum extent permitted by Maryland law.

Our charter authorizes us to obligate ourselves, and our bylaws obligate us, to the maximum extent permitted by Maryland law, to indemnify, and to pay or reimburse reasonable expenses in advance of final disposition of a final proceeding to, any of our present or former directors or officers or any individual who, while a director or officer and at our request, serves or has served another corporation, real estate investment trust, partnership, joint venture, trust, employee benefit plan or any other enterprise as a director, officer, partner or trustee. The indemnification covers any claim or liability arising from such status against the person.

Maryland law requires a corporation (unless its charter provides otherwise, which our charter does not) to indemnify a director or officer who has been successful in the defense of any proceeding to which he is made a party by reason of his service in that capacity.

Maryland law permits us to indemnify our present and former directors and officers against judgments, penalties, fines, settlements and reasonable expenses actually incurred by them in any proceeding to which they may be made a party by reason of their service in those or other capacities unless it is established that:

the act or omission of the director or officer was material to the matter giving rise to the proceeding and (i) was committed in bad faith or (ii) was the result of active and deliberate dishonesty;

the director or officer actually received an improper personal benefit of money, property or services; or

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in the case of a criminal proceeding, the director or officer had reasonable cause to believe that the act or omission was unlawful.

However, Maryland law prohibits us from indemnifying our present and former directors and officers for an adverse judgment in a suit by or in the right of the corporation or for a judgment of liability on the basis that personal benefit was improperly received unless in either case a court orders indemnification and then only for expenses. Maryland law permits a corporation to advance reasonable expenses to a director or officer upon the corporation's receipt of:

a written affirmation by the director or officer of his or her good faith belief that he or she has met the standard of conduct necessary for indemnification; and

a written undertaking by him or her, or on his or her behalf, to repay the amount paid or reimbursed by us if it is ultimately determined that the standard of conduct is not met.

Our charter and bylaws also permit us to indemnify and advance expenses to any person who served a predecessor of ours in any capacity described above and to any of our or our predecessors' employees or agents.

In addition, indemnification could reduce the legal remedies available to us and our stockholders against our officers and directors. The SEC takes the position that indemnification against liabilities arising under the Securities Act is against public policy and unenforceable. Indemnification of our directors and officers may not be allowed for liabilities arising from or out of a violation of state or federal securities laws, unless one or more of the following conditions are met:

there has been a adjudication on the merits in favor of the director or officer on each count involving alleged securities law violations;

all claims against the director or officer have been dismissed with prejudice on the merits by a court of competent jurisdiction; or

a court of competent jurisdiction approves a settlement of the claims against the director or officer and finds that indemnification with respect to the settlement and the related costs should be allowed after being advised of the position of the SEC and of the published position of any state securities regulatory authority in which the securities were offered as to indemnification for violations of securities laws.

**Meetings of Stockholders**

Special meetings of stockholders may be called only by our board of directors, the chairman of our board of directors, our chief executive officer, our president or our secretary upon the written request of the holders of common stock entitled to cast not less than a majority of all votes entitled to be cast at such meeting. Only matters set forth in the notice of the special meeting may be considered and acted upon at such a meeting.

**Advance Notice of Director Nominations and New Business**

Our bylaws provide that, with respect to an annual meeting of stockholders, nominations of individuals for election to our board of directors and the proposal of business to be considered by stockholders at the annual meeting may be made only:

pursuant to our notice of the meeting;

by or at the direction of our board of directors; or



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by a stockholder who was a stockholder of record both at the time of the giving of notice by the stockholder and at the time of the meeting, who is entitled to vote at the meeting and has complied with the advance notice procedures set forth in our bylaws.

With respect to special meetings of stockholders, only the business specified in our notice of meeting may be brought before the meeting of stockholders and nominations of individuals for election to our board of directors may be made only:

pursuant to our notice of the meeting;

by our board of directors; or

provided that our board of directors has determined that directors shall be elected at such meeting, by a stockholder who was a stockholder of record both at the time of the provision of notice and at the time of the meeting who is entitled to vote at the meeting and has complied with the advance notice provisions set forth in our bylaws.

The purpose of requiring stockholders to give advance notice of nominations and other proposals is to afford our board of directors the opportunity to consider the qualifications of the proposed nominees or the advisability of the other proposals and, to the extent considered necessary by our board of directors, to inform stockholders and make recommendations regarding the nominations or other proposals. The advance notice procedures also permit a more orderly procedure for conducting our stockholder meetings. Although our bylaws do not give our board of directors the power to disapprove timely stockholder nominations and proposals, they may have the effect of precluding a contest for the election of directors or proposals for other action if the proper procedures are not followed, and of discouraging or deterring a third party from conducting a solicitation of proxies to elect its own slate of directors to our board of directors or to approve its own proposal.

**Possible Anti-Takeover Effect of Certain Provisions of Maryland Law and of Our Charter and Bylaws**

Subtitle 8 of Title 3 of the Maryland General Corporation Law permits a Maryland corporation with a class of equity securities registered under the Exchange Act and at least three independent directors to elect to be subject, by provision in its charter or bylaws or a resolution of its board of directors and notwithstanding any contrary provision in its charter or bylaws, to any or all of five of the following provisions:

a classified board of directors, meaning that the directors may be divided into up to three classes with only one class standing for election in any year;

a director may be removed only by a two-thirds vote of the stockholders;

a requirement that the number of directors be fixed only by vote of the directors;

a requirement that a vacancy on the board of directors be filled only by the remaining directors and for the new director to serve the remainder of the full term of the class of directors in which the vacancy occurred; and

a requirement that stockholder-called special meetings of stockholders may only be called by stockholders holding a majority of the outstanding stock.

Pursuant to our charter, we have elected to be subject to the provisions of Subtitle 8 that requires that vacancies on our board may be filled only by the remaining directors and for the full term of the directorship in which the vacancy occurred. Through provisions in our charter and bylaws unrelated to Subtitle 8, we already (a) require a two-thirds vote for the removal of any director from our board, (b) vest in our board of directors the exclusive power to fix the number of directorships and (c) require that stockholder-called special meetings of stockholders may only be called by stockholders holding a majority of our outstanding stock. Further, although we do not currently have a classified board of





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directors, Subtitle 8 permits our board of directors, without stockholder approval and regardless of what is provided in our charter or bylaws, to implement takeover defenses that we may not yet have, such as dividing the members of our board of directors into up to three classes with only one class standing for election in any year.

The business combination and control share acquisition provisions of Maryland law (if the applicable resolution of our board of directors is repealed or the provisions in our bylaws are rescinded), the provisions of our charter on the removal of directors, the ownership limitations required to protect our REIT status, the board of directors' ability to increase the aggregate number of shares of capital stock and issue shares of preferred stock with differing terms and conditions, and the advance notice provisions of our bylaws could have the effect of delaying, deterring or preventing a transaction or a change in control that might involve a premium price for you or might otherwise be in your best interest.

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**MATERIAL FEDERAL INCOME TAX CONSIDERATIONS**

This section summarizes the federal income tax issues that you, as a holder of our securities, may consider relevant. Vinson & Elkins L.L.P. has acted as our tax counsel, has reviewed this summary, and is of the opinion that the discussion contained herein is accurate in all material respects. Because this section is a summary, it does not address all aspects of taxation that may be relevant to particular holders of our securities in light of their personal investment or tax circumstances, or to certain types of holders that are subject to special treatment under the federal income tax laws, such as:

insurance companies;

tax-exempt organizations (except to the limited extent discussed in " Taxation of Tax-Exempt Stockholders" below);

financial institutions or broker-dealers;

non-U.S. individuals and foreign corporations (except to the limited extent discussed in " Taxation of Non-U.S. Stockholders" below);

U.S. expatriates;

persons who mark-to-market our securities;

subchapter S corporations;

U.S. stockholders (as defined below) whose functional currency is not the U.S. dollar;

regulated investment companies and REITs;

trusts and estates;

holders who receive our securities through the exercise of employee stock options or otherwise as compensation;

persons holding our securities as part of a "straddle," "hedge," "conversion transaction," "synthetic security" or other integrated investment;

persons subject to the alternative minimum tax provisions of the Internal Revenue Code; and

persons holding our securities through a partnership or similar pass-through entity.

This summary assumes that securityholders hold shares as capital assets for U.S. federal income tax purposes, which generally means property held for investment.

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The statements in this section are not intended to be, and should not be construed as, tax advice. The statements in this section and the opinion of Vinson & Elkins LLP are based on the Internal Revenue Code, current, temporary and proposed Treasury regulations, the legislative history of the Internal Revenue Code, current administrative interpretations and practices of the IRS, and court decisions. The reference to IRS interpretations and practices includes the IRS practices and policies endorsed in private letter rulings, which are not binding on the IRS except with respect to the taxpayer that receives the ruling. In each case, these sources are relied upon as they exist on the date of this discussion. Future legislation, Treasury regulations, administrative interpretations and court decisions could change the current law or adversely affect existing interpretations of current law on which the information in this section is based. Any such change could apply retroactively. We have not received any rulings from the IRS concerning our qualification as a REIT. Accordingly, even if there is no change in the applicable law, no assurance can be provided that the statements made in the following discussion, which do not bind the IRS or the courts, will not be challenged by the IRS or will be sustained by a court if so challenged.

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**We urge you to consult your own tax advisor regarding the specific tax consequences to you of the purchase, ownership and sale of our securities and of our election to be taxed as a REIT. Specifically, you should consult your own tax advisor regarding the federal, state, local, foreign, and other tax consequences of such purchase, ownership, sale and election, and regarding potential changes in applicable tax laws.**

**Taxation of Our Company**

We elected to be taxed as a REIT under the federal income tax laws commencing with our short taxable year ended December 31, 2004. We believe that we are organized and we operate in such a manner so as to qualify for taxation as a REIT under the federal income tax laws, and we intend to continue to operate in such a manner, but no assurance can be given that we will operate in a manner so as to remain qualified as a REIT. This section discusses the laws governing the federal income tax treatment of a REIT. These laws are highly technical and complex.

In connection with this prospectus, Vinson & Elkins L.L.P. is rendering an opinion that we qualified to be taxed as a REIT for our taxable years ended December 31, 2010 through December 31, 2015, and our organization and current and proposed method of operation will enable us to continue to meet the requirements for qualification and taxation as a REIT for our taxable year ending December 31, 2016 and subsequent taxable years. Investors should be aware that Vinson & Elkins L.L.P.'s opinion is based upon customary assumptions, is conditioned upon certain representations made by us as to factual matters, including representations regarding the nature of our assets and the conduct of our business, and is not binding upon the IRS or any court and speaks as of the date issued. In addition, Vinson & Elkins L.L.P.'s opinion is based on existing federal income tax law governing qualification as a REIT, which is subject to change either prospectively or retroactively. Moreover, our qualification and taxation as a REIT depend upon our ability to meet on a continuing basis, through actual annual operating results, certain qualification tests set forth in the federal tax laws. Those qualification tests involve the percentage of income that we earn from specified sources, the percentage of our assets that fall within specified categories, the diversity of our stock ownership, and the percentage of our earnings that we distribute. Vinson & Elkins L.L.P. will not review our compliance with those tests on a continuing basis. Accordingly, no assurance can be given that our actual results of operations for any particular taxable year will satisfy such requirements. Vinson & Elkins L.L.P.'s opinion does not foreclose the possibility that we may have to use one or more of the REIT savings provisions described below, which would require us to pay an excise or penalty tax (which could be material) in order for us to maintain our REIT qualification. For a discussion of the tax consequences of our failure to qualify as a REIT, see " Failure to Qualify".

As a REIT, we generally will not be subject to federal income tax on the REIT taxable income that we distribute to our stockholders, but taxable income generated by Hypotheca, New York Mortgage Funding, LLC, or NYMF, NYMT Residential Tax, LLC, or NYMT Residential, NYMT Residential Tax 2013-RP1, LLC, or Residential Tax 2013-RP1, NYMT Residential Tax 2013-RP2, LLC, or Residential Tax 2013-RP2, and NYMT Residential Tax 2013-RP3, LLC, or Residential Tax 2013-RP3, our TRSs, will be subject to regular corporate income tax. The benefit of that tax treatment is that it avoids the double taxation, or taxation at both the corporate and stockholder levels, that generally applies to distributions by a corporation to its stockholders. However, we will be subject to federal tax in the following circumstances:

We will pay federal income tax on taxable income, including net capital gain, that we do not distribute to stockholders during, or within a specified time period after, the calendar year in which the income is earned.

We may be subject to the "alternative minimum tax" on any items of tax preference that we do not distribute or allocate to stockholders.

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We will pay income tax at the highest corporate rate on:

net income from the sale or other disposition of property acquired through foreclosure, or foreclosure property, that we hold primarily for sale to customers in the ordinary course of business, and

other nonqualifying income from foreclosure property.

We will pay a 100% tax on our"LINE-HEIGHT: 1.25; TEXT-INDENT: 0pt; DISPLAY: block; MARGIN-LEFT: 0pt; MARGIN-RIGHT: 0pt" align="justify">

Our forward-looking statements are expressly qualified in their entirety by this cautionary statement. Our forward-looking statements are only made as of the date of this prospectus and we undertake no obligation to update these forward-looking statements to reflect new information, subsequent events or otherwise.

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RATIO OF EARNINGS TO FIXED CHARGES

Set forth below is information concerning our ratio of earnings to fixed charges. This ratio shows the extent to which our business generates enough earnings after the payment of all expenses other than interest to make required interest payments on our debt.

For the purposes of determining the ratio of earnings to fixed charges, earnings are defined as pretax income from operations plus fixed charges. Fixed charges consist of all interest expense, amortization of debt issuance costs and an estimate of the interest within rental expense.

	Nine Months Ended			Fiscal Year Ended		
	April 30, 2011	July 31, 2010	July 25, 2009	July 26, 2008	July 28, 2007	July 29, 2006
Ratio of Earnings to Fixed Charges	1.4x	1.5x	(*)	2.8x	4.4x	3.2x

\* The ratio of earnings to fixed charges was less than one-to-one for fiscal 2009 and earnings were insufficient to cover fixed charges by \$76.4 million.

USE OF PROCEEDS

We will not receive any proceeds from the exchange offer. In consideration for issuing the exchange notes contemplated by this prospectus, we will receive unregistered notes in like principal amount. The unregistered notes surrendered in exchange for the exchange notes will be retired and canceled and cannot be reissued. Accordingly, the issuance of the exchange notes will not result in any change in our indebtedness.

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DESCRIPTION OF OTHER INDEBTEDNESS

On June 4, 2010, the Company entered into a new five-year \$225.0 million Credit Agreement, dated as of June 4, 2010 (the "Credit Agreement"), with Bank of America, N.A., as Administrative Agent, Swingline Lender and L/C Issuer, Banc of America Securities LLC and Wells Fargo Securities, LLC, as Joint Lead Arrangers and Joint Book Managers, Wells Fargo Bank, National Association, as Syndication Agent, and Branch Banking and Trust Company, RBS Citizens, N.A. and PNC Bank, National Association, as Co-Documentation Agents. The Credit Agreement has an expiration date of June 4, 2015 and provides for a maximum borrowing of \$225.0 million, including a sublimit of \$100.0 million for the issuance of letters of credit. Subject to certain conditions, the Credit Agreement provides for the ability to enter into one or more incremental facilities in an aggregate amount not to exceed \$75.0 million, either by increasing the revolving commitments under the Credit Agreement and/or in the form of term loans. The Credit Agreement replaces the Company's prior credit facility (the "Prior Agreement") which was due to expire in September 2011.

Borrowings under the Credit Agreement (other than swingline loans) bear interest at a rate equal to either (a) the administrative agent's base rate, described in the Credit Agreement as the highest of (i) the federal funds rate plus 0.50%; (ii) the administrative agent's prime rate; and (iii) the eurodollar rate (described in the Credit Agreement as the British Bankers Association LIBOR Rate, divided by one (1) minus a reserve percentage (as described in the Credit Agreement) plus 1.00%, or (b) the eurodollar rate, plus, in each case, an applicable margin based on our consolidated leverage ratio. Swingline loans bear interest at a rate equal to the administrative agent's base rate plus a margin based on our consolidated leverage ratio. Based on our current consolidated leverage ratio, revolving borrowings would be eligible for a margin of 1.50% for borrowings based on the administrative agent's base rate and 2.50% for borrowings based on the eurodollar rate.

We pay a quarterly facility fee, at rates that range from 0.500% to 0.625% of the unutilized commitments depending on our leverage ratio. The Credit Agreement also requires the payment of fees for outstanding letters of credit and unutilized commitments, in each case based on our consolidated leverage ratio. Based on our current consolidated leverage ratio, fees for outstanding letters of credit and fees for unutilized commitments would be 1.250% and 0.50% per annum, respectively. Our obligations under the Credit Agreement are guaranteed by certain subsidiaries and secured by a pledge of (i) 100% of the equity of our material domestic subsidiaries and (ii) 100% of the non-voting equity and 65% of the voting equity of first-tier material foreign subsidiaries, if any, in each case excluding certain unrestricted subsidiaries.

The Credit Agreement contains certain affirmative and negative covenants, including limitations with respect to indebtedness, liens, investments, distributions, mergers and acquisitions, dispositions of assets, sale-leaseback transactions, transactions with affiliates and capital expenditures. The Credit Agreement contains financial covenants that require us to (i) maintain a consolidated leverage ratio of not greater than 3.00 to 1.00, as measured at the end of each fiscal quarter and (ii) maintain a consolidated interest coverage ratio of not less than 2.75 to 1.00 for fiscal quarters ending July 31, 2010 through April 28, 2012 and not less than 3.00 to 1.00 for the fiscal quarter ending July 28, 2012 and each fiscal quarter thereafter, as measured at the end of each fiscal quarter. As of April 30, 2011, we had no outstanding borrowings and \$37.8 million of outstanding letters of credit issued under the Credit Agreement. The outstanding letters of credit are issued as part of our insurance program. At April 30, 2011, we had additional borrowing availability of up to \$127.8 million, as determined by the most restrictive covenants of the Credit Agreement, and we were in compliance with the financial covenants.

On January 5, 2011 the Company entered into a First Amendment (the "Amendment") to its Credit Agreement. The Amendment modifies the Credit Agreement to permit the issuance of additional subordinated notes in an aggregate principal amount of up to \$175.0 million, so long as the net cash proceeds of the additional subordinated notes are to be used to refinance, prepay, repurchase, redeem, retire and/or defease the Company's outstanding Senior Subordinated Notes due 2015 in their entirety within sixty days of issuance of any additional subordinated notes and second, to the extent any net cash proceeds remain for general corporate purposes.

The Amendment also provides that for the purposes of calculating the Consolidated Leverage Ratio (as defined in the Credit Agreement), the exclusion of any outstanding senior subordinated notes for the period of four consecutive fiscal quarters ending as of the first quarter ending after any issuance of any additional subordinated notes, to the extent the net cash proceeds of the additional subordinated notes are to be used to refinance, prepay,



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repurchase, redeem, retire and/or defease the notes currently outstanding within sixty days of issuance of any additional subordinated notes.

Further, the Amendment provides for the repurchase of the Company's equity interests in an aggregate amount not to exceed \$30.0 million for the period beginning January 5, 2011 through the maturity date of the Credit Agreement, subject to conditions in the Amendment.

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### SELECTED CONSOLIDATED FINANCIAL DATA

The following tables set forth our selected consolidated financial information for the periods indicated. The consolidated statements of operations data for each of the three years ended July 31, 2010, July 25, 2009 and July 26, 2008 and the consolidated balance sheet data as of July 31, 2010 and July 25, 2009 are derived from our audited consolidated financial statements included in our Annual Report on Form 10-K for the fiscal year ended July 31, 2010, which is incorporated by reference in this prospectus. The consolidated statements of operations data for each of the two years ended July 28, 2007 and July 29, 2006, which are referred to as “fiscal 2007” and “fiscal 2006,” respectively, and the consolidated balance sheet data as of July 26, 2008, July 28, 2007 and July 29, 2006 are derived from our audited consolidated financial statements included in our Annual Reports on Form 10-K for the fiscal years ended July 26, 2008, July 28, 2007 and July 29, 2006, which are not incorporated by reference in this prospectus. The consolidated statements of operations data for the nine months ended April 30, 2011 and April 24, 2010 and the consolidated balance sheet data as of April 30, 2011 are derived from our unaudited condensed consolidated financial statements included in our Quarterly Report on Form 10-Q for the fiscal quarter ended April 30, 2011, which is incorporated by reference in this prospectus. The consolidated balance sheet data as of April 24, 2010 is derived from our unaudited condensed consolidated financial statements included in our Quarterly Report on Form 10-Q for the fiscal quarter ended April 24, 2010, which is not incorporated by reference in this prospectus.

We use a fiscal year ending on the last Saturday in July. Fiscal 2010 consisted of 53 weeks, while fiscal 2009, fiscal 2008, fiscal 2007 and fiscal 2006 each consisted of 52 weeks. Our unaudited condensed consolidated financial statements have been prepared on a basis consistent with our audited consolidated financial statements and, in the opinion of our management, include all adjustments, consisting of normal recurring accruals, considered necessary for a fair presentation of the financial position and results of operations for such periods. The results of operations for interim periods, for seasonal and other factors, are not necessarily indicative of the results to be expected for the full year or any future period. You should read the following selected consolidated financial information together with “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and our consolidated financial statements and related notes included in our Quarterly Report on Form 10-Q for the fiscal quarter ended April 30, 2011 and our Annual Report Form 10-K for the fiscal year ended July 31, 2010, each of which is incorporated by reference in this prospectus.

	Nine Months Ended		Fiscal Year Ended				
	April 30, 2011(1)	April 24, 2010(2)	July 31, 2010(2)	July 25, 2009(3)	July 26, 2008(4)	July 28, 2007(5)	July 29, 2006(6)
(dollars in thousands)							
Consolidated Statements of Operations Information:							
Revenues:							
Contract revenues	\$ 732,150	\$ 707,082	\$ 988,623	\$ 1,106,900	\$ 1,229,956	\$ 1,137,812	\$ 994,973
Expenses:							
Costs of earned revenues, excluding depreciation and amortization	597,987	582,241	810,064	894,885	1,011,219	915,250	811,210
General and administrative(7)	68,338	71,698	98,140	98,732	98,942	90,090	78,516
Depreciation and amortization	46,894	46,558	63,607	65,435	67,288	57,799	46,467
Goodwill impairment charge	—	—	—	94,429	9,672	—	14,835
Total	713,219	700,497	971,811	1,153,481	1,187,121	1,063,139	951,028
Interest income	90	85	97	261	691	966	1,911
Interest expense	(11,903 )	(10,470 )	(14,272 )	(14,743 )	(13,096 )	(14,809 )	(11,991 )
Loss on debt extinguishment	(8,296 )	—	—	—	—	—	—
Other income, net	7,464	6,459	8,093	6,564	7,154	8,647	6,333
Income (loss) from continuing operations before income taxes	6,286	2,659	10,730	(54,499 )	37,584	69,477	40,198
Provision (benefit) for income taxes	3,144	1,453	4,881	(1,405 )	13,180	27,275	22,158
Income (loss) from continuing operations	3,142	1,206	5,849	(53,094 )	24,404	42,202	18,040

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Income (loss) from discontinued operations	—	—	—	(86 )	(2,726 )	(318 )	140
Net income (loss)	\$3,142	\$1,206	\$5,849	\$(53,180 )	\$21,678	\$41,884	\$18,180
Basic and diluted earnings (loss) per share from continuing operations	\$0.09	\$0.03	\$0.15	\$(1.35 )	\$0.60	\$1.04	\$0.43

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	Nine Months Ended				Fiscal Year Ended			
	April 30, 2011(1)	April 24, 2010(2)	July 31, 2010	July 25, 2009(3)	July 26, 2008(4)	July 28, 2007(5)	July 29, 2006(6)	
(dollars in thousands)								
<b>Other Financial Information:</b>								
Cash flows from operating activities	\$52,090	\$48,682	\$54,138	\$126,636	\$104,289	\$108,461	\$102,274	
Cash flows from investing activities	\$(58,849 )	\$(31,651 )	\$(46,608 )	\$(25,386 )	\$(62,099 )	\$(124,572 )	\$(113,012 )	
Cash flows from financing activities	\$(7,534 )	\$(5,583 )	\$(8,917 )	\$(18,611 )	\$(38,984 )	\$7,705	\$(45,056 )	
Ratio of earnings to fixed charges(8)	1.4	x 1.2	x 1.5	x —	2.8	x 4.4	x 3.2	x
<b>Consolidated Balance Sheet Information:</b>								
Cash and equivalents	\$89,027	\$116,155	\$103,320	\$104,707	\$22,068	\$18,862	\$27,268	
Total assets	\$689,026	\$676,583	\$679,556	\$693,457	\$801,272	\$789,764	\$690,015	
Total debt, including current portion	\$187,986	\$135,500	\$135,397	\$136,303	\$153,355	\$166,810	\$155,178	
Total stockholders' equity	\$346,359	\$389,091	\$394,555	\$390,623	\$444,093	\$444,631	\$389,455	

- (1) Includes the results of Communication Services, LLC (acquired November 2010) and NeoCom Solutions, Inc. (acquired December 2010) since their respective acquisition dates. Additionally, during the nine months ended April 30, 2011, we recognized a \$8.3 million loss on debt extinguishment for the tender premium, professional fees, and write-off of debt issuance costs related to our purchase of \$135.35 million of 8.125% senior subordinated notes due 2015 pursuant to our cash tender offer and redemption of such notes.
- (2) During the first quarter of fiscal 2010, we recognized a non-cash income tax charge of \$1.1 million for a valuation allowance on a deferred tax asset associated with an investment that became impaired for tax purposes.
- (3) During fiscal 2009, we recognized a goodwill impairment charge of \$94.4 million that included impairments at the following reporting units: Broadband Installation Services (formerly Cable Express and now known as Broadband Express) for \$14.8 million, C-2 Utility Contractors for \$9.2 million, Ervin Cable Construction for \$15.7 million, Nichols Construction for \$2.0 million, Stevens Communications for \$2.4 million and UtiliQuest for \$50.5 million. This impairment charge was a result of an interim impairment test of goodwill.
- (4) During fiscal 2008, we incurred charges of approximately \$8.2 million for amounts to be paid to current and former employees of our UtiliQuest, S.T.S., and Locating subsidiaries in connection with the settlement of litigation and charges of approximately \$1.2 million in discontinued operations for the settlement of litigation at our Apex Digital, LLC subsidiary. Fiscal 2008 results also include goodwill impairment charges of \$5.9 million and \$3.8 million related to our Stevens Communications reporting unit and our Nichols Construction reporting unit, respectively, as a result of our annual assessment of goodwill.
- (5) Includes the results of Broadband Installation Services (formerly Cable Express) (acquired September 2006) and certain operations of Cavo Communications (acquired March 2007) since their acquisition dates.
- (6) Includes the results of Prince Telecom Holdings (acquired December 2005) since its acquisition date. In addition, during fiscal 2006 we incurred a goodwill impairment charge of \$14.8 million related to our Can-Am Communications, Inc. reporting unit as the result of an interim impairment test of goodwill.
- (7) Includes stock based compensation expense of \$3.1 million, \$2.5 million, \$3.4 million, \$3.9 million, \$5.2 million, \$6.2 million, and \$4.7 million for the nine months ended April 30, 2011 and April 24, 2010, fiscal 2010, fiscal 2009, fiscal 2008, fiscal 2007 and fiscal 2006 respectively.
- (8) For the purposes of determining the ratio of earnings to fixed charges, earnings are defined as pretax income from operations plus fixed charges. Fixed charges consist of all interest expense, amortization of debt issuance costs and an estimate of the interest within rental expense. The ratio of earnings to fixed charges was less than one-to-one for fiscal 2009 and earnings were insufficient to cover fixed charges by \$76.4 million.

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THE EXCHANGE OFFER

Purpose and Effect of Exchange Offer; Registration Rights

We sold the unregistered notes to Goldman, Sachs & Co., Merrill Lynch, Pierce, Fenner & Smith Incorporated, BB&T Capital Markets, a division of Scott & Stringfellow, LLC, Morgan Keegan & Company, Inc., PNC Capital Markets LLC, RBS Securities Inc. and FBR Capital Markets & Co., as the initial purchasers, pursuant to a purchase agreement, dated January 11, 2011. The initial purchasers resold the unregistered notes in reliance on Rule 144A and Regulation S under the Securities Act. In connection with the sale of the unregistered notes, we entered into an exchange and registration rights agreement (the “registration rights agreement”) with the initial purchasers.

Under the registration rights agreement we agreed:

- (1) within 180 days after the date on which the unregistered notes were issued, to use all commercially reasonable efforts to file a registration statement with the SEC with respect to the exchange offer to exchange the unregistered notes for exchange notes of the Company identical in all material respects to the unregistered notes (except that the exchange notes will not contain terms with respect to transfer restrictions);
- (2) to use all commercially reasonable efforts to cause the registration statement to be declared effective under the Securities Act within 270 days after the date on which the unregistered notes were issued;
- (3) to use all commercially reasonable efforts to commence the exchange offer; and
- (4) to use all commercially reasonable efforts to keep the exchange offer open for not less than 20 days (or longer if required by applicable law) after the date notice of the exchange offer is mailed to the holders of the notes.

For each unregistered note validly tendered to us and not withdrawn pursuant to the exchange offer, we will issue to the holder of such unregistered note an exchange note having a principal amount equal to that of the surrendered unregistered note. Interest on each exchange note will accrue from the last interest payment date on which interest was paid on the unregistered note surrendered in exchange therefor, or, if no interest has been paid on such unregistered note, from the date of its original issue.

Under existing interpretations of the SEC staff, the exchange notes will be freely transferable by holders other than our affiliates after the exchange offer without further registration under the Securities Act if the holder of the exchange notes represents to us in the exchange offer that it is acquiring the exchange notes in the ordinary course of its business, that it has no arrangement or understanding with any person to participate in the distribution of the exchange notes and that it is not an affiliate of the Company, as such terms are interpreted by the SEC staff; provided, however, that broker-dealers receiving exchange notes in the exchange offer in exchange for unregistered notes that were acquired as a result of market-making or other trading activities will have a prospectus delivery requirement with respect to resales of such exchange notes. The SEC staff has taken the position that such participating broker-dealers may fulfill their prospectus delivery requirements with respect to such exchange notes with the prospectus contained in the registration statement.

Under the registration rights agreement, the Company is required to allow participating broker-dealers and other persons, if any, with similar prospectus delivery requirements to use the prospectus contained in the registration statement in connection with the resale of the exchange notes for 180 days following the effective date of such registration statement (or such shorter period during which Participating Broker-Dealers are required by law to deliver such prospectus).

The exchange offer is not being made to, nor will we accept tenders for exchange from, holders of unregistered notes in any jurisdiction in which the exchange offer or the acceptance of the exchange offer would not be in compliance with the securities laws or blue sky laws of such jurisdiction.

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If a holder is eligible to participate in this exchange offer and does not tender its unregistered notes as described in this prospectus, such holder will not have any further registration rights. In that case, the unregistered notes of such holder will continue to be subject to restrictions on transfer under the Securities Act.

### Shelf Registration

In the registration rights agreement, we agreed to file a shelf registration statement in certain circumstances, including if:

- (1) we are not required to file the exchange offer registration statement or applicable law or SEC policy do not permit us to effect such an exchange offer;
- (2) the effective time of the exchange offer registration statement is not within 270 days of the date on which the unregistered shares are issued and we do not consummate the exchange offer within 30 business days of such effective time; or
- (3) certain holders are prohibited by law or SEC policy from participating in the exchange offer or may not resell the exchange notes acquired by them in the exchange offer to the public without delivering a prospectus.

If a shelf registration is required, we will:

- (1) use all commercially reasonable efforts to file the shelf registration statement with the SEC covering resales of the unregistered notes or the exchange notes, as the case may be, on or prior to the later of 180 days after the date on which the unregistered notes were issued or 60 days after such filing obligation arises;
- (2) use all commercially reasonable efforts to cause the shelf registration statement to be declared effective under the Securities Act on or prior to the 270th day after the date such obligation arises; and
- (3) keep the shelf registration statement effective until the earliest of (A) one year after the shelf registration statement is declared effective and (B) the date on which all notes registered thereunder are disposed of in accordance therewith.

We will, in the event a shelf registration statement is filed, among other things, provide to each holder for whom such shelf registration statement was filed copies of the prospectus which is a part of the shelf registration statement, notify each such holder when the shelf registration statement has become effective and take certain other actions as are required to permit unrestricted resales of the unregistered notes or the exchange notes, as the case may be. A holder selling the unregistered notes or exchange notes pursuant to the shelf registration statement generally would be required to be named as a selling security holder in the related prospectus and to deliver a prospectus to purchasers, will be subject to certain of the civil liability provisions under the Securities Act in connection with such sales and will be bound by the provisions of the registration rights agreement that are applicable to such holder (including certain indemnification obligations).

We may require each holder requesting to be named as a selling security holder to furnish to us such information regarding the holder and the distribution of the unregistered notes or exchange notes by the holder as we may from time to time reasonably require for the inclusion of the holder in the shelf registration statement, including requiring the holder to properly complete and execute such selling security holder notice and questionnaires, and any amendments or supplements thereto, as we may reasonably deem necessary or appropriate. We may refuse to name any holder as a selling security holder that fails to provide us with such information.

### Additional Interest

We will pay additional cash interest on the unregistered notes, subject to certain exceptions,

- (1) if the we fail to file a registration statement with the SEC on or prior to the 180th day after the date on which the unregistered notes were issued,

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(2) if the registration statement is not declared effective by the SEC on or prior to the 270th day after the date on which the unregistered notes were issued or, if obligated to file a shelf registration statement, a shelf registration statement is not declared effective by the SEC on or prior to the 270th day after the date the obligation to file such shelf registration statement arises,

(3) if the exchange offer is not consummated on or before the 40th day after the registration statement is declared effective,

(4) if obligated to file the shelf registration statement, we fail to file the shelf registration statement with the SEC on or prior to the later of 180 days after the date on which the unregistered notes were issued or 60 days after such filing obligation arises, or

(5) after the registration statement or the shelf registration statement, as the case may be, is declared effective, such registration statement or shelf registration statement thereafter ceases to be effective or usable (subject to certain exceptions) (each such event referred to in the preceding clauses (1) through (6), a “registration default”);

from and including the date on which any such registration default shall occur to but excluding the date on which all registration defaults have been cured.

The rate of the additional interest will be 0.25% per annum for the first 90-day period immediately following the occurrence of a registration default, and such rate will increase by an additional 0.25% per annum with respect to each subsequent 90-day period until all registration defaults have been cured, up to a maximum additional interest rate of 1.0% per annum. We will pay such additional interest on regular interest payment dates. Such additional interest will be in addition to any other interest payable from time to time with respect to the unregistered notes and the exchange notes.

The exchange offer is intended to satisfy our exchange offer obligations under the registration rights agreement. The exchange notes issued upon consummation of the exchange offer will not confer rights to additional interest as set forth above. The above summary of the registration rights agreement is not complete and is subject to, and qualified by reference to, all the provisions of the registration rights agreement. A copy of the registration rights agreement is an exhibit to the registration statement that includes this prospectus.

### Terms of the Exchange Offer

Upon the terms and subject to the conditions set forth in this prospectus and in the accompanying letter of transmittal, we are offering to exchange \$1,000 principal amount of exchange notes for each \$1,000 principal amount of unregistered notes. You may tender some or all of your unregistered notes only in integral multiples of \$1,000. As of the date of this prospectus, \$187,500,000 aggregate principal amount of the unregistered notes are outstanding.

The terms of the exchange notes to be issued are substantially similar to the unregistered notes, except that the exchange notes will have been registered under the Securities Act and, therefore, the certificates for the exchange notes will not bear legends restricting their transfer. Holders of the exchange notes will not have registration rights and will not have rights to additional interest. The exchange notes will be issued under and be entitled to the benefits of the Indenture (as defined in “—Description of the Exchange Notes”).

In connection with the issuance of the unregistered notes, we arranged for the unregistered notes to be issued and transferable in book-entry form through the facilities of DTC, acting as a depository. The exchange notes will also be issuable and transferable in book-entry form through DTC.

There will be no fixed record date for determining the eligible holders of the unregistered notes that are entitled to participate in the exchange offer. We will be deemed to have accepted for exchange validly tendered unregistered notes when and if we have given oral (promptly confirmed in writing) or written notice of acceptance to the exchange agent. The exchange agent will act as agent for the tendering holders of unregistered notes for the purpose of receiving exchange notes from us and delivering them to such holders.

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If any tendered unregistered notes are not accepted for exchange because of an invalid tender or the occurrence of certain other events described herein, certificates for any such unaccepted unregistered notes will be returned, without expenses, to the tendering holder thereof promptly after the expiration of the exchange offer.

Holders of unregistered notes who tender in the exchange offer will not be required to pay brokerage commissions or fees or, subject to the instructions in the letter of transmittal, transfer taxes with respect to the exchange of unregistered notes for exchange notes pursuant to the exchange offer. We will pay all charges and expenses, other than certain applicable taxes, in connection with the exchange offer. It is important that you read the section “—Fees and Expenses” below for more details regarding fees and expenses incurred in the exchange offer.

Any unregistered notes which holders do not tender or which we do not accept in the exchange offer will remain outstanding and continue to accrue interest and will be subject to restrictions on transfer. We will not have any obligation to register such unregistered notes under the Securities Act. Holders wishing to transfer unregistered notes would have to rely on exemptions from the registration requirements of the Securities Act.

Conditions of the Exchange Offer

You must tender your unregistered notes in accordance with the requirements of this prospectus and the letter of transmittal in order to participate in the exchange offer. Notwithstanding any other provision of the exchange offer, or any extension of the exchange offer, we will not be required to accept for exchange any unregistered notes, and may amend or terminate the exchange offer if:

- the exchange offer, or the making of any exchange by a holder of unregistered notes, violates applicable law or any applicable interpretation of the staff of the SEC;

any action or proceeding shall have been instituted with respect to the exchange offer which, in our reasonable judgment, would impair our ability to proceed with the exchange offer; and

any laws, rules or regulations or applicable interpretations of the staff of the SEC have been issued or promulgated, which, in our good faith determination, does not permit us to effect the exchange offer.

Expiration Date; Extensions; Amendment; Termination

The exchange offer will expire 5:00 P.M., New York City time, on \_\_\_\_\_, 2011, unless we, in our sole discretion, extend it. In the case of any extension, we will notify the exchange agent in writing of any extension. We will also notify the registered holders of unregistered notes of the extension no later than 9:00 a.m., New York City time, on the business day after the previously scheduled expiration of the exchange offer.

To the extent we are legally permitted to do so, we expressly reserve the right, in our sole discretion, to:

- Delay accepting any unregistered note in the event that we extend the exchange offer;
- waive any condition of the exchange offer; and
- amend the terms of the exchange offer in any manner.

We will give written notice of any non-acceptance of the unregistered notes or of any amendment to the exchange offer to the registered holders of the unregistered notes promptly. If we consider an amendment to the exchange offer to be a material change, we will promptly inform the registered holders of unregistered notes of such amendment in a reasonable manner and will extend the exchange offer if necessary so that at least five business days remain in the offer period following notice of the material change.

If we determine, in our reasonable judgment, that any of the events or conditions described in “—Conditions of the Exchange Offer” has occurred, we may terminate the exchange offer. We may:

- refuse to accept any unregistered notes and return any unregistered notes that have been tendered to the holders;



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• extend the exchange offer and retain all unregistered notes tendered prior to the expiration of the exchange offer, subject to the rights of the holders of tendered unregistered notes to withdraw their tendered unregistered notes; or

• waive the termination event with respect to the exchange offer and accept all properly tendered unregistered notes that have not been withdrawn.

If any such waiver constitutes a material change in the exchange offer, we will disclose the change by means of a supplement to this prospectus which will be distributed to each registered holder of unregistered notes, and we will extend the exchange offer for a period of five to ten business days, depending upon the significance of the waiver and the manner of disclosure to the registered holders of the unregistered notes, if the exchange offer would otherwise expire during that period.

Any determination by us concerning the events described above will be final and binding upon the parties. Without limiting the manner by which we may choose to make public announcements of any extension, delay in acceptance, amendment or termination of the exchange offer, we will have no obligation to publish, advertise, or otherwise communicate any public announcement, other than by making a timely release to a financial news service.

Interest on the Exchange Notes

The exchange notes will accrue interest from and including January 21, 2011. Interest will be paid on the exchange notes semiannually on January 15 and July 15 of each year, commencing on July 15, 2011. Holders of unregistered notes that are accepted for exchange will be deemed to have waived the right to receive any payment in respect of interest accrued from the date on which the unregistered notes were issued until the date of the issuance of the exchange notes. Consequently, holders of exchange notes will receive the same interest payments that they would have received had they not accepted the exchange offer.

Resale of Exchange Notes

Based upon existing interpretations of the staff of the SEC set forth in several no-action letters issued to third parties unrelated to us, we believe that the exchange notes issued pursuant to the exchange offer in exchange for the unregistered notes may be offered for resale, resold and otherwise transferred by you without complying with the registration and prospectus delivery provisions of the Securities Act, provided that:

- any exchange notes to be received by you will be acquired in the ordinary course of your business;
- you are not engaged in, do not intend to engage in and have no arrangements or understandings with any person to participate in, the distribution of the unregistered notes or exchange notes;
- you are not an “affiliate” (as defined in Rule 405 under the Securities Act) of ours or, if you are such an affiliate, you will comply with the registration and prospectus delivery requirements of the Securities Act to the extent applicable;
- if you are a broker-dealer, you have not entered into any arrangement or understanding with us or any of our “affiliates” to distribute the exchange notes; and
- you are not acting on behalf of any person or entity that could not truthfully make these representations.

In addition, if you are a broker-dealer and you will receive exchange notes for your own account in exchange for unregistered notes that were acquired as a result of market-making activities or other trading activities, you will be required to acknowledge that you will deliver a prospectus in connection with any resale of the exchange notes.

If you wish to participate in the exchange offer, you will be required to make these representations to us in the letter of transmittal. If our belief is inaccurate and you transfer any exchange note without delivering a prospectus meeting the requirements of the Securities Act or without an exemption from registration under the

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Securities Act, you may incur liability under the Securities Act. We do not assume or indemnify you against such liability.

If you are a broker-dealer that receives exchange notes in exchange for unregistered notes held for your own account, as a result of market-making or other trading activities, you must acknowledge that you will deliver a prospectus in connection with any resale of the exchange notes. The letter of transmittal states that by so acknowledging and by delivering a prospectus, you will not be deemed to admit that you are an “underwriter” within the meaning of the Securities Act. The prospectus, as it may be amended or supplemented from time to time, may be used by any broker-dealers in connection with resales of exchange notes received in exchange for unregistered notes. We have agreed that, for a period of 180 days after the consummation of the exchange offer, we will make this prospectus and any amendment or supplement to this prospectus available to any such broker-dealer for use in connection with any resale.

Clearing of the Notes

Upon consummation of the exchange offer, the exchange notes will have different CUSIP and ISIN numbers from the unregistered notes.

Procedures for Tendering

The term “holder” with respect to the exchange offer means any person in whose name unregistered notes are registered on our agent’s books or any other person who has obtained a properly completed bond power from the registered holder, or any person whose unregistered notes are held of record by DTC who desires to deliver such unregistered notes by book-entry transfer at DTC.

Except in limited circumstances, only a DTC participant listed on a DTC securities position listing with respect to the unregistered notes may tender its unregistered notes in the exchange offer. To tender unregistered notes in the exchange offer, holders of unregistered notes that are DTC participants may follow the procedures for book-entry transfer as provided for below under “—Book-Entry Transfer” and in the letter of transmittal.

In addition:

- the exchange agent must receive any corresponding certificate or certificates representing unregistered notes along with the letter of transmittal;
- the exchange agent must receive, before expiration of the exchange offer, a timely confirmation of book-entry transfer of unregistered notes into the exchange agent’s account at DTC according to standard operating procedures for electronic tenders described below and a properly transmitted agent’s message described below; or
- the holder must comply with the guaranteed delivery procedures described below.

The tender by a holder of unregistered notes will constitute an agreement between such holder and us in accordance with the terms and subject to the conditions set forth in this prospectus and in the letter of transmittal. If less than all the unregistered notes held by a holder of unregistered notes are tendered, a tendering holder should fill in the amount of unregistered notes being tendered in the specified box on the letter of transmittal. The entire amount of unregistered notes delivered to the exchange agent will be deemed to have been tendered unless otherwise indicated.

The method of delivery of unregistered notes, the letter of transmittal and all other required documents or transmission of an agent’s message, as described under “—Book Entry Transfer,” to the exchange agent is at the election and risk of the holder. Instead of delivery by mail, we recommend that holders use an overnight or hand delivery service. In all cases, sufficient time should be allowed to assure timely delivery prior to the expiration of the exchange offer. No letter of transmittal or unregistered notes should be sent to us but must instead be delivered to the exchange agent. Delivery of documents to DTC in accordance with their procedures will not constitute delivery to the exchange agent.

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If you are a beneficial owner of unregistered notes that are registered in the name of a broker, dealer, commercial bank, trust company or other nominee and you wish to tender your unregistered notes, you should contact the registered holder promptly and instruct the registered holder to tender on your behalf. If you wish to tender on your own behalf, you must, prior to completing and executing the letter of transmittal and delivering your unregistered notes, either:

- Make appropriate arrangements to register ownership of the unregistered notes in your name; or
- obtain a properly completed bond power from the registered holder.

The transfer of record ownership may take considerable time and might not be completed prior to the expiration date.

Signatures on a letter of transmittal or a notice of withdrawal as described in “—Withdrawal of Tenders” below, as the case may be, must be guaranteed by a member firm of a registered national securities exchange or the Financial Industry Regulatory Authority, Inc., a commercial bank or trust company having an office or correspondent in the United States or an “eligible guarantor institution” within the meaning of Rule 17Ad-15 under the Exchange Act, unless the unregistered notes tendered pursuant thereto are tendered:

• by a registered holder who has not completed the box entitled “Special Registration Instructions” or “Special Delivery Instructions” in the letter of transmittal; or

- for the account of an eligible institution.

If the letter of transmittal is signed by a person other than the registered holder of any unregistered notes listed therein, the unregistered notes must be endorsed or accompanied by appropriate bond powers which authorize the person to tender the unregistered notes on behalf of the registered holder, in either case signed as the name of the registered holder or holders appears on the unregistered notes. If the letter of transmittal or any unregistered notes or bond powers are signed by trustees, executors, administrators, guardians, attorneys-in-fact, officers of corporations or others acting in a fiduciary or representative capacity, such persons should so indicate when signing and, unless waived by us, evidence satisfactory to us of their authority to so act must be submitted with the letter of transmittal.

We will determine in our sole discretion all the questions as to the validity, form, eligibility (including time of receipt), acceptance and withdrawal of the tendered unregistered notes. Our determinations will be final and binding. We reserve the absolute right to reject any and all unregistered notes not validly tendered or any unregistered notes the acceptance of which would, in the opinion of our counsel, be unlawful. We reserve the absolute right to waive any irregularities or conditions of tender as to particular unregistered notes. Our interpretation of the terms and conditions of the exchange offer (including the instructions in the letter of transmittal) will be final and binding on all parties. Unless waived, any defects or irregularities in connection with tenders of unregistered notes must be cured within such time as we will determine. Neither we, the exchange agent nor any other person shall be under any duty to give notification of defects or irregularities with respect to tenders of unregistered notes nor shall any of them incur any liability for failure to give such notification. Tendere of unregistered notes will not be deemed to have been made until such irregularities have been cured or waived. Any unregistered notes received by the exchange agent that are not properly tendered and as to which the defects or irregularities have not been cured or waived will be returned without cost by the exchange agent to the tendering holder of such unregistered notes, unless otherwise provided in the letter of transmittal, promptly following the expiration date of the exchange offer.

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In addition, we reserve the right in our sole discretion to (a) purchase or make offers for any unregistered notes that remain outstanding subsequent to the expiration date, and (b) to the extent permitted by applicable law, purchase unregistered notes in the open market, in privately negotiated transactions or otherwise. The terms of any such purchases or offers may differ from the terms of the exchange offer.

#### Book-Entry Transfer

We understand that the exchange agent will make a request promptly after the date of this document to establish an account with respect to the unregistered notes at DTC for the purpose of facilitating the exchange offer. Any financial institution that is a participant in DTC's system may make book-entry delivery of unregistered notes by causing DTC to transfer such unregistered notes into the exchange agent's DTC account in accordance with DTC's Automated Tender Offer Program procedures for such transfer. The exchange for tendered unregistered notes will only be made after a timely confirmation of a book-entry transfer of the unregistered notes into the exchange agent's account at DTC, and timely receipt by the exchange agent of an agent's message.

The term "agent's message" means a message, transmitted by DTC and received by the exchange agent and forming part of the confirmation of a book-entry transfer, which states that DTC, has received an express acknowledgment from a participant tendering unregistered notes and that such participant has received an appropriate letter of transmittal and agrees to be bound by the terms of the letter of transmittal, and we may enforce such agreement against the participant. Delivery of an agent's message will also constitute an acknowledgment from the tendering DTC participant that the representations contained in the appropriate letter of transmittal and described above are true and correct.

#### Guaranteed Delivery Procedures

Holders who wish to tender their unregistered notes and (i) whose unregistered notes are not immediately available, or (ii) who cannot deliver their unregistered notes, the letter of transmittal, or any other required documents to the exchange agent prior to the expiration date, or if such holder cannot complete DTC's standard operating procedures for electronic tenders before expiration of the exchange offer, may tender their unregistered notes if:

- the tender is made through an eligible institution;
- before expiration of the exchange offer, the exchange agent receives from the eligible institution either a properly completed and duly executed notice of guaranteed delivery in the form accompanying this prospectus, by facsimile transmission, mail or hand delivery, or a properly transmitted agent's message in lieu of notice of guaranteed delivery:

setting forth the name and address of the holder and the registered number(s), the certificate number or numbers of the unregistered notes tendered and the principal amount of unregistered notes tendered;

- stating that the tender offer is being made by guaranteed delivery; and

guaranteeing that, within three (3) business days after expiration of the exchange offer, the letter of transmittal, or facsimile of the letter of transmittal, together with the unregistered notes tendered and any other documents required by the letter of transmittal or, alternatively, a book-entry confirmation will be deposited by the eligible institution with the exchange agent; and

the exchange agent receives the properly completed and executed letter of transmittal, or facsimile of the letter of transmittal, as well as all tendered unregistered notes in proper form for transfer and all other documents required by the letter of transmittal or, alternatively, a book-entry confirmation, within three (3) business days after expiration of the exchange offer.

Upon request to the exchange agent, a notice of guaranteed delivery will be sent to holders who wish to tender their unregistered notes according to the guaranteed delivery procedures set forth above.

#### Withdrawal of Tenders

Except as otherwise provided herein, tenders of unregistered notes may be withdrawn at any time prior to 5:00 P.M., New York City time, on , 2011, the expiration date of the exchange offer.



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For a withdrawal to be effective:

• the exchange agent must receive a written notice, which may be by telegram, telex, facsimile transmission or letter, of withdrawal at the address set forth below under “Exchange Agent”; or

• for DTC participants, holders must comply with their respective standard operating procedures for electronic tenders and the exchange agent must receive an electronic notice of withdrawal from DTC.

Any notice of withdrawal must:

- specify the name of the person who tendered the unregistered notes to be withdrawn;

• identify the unregistered notes to be withdrawn, including the certificate number or numbers and principal amount of the unregistered notes to be withdrawn;

• be signed by the person who tendered the unregistered notes in the same manner as the original signature on the letter of transmittal, including any required signature guarantees; and

• specify the name in which the unregistered notes are to be re-registered, if different from that of the withdrawing holder.

If unregistered notes have been tendered pursuant to the procedure for book-entry transfer described above, any notice of withdrawal must specify the name and number of the account at DTC to be credited with the withdrawn unregistered notes and otherwise comply with the procedures of the facility. We will determine all questions as to the validity, form and eligibility (including time of receipt) for such withdrawal notices, and our determination shall be final and binding on all parties. Any unregistered notes so withdrawn will be deemed not to have been validly tendered for purposes of the exchange offer, and no exchange notes will be issued with respect thereto unless the unregistered notes so withdrawn are validly re-tendered. Any unregistered notes which have been tendered but which are not accepted for exchange will be returned to the holder without cost to such holder promptly after withdrawal. Properly withdrawn unregistered notes may be re-tendered by following the procedures described above under “Procedures for Tendering” at any time prior to the expiration date.

### Consequences of Failure to Exchange

If you do not tender your unregistered notes to be exchanged in this exchange offer, they will remain “restricted securities” within the meaning of Rule 144(a)(3) of the Securities Act.

Accordingly, they:

• may be resold only if (i) registered pursuant to the Securities Act, (ii) an exemption from registration is available or (iii) neither registration nor an exemption is required by law; and

- shall continue to bear a legend restricting transfer in the absence of registration or an exemption therefrom.

As a result of the restrictions on transfer and the availability of the exchange notes, the unregistered notes are likely to be much less liquid than before the exchange offer.

### Exchange Agent

U.S. Bank National Association has been appointed as the exchange agent for the exchange of the unregistered notes. Questions and requests for assistance relating to the exchange of the unregistered notes should be directed to the exchange agent addressed as follows:

By Facsimile:

(651) 495-8158  
Confirm by Telephone:  
(800) 934-6802

By Registered or Certified Mail:

U.S. Bank National Association  
Corporate Trust Services  
Attention: Specialized Finance  
60 Livingston Avenue  
St. Paul, Minnesota 55107

By Hand/Overnight Delivery:

U.S. Bank National Association  
Corporate Trust Services  
Attention: Specialized Finance  
60 Livingston Avenue  
St. Paul, Minnesota 55107



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Fees and Expenses

We will bear the expenses of soliciting tenders pursuant to the exchange offer. The principal solicitation for tenders pursuant to the exchange offer is being made by mail. Additional solicitations may be made by our officers and regular employees and our affiliates in person, by telegraph or telephone.

We will not make any payments to brokers, dealers or other persons soliciting acceptances of the exchange offer. We, however, will pay the exchange agent reasonable and customary fees for its services and will reimburse the exchange agent for its related reasonable out-of-pocket expenses and accounting and legal fees. We may also pay brokerage houses and other custodians, nominees and fiduciaries the reasonable out-of-pocket expenses incurred by them in forwarding copies of this prospectus, letters of transmittal and related documents to the beneficial owners of the unregistered notes and in handling or forwarding tenders for exchange.

We will pay all transfer taxes, if any, applicable to the exchange of unregistered notes pursuant to the exchange offer. The tendering holder, however, will be required to pay any transfer taxes, whether imposed on the registered holder or any other person, if:

• certificates representing exchange notes or unregistered notes for principal amounts not tendered or accepted for exchange are to be delivered to, or are to be registered or issued in the name of, any person other than the registered holder of unregistered notes tendered;

• tendered unregistered notes are registered in the name of any person other than the person signing the letter of transmittal; or

- a transfer tax is imposed for any reason other than the exchange of unregistered notes under the exchange offer.

If satisfactory evidence of payment of such taxes or exemption therefrom is not submitted with the letter of transmittal, the amount of such transfer taxes will be billed directly to such tendering holder.



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DESCRIPTION OF THE EXCHANGE NOTES

You can find the definitions of certain terms used in this description under the subheading “Certain Definitions.” In this description, the word “Issuer” refers only to Dycom Investments, Inc. and not to any of its subsidiaries, and the word “Holdings” refers only to Dycom Industries, Inc. and not to any of its subsidiaries. For purposes of this description, the exchange notes, any unregistered notes that are outstanding after the exchange offer is completed and any additional notes, will be generally referred to as the “notes,” unless the context otherwise requires.

The Issuer will issue the notes under an indenture, dated as of January 21, 2011, among the Issuer, the Guarantors and U.S. Bank National Association, as trustee. The terms of the notes include those stated in the indenture and those made part of the indenture by reference to the Trust Indenture Act of 1939, as amended.

The following description is a summary of the material provisions of the indenture. It does not restate those agreement in its entirety. We urge you to read the indenture because it, and not this description, define your rights as holders of the notes. Copies of the indenture are available as set forth below under “—Additional Information.” Certain defined terms used in this description but not defined below under “—Certain Definitions” have the meanings assigned to them in the indenture.

The registered holder of a note will be treated as the owner of it for all purposes. Only registered holders will have rights under the indenture.

General

The notes:

- will be general unsecured obligations of the Issuer;
- will be subordinated in right of payment to all Indebtedness under the Credit Agreement and all other existing and future Senior Debt of the Issuer;
  - will be pari passu in right of payment with any future senior subordinated Indebtedness of the Issuer; and
- will be unconditionally guaranteed by the Guarantors.

The notes will be jointly and severally guaranteed by Holdings and each of its existing and future Domestic Subsidiaries, other than the Issuer, that guarantee any Credit Facility.

Each guarantee of the notes:

- will be a general unsecured obligation of the Guarantor;
- will be subordinated in right of payment to all Indebtedness under the Credit Agreement and all other existing and future Senior Debt of that Guarantor; and
  - will be pari passu in right of payment with any future senior subordinated Indebtedness of that Guarantor.

As of April 30, 2011, after giving effect to this exchange offer, the Issuer and the Guarantors would have had approximately \$188.0 million of indebtedness outstanding, of which none would have been Senior Debt. In addition, we would have had \$225.0 million of undrawn commitments under our Credit Agreement, of which approximately \$127.8 million would have been available for borrowing due to financial covenants and other restrictions contained in the Credit Agreement and after taking into account approximately \$37.8 million of outstanding letters of credit. As indicated above and as discussed in detail below under the caption “—Subordination,” payments on the notes and under these guarantees will be subordinated to the payment of Senior Debt. The indenture will permit us and the Guarantors to incur additional Senior Debt.

Not all of our Subsidiaries will guarantee the notes. In the event of a bankruptcy, liquidation or reorganization of any of these non-guarantor Subsidiaries, the non-guarantor Subsidiaries will pay the holders of their debt and their trade creditors before they will be able to distribute any of their assets to us. The guarantor Subsidiaries generated approximately 99.1% of our consolidated revenues in fiscal 2010 and, together with Holdings, held approximately 96.6% of our consolidated assets as of April 30, 2011. See note 20 to our audited consolidated financial statements included in our Annual Report on Form 10-K for the fiscal year ended July 31, 2010, which is



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incorporated by reference in this prospectus for more detail about the division of its consolidated revenues and assets between the guarantor and non-guarantor Subsidiaries.

Substantially all of the operations of Holdings is conducted through its Subsidiaries and, therefore, Holdings and the Issuer depend on the cash flow of Holdings' Subsidiaries to meet their obligations, including their obligations under the notes. The notes will be effectively subordinated in right of payment to all Indebtedness and other liabilities and commitments (including trade payables and lease obligations) of Holdings' Subsidiaries. Any right of Holdings to receive assets of any of its Subsidiaries upon the Subsidiary's liquidation or reorganization (and the consequent right of the holders of the notes to participate in those assets) will be effectively subordinated to the claims of that Subsidiary's creditors, except to the extent that Holdings is itself recognized as a creditor of the Subsidiary, in which case the claims of Holdings would still be subordinate in right of payment to any security in the assets of the Subsidiary and any Indebtedness of the Subsidiary senior to that held by Holdings. As of April 30, 2011, the Subsidiaries of Holdings that will not have guaranteed the notes had no Indebtedness and \$0.5 million of trade payables. See "Risk Factors—Your right to receive payments on the notes is junior to our existing indebtedness and possibly all of our future borrowings. Further, the guarantees of the notes are junior to all of our guarantors' existing indebtedness and possibly to all their future borrowings."

As of the date of the indenture, all of Holdings' Subsidiaries were "Restricted Subsidiaries." However, under the circumstances described below under the caption "—Certain Covenants—Designation of Restricted and Unrestricted Subsidiaries," Holdings will be permitted to designate certain of its Subsidiaries as "Unrestricted Subsidiaries." Holdings' Unrestricted Subsidiaries will not be subject to the restrictive covenants in the indenture. Holdings' Unrestricted Subsidiaries will not guarantee the notes.

Principal, Maturity and Interest

The Issuer will issue up to \$187.5 million in aggregate principal amount of notes in the exchange offer. The Issuer may issue additional notes under the indenture from time to time after this exchange offer. Any issuance of additional notes is subject to all of the covenants in the indenture, including the covenant described below under the caption "—Certain Covenants—Incurrence of Indebtedness and Issuance of Preferred Stock." The notes and any additional notes subsequently issued under the indenture will be treated as a single class for all purposes under the indenture, including, without limitation, waivers, amendments, redemptions and offers to purchase. The Issuer will issue notes in a minimum amount of \$2,000 and integral multiples of \$1,000. The notes will mature on January 15, 2021.

Interest on the notes will accrue at the rate of 7.125% per annum and will be payable semiannually in arrears on January 15 and July 15, commencing on July 15, 2011. The Issuer will make each interest payment to the holders of record on the immediately preceding January 1 and July 1.

Interest on the notes will accrue from the date of original issuance or, if interest has already been paid, from the date it was most recently paid. Interest will be computed on the basis of a 360-day year comprised of twelve 30-day months.

Methods of Receiving Payments on the Notes

If a holder of notes has given wire transfer instructions to the Issuer, the Issuer will pay all principal, interest and premium, if any, on that holder's notes in accordance with those instructions. All other payments on the notes will be made at the office or agency of the paying agent and registrar within The City and State of New York unless the Issuer elects to make interest payments by check mailed to the noteholders at their address set forth in the register of holders.

Paying Agent and Registrar for the Notes

The trustee will initially act as paying agent and registrar. The Issuer may change the paying agent or registrar without prior notice to the holders of the notes, and Holdings, the Issuer or any of its Subsidiaries may act as paying agent or registrar.

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Transfer and Exchange

A holder may transfer or exchange notes in accordance with the provisions of the indenture. The registrar and the trustee may require a holder, among other things, to furnish appropriate endorsements and transfer documents in connection with a transfer of notes. Holders will be required to pay all taxes due on transfer. The Issuer will not be required to transfer or exchange any note selected for redemption. Also, the Issuer will not be required to transfer or exchange any note for a period of 15 days before a selection of notes to be redeemed.

Note Guarantees

The notes will be fully and unconditionally guaranteed by each of Holdings and each of its current and future Domestic Subsidiaries (other than the Issuer) that guarantee any Credit Facility. These Note Guarantees will be joint and several obligations of the Guarantors. Each Note Guarantee will be subordinated to the prior payment in full in cash or Cash Equivalents of all Indebtedness under the Credit Agreement and all other Senior Debt of that Guarantor. The obligations of each Guarantor under its Note Guarantee will be limited as necessary to prevent that Note Guarantee from constituting a fraudulent conveyance under applicable law. We cannot assure you that this limitation will protect the Note Guarantees from fraudulent conveyance or fraudulent transfer challenges or, if it does, that the remaining amount due and collectible under the Note Guarantees would suffice, if necessary, to pay the notes in full when due. In a Florida bankruptcy case, this kind of provision was found to be unenforceable and, as a result, the subsidiary guarantees in that case were found to be fraudulent conveyances. We do not know if that case will be followed if there is litigation relating to the validity and/or enforceability of the note guarantees under the indenture. However, if it is followed, the risk that the Note Guarantees will be found to be fraudulent conveyances will be significantly increased. See “Risk Factors—A guarantee could be voided if the guarantor fraudulently transferred the guarantee at the time it incurred the indebtedness, which could result in the noteholders being able to rely only on us to satisfy claims.”

A Guarantor may not sell or otherwise dispose of all or substantially all of its assets to, or consolidate with or merge with or into (whether or not such Guarantor is the surviving Person) another Person, other than the Issuer or another Guarantor, unless:

(1) immediately after giving effect to that transaction, no Default or Event of Default exists; and

(2) either:

(a) the Person acquiring the property in any such sale or disposition or the Person formed by or surviving any such consolidation or merger (if other than the Guarantor) assumes all the obligations of that Guarantor under the indenture and its Note Guarantee pursuant to a supplemental indenture satisfactory to the trustee; or

(b) such sale or other disposition or merger does not violate the covenant described under “Repurchase at the Option of Holders—Asset Sales”.

The Note Guarantee of a Guarantor will be automatically and unconditionally released:

(1) in connection with any sale or other disposition of all or substantially all of the assets of that Guarantor (including by way of merger or consolidation) to a Person that is not (either before or after giving effect to such transaction) Holdings, the Issuer or a Restricted Subsidiary of Holdings, if such sale or other disposition does not violate the “Asset Sale” provisions of the indenture;

(2) in connection with any sale or other disposition of the Capital Stock of that Guarantor (including by way of merger or consolidation) after which such Guarantor would no longer be a Restricted Subsidiary of Holdings, if such sale or other disposition does not violate the “Asset Sale” provisions of the indenture;

(3) if Holdings designates any Restricted Subsidiary that is a Guarantor to be an Unrestricted Subsidiary in accordance with the applicable provisions of the indenture;

(4) upon legal defeasance, covenant defeasance or satisfaction and discharge of the notes as provided below under the captions “—Legal Defeasance and Covenant Defeasance” and “—Satisfaction and Discharge”; or

(5) upon the release of such Guarantor of all of its guarantees of any Credit Facility, including any Note Guarantee created pursuant to the “Additional Note Guarantees” provisions of the indenture.

See “—Repurchase at the Option of Holders—Asset Sales.”

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Subordination

The payment of principal, interest and premium, if any, and other payment obligations on or with respect to, the notes (including any obligations to repurchase the notes) will be subordinated to the prior payment in full in cash or Cash Equivalents of all Senior Debt, including Senior Debt incurred after the date of the indenture.

The holders of Senior Debt will be entitled to receive payment in full of all Obligations due in respect of Senior Debt (including interest after the commencement of any bankruptcy proceeding at the rate specified in the applicable Senior Debt) before the holders of notes will be entitled to receive any payment with respect to the notes (except that holders of notes may receive and retain Permitted Junior Securities and payments made from either of the trusts described under “—Legal Defeasance and Covenant Defeasance” and “—Satisfaction and Discharge”), in the event of any distribution to creditors of the Issuer:

- (1) in a liquidation or dissolution of the Issuer;
- (2) in a voluntary or involuntary bankruptcy, reorganization, insolvency, receivership or similar proceeding relating to the Issuer or its property;
- (3) in an assignment for the benefit of creditors; or
- (4) in any marshaling of the Issuer’s assets and liabilities.

The Issuer also may not make any payment in respect of the notes (except in Permitted Junior Securities or from the trusts described under “—Legal Defeasance and Covenant Defeasance” and “Satisfaction and Discharge”) if:

- (1) a payment default on Designated Senior Debt occurs and is continuing beyond any applicable grace period; or
- (2) any other default (a “nonpayment default”) occurs and is continuing on any series of Designated Senior Debt that permits holders of that series of Designated Senior Debt to accelerate its maturity, and the trustee receives a notice of such default (a “Payment Blockage Notice”) from the Issuer or (a) with respect to Designated Senior Debt arising under the Credit Agreement, the agent for the lenders thereunder or (b) with respect to any other Designated Senior Debt, a representative of the holders of such Designated Senior Debt.

Payments on the notes may and will be resumed:

- (1) in the case of a payment default on Designated Senior Debt, upon the date on which such default is cured or waived; and
- (2) in the case of a nonpayment default on Designated Senior Debt, upon the earlier of (x) the date on which such nonpayment default is cured or waived, (y) 179 days after the date on which the applicable Payment Blockage Notice is received or (z) the date the Trustee receives notice from the representative for the Designated Senior Debt rescinding such Payment Blockage Notice, unless the maturity of any such Designated Senior Debt has then been accelerated.

No new Payment Blockage Notice may be delivered unless and until:

- (1) 360 days have elapsed since the delivery of the immediately prior Payment Blockage Notice; and
- (2) all scheduled payments of principal, interest and premium, if any, on the notes that have come due have been paid in full in cash or Cash Equivalents.

No nonpayment default that existed or was continuing on the date of delivery of any Payment Blockage Notice to the trustee will be, or be made, the basis for a subsequent Payment Blockage Notice unless such default has been cured or waived for a period of not less than 90 days.

If the trustee or any holder of the notes receives a payment in respect of the notes (except in Permitted Junior Securities or from the trusts described under “—Legal Defeasance and Covenant Defeasance” and “Satisfaction and Discharge”) when:

- (1) the payment is prohibited by these subordination provisions; and

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(2) the trustee or the holder has actual knowledge that the payment is prohibited;

the trustee or the holder, as the case may be, will hold the payment in trust for the benefit of the holders of Senior Debt. Upon the proper written request of the holders of Senior Debt, the trustee or the holder, as the case may be, will deliver the amounts in trust to the holders of Senior Debt or their proper representative.

The Issuer must promptly notify holders of Senior Debt if payment of the notes is accelerated because of an Event of Default.

As a result of the subordination provisions described above, in the event of a bankruptcy, liquidation or reorganization of the Issuer, holders of notes may recover less ratably than creditors of the Issuer or the Guarantors who are holders of Senior Debt. As a result of the obligation to deliver amounts received in trust to holders of Senior Debt, holders of notes may recover less ratably than trade creditors of the Issuer or the Guarantors. See “Risk Factors—Your right to receive payments on the notes is junior to our existing indebtedness and possibly all of our future borrowings. Further, the guarantees of the notes are junior to all of our guarantors’ existing indebtedness and possibly to all their future borrowings.”

Optional Redemption

At any time on or prior to January 15, 2014, the Issuer may on one or more occasions redeem up to 35% of the aggregate principal amount of notes issued under the indenture (including any additional notes) at a redemption price of 107.125% of their principal amount, plus accrued and unpaid interest to the redemption date, with the net cash proceeds of one or more Equity Offerings; provided that:

(1) at least 65% of the aggregate principal amount of notes issued under the indenture (including any additional notes but excluding notes held by Holdings and its Subsidiaries) remains outstanding immediately after the occurrence of such redemption; and

(2) the redemption occurs within 90 days of the date of the closing of each such Equity Offering.

At any time prior to January 15, 2016, the Issuer may also redeem all or a part of the notes, upon not less than 30 nor more than 60 days’ prior notice mailed by first-class mail to each holder’s registered address, at a redemption price equal to 100% of the principal amount of notes redeemed plus the Applicable Premium as of, and accrued and unpaid interest to the date of redemption (the “Redemption Date”), subject to the rights of holders of notes on the relevant record date to receive interest due on the relevant interest payment date.

Except pursuant to the two preceding paragraphs, the notes will not be redeemable at the Issuer’s option prior to January 15, 2016.

On or after January 15, 2016, at any time or from time to time, the Issuer may redeem all or a part of the notes upon not less than 30 nor more than 60 days’ notice, at the redemption prices (expressed as percentages of principal amount) set forth below plus accrued and unpaid interest on the notes redeemed, to the applicable redemption date, if redeemed during the twelve-month period beginning on January 15 of the years indicated below, subject to the rights of holders of notes on the relevant record date to receive accrued and unpaid interest on the relevant interest payment date:

Year	Percentage
2016	103.563 %
2017	102.375 %
2018	101.188 %
2019 and thereafter	100.000 %

Unless the Issuer defaults in the payment of the redemption price, interest will cease to accrue on the notes or portions thereof called for redemption on the applicable redemption date.

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Mandatory Redemption

The Issuer is not required to make mandatory redemption or sinking fund payments with respect to the notes.

Repurchase at the Option of Holders

Change of Control

If a Change of Control occurs, each holder of notes will have the right to require the Issuer to repurchase all or any part (equal to \$1,000 or an integral multiple of \$1,000 in excess thereof) of that holder's notes pursuant to a Change of Control Offer on the terms set forth in the indenture. In the Change of Control Offer, the Issuer will offer a Change of Control Payment in cash equal to 101% of the aggregate principal amount of notes repurchased plus accrued and unpaid interest on the notes repurchased to the date of purchase, subject to the rights of noteholders on the relevant record date to receive accrued and unpaid interest due on the relevant interest payment date. Within 30 days following any Change of Control, the Issuer will mail a notice to each holder describing the transaction or transactions that constitute the Change of Control and offering to repurchase notes on the Change of Control Payment Date specified in the notice, which date will be no earlier than 30 days and no later than 60 days from the date such notice is mailed, pursuant to the procedures required by the indenture and described in such notice. The Issuer will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent those laws and regulations are applicable in connection with the repurchase of the notes as a result of a Change of Control. To the extent that the provisions of any securities laws or regulations conflict with the Change of Control provisions of the indenture, the Issuer will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under the Change of Control provisions of the indenture by virtue of such compliance.

On the Change of Control Payment Date, the Issuer will, to the extent lawful:

- (1) accept for payment all notes or portions of notes properly tendered pursuant to the Change of Control Offer;
- (2) deposit with the paying agent an amount equal to the Change of Control Payment in respect of all notes or portions of notes properly tendered; and
- (3) deliver or cause to be delivered to the trustee the notes properly accepted together with an officers' certificate stating the aggregate principal amount of notes or portions of notes being purchased by the Issuer.

The paying agent will promptly mail to each holder of notes properly tendered the Change of Control Payment for such notes, and the trustee will promptly authenticate and mail (or cause to be transferred by book entry) to each holder a new note equal in principal amount to any unpurchased portion of the notes surrendered, if any; provided that each such new note will have a minimum amount of \$2,000 and integral multiples of \$1,000 in excess thereof. The Issuer will publicly announce the results of the Change of Control Offer on or as soon as practicable after the Change of Control Payment Date.

Prior to complying with any of the provisions of this "Change of Control" covenant, but in any event within 90 days following a Change of Control, the Issuer and the Guarantors will either repay all outstanding Senior Debt or obtain the requisite consents, if any, under all agreements governing outstanding Senior Debt to permit the repurchase of notes required by this covenant.

The Credit Agreement currently prohibits the Issuer and the Guarantors from purchasing any notes, and also provides that certain change of control events with respect to Holdings would constitute a default under the Credit Agreement. Any future credit agreements or other agreements relating to Senior Debt to which the Issuer or the Guarantors become parties may contain similar restrictions and provisions. If a Change of Control occurs at a time when the Issuer and the Guarantors are prohibited from purchasing notes, the Issuer and the Guarantors could seek the consent of their senior lenders to the purchase of notes or could attempt to refinance the borrowings that contain such prohibition. If the Issuer and the Guarantors do not obtain such a consent or repay such borrowings, the Issuer and the Guarantors will remain prohibited from purchasing notes. In such case, the Issuer's and the Guarantors' failure to purchase tendered notes would constitute an Event of Default under the indenture which would, in turn, constitute a default under such Senior Debt. In such circumstances, the subordination provisions in the indenture would likely restrict payments to the holders of notes.



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The provisions described above that require the Issuer to make a Change of Control Offer following a Change of Control will be applicable whether or not any other provisions of the indenture are applicable. Except as described above with respect to a Change of Control, the indenture does not contain provisions that permit the holders of the notes to require that the Issuer repurchase or redeem the notes in the event of a takeover, recapitalization or similar transaction.

The Issuer will not be required to make a Change of Control Offer upon a Change of Control if (1) a third party makes the Change of Control Offer in the manner, at the times and otherwise in compliance with the requirements set forth in the indenture applicable to a Change of Control Offer made by the Issuer and purchases all notes properly tendered and not withdrawn under the Change of Control Offer, or (2) notice of redemption has been given pursuant to the indenture as described above under the caption “—Optional Redemption,” unless and until there is a default in payment of the applicable redemption price. A Change of Control Offer may be made in advance of a Change of Control, conditional upon such Change of Control, if a definitive agreement is in place for the Change of Control at the time of making of the Change of Control Offer.

The definition of Change of Control includes a phrase relating to the direct or indirect sale, lease, transfer, conveyance or other disposition of “all or substantially all” of the properties or assets of Holdings and its Subsidiaries, taken as a whole. Although there is a limited body of case law interpreting the phrase “substantially all,” there is no established precise definition of the phrase under applicable law. Accordingly, the ability of a holder of notes to require the Issuer to repurchase its notes as a result of a sale, lease, transfer, conveyance or other disposition of less than all of the assets of Holdings and its Subsidiaries taken as a whole to another Person or group may be uncertain.

Asset Sales

Holdings will not, and will not permit any of its Restricted Subsidiaries to, consummate an Asset Sale unless:

(1) Holdings (or the Restricted Subsidiary, as the case may be) receives consideration at the time of the Asset Sale at least equal to the Fair Market Value of the assets or Equity Interests issued or sold or otherwise disposed of; and

(2) at least 75% of the consideration received in the Asset Sale by Holdings or such Restricted Subsidiary is in the form of cash, Cash Equivalents or Replacement Assets. For purposes of this provision, each of the following will be deemed to be cash:

(a) any liabilities, as shown on Holdings’ most recent consolidated balance sheet, of Holdings or any Restricted Subsidiary (other than contingent liabilities and liabilities that are by their terms subordinated to the notes or any Note Guarantee) that are assumed by the transferee of any such assets or Equity Interests pursuant to a customary novation agreement or transfer agreement that releases Holdings or such Restricted Subsidiary from such liabilities or by operation of law or against which the transferee has granted a full indemnity to Holdings or such Restricted Subsidiary;

(b) any securities, notes or other obligations received by Holdings or any such Restricted Subsidiary from such transferee that are converted by Holdings or such Restricted Subsidiary into Cash Equivalents within 180 days after the date of such Asset Sale (to the extent of the Cash Equivalents received in that conversion); and

(c) any Designated Non-Cash Consideration received by Holdings or any of its Restricted Subsidiaries in such Asset Sale having an aggregated Fair Market Value, taken together with all other Designated Non-Cash consideration received pursuant to this clause (c) that is at that time outstanding, not to exceed the greater of (x) 5.0% of Holdings’ Consolidated Net Assets as of the date or receipt of such Designated Non-Cash Consideration and (y) \$30.0 million (with the Fair Market Value of each item of Designated Non-Cash Consideration being measured at the time received and without giving effect to subsequent changes in value).

Within 365 days after the receipt of any Net Proceeds from an Asset Sale, Holdings (or the applicable Restricted Subsidiary, as the case may be) may apply such Net Proceeds at its option:

(1) to repay Senior Debt or Indebtedness of a Restricted Subsidiary of Holdings that is not a Guarantor;

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(2) to acquire all or substantially all of the assets of, or any Capital Stock of, another Permitted Business, if, after giving effect to any such acquisition of Capital Stock, the Permitted Business is or becomes a Restricted Subsidiary of Holdings; provided that (x) a binding agreement to acquire such assets or Capital Stock entered into prior to the 365th day after such Asset Sale will satisfy the foregoing requirements so long as such acquisition is consummated no later than the later of (i) the 365th day after such Asset Sale and (ii) 180 days after the date of such binding agreement and (y) if such acquisition is not consummated within the period set forth in the preceding subclause (x), the Net Proceeds will be deemed to be Excess Proceeds (as defined below);

(3) to make capital expenditures;

(4) to acquire other assets that are not classified as current assets under GAAP and that are used or useful in a Permitted Business provided that (x) a binding agreement to acquire such assets entered into prior to the 365th day after such Asset Sale will satisfy the foregoing requirements so long as such acquisition is consummated no later than the later of (i) the 365th day after such Asset Sale and (ii) 180 days after the date of such binding agreement and (y) if such acquisition is not consummated within the period set forth in the preceding subclause (x), the Net Proceeds will be deemed to be Excess Proceeds); or

(5) make an Asset Sale Offer as described below.

Pending the final application of any Net Proceeds, Holdings may temporarily reduce revolving credit borrowings or otherwise invest the Net Proceeds in any manner that is not prohibited by the indenture.

Any Net Proceeds from Asset Sales that are not applied or invested as provided in the second paragraph of this covenant will constitute "Excess Proceeds." When the aggregate amount of Excess Proceeds exceeds \$20.0 million, within 30 days thereof the Issuer will make an Asset Sale Offer to all holders of notes and all holders of other Indebtedness that is pari passu with the notes or any Note Guarantee (other than a Note Guarantee by Holdings) containing provisions similar to those set forth in the indenture with respect to offers to purchase or redeem with the proceeds of sales of assets to purchase the maximum principal amount of notes and such other pari passu Indebtedness that may be purchased using the Excess Proceeds. The offer price in any Asset Sale Offer will be equal to 100% of the principal amount of the notes and such other pari passu Indebtedness plus accrued and unpaid interest to but not including the date of purchase, and will be payable in cash. If any Excess Proceeds remain after consummation of an Asset Sale Offer, Holdings may use those Excess Proceeds for any purpose not otherwise prohibited by the indenture. If the aggregate principal amount of notes and other pari passu Indebtedness tendered into such Asset Sale Offer exceeds the amount of Excess Proceeds, the trustee will select the notes and such other pari passu Indebtedness to be purchased on a pro rata basis. Upon completion of each Asset Sale Offer, the amount of Excess Proceeds will be reset at zero.

The Issuer will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent those laws and regulations are applicable in connection with each repurchase of notes pursuant to an Asset Sale Offer. To the extent that the provisions of any securities laws or regulations conflict with the Asset Sale provisions of the indenture, the Issuer will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under the Asset Sale provisions of the indenture by virtue of such compliance.

The Credit Agreement currently restricts the Issuer and the Guarantors from purchasing any notes, and also provides that certain asset sale events with respect to the Issuer and the Guarantors would constitute a default under these agreements. Any future Credit Facilities or other agreements relating to Senior Debt to which the Issuer and the Guarantors become parties may contain similar restrictions and provisions. In the event an Asset Sale occurs at a time when the Issuer and the Guarantors are prohibited from purchasing notes, the Issuer and the Guarantors may seek the consent of its senior lenders to the purchase of notes or attempt to refinance the borrowings that contain such prohibition. If the Issuer and the Guarantors do not obtain such a consent or repay such borrowings, they will remain prohibited from purchasing notes. In such case, the Issuer and the Guarantors' failure to purchase tendered notes would constitute an Event of Default under the indenture which would, in turn, constitute a default under such Senior Debt. In such circumstances, the subordination provisions in the indenture would likely restrict payments to the holders of notes.

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Selection and Notice

If less than all of the notes are to be redeemed at any time, the trustee will select notes for redemption on a pro rata basis unless otherwise required by law or applicable stock exchange requirements.

No notes of \$2,000 or less can be redeemed in part. Notices of redemption will be mailed by first class mail at least 30 but not more than 60 days before the redemption date to each holder of notes to be redeemed at its registered address, except that redemption notices may be mailed more than 60 days prior to a redemption date if the notice is issued in connection with a defeasance of the notes or a satisfaction and discharge of the indenture. Notices of redemption may not be conditional.

If any note is to be redeemed in part only, the notice of redemption that relates to that note will state the portion of the principal amount of that note that is to be redeemed. A new note in principal amount equal to the unredeemed portion of the original note will be issued in the name of the holder of notes upon cancellation of the original note. Notes called for redemption become due on the date fixed for redemption. On and after the redemption date, interest ceases to accrue on notes or portions of notes called for redemption.

Certain Covenants

Changes in Covenants When Notes Rated Investment Grade

If on any date, following the date of the indenture:

(1) the notes are rated Investment Grade by both of the Rating Agencies; and

(2) no Default or Event of Default has occurred and is continuing,

then, beginning on that day and continuing at all times thereafter regardless of any subsequent changes in the rating of the notes, the covenants specifically listed under the following captions in this prospectus will no longer be applicable to the notes:

(1) “—Repurchase at the Option of Holders—Asset Sales”;

(2) “—Restricted Payments”;

(3) “—Incurrence of Indebtedness and Issuance of Preferred Stock”;

(4) “—No Layering of Debt”;

(5) “—Dividend and Other Payment Restrictions Affecting Subsidiaries”;

(6) “—Designation of Restricted and Unrestricted Subsidiaries”;

(7) “—Transactions with Affiliates”;

(8) “—Business Activities”;

(9) “—Additional Note Guarantees”; and

(10) clauses (a)(4) and (b)(4) of the covenant specifically listed under the caption “—Merger, Consolidation or Sale of Assets.”

There can be no assurance that the notes will achieve or maintain an Investment Grade rating.

Restricted Payments

Holdings will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly:

(1) declare or pay any dividend or make any other payment or distribution on account of Holdings’ or any of its Restricted Subsidiaries’ Equity Interests (including, without limitation, any payment in connection with any merger or consolidation involving Holdings or any of its Restricted Subsidiaries) or to the direct or indirect holders of Holdings’ or any of its Restricted Subsidiaries’ Equity Interests in their capacity as such (other than dividends or distributions (x) payable in Equity

Interests (other than Disqualified Stock) of Holdings or (y) payable to Holdings or a Restricted Subsidiary of Holdings);

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(2) purchase, redeem or otherwise acquire or retire for value (including, without limitation, in connection with any merger or consolidation involving Holdings) any Equity Interests of Holdings held by any Person other than Holdings or a Restricted Subsidiary of Holdings;

(3) make any payment on or with respect to, or purchase, redeem, defease or otherwise acquire or retire for value any Indebtedness of Holdings, the Issuer or any Guarantor that is contractually subordinated to the notes or to any Note Guarantee (excluding any intercompany Indebtedness between or among Holdings and any of its Restricted Subsidiaries), except (a) a payment of interest or principal at the Stated Maturity thereof or (b) the purchase, repurchase or other acquisition of any such Indebtedness in anticipation of satisfying a sinking fund obligation, principal installment or final maturity, in each case due within one year of the date of such purchase, repurchase or other acquisition; or

(4) make any Restricted Investment

(all such payments and other actions set forth in clauses (1) through (4) above being collectively referred to as “Restricted Payments”), unless, at the time of and after giving effect to such Restricted Payment:

(1) no Default or Event of Default has occurred and is continuing or would occur as a consequence of such Restricted Payment; and

(2) Holdings would, at the time of such Restricted Payment and after giving pro forma effect thereto as if such Restricted Payment had been made at the beginning of the applicable four-quarter period, have been permitted to incur at least \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in the first paragraph of the covenant described below under the caption “—Incurrence of Indebtedness and Issuance of Preferred Stock”; and

(3) such Restricted Payment, together with the aggregate amount of all other Restricted Payments made by Holdings and its Restricted Subsidiaries since the date of the indenture (excluding Restricted Payments permitted by clauses (2), (3), (4), (6), (7), (8), (9) and (10) of the next succeeding paragraph), is less than the sum, without duplication, of:

(a) 50% of the Consolidated Net Income of Holdings for the period (taken as one accounting period) from the beginning of the first fiscal quarter commencing after the date of the indenture to the end of Holdings’ most recently ended fiscal quarter for which internal financial statements are available at the time of such Restricted Payment (or, if such Consolidated Net Income for such period is a deficit, less 100% of such deficit); plus

(b) 100% of the aggregate net cash proceeds and the Fair Market Value of assets other than cash received by Holdings since the date of the indenture as a contribution to its common equity capital or from the issue or sale of Equity Interests (other than Disqualified Stock) of Holdings or from the issue or sale of Disqualified Stock or the incurrence of Indebtedness that has been converted into or exchanged for such Equity Interests (other than Equity Interests (or Disqualified Stock) sold to, or Indebtedness held by, a Subsidiary of Holdings), plus the amount of any cash received by Holdings upon such conversion or exchange; plus

(c) with respect to Restricted Investments made by Holdings and its Restricted Subsidiaries after the date of the indenture, an amount equal to 100% of the net reduction in such Restricted Investments in any Person resulting from repayments of loans or advances, or other transfers of assets, in each case to Holdings or any Restricted Subsidiary of Holdings or from the net cash proceeds from the sale of any such Restricted Investment, from the release of any Guarantee (except to the extent any amounts are paid under such Guarantee) or from any redesignation of an Unrestricted Subsidiary as a Restricted Subsidiary, not to exceed, in each case, the amount of Restricted Investments previously made by Holdings or any Restricted Subsidiary in such Person or Unrestricted Subsidiary after the date of the indenture; plus

(d) 50% of any dividends received by Holdings or any Restricted Subsidiary of Holdings after the date of the indenture from an Unrestricted Subsidiary of Holdings, to the extent that such dividends were not otherwise included in Consolidated Net Income of Holdings for such period.

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The preceding provisions will not prohibit (provided that in the case of clauses (5), (7), (9) and (10) below, no Default has occurred and is continuing or would be caused thereby):

- (1) the payment of any dividend or the consummation of any irrevocable redemption within 60 days after the date of declaration of the dividend or giving of the redemption notice, as the case may be, if at the date of declaration or notice, the dividend or redemption payment would have complied with the provisions of the indenture;
- (2) the making of any Restricted Payment in exchange for, or out of the net cash proceeds of, a substantially concurrent sale (other than to a Restricted Subsidiary of Holdings) of, Equity Interests (other than Disqualified Stock) of Holdings or from a substantially concurrent contribution of common equity capital to Holdings; provided that the amount of any such net cash proceeds that are utilized for any such Restricted Payment will be excluded from clause (3)(b) of the preceding paragraph;
- (3) the repurchase, redemption, defeasance or other acquisition or retirement for value of Indebtedness of Holdings, the Issuer or any Guarantor that is contractually subordinated to the notes or to any Note Guarantee with the net cash proceeds from a substantially concurrent incurrence of Permitted Refinancing Indebtedness;
- (4) the payment of any dividend (or, in the case of any partnership or limited liability company, any similar distribution) by a Restricted Subsidiary of Holdings to the holders of its Equity Interests on a pro rata basis;
- (5) the repurchase, redemption or other acquisition or retirement for value of any Equity Interests of Holdings or any Restricted Subsidiary of Holdings held by any current or former officer, director or employee of Holdings or any of its Subsidiaries pursuant to any equity subscription agreement, stock option agreement, shareholders' agreement or similar agreement; provided that the aggregate price paid for all such repurchased, redeemed, acquired or retired Equity Interests may not exceed \$7.5 million in any calendar year (with unused amounts in any calendar year being carried over to succeeding years, subject to a maximum payment of \$15.0 million in any calendar year); provided further that such amount in any calendar year may be increased by an amount not to exceed (A) the net cash proceeds received by Holdings from the sale of Equity Interests (other than Disqualified Stock) of Holdings to members of management or directors of Holdings and its Restricted Subsidiaries that occurs after the date of the indenture (to the extent such cash proceeds from the sale of such Equity Interests have not otherwise been applied to the payment of Restricted Payments), plus (B) the net cash proceeds of key man life insurance policies received by Holdings and its Restricted Subsidiaries after the date of the indenture, less (C) the amount of any Restricted Payments made pursuant to subclauses (A) and (B) of this clause (5);
- (6) the repurchase of Equity Interests deemed to occur (a) upon the exercise of stock options, warrants or other convertible securities to the extent such Equity Interests represent a portion of the exercise price thereof or applicable withholding taxes, if any, or (b) upon the transfer of shares of restricted stock to Holdings in connection with the payment of withholding tax by Holdings following a sale of shares of restricted stock by the holder thereof;
- (7) the declaration and payment of regularly scheduled or accrued dividends to holders of any class or series of Disqualified Stock of Holdings or of Disqualified Stock or Preferred Stock of any Restricted Subsidiary of Holdings issued on or after the date of the indenture in accordance with the "—Incurrence of Indebtedness and Issuance of Preferred Stock" covenant;
- (8) cash payments in lieu of the issuance of fractional shares in connection with the exercise of warrants, options of other securities convertible into or exchangeable for Capital Stock of Holdings or to dissenting shareholders if required by law;
- (9) Permitted Equity Purchases; and
- (10) other Restricted Payments in an aggregate amount outstanding not to exceed \$60.0 million since the date of the indenture.

The amount of all Restricted Payments (other than cash) will be the Fair Market Value on the date of the Restricted Payment of the asset(s) or securities proposed to be transferred or issued by Holdings or such Restricted Subsidiary, as the case may be, pursuant to the Restricted Payment.

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Incurrence of Indebtedness and Issuance of Preferred Stock

Holdings will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable, contingently or otherwise, with respect to (collectively, "incur") any Indebtedness (including Acquired Debt), and Holdings will not issue any shares of Disqualified Stock and will not permit any of its Restricted Subsidiaries to issue any shares of Preferred Stock; provided, however, that Holdings, the Issuer or any Restricted Subsidiary of Holdings may incur Indebtedness (including Acquired Debt) or issue shares of Disqualified Stock, and any Restricted Subsidiary of Holdings may issue shares of Preferred Stock, if the Fixed Charge Coverage Ratio for Holdings' most recently ended four full fiscal quarters for which internal financial statements are available immediately preceding the date on which such additional Indebtedness is incurred or such Disqualified Stock or Preferred Stock is issued, as the case may be, would have been at least 2.0 to 1.0, determined on a pro forma basis (including a pro forma application of the net proceeds therefrom), as if the additional Indebtedness had been incurred, or the Disqualified Stock or Preferred Stock had been issued, as the case may be, and the application of the proceeds therefrom had occurred, at the beginning of such four-quarter period.

The first paragraph of this covenant will not prohibit the incurrence of any of the following items of Indebtedness (collectively, "Permitted Debt"):

- (1) the incurrence by Holdings or any of its Restricted Subsidiaries of Indebtedness under Credit Facilities in an aggregate principal amount at any one time outstanding under this clause (1) (with letters of credit being deemed to have a principal amount equal to the face amount of such letter of credit) not to exceed \$300.0 million; provided that such amount will be reduced to the extent of any reduction or elimination by the lenders of any commitment under any Credit Facility relating to the consummation of any Qualified Receivables Transaction for so long as such reduction or elimination of such commitment remains in effect but only to the extent Indebtedness under such Qualified Receivables Transaction is outstanding;
- (2) the incurrence by Holdings and its Restricted Subsidiaries of the Existing Indebtedness;
- (3) the incurrence by the Issuer and the Guarantors of Indebtedness represented by the notes and the related Note Guarantees to be issued on the date of the indenture and the exchange notes and the related Note Guarantees to be issued pursuant to the indenture;
- (4) the incurrence by Holdings or any of its Restricted Subsidiaries of Indebtedness represented by Capital Lease Obligations, mortgage financings or purchase money obligations, Disqualified Stock or Preferred Stock, in each case, incurred by Holdings or any of its Restricted Subsidiaries for the purpose of financing all or any part of the purchase price or cost of design, construction, installation or improvement of property (real or personal), plant or equipment used or useful in a Permitted Business, in an aggregate principal amount at any time outstanding, including all Permitted Refinancing Indebtedness incurred to renew, refund, refinance, replace, defease or discharge any Indebtedness incurred pursuant to this clause (4), not to exceed the greater of (a) \$30.0 million or (b) 5.0% of Holdings' Consolidated Net Assets;
- (5) the incurrence by Holdings or any of its Restricted Subsidiaries of Permitted Refinancing Indebtedness in exchange for, or the net proceeds of which are used to renew, refund, refinance, replace, defease or discharge any Indebtedness that was permitted by the indenture to be incurred under the first paragraph of this covenant or clauses (2), (3), (4), (5), (16), or (18) of this paragraph;
- (6) the incurrence by Holdings or any of its Restricted Subsidiaries of intercompany Indebtedness between or among Holdings and/or any of its Restricted Subsidiaries; provided, however, that:
  - (a) if the Issuer or any Guarantor is the obligor on such Indebtedness and the payee is not the Issuer or a Guarantor, such Indebtedness must be expressly subordinated to the prior payment in full in cash of all Obligations then due with respect to the notes, in the case of the Issuer, or the Note Guarantee, in the case of a Guarantor; and
  - (b)(i) any subsequent issuance or transfer of Equity Interests that results in any such Indebtedness being held by a Person other than Holdings or a Restricted Subsidiary of Holdings and (ii) any sale or other transfer of any such Indebtedness to a Person that is not either Holdings or a Restricted Subsidiary of Holdings will be deemed, in each case, to constitute an incurrence of such Indebtedness by Holdings or such Restricted Subsidiary, as the case may be, that was not permitted by this clause (6);





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(7) the issuance by any of Holdings' Restricted Subsidiaries to Holdings or to any of its other Restricted Subsidiaries of shares of Disqualified Stock or Preferred Stock; provided, however, that:

(a) any subsequent issuance or transfer of Equity Interests that results in any such Disqualified Stock or Preferred Stock being held by a Person other than Holdings or a Restricted Subsidiary of Holdings; and

(b) any sale or other transfer of any such Disqualified Stock or Preferred Stock to a Person that is not either Holdings or a Restricted Subsidiary of Holdings;

will be deemed, in each case, to constitute an issuance of such Preferred Stock by such Restricted Subsidiary that was not permitted by this clause (7);

(8) the incurrence by Holdings or any of its Restricted Subsidiaries of Hedging Obligations in the ordinary course of business;

(9) the guarantee by the Issuer or any of the Guarantors of Indebtedness of Holdings or a Restricted Subsidiary of Holdings that was permitted to be incurred by another provision of this covenant; provided that if the Indebtedness being guaranteed is subordinated to or pari passu with the notes, then the Guarantee shall be subordinated or pari passu, as applicable, to the same extent as the Indebtedness guaranteed;

(10) the incurrence by Holdings or any of its Restricted Subsidiaries of Indebtedness in respect of workers' compensation claims, self-retention or self-insurance obligations, bankers' acceptances, unemployment insurance, performance release, appeal and surety and similar bonds and related obligations and completion guarantees or similar instruments provided or incurred in the ordinary course of business;

(11) the incurrence by Holdings or any of its Restricted Subsidiaries of Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument inadvertently drawn against insufficient funds, so long as such Indebtedness is covered within five business days;

(12) the incurrence by Holdings or any of its Restricted Subsidiaries of Indebtedness constituting reimbursement obligations with respect to letters of credit issued in the ordinary course of business; provided that, upon the drawing of such letters of credit or in the incurrence of such Indebtedness, such obligations are reimbursed within 30 days following such drawing or incurrence;

(13) the incurrence by Holdings or any of its Restricted Subsidiaries of Indebtedness to the extent that the net proceeds thereof are promptly deposited to defease or to satisfy and discharge the notes;

(14) any Indebtedness which has been defeased;

(15) the incurrence by Holdings or any of its Restricted Subsidiaries of Indebtedness arising from agreements providing for indemnification, earnout, adjustment of purchase price or similar obligations, or Guarantees or letters of credit, surety bonds or performance bonds securing any obligations of Holdings or any of its Restricted Subsidiaries pursuant to such agreements, in any case incurred in connection with the acquisition or disposition of any business, assets or Restricted Subsidiary of Holdings or any of its Restricted Subsidiaries (other than Guarantees of Indebtedness incurred by any Person acquiring all or any portion of such business, assets or Restricted Subsidiary for the purpose of financing such acquisition), so long as, in the case of a disposition, the amount so indemnified or otherwise incurred does not exceed the gross proceeds actually received by Holdings or any Restricted Subsidiary thereof in connection with such disposition;

(16) the incurrence by a Restricted Subsidiary of Holdings that is not a Domestic Subsidiary (or one or more non-Domestic Subsidiaries) of Indebtedness in an aggregate amount at any time outstanding, including all Permitted Refinancing Indebtedness, Disqualified Stock and Preferred Stock incurred to renew, refund, refinance, replace, defease or discharge any Indebtedness incurred pursuant to this clause (16), (with letters of credit being deemed to have a principal amount equal to the face amount of such letter of credit) not to exceed the greater of (a) \$50.0 million or (b) 50% of the Consolidated Net Assets of any such Restricted Subsidiary (or group of non-Domestic Subsidiaries, as applicable);

(17) the incurrence by a Receivables Subsidiary of Holdings of Indebtedness in a Qualified Receivables Transaction that is without recourse to Holdings or to any other Subsidiary of Holdings or their assets (other than such Receivables Subsidiary and its assets and, as to Holdings or any Subsidiary of Holdings, other than pursuant to representations, warranties, covenants and indemnities customary for such transactions) and is not guaranteed by any such Person; and



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(18) the incurrence by Holdings or any of its Restricted Subsidiaries of additional Indebtedness, or the issuance of Disqualified Stock or Preferred Stock, in an aggregate principal amount or liquidation preference at any time outstanding, including all Permitted Refinancing Indebtedness, Disqualified Stock and Preferred Stock incurred to renew, refund, refinance, replace, defease or discharge any Indebtedness incurred pursuant to this clause (18), not to exceed \$50.0 million.

For purposes of determining compliance with this “Incurrence of Indebtedness and Issuance of Preferred Stock” covenant, in the event that an item of proposed Indebtedness meets the criteria of more than one of the categories of Permitted Debt described in clauses (1) through (18) above, or is entitled to be incurred pursuant to the first paragraph of this covenant, Holdings will be permitted to classify such item of Indebtedness on the date of its incurrence, and later reclassify from time to time all or a portion of such item of Indebtedness, in any manner that complies with this covenant. Indebtedness under Credit Facilities outstanding on the date on which notes are first issued and authenticated under the indenture will initially be deemed to have been incurred on such date in reliance on the exception provided by clause (1) of the definition of Permitted Debt. The accrual of interest, the accretion or amortization of original issue discount, the payment of interest on any Indebtedness in the form of additional Indebtedness with the same terms, the reclassification of preferred stock as Indebtedness due to a change in accounting principles, and the payment of dividends on Disqualified Stock or Preferred Stock in the form of additional shares of the same class of Disqualified Stock or Preferred Stock will not be deemed to be an incurrence of Indebtedness or an issuance of Disqualified Stock or Preferred Stock for purposes of this covenant; provided, in each such case, that the amount of any such accrual, accretion or payment is included in Fixed Charges of Holdings as accrued. Notwithstanding any other provision of this covenant, the maximum amount of Indebtedness that Holdings or any Restricted Subsidiary may incur pursuant to this covenant will not be deemed to be exceeded solely as a result of fluctuations in exchange rates or currency values.

The amount of any Indebtedness outstanding as of any date will be:

- (1) the accreted value of the Indebtedness, in the case of any Indebtedness issued with original issue discount;
- (2) the principal amount of the Indebtedness, in the case of any other Indebtedness; and
- (3) in respect of Indebtedness of another Person secured by a Lien on the assets of the specified Person, the lesser of:
  - (a) the Fair Market Value of such assets at the date of determination, and
  - (b) the amount of the Indebtedness of the other Person.

No Layering of Debt

The Issuer will not incur any Indebtedness that is contractually subordinate or junior in right of payment to any Senior Debt of the Issuer and senior in right of payment to the notes. No Guarantor will incur any Indebtedness that is contractually subordinate or junior in right of payment to the Senior Debt of such Guarantor and senior in right of payment to such Guarantor’s Note Guarantee. No such Indebtedness will be considered to be subordinate or junior or right of payment to any other Indebtedness by reason of any Liens or Guarantees arising or created in respect of such other Indebtedness or by virtue of the fact that holders of any secured Indebtedness have entered into intercreditor agreements giving one or more holders priority over other holders in the collateral held by them.

Liens

Holdings will not, and will not permit the Issuer or any Guarantor to, directly or indirectly, incur or suffer to exist any Lien of any kind securing Indebtedness on any asset now owned or hereafter acquired, except Permitted Liens, unless all payments due under the indenture and the notes or a Note Guarantee are secured on a pari passu basis by a Lien on such asset with the obligations so secured (or, in the case of Indebtedness subordinated to the notes or the Note Guarantees, prior or senior to such Indebtedness, with the same relative priority as the notes or Note Guarantee will have with respect to such subordinated Indebtedness) until such time as such obligations are no longer secured by a Lien.

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Dividend and Other Payment Restrictions Affecting Subsidiaries

Holdings will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, create or permit to exist or become effective any consensual encumbrance or restriction on the ability of any Restricted Subsidiary to:

- (1) pay dividends or make any other distributions on its Capital Stock to Holdings or any of its Restricted Subsidiaries, or with respect to any other interest or participation in, or measured by, its profits, or pay any indebtedness owed to Holdings or any of its Restricted Subsidiaries (it being understood that the priority of any Preferred Stock in receiving dividends or liquidating distributions prior to dividends or liquidating distributions being paid on Common Stock shall not be deemed a restriction on the ability to make distributions on Capital Stock);
- (2) make loans or advances to Holdings or any of its Restricted Subsidiaries (it being understood that the subordination of loans or advances made to Holdings or any Restricted Subsidiary to other Indebtedness incurred by Holdings or any Restricted Subsidiary shall not be deemed a restriction on the ability to make loans or advances or to pay any indebtedness owed to Holdings or any of its Restricted Subsidiaries); or
- (3) sell, lease or transfer any of its properties or assets to Holdings or any of its Restricted Subsidiaries.

However, the preceding restrictions will not apply to encumbrances or restrictions existing under or by reason of:

- (1) agreements governing Existing Indebtedness, Credit Facilities (including the Credit Agreement) or any other agreements as in effect on the date of the indenture and any amendments, restatements, modifications, renewals, supplements, refundings, replacements or refinancings of those agreements; provided that the amendments, restatements, modifications, renewals, supplements, refundings, replacement or refinancings are not materially more restrictive, taken as a whole, with respect to such dividend and other payment restrictions than those contained in those agreements on the date of the indenture;
- (2) the indenture, the notes and the Note Guarantees;
- (3) applicable law, rule, regulation or order;
- (4) any instrument governing Indebtedness or Capital Stock, or any other agreement, of a Person acquired by Holdings or any of its Restricted Subsidiaries as in effect at the time of such acquisition (except to the extent such Indebtedness or Capital Stock was incurred, or such other agreement if entered into, in connection with or in contemplation of such acquisition), which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person, other than the Person, or the property or assets of the Person, so acquired; provided that, in the case of Indebtedness, such Indebtedness was permitted by the terms of the indenture to be incurred;
- (5) customary non-assignment provisions in contracts, leases, conveyances and licenses entered into in the ordinary course of business;
- (6) purchase money obligations for property acquired in the ordinary course of business and Capital Lease Obligations that impose restrictions on the property purchased or leased of the nature described in clause (3) of the preceding paragraph;
- (7) any agreement for the sale or other disposition of a Restricted Subsidiary or assets of a Restricted Subsidiary that restricts transfers or other distributions by that Restricted Subsidiary pending the sale or other disposition;
- (8) Permitted Refinancing Indebtedness; provided that the restrictions contained in the agreements governing such Permitted Refinancing Indebtedness are not materially more restrictive, taken as a whole, than those contained in the agreements governing the Indebtedness being refinanced;
- (9) Liens permitted to be incurred under the provisions of the covenant described above under the caption “—Liens” that limit the right of the debtor to dispose of the assets subject to such Liens;
- (10) in the case of non-Domestic Restricted Subsidiaries, restrictions under instruments governing Indebtedness incurred pursuant to the “Incurrence of Indebtedness and Issuance of Preferred Stock” covenant;
- (11) Indebtedness of any Person existing at the time such Person is merged with or into or became a Restricted Subsidiary of Holdings or any of its Restricted Subsidiaries, provided that, (x) such restrictions



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were not incurred in contemplation of such acquisition and (y) such Indebtedness was permitted to be Incurred by the terms hereof;

(12) any encumbrances or restrictions imposed by any amendments or refinancings of the contracts, instruments or obligations referred to in clauses (1) through (11) above; provided that such amendments or refinancings are, in the good faith judgment of Holdings' Board of Directors, not more materially restrictive, taken as a whole, with respect to such encumbrances and restrictions than those prior to such amendment or refinancing;

(13) provisions that restrict in a customary manner the subletting, assignment or transfer of any property or asset that is a lease, license, conveyance or contract or similar property or asset;

(14) provisions limiting the disposition or distribution of assets or property in joint venture agreements, asset sale agreements, sale-leaseback agreements, stock sale agreements and other similar agreements entered into with the approval of Holdings' Board of Directors, which limitation is applicable only to the assets that are the subject of such agreements;

(15) restrictions on cash or other deposits or net worth imposed by customers or suppliers or required by insurance, surety or bonding companies, in each case, under contracts entered into in the ordinary course of business;

(16) Indebtedness or other contractual requirements of a Receivables Subsidiary in connection with a Qualified Receivables Transaction, provided that such restrictions apply only to such Receivables Subsidiary;

(17) restrictions that are not materially more restrictive, taken as a whole, than customary provisions in comparable financings (as determined in good faith by Holding's Board of Directors), and that Holdings determines in good faith will not materially impair the Issuer's ability to make scheduled payments as required under the notes; and

(18) restrictions arising or agreed to in the ordinary course of business, not relating to any Indebtedness, and that do not, individually or in the aggregate, detract from the value of property or assets of Holdings or any Restricted Subsidiary in any manner material to Holdings or any Restricted Subsidiary.

Merger, Consolidation or Sale of Assets

(a) Holdings will not, directly or indirectly: (1) consolidate or merge with or into another Person (whether or not Holdings is the surviving corporation); or (2) sell, assign, transfer, convey or otherwise dispose of all or substantially all of the properties or assets of Holdings and its Restricted Subsidiaries taken as a whole, in one or more related transactions, to another Person, unless:

(1) either: (a) Holdings is the surviving corporation; or (b) the Person formed by or surviving any such consolidation or merger (if other than Holdings) or to which such sale, assignment, transfer, conveyance or other disposition has been made is organized or existing under the laws of the United States, any state of the United States or the District of Columbia;

(2) the Person formed by or surviving any such consolidation or merger (if other than Holdings) or the Person to which such sale, assignment, transfer, conveyance or other disposition has been made assumes all the obligations of Holdings under the notes and the indenture pursuant to agreements reasonably satisfactory to the trustee;

(3) immediately after such transaction, no Default or Event of Default exists; and

(4) after giving pro forma effect to such transaction and any related financing transactions as if the same had occurred at the beginning of the applicable four-quarter period, Holdings or the Person formed by or surviving any such consolidation or merger (if other than Holdings), or to which such sale, assignment, transfer, conveyance or other disposition has been made, would, on the date of such transaction, (a) be permitted to incur at least \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in the first paragraph of the covenant described above under the caption "—Incurrence of Indebtedness and Issuance of Preferred Stock," or (b) the Fixed Charge Coverage Ratio of the surviving entity and its Restricted Subsidiaries will not be less than the Fixed Charge Coverage Ratio of Holdings and its Restricted Subsidiaries immediately prior to such transaction or series of related transactions.

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In addition, Holdings will not, directly or indirectly, lease all or substantially all of the properties and assets of it and its Restricted Subsidiaries taken as a whole, in one or more related transactions, to any other Person.

(b) The Issuer will not, directly or indirectly: (1) consolidate or merge with or into another Person (whether or not the Issuer is the surviving corporation); or (2) sell, assign, transfer, convey or otherwise dispose of all or substantially all of the properties or assets of the Issuer and Holdings' Restricted Subsidiaries taken as a whole, in one or more related transactions, to another Person, unless:

(1) either: (a) the Issuer is the surviving corporation; or (b) the Person formed by or surviving any such consolidation or merger (if other than the Issuer) or to which such sale, assignment, transfer, conveyance or other disposition has been made is organized or existing under the laws of the United States, any state of the United States or the District of Columbia; provided that in the case when such Person is not a corporation, a co-obligor of the notes is a corporation organized or existing under the laws of the United States, any state of the United States or the District of Columbia;

(2) the Person formed by or surviving any such consolidation or merger (if other than the Issuer) or the Person to which such sale, assignment, transfer, conveyance or other disposition has been made assumes all the obligations of the Issuer under the notes and the indenture pursuant to agreements reasonably satisfactory to the trustee;

(3) immediately after such transaction, no Default or Event of Default exists; and

(4) after giving pro forma effect to such transaction and any related financing transactions as if the same had occurred at the beginning of the applicable four-quarter period, the Issuer or the Person formed by or surviving any such consolidation or merger (if other than the Issuer), or to which such sale, assignment, transfer, conveyance or other disposition has been made, would, on the date of such transaction, (a) be permitted to incur at least \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in the first paragraph of the covenant described above under the caption "—Incurrence of Indebtedness and Issuance of Preferred Stock," or (b) the Fixed Charge Coverage Ratio of Holdings and its Restricted Subsidiaries will not be less than the Fixed Charge Coverage Ratio of Holdings and its Restricted Subsidiaries immediately prior to such transaction or series of related transactions.

In addition, the Issuer will not, directly or indirectly, lease all or substantially all of the properties and assets of it and its Restricted Subsidiaries taken as a whole, in one or more related transactions, to any other Person.

(c) This "Merger, Consolidation or Sale of Assets" covenant will not apply to:

(A) a merger of Holdings or the Issuer with an Affiliate solely for the purpose of reincorporating Holdings or the Issuer in another jurisdiction; or

(B) any consolidation or merger or any sale, assignment, transfer, conveyance, lease or other disposition of assets between or among Holdings or the Issuer and Holdings' Restricted Subsidiaries.

### Transactions with Affiliates

Holdings will not, and will not permit any of its Restricted Subsidiaries to, make any payment to, or sell, lease, transfer or otherwise dispose of any of its properties or assets to, or purchase any property or assets from, or enter into or make or amend any transaction, contract, agreement, understanding, loan, advance or guarantee with, or for the benefit of, any Affiliate of Holdings (each, an "Affiliate Transaction") involving aggregate payments or consideration in excess of \$5.0 million and in excess of \$2.5 million in any 12-month period, unless:

(1) the Affiliate Transaction is on terms that are no less favorable to Holdings or the relevant Restricted Subsidiary than those that would have been obtained in a comparable transaction by Holdings or such Restricted Subsidiary with an unrelated Person; and

(2) Holdings delivers to the trustee:

(a) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of \$10.0 million, a resolution of the Board of Directors of Holdings set forth in an officers' certificate certifying that such Affiliate Transaction complies with this covenant and that such Affiliate Transaction has been approved by a majority of the disinterested members of the Board of Directors of Holdings; and





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(b) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of \$25.0 million, an opinion as to the fairness to Holdings or such Subsidiary of such Affiliate Transaction from a financial point of view issued by an accounting, appraisal or investment banking firm of national standing.

The following items will not be deemed to be Affiliate Transactions and, therefore, will not be subject to the provisions of the prior paragraph:

- (1) any employment agreement, employee benefit plan, officer or director indemnification agreement, consulting, service or termination agreement, or any similar arrangement entered into by Holdings or any of its Restricted Subsidiaries and payments pursuant thereto, so long as such agreement or payment has been approved by the Board of Directors of Holdings;
- (2) transactions between or among Holdings and/or its Restricted Subsidiaries;
- (3) transactions with a Person (other than an Unrestricted Subsidiary of Holdings) that is an Affiliate of Holdings solely because Holdings owns, directly or through a Restricted Subsidiary, an Equity Interest in, or controls, such Person;
- (4) payment of reasonable directors' fees and reasonable and customary indemnification and similar payments to, or on behalf of, directors of Holdings or any Subsidiary thereof;
- (5) any issuance of Equity Interests (other than Disqualified Stock) of Holdings;
- (6) any transactions with any Person (including an Unrestricted Subsidiary of Holdings) in the ordinary course of business that are fair to Holdings or its Restricted Subsidiaries or are on terms at least as favorable to Holdings and its Restricted Subsidiaries as those that would have been obtained in a comparable transaction with an unrelated Person;
- (7) Restricted Payments that do not violate the provisions of the indenture described above under the caption "—Restricted Payments" and "Permitted Investments";
- (8) the receipt by Holdings of any capital contribution from its shareholders; and
- (9) transactions between or among Holdings and its Subsidiaries or transactions between a Receivables Subsidiary and any Person in which the Receivables Subsidiary has an Investment.

Business Activities

Holdings will not, and will not permit any of its Restricted Subsidiaries to, engage in any business other than Permitted Businesses, except to such extent as would not be material to Holdings and its Restricted Subsidiaries taken as a whole.

Additional Note Guarantees

If any non-guarantor Domestic Subsidiary of Holdings, other than the Issuer, guarantees any Credit Facility, or if Holdings or any of its Restricted Subsidiaries acquires or creates another Domestic Subsidiary after the date of the indenture that guarantees any Credit Facility, in each case other than a Receivables Subsidiary, then such Domestic Subsidiary will become a Guarantor and execute a supplemental indenture within 10 business days of the date on which it guaranteed such Credit Facility and deliver an opinion of counsel to the trustee. The Guarantee of any Note Guarantor will be subordinated to all Indebtedness under the Credit Agreement and all other Senior Debt of Guarantor to the same extent as the notes are subordinated to the Senior Debt of the Issuer.

Designation of Restricted and Unrestricted Subsidiaries

The Board of Directors of Holdings may designate any Restricted Subsidiary of Holdings to be an Unrestricted Subsidiary if that designation would not cause a Default. If a Restricted Subsidiary is designated as an Unrestricted Subsidiary, the aggregate Fair Market Value of all outstanding Investments owned by Holdings and its Restricted Subsidiaries in the Subsidiary designated as Unrestricted will be deemed to be an Investment made as of the time of the designation and will reduce the amount available for Restricted Payments under the covenant described above under the caption "—Restricted Payments" or under one or more clauses of the definition of Permitted Investments, as determined by Holdings. That designation will only be permitted if the Investment would



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be permitted at that time and if the Restricted Subsidiary otherwise meets the definition of an Unrestricted Subsidiary.

Any designation of a Subsidiary of Holdings as an Unrestricted Subsidiary will be evidenced to the trustee by filing with the trustee a certified copy of a resolution of the Board of Directors of Holdings giving effect to such designation and an officers' certificate certifying that such designation complied with the preceding conditions and was permitted by the covenant described above under the caption "—Restricted Payments."

The Board of Directors of Holdings may at any time designate any Unrestricted Subsidiary to be a Restricted Subsidiary; provided that such designation will be deemed to be an incurrence of Indebtedness by a Restricted Subsidiary of Holdings of any outstanding Indebtedness of such Unrestricted Subsidiary and such designation will only be permitted if

(1) such Indebtedness is permitted under the covenant described under the caption "—Incurrence of Indebtedness and Issuance of Preferred Stock"; and

(2) no Default or Event of Default would be in existence following such designation.

Payments for Consent

Holdings will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, pay or cause to be paid any consideration to or for the benefit of any holder of notes for, or as an inducement to, any consent, waiver or amendment of any of the terms or provisions of the indenture or the notes unless such consideration is offered to be paid and is paid to all holders of the notes that consent, waive or agree to amend in the time frame set forth in the solicitation documents relating to such consent, waiver or agreement.

Notwithstanding the foregoing, in any offer or payment of consideration for, or as an inducement to, any consent, waiver or amendment of any of the terms or provisions of the indenture or the notes in connection with an exchange offer, Holdings and any of its Restricted Subsidiaries may exclude (i) holders or beneficial owners of the notes that are not institutional "accredited investors" as defined in subparagraphs (a)(1), (2), (3) or (7) of Rule 501 under the Securities Act, and (ii) holders or beneficial owners of the notes in any jurisdiction where the inclusion of such holders or beneficial owners would require Holdings or any such Restricted Subsidiaries to comply with the registration requirements or other similar requirements under any securities laws of such jurisdiction, or the solicitation of such consent, waiver or amendment from, or the granting of such consent or waiver, or the approval of such amendment by, holders or beneficial owners in such jurisdiction would be unlawful, in each case as determined by Holdings in its sole discretion.

Reports

Whether or not required by the rules and regulations of the SEC, so long as any notes are outstanding, the Issuer will furnish to the trustee and will, if requested in writing, furnish to the holders of notes or cause the trustee to furnish by mail at the Issuer's expense to the holders of notes, within the time periods specified in the SEC's rules and regulations, unless the information and reports referred to in clauses (1) and (2) below are otherwise filed with the SEC through the Electronic Data Gathering, Analysis, and Retrieval system or any successor system (the "EDGAR system") and are available to the public through the EDGAR system (subject to any confidential treatment requests filed with the SEC by the Issuer):

(1) all quarterly and annual reports that would be required to be filed with the SEC on Forms 10-Q and 10-K if the Issuer were required to file such reports; and

(2) all current reports that would be required to be filed with the SEC on Form 8-K if the Issuer were required to file such reports.

In addition, the Issuer will file a copy of each of the reports referred to in clauses (1) and (2) above with the SEC for public availability within the time periods specified in the rules and regulations applicable to such reports (unless the SEC will not accept such a filing, in which case, the Issuer will post the reports on its website within those time periods).

If, at any time, the Issuer is no longer subject to the periodic reporting requirements of the Exchange Act for any reason, the Issuer will nevertheless continue filing the reports specified in the preceding paragraphs of this

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covenant with the SEC within the time periods specified above unless the SEC will not accept such a filing. The Issuer will not take any action for the purpose of causing the SEC not to accept any such filings.

If Holdings (or any direct or indirect parent of the Issuer that becomes a Guarantor) has complied with the reporting requirements of Section 13 or 15(d) of the Exchange Act, if applicable, or has furnished the reports described herein in the manner provided above for the Issuer, the Issuer shall be deemed to be in compliance with the provisions of this covenant.

Notwithstanding anything herein to the contrary, none of Holdings, the Issuer or any Guarantor will be deemed to have failed to comply with any of its obligations under this "Reports" covenant for purposes of clause (4) under "—Events of Default and Remedies" until 60 days after the date any information is due under this covenant.

Events of Default and Remedies

Each of the following is an Event of Default:

(1) default for 30 days in the payment when due of interest on the notes whether or not prohibited by the subordination provisions of the indenture;

(2) default in the payment when due (whether at maturity, upon redemption or otherwise) of the principal of, or premium, if any, on the notes, whether or not prohibited by the subordination provisions of the indenture;

(3) failure by Holdings or any of its Restricted Subsidiaries to consummate a purchase of the notes when required by the provisions described under the captions "—Repurchase at the Option of Holders—Change of Control," "—Repurchase at the Option of Holders—Asset Sales" or "—Certain Covenants—Merger, Consolidation or Sale of Assets";

(4) failure by Holdings or any of its Restricted Subsidiaries for 60 days after notice to Holdings by the trustee or the holders of at least 25% in aggregate principal amount of the notes then outstanding voting as a single class to comply with any of the other agreements in the indenture;

(5) default under any mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any Indebtedness for money borrowed by Holdings or any of its Restricted Subsidiaries (or the payment of which is guaranteed by Holdings or any of its Restricted Subsidiaries) whether such Indebtedness or Guarantee now exists, or is created after the date of the indenture, if that default:

(a) is caused by a failure to make any payment on such Indebtedness when due at final maturity of such indebtedness (a "Payment Default"); or

(b) results in the acceleration of such Indebtedness prior to its express maturity,

and, in each case, the principal amount of any such Indebtedness, together with the principal amount of any other such Indebtedness under which there has been a Payment Default or the maturity of which has been so accelerated, aggregates \$25.0 million or more;

(6) failure by Holdings or any of its Restricted Subsidiaries to pay final judgments entered by a court or courts of competent jurisdiction (to the extent any such judgments are not paid or covered by insurance provided by a reputable carrier) aggregating in excess of \$25.0 million, which judgments are not paid, discharged or stayed for a period of 60 days;

(7) except as permitted by the indenture, any Note Guarantee is held in any judicial proceeding to be unenforceable or invalid or ceases for any reason to be in full force and effect or any Guarantor that is a Significant Subsidiary (or any group of Guarantors that, taken together, would constitute a Significant Subsidiary), or any Person acting on behalf of any such Guarantor, denies or disaffirms its obligations under its Note Guarantee; and

(8) certain events of bankruptcy or insolvency described in the indenture with respect to Holdings or any of its Restricted Subsidiaries that is a Significant Subsidiary (or any group of Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary).

In the case of an Event of Default arising from certain events of bankruptcy or insolvency, with respect to Holdings, the Issuer, any Restricted Subsidiary of Holdings that is a Significant Subsidiary (or any group of



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Restricted Subsidiaries of Holdings that, taken together, would constitute a Significant Subsidiary), all outstanding notes will become due and payable immediately without further action or notice. If any other Event of Default occurs and is continuing, the trustee or the holders of at least 25% in aggregate principal amount of the then outstanding notes may declare all the notes to be due and payable immediately by notice in writing to the Issuer specifying the Event of Default; provided, however, that so long as any Indebtedness permitted to be incurred pursuant to the Credit Agreement will be outstanding, that acceleration will not be effective until the earlier of (1) an acceleration of Indebtedness under the Credit Agreement; or (2) five Business Days after receipt by Holdings and the Agent under the Credit Agreement of written notice of the acceleration of the notes.

Holders of the notes may not enforce the indenture or the notes except as provided in the indenture. Subject to certain limitations, holders of a majority in aggregate principal amount of the then outstanding notes may direct the trustee in its exercise of any trust or power. The trustee may withhold from holders of the notes notice of any continuing Default or Event of Default if it determines that withholding notices is in their interest, except a Default or Event of Default relating to the payment of principal, interest or premium, if any.

Subject to the provisions of the indenture relating to the duties of the trustee, in case an Event of Default occurs and is continuing, the trustee will be under no obligation to exercise any of the rights or powers under the indenture at the request or direction of any holders of notes unless such holders have offered to the trustee reasonable indemnity or security against any loss, liability or expense. Except to enforce the right to receive payment of principal, premium, if any, or interest when due, no holder of a note may pursue any remedy with respect to the indenture or the notes unless:

- (1) such holder has previously given the trustee notice that an Event of Default is continuing;
- (2) holders of at least 25% in aggregate principal amount of the then outstanding notes have requested the trustee to pursue the remedy;
- (3) such holders have offered the trustee reasonable security or indemnity against any loss, liability or expense;
- (4) the trustee has not complied with such request within 60 days after the receipt of the request and the offer of security or indemnity; and
- (5) holders of a majority in aggregate principal amount of the then outstanding notes have not given the trustee a direction inconsistent with such request within such 60-day period.

The holders of a majority in aggregate principal amount of the then outstanding notes by notice to the trustee may, on behalf of the holders of all of the notes, rescind an acceleration or waive any existing Default or Event of Default and its consequences under the indenture except a continuing Default or Event of Default in the payment of interest or premium, if any, on, or the principal of, the notes.

The Issuer is required to deliver to the trustee annually a statement regarding compliance with the indenture. Within five business days of becoming aware of any Default or Event of Default, the Issuer is required to deliver to the trustee a statement specifying such Default or Event of Default.

**No Personal Liability of Directors, Officers, Employees and Stockholders**

No director, officer, employee, incorporator or stockholder of the Issuer or any Guarantor, as such, will have any liability for any obligations of the Issuer or the Guarantors under the notes, the indenture, the Note Guarantees or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each holder of notes, by accepting a note, waives and releases all such liability. The waiver and release are part of the consideration for issuance of the notes. The waiver may not be effective to waive liabilities under the federal securities laws.

**Legal Defeasance and Covenant Defeasance**

The Issuer may at any time, at the option of its Board of Directors evidenced by a resolution set forth in an officers' certificate, elect to have all of its obligations discharged with respect to the outstanding notes and all obligations of the Guarantors discharged with respect to their Note Guarantees ("Legal Defeasance") except for:

- (1) the rights of holders of outstanding notes to receive payments in respect of the principal of, or interest or premium, if any, on such notes when such payments are due from the trust referred to below;



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(2) the Issuer's obligations with respect to the notes concerning issuing temporary notes, registration of notes, mutilated, destroyed, lost or stolen notes and the maintenance of an office or agency for payment and money for security payments held in trust;

(3) the rights, powers, trusts, duties and immunities of the trustee, and the Issuer's and the Guarantors' obligations in connection therewith; and

(4) the Legal Defeasance and Covenant Defeasance provisions of the indenture.

In addition, the Issuer may, at its option and at any time, elect to have the obligations of the Issuer and the Guarantors released with respect to certain covenants (including its obligation to make Change of Control Offers and Asset Sale Offers) that are described in the indenture and all obligations of the Guarantors with respect to the Note Guarantees discharged ("Covenant Defeasance"), and thereafter any failure to comply with those covenants and obligations will not constitute a Default or Event of Default with respect to the notes or the Note Guarantees. In the event Covenant Defeasance occurs, certain events (not including non-payment, bankruptcy, receivership, rehabilitation and insolvency events) described under "—Events of Default and Remedies" will no longer constitute an Event of Default with respect to the notes and the Note Guarantees.

In order to exercise either Legal Defeasance or Covenant Defeasance:

(1) the Issuer must irrevocably deposit with the trustee, in trust, for the benefit of the holders of the notes, cash in U.S. dollars, non-callable Government Securities, or a combination of cash in U.S. dollars and non-callable Government Securities, in amounts sufficient, in the opinion of a nationally recognized investment bank, appraisal firm or firm of independent public accountants, to pay the principal of, or interest and premium, if any, on the outstanding notes on the stated date for payment thereof or on the applicable redemption date, as the case may be, and the Issuer must specify whether the notes are being defeased to such stated date for payment or to a particular redemption date;

(2) in the case of Legal Defeasance, the Issuer must deliver to the trustee an opinion of counsel reasonably acceptable to the trustee confirming that (a) the Issuer has received from, or there has been published by, the Internal Revenue Service a ruling or (b) since the date of the indenture, there has been a change in the applicable federal income tax law, in either case to the effect that, and based thereon such opinion of counsel will confirm that, the holders of the outstanding notes will not recognize income, gain or loss for federal income tax purposes as a result of such Legal Defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Legal Defeasance had not occurred;

(3) in the case of Covenant Defeasance, the Issuer must deliver to the trustee an opinion of counsel reasonably acceptable to the trustee confirming that the holders of the outstanding notes will not recognize income, gain or loss for federal income tax purposes as a result of such Covenant Defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred;

(4) no Default or Event of Default has occurred and is continuing on the date of such deposit (other than a Default or Event of Default resulting from the borrowing of funds to be applied to such deposit);

(5) such Legal Defeasance or Covenant Defeasance will not result in a breach or violation of, or constitute a default under, any material agreement or instrument (other than the indenture) to which Holdings or any of its Subsidiaries is a party or by which Holdings or any of its Subsidiaries is bound;

(6) the Issuer must deliver to the trustee an officers' certificate stating that the deposit was not made by the Issuer with the intent of preferring the holders of notes over the other creditors of the Issuer with the intent of defeating, hindering, delaying or defrauding creditors of the Issuer or others; and

(7) the Issuer must deliver to the trustee an officers' certificate and an opinion of counsel, each stating that all conditions precedent relating to the Legal Defeasance or the Covenant Defeasance have been complied with.

### Amendment, Supplement and Waiver

Except as provided in the next three succeeding paragraphs, the indenture, the notes and the Note Guarantees may be amended or supplemented with the consent of the holders of at least a majority in aggregate principal





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amount of the notes then outstanding (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, notes), and any existing Default or Event of Default or compliance with any provision of the indenture, the notes or the Note Guarantees may be waived with the consent of the holders of a majority in aggregate principal amount of the then outstanding notes (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, notes).

Without the consent of each holder of notes affected, an amendment, supplement or waiver may not (with respect to any notes held by a non-consenting holder):

- (1) reduce the principal amount of notes whose holders must consent to an amendment, supplement or waiver;
- (2) reduce the principal of or change the fixed maturity of any note or alter the provisions with respect to the redemption of the notes (other than provisions relating to the covenants described under the caption “—Repurchase at the Option of Holders” or “Certain Covenants—Merger Consolidation and Sale of Assets”);
- (3) reduce the rate of or change the time for payment of interest, including default interest, on any note;
- (4) waive a Default or Event of Default in the payment of principal of, or interest or premium, if any, on the notes (except a rescission of acceleration of the notes by the holders of at least a majority in aggregate principal amount of the then outstanding notes and a waiver of the payment default that resulted from such acceleration);
- (5) make any note payable in money other than that stated in the notes;
- (6) impair the right to institute suit for the enforcement of any payment on or with respect to the notes or the Note Guarantees;
- (7) waive a redemption payment with respect to any note (other than a payment required by one of the covenants described above under the caption “—Repurchase at the Option of Holders”);
- (8) release any Guarantor from any of its obligations under its Note Guarantee or the indenture, except in accordance with the terms of the indenture; or
- (9) make any change in the preceding amendment and waiver provisions

In addition, any amendment to, or waiver of, the provisions of the indenture relating to subordination of the notes and the Note Guarantees that adversely affects the rights of the holders of the notes will require the consent of the holders of at least 75% in aggregate principal amount of notes then outstanding.

Notwithstanding the preceding, without the consent of any holder of notes, the Issuer, the Guarantors and the trustee may amend or supplement the indenture, the notes or the Note Guarantees:

- (1) to cure any ambiguity, defect or inconsistency;
- (2) to provide for uncertificated notes in addition to or in place of certificated notes;
- (3) to provide for the assumption of the Issuer’s or a Guarantor’s obligations to holders of notes and Note Guarantees in the case of a merger or consolidation or sale of all or substantially all of the Issuer’s or such Guarantor’s assets, as applicable;
- (4) to make any change that would provide any additional rights or benefits to the holders of notes or that does not materially adversely affect the legal rights under the indenture of any such holder;
- (5) to comply with requirements of the SEC in order to effect or maintain the qualification of the indenture under the Trust Indenture Act;
- (6) to conform the text of the indenture, the Note Guarantees or the notes to any provision of this Description of the Exchange Notes to the extent that such provision in this Description of the Exchange Notes was intended to be a verbatim recitation of a provision of the indenture, the Note Guarantees or the notes;
- (7) to provide for the issuance of additional notes in accordance with the limitations set forth in the indenture as of the date of the indenture;



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(8) to comply with the provisions described under “—Certain Covenants—Additional Note Guarantees,” including to reflect the release of a Note Guarantee of the notes in accordance with the indenture;

(9) to release a Guarantor from its obligations under its Note Guarantee or the indenture in accordance with the applicable provisions of the indenture;

(10) to secure the notes and/or Note Guarantees of the notes;

(11) to evidence and provide for the acceptance of appointment by a successor trustee;

(12) to allow any Guarantor to execute a supplemental indenture and/or a Note Guarantee with respect to the notes; or

(13) to comply with the provisions described under “—Certain Covenants—Merger, Consolidation or Sale of Assets.”

### Satisfaction and Discharge

The indenture will be discharged and will cease to be of further effect as to all notes issued thereunder, when:

(1) either:

(a) all notes that have been authenticated, except lost, stolen or destroyed notes that have been replaced or paid and notes for whose payment money has been deposited in trust and thereafter repaid to the Issuer, have been delivered to the trustee for cancellation; or

(b) all notes that have not been delivered to the trustee for cancellation (x) have become due and payable by reason of the mailing of a notice of redemption or otherwise, (y) will become due and payable within one year, or (z) are to be called for redemption within one year under arrangements satisfactory to the trustee for the giving of notice of redemption by the trustee in the Issuer’s name and at the Issuer’s expense, and in each such case the Issuer or any Guarantor has irrevocably deposited or caused to be deposited with the trustee as trust funds in trust solely for the benefit of the holders, cash in U.S. dollars, non-callable Government Securities, or a combination of cash in U.S. dollars and non-callable Government Securities, in amounts sufficient, without consideration of any reinvestment of interest, to pay and discharge the entire Indebtedness on the notes not delivered to the trustee for cancellation for principal, premium, if any, and accrued interest to the date of maturity or redemption;

(2) no Default or Event of Default has occurred and is continuing on the date of the deposit (other than a Default or Event of Default resulting from the borrowing of funds to be applied to such deposit) and the deposit will not result in a breach or violation of, or constitute a default under, any other instrument to which the Issuer or any Guarantor is a party or by which the Issuer or any Guarantor is bound;

(3) the Issuer or any Guarantor has paid or caused to be paid all sums payable by it under the indenture; and

(4) the Issuer has delivered irrevocable instructions to the trustee under the indenture to apply the deposited money toward the payment of the notes at maturity or the redemption date, as the case may be.

In addition, the Issuer must deliver an officers’ certificate and an opinion of counsel to the trustee stating that all conditions precedent to satisfaction and discharge have been satisfied.

### Concerning the Trustee

If the trustee becomes a creditor of the Issuer or any Guarantor, the indenture limits the right of the trustee to obtain payment of claims in certain cases, or to realize on certain property received in respect of any such claim as security or otherwise. The trustee will be permitted to engage in other transactions; however, if it acquires any conflicting interest it must eliminate such conflict within 90 days, apply to the SEC for permission to continue as trustee (if the indenture has been qualified under the Trust Indenture Act) or resign.

The holders of a majority in aggregate principal amount of the then outstanding notes will have the right to direct the time, method and place of conducting any proceeding for exercising any remedy available to the trustee,



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subject to certain exceptions. The indenture provides that in case an Event of Default occurs and is continuing, the trustee will be required, in the exercise of its power, to use the degree of care of a prudent man in the conduct of his own affairs. Subject to such provisions, the trustee will be under no obligation to exercise any of its rights or powers under the indenture at the request of any holder of notes, unless such holder has offered to the trustee security and indemnity satisfactory to it against any loss, liability or expense.

Additional Information

Anyone who receives this prospectus may obtain a copy of the indenture without charge by writing to Dycom Industries, Inc., 11770 US Highway 1, Suite 101, Palm Beach Gardens, Florida, 33408.

Book-Entry, Delivery and Form

Except as set forth below, the notes will be issued in registered, global form in a minimum amount of \$2,000 and integral multiples of \$1,000 in excess of \$2,000. Notes will be issued at the closing of this exchange offer only against payment in immediately available funds.

The notes initially will be represented by one or more notes in registered, global form without interest coupons (collectively, the "Global Notes"). The Global Notes will be deposited upon issuance with the trustee as custodian for The Depository Trust Company ("DTC"), in New York, New York, and registered in the name of DTC or its nominee, in each case for credit to an account of a direct or indirect participant in DTC as described below.

Except as set forth below, the Global Notes may be transferred, in whole and not in part, only to another nominee of DTC or to a successor of DTC or its nominee. Beneficial interests in the Global Notes may not be exchanged for definitive notes in certificated form ("Certificated Notes") except in the limited circumstances described below. See "—Exchange of Global Notes for Certificated Notes."

Depository Procedures

The following description of the operations and procedures of DTC is provided solely as a matter of convenience. These operations and procedures are solely within the control of DTC and are subject to changes by them. The Issuer takes no responsibility for these operations and procedures and urges investors to contact the system or their participants directly to discuss these matters.

DTC has advised the Issuer that DTC is a limited-purpose trust company created to hold securities for its participating organizations (collectively, the "Participants") and to facilitate the clearance and settlement of transactions in those securities between the Participants through electronic book-entry changes in accounts of its Participants. The Participants include securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations. Access to DTC's system is also available to other entities such as banks, brokers, dealers and trust companies that clear through or maintain a custodial relationship with a Participant, either directly or indirectly (collectively, the "Indirect Participants"). Persons who are not Participants may beneficially own securities held by or on behalf of DTC only through the Participants or the Indirect Participants. The ownership interests in, and transfers of ownership interests in, each security held by or on behalf of DTC are recorded on the records of the Participants and Indirect Participants.

DTC has also advised the Issuer that, pursuant to procedures established by it:

(1) upon deposit of the Global Notes, DTC will credit the accounts of the Participants pursuant to the corresponding letters of transmittal with portions of the principal amount of the Global Notes; and

(2) ownership of these interests in the Global Notes will be shown on, and the transfer of ownership of these interests will be effected only through, records maintained by DTC (with respect to the Participants) or by the Participants and the Indirect Participants (with respect to other owners of beneficial interest in the Global Notes).

Investors in the Global Notes who are Participants may hold their interests therein directly through DTC. Investors in the Global Notes who are not Participants may hold their interests therein indirectly through organizations which are Participants. All interests in a Global Note may be subject to the procedures and requirements of DTC.

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The laws of some states require that certain Persons take physical delivery in definitive form of securities that they own. Consequently, the ability to transfer beneficial interests in a Global Note to such Persons will be limited to that extent. Because DTC can act only on behalf of the Participants, which in turn act on behalf of the Indirect Participants, the ability of a Person having beneficial interests in a Global Note to pledge such interests to Persons that do not participate in the DTC system, or otherwise take actions in respect of such interests, may be affected by the lack of a physical certificate evidencing such interests.

Except as described below, owners of interest in the Global Notes will not have notes registered in their names, will not receive physical delivery of notes in certificated form and will not be considered the registered owners or “Holders” thereof under the indenture for any purpose.

Payments in respect of the principal of, and interest and premium, if any, on a Global Note registered in the name of DTC or its nominee will be payable to DTC in its capacity as the registered holder under the indenture. Under the terms of the indenture, the Issuer and the trustee will treat the Persons in whose names the notes, including the Global Notes, are registered as the owners of the notes for the purpose of receiving payments and for all other purposes. Consequently, neither the Issuer, the trustee nor any agent of the Issuer or the trustee has or will have any responsibility or liability for:

(1) any aspect of DTC’s records or any Participant’s or Indirect Participant’s records relating to or payments made on account of beneficial ownership interest in the Global Notes or for maintaining, supervising or reviewing any of DTC’s records or any Participant’s or Indirect Participant’s records relating to the beneficial ownership interests in the Global Notes; or

(2) any other matter relating to the actions and practices of DTC or any of its Participants or Indirect Participants.

DTC has advised the Issuer that its current practice, upon receipt of any payment in respect of securities such as the notes (including principal and interest), is to credit the accounts of the relevant Participants with the payment on the payment date unless DTC has reason to believe it will not receive payment on such payment date. Each relevant Participant is credited with an amount proportionate to its beneficial ownership of an interest in the principal amount of the relevant security as shown on the records of DTC. Payments by the Participants and the Indirect Participants to the beneficial owners of notes will be governed by standing instructions and customary practices and will be the responsibility of the Participants or the Indirect Participants and will not be the responsibility of DTC, the trustee or the Issuer. Neither the Issuer nor the trustee will be liable for any delay by DTC or any of the Participants or the Indirect Participants in identifying the beneficial owners of the notes, and the Issuer and the trustee may conclusively rely on and will be protected in relying on instructions from DTC or its nominee for all purposes.

Transfers between the Participants will be effected in accordance with DTC’s procedures, and will be settled in same-day funds.

DTC has advised the Issuer that it will take any action permitted to be taken by a holder of notes only at the direction of one or more Participants to whose account DTC has credited the interests in the Global Notes and only in respect of such portion of the aggregate principal amount of the notes as to which such Participant or Participants has or have given such direction. However, if there is an Event of Default under the notes, DTC reserves the right to exchange the Global Notes for legended notes in certificated form, and to distribute such notes to its Participants.

None of the Issuer, the trustee and any of their respective agents will have any responsibility for the performance by DTC or its respective participants or indirect participants of its obligations under the rules and procedures governing its operations.

Exchange of Global Notes for Certificated Notes

A Global Note is exchangeable for Certificated Notes if:

(1) DTC (a) notifies the Issuer that it is unwilling or unable to continue as depository for the Global Notes or (b) has ceased to be a clearing agency registered under the Exchange Act and, in either case, Holdings fails to appoint a successor depository;

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(2) the Issuer, at its option, notifies the trustee in writing that it elects to cause the issuance of the Certificated Notes (DTC has advised the Issuer that, in such event, under its current practices, DTC would notify its participants of the Issuer's request, but will only withdraw beneficial interests from a Global Note at the request of each DTC participant); or

(3) there has occurred and is continuing a Default or Event of Default with respect to the notes.

In addition, beneficial interests in a Global Note may be exchanged for Certificated Notes upon prior written notice given to the trustee by or on behalf of DTC in accordance with the indenture. In all cases, Certificated Notes delivered in exchange for any Global Note or beneficial interests in Global Notes will be registered in the names, and issued in any approved denominations, requested by or on behalf of the depository (in accordance with its customary procedures).

Same Day Settlement and Payment

The Issuer will make payments in respect of the notes represented by the Global Notes (including principal, premium, if any, and interest) by wire transfer of immediately available funds to the accounts specified by DTC or its nominee. The Issuer will make all payments of principal, interest and premium, if any, with respect to Certificated Notes by wire transfer of immediately available funds to the accounts specified by the holders of the Certificated Notes or, if no such account is specified, by mailing a check to each such holder's registered address. The notes represented by the Global Notes are expected to trade in DTC's Same-Day Funds Settlement System, and any permitted secondary market trading activity in such notes will, therefore, be required by DTC to be settled in immediately available funds. The Issuer expects that secondary trading in any Certificated Notes will also be settled in immediately available funds.

Certain Definitions

Set forth below are certain defined terms used in the indenture. Reference is made to the indenture for a full disclosure of all defined terms used therein, as well as any other capitalized terms used herein for which no definition is provided.

"Acquired Debt" means, with respect to any specified Person:

(1) Indebtedness of any other Person existing at the time such other Person is merged with or into or became a Subsidiary of such specified Person, whether or not such Indebtedness is incurred in connection with, or in contemplation of, such other Person merging with or into, or becoming a Restricted Subsidiary of, such specified Person; and

(2) Indebtedness secured by a Lien encumbering any asset acquired by such specified Person.

"Affiliate" of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. No Person (other than Holdings or any Subsidiary of Holdings) in whom a Receivables Subsidiary makes an Investment in connection with a Qualified Receivables Transaction will be deemed to be an Affiliate of Holdings or any of its Subsidiaries solely by reason of such Investment. For purposes of this definition, "control," as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise; provided that beneficial ownership of 10% or more of the Voting Stock of a Person will be deemed to be control. For purposes of this definition, the terms "controlling," "controlled by" and "under common control with" have correlative meanings.

"Applicable Premium" means, with respect to any note on any redemption date, the greater of:

(1) 1.0% of the principal amount of the note; or

(2) the excess of:

(a) the present value at such redemption date of (i) the redemption price of the note at January 15, 2016 (such redemption price being set forth in the table appearing above under the caption "—Optional Redemption") plus (ii) all required interest payments due on the note through January 15, 2016 (excluding accrued but unpaid interest to the redemption date), computed using a discount rate equal to the Treasury Rate as of such redemption date plus 50 basis points; over



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(b) the principal amount of the note.

“Asset Sale” means:

(1) the sale, lease, conveyance or other disposition of any assets or rights; provided that the sale, lease, conveyance or other disposition of all or substantially all of the assets of Holdings and its Restricted Subsidiaries taken as a whole will be governed by the provisions of the indenture described above under the caption “—Repurchase at the Option of Holders—Change of Control” and/or the provisions described above under the caption “—Certain Covenants—Merger, Consolidation or Sale of Assets” and not by the provisions of the Asset Sale covenant; and

(2) the issuance of Equity Interests in any of Holdings’ Restricted Subsidiaries or the sale of Equity Interests in any of its Restricted Subsidiaries (other than directors’ qualifying shares and shares issued to foreign nationals to the extent required by applicable law).

Notwithstanding the preceding, none of the following items will be deemed to be an Asset Sale:

(1) any single transaction or series of related transactions that involves assets or Equity Interests having a Fair Market Value of less than \$7.5 million;

(2) a transfer of assets or Equity Interests between or among Holdings and its Restricted Subsidiaries,

(3) an issuance of Equity Interests by a Restricted Subsidiary of Holdings to Holdings or to a Restricted Subsidiary of Holdings;

(4) the sale or lease of inventory, products, services, accounts receivable or other assets in the ordinary course of business and any sale or other disposition of damaged, worn-out or obsolete equipment or assets that, in Holdings’ reasonable judgment, are no longer either used or needed in the business of the entity making such disposition;

(5) dispositions of accounts receivable in connection with the compromise, settlement or collection thereof in the ordinary course of business or in bankruptcy or similar proceedings;

(6) the sale or other disposition of cash or Cash Equivalents;

(7) a Restricted Payment that does not violate the covenant described above under the caption “—Certain Covenants—Restricted Payments” or a Permitted Investment;

(8) the creation of any Lien that does not violate the Liens covenant;

(9) sales or dispositions of past due accounts receivable or notes receivable;

(10) leases or subleases of property to the extent not materially interfering with the business of Holdings and its Restricted Subsidiaries, taken as a whole;

(11) trade-ins or exchanges of equipment or other fixed assets;

(12) the grant of a license to use Holdings’ or any Restricted Subsidiary’s patents, trade secrets, know-how or other intellectual property to the extent that such license does not limit the licensor’s use of the patent, trade secret, know-how or other intellectual property;

(13) sales of accounts receivable and related assets of the type specified in the definition of “Qualified Receivables Transaction” to a Receivables Subsidiary for the fair market value thereof, including cash in an amount at least equal to 75% of the book value thereof as determined in accordance with GAAP; it being understood that, for the purposes of this clause (12), notes received in exchange for the transfer of accounts receivable and related assets will be deemed cash if the Receivables Subsidiary or other payor is required to repay such notes as soon as practicable from available cash collections (less amounts required to be established as reserves pursuant to contractual agreements with entities that are not Affiliates of Holdings entered into as part of a Qualified Receivables Transaction); and

(14) transfers of accounts receivable and related assets of the type specified in the definition of “Qualified Receivables Transaction” (or a fractional undivided interest therein) by a Receivables Subsidiary in a Qualified Receivables Transaction.

“Asset Sale Offer” has the meaning assigned to that term in the indenture governing the notes.

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“Beneficial Owner” has the meaning assigned to such term in Rule 13d-3 and Rule 13d-5 under the Exchange Act, except that in calculating the beneficial ownership of any particular “person” (as that term is used in Section 13(d)(3) of the Exchange Act), such “person” will be deemed to have beneficial ownership of all securities that such “person” has the right to acquire by conversion or exercise of other securities, whether such right is currently exercisable or is exercisable only after the passage of time. The terms “Beneficially Owns” and “Beneficially Owned” have a corresponding meaning.

“Board of Directors” means:

- (1) with respect to a corporation, the board of directors of the corporation or any committee thereof duly authorized to act on behalf of such board;
- (2) with respect to a partnership, the Board of Directors of the general partner of the partnership;
- (3) with respect to a limited liability company, the managing member or members or any controlling committee of managing members thereof; and
- (4) with respect to any other Person, the board or committee of such Person serving a similar function.

“Capital Lease Obligation” means, at the time any determination is to be made, the amount of the liability in respect of a capital lease that would at that time be required to be capitalized on a balance sheet prepared in accordance with GAAP, and the Stated Maturity of a capital lease obligation shall be the date of the last payment of rent or any other amount due under such lease prior to the first date upon which such lease may be prepaid by the lessee without payment of a penalty.

“Capital Stock” means:

- (1) in the case of a corporation, corporate stock;
- (2) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock;
- (3) in the case of a partnership or limited liability company, partnership interests or membership interests (whether general or limited); and
- (4) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person, but excluding from all of the foregoing any debt securities convertible into Capital Stock, whether or not such debt securities include any right of participation with Capital Stock.

“Cash Equivalents” means:

- (1) United States dollars and such local currencies held by Holdings or any Restricted Subsidiary of Holdings from time to time in the ordinary course of business;
- (2) securities issued or directly and fully guaranteed or insured by the United States government or any agency or instrumentality of the United States government (provided that the full faith and credit of the United States is pledged in support of those securities) having maturities, unless such securities are deposited to defease any Indebtedness, of not more than one (1) year from the date of acquisition;
- (3) time deposits, certificates of deposit and eurodollar time deposits with maturities of one (1) year or less from the date of acquisition, bankers’ acceptances with maturities not exceeding one (1) year and overnight bank deposits, in each case, with any lender party to the Credit Agreement or with any domestic commercial bank having capital and surplus in excess of \$250.0 million;
- (4) securities issued by government agencies, including government-sponsored enterprises, having maturities, unless such securities are deposited to defease any Indebtedness, of not more than one (1) year from the date of acquisition;
- (5) repurchase obligations with a term of not more than thirty (30) days for underlying securities of the types described in clauses (2), (3) and (4) above entered into with any financial institution meeting the qualifications specified in clause (3) above;



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- (6) any money market deposit account issued or offered by any lender party to the Credit Agreement or with any U.S. commercial bank having capital and surplus in excess of \$250.0 million;
- (7) commercial paper having one of the two highest ratings obtainable from Moody's or S&P and in each case maturing within one (1) year after the date of acquisition;
- (8) securities issued and fully guaranteed by any state, commonwealth or territory of the United States of America or by any political subdivision or taxing authority thereof, rated at least "A" (or comparable rating) by Moody's or Standard & Poor's and having maturities of not more than one (1) year from the date of acquisition;
- (9) money market funds that invest primarily in Cash Equivalents of the kinds described in clauses (1) through (8) of this definition; and
- (10) in the case of Subsidiaries of Holdings that are not Domestic Subsidiaries, substantially similar instruments to those set forth in clauses (1) through (9) above.

"Change of Control" means the occurrence of any of the following:

- (1) the direct or indirect sale, lease, transfer, conveyance or other disposition (other than by way of merger or consolidation), in one or a series of related transactions, of all or substantially all of the properties or assets of Holdings and its Subsidiaries, taken as a whole, to any "person" (as that term is used in Section 13(d)(3) of the Exchange Act);
- (2) the adoption of a plan relating to the liquidation or dissolution of Holdings;
- (3) the consummation of any transaction (including, without limitation, any merger or consolidation) the result of which is that any "person" (as defined above) becomes the Beneficial Owner, directly or indirectly, of more than 50% of the Voting Stock of Holdings, measured by voting power rather than number of shares; or
- (4) Holdings consolidates with, or merges with or into, any Person, or any Person consolidates with, or merges with or into, Holdings, in any such event pursuant to a transaction in which any of the outstanding Voting Stock of Holdings or such other Person is converted into or exchanged for cash, securities or other property, other than (a) any such transaction where the Voting Stock of Holdings outstanding immediately prior to such transaction is converted into or exchanged for Voting Stock (other than Disqualified Stock) of the surviving or transferee Person constituting a majority of the outstanding shares of such Voting Stock of such surviving or transferee Person (immediately after giving effect to such issuance) and (b) any transaction where, immediately after such transaction, no "person" or "group" (as such terms are used in Section 13(d) and 14(d) of the Exchange Act), becomes, directly or indirectly, the ultimate Beneficial Owner of 50% or more of the voting power of the Voting Stock of the surviving or transferee Person.

Notwithstanding the foregoing, a transaction effected to create a holding company will not be deemed to involve a Change of Control if (i) Holdings becomes a direct or indirect wholly-owned subsidiary of such holding company and (ii) the holders of the voting stock of such holding company immediately following that transaction are substantially the same as the holders of Holdings' voting stock immediately prior to that transaction.

"Change of Control Offer" has the meaning assigned to that term in the indenture governing the notes.

"Common Stock" means, with respect to any Person, any Capital Stock (other than Preferred Stock) of such Person, whether outstanding on the date of the indenture or issued thereafter.

"Consolidated Cash Flow" means, with respect to any specified Person for any period, the Consolidated Net Income of such Person for such period plus, without duplication:

- (1) an amount equal to any extraordinary, nonrecurring or unusual loss or charge plus any net loss realized by such Person or any of its Restricted Subsidiaries in connection with an Asset Sale, to the extent such losses were deducted in computing such Consolidated Net Income; plus
- (2) provision for taxes based on income or profits for such period, to the extent that such provision for taxes was deducted in computing such Consolidated Net Income; plus



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(3) the Fixed Charges for such period, to the extent that such Fixed Charges were deducted in computing such Consolidated Net Income; plus

(4) depreciation, amortization (including amortization of intangibles but excluding amortization of prepaid cash expenses that were paid in a prior period) and other non-cash expenses (excluding any such non-cash expense to the extent that it represents an accrual of or reserve for cash expenses in any future period or amortization of a prepaid cash expense that was paid in a prior period) for such period to the extent that such depreciation, amortization and other non-cash expenses were deducted in computing such Consolidated Net Income; plus

(5) any impairment charges, on a consolidated basis, relating to goodwill or other intangible assets to the extent included in the calculation of Net Income; plus

(6) any non-cash compensation expense to the extent included in the calculation of Consolidated Net Income; plus

(7) any amortization of debt issuance costs relating to the notes or any other Indebtedness to the extent deducted in computing such Consolidated Net Income; plus

(8) fees, expenses or charges relating to Equity Offerings, Investments, acquisitions, dispositions, recapitalizations or the Incurrence of Indebtedness, to the extent such fees, expenses or charges were deducted in computing such Consolidated Net Income; plus

(9) any income attributable to the minority interest of third parties in any non-wholly owned Restricted Subsidiary of Holdings to the extent deducted in computing such Consolidated Net Income; plus

(10) the amount of any restructuring charges and reserves to the extent deducted in computing such Consolidated Net Income; minus

(11) other non-cash items increasing such Consolidated Net Income for such period, other than the accrual of revenue in the ordinary course of business,

in each case, on a consolidated basis and determined in accordance with GAAP.

Solely for the purpose of determining the amount available for Restricted Payments under “—Certain Covenants—Restricted Payments,” notwithstanding the preceding, the provision for taxes based on the income or profits of, and the depreciation and amortization and other non-cash expenses of, a Restricted Subsidiary of Holdings will be added to Consolidated Net Income to compute Consolidated Cash Flow of Holdings only to the extent that a corresponding amount would be permitted at the date of determination to be dividended or distributed to Holdings by such Restricted Subsidiary without prior governmental approval (that has not been obtained), and without direct or indirect restriction pursuant to the terms of its charter and all agreements, instruments, judgments, decrees, orders, statutes, rules and governmental regulations applicable to that Restricted Subsidiary or its stockholders.

“Consolidated Net Assets” of any Person means, as of any date, the amount which in accordance with GAAP, would be set forth under the caption “Total Assets” (or any like caption) on a consolidated balance sheet of such Person and its Restricted Subsidiaries, as of the end of the most recently ended fiscal quarter for which internal financial statements are available, less current liabilities.

“Consolidated Net Income” means, with respect to any specified Person for any period, the aggregate of the Net Income of such Person and its Subsidiaries for such period, on a consolidated basis, determined in accordance with GAAP; provided that:

(1) the Net Income (or loss) of any Person that is not a Restricted Subsidiary or that is accounted for by the equity method of accounting will be included only to the extent of the amount of dividends or similar distributions or payments are paid in cash (or to the extent converted into cash) to the specified Person or a Restricted Subsidiary of the Person;

(2) solely for the purpose of determining the amount available for Restricted Payments under “—Certain Covenants—Restricted Payments,” the Net Income of any Restricted Subsidiary will be excluded to the extent that the declaration or payment of dividends or similar distributions by that Restricted Subsidiary of that Net Income is not at the date of determination permitted without any prior governmental approval (that has not been obtained) or, directly or indirectly, by operation of the terms of its charter or any





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agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Restricted Subsidiary or its stockholders; provided that Consolidated Net Income for such Restricted Subsidiary will be increased by the amount of dividends or distributions or other payments that are paid in cash (or to the extent converted into cash) to such Restricted Subsidiary in respect to such period, to the extent not already included therein; and

(3) the cumulative effect of a change in accounting principles will be excluded.

“Credit Agreement” means that certain Credit Agreement dated June 4, 2010 by and among Dycom Industries, Inc. and Bank of America, N.A., as Administrative Agent, Swingline Lender and L/C Issuer, Banc of America Securities LLC and Wells Fargo Securities, LLC, as Joint Lead Arrangers and Joint Book Managers, Wells Fargo Bank, National Association, as Syndication Agent, and Branch Banking and Trust Company, RBS Citizens, N.A. and PNC Bank, National Association, as Co-Documentation Agents, providing for revolving credit, letter of credit and swingline loan borrowings, including any related notes, Guarantees, collateral documents, instruments and agreements executed in connection therewith, and in each case as amended, restated, modified, renewed, refunded, replaced (whether upon or after termination or otherwise) or refinanced (including by means of sales of debt securities to institutional investors) in whole or in part from time to time.

“Credit Facilities” means, one or more debt facilities (including, without limitation, the Credit Agreement), commercial paper facilities or indentures, in each case, with banks or other institutional lenders or investors or a trustee, providing for revolving credit loans, term loans, receivables financing (including through the sale of receivables to such lenders or to special purpose entities formed to borrow from such lenders against such receivables), letters of credit or issuances of notes, in each case, as amended, restated, modified, renewed, refunded, replaced (whether upon or after termination or otherwise) or refinanced (including by means of sales of debt securities to institutional investors) in whole or in part from time to time.

“Default” means any event that is, or with the passage of time or the giving of notice or both would be, an Event of Default.

“Designated Non-Cash Consideration” means the Fair Market Value of non-cash consideration received by Holdings or one of its Restricted Subsidiaries in connection with an Asset Sale that is so designated as Designated Non-Cash Consideration pursuant to an officers’ certificate, less the amount of Cash Equivalents received in connection with a subsequent sale of such Designated Non-Cash Consideration.

“Designated Senior Debt” means:

(1) any Indebtedness outstanding under the Credit Facilities;

(2) any Hedging Obligations with respect to Indebtedness constituting Designated Senior Debt; and

(3) to the extent permitted under the Credit Agreement, any other Senior Debt permitted under the indenture the principal amount of which is \$25.0 million or more and that has been designated by Holdings as “Designated Senior Debt.”

“Disqualified Stock” means any Capital Stock that, by its terms (or by the terms of any security into which it is convertible, or for which it is exchangeable, in each case at the option of the holder of the Capital Stock), or upon the happening of any event, matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or redeemable at the option of the holder of the Capital Stock, in whole or in part, on or prior to the date that is 91 days after the date on which the notes mature. Notwithstanding the preceding sentence, any Capital Stock that would constitute Disqualified Stock solely because the holders of the Capital Stock have the right to require Holdings to repurchase such Capital Stock upon the occurrence of a change of control or an asset sale will not constitute Disqualified Stock if the terms of such Capital Stock provide that Holdings may not repurchase or redeem any such Capital Stock pursuant to such provisions unless such repurchase or redemption complies with the covenant described above under the caption “—Certain Covenants—Restricted Payments.” The amount of Disqualified Stock deemed to be outstanding at any time for purposes of the indenture will be the maximum amount that Holdings and its Restricted Subsidiaries may become obligated to pay upon the maturity of, or pursuant to any mandatory redemption provisions of, such Disqualified Stock, exclusive of accrued dividends.

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“Domestic Subsidiary” means any Restricted Subsidiary of Holdings other than a Restricted Subsidiary that is (1) a “controlled foreign corporation” under Section 957 of the Internal Revenue Code or (2) a Subsidiary of an entity described in the preceding clause (1).

“Equity Interests” means Capital Stock and all warrants, options or other rights to acquire Capital Stock (but excluding any debt security that is convertible into, or exchangeable for, Capital Stock).

“Equity Offering” means any public or private placement of Capital Stock (other than Disqualified Stock) of Holdings (other than pursuant to a registration statement on Form S-8 or otherwise relating to equity securities issuable under any employee benefit plan of Holdings) to any Person other than any Restricted Subsidiary thereof.

“Existing Indebtedness” means Indebtedness of Holdings and its Restricted Subsidiaries (other than Indebtedness under the Credit Agreement, the notes or the Note Guarantees) in existence on the date of the indenture, until such amounts are repaid.

“Fair Market Value” means the value that would be paid by a willing buyer to an unaffiliated willing seller in a transaction not involving distress or necessity of either party.

“Fixed Charge Coverage Ratio” means with respect to any specified Person for any period, the ratio of the Consolidated Cash Flow of such Person for such period to the Fixed Charges of such Person for such period. In the event that the specified Person or any of its Restricted Subsidiaries incurs, assumes, guarantees, repays, repurchases, redeems, defeases or otherwise discharges any Indebtedness (other than ordinary revolving credit borrowings) or issues, repurchases or redeems Preferred Stock or Disqualified Stock subsequent to the commencement of the period for which the Fixed Charge Coverage Ratio is being calculated and on or prior to the date on which the event for which the calculation of the Fixed Charge Coverage Ratio is made (the “Calculation Date”), then the Fixed Charge Coverage Ratio will be calculated giving pro forma effect to such incurrence, assumption, Guarantee, repayment, repurchase, redemption, defeasance or other discharge of Indebtedness, or such issuance, repurchase or redemption of Preferred Stock or Disqualified Stock, and the use of the proceeds therefrom, as if the same had occurred at the beginning of the applicable four-quarter reference period.

In addition, for purposes of calculating the Fixed Charge Coverage Ratio:

(1) acquisitions, Investments or dispositions that have been made by the specified Person or any of its Restricted Subsidiaries, including through mergers or consolidations, or any Person or any of its Restricted Subsidiaries acquired by the specified Person or any of its Restricted Subsidiaries, and including any related financing transactions and including increases or decreases in ownership of Restricted Subsidiaries, during the four-quarter reference period or subsequent to such reference period and on or prior to the Calculation Date will be given pro forma effect, including giving effect to any projected reduction in costs expected to be realized as a result of specified actions taken or to be taken within one year of such acquisition, Investment or disposition relating thereto (in each case, determined in good faith and based on the reasonable judgment of the chief financial officer) as if they had occurred on the first day of the four-quarter reference period;

(2) the Consolidated Cash Flow attributable to discontinued operations, as determined in accordance with GAAP, and operations or businesses (and ownership interests therein) disposed of prior to the Calculation Date, will be excluded;

(3) the Fixed Charges attributable to discontinued operations, as determined in accordance with GAAP, and operations or businesses (and ownership interests therein) disposed of prior to the Calculation Date, will be excluded, but only to the extent that the obligations giving rise to such Fixed Charges will not be obligations of the specified Person or any of its Restricted Subsidiaries following the Calculation Date;

(4) any Person that is a Restricted Subsidiary on the Calculation Date will be deemed to have been a Restricted Subsidiary at all times during such four-quarter period;

(5) any Person that is not a Restricted Subsidiary on the Calculation Date will be deemed not to have been a Restricted Subsidiary at any time during such four-quarter period; and

(6) if any Indebtedness bears a floating rate of interest, the interest expense on such Indebtedness will be calculated as if the rate in effect on the Calculation Date had been the applicable rate for the entire period

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(taking into account any Hedging Obligation applicable to such Indebtedness if such Hedging Obligation has a remaining term as at the Calculation Date in excess of 12 months).

“Fixed Charges” means, with respect to any specified Person for any period, the sum, without duplication, of:

(1) the consolidated interest expense of such Person and its Restricted Subsidiaries for such period, whether paid or accrued, including, without limitation, amortization of original issue discount, non-cash interest payments, the interest component of any deferred payment obligations and the interest component of all payments associated with Capital Lease Obligations, imputed interest with respect to commissions, discounts and other fees and charges incurred in respect of letters of credit or bankers' acceptance financings, and net of the effect of all payments made or received pursuant to Hedging Obligations in respect of interest rates, but excluding any fees or expenses relating to any provision or penalty paid, write-off of deferred financing costs or other charges in connection with redeeming or retiring of any Indebtedness of such Person or any of its Restricted Subsidiaries prior to its stated maturity, any non-cash interest expense imputed on any convertible securities or indebtedness in accordance with Financial Accounting Standards Board Accounting Standard Codification Topic 470 or any successor provision or interpretation thereof, any non-cash interest expense imputed in accordance with Financial Accounting Standards Board Accounting Standard Codification Topic 480 or any successor provision or interpretation thereof, any commissions, fees and expenses related to financings, the accretion or accrual of discounted liabilities not constituting Indebtedness (including tax liabilities) and amortization of debt issuance costs; plus

(2) the consolidated interest expense of such Person and its Restricted Subsidiaries that was capitalized during such period; plus

(3) any interest on Indebtedness of another Person that is guaranteed by such Person or one of its Restricted Subsidiaries or secured by a Lien on assets of such Person or one of its Restricted Subsidiaries, whether or not such Guarantee or Lien is called upon; plus

(4) the product of (a) all dividends, whether paid or accrued and whether or not in cash, on any series of Disqualified Stock of such Person or Preferred Stock of any Restricted Subsidiaries of such Person, other than dividends on Equity Interests payable solely in Equity Interests of Holdings (other than Disqualified Stock) or to Holdings or a Restricted Subsidiary of Holdings, times (b) a fraction, the numerator of which is one and the denominator of which is one minus the then current combined federal, state and local statutory tax rate of such Person, expressed as a decimal, in each case, determined on a consolidated basis in accordance with GAAP.

“GAAP” means generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants, the opinions and pronouncements of the Public Company Accounting Oversight Board and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as have been approved by a significant segment of the accounting profession, which are in effect on the date of the indenture.

“Guarantee” means, as to any Person, a guarantee other than by endorsement of negotiable instruments for collection in the ordinary course of business, direct or indirect, in any manner including, without limitation, by way of a pledge of assets or through letters of credit or reimbursement agreements in respect thereof, of all or any part of any Indebtedness of another person (whether arising by virtue of partnership arrangements, or by agreements to keep-well, to purchase assets, goods, securities or services, to take or pay or to maintain financial statement conditions or otherwise), but excluding endorsements for collection or deposit in the ordinary course of business or representations, warranties, covenants and indemnities entered into in the ordinary course of business, including in connection with a Qualified Receivables Transaction.

“Guarantors” means each of:

(1) Holdings;

(2) Holdings' direct and indirect Domestic Subsidiaries existing on the date of the indenture that guarantee any Credit Facility on the date of the indenture, other than the Issuer; and

(3) any other Subsidiary of Holdings that executes a Note Guarantee in accordance with the provisions of the indenture,

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and their respective successors and assigns, in each case, until the Note Guarantee of such Person has been released in accordance with the provisions of the indenture.

“Hedging Obligations” means, with respect to any specified Person, the obligations of such Person under:

- (1) interest rate swap agreements (whether from fixed to floating or from floating to fixed), interest rate cap agreements and interest rate collar agreements;
- (2) other agreements or arrangements designed to manage interest rates or interest rate risk; and
- (3) other agreements or arrangements designed to protect such Person against fluctuations in currency exchange rates or commodity prices.

“Indebtedness” means, with respect to any specified Person, any indebtedness of such Person (excluding accrued expenses and trade payables), whether or not contingent:

- (1) in respect of borrowed money;
- (2) evidenced by bonds, notes, debentures or similar instruments or letters of credit (or reimbursement agreements in respect thereof);
- (3) in respect of banker’s acceptances;
- (4) representing Capital Lease Obligations;
- (5) representing the balance deferred and unpaid of the purchase price of any property or services due more than one year after such property is acquired or such services are completed; or
- (6) representing any Hedging Obligations,

if and to the extent any of the preceding items (other than letters of credit and Hedging Obligations) would appear as a liability upon a balance sheet of the specified Person prepared in accordance with GAAP.

In addition, the term “Indebtedness” includes (x) all Indebtedness of others secured by a Lien on any asset of the specified Person (whether or not such Indebtedness is assumed by the specified Person); provided that the amount of such Indebtedness will be the lesser of (A) the Fair Market Value of such asset at such date of determination and (B) the amount of such Indebtedness and (y) to the extent not otherwise included, the Guarantee by the specified Person of any Indebtedness of any other Person.

For purposes of determining any particular amount of Indebtedness, (x) Guarantees, Liens or obligations with respect to letters of credit supporting Indebtedness otherwise included in the determination of such particular amount shall not be included, and (y) any Liens granted pursuant to the equal and ratable provisions referred to in the “Liens” covenant shall not be treated as Indebtedness.

“Investment Grade” means, with respect to Moody’s, a rating of Baa3 or, with respect to S&P, a rating of BBB—or better (or, if either such entity ceases to rate the notes, the equivalent investment grade credit rating from any other Rating Agency selected by Holdings).

“Investments” means, with respect to any Person, all direct or indirect investments by such Person in other Persons in the forms of loans (including Guarantees or other obligations), advances or capital contributions (excluding commission, travel and similar advances to officers and employees made in the ordinary course of business), purchases or other acquisitions for consideration of Indebtedness, Equity Interests or other securities, together with all items that are or would be classified as investments on a balance sheet prepared in accordance with GAAP. If Holdings or any Restricted Subsidiary of Holdings sells or otherwise disposes of any Equity Interests of any direct or indirect Restricted Subsidiary of Holdings such that, after giving effect to any such sale or disposition, such Person is no longer a Restricted Subsidiary of Holdings, Holdings will be deemed to have made an Investment on the date of any such sale or disposition equal to the Fair Market Value of Holdings’ Investments in such Subsidiary that were not sold or disposed of in an amount determined as provided in the final paragraph of the covenant described above under the caption “—Certain Covenants—Restricted Payments.” The acquisition by Holdings or any Restricted Subsidiary of Holdings of a Person that holds an Investment in a third Person will be deemed to be an Investment by Holdings or



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such Restricted Subsidiary in such third Person, unless such Investment in such third party was not made in anticipation or contemplation of the Investment by Holdings or such Restricted Subsidiary and such third party Investment is incidental to the primary business of such Person in whom Holdings or such Restricted Subsidiary is making such Investment, in an amount equal to the Fair Market Value of the Investments held by the acquired Person in such third Person in an amount determined as provided in the final paragraph of the covenant described above under the caption “—Certain Covenants—Restricted Payments.” Except as otherwise provided in the indenture, the amount of an Investment will be determined at the time the Investment is made and without giving effect to subsequent changes in value.

“Lien” means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law, including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to sell or give a security interest in, except in connection with any Qualified Receivables Transaction, and any filing of or agreement to give any financing statement under the Uniform Commercial Code (or equivalent statutes) of any jurisdiction.

“Moody’s” means Moody’s Investors Service, Inc.

“Net Income” means, with respect to any specified Person for any period, the net income (loss) of such Person for such period, on a consolidated basis, determined in accordance with GAAP and before any reduction in respect of preferred stock dividends, excluding, however:

- (1) any gain (or loss) or charge, together with any related provision for taxes on such gain (or loss) or charge, realized in connection with: (a) any Asset Sale; or (b) the disposition of any securities by such Person or any of its Restricted Subsidiaries or the extinguishment of any Indebtedness of such Person or any of its Restricted Subsidiaries, including any fees or expenses relating to any provision or penalty paid, write-off of deferred financing costs or other charges in connection with redeeming or retiring of any Indebtedness of such Person or any of its Restricted Subsidiaries prior to its stated maturity;
- (2) any extraordinary gain (or loss), together with any related provision for taxes on such extraordinary gain (or loss); and
- (3) any impairment charge or write-off, together with any related provision for taxes on such impairment charge or write-off, pursuant to Financial Accounting Standards Board Accounting Standard Codification Topic 350 and 360 on goodwill, intangibles and impairments or any successor provision or interpretation thereof.

“Net Proceeds” means the aggregate cash proceeds, including payments in respect of deferred payment obligations (to the extent corresponding to the principal, but not the interest component thereof), received by Holdings or any of its Restricted Subsidiaries in respect of any Asset Sale (including, without limitation, any cash received upon the sale or other disposition of any non-cash consideration received in any Asset Sale), net of

- (1) the direct costs relating to such Asset Sale, including, without limitation, legal, accounting and investment banking fees, and sales commissions, and any relocation expenses incurred as a result of the Asset Sale,
- (2) appropriate amounts to be provided by Holdings or any Restricted Subsidiary, as the case may be, as a reserve, in accordance with GAAP, against any liabilities associated with such Asset Sale,
- (3) taxes paid or payable as a result of the Asset Sale, in each case, after taking into account any available tax credits or deductions and any tax sharing arrangements,
- (4) amounts required to be applied to the repayment of Indebtedness or other liabilities, other than Senior Debt secured by a Lien on the asset or assets that were the subject of such Asset Sale,
- (5) any reserve for adjustment in respect of the sale price of such asset or assets established in accordance with GAAP, and
- (6) in the case of any Asset Sale by a Restricted Subsidiary, payments to holders of Equity Interests in such Restricted Subsidiary in such capacity (other than such Equity Interests held by the Issuer or any Restricted Subsidiary) to the extent that such payment is required to permit the distribution of such proceeds in respect of the Equity Interests in such Restricted Subsidiary held by the Issuer or any Restricted Subsidiary;

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provided that excess amounts set aside for payment of taxes pursuant to clause (2) above remaining after such taxes have been paid in full or the statute of limitations therefor has expired at that time become Net Proceeds.

“Note Guarantee” means the Guarantee by each Guarantor of the Issuer’s obligations under the indenture and the notes, executed pursuant to the provisions of the indenture.

“Obligations” means any principal, interest, penalties, fees, indemnifications, reimbursements, gross-ups, damages, costs and expenses and other liabilities payable under the documentation governing any Indebtedness.

“Permitted Business” means the lines of business conducted or proposed to be conducted by Holdings and its Subsidiaries on the date of the indenture and any businesses similar, related, incidental or ancillary thereto or that constitutes a reasonable extension or expansion thereof.

“Permitted Equity Purchase” means the repurchase, redemption or other acquisition or retirement for value of any Equity Interests of Holdings in an aggregate amount not to exceed \$30.0 million after the date of the indenture.

“Permitted Investments” means:

- (1) any Investment in Holdings or in a Restricted Subsidiary of Holdings;
- (2) any Investment in Cash Equivalents;
- (3) any Investment by Holdings or any Restricted Subsidiary of Holdings in a Person, if as a result of such Investment:
  - (a) such Person becomes a Restricted Subsidiary of Holdings; or
  - (b) such Person is merged, consolidated or amalgamated with or into, or transfers or conveys substantially all of its assets to, or is liquidated into, Holdings or a Restricted Subsidiary of Holdings;
- (4) any Investment made as a result of the receipt of non-cash consideration from an Asset Sale that was made pursuant to and in compliance with the covenant described above under the caption “—Repurchase at the Option of Holders—Asset Sales;”
- (5) any acquisition of assets or Equity Interests solely in exchange for the issuance of Equity Interests (other than Disqualified Stock) of Holdings;
- (6) any Investments received in compromise, resolution or settlement of (A) obligations of, or disputes with, trade creditors, suppliers or customers that were incurred or arose in the ordinary course of business of Holdings or any of its Restricted Subsidiaries, including pursuant to any plan of reorganization or similar arrangement upon the bankruptcy or insolvency of any trade creditor, suppliers or customer; or (B) litigation, arbitration or other disputes with Persons who are not Affiliates;
- (7) Investments represented by Hedging Obligations;
- (8) receivables or advances to customers or suppliers in the ordinary course of business that are payable or dischargeable in accordance with customary trade terms or that are, in conformity with GAAP, recorded as accounts receivable, prepaid expenses or deposits on the balance sheet of Holdings or its Restricted Subsidiaries and endorsements for collection or deposit arising in the ordinary course of business;
- (9) commission, payroll, travel and similar advances to officers and employees of Holdings or any of its Restricted Subsidiaries that are expected at the time of such advance ultimately to be recorded as an expense in conformity with GAAP;
- (10) Investments existing on the date of the indenture;
- (11) endorsements of negotiable instruments and documents in the ordinary course of business;
- (12) any Investment received in exchange for the Equity Interests of an Unrestricted Subsidiary;
- (13) repurchases of the notes;
- (14) Investments in a joint venture engaged in a Permitted Business having an aggregate Fair Market Value (measured on the date each such Investment was made and without giving effect to subsequent changes in value) when taken together with

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any other Investments under this clause (14) that are at the time outstanding, not to exceed the greater of (a) \$50.0 million or (b) 10% of Holdings' Consolidated Net Assets;

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(15) Guarantees permitted to be made pursuant to the covenant “Certain Covenants—Incurrence of Indebtedness and Issuance of Preferred Stock;

(16) loans and advances to employees made in the ordinary course of business not to exceed \$2.0 million in the aggregate at any time outstanding;

(17) the acquisition by a Receivables Subsidiary in connection with a Qualified Receivables Transaction of Equity Interests of a trust or other Person established by such Receivables Subsidiary to effect such Qualified Receivables Transaction; and any other Investment by Holdings or a Subsidiary of Holdings in a Receivables Subsidiary or any Investment by a Receivables Subsidiary in any other Person in connection with a Qualified Receivables Transaction; provided that such other Investment is in the form of a note or other instrument that the Receivables Subsidiary or other Person is required to repay as soon as practicable from available cash collections (less amounts required to be established as reserves pursuant to contractual agreements with entities that are not Affiliates of Holdings entered into as part of a Qualified Receivables Transaction);

(18) any assignment of intellectual property from Holdings or any Restricted Subsidiary of Holdings to any Unrestricted Subsidiary of Holdings;

(19) Investments in Unrestricted Subsidiaries having an aggregate Fair Market Value (measured on the date each such Investment was made and without giving effect to subsequent changes in value), when taken together with all other Investments made pursuant to this clause (19) that are at the time outstanding, not to exceed \$75.0 million; and

(20) other Investments in any Person having an aggregate Fair Market Value (measured on the date each such Investment was made and without giving effect to subsequent changes in value), when taken together with all other Investments made pursuant to this clause (20) that are at the time outstanding, not to exceed \$50.0 million.

The amount of Investments outstanding at any time pursuant to clauses (14), (16), (19) and (20) shall be reduced by (A) the return of capital with respect to such Investment; and (B) an amount equal to the net reduction in such Investments in any Person resulting from repayments of loans or advances, or other transfers of assets, in each case to Holdings or any Restricted Subsidiary or from the net cash proceeds from the sale of any such Restricted Investment, from the release of any Guarantee (except to the extent any amounts are paid under such Guarantee) or from any redesignation of an Unrestricted Subsidiary as a Restricted Subsidiary.

“Permitted Junior Securities” means:

(1) Equity Interests in the Issuer or any Guarantor or any other business entity provided for by a plan of reorganization; or

(2) debt securities of the Issuer or any Guarantor or any other business entity provided for by a plan of reorganization that are subordinated to all Senior Debt and any debt securities issued in exchange for Senior Debt to at least the same extent as, or to a greater extent than, the notes and the Note Guarantees are subordinated to Senior Debt under the indenture.

“Permitted Liens” means:

(1) Liens on assets of Holdings or any of its Restricted Subsidiaries securing Senior Debt that was permitted by the terms of the indenture to be incurred;

(2) Liens in favor of Holdings or any of its Restricted Subsidiaries;

(3) Liens on property of a Person existing at the time such Person is merged with or into or consolidated with Holdings or any Subsidiary of Holdings; provided that such Liens were in existence prior to the contemplation of such merger or consolidation and do not extend to any assets other than those of the Person merged into or consolidated with Holdings or the Subsidiary;

(4) Liens on property (including Capital Stock) existing at the time of acquisition of the property by Holdings or any Subsidiary of Holdings, provided that such Liens were in existence prior to, such acquisition, and not incurred in contemplation of, such acquisition;

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- (5) Liens incurred or pledges or deposits made in the ordinary course of business in connection with workers' compensation, unemployment insurance or other kinds of social security, or to secure liability to insurance carriers under insurance or self-insurance arrangements incurred in the ordinary course of business or the payment or performance of tenders, bids, contracts (other than contracts for the payment of Indebtedness) or leases to which such Person is a party, statutory or regulatory obligations, surety or appeal bonds, performance bonds or other obligations of a like nature incurred in the ordinary course of business;
- (6) Liens to secure Indebtedness (including Capital Lease Obligations) permitted by clause (4) of the second paragraph of the covenant entitled "—Certain Covenants—Incurrence of Indebtedness and Issuance of Preferred Stock" covering only the assets acquired with or financed by such Indebtedness;
- (7) Liens existing on the date of the indenture;
- (8) Liens for taxes, assessments or governmental charges or claims that are not yet delinquent or that are being contested in good faith by appropriate proceedings promptly instituted and diligently concluded; provided that any reserve or other appropriate provision as is required in conformity with GAAP has been made therefor;
- (9) Liens imposed by law, such as carriers', warehousemen's, landlord's, materialmen, repairmen, mechanics and other similar Liens, in each case, incurred in the ordinary course of business;
- (10) Liens incurred to secure property owned or financed by customers, suppliers or other contractors used by Holdings or any of its Subsidiaries in the ordinary course of business;
- (11) any interest or title of a lessor in any Capital Lease Obligation or operating lease;
- (12) liens securing reimbursement obligations with respect to letters of credit which encumber documents and other property relating to letters of credit and the product and proceeds thereof;
- (13) liens securing Hedging Obligations which Hedging Obligations relate to indebtedness that is otherwise permitted under the indenture;
- (14) leases and subleases granted to lessors;
- (15) liens arising from filing Uniform Commercial Code financing statements regarding leases;
- (16) customary non-assignment provisions in leases and other agreements entered into by Holdings or any Restricted Subsidiary in the ordinary course of business;
- (17) survey exceptions, easements or reservations of, or rights of others for, licenses, rights-of-way, sewers, electric lines, telegraph and telephone lines and other similar purposes, or zoning or other restrictions as to the use of real property that were not incurred in connection with Indebtedness and that do not in the aggregate materially adversely affect the value of said properties or materially impair their use in the operation of the business of such Person;
- (18) Liens created for the benefit of (or to secure) the notes (or any Note Guarantees);
- (19) Liens to secure any Permitted Refinancing Indebtedness; provided, however, that the new Lien shall be limited to all or part of the same property and assets that secured or, under the written agreements pursuant to which the original Lien arose, could secure the original Lien (plus improvements and accessions to, such property or proceeds or distributions thereof);
- (20) Liens on property or assets used to defease, to satisfy and discharge or to redeem or otherwise decrease Indebtedness; provided that (a) the incurrence of such Indebtedness is permitted to be incurred under the indenture and (b) such defeasance, satisfaction and discharge, redemption or decrease is not prohibited by the indenture;
- (21) prejudgment liens and judgment Liens not giving rise to an Event of Default so long as such Lien is adequately bonded and any appropriate legal proceeding that may have been duly initiated for the review of such judgment has not been finally terminated or the period within which such proceeding may be initiated has not expired;
- (22) Liens securing Indebtedness of non-Domestic Restricted Subsidiaries permitted to be incurred under the first paragraph of the covenant "Incurrence of Indebtedness and Issuance of Preferred Stock" or clause (16) of the second paragraph of the same;



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(23) bankers' Liens, rights of setoff and other similar Liens existing solely with respect to Cash Equivalents arising in the ordinary course of business from netting services, overdraft protection, cash management obligations or otherwise in connection with the maintenance of deposit, securities and commodities accounts;

(24) Liens on assets of Holdings, any Subsidiary of Holdings or a Receivables Subsidiary incurred in connection with a Qualified Receivables Transaction;

(25) any extension, renewal or replacement (or successive extensions, renewals or replacements), in whole or in part, of any Lien referred to in any of the foregoing clauses; provided that such extension, renewal or replacement Lien shall be limited to all or a part of the property which secured the Lien so extended, renewed or replaced; and

(26) other Liens securing obligations that do not exceed \$20.0 million at any one time outstanding.

"Permitted Refinancing Indebtedness" means any Indebtedness of Holdings or any of its Restricted Subsidiaries issued in exchange for, or the net proceeds of which are used to refund, refinance, replace, defease or discharge other Indebtedness of Holdings or any of its Restricted Subsidiaries (other than intercompany Indebtedness); provided that:

(1) the principal amount (or accreted value or liquidation preference, if applicable) of such Permitted Refinancing Indebtedness does not exceed the principal amount (or accreted value or liquidation preference, if applicable) of the Indebtedness renewed, refunded, refinanced, replaced, defeased or discharged (plus all accrued and unpaid interest on the Indebtedness and the amount of all fees and expenses, including premiums incurred in connection therewith);

(2) such Permitted Refinancing Indebtedness has a final maturity date later than the final maturity date of, and has a Weighted Average Life to Maturity equal to or greater than the Weighted Average Life to Maturity of, the Indebtedness being renewed, refunded, refinanced, replaced, defeased or discharged;

(3) if the Indebtedness being renewed, refunded, refinanced, replaced, defeased or discharged is subordinated in right of payment to the notes or any Note Guarantee, such Permitted Refinancing Indebtedness is subordinated in right of payment to, the notes or such Note Guarantee on terms at least as favorable, taken as a whole, to the holders of notes as those contained in the documentation governing the Indebtedness being renewed, refunded, refinanced, replaced, defeased or discharged; and

(4) such Indebtedness is incurred either by Holdings or by the Restricted Subsidiary who is the obligor on the Indebtedness being renewed, refunded, refinanced, replaced, defeased or discharged; provided that a Restricted Subsidiary that is also a Guarantor may guarantee Permitted Refinancing Indebtedness incurred by Holdings, whether or not such Restricted Subsidiary was an obligor or guarantor of the indebtedness being renewed, refunded, refinanced, replaced, defeased or discharged.

"Person" means any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, limited liability company or government or other entity.

"Preferred Stock" means, with respect to any Person, any Capital Stock of such Person that has preferential rights to any other Capital Stock of such Person with respect to dividends or redemptions upon liquidation.

"Qualified Receivables Transaction" means any transaction or series of transactions entered into by Holdings or any of its Subsidiaries pursuant to which Holdings or any of its Subsidiaries sells, conveys or otherwise transfers to (1) a Receivables Subsidiary (in the case of a transfer by Holdings or any of its Subsidiaries) or (2) any other Person (in the case of a transfer by a Receivables Subsidiary), or transfers an undivided interest in or grants a security interest in, any accounts receivable (whether now existing or arising in the future) of Holdings or any of its Subsidiaries, and any assets related thereto including, without limitation, all collateral securing such accounts receivable and assets and all contracts and contract rights, all guarantees or other supporting obligations (including Hedging Obligations) in respect of such accounts receivable and assets and all proceeds of the foregoing and other assets which are customarily transferred, or in respect of which security interests are customarily granted, in connection with asset securitization transactions involving such accounts receivable and other assets.

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“Rating Agencies” means Moody’s and S&P (or, if either such entity ceases to rate the notes, any other “nationally recognized statistical rating organization” within the meaning of Rule 15c3-1(c)(2)(vi)(F) under the Exchange Act selected by Holdings as a replacement agency).

“Receivables Subsidiary” means a Subsidiary of Holdings which engages in no activities other than in connection with the financing of accounts receivable and any assets related thereto and which is designated by the Board of Directors of Holdings (as provided below) to be a Receivables Subsidiary (a) no portion of the Indebtedness or any other Obligations (contingent or otherwise) of which (1) is guaranteed by Holdings or any Subsidiary of Holdings (excluding guarantees of Obligations (other than the principal of, and interest on, Indebtedness) pursuant to representations, warranties, covenants and indemnities entered into in the ordinary course of business in connection with a Qualified Receivables Transaction), (2) is recourse to or obligates Holdings or any Subsidiary of Holdings in any way other than pursuant to representations, warranties, covenants and indemnities entered into in the ordinary course of business in connection with a Qualified Receivables Transaction or (3) subjects any property or asset of Holdings or any Subsidiary of Holdings (other than accounts receivable and related assets as provided in the definition of “Qualified Receivables Transaction”), directly or indirectly, contingently or otherwise, to the satisfaction thereof other than pursuant to representations, warranties, covenants and indemnities entered into in the ordinary course of business in connection with a Qualified Receivables Transaction, (b) with which neither Holdings nor any Subsidiary of Holdings has any material contract, agreement, arrangement or understanding (other than on terms no less favorable to Holdings or such Subsidiary than those that might be obtained at the time from Persons who are not Affiliates of Holdings) other than fees payable in the ordinary course of business in connection with servicing accounts receivable and any assets related thereto, and (c) with which neither Holdings nor any Subsidiary of Holdings has any obligation to maintain or preserve such Subsidiary’s financial condition or cause such Subsidiary to achieve certain levels of operating results. Any such designation by the Board of Directors of Holdings will be evidenced to the trustee by filing with the trustee a certified copy of a resolution of the Board of Directors of Holdings giving effect to such designation, together with an officers’ certificate certifying that such designation complied with the foregoing conditions.

“Replacement Assets” means (1) non-current assets that will be used or useful in a Permitted Business or (2) substantially all the assets of a Permitted Business or a majority of the Voting Stock of any Person engaged in a Permitted Business that will become, on the date of acquisition thereof, a Restricted Subsidiary.

“Restricted Investment” means an Investment other than a Permitted Investment.

“Restricted Subsidiary” of a Person means any Subsidiary of such Person that is not an Unrestricted Subsidiary.

“S&P” means Standard & Poor’s Ratings Group.

“Senior Debt” means:

(1) all Indebtedness of the Issuer or any Guarantor outstanding under Credit Facilities (including the Credit Agreement) and all Hedging Obligations with respect thereto, whether outstanding on the date of the indenture or incurred thereafter;

(2) any other Indebtedness of the Issuer or any Guarantor permitted to be incurred under the terms of the indenture, unless the instrument under which such Indebtedness is incurred expressly provides that it is on a parity with or is subordinated in right of payment to the notes or any Note Guarantee; and

(3) all Obligations with respect to the items listed in the preceding clauses (1) and (2) (including any interest accruing subsequent to the filing of a petition of bankruptcy at the rate provided for in the documentation with respect thereto, whether or not such interest is an allowed claim under applicable law).

Notwithstanding anything to the contrary in the preceding, Senior Debt will not include:

(1) any liability for federal, state, local or other taxes owed or owing by Holdings;

(2) any intercompany Indebtedness of Holdings or any of its Subsidiaries to Holdings or any of its Affiliates;

(3) any trade payables;

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(4) the portion of any Indebtedness that is incurred in violation of the indenture, provided that a good faith determination by the Board of Directors of Holdings evidenced by a board resolution, or a good faith determination by the Chief Financial Officer of Holdings evidenced by an officer's certificate, that such Indebtedness being incurred is permitted by the indenture will be conclusive;

(5) Indebtedness that, when incurred, was classified as non-recourse in accordance with GAAP or any unsecured claim arising in respect thereof by reason of the application of section 1111(b)(1) of the Bankruptcy Code;

(6) any repurchase, redemption or other obligation in respect of Disqualified Stock or Preferred Stock;

(7) any Indebtedness owed to any employee of Holdings or any of its Subsidiaries; or

(8) the Issuer's Senior Subordinated Notes due 2015 and any Indebtedness, and any other obligations referred to in clause (1), (2) or (3) of this definition, which in each case is, by its express terms or by express terms of the instruments or agreements creating or evidencing the same or pursuant to which the same is outstanding, subordinated in right of payment to any other Indebtedness of the Issuer.

"Significant Subsidiary" means any Subsidiary that would be a "significant subsidiary" as defined in Article 1, Rule 1-02(w) of Regulation S-X, promulgated pursuant to the Securities Act, as such Regulation is in effect on the date of the indenture.

"Stated Maturity" means, with respect to any installment of interest or principal on any series of Indebtedness, the date on which the payment of interest or principal was scheduled to be paid in the original documentation governing such Indebtedness, and will not include any contingent obligations to repay, redeem or repurchase any such interest or principal prior to the date originally scheduled for the payment thereof.

"Subsidiary" means, with respect to any specified Person:

(1) any corporation, association or other business entity of which more than 50% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency and after giving effect to any voting agreement or stockholders' agreement that effectively transfers voting power) to vote in the election of directors, managers or trustees of the corporation, association or other business entity is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person (or a combination thereof); and

(2) any partnership (a) the sole general partner or the managing general partner of which is such Person or a Subsidiary of such Person or (b) the only general partners of which are that Person or one or more Subsidiaries of that Person (or any combination thereof).

"Treasury Rate" means, as of any redemption date, the yield to maturity as of such redemption date of United States Treasury securities with a constant maturity (as compiled and published in the most recent Federal Reserve Statistical Release H.15 (519) that has become publicly available at least two business days prior to the redemption date (or, if such Statistical Release is no longer published, any publicly available source of similar market data)) most nearly equal to the period from the redemption date to January 15, 2016; provided, however, that if the period from the redemption date to January 15, 2016, is less than one year, the weekly average yield on actually traded United States Treasury securities adjusted to a constant maturity of one year will be used.

"Unrestricted Subsidiary" means any Subsidiary of Holdings that is designated by the Board of Directors of Holdings as an Unrestricted Subsidiary pursuant to a resolution of the Board of Directors, but only to the extent that such Subsidiary, except as permitted by the covenant described above under the caption "—Certain Covenants—Transactions with Affiliates," is not party to any agreement, contract, arrangement or understanding with Holdings or any Restricted Subsidiary of Holdings unless the terms of any such agreement, contract, arrangement or understanding are no less favorable to Holdings or such Restricted Subsidiary than those that might be obtained at the time from Persons who are not Affiliates of Holdings.

"Voting Stock" of any specified Person as of any date means the Capital Stock of such Person that is at the time entitled to vote in the election of the Board of Directors of such Person.

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“Weighted Average Life to Maturity” means, when applied to any Indebtedness at any date, the number of years obtained by dividing:

- (1) the sum of the products obtained by multiplying (a) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect of the Indebtedness, by (b) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment; by
- (2) the then-outstanding principal amount of such Indebtedness.

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MATERIAL U.S. FEDERAL INCOME TAX CONSIDERATIONS

The following discussion summarizes the material U.S. federal income tax consequences of an exchange of unregistered notes for exchange notes pursuant to this exchange offer. This discussion is based upon the provisions of the Internal Revenue Code of 1986, as amended, the Treasury Regulations promulgated thereunder, judicial authority and administrative interpretations, all as of the date hereof and all of which are subject to change, possibly with retroactive effect, or different interpretations. This discussion does not address all of the tax considerations that may be relevant to a particular holder in light of the holder's circumstances, or to certain categories of holders that may be subject to special rules. This summary does not consider any tax consequences arising under U.S. alternative minimum tax law, U.S. federal gift and estate tax law or under the laws of any foreign, state, local or other jurisdiction. Each holder should consult its own independent tax advisor regarding its particular situation and the federal, state, local and foreign tax consequences of exchanging the unregistered notes for exchange notes and purchasing, holding and disposing of the exchange notes, including the consequences of any proposed change in applicable laws.

The exchange of unregistered notes for exchange notes in the exchange offer will not constitute a taxable event for U.S. federal income tax purposes. Consequently, for such purposes a holder will not recognize gain upon receipt of an exchange note in exchange for unregistered notes in the exchange offer, the holder's adjusted tax basis (and adjusted issue price) in the exchange note received in the exchange offer will be the same as its adjusted tax basis (and adjusted issue price) in the corresponding unregistered note immediately before the exchange, and the holder's holding period in the exchange note will include its holding period in the unregistered note.



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PLAN OF DISTRIBUTION

Each broker-dealer that receives exchange notes for its own account pursuant to the exchange offer must acknowledge that it will deliver a prospectus in connection with any resale of such exchange notes. This prospectus, as it may be amended or supplemented from time to time, may be used by a broker-dealer in connection with resales of exchange notes received in exchange for unregistered notes where such unregistered notes were acquired as a result of market-making activities or other trading activities. We have agreed that, for a period of 180 days after the consummation of the exchange offer, we will make this prospectus, as amended or supplemented, available to any broker-dealer for use in connection with any such resale. In addition, until 180 days after the date of this prospectus, all dealers effecting transactions in the exchange notes may be required to deliver a prospectus.

We will not receive any proceeds from any sale of exchange notes by broker-dealers. Exchange notes received by broker-dealers for their own account pursuant to the exchange offer may be sold from time to time in one or more transactions in the over-the-counter market, in negotiated transactions, through the writing of options on the exchange notes or a combination of such methods of resale, at market prices prevailing at the time of resale, at prices related to such prevailing market prices or at negotiated prices. Any such resale may be made directly to purchasers or to or through brokers or dealers that may receive compensation in the form of commissions or concessions from any such broker-dealer or the purchasers of any such exchange notes. Any broker-dealer that resells exchange notes that were received by it for its own account pursuant to the exchange offer and any broker or dealer that participates in a distribution of such exchange notes may be deemed to be an “underwriter” within the meaning of the Securities Act and any profit on any such resale of exchange notes and any commission or concessions received by any such persons may be deemed to be underwriting compensation under the Securities Act. The letter of transmittal states that, by acknowledging that it will deliver and by delivering a prospectus, a broker-dealer will not be deemed to admit that it is an “underwriter” within the meaning of the Securities Act.

For a period of 180 days after the date of this prospectus, we will promptly send additional copies of this prospectus to any broker-dealer that requests such documents in the letter of transmittal. We have agreed to pay all expenses incident to the exchange offer (including the expenses of one counsel for the holders of the notes) other than commissions or concessions of any brokers or dealers and will indemnify the holders of the notes (including any broker-dealers) against certain liabilities, including liabilities under the Securities Act.

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### LEGAL MATTERS

Certain legal matters in connection with the exchange notes and the related guarantees offered hereby will be passed upon for us by Shearman & Sterling LLP, New York, New York.

### EXPERTS

The consolidated financial statements incorporated in this prospectus by reference from the Company's Annual Report on Form 10-K for the fiscal year ended July 31, 2010, and the effectiveness of the Company's internal control over financial reporting have been audited by Deloitte & Touche LLP, an independent registered public accounting firm, as stated in their reports, which are incorporated herein by reference. Such consolidated financial statements have been so incorporated in reliance upon the reports of such firm given upon their authority as experts in accounting and auditing.

### WHERE YOU CAN FIND ADDITIONAL INFORMATION

Dycom Industries, Inc., our parent company (our "Parent"), files annual, quarterly and other reports, proxy statements and other information with the SEC. You may read and copy any reports, statements or other information our Parent files with the SEC at its public reference rooms at 100 F Street, N.E., Washington, D.C. 20549. Please call the SEC at 1-800-SEC-0330 for further information on the public reference rooms. Our Parent's filings are also available to the public on the Internet, through a database maintained by the SEC at <http://www.sec.gov>. In addition, you can inspect and copy our Parent's reports, proxy statements and other information at the offices of the New York Stock Exchange, Inc., 20 Broad Street, New York, New York 10005.

Neither the Issuer nor the subsidiary guarantors file separate financial statements with the SEC and do not independently publish their financial statements. Instead, the Issuer's and the subsidiary guarantors' financial condition, results of operations and cash flows are consolidated into our Parent's financial statements. Condensed consolidating financial information illustrating the Issuer's and the subsidiary guarantors' financial condition, results of operations and cash flows, on a combined basis, is disclosed in the notes to our Parent's consolidated financial statements.

The SEC allows us to incorporate by reference into this document the information we or our Parent filed with it. This means that we can disclose important business, financial and other information to you by referring you to other documents separately filed with the SEC. All information incorporated by reference is part of this document, unless and until that information is updated and superseded by the information contained in this document or any information incorporated later.

We incorporate by reference the following documents filed by our Parent with the SEC (Commission File No. 001-10613) listed below, except that we are not incorporating any information included in a current report on Form 8-K that has been furnished (and not filed) with the SEC, unless such information is expressly incorporated herein by a reference in a furnished current report on Form 8-K or other furnished document.

1. Our Parent's current reports on Form 8-K, filed September 29, 2010, November 23, 2010 (except as to Items 2.02 and 7.01 and Exhibits 99.1 and 99.2 thereof), November 23, 2010, December 2, 2010, December 27, 2010, January 6, 2011, January 6, 2011, January 12, 2011, January 24, 2011 and May 25, 2011 (except as to Items 2.02 and 7.01 and Exhibits 99.1 and 99.2 thereof);
2. Our Parent's quarterly reports on Form 10-Q for the fiscal quarters ended October 30, 2010, January 29, 2011 and April 30, 2011; and
3. Our Parent's annual report on Form 10-K for the fiscal year ended July 31, 2010.

Our Parent's filings with the SEC, including our Parent's annual report on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K and amendments to those reports, are available free of charge on our website as soon as reasonably practicable after they are filed with, or furnished to, the SEC. Our Internet website is located at [www.dycomind.com](http://www.dycomind.com). The contents of the website are not incorporated by reference into this prospectus. You also may request, orally or in writing, a copy of these filings, at no cost, by contacting us at: Dycom Industries, Inc., 11770 U.S. Highway 1, Suite 101, Palm Beach Gardens, Florida 33408, Attention: Investor Relations, telephone number (561) 627-7171.



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We also incorporate by reference all future filings we make with the SEC under Sections 13(a), 13(c), 14 or 15(d) of the Securities and Exchange Act of 1934 prior to the termination of the offering made hereby.

None of Dycom Investments, Inc., Dycom Industries, Inc. or the other guarantors have authorized anyone to provide you with any information or to make any representation other than as contained in this prospectus or that may be incorporated by reference into this prospectus. Dycom Investments, Inc., Dycom Industries, Inc. and the other guarantors do not take any responsibility for, and can provide no assurance as to the reliability of, any information others may give you. We are not making an offer to sell these securities in any jurisdiction where the offer and sale is not permitted. You should not assume that the information contained in this prospectus or that may be incorporated by reference into this prospectus is accurate as of any date other than the date on the front of this prospectus, or in the case of information that may be incorporated by reference into this prospectus, as of the date of such information, regardless of the time of delivery of this prospectus or any sale of the securities offered hereby.

Any request for documents should be made by \_\_\_\_\_, 2011 to ensure timely delivery of the documents prior to the expiration of the exchange offer.

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PART II

INFORMATION NOT REQUIRED IN PROSPECTUS

Item 20. Indemnification of Directors and Officers

Delaware. Section 145(a) of the General Corporation Law of the State of Delaware, or the Delaware Corporation Law, provides, in general, that a corporation shall have the power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the corporation), because the person is or was a director or officer of the corporation. Such indemnity may be against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by the person in connection with such action, suit or proceeding, if the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the corporation and if, with respect to any criminal action or proceeding, the person did not have reasonable cause to believe the person's conduct was unlawful.

Section 145(b) of the Delaware Corporation Law provides, in general, that a corporation shall have the power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the corporation to procure a judgment in its favor because the person is or was a director or officer of the corporation, against any expenses (including attorneys' fees) actually and reasonably incurred by the person in connection with the defense or settlement of such action or suit if the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the corporation.

Section 145(g) of the Delaware Corporation Law provides, in general, that a corporation shall have the power to purchase and maintain insurance on behalf of any person who is or was a director or officer of the corporation against any liability asserted against the person in any such capacity, or arising out of the person's status as such, whether or not the corporation would have the power to indemnify the person against such liability under the provisions of the law.

Florida. Section 607.0850(1) of the Florida Business Corporation Act ("FBCA") provides that a Florida corporation, such as Dycom Industries, Inc., shall have the power to indemnify any person who was or is a party to any proceeding (other than an action by, or in the right of, the corporation), by reason of the fact that he is or was a director or officer of the corporation or is or was serving at the request of the corporation as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise against liability incurred in connection with such proceeding, including any appeal thereof, if he or she acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the corporation and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful.

Section 607.0850(2) of the FBCA provides that a Florida corporation shall have the power to indemnify any person, who was or is a party to any proceeding by or in the right of the corporation to procure a judgment in its favor by reason of the fact that he or she is or was a director or officer of the corporation or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses and amounts paid in settlement not exceeding, in the judgment of the board of directors, the estimated expense of litigating the proceeding to conclusion, actually and reasonably incurred in connection with the defense or settlement of such proceeding, including any appeal thereof. Such indemnification shall be authorized if such person acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the corporation, except that no indemnification shall be made under this subsection in respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable unless, and only to the extent that, the court in which such proceeding was brought, or any other court of competent jurisdiction, shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

Section 607.850 of the FBCA further provides that: (i) to the extent that a director or officer of a corporation has been successful on the merits or otherwise in defense of any proceeding referred to in 607.850(1) or

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607.850(2), or in defense of any proceeding referred to in 607.850(1) or 607.850(2), or in defense of any claim, issue, or matter therein, he or she shall be indemnified against expenses actually and reasonably incurred by him or her in connection therewith; (ii) indemnification provided pursuant to Section 607.0850 is not exclusive; and (iii) the corporation shall have the power to purchase and maintain insurance on behalf of a director or officer of the corporation against any liability asserted against him or her or incurred by him or her in any such capacity or arising out of his or her status as such, whether or not the corporation would have the power to indemnify him or her against such liabilities under Section 607.0850.

Notwithstanding the foregoing, Section 607.0850 of the FBCA provides that indemnification or advancement of expenses shall not be made to or on behalf of any director or officer if a judgment or other final adjudication establishes that his or her actions, or omissions to act, were material to the cause of action so adjudicated and constitute: (i) a violation of the criminal law, unless the director or officer had reasonable cause to believe his or her conduct was lawful or had no reasonable cause to believe his or her conduct was unlawful; (ii) a transaction from which the director or officer derived an improper personal benefit; (iii) in the case of a director, a circumstance under which the liability provisions regarding unlawful distributions are applicable; or (iv) willful misconduct or a conscious disregard for the best interests of the corporation in a proceeding by or in the right of the corporation to procure a judgment in its favor or in a proceeding by or in the right of a shareholder.

Section 607.0831 of the FBCA provides that a director of a Florida corporation, such as Dycom Industries, Inc., is not personally liable for monetary damages to the corporation or any other person for any statement, vote, decision, or failure to act, regarding corporate management or policy, by a director, unless: (i) the director breached or failed to perform his or her duties as a director; and (ii) the director's breach of, or failure to perform, those duties constitutes: (A) a violation of criminal law, unless the director had reasonable cause to believe his or her conduct was lawful or had no reasonable cause to believe his conduct was unlawful; (B) a transaction from which the director derived an improper personal benefit, either directly or indirectly; (C) a circumstance under which the liability provisions regarding unlawful distributions are applicable; (D) in a proceeding by or in the right of the corporation to procure a judgment in its favor or by or in the right of a shareholder, conscious disregard for the best interest of the corporation, or willful misconduct; or (E) in a proceeding by or in the right of someone other than the corporation or a shareholder, recklessness or an act or omission which was committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

Washington. In general, §§23B.08.500 through 23B.08.600 of the Washington Business Corporation Act ("WBCA") provide that a corporation may indemnify an individual who is made a party to a proceeding because he or she is or was a director against liability incurred in the proceeding if such person acted in good faith and, if such action was in the person's official capacity, in a manner reasonably believed to be in, or, in all other cases, not opposed to, the best interests of the corporation, and with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. A "proceeding" is defined as any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative and whether formal or informal. A termination of the action by judgment, settlement, conviction or plea of nolo contendere, does not of itself create a presumption that the person did not act in good faith. Unless limited by the corporation's articles of incorporation, indemnification is mandatory for an officer or director who was wholly successful, on the merits or otherwise, in the defense of any proceeding to which the director was a party because of being a director, against reasonable expenses incurred in connection with the proceeding.

A corporation may not indemnify a director in connection with a proceeding by or in the right of the corporation in which the director was adjudged liable to the corporation, or in connection with any other proceeding charging improper personal benefit to the director, whether or not involving action in his or her official capacity, in which the director was adjudged liable on the basis that personal benefit was improperly received by him or her. Under the WBCA, a corporation may indemnify an officer, agent or employee to the same extent as a director and may procure or maintain insurance against liability on behalf of a director or any such person.

Tennessee. In general, §48-18-501 et seq. of the Tennessee Business Corporation Act ("TBCA") permits a corporation to indemnify its present and former directors, officers, employees and agents against judgments, settlements, penalties, fines or reasonable expenses (which includes counsel fees) incurred with respect to a proceeding to which they may be made a party if such individual (A) conducted himself or herself in good faith and (B) reasonably believed (i) while acting in his or her official capacity, that his or her conduct was in the best interests of the corporation, or (ii) while acting any other capacity, that his or her conduct was at least not opposed to

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the best interests of the corporation, or (C) with respect to any criminal proceeding, had no reasonable cause to believe his or her conduct was unlawful. A termination of the proceeding by judgment, order, settlement, conviction or upon the entry of a plea of nolo contendere is not, of itself, determinative that the person did not meet the standard of conduct set forth in §48-18-502(a) of the TBCA. Unless limited by its charter, a corporation must indemnify a director's reasonable expenses if the director is wholly successful on the merits or otherwise in the defense of any proceeding against him or her as director.

The TBCA prohibits a corporation from indemnifying a director in connection with a proceeding by or in the right of the corporation in which the director was found liable to the corporation or where the director, whether or not acting in his or her official capacity as a director of the corporation, is charged with, and found liable for, improperly receiving a personal benefit.

Under the TBCA, a corporation may indemnify and advance expenses to an officer, employee or agent to the same extent as a director. A corporation may purchase and maintain insurance on behalf of an individual who is or was a director, officer, employee or agent of the corporation against liability asserted against or incurred by such individual while acting in his or her official capacity or arising from his or her status as a director, officer, employee or agent of the corporation, whether or not the corporation would have the power to indemnify such individual for any such liability.

Louisiana. In general, §12.83 of the Louisiana Business Corporation Law ("LBCL") allows corporations to indemnify their present and former directors and officers and those of affiliated corporations against expenses incurred in the defense of any lawsuit to which they are made parties by reason of being or having been such directors or officers if such person acted in good faith and in a manner reasonably believed to be in, or not opposed to, the best interests of the corporation, and with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. Under the LBCL, a termination of the action by judgment, settlement, conviction or plea of nolo contendere, will not of itself create a presumption that the person did not act in good faith. To the extent that such person is successful on the merits or otherwise in defense of any claim, issue or matter therein, he or she must be indemnified by the corporation. Expenses may be paid in advance of the final outcome if authorized by the board of directors without regard to whether or not a voting director is a party to the action.

If the action is by or in the right of the corporation, the indemnity is limited to expenses not exceeding, in the judgment of the board of directors, the estimated expense of litigating the action to conclusion. No indemnification can be made if a court of competent jurisdiction, after exhaustion of appeals, finds the director liable for willful or intentional misconduct, unless the court determines that, given the circumstances of the case, the director is fairly and reasonably entitled to indemnification for certain expenses.

The LBCL allows a corporation to procure or maintain insurance against liability on behalf of a director or any such person.

North Carolina. In general, §§55-8-50 through 55-8-58 of the North Carolina Business Corporation Act ("NCBCA") grant a corporation the power to indemnify its present and former directors, officers, employees and agents against liabilities and expenses incurred by them in connection with any proceeding to which they are, or are threatened to be made, a party by reason of their serving in such positions so long as they acted in good faith and in a manner they reasonably believed to be in, or not opposed to, the best interests of the corporation, and with respect to any criminal action, they had no reasonable cause to believe their conduct was unlawful. Indemnity is mandatory where a director or officer who is wholly successful, on the merits or otherwise, in his defense except to the extent limited or eliminated in the corporation's articles of incorporation. A director or officer may also petition for court ordered indemnification where he would otherwise have a right to mandatory indemnification or where he is fairly or reasonably entitled to indemnity in view of all the relevant circumstances. The NCBCA allows a director or officer to be paid expenses in advance of the final deposition of any proceeding upon the tendering of an undertaking to repay such amount. However, the NCBCA prohibits indemnification where the director is charged with, and convicted of, improper personal benefit.

A corporation may, in its articles of incorporation or bylaws or by contract or resolution may make expanded indemnification available in addition to that provided by statute except in cases where directors or officers act in clear conflict with best interests of corporation). A corporation may also procure or maintain insurance against liability on behalf of any such person. Finally, the NCBCA permits a corporation to limit the personal

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liability of directors for breach of any directors duty imposed by law (with certain exceptions) by adding an exculpation provision in the articles of incorporation.

Georgia. Generally, under §14-2-850 et seq. of the Georgia Business Corporation Code (“GBCC”), a corporation may indemnify an individual who is a party to a proceeding because he or she is or was a director of the corporation against the obligation to pay a judgment, settlement, penalty, fine or reasonable expenses (which includes counsel fees) incurred with respect to such proceeding, if such individual (A) conducted himself or herself in good faith and (B) reasonably believed (i) while acting in his or her official capacity, that his or her conduct was in the best interests of the corporation, or (ii) while acting any other capacity, that his or her conduct was at least not opposed to the best interests of the corporation, or (C) with respect to any criminal proceeding, had no reasonable cause to believe his or her conduct was unlawful. A corporation must indemnify a director who was wholly successful, on the merits or otherwise, in the defense of any such proceeding against reasonable expenses incurred by the director in connection with the proceeding. The termination of the proceeding by judgment, order, settlement or conviction or upon the entry of a plea of nolo contendere is not, of itself, determinative that the person did not meet the standard of conduct set forth in §14-2-851(a) of the GBCC.

A Georgia corporation may not indemnify a director under the GBCC in connection with a proceeding by or in the right of the corporation, except for reasonable expenses incurred by such director in connection with the proceeding, provided it is determined that such director met the relevant standard of conduct. A corporation may not indemnify a director in connection with any proceeding with respect to conduct for which such director was found liable on the basis that he or she received an improper personal benefit, whether or not such director was acting in his or her official capacity as a director of the corporation.

Additionally, a Georgia corporation may, before final disposition of a proceeding, advance funds to pay for or reimburse the reasonable expenses incurred by a director who is a party to a proceeding; provided, that such director delivers to the corporation (i) a written affirmation of his or her good faith belief that he or she met the relevant standard of conduct or that the proceeding involves conduct for which such director’s liability has been properly eliminated by action of the corporation, and (ii) a written undertaking by the director to repay any funds advanced if it is ultimately determined that such director was not entitled to such indemnification.

The GBCC allows a Georgia corporation to indemnify directors without regard to the above-referenced limitations, if authorized by the articles of incorporation or a bylaw, contract, or resolution duly adopted by a vote of the shareholders of the corporation by a majority of votes entitled to be cast, excluding shares owned or voted under the control of the director or directors who are not disinterested; provided, that such director delivers to the corporation the abovementioned written affirmation and written undertaking. Notwithstanding the foregoing, the corporation may not indemnify a director for any liability incurred in a proceeding in which the director is found liable to the corporation or is subjected to injunctive relief in favor of the corporation for, among other things: (1) Any appropriation, in violation of the director’s duties, of any business opportunity of the corporation; (2) Acts or omissions which involve intentional misconduct or a knowing violation of law; or (3) Any transaction from which he or she received an improper personal benefit.

Under the GBCC, a corporation may indemnify and advance expenses to an officer of the corporation to the same extent as a director or if not also a director, then to such further extent as otherwise provided by the articles of incorporation, the bylaws, a resolution of the board of directors or by contract; provided, however, if the officer is not also a director of the corporation, the corporation may not indemnify the officer for any liability arising out of conduct that constitutes, among other things, (1) Any appropriation, in violation of the officer’s duties, of any business opportunity of the corporation; (2) Acts or omissions which involve intentional misconduct or a knowing violation of law; or (3) Any transaction from which he or she received an improper personal benefit. The foregoing limitation will also apply to an officer who is also a director of the corporation if the sole basis on which he or she is a party to the proceeding is an act or omission by him or her in the official capacity as an officer of the corporation.

A corporation may also indemnify and advance expenses to an employee or agent of the corporation who is not a director to the extent that may provided by the articles of incorporation, the bylaws, a resolution of the board of directors or by contract.



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Under the GBCC, a corporation may purchase and maintain insurance on behalf of an individual who is a director, officer, employee or agent of the corporation against liability asserted against or incurred by such individual while acting in his or her official capacity or arising from his or her status as a director, officer, employee or agent of the corporation, notwithstanding whether a corporation would have the power to indemnify or advance expenses to such individual for the same liability.

California. Section 317 of the California Corporations Code authorizes a corporation to indemnify any person who was or is a party or is threatened to be made a party to any proceeding (other than an action by or in the right of the corporation to procure a judgment in its favor) by reason of the fact that the person is or was a director, officer, employee or other agent of the corporation, against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with the proceeding, if that person acted in good faith and in a manner reasonably believed by such person to be in the best interests of the corporation and, in the case of a criminal proceeding, had no reasonable cause to believe the conduct of the person was unlawful.

Section 317 of the California Corporations Code also provides that a corporation may, subject to certain limitations and conditions, indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action by or in the right of the corporation to procure a judgment in its favor by reason of the fact that the person is or was a director, officer, employee or other agent of the corporation, against expenses actually and reasonably incurred by that person in connection with the defense or settlement of the action if the person acted in good faith, in a manner the person believed to be in the best interests of the corporation and its shareholders.

To the extent that a director, officer, employee or other agent of the corporation is successful on the merits in defense of any proceeding referred to above or in defense of any claim, issue or matter therein, the corporation shall indemnify such agent against expenses actually and reasonably incurred by that person in connection therewith.

Section 204(a)(10) of the California Corporations Code permits a corporation's articles of incorporation to limit a director's liability to the corporation or its shareholders except with respect to the following items: (i) acts or omissions that involve intentional misconduct or a knowing and culpable violation of law, (ii) acts or omissions that a director believes to be contrary to the best interests of the corporation or its shareholders or that involve the absence of good faith on the part of the director, (iii) any transaction from which a director derived an improper personal benefit, (iv) acts or omissions that show a reckless disregard for the director's duty to the corporation or its shareholders in circumstances in which the director was aware, or should have been aware, in the ordinary course of performing a director's duties, of a risk of serious injury to the corporation or its shareholders, (v) acts or omissions that constitute an unexcused pattern of inattention that amounts to an abdication of the director's duty to the corporation or its shareholders, (vi) contracts or transactions between the corporation and a director within the scope of Section 310 of the California Corporations Code or (vii) authorizing improper distributions, loans and guarantees under Section 316 of the California Corporations Code.

By-laws. The by-laws of each of Can-Am Communications, Inc., Dycom Capital Management, Inc., Dycom Investments, Inc., Locating, Inc., Point to Point Communications, Inc., and U G T I provide that it shall indemnify, to the full extent that it shall have power under applicable law to do so and in a manner permitted by such law, any person made or threatened to be made a party to any proceeding, by reason of the fact that such person is or was a director or officer of the corporation.

The by-laws of Dycom Industries, Inc. provide that, except as prohibited under Florida law, it shall indemnify any person who was or is made a party to any proceeding by reason of the fact that he or she was or is a director or officer of the corporation, or a director or officer of the corporation serving as a trustee or fiduciary of an employee benefit plan of the corporation, against liability incurred in connection with such proceeding, including any appeal thereof. Dycom Industries, Inc. maintains insurance policies insuring its directors and officers against certain liabilities they may incur in their capacity as directors and officers.

Limited Liability Company Agreements. The Limited Liability Company Agreement of each of AnSCO & Associates, LLC; Apex Digital, LLC; Broadband Express, LLC; Broadband Installation Services, LLC; C-2 Utility Contractors, LLC; Cable Connectors, LLC; CableCom, LLC; Cavo Broadband Communications, LLC; CertusView Leasing, LLC; Communication Services, LLC; Communications Construction Group, LLC; Dycom Identity, LLC; Ervin Cable Construction, LLC; Globe Communications, LLC; Installation Technicians, LLC; Ivy H. Smith Company, LLC; Lambert's Cable Splicing Company, LLC; Midtown Express, LLC; NeoCom Solutions Holdings, LLC; Nichols Construction, LLC; Niels Fugal Sons Company, LLC; OSP Services, LLC; Precision Valley Communications of Vermont, LLC; Prince Telecom, LLC; RJE Telecom, LLC; Star Construction, LLC; Stevens Communications, LLC; S.T.S., LLC; TCS Communications, LLC; Tesinc, LLC; Triple-D Communications, LLC; Underground Specialties, LLC; UtiliQuest, LLC and White Mountain Cable Construction, LLC provide that it shall indemnify, to the full extent that it shall have power under applicable law to do so and in a manner permitted by such law, any person made or threatened to be made a party to any threatened, pending, or completed action,

suit, or proceeding, whether civil, criminal administrative, or investigative, by reason of

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the fact that such person is or was a member, director or officer of the company, or is or was serving at the request of the company as a director or officer of another corporation, partnership, limited liability company, joint venture, trust, or other enterprise.

#### Item 21. Exhibits and Financial Statement Schedules

##### (a) Exhibits

See the index to exhibits that appears immediately following the signature pages to this registration statement.

#### Item 22. Undertakings

##### (a) The undersigned registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to the registration statement;

(i) To include any prospectus required by Section 10(a)(3) of the Securities Act of 1933, as amended (the "Securities Act");

(ii) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Securities and Exchange Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than 20 percent change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement; and

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change in such information in the registration statement.

(2) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at the time shall be deemed to be the initial bona fide offering thereof.

(3) That, for the purpose of determining liability under the Securities Act to any purchaser, if the registrant is subject to Rule 430C, each prospectus filed pursuant to Rule 424(b) as part of a registration statement relating to an offering, other than registration statements relying on Rule 430B or other than prospectuses filed in reliance on Rule 430A, shall be deemed to be part of and included in the registration statement as of the date it is first used after effectiveness. Provided, however, that no statement made in a registration statement or prospectus that is part of the registration statement or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such first use, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such date of first use.

(4) That, for the purpose of determining liability of the registrant under the Securities Act to any purchaser in the initial distribution of the securities, in a primary offering of securities of the undersigned registrant pursuant to this registration statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, the undersigned registrant will be a seller to the purchaser and will be considered to offer or sell such securities to such purchaser:

(i) Any preliminary prospectus or prospectus of the undersigned registrant relating to the offering required to be filed pursuant to Rule 424;

(ii) Any free writing prospectus relating to the offering prepared by or on behalf of the undersigned registrant or used or referred to by the undersigned registrant;

(iii) The portion of any other free writing prospectus relating to the offering containing material information about the undersigned registrant or its securities provided by or on behalf of the undersigned registrant; and

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- (iv) Any other communication that is an offer in the offering made by the undersigned registrant to the purchaser.
- (5) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.
- (6) That, for purposes of determining any liability under the Securities Act, each filing of the registrant's annual report pursuant to section 13(a) or section 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.
- (7) To respond to requests for information that is incorporated by reference into the prospectus pursuant to Item 4, 10(b), 11 or 13 of this Form, within one business day of receipt of such request, and to send the incorporated documents by first class mail or other equally prompt means. This includes

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information contained in the documents filed subsequent to the effective date of the registration statement through the date of responding to the request.

(8) To supply by means of a post-effective amendment all information concerning a transaction, and the company being acquired involved therein, that was not the subject of and included in the registration statement when it became effective.

(b) Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

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### SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Palm Beach Gardens, State of Florida, on June 6, 2011.

Dycom Industries, Inc.

By: \*  
Name: Steven E. Nielsen  
Title: President and Chief Executive Officer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
* Steven E. Nielsen	Chairman of the Board of Directors and Chief Executive Officer (Principal Executive Officer)	June 6, 2011
/s/ H. Andrew DeFerrari H. Andrew DeFerrari	Senior Vice President and Chief Financial Officer (Principal Financial and Accounting Officer)	June 6, 2011
* Thomas G. Baxter	Director	June 6, 2011
* Charles M. Brennan, III	Director	June 6, 2011
* James A. Chiddix	Director	June 6, 2011
* Charles B. Coe	Director	June 6, 2011
* Stephen C. Coley	Director	June 6, 2011
* Patricia L Higgins	Director	June 6, 2011
*By: /s/ H. Andrew DeFerrari H. Andrew DeFerrari As Attorney-in-Fact		

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SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Palm Beach Gardens, State of Florida, on June 6, 2011.

Dycom Investments, Inc.

By: /s/ H. Andrew DeFerrari  
Name: H. Andrew DeFerrari  
Title: Treasurer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
* Steven E. Nielsen	President and Director (Principal Executive Officer)	June 6, 2011
/s/ H. Andrew DeFerrari H. Andrew DeFerrari	Treasurer and Director (Principal Financial and Accounting Officer)	June 6, 2011

\*By: /s/ H. Andrew DeFerrari  
H. Andrew DeFerrari  
As Attorney-in-Fact

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SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Palm Beach Gardens, State of Florida, on June 6, 2011.

Ansco & Associates, LLC

By: /s/ H. Andrew DeFerrari  
Name: H. Andrew DeFerrari  
Title: Treasurer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
* George Summers	President (Principal Executive Officer)	June 6, 2011
* Michael S. Cassidy	Assistant Treasurer and Controller (Principal Accounting Officer)	June 6, 2011
/s/ H. Andrew DeFerrari H. Andrew DeFerrari	Treasurer and Director (Principal Financial Officer)	June 6, 2011
* Steven E. Nielsen	Director	June 6, 2011
*By: /s/ H. Andrew DeFerrari H. Andrew DeFerrari As Attorney-in-Fact		



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SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Palm Beach Gardens, State of Florida, on June 6, 2011.

Apex Digital, LLC

By: /s/ H. Andrew DeFerrari  
Name: H. Andrew DeFerrari  
Title: Treasurer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
* Timothy R. Estes	President (Principal Executive Officer)	June 6, 2011
/s/ H. Andrew DeFerrari H. Andrew DeFerrari	Treasurer and Director (Principal Financial and Accounting Officer)	June 6, 2011
* Steven E. Nielsen	Director	June 6, 2011
* Gary E. Ervin	Director	June 6, 2011
*By: /s/ H. Andrew DeFerrari H. Andrew DeFerrari As Attorney-in-Fact		

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SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Palm Beach Gardens, State of Florida, on June 6, 2011.

Broadband Express, LLC

By: /s/ H. Andrew DeFerrari  
Name: H. Andrew DeFerrari  
Title: Treasurer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
* John Kuhn	President (Principal Executive Officer)	June 6, 2011
* Jeffrey Drzymala	Controller (Principal Accounting Officer)	June 6, 2011
/s/ H. Andrew DeFerrari H. Andrew DeFerrari	Treasurer and Director (Principal Financial Officer)	June 6, 2011
* Steven E. Nielsen	Director	June 6, 2011
*By: /s/ H. Andrew DeFerrari H. Andrew DeFerrari As Attorney-in-Fact		

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SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Palm Beach Gardens, State of Florida, on June 6, 2011.

Broadband Installation Services, LLC

By: /s/ H. Andrew DeFerrari  
Name: H. Andrew DeFerrari  
Title: Treasurer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
* John Kuhn	President (Principal Executive Officer)	June 6, 2011
* Jeffrey Drzymala	Controller (Principal Accounting Officer)	June 6, 2011
/s/ H. Andrew DeFerrari H. Andrew DeFerrari	Treasurer and Director (Principal Financial Officer)	June 6, 2011
* Steven E. Nielsen	Director	June 6, 2011
*By: /s/ H. Andrew DeFerrari H. Andrew DeFerrari As Attorney-in-Fact		

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SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Palm Beach Gardens, State of Florida, on June 6, 2011.

C-2 Utility Contractors, LLC

By: /s/ H. Andrew DeFerrari  
Name: H. Andrew DeFerrari  
Title: Treasurer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
* Curtis M. Saunders	President (Principal Executive Officer)	June 6, 2011
* Scott Savoian	Controller (Principal Accounting Officer)	June 6, 2011
/s/ H. Andrew DeFerrari H. Andrew DeFerrari	Treasurer and Director (Principal Financial Officer)	June 6, 2011
* Steven E. Nielsen	Director	June 6, 2011
*By: /s/ H. Andrew DeFerrari H. Andrew DeFerrari As Attorney-in-Fact		

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SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Palm Beach Gardens, State of Florida, on June 6, 2011.

Cable Connectors, LLC

By: /s/ H. Andrew DeFerrari  
Name: H. Andrew DeFerrari  
Title: Treasurer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
* Thomas L. Lambert	President (Principal Executive Officer)	June 6, 2011
* Harrold Wall	Assistant Treasurer and Controller (Principal Accounting Officer)	June 6, 2011
/s/ H. Andrew DeFerrari H. Andrew DeFerrari	Treasurer and Director (Principal Financial Officer)	June 6, 2011
* Steven E. Nielsen	Director	June 6, 2011
*By: /s/ H. Andrew DeFerrari H. Andrew DeFerrari As Attorney-in-Fact		

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SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Palm Beach Gardens, State of Florida, on June 6, 2011.

CableCom, LLC

By: /s/ H. Andrew DeFerrari  
Name: H. Andrew DeFerrari  
Title: Treasurer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
* J. Michael Gepford	President (Principal Executive Officer)	June 6, 2011
* Rebecca Barr	Controller (Principal Accounting Officer)	June 6, 2011
/s/ H. Andrew DeFerrari H. Andrew DeFerrari	Treasurer and Director (Principal Financial Officer)	June 6, 2011
* Steven E. Nielsen	Director	June 6, 2011
*By: /s/ H. Andrew DeFerrari H. Andrew DeFerrari As Attorney-in-Fact		

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SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Palm Beach Gardens, State of Florida, on June 6, 2011.

CableCom of California, Inc.

By: /s/ H. Andrew DeFerrari  
Name: H. Andrew DeFerrari  
Title: Treasurer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
* J. Michael Gepford	President (Principal Executive Officer)	June 6, 2011
* Rebecca Barr	Controller (Principal Accounting Officer)	June 6, 2011
/s/ H. Andrew DeFerrari H. Andrew DeFerrari	Treasurer and Director (Principal Financial Officer)	June 6, 2011
* Steven E. Nielsen	Director	June 6, 2011
*By: /s/ H. Andrew DeFerrari H. Andrew DeFerrari As Attorney-in-Fact		

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SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Palm Beach Gardens, State of Florida, on June 6, 2011.

Can-Am Communications, Inc.

By: /s/ H. Andrew DeFerrari  
Name: H. Andrew DeFerrari  
Title: Treasurer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
* J. Michael Gepford	President (Principal Executive Officer)	June 6, 2011
* Rebecca Barr	Controller (Principal Accounting Officer)	June 6, 2011
/s/ H. Andrew DeFerrari H. Andrew DeFerrari	Treasurer and Director (Principal Financial Officer)	June 6, 2011
* Steven E. Nielsen	Director	June 6, 2011
*By: /s/ H. Andrew DeFerrari H. Andrew DeFerrari As Attorney-in-Fact		



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### SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Palm Beach Gardens, State of Florida, on June 6, 2011.

Cavo Broadband Communications, LLC

By: /s/ H. Andrew DeFerrari  
Name: H. Andrew DeFerrari  
Title: Treasurer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
* William Valentino	President (Principal Executive Officer)	June 6, 2011
* Jeffrey Drzymala	Controller (Principal Accounting Officer)	June 6, 2011
/s/ H. Andrew DeFerrari H. Andrew DeFerrari	Treasurer and Director (Principal Financial Officer)	June 6, 2011
* Steven E. Nielsen	Director	June 6, 2011
*By: /s/ H. Andrew DeFerrari H. Andrew DeFerrari As Attorney-in-Fact		

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SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Palm Beach Gardens, State of Florida, on June 6, 2011.

CertusView Leasing, LLC

By: /s/ H. Andrew DeFerrari  
Name: H. Andrew DeFerrari  
Title: Treasurer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
* Curtis Chambers	President (Principal Executive Officer)	June 6, 2011
/s/ H. Andrew DeFerrari H. Andrew DeFerrari	Treasurer and Director (Principal Financial and Accounting Officer)	June 6, 2011
* Steven E. Nielsen	Director	June 6, 2011

\*By: /s/ H. Andrew DeFerrari  
H. Andrew DeFerrari  
As Attorney-in-Fact

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SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Palm Beach Gardens, State of Florida, on June 6, 2011.

Communication Services, LLC

By: /s/ H. Andrew DeFerrari  
Name: H. Andrew DeFerrari  
Title: Treasurer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
* Timothy M. Victory	President (Principal Executive Officer)	June 6, 2011
* Donald B. Freudiger	Controller (Principal Accounting Officer)	June 6, 2011
/s/ H. Andrew DeFerrari H. Andrew DeFerrari	Treasurer and Director (Principal Financial Officer)	June 6, 2011
* Steven E. Nielsen	Director	June 6, 2011
*By: /s/ H. Andrew DeFerrari H. Andrew DeFerrari As Attorney-in-Fact		

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SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Palm Beach Gardens, State of Florida, on June 6, 2011.

Communications Construction Group, LLC

By: /s/ H. Andrew DeFerrari  
Name: H. Andrew DeFerrari  
Title: Treasurer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
* John E. Dowd	President (Principal Executive Officer)	June 6, 2011
* Jonna Schall	Assistant Treasurer and Controller (Principal Accounting Officer)	June 6, 2011
/s/ H. Andrew DeFerrari H. Andrew DeFerrari	Treasurer and Director (Principal Financial Officer)	June 6, 2011
* Steven E. Nielsen	Director	June 6, 2011
*By: /s/ H. Andrew DeFerrari H. Andrew DeFerrari As Attorney-in-Fact		

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SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Palm Beach Gardens, State of Florida, on June 6, 2011.

Dycom Capital Management, Inc.

By: /s/ H. Andrew DeFerrari  
Name: H. Andrew DeFerrari  
Title: Treasurer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
* Steven E. Nielsen	President and Director (Principal Executive Officer)	June 6, 2011
/s/ H. Andrew DeFerrari H. Andrew DeFerrari	Treasurer and Director (Principal Financial and Accounting Officer)	June 6, 2011
*By: /s/ H. Andrew DeFerrari H. Andrew DeFerrari As Attorney-in-Fact		

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SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Palm Beach Gardens, State of Florida, on June 6, 2011.

Dycom Corporate Identity, Inc.

By: /s/ H. Andrew DeFerrari  
Name: H. Andrew DeFerrari  
Title: Treasurer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
* Steven E. Nielsen	President and Director (Principal Executive Officer)	June 6, 2011
/s/ H. Andrew DeFerrari H. Andrew DeFerrari	Treasurer and Director (Principal Financial and Accounting Officer)	June 6, 2011
*By: /s/ H. Andrew DeFerrari H. Andrew DeFerrari As Attorney-in-Fact		

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SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Palm Beach Gardens, State of Florida, on June 6, 2011.

Dycom Identity, LLC

By: /s/ H. Andrew DeFerrari  
Name: H. Andrew DeFerrari  
Title: Treasurer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
* Steven E. Nielsen	President and Director (Principal Executive Officer)	June 6, 2011
/s/ H. Andrew DeFerrari H. Andrew DeFerrari	Treasurer and Director (Principal Financial and Accounting Officer)	June 6, 2011
*By: /s/ H. Andrew DeFerrari H. Andrew DeFerrari As Attorney-in-Fact		

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### SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Palm Beach Gardens, State of Florida, on June 6, 2011.

Ervin Cable Construction, LLC

By: /s/ H. Andrew DeFerrari  
Name: H. Andrew DeFerrari  
Title: Treasurer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
* Brad Ervin	President (Principal Executive Officer)	June 6, 2011
* Andrea White	Assistant Treasurer and Controller (Principal Accounting Officer)	June 6, 2011
/s/ H. Andrew DeFerrari H. Andrew DeFerrari	Treasurer and Director (Principal Financial Officer)	June 6, 2011
* Gary E. Ervin	Chairman of the Board of Directors	June 6, 2011
* Steven E. Nielsen	Director	June 6, 2011
*By: /s/ H. Andrew DeFerrari H. Andrew DeFerrari As Attorney-in-Fact		



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SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Palm Beach Gardens, State of Florida, on June 6, 2011.

Globe Communications, LLC

By: /s/ H. Andrew DeFerrari  
Name: H. Andrew DeFerrari  
Title: Treasurer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
* Victor R. Lundy, III	President (Principal Executive Officer)	June 6, 2011
* Donald B. Freudiger	Assistant Treasurer and Controller (Principal Accounting Officer)	June 6, 2011
/s/ H. Andrew DeFerrari H. Andrew DeFerrari	Treasurer and Director (Principal Financial Officer)	June 6, 2011
* Steven E. Nielsen	Director	June 6, 2011
*By: /s/ H. Andrew DeFerrari H. Andrew DeFerrari As Attorney-in-Fact		

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SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Palm Beach Gardens, State of Florida, on June 6, 2011.

Installation Technicians, LLC

By: /s/ H. Andrew DeFerrari  
Name: H. Andrew DeFerrari  
Title: Treasurer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
* Robert Allen Stoutt, Jr.	President (Principal Executive Officer)	June 6, 2011
* Christine Brew	Controller (Principal Accounting Officer)	June 6, 2011
/s/ H. Andrew DeFerrari H. Andrew DeFerrari	Treasurer and Director (Principal Financial Officer)	June 6, 2011
* Steven E. Nielsen	Director	June 6, 2011
*By: /s/ H. Andrew DeFerrari H. Andrew DeFerrari As Attorney-in-Fact		

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Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Palm Beach Gardens, State of Florida, on June 6, 2011.

Ivy H. Smith Company, LLC

By: /s/ H. Andrew DeFerrari  
Name: H. Andrew DeFerrari  
Title: Treasurer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
* George Summers	President (Principal Executive Officer)	June 6, 2011
* Michael Cassidy	Assistant Treasurer and Controller (Principal Accounting Officer)	June 6, 2011
/s/ H. Andrew DeFerrari H. Andrew DeFerrari	Treasurer and Director (Principal Financial Officer)	June 6, 2011
* Steven E. Nielsen	Director	June 6, 2011
*By: /s/ H. Andrew DeFerrari H. Andrew DeFerrari As Attorney-in-Fact		

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### SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Palm Beach Gardens, State of Florida, on June 6, 2011.

Lambert's Cable Splicing Company, LLC

By: /s/ H. Andrew DeFerrari  
Name: H. Andrew DeFerrari  
Title: Treasurer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
* Thomas L. Lambert	President and Director (Principal Executive Officer)	June 6, 2011
* Harrold Wall	Assistant Treasurer and Controller (Principal Accounting Officer)	June 6, 2011
/s/ H. Andrew DeFerrari H. Andrew DeFerrari	Treasurer and Director (Principal Financial Officer)	June 6, 2011
* Steven E. Nielsen	Director	June 6, 2011
*By: /s/ H. Andrew DeFerrari H. Andrew DeFerrari As Attorney-in-Fact		

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Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Palm Beach Gardens, State of Florida, on June 6, 2011.

Locating, Inc.

By: /s/ H. Andrew DeFerrari  
Name: H. Andrew DeFerrari  
Title: Treasurer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
* Dennis Tarosky	President (Principal Executive Officer)	June 6, 2011
/s/ H. Andrew DeFerrari H. Andrew DeFerrari	Treasurer and Director (Principal Financial and Accounting Officer)	June 6, 2011
* Steven E. Nielsen	Director	June 6, 2011

\*By: /s/ H. Andrew DeFerrari  
H. Andrew DeFerrari  
As Attorney-in-Fact

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SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Palm Beach Gardens, State of Florida, on June 6, 2011.

Midtown Express, LLC

By: \*  
Name: Joseph W. Danno  
Title: President and Secretary

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
* Joseph W. Danno	President and Secretary (Principal Executive Officer)	June 6, 2011
* Cliff Harris	Treasurer (Principal Financial and Accounting Officer)	June 6, 2011
/s/ H. Andrew DeFerrari H. Andrew DeFerrari	Director	June 6, 2011
* Steven E. Nielsen	Director	June 6, 2011

\*By: /s/ H. Andrew DeFerrari  
H. Andrew DeFerrari  
As Attorney-in-Fact

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### SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Palm Beach Gardens, State of Florida, on June 6, 2011.

NeoCom Solutions Holdings, LLC

By: /s/ H. Andrew DeFerrari  
Name: H. Andrew DeFerrari  
Title: Treasurer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
* Hy Tang	President (Principal Executive Officer)	June 6, 2011
* Matthew Duvall	Controller (Principal Accounting Officer)	June 6, 2011
/s/ H. Andrew DeFerrari H. Andrew DeFerrari	Treasurer and Director (Principal Financial Officer)	June 6, 2011
* Steven E. Nielsen	Director	June 6, 2011
*By: /s/ H. Andrew DeFerrari H. Andrew DeFerrari As Attorney-in-Fact		

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SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Palm Beach Gardens, State of Florida, on June 6, 2011.

NeoCom Solutions, Inc.

By: /s/ H. Andrew DeFerrari  
Name: H. Andrew DeFerrari  
Title: Treasurer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
* Hy Tang	President (Principal Executive Officer)	June 6, 2011
* Matthew Duval	Controller (Principal Accounting Officer)	June 6, 2011
/s/ H. Andrew DeFerrari H. Andrew DeFerrari	Treasurer and Director (Principal Financial Officer)	June 6, 2011
* Steven E. Nielsen	Director	June 6, 2011
*By: /s/ H. Andrew DeFerrari H. Andrew DeFerrari As Attorney-in-Fact		



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Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Palm Beach Gardens, State of Florida, on June 6, 2011.

Nichols Construction, LLC

By: /s/ H. Andrew DeFerrari  
Name: H. Andrew DeFerrari  
Title: Treasurer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
* Jack A. Nichols	President and Director (Principal Executive Officer)	June 6, 2011
* Esther Hagy	Assistant Secretary and Assistant Treasurer (Principal Accounting Officer)	June 6, 2011
/s/ H. Andrew DeFerrari H. Andrew DeFerrari	Treasurer and Director (Principal Financial Officer)	June 6, 2011
* Steven E. Nielsen	Director	June 6, 2011
*By: /s/ H. Andrew DeFerrari H. Andrew DeFerrari As Attorney-in-Fact		

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Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Palm Beach Gardens, State of Florida, on June 6, 2011.

Niels Fugal Sons Company, LLC

By: /s/ H. Andrew DeFerrari  
Name: H. Andrew DeFerrari  
Title: Treasurer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
* Gary R. McQueen	President and Chief Executive Officer (Principal Executive Officer)	June 6, 2011
* Dennis K. Smith, Jr.	Assistant Treasurer and Controller (Principal Accounting Officer)	June 6, 2011
/s/ H. Andrew DeFerrari H. Andrew DeFerrari	Treasurer and Director (Principal Financial Officer)	June 6, 2011
* Steven E. Nielsen	Director	June 6, 2011
*By: /s/ H. Andrew DeFerrari H. Andrew DeFerrari As Attorney-in-Fact		

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### SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Palm Beach Gardens, State of Florida, on June 6, 2011.

Niels Fugal Sons Company of California, Inc.

By: /s/ H. Andrew DeFerrari  
Name: H. Andrew DeFerrari  
Title: Treasurer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
* Gary R. McQueen	President and Chief Executive Officer (Principal Executive Officer)	June 6, 2011
* Dennis K. Smith, Jr.	Assistant Treasurer and Controller (Principal Accounting Officer)	June 6, 2011
/s/ H. Andrew DeFerrari H. Andrew DeFerrari	Treasurer and Director (Principal Financial Officer)	June 6, 2011
* Steven E. Nielsen	Director	June 6, 2011
*By: /s/ H. Andrew DeFerrari H. Andrew DeFerrari As Attorney-in-Fact		

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Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Palm Beach Gardens, State of Florida, on June 6, 2011.

OSP Services, LLC

By: \*  
Name: Marvin M. Glaser  
Title: President

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
* Marvin M. Glaser	President and Director (Principal Executive Officer)	June 6, 2011
* Orilia Reid	Treasurer and Secretary (Principal Financial and Accounting Officer)	June 6, 2011
* Daniel Mazon	Director	June 6, 2011

\*By: /s/ H. Andrew DeFerrari  
H. Andrew DeFerrari  
As Attorney-in-Fact

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### SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Palm Beach Gardens, State of Florida, on June 6, 2011.

Point to Point Communications, Inc.

By: /s/ H. Andrew DeFerrari  
Name: H. Andrew DeFerrari  
Title: Treasurer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
* William J. Ptak	President (Principal Executive Officer)	June 6, 2011
* Kimberly Habeck	Controller (Principal Accounting Officer)	June 6, 2011
/s/ H. Andrew DeFerrari H. Andrew DeFerrari	Treasurer and Director (Principal Financial Officer)	June 6, 2011
* Steven E. Nielsen	Director	June 6, 2011
*By: /s/ H. Andrew DeFerrari H. Andrew DeFerrari As Attorney-in-Fact		

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Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Palm Beach Gardens, State of Florida, on June 6, 2011.

Precision Valley Communications of Vermont, LLC

By: /s/ H. Andrew DeFerrari  
Name: H. Andrew DeFerrari  
Title: Treasurer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
* J. Roger Cawvey, Sr.	President (Principal Executive Officer)	June 6, 2011
* Joseph Miller	Controller (Principal Accounting Officer)	June 6, 2011
/s/ H. Andrew DeFerrari H. Andrew DeFerrari	Treasurer and Director (Principal Financial Officer)	June 6, 2011
* Steven E. Nielsen	Director	June 6, 2011
*By: /s/ H. Andrew DeFerrari H. Andrew DeFerrari As Attorney-in-Fact		

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SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Palm Beach Gardens, State of Florida, on June 6, 2011.

Prince Telecom, LLC

By: /s/ H. Andrew DeFerrari  
Name: H. Andrew DeFerrari  
Title: Treasurer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
* John Kuhn	President (Principal Executive Officer)	June 6, 2011
* Jeffrey Drzymala	Controller (Principal Accounting Officer)	June 6, 2011
/s/ H. Andrew DeFerrari H. Andrew DeFerrari	Treasurer and Director (Principal Financial Officer)	June 6, 2011
* Steven E. Nielsen	Director	June 6, 2011
*By: /s/ H. Andrew DeFerrari H. Andrew DeFerrari As Attorney-in-Fact		

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### SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Palm Beach Gardens, State of Florida, on June 6, 2011.

Prince Telecom of California, Inc.

By: /s/ H. Andrew DeFerrari  
Name: H. Andrew DeFerrari  
Title: Treasurer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
* John Kuhn	President (Principal Executive Officer)	June 6, 2011
* Jeffrey Drzymala	Controller (Principal Accounting Officer)	June 6, 2011
/s/ H. Andrew DeFerrari H. Andrew DeFerrari	Treasurer and Director (Principal Financial Officer)	June 6, 2011
* Steven E. Nielsen	Director	June 6, 2011
*By: /s/ H. Andrew DeFerrari H. Andrew DeFerrari As Attorney-in-Fact		



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### SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Palm Beach Gardens, State of Florida, on June 6, 2011.

RJE Telecom, LLC

By: /s/ H. Andrew DeFerrari  
Name: H. Andrew DeFerrari  
Title: Treasurer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
* Harold Gary Hall	President (Principal Executive Officer)	June 6, 2011
* Monica Tezak	Corporate Controller (Principal Accounting Officer)	June 6, 2011
/s/ H. Andrew DeFerrari H. Andrew DeFerrari	Treasurer and Director (Principal Financial Officer)	June 6, 2011
* Steven E. Nielsen	Director	June 6, 2011
*By: /s/ H. Andrew DeFerrari H. Andrew DeFerrari As Attorney-in-Fact		

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SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Palm Beach Gardens, State of Florida, on June 6, 2011.

RJE Telecom of California, Inc.

By: /s/ H. Andrew DeFerrari  
Name: H. Andrew DeFerrari  
Title: Treasurer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
* Harold Gary Hall	President (Principal Executive Officer)	June 6, 2011
* Monica Tezak	Corporate Controller (Principal Accounting Officer)	June 6, 2011
/s/ H. Andrew DeFerrari H. Andrew DeFerrari	Treasurer and Director (Principal Financial Officer)	June 6, 2011
* Steven E. Nielsen	Director	June 6, 2011
*By: /s/ H. Andrew DeFerrari H. Andrew DeFerrari As Attorney-in-Fact		

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SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Palm Beach Gardens, State of Florida, on June 6, 2011.

Star Construction, LLC

By: /s/ H. Andrew DeFerrari  
Name: H. Andrew DeFerrari  
Title: Treasurer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
* Robert Allen Stoutt, Jr.	President (Principal Executive Officer)	June 6, 2011
* Christine Brew	Controller (Principal Accounting Officer)	June 6, 2011
/s/ H. Andrew DeFerrari H. Andrew DeFerrari	Treasurer and Director (Principal Financial Officer)	June 6, 2011
* Steven E. Nielsen	Director	June 6, 2011
*By: /s/ H. Andrew DeFerrari H. Andrew DeFerrari As Attorney-in-Fact		

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SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Palm Beach Gardens, State of Florida, on June 6, 2011.

Stevens Communications, LLC

By: /s/ H. Andrew DeFerrari  
Name: H. Andrew DeFerrari  
Title: Treasurer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
* Richard D. Stevens	President and Director (Principal Executive Officer)	June 6, 2011
* Kimberly A. Williams	Controller (Principal Accounting Officer)	June 6, 2011
/s/ H. Andrew DeFerrari H. Andrew DeFerrari	Treasurer and Director (Principal Financial Officer)	June 6, 2011
* Steven E. Nielsen	Director	June 6, 2011
*By: /s/ H. Andrew DeFerrari H. Andrew DeFerrari As Attorney-in-Fact		

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### SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Palm Beach Gardens, State of Florida, on June 6, 2011.

S.T.S., LLC

By: /s/ H. Andrew DeFerrari  
Name: H. Andrew DeFerrari  
Title: Treasurer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
* Dennis Tarosky	President (Principal Executive Officer)	June 6, 2011
* Mark Cunningham	Chief Financial Officer (Principal Accounting Officer)	June 6, 2011
/s/ H. Andrew DeFerrari H. Andrew DeFerrari	Treasurer and Governor (Principal Financial Officer)	June 6, 2011
* Steven E. Nielsen	Governor	June 6, 2011
*By: /s/ H. Andrew DeFerrari H. Andrew DeFerrari As Attorney-in-Fact		

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SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Palm Beach Gardens, State of Florida, on June 6, 2011.

TCS Communications, LLC

By: /s/ H. Andrew DeFerrari  
Name: H. Andrew DeFerrari  
Title: Treasurer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
* Bob Payne	President (Principal Executive Officer)	June 6, 2011
* Debra Pelkowski	Controller (Principal Accounting Officer)	June 6, 2011
/s/ H. Andrew DeFerrari H. Andrew DeFerrari	Treasurer and Director (Principal Financial Officer)	June 6, 2011
* Steven E. Nielsen	Director	June 6, 2011
*By: /s/ H. Andrew DeFerrari H. Andrew DeFerrari As Attorney-in-Fact		

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### SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Palm Beach Gardens, State of Florida, on June 6, 2011.

Tesinc, LLC

By: /s/ H. Andrew DeFerrari  
Name: H. Andrew DeFerrari  
Title: Treasurer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
* William J. Ptak	President (Principal Executive Officer)	June 6, 2011
* Kimberly Habeck	Controller (Principal Accounting Officer)	June 6, 2011
/s/ H. Andrew DeFerrari H. Andrew DeFerrari	Treasurer and Director (Principal Financial Officer)	June 6, 2011
* Steven E. Nielsen	Director	June 6, 2011
*By: /s/ H. Andrew DeFerrari H. Andrew DeFerrari As Attorney-in-Fact		

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SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Palm Beach Gardens, State of Florida, on June 6, 2011.

Tesinc of California, Inc.

By: /s/ H. Andrew DeFerrari  
Name: H. Andrew DeFerrari  
Title: Treasurer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
* William J. Ptak	President (Principal Executive Officer)	June 6, 2011
* Kimberly Habeck	Controller (Principal Accounting Officer)	June 6, 2011
/s/ H. Andrew DeFerrari H. Andrew DeFerrari	Treasurer and Director (Principal Financial Officer)	June 6, 2011
* Steven E. Nielsen	Director	June 6, 2011
*By: /s/ H. Andrew DeFerrari H. Andrew DeFerrari As Attorney-in-Fact		



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### SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Palm Beach Gardens, State of Florida, on June 6, 2011.

Triple-D Communications, LLC

By: /s/ H. Andrew DeFerrari  
Name: H. Andrew DeFerrari  
Title: Treasurer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
* Victor R. Lundy, III	President and Director (Principal Executive Officer)	June 6, 2011
* Donald B. Freudiger	Assistant Treasurer and Controller (Principal Accounting Officer)	June 6, 2011
/s/ H. Andrew DeFerrari H. Andrew DeFerrari	Treasurer and Director (Principal Financial Officer)	June 6, 2011
* Steven E. Nielsen	Director	June 6, 2011
*By: /s/ H. Andrew DeFerrari H. Andrew DeFerrari As Attorney-in-Fact		

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### SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Palm Beach Gardens, State of Florida, on June 6, 2011.

### U G T I

By: /s/ H. Andrew DeFerrari  
Name: H. Andrew DeFerrari  
Title: Treasurer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
* Dennis Tarosky	President (Principal Executive Officer)	June 6, 2011
* Mark Cunningham	Chief Financial Officer (Principal Accounting Officer)	June 6, 2011
/s/ H. Andrew DeFerrari H. Andrew DeFerrari	Treasurer and Director (Principal Financial Officer)	June 6, 2011
* Steven E. Nielsen	Director	June 6, 2011
*By: /s/ H. Andrew DeFerrari H. Andrew DeFerrari As Attorney-in-Fact		

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### SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Palm Beach Gardens, State of Florida, on June 6, 2011.

Underground Specialties, LLC

By: /s/ H. Andrew DeFerrari  
Name: H. Andrew DeFerrari  
Title: Treasurer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
* Curtis M. Saunders	President (Principal Executive Officer)	June 6, 2011
* Scott Savoian	Assistant Treasurer and Controller (Principal Accounting Officer)	June 6, 2011
/s/ H. Andrew DeFerrari H. Andrew DeFerrari	Treasurer and Director (Principal Financial Officer)	June 6, 2011
* Steven E. Nielsen	Director	June 6, 2011
*By: /s/ H. Andrew DeFerrari H. Andrew DeFerrari As Attorney-in-Fact		

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SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Palm Beach Gardens, State of Florida, on June 6, 2011.

UtiliQuest, LLC

By: /s/ H. Andrew DeFerrari  
Name: H. Andrew DeFerrari  
Title: Treasurer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
* Dennis Tarosky	President (Principal Executive Officer)	June 6, 2011
* Mark Cunningham	Chief Financial Officer (Principal Accounting Officer)	June 6, 2011
/s/ H. Andrew DeFerrari H. Andrew DeFerrari	Treasurer and Director (Principal Financial Officer)	June 6, 2011
* Steven E. Nielsen	Director	June 6, 2011
*By: /s/ H. Andrew DeFerrari H. Andrew DeFerrari As Attorney-in-Fact		

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### SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Palm Beach Gardens, State of Florida, on June 6, 2011.

White Mountain Cable Construction, LLC

By: /s/ H. Andrew DeFerrari  
Name: H. Andrew DeFerrari  
Title: Treasurer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
* John E. Dowd	President (Principal Executive Officer)	June 6, 2011
* Jonna Schall	Controller (Principal Accounting Officer)	June 6, 2011
/s/ H. Andrew DeFerrari H. Andrew DeFerrari	Treasurer and Director (Principal Financial Officer)	June 6, 2011
* Steven E. Nielsen	Director	June 6, 2011
*By: /s/ H. Andrew DeFerrari H. Andrew DeFerrari As Attorney-in-Fact		

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### EXHIBIT INDEX

#### Exhibit

#### Number Description of Exhibits

- 4.1 Indenture, dated as of January 21, 2011, among Dycom Investments, Inc., Dycom Industries, Inc. and certain subsidiaries of Dycom Industries, Inc., as guarantors, and U.S. Bank National Association, as trustee (incorporated by reference to Dycom Industries, Inc.'s Form 8-K filed with the SEC on January 24, 2011).
- 4.2 Exchange and Registration Rights Agreement, dated as of January 21, 2011, among Dycom Investments, Inc., Dycom Industries, Inc., certain subsidiaries of Dycom Industries, Inc., and Goldman, Sachs & Co. and Merrill Lynch, Pierce, Fenner & Smith Incorporated, as representatives of the Initial Purchasers (incorporated by reference to Dycom Industries, Inc.'s Form 8-K filed with the SEC on January 24, 2011).
- 5.1 Opinion of Shearman & Sterling LLP as to the validity of the securities being offered.\*\*
- 5.2 Opinion of Akerman Senterfitt, as to matters of Florida law. \*
- 5.3 Opinion of Baker, Donelson, Bearman, Caldwell & Berkowitz, PC, as to matters of Georgia and Tennessee law. \*
- 5.4 Opinion of Brown & Bunch, PLLC, as to matters of North Carolina law. \*
- 5.5 Opinion of Davis Wright Tremaine LLP, as to matters of Washington law. \*
- 5.6 Opinion of Liskow & Lewis, as to matters of Louisiana law. \*
- 5.7 Opinion of Potter Anderson & Corroon LLP, as to matters of Delaware law. \*
- 10.1 Credit Agreement dated June 4, 2010 by and among Dycom Industries, Inc. and Bank of America, N.A., as Administrative Agent, Swingline Lender and L/C Issuer, Banc of America Securities LLC and Wells Fargo Securities, LLC, as Joint Lead Arrangers and Joint Book Managers, Wells Fargo Bank, National Association, as Syndication Agent, and Branch Banking and Trust Company, RBS Citizens, N.A. and PNC Bank, National Association, as Co-Documentation Agents (incorporated by reference to Dycom Industries, Inc.'s Form 8-K filed with the SEC on June 9, 2010).
- 10.2 First Amendment dated as of January 5, 2011 to Credit Agreement dated as of June 4, 2010 with Bank of America, N.A., as Administrative Agent, Swingline Lender and L/C Issuer, Banc of America Securities LLC and Wells Fargo Securities, LLC, as Joint Lead Arrangers and Joint Book Managers, Wells Fargo Bank, National Association, as Syndication Agent, Branch Banking and Trust Company, RBS Citizens, N.A. and PNC Bank, National Association, as Co-Documentation Agents, and certain other lenders from time to time party thereto (incorporated by reference to Dycom Industries, Inc.'s Form 8-K filed with the SEC on January 6, 2011).
- 12.1 Computation of Ratio of Earnings to Fixed Charges.\*
- 21.1 Principal subsidiaries of Dycom Industries, Inc. (incorporated by reference to Dycom Industries, Inc.'s Form 10-K filed with the SEC on July 31, 2010).
- 23.1 Consent of Deloitte & Touche LLP.\*
- 23.2 Consent of Shearman & Sterling LLP (included in Exhibit 5.1).\*\*
- 23.3 Consent of Akerman Senterfitt, as to matters of Florida law (included in Exhibit 5.2). \*
- 23.4 Consent of Baker, Donelson, Bearman, Caldwell & Berkowitz, PC, as to matters of Georgia and Tennessee law (included in Exhibit 5.3). \*
- 23.5 Consent of Brown & Bunch, PLLC, as to matters of North Carolina law (included in Exhibit 5.4). \*
- 23.6 Consent of Davis Wright Tremaine LLP, as to matters of Washington law (included in Exhibit 5.5). \*

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- 23.7 Consent of Liskow & Lewis, as to matters of Louisiana law (included in Exhibit 5.6). \*
- 23.8 Consent of Potter Anderson & Corroon LLP, as to matters of Delaware law (included in Exhibit 5.7). \*
- 24.1 Powers of Attorney (included on signature pages).\*\*
- 25.1 Form T-1 Statement of Eligibility and Qualification under Trust Indenture Act of 1939, as amended, of U.S. Bank National Association, as trustee.\*\*
- 99.1 Form of Letter of Transmittal.\*\*
- 99.2 Form of Notice of Guaranteed Delivery.\*\*
- 99.3 Form of Letter to Clients.\*\*
- 99.4 Form of Letter to Registered Holders.\*\*
- 99.5 Form of Letter from Beneficial Owner.\*\*

\*  
\*\*

Filed herewith.  
Previously filed.