

SOUTHERN SATELLITE CORP

Form 424B3

February 12, 2007

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**PROSPECTUS**

**Exchange Offer for  
9% Senior Notes due 2016**

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This is an offer to exchange any 9% Senior Notes due 2016 that you now hold for newly issued 9% Senior Notes due 2016. This offer will expire at 5:00 p.m. New York City time on March 30, 2007, unless we extend the offer. You must tender your original notes by this deadline in order to receive the new notes. We do not currently intend to extend the expiration date.

The exchange of outstanding original notes for exchange notes in the exchange offer will not constitute a taxable event for U.S. federal income tax purposes. The terms of the exchange notes to be issued in the exchange offer are substantially identical to the original notes, except that the exchange notes will be freely tradeable and will not benefit from the registration and related rights pursuant to which we are conducting this exchange offer. All untendered original notes will continue to be subject to the restrictions on transfer set forth in the original notes and in the applicable indenture.

There is no existing public market for your original notes, and there is currently no public market for the new notes to be issued to you in the exchange offer.

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**See Risk Factors beginning on page 28 for a description of the business and financial risks associated with the new notes.**

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**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.**

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The date of this prospectus is February 12, 2007.

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You should rely only on the information contained in this prospectus. We have not authorized anyone to provide you with additional or different information. If anyone provides you with different or inconsistent information, you should not rely on it. We are offering to exchange the notes only in jurisdictions where these offers and exchanges are permitted. The information contained in this prospectus is accurate only as of the date of this prospectus.

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The 9% Senior Notes due 2016 are referred to as the notes. Unless we indicate differently, when we use the term "notes" or "new notes," we mean the new notes that we will issue to you if you exchange your original notes. However, unless we indicate differently, references to "notes" for periods prior to the exchange of the original notes for new notes means the original notes.

**Table of Contents****SATELLITE NAME CHANGES**

As indicated in the chart below, we recently renamed 11 of our satellites. Unless the context requires otherwise, references to satellites in this prospectus refer to the new names which became effective on February 1, 2007.

Location	Previous Name	New Name Effective	
		February 1, 2007	Acronym
58°W	PAS-9	Intelsat 9	IS-9
45°W	PAS-1R	Intelsat 1R	IS-1R
43°W	PAS-3R	Intelsat 3R	IS-3R
43.1°W	PAS-6B	Intelsat 6B	IS-6B
26.15°E	PAS-5	Intelsat 5	IS-5
45°E	PAS-12	Intelsat 12	IS-12
	(Europe*Star 1)	(Europe*Star 1)	
68.65°E	PAS-7	Intelsat 7	IS-7
68.5°E	PAS-10	Intelsat 10	IS-10
72°E	PAS-4	Intelsat 4	IS-4
166°E	PAS-8	Intelsat 8	IS-8
169°E	PAS-2	Intelsat 2	IS-2

**INDUSTRY AND MARKET DATA**

This prospectus includes information with respect to market share and industry conditions from third-party sources or that is based upon estimates using such sources when available. While we believe that such information and estimates are reasonable and reliable, we have not independently verified any of the data from third-party sources, including *World Satellite Communication & Broadcasting Markets Survey, Market Forecasts to 2015* dated September 2006, by *Euroconsult*, *Broadband Satellite Markets*, 5<sup>th</sup> Edition, dated February 2006 and *Global Assessment of Satellite Demand*, 3<sup>rd</sup> Edition, dated November 2006, by *Northern Sky Research*. Similarly, our internal research is based upon our understanding of industry conditions, and such information has not been verified by any independent sources.

**Table of Contents****PROSPECTUS SUMMARY**

*Intelsat Corporation is the obligor under the original notes and will be the obligor under the notes offered hereby. The notes will be guaranteed to the extent described herein by certain subsidiaries of Intelsat Corporation. You should read the following summary together with the more detailed information and financial statements and their notes included elsewhere in this prospectus. Investing in the notes involves significant risks, as described in the Risk Factors section. Unless otherwise indicated, or the context otherwise requires, financial information identified in this prospectus as pro forma gives effect to the consummation of the Transactions as defined below in The Transactions, in the manner described under Unaudited Pro Forma Condensed Consolidated Financial Information. In this prospectus, unless otherwise indicated or the context otherwise requires, (1) the terms PanAmSat Opco, we, us, our, and the Company refer to Intelsat Corporation, formerly known as PanAmSat Corporation, PanAmSat Holdco's direct wholly owned subsidiary, on a pro forma basis and after giving effect to the Transactions, (2) the term PanAmSat Holdco refers to Intelsat Holding Corporation, formerly known as PanAmSat Holding Corporation, and not to its subsidiaries, on a pro forma basis and after giving effect to the Transactions, (3) the term PanAmSat refers to PanAmSat Holdco and its subsidiaries, including PanAmSat Opco, on a pro forma basis and after giving effect to the Transactions, (4) the term Prior Intelsat refers to Intelsat, Ltd. and its subsidiaries on a consolidated basis before giving effect to the Transactions, (5) the term Intelsat refers to Intelsat, Ltd. and its currently existing subsidiaries on a consolidated basis after giving effect to the PanAmSat Acquisition Transactions, (6) the term Intelsat Holdings refers to Intelsat, Ltd.'s parent, Intelsat Holdings, Ltd., (7) the term Intelsat Bermuda refers to Intelsat (Bermuda), Ltd., PanAmSat Holdco's indirect parent on a pro forma basis and after giving effect to the Transactions, and Intelsat, Ltd.'s direct wholly owned subsidiary, (8) the term Intelsat Sub Holdco refers to Intelsat Subsidiary Holding Company, Ltd., Intelsat Bermuda's indirect wholly owned subsidiary, (9) the term Intermediate Holdco refers to Intelsat Intermediate Holding Company, Ltd., Intelsat Bermuda's wholly owned subsidiary, and (10) the term PanAmSat Acquisition Transactions refers to the acquisition of PanAmSat by Intelsat Bermuda and the related transactions discussed in this Prospectus Summary. We recently renamed 11 of our satellites. See Satellite Name Changes in the forepart of this prospectus. Unless the context requires otherwise, references to satellites in this prospectus refer to the new names which became effective on February 1, 2007.*

**The Company****Overview**

We are a leading provider of fixed satellite services worldwide and a leading provider of these services to each of the media and network services sectors through our large and modern fleet of 24 in-orbit satellites. We lease transponder capacity on our satellites to a variety of customers, including: television programmers that deliver programming to cable television systems, television broadcasters, direct-to-home, or DTH, television systems, Internet service providers, or ISPs, telecommunications companies and other corporations. The services that we provide to our customers are generally mission critical and our key customer relationships have been built over many years. Our customers include some of the world's leading media and communications companies, multinational corporations and ISPs. We believe we distribute more television channels over our network than any other company in the world. We operate in an attractive, well-developed sector of the satellite communications industry, which is benefiting from increasing demand for fixed satellite services capacity from private industry.

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The fixed satellite services sector is characterized by steady and predictable contracted revenue streams, high operating margins, strong free cash flows and long-term contractual commitments. As of September 30, 2006, our revenue backlog, which is based on long-term customer commitments, was approximately \$4.3 billion, approximately 94% of which relates to contracts that are non-cancelable or cancelable only upon payment of substantial termination fees. For the nine months ended September 30, 2006 we generated revenue of \$694.2 million.

Our in-orbit fleet is one of the world's largest commercial geosynchronous, or GEO, satellite networks, capable of reaching over 98% of the world's population. We also have an extensive terrestrial network, including global teleport facilities in the United States, which provide transmission, monitoring and control services for operating our fleet and transmission and other services for our customers. Following our acquisition by Prior Intelsat, we gained access to its fleet of 27 in-orbit satellites, which provides additional geographic coverage and back-up capacity and enables us to increase fill rates as our business grows. In addition to gaining access to Prior Intelsat's satellite fleet, we also gained access to its terrestrial network, which includes additional teleport facilities strategically located around the world, effectively expanding our ground support network.

The global fixed satellite services, or FSS, sector generated revenue of approximately \$7.6 billion in 2005 according to *Euroconsult*. There are multiple growth areas that we believe will drive the continued expansion of the FSS industry. For example the increased transmission of high definition television, or HDTV, signals requires greater transmission capacity than standard definition signals, and will create additional demand for capacity. Also, the demand for the large, cost-effective private corporate networks made possible through the combination of our satellite fleet's broad geographic coverage and the use of small, low-cost terrestrial satellite terminals, commonly referred to as VSATs (very small aperture terminals), is expected to be a source of growth, especially in international markets where terrestrial networks are not well developed. Efforts by consumer communications companies to combine video services and telephony into a single platform, wired or mobile, should also benefit the FSS industry through increased requirements for the broadcast of video services to new and developing networks. In total, C and Ku-band transponder lease revenue in the FSS sector is expected to grow at a compound annual growth rate, or CAGR, of 3.8% from 2006 to 2011 according to *Northern Sky Research*.

## **The Acquisition**

On August 28, 2005, Intelsat Bermuda, PanAmSat Holdco and Proton Acquisition Corporation, a wholly owned subsidiary of Intelsat Bermuda, signed a definitive merger agreement pursuant to which Intelsat Bermuda acquired all of the outstanding equity interests in PanAmSat Holdco for \$25 per common share in cash, or approximately \$3.2 billion in the aggregate (plus approximately \$0.00927 per share as the pro rata share of undeclared regular quarterly dividends). Upon completion of the PanAmSat Acquisition Transactions on July 3, 2006, PanAmSat Holdco and Intelsat Sub Holdco became separate direct or indirect wholly owned subsidiaries of Intelsat Bermuda. As part of this transaction, approximately \$3.2 billion in existing debt of PanAmSat Holdco and its subsidiaries was either refinanced or remained outstanding. Concurrently with the PanAmSat Acquisition Transactions, Intelsat General Corporation, the entity that operates Prior Intelsat's government services business, purchased our government services business. See *The Transactions The PanAmSat Acquisition Transactions* and *The Transactions The Government Business Merger* for more information concerning the acquisition of PanAmSat by Intelsat Bermuda.

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We expect the combination of Prior Intelsat and PanAmSat to benefit from many FSS industry growth opportunities, such as standard and high definition video distribution and provision of data applications primarily for corporate and broadband data networks. PanAmSat and Prior Intelsat had complementary customer bases, regional and customer sector market strengths, orbital locations and management. We believe the newly combined operations and assets of the two companies will allow us to expand and improve our service capabilities for existing and new customers. We also believe that the combination will provide the opportunity to generate increased cash flow and improved operating results as a result of significant operating and capital expense savings. We plan to attain these cost savings by fully integrating with Prior Intelsat, enabling us to eliminate redundant staff and to rationalize our satellite fleet and ground infrastructure.

The combined satellite fleet offers increased capacity for expanded services. For example, cable operators require fully protected services, which necessitates that operators maintain redundant capacity. This type of service has been in short supply over North America, but the combined fleet will enable us to expand the amount of capacity available for this level of service. Additionally, incremental backup capacity from Prior Intelsat's satellite fleet will allow us to increase fill rates on our satellites as our business grows, as well as enable us to serve broader geographies where there is additional demand.

### **Our Customer Sectors**

We provide satellite capacity and related communication services for the transmission of video, data and voice connectivity. Our services are provided to two primary sectors: media and network services.

#### ***Media 62% of revenue for the nine months ended September 30, 2006***

We are the largest and most comprehensive provider of FSS services to the media sector, based on the number of transponders contracted, and as a combined company we serve approximately 300 media customers worldwide, including Time Warner, Viacom and The Walt Disney Company. According to *Northern Sky Research*, video applications currently use more FSS capacity than any other application, representing approximately 62% of total global C and Ku-band FSS transponder demand in 2005, and are expected to grow at a CAGR of 4.3% from 2006 to 2011. We currently offer three primary types of services to our media customers: video distribution, direct-to-home and video contribution.

Video distribution services of high definition and standard content involve the transmission of entertainment, news, sports, and educational programming to content providers. Through our direct-to-home, or DTH, services, we transmit television channels for household reception, and through our video contribution services we offer either the full-time or short-term transmission of news, sports and other video programming from various locations to a central video production studio.

#### ***Network Services 27% of revenue for the nine months ended September 30, 2006***

We are a leading provider of satellite capacity for corporate data and voice applications in the world, offering satellite capacity to telecommunications carriers, ISPs, and multinational corporations to support data and voice applications. We believe that the demand for satellite capacity for certain data and voice applications will continue to grow. For example, according to



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*Northern Sky Research*, demand for C and Ku-band FSS services for enterprise and small and medium size enterprise broadband VSATs, which are often used to support private corporate networks, is expected to grow at a CAGR of 9.2% between 2005 and 2010. Additional growth opportunities are driven by the proliferation of wireless services worldwide, which has created increased satellite demand for cellular backhaul and network extensions in developing regions due to unreliable or non-existent terrestrial infrastructure. Our network services offerings fall into three categories:

Private business network services satellite capacity that we provide for secure, high speed corporate data networks used in a variety of business functions;

Internet services satellite capacity that we provide to Internet service providers, or ISPs, for high data rate Internet connections and point-to-multipoint content distribution; and

Consulting and technical services consulting and technical services that we perform for various third parties, including satellite manufacturers and other satellite operators.

We are a leading provider of managed solutions. Because of our strength in voice and data services, established customer relationships and extensive satellite and terrestrial network, we expect to benefit as customers increasingly look for more integrated services to meet their communications needs. As we optimize our capacity on our combined satellite fleet, we may increasingly offer these services on our satellites.

### ***Government Services 4% of revenue for the nine months ended September 30, 2006***

We derived 4% of our revenue for the nine months ended September 30, 2006 from our government services business, which was comprised of global satellite and related telecommunications services provided to the U.S. government, international government entities and their contractors. In connection with the consummation of the PanAmSat Acquisition Transactions, our government services business was purchased by Intelsat General Corporation, the entity that operates Prior Intelsat's government services business. See The Transactions The Government Business Merger.

### ***Revenue from Affiliates 7% of revenue for the nine months ended September 30, 2006***

Following the completion of the PanAmSat Acquisition Transactions on July 3, 2006, substantially all of the Prior Intelsat entities and substantially all of the PanAmSat entities entered into a master inter-company services agreement, or MISA, pursuant to which these entities provide services to each other.

## **Our Strengths**

Our business is characterized by the following key strengths:

### ***Leading FSS Position in Growing Regional Markets and Customer Sectors***

We are a leading FSS provider and, based on number of transponders contracted, we hold the leading position in each of our customer sectors. As a result of our scale and leadership position, we expect to benefit from the following key growth areas in our business:

*North American Video:* We are a leading transmission platform for the distribution of video programming to cable systems in North America. Through a combination of our

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long-standing customer relationships, key North American orbital slots, leading anchor tenant cable channels and reception of our signals by our combined company's approximately 8,500 qualified cable head-ends, we have been successful in creating cable neighborhoods. These cable neighborhoods are a powerful tool in attracting and retaining customers because ground infrastructure is specifically designed to receive information from our satellites, making switching costs significant.

*High definition television:* We intend to utilize our position and well situated capacity to better serve the rapidly growing high definition demand in the cable and broadcast arcs. The number of HDTV channels distributed to broadcasters and cable communities worldwide by FSS operators is forecasted to increase from 76 to 346 channels between 2006 and 2011, according to *Northern Sky Research*.

*Direct-to-Home (DTH) providers:* We are a leading provider of FSS capacity for global DTH services. In many international markets, DTH platform operators rely upon FSS capacity in order to deliver their programming services to their subscribers. According to *Northern Sky Research*, the demand for C and Ku-band FSS capacity used for DTH services is expected to grow at a CAGR of approximately 5.5% between 2006 and 2011.

*Data and telecommunications services:* We are the leading provider of FSS capacity for satellite voice and data services worldwide. We have relationships with virtually every incumbent telecom operator in every country in the world. Our leading position with telecommunications and data networking customers has positioned us to benefit from a number of recent trends, including the growth in wireless networks, which has resulted in increased demand for capacity to be used for cellular backhaul requirements, and the recent growth of voice over Internet protocol, or VoIP, which has resulted in increased demand for Internet trunking services in developing regions.

### ***Stable and Diverse Revenue Generation***

Our revenue and revenue backlog are diversified among service sectors, geographic regions, satellites and customers. No single satellite generated more than 11% of our revenue and, excluding revenues related to our MISA agreement with Prior Intelsat, no single customer accounted for more than 8% of our revenue during the nine months ended September 30, 2006. The diversity of our revenue base enables us to capitalize on changing market conditions and mitigates the impact of fluctuations in any specific service sector or geographic region and difficulties that any one customer may experience. The redundancy in our fleet also reduces the financial impact of satellite failures and protects against service interruption.

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We believe our substantial revenue backlog provides both significant near-term revenue visibility as well as a reliable stream of future revenues. As of September 30, 2006, our revenue backlog was approximately \$4.3 billion, approximately 94% of which relates to contracts that are non-cancelable or cancelable only upon payment of substantial termination fees. By service sector and region, our revenue backlog as of September 30, 2006 was as follows:

Note: This revenue backlog data has been derived on a revenue basis to conform to Intelsat, Ltd.'s presentation. Regional designation for revenue backlog is based on customer billing addresses.

### ***Significant Free Cash Flow from Operations***

We believe that our strong operating profits, modest capital expenditure profile and the cost saving opportunities resulting from our integration with Prior Intelsat will enable us to generate significant free cash flow from operations. The FSS sector requires sizable investment to develop and launch satellites. However, once satellites are operational, costs do not vary significantly, creating operating leverage which can lead to high margins and strong free cash flow from operations.

We have invested significantly in our fleet and the average fill rate and remaining service life of our 20 station-kept satellites as of September 30, 2006 were approximately 77% and approximately 6.7 years, respectively. As a result, we have the ability to add incremental customers and revenue without significant increases in satellite investment or costs of operations. Over time, we intend to consolidate the number of orbital locations required to serve our customers and we expect future capital allocation decisions will focus on the prudent selection of the number, size and characteristics of new satellites to be launched. Because of our disciplined approach towards fleet renewal, we expect that the capital expense needed to fund future replacement cycles will be significantly lower than the combined total of the prior replacement cycles of Prior Intelsat and PanAmSat. After our full integration into Prior Intelsat's operations, we expect the combined company to realize approximately \$92 million in annual operating cost savings, \$48 million of which is expected to be realized by Intelsat Corporation.

### ***Leading Global Fleet and Infrastructure***

We believe that we have one of the world's largest and most technologically advanced commercial communications systems comprised of a fleet of geosynchronous satellites,

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teleports, points of presence and leased and owned fiber. Our 24 satellites cover over 98% of the world's population and include satellite capacity in the C and Ku-bands that serve over 100 countries and territories.

We have incurred capital expenditures of approximately \$1.1 billion through September 30, 2006 on seven satellites launched since 2001. We currently have two satellites in back-up positions, and to provide further resilience, we have access to Prior Intelsat's satellites, many of which are equipped with steerable beams that can be moved to cover areas with higher demand, enabling us to respond rapidly to changing market conditions and demand for satellite capacity. As we fully integrate our fleet with Prior Intelsat, additional in-orbit back-up capacity may become available and the number of in-orbit spares may change. In addition, once fully integrated, we expect the combined company to operate our global satellite fleet from a single consolidated operations center, and maintain a second operations center which can provide instantaneous restoration in the case of natural disasters or other events resulting in the loss of our primary satellite operations center. We also have terrestrial assets consisting of teleports, points of presence and leased fiber connectivity that complement our satellite network and enable us to provide customized managed solutions and to provide customers with global access to our fleet. Our market-leading fleet and infrastructure, flexibility and ability to offer comprehensive managed solutions allow us to provide integrated worldwide distribution and delivery services, reducing our customers' risk of data loss or service interruptions.

***Established Relationships with Premier Customers***

We provide satellite services to approximately 830 customers, including many of the world's leading media and broadcasting organizations, multinational corporations, telecommunications companies and ISPs. We have developed close, long-standing relationships with our customers. We believe we are recognized by our customers as a resource for technical excellence and a partner in optimizing the performance of their networks. In most cases our services are mission critical to the delivery of our customers' services. The following table includes examples of our customers for each service sector:

**Service Sector Category**

**Selected Customers**

Media

The Walt Disney Company (including The Disney Channel, ESPN & ABC), The News Corporation (including Sky Latin America, Sky Brazil, Sky Mexico, DirecTV, Inc., DirecTV Latin America & Fox Entertainment Group), Comcast (including E! Entertainment, The Golf Channel, WTCI (HITS) & Versus), Time Warner (including HBO, Turner Broadcasting, Warner Bros. & CNN), Viacom (including Showtime, BET & MTV), Multichoice Ltd., BBC, Sentech, Liberty Sports, Televisa, NHK and China Central Television

Network Services

Hughes Network Systems, National Public Radio, International Satellite Communications, Walgreens, General Communications Inc, Segovia, Equatorial Research & Marketing, and Microspace Communications

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### ***Strong Management Team***

We are led by Intelsat's senior management team with broad experience in the telecommunications, information technology and satellite industries. Intelsat's Chief Executive Officer, David McGlade, has over 20 years experience in the telecommunications industry, most recently serving as Chief Executive Officer of O2 UK, a leading U.K. cellular telephone company, prior to joining Intelsat in April 2005. James Frownfelter was appointed Intelsat's Chief Operating Officer upon the closing of the PanAmSat Acquisition Transactions, the same role in which he served at PanAmSat. Jeffrey Freimark was appointed Intelsat's Executive Vice President and Chief Financial Officer in May 2006, after most recently serving as Executive Vice President and Chief Financial Officer for health care concern, Beverly Enterprises, Inc. Phillip Spector, Intelsat's Executive Vice President and General Counsel, joined Intelsat in February 2005, and has over 20 years experience in the satellite industry. Joseph Wright, who served as the Chief Executive Officer of PanAmSat for almost five years, was appointed the Chairman of Intelsat's Board of Directors upon the closing of the PanAmSat Acquisition Transactions. We have built a strong leadership team both from within Prior Intelsat and PanAmSat, as well as outside these organizations. As of December 31, 2006, our senior management team and other designated employees collectively held approximately 4.2% of the outstanding voting equity of our ultimate parent, Intelsat Holdings.

### **Our Business Strategy**

Our goal is to capitalize on our leadership position in the FSS sector to enhance our growth and free cash flow by pursuing the following key business strategies:

#### ***Execute a Disciplined Integration with Prior Intelsat***

PanAmSat and Prior Intelsat have adopted a "one company" operating philosophy, and expect PanAmSat to fully integrate into Prior Intelsat's operations. The goal of our integration plan for the PanAmSat Acquisition Transactions was to identify the best operational alternatives that allow us to maintain or increase customer service while also generating targeted levels of cost savings. We currently expect complete functional integration within the first 12 to 18 months following the closing of the PanAmSat Acquisition Transactions and have already begun achieving key integration milestones, such as the transfer of operational control of two prior PanAmSat satellites to the primary Intelsat control center in Washington, D.C.

Our integration process includes four primary thrusts: sales and marketing, staffing, operations and facilities. The sales and marketing organizations were integrated shortly after the closing of the PanAmSat Acquisition Transactions, with near-term objectives that include network optimization in order to increase marketable capacity. We expect total headcount to decrease from approximately 1,370 at the closing of the PanAmSat Acquisition Transactions to approximately 1,000 by mid-year 2008. Most facility closures and integration of back office functions are expected to be complete by mid-year 2007. We expect to conclude much of the satellite fleet and operations center integration in 2007, with the process fully complete by the end of 2008. After the integration process is completed, we expect the combined company to realize approximately \$92 million in annual operating cost savings, of which \$48 million is expected to be realized by Intelsat Corporation. Prior to the closing of the PanAmSat Acquisition Transactions, our network integration planning indicated that three satellites of the combined company would not need to be replaced as we integrated our fleets, two of which are in the Intelsat Corporation fleet, with total expected savings of approximately \$400.0 million over our

previous combined capital expense plans during the period 2006 to 2011. We also believe that

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we can maintain and grow market share in each of our customer sectors through capitalizing on our market leading positions while simultaneously reducing costs and capital expenditures, thus yielding higher margins and greater free cash flow.

### ***Grow Our Business in the Media and Network Services Sectors***

We believe that the media and network services sectors represent opportunities for revenue growth over the long-term for operators in the FSS industry. We intend to focus our resources on further penetrating these sectors in order to increase our profitability and free cash flow.

*Media:* We intend to expand our media services by continuing to capitalize on the strength of our cable neighborhoods, maintaining and growing our leadership position in HDTV distribution and expanding our DTH services. We believe that we are well positioned to grow both the distribution and contribution portions of our video business by continuing to develop and expand our cable neighborhoods in the United States, South America and the Asia-Pacific region. As cable operators build out their plant capacity, we have the opportunity to benefit as more channels, services and other data needs require satellite distribution to cable head-ends. Furthermore, as the number of channels grows, demand increases for our premium cable neighborhood satellites. In addition, many U.S. cable operators are increasingly faced with the need to offer non-English language programming to compete effectively with providers of direct broadcast satellite services in the United States. With strong content provider relationships and assets spanning the globe, we believe we can offer cable operators a rebroadcast package of international channels that is attractive from the standpoint of both cost and technical efficiency.

We also believe that demand for HDTV will experience significant growth in the coming years, which will result in the need for more satellite bandwidth. To fulfill the growing demand for HDTV, we will continue to build upon the success of the Galaxy 13/Horizons 1 satellite, which was placed in service as an HDTV neighborhood to attract the newest and fastest growing cable television sector. Since announcing our HDTV neighborhood on the Galaxy 13 satellite, the combined company has grown the number of HDTV channels carried by our system to 23. We also intend to continue to expand our ability to offer high-definition programmers an end-to-end service, such as is provided by our GlobalConnex® Media terrestrial network, which includes facilities at sports and other arenas that enable the capture and transport of high definition programming to satellite production facilities, which is then distributed through our cable neighborhoods.

Lastly, we will continue to build on our leading international DTH platform business, targeting Eastern Europe, Middle East, Africa and regions within Asia where we can use our available capacity and the flexibility of our satellite fleet to capture additional growth opportunities. We intend to develop new video communities by leveraging our existing satellites and relationships with successful DTH platform operators to capture growth in new DTH markets.

*Network Services:* We believe we are well positioned to expand our business serving network services customers by focusing on growing applications, including VSAT private data networks, solutions for mobile service providers and VoIP. We also expect to continue to serve telecom providers by marketing services to telecom companies in newly deregulated markets and by more efficiently packaging our existing services to current telecom customers.

We believe we are a leading provider of satellite services supporting private data applications such as VSAT networks, virtual private networks, or VPNs, and trunking solutions

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for ISPs. We will grow our business by continuing to build our wholesale relationships with major VSAT service providers in the largest and fastest growing regions and also by supporting providers of satellite-based broadband services. We intend to solidify our leadership position through partnering initiatives with data and IT services providers in key growth regions. We will also continue to develop and introduce managed solutions for regional service providers and corporations implementing VPNs and VoIP services. Leveraging our combined company's GlobalConnex and SPOTbytes managed solutions and Internet points of presence around the world, we will also continue to market managed solutions trunking services to regional ISPs that are seeking to grow their businesses by offering VoIP in their local markets.

We believe that we are well positioned with telecom service providers throughout the world. As the global leader in providing voice and data services, with a flexible and reliable network, technical expertise and well-established customer relationships, we expect to also grow by offering our services to new customers, such as competitive carriers in newly deregulated markets. New carrier companies and providers of competitive services, such as wireless communications and Internet services in newly deregulated regions, are seeking to introduce their services quickly and independently of established local carriers. In addition, there are still many countries that lack direct access to telecom cable interconnects or where internal infrastructure either does not exist or is unreliable. We have an extensive customer base of traditional telecommunications carriers that use our services to reach these regions. We intend to enhance our retention rates and generate new business by introducing new, more cost-effective technologies and managed solutions, providing our customers with more efficient use of our network.

### ***Focus on Maximization of Free Cash Flow***

We intend to manage our operating and capital expenses to optimize margins and free cash flow. We believe our operating leverage, modest capital expenditure needs in the near term and the cost saving opportunities that exist in connection with the integration into Prior Intelsat will allow us to generate significant free cash flow from operations. We have invested significantly in our fleet and as a result we have the ability to add incremental customers and revenue without significant increases in satellite investment or costs of operations. Through disciplined yield and capacity management, we intend to maximize the revenues generated by our assets. Over time, we intend to consolidate the number of satellites required to serve our customers and future capital allocation decisions will focus on the prudent selection of the number, size and characteristics of new satellites to be launched. As a result of our disciplined approach towards fleet renewal, we expect that the capital expense needed to fund future replacement cycles will be significantly lower than the combined total of the prior replacement cycles of Prior Intelsat and PanAmSat. Additionally, after our full integration into Prior Intelsat's operations, we believe our combined company can further enhance cash flow through the realization of approximately \$92 million in expected annual operating cost savings, \$48 million of which is expected to be realized by Intelsat Corporation.

### ***Pursue Other Growth Opportunities***

We believe that current trends in telecommunications and mobile applications will create new demand for FSS in the next few years. Our experience with global telecom operators and with video programming distributors positions us to identify requirements for new satellite services that arise from the convergence of voice, data and video onto single platforms, such as IPTV services being offered by telephone companies and video services being offered by mobile operators. In the future, we intend to pursue additional market opportunities through enhanced or new capabilities that will enable us to expand the market for FSS services.

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We have a proven track record of capitalizing on new growth opportunities and expanding the FSS market. New service introductions, such as our rapidly growing managed solutions business, have resulted in substantial new revenue streams. In April 2006 we announced the introduction of an IPTV integrated service that is targeted to small and mid-sized telephone companies, which may seek to offer television services to their wireline customers. We also intend to market this service to small and medium-sized cable system operators who are seeking more efficient transmission and expanded programming. We will continue to develop and introduce new products that leverage our existing assets and provide new sources of growth and profitability.

We have made substantial investments in our satellites, infrastructure, technical expertise and personnel. We leverage our expertise to find innovative ways to generate new sources of revenue. Examples of asset maximizing activities we have recently undertaken include our consulting and technical services, which include overseeing the construction and launch of other operators satellites; shared payloads through which we can achieve economies of scale by sharing satellite payloads among multiple parties; and the use of our infrastructure to host tracking, telemetry and control, or TT&C, and production equipment for third-party network operators, including assistance with the procurement, manufacture, launch and operation of others' satellites.

We expect that near-term strategic opportunities in the FSS sector may involve smaller, regional or national satellite operators seeking joint ventures or revenue sharing arrangements in order to provide follow-on capacity for satellites that are aging and facing replacement. We plan to strengthen our position in providing services to these other satellite operators, while at the same time gaining access to strategic regional markets and increasing the utilization of our global fleet.

## **The Transactions**

### ***The PanAmSat Acquisition Transactions***

On August 28, 2005, Intelsat Bermuda entered into a Merger Agreement, referred to as the Merger Agreement, with PanAmSat Holdco and Proton Acquisition Corporation, a wholly owned subsidiary of Intelsat Bermuda referred to as Merger Sub. Pursuant to the Merger Agreement, Intelsat Bermuda acquired PanAmSat Holdco on July 3, 2006 for total cash consideration of approximately \$3.2 billion, with the stockholders of PanAmSat Holdco receiving \$25.00 per common share (plus approximately \$0.00927 as the pro rata share of undeclared regular quarterly dividends). Merger Sub was newly formed for the purpose of consummating the PanAmSat Acquisition Transactions. As part of this transaction, approximately \$3.2 billion in existing debt of PanAmSat Holdco and its subsidiaries was either refinanced or remained outstanding.

In connection with, and in order to effect, the transactions contemplated by the Merger Agreement and the related financing, the following transactions occurred:

Intelsat Bermuda created a new direct wholly owned subsidiary, Intermediate Holdco;

Intelsat Bermuda transferred substantially all its assets (other than the capital stock of Merger Sub) and liabilities (including Intelsat Bermuda's 9/4% Senior Discount Notes due 2015, referred to as the discount notes) to Intermediate Holdco; and



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Merger Sub merged with PanAmSat Holdco, with PanAmSat Holdco continuing as the surviving corporation and being a direct wholly owned subsidiary of Intelsat Bermuda. Upon completion of this merger, referred to as the Merger Transaction, PanAmSat Holdco's equity holders immediately prior to the merger ceased to hold shares or other equity interests in PanAmSat Holdco.

The net proceeds of the original notes and the net proceeds of the \$260.0 million Floating Rate Senior Notes due 2013, the \$1.3 billion 11¼% Senior Notes due 2016, and the \$750.0 million 9¼% Senior Notes due 2016, all issued by Intelsat Bermuda, and referred to collectively as the 2006 Intelsat Bermuda Notes, and a borrowing by Intelsat Bermuda under a new \$600.0 million senior unsecured credit facility and available cash on hand of Intelsat Bermuda and PanAmSat Holdco and their respective subsidiaries were used to consummate the PanAmSat Acquisition Transactions and to pay related fees and expenses and to fund the purchase of PanAmSat Holdco's 10⅞% Senior Discount Notes due 2014 tendered in the tender offer, described below, plus related fees and expenses. In addition, in connection with the PanAmSat Acquisition Transactions, Intelsat Sub Holdco entered into new senior secured credit facilities and PanAmSat Opco amended and restated its senior secured credit facilities to change certain of the terms thereunder.

Consummation of the PanAmSat Acquisition Transactions resulted in a change of control under the indenture governing PanAmSat Opco's outstanding 9% Senior Notes due 2014, giving the holders of those notes the right to require the issuer thereof to repurchase those notes at the price stated in the indenture therefor. On August 2, 2006, PanAmSat Opco commenced a tender offer, referred to as the Change of Control Offer, to purchase any and all of its outstanding \$656.5 million aggregate principal amount of 9% Senior Notes due 2014 for cash. Upon consummation of the Change of Control Offer on September 29, 2006, approximately 0.03%, or \$180,000 aggregate principal amount, of the outstanding 9% Senior Notes due 2014 were repurchased by PanAmSat Opco. The 9% Senior Notes due 2014 not tendered to PanAmSat Opco in the Change of Control Offer remain outstanding obligations of PanAmSat Opco.

In connection with and since the closing of the PanAmSat Acquisition Transactions, Intelsat Holdings, entered into share-based compensation arrangements under its existing 2005 Share Incentive Plan with certain directors, officers and key employees of Intelsat, PanAmSat and their respective subsidiaries. In the aggregate, these arrangements outstanding as of December 31, 2006 provided for the issuance of approximately 3.9% of the outstanding voting equity of Intelsat Holdings.

The transactions described above, including the Merger Transaction, the funding transactions, these share-based compensation arrangements and the use of cash on hand, are referred to collectively in this prospectus as the PanAmSat Acquisition Transactions.

### ***The Government Business Merger***

Following consummation of the PanAmSat Acquisition Transactions, Intelsat General Corporation, a wholly-owned indirect subsidiary of Intelsat Sub Holdco and referred to as IGen, acquired G2 Satellite Solutions Corporation, a subsidiary of PanAmSat Opco and the government services business of PanAmSat, referred to as G2 Satellite Solutions or G2, for cash consideration in the amount of \$73.0 million by means of a merger in which G2 Satellite Solutions merged into IGen with IGen continuing as the surviving entity. We refer to this transaction as the Government Business Merger.

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### ***Other Intercompany Transactions***

Following consummation of the PanAmSat Acquisition Transactions, substantially all of the employees of Intelsat Global Service Corporation were transferred to PanAmSat Opco pursuant to an employee transfer agreement and substantially all of the Intelsat entities and substantially all of the PanAmSat entities entered into the MISA pursuant to which certain PanAmSat entities and Intelsat entities provide services to each other. In each case, services are provided on terms that are not materially less favorable to each party than are available on an arms length basis and on terms that the board of directors of each of Intelsat Bermuda and PanAmSat Holdco determine to be fair. We refer to these transactions as the Other Intercompany Transactions.

### ***The Tender Offer and Consent Solicitation***

On May 30, 2006, PanAmSat Holdco commenced a tender offer, referred to as the Tender Offer, to purchase any and all of its outstanding \$416.0 million aggregate principal amount at maturity 10<sup>3</sup>/<sub>8</sub>% Senior Discount Notes due 2014, referred to as the 10<sup>3</sup>/<sub>8</sub>% discount notes, for cash. Approximately 99.65% of the outstanding 10<sup>3</sup>/<sub>8</sub>% discount notes were repurchased by PanAmSat Holdco upon completion of the Tender Offer, at the closing of PanAmSat Acquisition Transactions. The 10<sup>3</sup>/<sub>8</sub>% discount notes not tendered to PanAmSat Holdco in the Tender Offer, or approximately \$1.5 million aggregate principal amount, were repurchased by PanAmSat Holdco on August 29, 2006.

### ***Intelsat Bermuda Intercompany Loan***

Prior to and immediately after the consummation of the PanAmSat Acquisition Transactions, Intelsat Bermuda extended to PanAmSat Holdco several intercompany loans, referred to collectively as the Intelsat Bermuda Intercompany Loan, in an aggregate principal amount at the time of borrowing equal to approximately \$1.3 billion, the proceeds of which were used by PanAmSat Holdco to fund a portion of the purchase price of the PanAmSat acquisition and to fund the purchase of the 10<sup>3</sup>/<sub>8</sub>% discount notes tendered in the Tender Offer, plus related fees, referred to collectively as the Tender Amount.

The PanAmSat Acquisition Transactions, the Government Business Merger, the Other Intercompany Transactions, the Tender Offer and the Intelsat Bermuda Intercompany Loan are referred to collectively in this prospectus as the Transactions.

### ***Post-closing Transactions***

Following the consummation of the PanAmSat Acquisition Transactions, PanAmSat Holdco and PanAmSat Opco were renamed as Intelsat Holding Corporation and Intelsat Corporation, respectively.

In addition, Intelsat Bermuda created a new direct wholly owned subsidiary organized in Gibraltar that owns all of the equity of a subsidiary organized in Luxembourg which owns all of the equity of a subsidiary organized in Poland, referred to as Intelsat Poland, which has registered a branch in Luxembourg, referred to as Intelsat Poland, Luxembourg Branch. Following the consummation of the PanAmSat Acquisition Transactions, Intelsat Bermuda effected the contribution of the Intelsat Bermuda Intercompany Loan to Intelsat Poland, Luxembourg Branch and, upon receipt of the necessary Federal Communications Commission, or FCC, and other regulatory approvals, Intelsat Bermuda effected the contribution of the stock

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of PanAmSat Holdco to Intelsat Poland, Luxembourg Branch, which became the parent of PanAmSat Holdco. Upon the consummation of these transactions, PanAmSat Holdco became an indirect subsidiary of Intelsat Bermuda.

These name changes, the creation of these new subsidiaries and Intelsat Bermuda's contribution of the Intelsat Bermuda Intercompany Loan and the stock of PanAmSat Holdco are referred to collectively as the Post-closing Transactions.

### **The Refinancings**

On January 12, 2007, Intelsat Bermuda issued \$600.0 million aggregate principal amount of floating rate senior notes due 2015, referred to as the Intelsat Bermuda Notes due 2015, and used the net proceeds thereof, together with cash on hand, to repay Intelsat Bermuda's outstanding \$600.0 million senior unsecured credit facility, referred to as the Intelsat Bermuda Senior Unsecured Bridge Loan, and to pay related fees and expenses. In addition, on February 2, 2007, Intelsat Bermuda borrowed a \$1.0 billion term loan due 2014 pursuant to a new unsecured credit agreement, referred to as the New Intelsat Bermuda Unsecured Credit Agreement. The proceeds of the borrowing thereunder were contributed to Intermediate Holdco, and Intermediate Holdco contributed the proceeds to Intelsat Sub Holdco, which used the proceeds, together with cash on hand, to redeem its outstanding \$1.0 billion Floating Rate Senior Notes due 2012 and pay the related premium, fees and expenses. The issuance of the Intelsat Bermuda Notes due 2015, the borrowing under the New Intelsat Bermuda Unsecured Credit Agreement and the related repayment of Intelsat Bermuda's Senior Unsecured Bridge Loan and redemption of Intelsat Sub Holdco's \$1.0 billion Floating Rate Senior Notes due 2012 are referred to collectively as the Refinancings.

### **Recent Development**

On January 19, 2007, the Company further amended and modified its Amended and Restated Credit Agreement to reduce the Term Loan A-3 interest rate and Term Loan B-2 interest rate from a range of LIBOR plus 2.125% to LIBOR plus 2.875% to a range of LIBOR plus 1.75% to LIBOR plus 2.00%.

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**Organizational Structure**

The following chart summarizes our ownership, corporate structure and principal amount of third-party indebtedness outstanding upon completion of the Refinancings. The amount of existing indebtedness shown below is as of September 30, 2006.

(dollars in millions)

- 
- (1) Intelsat, Ltd.'s senior notes are carried at a discount from their face value, created as a result of fair value accounting associated with the Acquisition Transactions. The amounts shown here do not reflect these discounts.
  - (2) Intelsat, Ltd. guarantees the existing senior notes noted in this table of Intelsat Bermuda and Intelsat Sub Holdco and the new unsecured term loan due 2014. Intelsat, Ltd. is also a co-obligor on the discount notes of Intermediate Holdco. The amounts shown here do not reflect Intelsat, Ltd.'s obligations as co-obligor of the discount notes or its guarantees of the debt of Intelsat Bermuda or Intelsat Sub Holdco.
  - (3) Intelsat Bermuda guarantees the discount notes of Intermediate Holdco and the senior notes noted in this table of Intelsat Sub Holdco.

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- (4) The new unsecured term loan due 2014 under the New Intelsat Bermuda Unsecured Credit Agreement and the 9 1/4% Senior Notes due 2016 are guaranteed by Intelsat Sub Holdco and its subsidiaries that guarantee Intelsat Sub Holdco's notes.
- (5) Intelsat Bermuda owns all of the stock of PanAmSat Holdco through its subsidiaries Intelsat (Gibraltar) Limited, Intelsat (Luxembourg) Sarl and Intelsat (Poland) Sp. z o.o. Intelsat Poland, Luxembourg Branch is the direct owner of the stock of PanAmSat Holdco.
- (6) Intelsat, Ltd. is co-obligor of the discount notes.
- (7) Intermediate Holdco guarantees the debt noted in this table of Intelsat Sub Holdco.
- (8) Intelsat, Ltd. is a co-obligor of the discount notes and Intelsat Bermuda is a guarantor of the discount notes. This amount will accrete to approximately \$478.7 million aggregate principal amount at February 1, 2010.
- (9) Does not include Intelsat Bermuda's \$750.0 million 9/4% Senior Notes due 2016 and the new unsecured term loan due 2014 that are guaranteed by Intelsat Sub Holdco and its subsidiaries that guarantee Intelsat Sub Holdco's notes.
- (10) Total facility size is \$300.0 million.
- (11) The term loan is a \$344.8 million facility.
- (12) Does not include guarantees of debt of Intelsat Sub Holdco and Intelsat Bermuda.
- (13) This note is guaranteed by Intelsat, Ltd.
- (14) PanAmSat Holdco is the borrower of the Intelsat Bermuda Intercompany Loan. \$250.0 million of the \$1.3 billion Intelsat Bermuda Intercompany Loan is non-cash pay and will accrete to approximately \$718 million aggregate principal amount at June 15, 2016.
- (15) PanAmSat Holdco does not guarantee any of the debt of PanAmSat Opco.
- (16) Certain of PanAmSat Opco's senior notes are carried at discounts or premiums from their face value, created as a result of fair value accounting associated with the PanAmSat Acquisition Transactions. The actual amounts shown do not reflect the aggregate unamortized discount of \$13.8 million or premium accretion of \$16.9 million.
- (17) Total facility size is \$250.0 million.
- (18) These notes are not guaranteed by any entity other than certain subsidiaries of PanAmSat Opco.
- (19) Refers to subsidiaries that guarantee Intelsat Bermuda's 9/4% Senior Notes due 2016 and Intelsat Bermuda's new unsecured term loan due 2014 and Intelsat Sub Holdco's senior notes.
- (20) Refers to subsidiaries that guarantee the 9% Senior Notes due 2014 and the notes.

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### **Ownership of Intelsat**

Upon the completion of the PanAmSat Acquisition Transactions, PanAmSat Holdco, which owns 100% of the equity interest of PanAmSat Opco, became 100% owned by Intelsat Bermuda. Following the consummation of the PanAmSat Acquisition Transactions and upon receipt of the necessary FCC and other regulatory approvals, Intelsat Bermuda effected the contribution of the stock of PanAmSat Holdco to Intelsat Poland, Luxembourg Branch, which became the parent of PanAmSat Holdco. Intelsat Bermuda is owned 100% by Intelsat, Ltd., which is 100% owned by Intelsat Holdings, Ltd. As of December 31, 2006, approximately 95.8% of Intelsat Holdings' common equity was owned by the Investors. Investors include funds advised by or associated with Apax Partners Worldwide LLP and Apax Partners, L.P., referred to jointly as Apax Partners, Apollo Management V, L.P., referred to as Apollo, MDP Global Investors Limited, referred to as MDP Global, and Permira Advisers LLC, referred to as Permira. Each of Apax Partners, Apollo, MDP Global and Permira is referred to as a Sponsor and the funds advised by or associated with each Sponsor are referred to as an Investor group. The Investor groups collectively are referred to as the Investors. Prior to the acquisition of Intelsat, funds advised by or associated with MDP Global transferred less than 0.1% of their interest in Intelsat Holdings to an unaffiliated investment partnership and references to the Investors include this partnership. As of December 31, 2006, our senior management team and other designated employees collectively held approximately 4.2% of the outstanding voting equity of our parent, Intelsat Holdings.

A brief description of each of the Sponsors is set forth below.

#### **Apax Partners**

Apax Partners, which includes Apax Partners Worldwide LLP, Apax Partners, L.P. and their affiliates, is a leading global private equity firm, with offices in London, Hong Kong, Madrid, Milan, Mumbai, Munich, New York, Paris, Stockholm and Tel Aviv. With over 30 years of experience, Apax Partners focuses on the following industry sectors: information technology, telecommunications, healthcare, media, financial services and retail/consumer. Apax Partners has funds under advice or management totaling approximately \$20 billion globally. Recent investments in the telecommunications sector include Bezeq, Kabel Deutschland, Inmarsat, TDC and TIM Hellas.

#### **Apollo Management, L.P.**

Apollo Management, L.P. was founded in 1990 and is among the most active and successful private investment firms in the United States. Since its inception, Apollo and its affiliated investment entities have invested in excess of \$13 billion in corporate transactions, in a wide variety of industries, both domestically and internationally. Apollo is currently investing its sixth corporate fund, Apollo Investment Fund VI, L.P., with total committed capital of over \$10 billion. Apollo has significant expertise in the satellite sector through investments in Hughes Network Systems, Sirius Satellite Radio Inc. and SkyTerra Communications, Inc.

#### **MDP Global Investors Limited**

MDP Global Investors Limited is associated with Madison Dearborn Partners, LLC (also known as MDP), a private equity firm based in Chicago. Madison Dearborn Partners is one of the largest and most experienced private equity investment firms in the United States. MDP has raised over \$14 billion of capital, and makes new investments through its most recent fund,

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Madison Dearborn Capital Partners V, a \$6.5 billion investment fund raised in 2006. MDP focuses on management buyout transactions and other private equity investments across a broad spectrum of industries, including basic industries, communications, consumer, financial services, and health care. Over the last decade, MDP has been an active investor in the communications sector, with investments in such companies as Clearnet Communications, MetroPCS, Nextel Partners, Omnipoint Corporation, Telemundo Communications Group and XM Satellite Radio.

**Permira**

Permira, which includes Permira Advisers LLC and various other entities which act as advisers and consultants to the Permira funds, is a leading international private equity specialist, advising funds of approximately \$25 billion. Permira is an independent business with offices in New York, Frankfurt, London, Madrid, Milan, Paris, Stockholm and Tokyo. Since 1985, the Permira funds have completed over 280 private equity transactions. Recent investments in the communications sector include debitel, Inmarsat, Premiere, SBS Broadcasting, Seat PG and TDC.

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**The Exchange Offer**

Notes Offered for Exchange

We are offering up to \$575,000,000 in aggregate principal amount of our new 9% Senior Notes due 2016 in exchange for an equal aggregate principal amount of our original 9% Senior Notes due 2016 on a one-for-one basis;

The new notes have substantially the same terms as the original notes you hold, except that the new notes have been registered under the Securities Act of 1933, as amended, referred to as the Securities Act of 1933, and therefore will be freely tradable and will not contain the provisions for an increase in the interest rate related to defaults in our agreement to carry out this exchange offer.

The Exchange Offer

We are offering to exchange \$2,000 principal amount, or integral multiples of \$1,000 in excess thereof, of new notes for each \$2,000 principal amount, or integral multiples of \$1,000 in excess thereof, of your original notes. In order to be exchanged, your original notes must be properly tendered and accepted. All original notes that are validly tendered and not withdrawn will be exchanged.

Ability to Resell Notes

We believe that the new notes issued in the exchange offer may be offered for resale, resold and otherwise transferred by you without compliance with the registration and prospectus delivery provisions of the Securities Act of 1933 if:

the notes issued in the exchange offer are being acquired in the ordinary course of your business;

you are not participating, do not intend to participate and have no arrangement with any person to participate in the distribution of notes issued to you in the exchange offer;

you are not an affiliate of ours; and

you are not a broker-dealer tendering original notes acquired directly from us for your own account.

By tendering your original notes as described below, you will be making representations to this effect. See **The Exchange Offer Representations We Need From You Before You May Participate in the Exchange Offer.**

Those Excluded from the Exchange Offer

You may not participate in the exchange offer if you are:



a holder of original notes in any jurisdiction in which the exchange offer is not, or your acceptance will not be, legal under the applicable securities or blue sky laws of that jurisdiction; or

a holder of original notes who is an affiliate of ours.

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Consequences of Failure to Exchange Your Original Notes After the exchange offer is complete, you will no longer be entitled to exchange your original notes for registered notes. If you do not exchange your original notes for new notes in the exchange offer, your original notes will continue to have the restrictions on transfer contained in the original notes and in the indenture governing the original notes. In general, your original notes may not be offered or sold unless registered under the Securities Act of 1933, unless there is an exemption from, or unless in a transaction not governed by, the Securities Act of 1933 and applicable state securities laws. We have no current plans to register your original notes under the Securities Act of 1933.

Expiration Date The exchange offer expires at 5:00 p.m., New York City time, on March 30, 2007, the expiration date, unless we extend the offer. We do not currently intend to extend the expiration date.

Conditions to the Exchange Offer The exchange offer has customary conditions that may be waived by us. There is no minimum aggregate amount of original notes that must be tendered to complete the exchange offer.

Procedures for Tendering Your Original Notes If you wish to tender your original notes for exchange in the exchange offer, you or the custodial entity through which you hold your notes must send to Wells Fargo Bank, National Association, the exchange agent, on or before the expiration date of the exchange offer:

a properly completed and executed letter of transmittal, which has been provided to you with this prospectus, together with your original notes and any other documentation requested by the letter of transmittal; and

for holders who hold their positions through The Depository Trust Company, referred to as DTC:

an agent's message from DTC stating that the tendering participant agrees to be bound by the letter of transmittal and the terms of the exchange offer;

your original notes by timely confirmation of book-entry transfer through DTC; and

all other documents required by the letter of transmittal.

Holders who hold their positions through Euroclear and Clearstream, Luxembourg must adhere to the procedures

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described in [The Exchange Offer Procedures for Tendering Your Original Notes](#).

**Special Procedures for Beneficial Owners** If you beneficially own original notes registered in the name of a broker, dealer, commercial bank, trust company or other nominee and you wish to tender your original notes in the exchange offer, you should contact the registered holder promptly and instruct it to tender on your behalf.

**Guaranteed Delivery Procedures for Tendering Original Notes** If you wish to tender your original notes and the original notes are not immediately available, or time will not permit your original notes or other required documents to reach Wells Fargo Bank, National Association before the expiration date, or the procedure for book-entry transfer cannot be completed on a timely basis, you may tender your original notes according to the guaranteed delivery procedures set forth under [The Exchange Offer Guaranteed Delivery Procedures](#).

**Withdrawal Rights** You may withdraw the tender of your original notes at any time prior to 5:00 p.m., New York City time, on the expiration date.

**U.S. Tax Considerations** The exchange of original notes for new notes will not constitute a taxable event for U.S. federal income tax purposes. Rather, the notes you receive in the exchange offer will be treated as a continuation of your investment in the original notes. For additional information regarding U.S. federal income tax considerations, you should read the discussion under [Taxation United States](#).

**Use of Proceeds** We will not receive any proceeds from the issuance of the notes in the exchange offer. We will pay all expenses incidental to the exchange offer.

**Exchange Agent** Wells Fargo Bank, National Association is serving as the exchange agent. Its address, telephone number and facsimile number are:

Wells Fargo Bank, N.A.

Corporate Trust Services

608 2<sup>nd</sup> Avenue South

Northstar East Building 1<sup>st</sup> Floor

Minneapolis, MN 55402

Telephone: (800) 344-5128

Fax: (612) 667-6282

Please review the information under the heading [The Exchange Offer](#) for more detailed information concerning the exchange offer.

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**The Notes**

The summary below describes the principal terms of the notes. Certain of the terms and conditions described below are subject to important limitations and exceptions. The Description of the Notes section of the prospectus contains a more detailed description of the terms and conditions of the notes.

Issuer Intelsat Corporation.

Securities Offered \$575,000,000 9% Senior Notes.

The terms of the new notes will be identical in all material respects to the terms of the original notes, except that the new notes have been registered and therefore will not contain transfer restrictions and will not contain the provisions for an increase in the interest rate related to defaults in the agreement to carry out this exchange offer.

Maturity The notes will mature on June 15, 2016.

Interest Rate The notes will bear interest at a rate of 9% per annum.

Interest Payment Dates Interest will be paid on the notes on each June 15 and December 15, beginning on December 15, 2006.

Guarantees PanAmSat Opco's obligations under the notes will be guaranteed on an unsecured senior basis by each of PanAmSat Opco's existing and certain of PanAmSat Opco's future domestic subsidiaries.

Ranking The notes will be senior unsecured obligations of PanAmSat Opco and will rank:

equal in right of payment with the existing and future senior unsecured indebtedness of PanAmSat Opco;

effectively junior in right of payment to the existing and future secured indebtedness (to the extent of the value of the security for that indebtedness) of PanAmSat Opco; and

structurally junior in right of payment to the existing and future indebtedness of PanAmSat Opco's existing and future subsidiaries that are not guarantors.

The guarantees of the notes will be the guarantors' senior unsecured obligations and will rank:

equal in right of payment with the existing and future senior unsecured indebtedness of each guarantor;

effectively junior in right of payment to the existing and future secured indebtedness (to the extent of the value

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of the security for that indebtedness) of each guarantor; and

structurally junior in right of payment to the existing and future indebtedness of the existing and future subsidiaries of the guarantors that are not guarantors.

As of September 30, 2006, the aggregate amount of PanAmSat Opco's and the guarantors' outstanding senior third party indebtedness was approximately \$3.5 billion, approximately \$2.3 billion of which was secured. As of September 30, 2006, PanAmSat Opco had availability of \$195.4 million (net of standby letters of credit of approximately \$54.6 million) under its revolving credit facility. The aggregate availability under PanAmSat Opco's and Intelsat Sub Holdco's revolving credit facilities is subject to compliance by Intelsat, Ltd. with a secured debt covenant, and as a result such aggregate availability was limited to \$404.2 million as of September 30, 2006. None of PanAmSat Opco's foreign subsidiaries will guarantee the notes offered hereby.

**Optional Redemption**

PanAmSat Opco may redeem all or a portion of the notes at any time prior to June 15, 2011 at a price equal to 100% of the principal amount thereof plus the make-whole premium described in the Description of the Notes section under the heading Optional Redemption.

PanAmSat Opco may redeem all or a portion of the notes at any time and from time to time on or after June 15, 2011 at the redemption described in the Description of the Notes section under the heading Optional Redemption, plus accrued and unpaid interest.

**Optional Redemption After Equity Offerings** At any time, which may be more than once, before June 15, 2009, PanAmSat Opco may redeem up to 35% of the outstanding notes with the proceeds of certain equity offerings and capital contributions, as long as:

PanAmSat Opco pays a redemption price equal to 109.0% of the principal amount of the notes;

the applicable notes are redeemed within 90 days of completing such equity offering or of such capital contribution; and

at least 65% of the aggregate principal amount of the notes remains outstanding afterwards.

**Change of Control Offer**

If a change of control occurs, each holder of the notes may require PanAmSat Opco to repurchase all or a portion of such holder's notes at a price equal to 101% of their principal amount, plus accrued and unpaid interest, if any, to the date of repurchase.



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PanAmSat Opco might not be able to pay you the required price for notes you present to it at the time of a change of control, because:

PanAmSat Opco might not have enough funds at that time; or

the terms of PanAmSat Opco's other indebtedness may prevent it from paying.

**Asset Sale Proceeds**

If PanAmSat Opco or its subsidiaries engage in asset sales or receive certain proceeds from certain events of loss, PanAmSat Opco generally must either invest the net cash proceeds from such sales or events of loss in its business within a specified period of time, prepay senior indebtedness or make an offer to purchase a principal amount of the notes equal to the excess net cash proceeds. The purchase price of the notes will be 100% of their principal amount, plus accrued interest.

**Certain Indenture Provisions**

The indenture governing the notes will contain covenants that, among other things, limit PanAmSat Opco's and its restricted subsidiaries' ability to, among other things:

incur or guarantee additional indebtedness or issue disqualified or preferred stock;

create liens;

enter into sale and lease-back transactions;

pay dividends or make other equity distributions;

repurchase or redeem capital stock;

make investments;

sell assets or consolidate or merge with or into other companies;

create limitations on the ability of its restricted subsidiaries to make dividends or distributions to it; and

engage in transactions with affiliates.



These covenants are subject to important exceptions and qualifications, which are described under [Description of the Notes - Certain Covenants](#).

Risk Factors

Investing in the notes involves substantial risks. See [Risk Factors](#) for a description of certain of the risks you should consider before investing in the notes.

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**SUMMARY HISTORICAL CONSOLIDATED FINANCIAL DATA**

The following information is only a summary and should be read in conjunction with the historical Selected Consolidated Financial Data, Management's Discussion and Analysis of Financial Condition and Results of Operations, Unaudited Pro Forma Condensed Consolidated Financial Information and the consolidated audited and unaudited financial statements and their notes included elsewhere in this prospectus, as well as the other financial information included in this prospectus.

The summary historical consolidated financial data for PanAmSat Opco as of and for the years ended December 31, 2003, 2004 and 2005 has been derived from the audited consolidated financial statements of PanAmSat Opco. The consolidated statement of operations data and cash flow data for each of the years in the three-year period ended December 31, 2005 and the consolidated balance sheet data as of December 31, 2004 and 2005 have been derived from PanAmSat Opco's audited consolidated financial statements included elsewhere in this prospectus. The consolidated balance sheet data as of December 31, 2003 has been derived from audited consolidated financial statements that are not included in this prospectus. The consolidated statement of operations data and cash flow data for the nine months ended September 30, 2005, the period January 1, 2006 to July 1, 2006, and the period July 1, 2006 to September 30, 2006 and the consolidated balance sheet data as of September 30, 2006 are derived from unaudited consolidated financial statements included elsewhere in this prospectus. The unaudited consolidated financial statements have been prepared on the same basis as the audited consolidated financial statements and, in the opinion of our management, include all adjustments, consisting only of normal recurring adjustments, necessary for a fair presentation of the information set forth herein. Interim financial results are not necessarily indicative of results that may be expected for the full year or any future reporting period.

As a result of the consummation of the PanAmSat Acquisition Transactions, the financial results for the nine months ended September 30, 2006 have been separately presented for the Predecessor Entity for the period January 1, 2006 through July 1, 2006 and for the Successor Entity for the period July 1, 2006 through September 30, 2006. Although the effective date of the PanAmSat Acquisition Transactions was July 3, 2006, due to the immateriality of the results of operations for the period between July 1, 2006 and July 3, 2006, we have accounted for the consummation of the PanAmSat Acquisition Transactions as if they had occurred on July 1, 2006, except for acquisition transaction costs which were recorded within the predecessor period of July 1, 2006.

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	Predecessor					Successor Entity Period
	2003	Year ended December 31, 2004	Entity 2005	Nine Months Ended September 30, 2005 (1)	Period January 1 to July 1, 2006	
(dollars in thousands except where stated)						
<b>Consolidated Statement of Operations Data:</b>						
Operating leases, satellite services and other	\$ 814,006	\$ 811,124	\$ 847,149	\$ 621,183	\$ 436,864	\$ 200,177
Revenue from affiliates						51,227
Outright sales and sales-type leases (2)	17,005	15,946	13,854	10,595	5,895	
<b>Total revenues</b>	<b>831,011</b>	<b>827,070</b>	<b>861,003</b>	<b>631,778</b>	<b>442,759</b>	<b>251,404</b>
Operating Costs and Expenses:						
Cost of outright sales and sales-type leases		2,224	(4,303)	(4,303)	(1,943)	
Depreciation and amortization	312,833	294,822	276,925	205,791	138,655	71,866
Direct operating costs (exclusive of depreciation and amortization)	149,696	157,354	143,870	99,811	70,977	44,304
Costs from affiliates						18,468
Selling, general and administrative expenses	86,081	110,898	74,969	56,777	38,033	25,068
Prior sponsor management fees		731	10,444	10,444		
Facilities restructuring and severance costs	4,227	6,192	4,294			
Restructuring and transaction costs				3,974	145,186	5,213
Loss on termination of sales-type lease			2,307	2,307		
(Gain) loss on undesignated interest rate swap			(6,611)	305	(23,140)	14,328
Gain on insurance claims		(9,090)				
Gain on sale of teleport		(11,113)				
Satellite impairment loss		99,946				
Transaction-related costs		155,131				
<b>Total operating cost and expenses</b>	<b>552,837</b>	<b>807,095</b>	<b>501,895</b>	<b>375,106</b>	<b>367,768</b>	<b>179,247</b>
Income from operations	278,174	19,975	359,108	256,672	74,991	72,157
Interest expense, net	143,632	186,754	261,383	211,875	107,601	70,710
Other income (expense), net				1,524	(2,679)	1,443
Income (loss) before income taxes	134,542	(166,779)	97,725	46,321	(35,289)	2,890
Income tax expense (benefit)	35,010	(91,290)	2,105	7,095	8,007	527
<b>Net income (loss)</b>	<b>\$ 99,532</b>	<b>\$ (75,489)</b>	<b>\$ 95,620</b>	<b>\$ 39,226</b>	<b>\$ (43,296)</b>	<b>\$ 2,363</b>
<b>Consolidated Cash Flow Data:</b>						
Net cash provided by operating activities	\$ 472,504	\$ 293,274	\$ 413,919	\$ 272,408	\$ 250,389	\$ 62,904
Net cash provided by (used in) investing activities	70,111	574,282	(247,195)	(180,881)	(133,012)	27,812
Net cash used in financing activities	(855,267)	(1,005,968)	(80,432)	(43,933)	(170,292)	(21,552)

**Consolidated Balance Sheet Data  
(at end of period):**

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Cash and cash equivalents	\$ 176,087	\$ 38,607	\$ 125,945	\$ 87,411	\$ 142,736
Satellites and other property and equipment, net	2,306,705	1,955,664	1,949,560	1,984,222	1,834,040
Total assets	5,734,877	4,764,495	4,828,081	4,863,663	7,515,107
Total debt	1,700,000	3,608,000	2,932,000	2,936,100	3,502,037

**PanAmSat Opco Other Data**

**(balance sheet data at period end):**

Capital expenditures	\$ 103,205	\$ 177,130	\$ 207,845	\$ 142,179	\$ 129,265	\$ 28,858
Number of satellites (at period end)	25	23	23	23		24
EBITDA (3)	\$ 591,007	\$ 314,797	\$ 636,033	\$ 463,987	\$ 210,967	\$ 145,466
Ratio of earnings to fixed charges (4)	1.86x		1.33x	1.20x		1.01x

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- (1) As a result of the PanAmSat Acquisition Transactions, certain prior period amounts have been reclassified to conform with Intelsat Ltd. s presentation.
- (2) As a result of the PanAmSat Acquisition Transactions, certain of our accounting policies have been changed to conform with Intelsat, Ltd. s current accounting policies. As a result of the change to conform accounting policies, these outright sales and sales-type leases are now recognized as service contracts. Previously, under an outright sales contract, we sold all rights and title to a transponder to a customer, which in turn paid us the full amount of the sale price in cash at the commencement of the contract. At that time, we recognized the sale amount as revenues and recorded the cost of the transponder to cost of outright sales. Under sales-type leases, we recognized as revenues at the inception of the lease the net present value of the future minimum lease payments, but we continued to receive cash p with whom (or with whose affiliate) the business

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combination is to be effected or held by an affiliate or associate of the interested stockholder, unless, among other conditions, the corporation's common stockholders receive a minimum price (as defined in the MGCL) for their shares and the consideration is received in cash or in the same form as previously paid by the interested stockholder for its shares. A person is not an interested stockholder under the statute if the board of directors approved in advance the transaction by which the person otherwise would have become an interested stockholder. A Maryland corporation's board of directors may provide that its approval is subject to compliance with any terms and conditions determined by it.

These provisions of the MGCL do not apply, however, to business combinations that are approved or exempted by a Maryland corporation's board of directors prior to the time that the interested stockholder becomes an interested stockholder. Pursuant to the statute, our board of directors has by resolution exempted business combinations between us and any other person, provided that such business combination is first approved by our board of directors (including a majority of our directors who are not affiliates or associates of such person). As a result, any person described above may be able to enter into business combinations with us that may not be in the best interest of our stockholders, without compliance by our company with the supermajority vote requirements and other provisions of the statute. There is no assurance that our board of directors will not amend or repeal this resolution in the future.

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

## **Control Share Acquisitions**

The MGCL provides that a holder of control shares of a Maryland corporation acquired in a control share acquisition has no voting rights with respect to the control shares except to the extent approved by the affirmative vote of at least two-thirds of the votes entitled to be cast on the matter, excluding shares of stock in the corporation in respect of which any of the following persons is entitled to exercise or direct the exercise of the voting power of such shares in the election of directors: (1) a person who makes or proposes to make a control share acquisition; (2) an officer of the corporation; or (3) a director of the corporation who is also an employee of the corporation.

Control shares are voting shares of stock which, if aggregated with all other such shares of stock owned by the acquirer, or in respect of which the acquirer is able to exercise or direct the exercise of voting power (except solely by virtue of a revocable proxy), would entitle the acquirer to exercise voting power in electing directors within one of the following ranges of voting power: (1) one-tenth or more but less than one-third; (2) one-third or more but less than a majority; or (3) a majority or more of all voting power. Control shares do not include shares that the acquiring person is then entitled to vote as a result of having previously obtained stockholder approval or shares acquired directly from the corporation. A control share acquisition means the acquisition of issued and outstanding control shares, subject to certain exceptions.

A person who has made or proposes to make a control share acquisition, upon satisfaction of certain conditions (including an undertaking to pay expenses and delivering an acquiring person statement as described in the MGCL), may compel the board of directors to call a special meeting of stockholders to be held within 50 days of demand to consider the voting rights of the shares. If no request for a meeting is made, the corporation may itself present the question at any stockholders meeting.

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

stockholders at which the voting rights of such shares are considered and not approved or, if no such meeting is held, as of the date of the last control share acquisition by the acquirer. If voting rights for control shares are approved at a stockholders meeting and the acquirer becomes entitled to vote a majority of the

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shares entitled to vote, all other stockholders may exercise appraisal rights. The fair value of the shares as determined for purposes of such appraisal rights may not be less than the highest price per share paid by the acquirer in the control share acquisition.

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

Our bylaws contain a provision exempting from the control share acquisition statute any and all acquisitions by any person of shares of our stock. There is no assurance that such provision will not be amended or eliminated at any time in the future.

## **Subtitle 8**

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

a classified board;

a two-thirds vote requirement for removing a director;

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

a requirement that a vacancy on the board be filled only by the remaining directors in office and (if the board is classified) for the remainder of the full term of the class of directors in which the vacancy occurred; and

a majority requirement for the calling of a stockholder-requested special meeting of stockholders.

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

## **Meetings of Stockholders**

Pursuant to our bylaws, a meeting of our stockholders for the election of directors and the transaction of any business will be held annually on a date and at the time and place set by our board of directors. The chairman of our board of directors, our chief executive officer, our president or our board of directors may call a special



meeting of our stockholders. Subject to the provisions of our bylaws, a special meeting of our stockholders to act on any matter that may properly be brought before a meeting of our stockholders must also be called by our secretary upon the written request of the stockholders entitled to cast a majority of all the votes entitled to be cast at the meeting on such matter and containing the information required by our bylaws. Our secretary will inform the requesting stockholders of the reasonably estimated cost of preparing and delivering the notice of meeting (including our proxy materials), and the requesting stockholder must pay such estimated cost before our secretary is required to prepare and deliver the notice of the special meeting. Only the matters set forth in the notice of special meeting may be considered and acted upon at such meeting.

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### **Amendment to Our Charter and Bylaws**

Except for amendments to the provisions of our charter relating to the removal of directors and the restrictions on ownership and transfer of our stock, and the vote required to amend these provisions (each of which must be advised by our board of directors and approved by the affirmative vote of stockholders entitled to cast not less than two-thirds of all the votes entitled to be cast on the matter), our charter generally may be amended only if advised by our board of directors and approved by the affirmative vote of stockholders entitled to cast a majority of all of the votes entitled to be cast on the matter.

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

### **Dissolution of Our Company**

The dissolution of our company must be advised by a majority of our entire board of directors and approved by the affirmative vote of stockholders entitled to cast a majority of all of the votes entitled to be cast on the matter.

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

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

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

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

Our charter and bylaws and Maryland law contain provisions that may delay, defer or prevent a change in control or other transaction that might involve a premium price for shares of our common stock or otherwise be in the best interests of our stockholders, including business combination provisions, supermajority vote requirements and advance notice requirements for director nominations and stockholder proposals. Likewise, if the provision in our bylaws opting out of the control share acquisition provisions of the MGCL were rescinded or if we were to opt in to the classified board or other provisions of Subtitle 8, these provisions of the MGCL could have similar anti-takeover effects.

### **Indemnification and Limitation of Directors and Officers Liability**

Maryland law permits a Maryland corporation to include in its charter a provision eliminating the liability of its directors and officers to the corporation and its stockholders for money damages except for liability resulting from actual receipt of an improper benefit or profit in money, property or services or active and deliberate dishonesty that was established by a final judgment and was material to the cause of action. Our charter contains a provision that eliminates the liability of our directors and officers to the maximum extent permitted by Maryland law.

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The MGCL requires us (unless our charter provides otherwise, which our charter does not) to indemnify a director or officer who has been successful, on the merits or otherwise, in the defense of any proceeding to which he or she is made a party by reason of his or her service in that capacity. The MGCL permits us to indemnify our present and former directors and officers, among others, against judgments, penalties, fines, settlements and reasonable expenses actually incurred by them in connection with any proceeding to which they may be made or threatened to be made a party by reason of their service in those or other capacities unless it is established that:

the act or omission of the director or officer was material to the matter giving rise to the proceeding and (1) was committed in bad faith or (2) was the result of active and deliberate dishonesty;

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

in the case of any criminal proceeding, the director or officer had reasonable cause to believe that the act or omission was unlawful. Under the MGCL, we may not indemnify a director or officer in a suit by us or on our behalf in which the director or officer was adjudged liable to us or in a suit in which the director or officer was adjudged liable on the basis that personal benefit was improperly received. Nevertheless, a court may order indemnification if it determines that the director or officer is fairly and reasonably entitled to indemnification, even though the director or officer did not meet the prescribed standard of conduct or was adjudged liable on the basis that personal benefit was improperly received. However, indemnification for an adverse judgment in a suit by us or on our behalf, or for a judgment of liability on the basis that personal benefit was improperly received, is limited to expenses.

In addition, the MGCL permits us to advance reasonable expenses to a director or officer upon our receipt of:

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

a written undertaking by the director or officer or on the director's or officer's behalf to repay the amount paid or reimbursed by us if it is ultimately determined that the director or officer did not meet the standard of conduct.

Our charter authorizes us to obligate ourselves and our bylaws obligate us, to the fullest extent permitted by Maryland law in effect from time to time, to indemnify and, without requiring a preliminary determination of the ultimate entitlement to indemnification, pay or reimburse reasonable expenses in advance of final disposition of a proceeding to:

any present or former director or officer who is made or threatened to be made a party to or witness in the proceeding by reason of his or her service in that capacity;

any individual who, while a director or officer of our company and at our request, serves or has served as a director, officer, partner, manager, managing member or trustee of another corporation, real estate investment trust, partnership, limited liability company, joint venture, trust, employee benefit plan or any other enterprise and who is made or threatened to be made a party to or witness in the proceeding by reason of his or her service in that capacity; or

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any individual who served any predecessor of our company, including Hannon Armstrong Capital, LLC, in a similar capacity, who is made or threatened to be made a party to or witness in the proceeding by reason of his or her service in such capacity.

Our charter and bylaws also permit us to indemnify and advance expenses to any employee or agent of our company or a predecessor of our company.

We have entered into indemnification agreements with each of our directors and executive officers that provide for indemnification to the maximum extent permitted by Maryland law.

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Insofar as the foregoing provisions permit indemnification of directors, officers or persons controlling us for liability arising under the Securities Act, we have been informed that, in the opinion of the SEC, this indemnification is against public policy as expressed in the Securities Act and is therefore unenforceable.

**REIT Qualification**

Our charter provides that our board of directors may authorize us to revoke or otherwise terminate our REIT election, without approval of our stockholders, if it determines that it is no longer in our best interests to continue to qualify as a REIT. Our charter also provides that our board of directors may determine that compliance with any restriction or limitation on ownership and transfer of our stock is no longer required for us to qualify as a REIT.

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**HANNON ARMSTRONG SUSTAINABLE INFRASTRUCTURE, L.P. PARTNERSHIP AGREEMENT**

*The following is a summary of material provisions in the partnership agreement of our operating partnership, a copy of which is filed with the SEC and which we incorporate by reference as an exhibit to the registration statement of which this prospectus is a part.*

**General**

Hannon Armstrong Sustainable Infrastructure, L.P., our operating partnership, was formed to acquire and own our assets directly or indirectly through its subsidiaries. We are considered to be an UpREIT in which all of our assets are owned in a limited partnership of which we are the sole general partner. For purposes of satisfying the asset and income tests for qualification as a REIT for U.S. federal income tax purposes, our proportionate share of the assets and income of our operating partnership will be deemed to be our assets and income.

We are the sole general partner of our operating partnership and are liable for its obligations. As the sole general partner, we have full, exclusive and complete responsibility and discretion in the management and control of our operating partnership, including the ability to cause our operating partnership to enter into certain major transactions, including a merger of our operating partnership or a sale of substantially all of its assets. The OP units have no voting rights. Our operating partnership is under no obligation to give priority to the separate interests of the limited partners or our stockholders in deciding whether to cause our operating partnership to take or decline to take any actions. As the sole general partner of our operating partnership, our consent is required for any amendment to the partnership agreement of our operating partnership. Additionally, without the consent of the limited partners, we may amend the partnership agreement of our operating partnership in any respect, implement mergers involving our operating partnership or sales of all or substantially all of its assets. Through the exercise of these powers, we would be authorized, without the consent of limited partners, to implement a transaction such as a merger involving our operating partnership that could result in the conversion of outstanding OP units into cash, shares of our common stock or other securities. The partnership agreement of our operating partnership only requires that, in such circumstances, limited partners receive cash, shares of our common stock or other securities having a fair market or net asset value, as the case may be, equal to the net asset value of the OP units being converted as of the month end period immediately prior to such conversion. The limited partners have no power to remove the general partner without the general partner's consent.

Although all of our assets are currently held through the UpREIT structure, we may in the future elect for various reasons to hold certain of our assets directly rather than through our operating partnership. In the event we elect to hold assets directly, the income of our operating partnership will be allocated as between us and limited partners so as to take into account the performance of such assets.

**Fiduciary Responsibilities**

Our directors and officers have duties under applicable Maryland law to manage us in a manner consistent with the best interests of our company. At the same time, we, as the general partner of our operating partnership, will have fiduciary duties to manage our operating partnership in a manner beneficial to our operating partnership and its partners. Our duties, as the general partner, to our operating partnership and its limited partners, therefore, may come into conflict with the duties of our directors and officers to us. We will be under no obligation to give priority to the separate interests of the limited partners of our operating partnership in deciding whether to cause the operating partnership to take or decline to take any actions. The limited partners of our operating partnership have agreed that if there is a conflict in the duties our directors and officers owe to us under Maryland law and the duties that we, in our capacity as general partner of our operating partnership, owe to such limited partners, we will

fulfill our fiduciary duties to such limited partners by acting in the best interests of our company.

The limited partners of our operating partnership have expressly acknowledged that we are acting for the benefit of the operating partnership, the limited partners and our company collectively.



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### **Capital Contributions**

If our operating partnership requires additional funds at any time in excess of capital contributions made by us or from borrowing, we may borrow funds from a financial institution or other lender and lend such funds to our operating partnership on the same terms and conditions as are applicable to our borrowing of such funds. In addition, we are authorized to cause our operating partnership to issue partner interests for less than fair market value if we conclude in good faith that such issuance is in the best interest of our operating partnership and our stockholders.

### **Operations**

The partnership agreement of our operating partnership provides that our operating partnership is to be operated in a manner that will (1) enable us to satisfy the requirements for qualification as a REIT for U.S. federal income tax purposes, (2) avoid any U.S. federal income or excise tax liability and (3) ensure that our operating partnership will not be classified as a publicly traded partnership taxable as a corporation for purposes of Section 7704 of the Internal Revenue Code.

Similarly, the partnership agreement of our operating partnership provides that taxable income is allocated to the partners of our operating partnership in accordance with their relative percentage interests such that a holder of one OP unit will be allocated taxable income for each taxable year in an amount equal to the amount of taxable income to be recognized by a holder of one share of our common stock, subject to compliance with the provisions of Sections 704(b) and 704(c) of the Internal Revenue Code and corresponding Treasury Regulations. Losses, if any, will generally be allocated among the partners in accordance with their respective percentage interests in our operating partnership. See U.S. Federal Income Tax Considerations Tax Aspects of Ownership of Equity Interests in Partnerships and Other Transparent Entities.

Upon the liquidation of our operating partnership, after payment of debts and obligations, any remaining assets of our operating partnership will be distributed to partners with positive capital accounts in accordance with their respective positive capital account balances.

In addition to the administrative and operating costs and expenses incurred by our operating partnership in acquiring and holding our assets, our operating partnership will pay all of our administrative costs and expenses and such expenses will be treated as expenses of our operating partnership. Such expenses will include:

all expenses relating to our continuity of existence;

all expenses relating to any offerings and registrations of securities;

all expenses associated with our preparation and filing of any periodic reports under U.S. federal, state or local laws or regulations;

all expenses associated with our compliance with applicable laws, rules and regulations; and

all other operating or administrative costs of ours incurred in the ordinary course of its business.

**Exchange of OP Units**

Subject to certain limitations and exceptions, holders of OP units, other than us or our subsidiaries, have the right to cause our operating partnership to purchase their OP units for cash in an amount equal to the market value of an equivalent number of shares of our common stock. The market value of the common stock for this purpose will be equal to the average of the closing trading price of a share of our common stock on the NYSE for the ten trading days before the day on which the redemption notice is given to our operating partnership. In lieu of paying cash, we may elect to issue shares of our common stock in exchange for OP units offered for redemption, on a one-for-one basis, subject to certain adjustments. We anticipate that we will normally elect to issue common stock in exchange for OP units offered for redemption rather than pay cash. Redemption rights of

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OP unit holders may not be exercised, however, if and to the extent that the delivery of shares upon such exercise would (1) result in any person owning shares in excess of our ownership limits, (2) result in shares being owned by fewer than 100 persons or (3) result in us being closely held within the meaning of Section 856(h) of the Internal Revenue Code or otherwise cause us to fail to qualify as a REIT.

## **Mandatory Redemption Rights**

We (and our operating partnership) do not have a mandatory redemption policy. However, as the sole general partner of our operating partnership, we may, without the consent of the limited partners approve certain amendments to the partnership agreement of our operating partnership, implement mergers involving our operating partnership or sales of all or substantially all of its assets. Through the exercise of these powers, we would be authorized, without the consent of limited partners, to implement a transaction such as a merger involving our operating partnership, that could result in the conversion of outstanding OP units (including units issued pursuant to our operating partnership's long-term incentive plan, or LTIP units) into cash, shares of our common stock or other securities. The partnership agreement of our operating partnership only requires that, in such circumstances, limited partners receive cash, shares of our common stock or other securities having a fair market or net asset value, as the case may be, equal to the net asset value of the OP units being converted as of the month end period immediately prior to such conversion. See General.

## **Distributions**

The partnership agreement of our operating partnership provides that our operating partnership will distribute cash flow from operations to the partners of our operating partnership in accordance with their relative percentage interests at such times and in such amounts determined by us as the general partner such that a holder of one OP unit will receive the same amount of annual cash flow distributions from our operating partnership as the amount of annual distributions paid to the holder of one share of our common stock.

To satisfy the requirements to qualify as a REIT and generally not be subject to U.S. federal income and excise tax, our current policy is to cause our operating partnership to pay distributions to holders of OP units and holders of LTIP units which, on an annual basis, will equal all or substantially all of our taxable income. Any distributions we and our operating partnership make will be at the discretion of our board of directors and will depend upon our earnings and financial condition, maintenance of our REIT qualification, restrictions on making distributions under Maryland law and such other factors as our board of directors deems relevant. Our earnings and financial condition will be affected by various factors, including the net interest and other income from our portfolio, our operating expenses and any other expenditures.

## **Transferability of Interests**

We are not able to (1) voluntarily withdraw as the general partner of our operating partnership, or (2) transfer our general partner interest in our operating partnership (except to a wholly-owned subsidiary), unless the transaction in which such withdrawal or transfer occurs results in the limited partners receiving or having the right to receive an amount of cash, securities or other property equal in value to the amount they would have received if they had exercised their redemption rights immediately prior to such transaction. The limited partners are not able to transfer their OP units, in whole or in part, without our written consent as the general partner of the partnership except where the limited partner becomes incapacitated.



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**U.S. FEDERAL INCOME TAX CONSIDERATIONS**

The following is a summary of the material U.S. federal income tax considerations relating to our qualification and taxation as a REIT and the acquisition, holding, and disposition of our common stock. For purposes of this section, references to we, our, us or our company mean only Hannon Armstrong Sustainable Infrastructure Capital, Inc. and not our subsidiaries or other lower-tier entities, except as otherwise indicated. This summary is based upon the Internal Revenue Code, the regulations promulgated by the U.S. Treasury Department, or the Treasury Regulations, current administrative interpretations and practices of the IRS (including administrative interpretations and practices expressed in private letter rulings which are binding on the IRS only with respect to the particular taxpayers who requested and received those rulings), and judicial decisions, all as currently in effect and all of which are subject to differing interpretations or to change, possibly with retroactive effect. No assurance can be given that the IRS would not assert, or that a court would not sustain, a position contrary to any of the tax consequences described below. No advance ruling has been or will be sought from the IRS regarding any matter discussed in this summary, with the exception of those matters specifically described herein. The summary is also based upon the assumption that the operation of our company, and of its subsidiaries and other lower-tier and affiliated entities will, in each case, be in accordance with its applicable organizational documents. This summary is for general information only, and does not purport to discuss all aspects of U.S. federal income taxation that may be important to a particular stockholder in light of its investment or tax circumstances or to stockholders subject to special tax rules, such as:

U.S. expatriates;

persons who mark-to-market our common stock;

subchapter S corporations;

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

financial institutions;

insurance companies;

broker-dealers;

RICs;

trusts and estates;

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

persons holding our common stock 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;

persons holding their interest through a partnership or similar pass-through entity;

persons holding a 10% or more (by vote or value) beneficial interest in us; and

except to the extent discussed below, tax-exempt organizations and non-U.S. stockholders (as defined below).

This summary assumes that stockholders will hold our common stock as capital assets, which generally means as property held for investment.

**THE U.S. FEDERAL INCOME TAX TREATMENT OF US AS A REIT AND HOLDERS OF OUR COMMON STOCK DEPENDS IN SOME INSTANCES ON DETERMINATIONS OF FACT AND INTERPRETATIONS OF COMPLEX PROVISIONS OF U.S. FEDERAL INCOME TAX LAW FOR WHICH**

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NO CLEAR PRECEDENT OR AUTHORITY MAY BE AVAILABLE. IN ADDITION, THE TAX CONSEQUENCES OF THE HOLDING AND DISPOSITION OF OUR COMMON STOCK TO ANY PARTICULAR STOCKHOLDER WILL DEPEND ON THE STOCKHOLDER'S PARTICULAR TAX CIRCUMSTANCES. YOU ARE URGED TO CONSULT YOUR TAX ADVISOR REGARDING THE U.S. FEDERAL, STATE, LOCAL, AND FOREIGN INCOME AND OTHER TAX CONSEQUENCES TO YOU, IN LIGHT OF YOUR PARTICULAR INVESTMENT OR TAX CIRCUMSTANCES, OF ACQUIRING, HOLDING, AND DISPOSING OF OUR COMMON STOCK.

**Taxation of Our Company General**

We have elected to be taxed as a REIT under Sections 856 through 860 of the Internal Revenue Code, commencing with our taxable year ended December 31, 2013. We believe that we have been organized and operated, and we intend to continue to operate, in such a manner so as to qualify for taxation as a REIT under the Internal Revenue Code.

The law firm of Clifford Chance US LLP has acted as our counsel in connection with the preparation and filing of this prospectus. We will receive the opinion of Clifford Chance US LLP to the effect that, commencing with our taxable year ended December 31, 2013, we have been organized and operated in conformity with the requirements for qualification and taxation as a REIT under the Internal Revenue Code, and our current and proposed method of operation will enable us to continue to meet the requirements for qualification and taxation as a REIT under the Internal Revenue Code. It must be emphasized that the opinion of Clifford Chance US LLP will be based on various assumptions relating to our organization and operation, including that all factual representations and statements set forth in all relevant documents, records and instruments are true and correct, all actions described in this prospectus are completed in a timely fashion and that we will at all times operate in accordance with the method of operation described in our organizational documents and this prospectus. Additionally, the opinion of Clifford Chance US LLP will be conditioned upon factual representations and covenants made by our management and affiliated entities regarding our organization, assets, present and future conduct of our business operations and other items regarding our ability to meet the various requirements for qualification as a REIT, and assumes that such representations and covenants are accurate and complete and that they and we will take no action inconsistent with our qualification as a REIT. The opinion of Clifford Chance US LLP will not foreclose the possibility that we may have to pay an excise or penalty tax, which could be significant in amount, in order to maintain our REIT qualification. In addition, the opinion of Clifford Chance US LLP will be based in part on the conclusion, which is discussed in more detail below, that the better view is that the scope and nature of the rights we hold in the buildings in which structural components securing our financing receivables have been installed are sufficient to cause such financing receivables to also be secured by real property interests in such buildings within the meaning of the newly adopted Real Property Regulations (as defined below). However, no assurance can be provided that the IRS will not challenge this conclusion or that if this conclusion is challenged that this position would be sustained.

While we believe that we are organized and have operated, and we intend to continue to operate, in such a manner so as to qualify as a REIT, given the highly complex nature of the rules governing REITs, the ongoing importance of factual determinations and the possibility of future changes in our circumstances or applicable law, no assurance can be given by Clifford Chance US LLP or us that we will so qualify for any particular year. Clifford Chance US LLP will have no obligation to advise us or the holders of shares of our common stock of any subsequent change in the matters stated, represented or assumed or of any subsequent change in the applicable law. You should be aware that opinions of counsel are not binding on the IRS, and no assurance can be given that the IRS will not challenge the conclusions set forth in such opinions.

Qualification and taxation as a REIT depends on our ability to meet, on a continuing basis, through actual results of operations, distribution levels, diversity of share ownership and various qualification requirements imposed upon REITs by the Internal Revenue Code, the compliance with which will not be reviewed by Clifford Chance US LLP. In addition, our ability to continue to qualify as a REIT may depend in part upon the operating



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results, organizational structure and entity classification for U.S. federal income tax purposes of certain entities in which we invest, which could include entities that have made elections to be taxed as REITs, the qualification of which will not have been reviewed by Clifford Chance US LLP. Our ability to continue to qualify as a REIT also requires that we satisfy certain asset and income tests, some of which depend upon the fair market values of assets directly or indirectly owned by us or which serve as security for loans made by us. Such values may not be susceptible to a precise determination. Accordingly, no assurance can be given that the actual results of our operations for any taxable year will satisfy the requirements for qualification and taxation as a REIT.

**Real Property Regulations**

As previously disclosed in our reports filed under the Exchange Act, the Treasury Department and the IRS published proposed regulations which considered revisions to the definition of real property for purposes of the REIT income and asset tests. On August 30, 2016, these regulations, which we refer to as the Real Property Regulations, became final and apply to us with respect to our taxable years beginning after December 31, 2016. Among other things, the Real Property Regulations provide that an obligation secured by a structural component of a building or other inherently permanent structure qualifies as a real estate asset for REIT qualification purposes only if such obligation is also secured by a real property interest in the inherently permanent structure served by such structural component. This aspect of the Real Property Regulations has important implications for our qualification as a REIT since a significant portion of our REIT qualifying assets consists of financing receivables that are secured by liens on installed structural improvements designed to improve the energy efficiency of buildings and a significant portion of REIT qualifying gross income is interest income earned with respect to such financing receivables.

The structural improvements securing our financing receivables generally qualify as fixtures under local real property law, as well as under the Uniform Commercial Code, or the UCC, which governs rights and obligations of parties in secured transactions. Although not controlling for REIT purposes, the general rule in the United States is that once improvements are permanently installed in real properties, such improvements become fixtures and thus take on the character of and are considered to be real property for certain state and local law purposes. In general, in the United States, laws governing fixtures, including the UCC and real property law, afford lenders who have secured their financings with security interests in fixtures with rights that extend not just to the fixtures that secure their financings, but also to the real properties in which such fixtures have been installed. By way of example only, Section 9-604(b) of the UCC, which has been adopted in all but two states in the United States, permits a lender secured by fixtures, upon a default, to enforce its rights under the UCC or under applicable real property laws. The opinion of Clifford Chance US LLP to the effect that, commencing with our taxable year ended December 31, 2013, we have been organized and operated in conformity with the requirements for qualification and taxation as a REIT under the Internal Revenue Code, and our current and proposed method of operation will enable us to continue to meet the requirements for qualification and taxation as a REIT under the Internal Revenue Code, is based on its conclusion that, although there is limited authority directly on point, given the nature of, and the extent to which the structural improvements securing our financing receivables are fully integrated into and serve the related buildings, the better view is that the nature and scope of our rights in such buildings that inure to us as a result of our financing receivables are sufficient to satisfy the requirements of the Real Property Regulations described above. In addition to the limited authority directly on point, Clifford Chance US LLP has included in its opinion two other important caveats that relate to this conclusion: First, the Real Property Regulations do not define what is required for an obligation secured by a lien on a structural component to also be secured by a real property interest in the building served by such structural component. However, the initial proposed version of the Real Property Regulations, which never became effective, included a requirement that the interest in the real property held by a REIT be equivalent to the REIT's interest in a structural component held by the REIT in order for the structural component to be treated as a real estate asset. This requirement was ultimately

not included in the final Real Property Regulations, in part in response to comments that such requirement may negatively affect investment in energy efficient and renewable energy assets. We believe that the deletion of this requirement implies that under the final Real Property Regulations, our rights in the building need not be equivalent to our rights in the structural components serving

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the building. Second, real property law is typically relegated to the states and the specific rights available to any lien or mortgage holder, including our rights as a fixture lien holder described above, may vary between jurisdictions as a result of a range of factors, including the specific local real property law requirements and judicial and regulatory interpretations of such laws, and the competing rights of mortgage and other lenders. While a number of cases have addressed the rights of fixture lien holders generally, there are limited judicial interpretations in only a few jurisdictions that directly address the rights and remedies available to a fixture lien holder in the real property in which the fixtures have been installed. Such rights have been addressed in some cases that support the conclusion described above and, in factual circumstances distinguishable from our own, in some cases where the courts have found these rights to be more limited. The resolution of these issues in many jurisdictions therefore remains uncertain. As a result of the foregoing, the opinion of Clifford Chance US LLP also includes language to the effect that no assurance can be given that the IRS will not challenge the conclusion that such financing receivables meet the requirements of the Real Property Regulations or that, if challenged, such position would be sustained.

Prior to the issuance of the Real Property Regulations, we received a private letter ruling from the IRS, which we refer to as the Ruling, which, based on the representations and assumptions contained therein, held that our financing receivables qualify as real estate assets and the income from such financing receivables qualify as interest income from mortgages on real property for purposes of the REIT requirements. The preamble to the Real Property Regulations provides that, to the extent a private letter ruling issued prior to the issuance of the Real Property Regulations is inconsistent with the Real Property Regulations, the private letter ruling is revoked prospectively from the applicability date of the Real Property Regulations. We do not believe that the Ruling is inconsistent with the Real Property Regulations because we believe the analysis in the Ruling was based on similar principles as the relevant portions of the Real Property Regulations, and accordingly we do not believe that the Real Property Regulations impact our ability to rely on the Ruling. However, no assurance can be given that the IRS would not successfully assert that we are not permitted to rely on the Ruling because the Ruling has been revoked by the Real Property Regulations.

If the IRS were to assert that a significant portion of our financing receivables do not qualify as real estate assets and do not generate income treated as interest income from mortgages on real property, we would fail to satisfy both the gross income requirements and asset requirements applicable to REITs. As a result, we could be required to pay one or more penalty taxes, which could be significant in amount, alter our mix of assets or adjust our business strategy, or we could fail to qualify as a REIT.

**Taxation of REITs in General**

As indicated above, qualification and taxation as a REIT depends upon our ability to meet, on a continuing basis, various qualification requirements imposed upon REITs by the Internal Revenue Code. The material qualification requirements are summarized below, under Requirements for Qualification as a REIT. While we intend to operate so that we continue to qualify as a REIT, no assurance can be given that the IRS will not challenge our qualification as a REIT or that we will be able to continue to operate in accordance with the REIT requirements in the future. See Failure to Qualify.

Provided that we qualify as a REIT, we will generally be entitled to a deduction for dividends that we pay and, therefore, will not be subject to U.S. federal corporate income tax on our taxable income that is currently distributed to our stockholders. This treatment substantially eliminates the double taxation at the corporate and stockholder levels that results generally from investment in a corporation. Rather, income generated by a REIT generally is taxed only at the stockholder level, upon a distribution of dividends by the REIT.

Stockholders who are individual U.S. stockholders (as defined below) are generally taxed on corporate dividends from U.S. corporations at a maximum rate of 20% (the same as long-term capital gains), thereby substantially reducing, though not completely eliminating, the double taxation that has historically applied to corporate dividends. With limited exceptions, dividends received by individual U.S. stockholders from us or

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from other entities that are taxed as REITs will continue to be taxed at rates applicable to ordinary income, and therefore may be subject to a 39.6% maximum rate on ordinary income. Net operating losses, foreign tax credits and other tax attributes of a REIT generally do not pass through to the stockholders of the REIT, subject to special rules for certain items, such as capital gains, recognized by REITs. See Taxation of Taxable U.S. Stockholders.

Even if we qualify for taxation as a REIT, we will be subject to U.S. federal income taxation as follows:

We will be taxed at regular U.S. federal corporate rates on any undistributed income, including undistributed net capital gains.

We may be subject to the alternative minimum tax on our items of tax preference, if any.

If we have net income from prohibited transactions, which are, in general, sales or other dispositions of property held primarily for sale to customers in the ordinary course of business, other than foreclosure property, such income will be subject to a 100% tax. See Prohibited Transactions and Foreclosure Property below.

If we elect to treat property that we acquire in connection with a foreclosure of a mortgage loan or from certain leasehold terminations as foreclosure property, we may thereby avoid (a) the 100% tax on gain from a resale of that property (if the sale would otherwise constitute a prohibited transaction) and (b) the inclusion of any income from such property not qualifying for purposes of the REIT gross income tests discussed below, but the income from the sale or operation of the property may be subject to U.S. federal corporate income tax at the highest applicable rate (currently 35%).

If we fail to satisfy the 75% gross income test or the 95% gross income test, as discussed below, but nonetheless maintain our qualification as a REIT because other requirements are met, we will be subject to a 100% tax on an amount equal to (a) the greater of (1) the amount by which we fail the 75% gross income test or (2) the amount by which we fail the 95% gross income test, as the case may be, multiplied by (b) a fraction intended to reflect our profitability.

If we fail to satisfy any of the REIT asset tests, as described below, other than a failure of the 5% or 10% REIT asset test that does not exceed a statutory *de minimis* amount as described more fully below, but our failure is due to reasonable cause and not due to willful neglect and we nonetheless maintain our REIT qualification because of specified cure provisions, we will be required to pay a tax equal to the greater of \$50,000 or the highest corporate tax rate (currently 35%) of the net income generated by the nonqualifying assets during the period in which we failed to satisfy the asset tests.

If we fail to satisfy any provision of the Internal Revenue Code that would result in our failure to qualify as a REIT (other than a gross income or asset test requirement) and the violation is due to reasonable cause and not due to willful neglect, we may retain our REIT qualification but we will be required to pay a penalty of \$50,000 for each such failure.

If we fail to distribute during each calendar year at least the sum of (a) 85% of our REIT ordinary income for such year, (b) 95% of our REIT capital gain net income for such year and (c) any undistributed taxable income from prior periods, or the required distribution, we will be subject to a 4% excise tax on the excess of the required distribution over the sum of (1) the amounts actually distributed (taking into account excess distributions from prior years), plus (2) retained amounts on which income tax is paid at the corporate level.

We may be required to pay monetary penalties to the IRS in certain circumstances, including if we fail to meet record-keeping requirements intended to monitor our compliance with rules relating to the composition of our stockholders, as described below in Requirements for Qualification as a REIT.

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A 100% excise tax may be imposed on some items of income and expense that are directly or constructively paid between us and any TRSs we may own if and to the extent that the IRS successfully adjusts the reported amounts of these items.

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If we acquire appreciated assets from a corporation that is not a REIT in a transaction in which the adjusted tax basis of the assets in our hands is determined by reference to the adjusted tax basis of the assets in the hands of the non-REIT corporation, we will be subject to tax on such appreciation at the highest U.S. federal corporate income tax rate then applicable if we subsequently recognize gain on a disposition of any such assets during the 10-year period (5-year period for assets acquired before August 8, 2016) following their acquisition from the non-REIT corporation. The results described in this paragraph assume that the non-REIT corporation will not elect, in lieu of this treatment, to be subject to an immediate tax when the asset is acquired by us.

We will generally be subject to tax on the portion of any excess inclusion income derived from an investment in residual interests in certain loan securitization structures (*i.e.*, a taxable mortgage pool) to the extent that our common stock is held by specified types of tax-exempt organizations known as disqualified organizations that are not subject to tax on unrelated business taxable income. To the extent that we own a taxable mortgage pool through a TRS, we will not be subject to this tax. See Effect of Subsidiary Entities Taxable Mortgage Pools and Excess Inclusion Income.

We may elect to retain and pay U.S. federal income tax on our net long-term capital gain. In that case, a stockholder would include its proportionate share of our undistributed long-term capital gain (to the extent we make a timely designation of such gain to the stockholder) in its income, would be deemed to have paid the tax that we paid on such gain, and would be allowed a credit for its proportionate share of the tax deemed to have been paid, and an adjustment would be made to increase the stockholder's basis in our common stock. Stockholders that are U.S. corporations will also appropriately adjust their earnings and profits for the retained capital gains in accordance with Treasury Regulations to be promulgated.

We will have subsidiaries or own interests in other lower-tier entities that are subchapter C corporations, the earnings of which could be subject to U.S. federal corporate income tax.

In addition, we may be subject to a variety of taxes other than U.S. federal income tax, including state, local, and foreign income, franchise property and other taxes. We could also be subject to tax in situations and on transactions not presently contemplated.

## **Requirements for Qualification as a REIT**

The Internal Revenue Code defines a REIT as a corporation, trust or association:

- (1) that is managed by one or more trustees or directors;
- (2) the beneficial ownership of which is evidenced by transferable shares or by transferable certificates of beneficial interest;
- (3) that would be taxable as a domestic corporation but for the special Internal Revenue Code provisions applicable to REITs;
- (4) that is neither a financial institution nor an insurance company subject to specific provisions of the Internal Revenue Code;
- (5) the beneficial ownership of which is held by 100 or more persons during at least 335 days of a taxable year of 12 months, or during a proportionate part of a taxable year of less than 12 months;
- (6) in which, during the last half of each taxable year, not more than 50% in value of the outstanding stock is owned, directly or indirectly, by five or fewer individuals (as defined in the Internal Revenue Code to include specified entities);

- (7) that makes an election to be a REIT for the current taxable year or has made such an election for a previous taxable year that has not been terminated or revoked;



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- (8) that uses a calendar year for U.S. federal income tax purposes;
- (9) that has no earnings and profits from any non-REIT taxable year at the close of any taxable year; and
- (10) which meets other tests, and satisfies all of the relevant filing and other administrative requirements established by the IRS that must be met to elect and maintain REIT qualification described below, including with respect to the nature of its income and assets and the amount of its distributions.

The Internal Revenue Code provides that conditions (1) through (4) must be met during the entire taxable year, that condition (5) must be met during at least 335 days of a taxable year of 12 months, or during a proportionate part of a shorter taxable year; and that conditions (5) and (6) do not need to be satisfied for the first taxable year for which an election to become a REIT has been made. We believe that our common stock has sufficient diversity of ownership to satisfy the requirements described in conditions (5) and (6) above. Our charter provides restrictions regarding the ownership and transfer of shares of our stock, which are intended, among other purposes, to assist us in satisfying the share ownership requirements described in conditions (5) and (6) above. For purposes of condition (6), an individual generally includes a supplemental unemployment compensation benefit plan, a private foundation or a portion of a trust permanently set aside or used exclusively for charitable purposes, but does not include a qualified pension plan or profit sharing trust.

To monitor compliance with the share ownership requirements, we are generally required to maintain records regarding the actual ownership of shares of our stock. To do so, we must demand written statements each year from the record holders of significant percentages of shares of our stock, in which the record holders are to disclose the actual owners of the shares (i.e., the persons required to include in gross income the dividends paid by us). A list of those persons failing or refusing to comply with this demand must be maintained as part of our records. Failure by us to comply with these record-keeping requirements could subject us to monetary penalties. If we satisfy these requirements and after exercising reasonable diligence would not have known that condition (6) is not satisfied, we will be deemed to have satisfied such condition. A stockholder that fails or refuses to comply with the demand is required by Treasury Regulations to submit a statement with its tax return disclosing the actual ownership of the shares and other information.

For purposes of condition (8), we have adopted December 31 as our year end, and thereby satisfy this requirement.

**Effect of Subsidiary Entities*****Ownership of Partnership Interests***

In the case of a REIT that is a partner in a partnership, Treasury regulations provide that the REIT is deemed to own its proportionate share of the partnership's assets and to earn its proportionate share of the partnership's gross income based on its *pro rata* share of capital interests in the partnership for purposes of the asset and gross income tests applicable to REITs, as described below. However, solely for purposes of the 10% value test, described below, the determination of a REIT's interest in partnership assets will be based on the REIT's proportionate interest in any securities issued by the partnership, excluding for these purposes, certain excluded securities as described in the Internal Revenue Code. In addition, the assets and gross income of the partnership generally are deemed to retain the same character in the hands of the REIT. Thus, our proportionate share of the assets and items of income of our operating partnership and other partnerships in which we own an equity interest (including equity interests in any lower tier partnerships) is treated as assets and items of income of our company for purposes of applying the REIT requirements described below. Consequently, to the extent that we directly or indirectly hold a preferred or other equity interest in a partnership, the partnership's assets and operations may affect our ability to qualify as a

REIT, even though we may have no control or only limited influence over the partnership.

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**Table of Contents*****Disregarded Subsidiaries***

If a REIT owns a corporate subsidiary that is a qualified REIT subsidiary, that subsidiary is disregarded for U.S. federal income tax purposes, and all assets, liabilities and items of income, deduction and credit of the subsidiary are treated as assets, liabilities and items of income, deduction and credit of the REIT itself, including for purposes of the gross income and asset tests applicable to REITs, as summarized below. A qualified REIT subsidiary is any corporation, other than a TRS, that is wholly-owned by a REIT, by other disregarded subsidiaries of a REIT or by a combination of the two. Single member limited liability companies that are wholly-owned by a REIT are also generally disregarded as separate entities for U.S. federal income tax purposes, including for purposes of the REIT gross income and asset tests. Disregarded subsidiaries, along with partnerships in which we hold an equity interest, are sometimes referred to herein as pass-through subsidiaries.

In the event that a disregarded subsidiary ceases to be wholly-owned by us (for example, if any equity interest in the subsidiary is acquired by a person other than us or another disregarded subsidiary of us), the subsidiary's separate existence would no longer be disregarded for U.S. federal income tax purposes. Instead, it would have multiple owners and would be treated as either a partnership or a taxable corporation. Such an event could, depending on the circumstances, adversely affect our ability to satisfy the various asset and gross income tests applicable to REITs, including the requirement that REITs generally may not own, directly or indirectly, more than 10% of the value or voting power of the outstanding securities of another corporation. See [Asset Tests](#) and [Gross Income Tests](#).

***Taxable REIT Subsidiaries***

A REIT, in general, may jointly elect with a subsidiary corporation, whether or not wholly-owned, to treat the subsidiary corporation as a TRS. We generally may not own more than 10% of the securities of a taxable corporation, as measured by voting power or value, unless we and such corporation elect to treat such corporation as a TRS. The separate existence of a TRS or other taxable corporation, unlike a disregarded subsidiary as discussed above, is not ignored for U.S. federal income tax purposes. Accordingly, such an entity would generally be subject to U.S. federal corporate income tax on its earnings, which may reduce the cash flow generated by us and our subsidiaries in the aggregate and our ability to make distributions to our stockholders. We and each of our TRSs have made a TRS election with respect to each of our TRSs, which allows our TRSs to invest in assets and engage in activities that could not be held or conducted directly by us without jeopardizing our qualification as a REIT.

A REIT is not treated as holding the assets of a TRS or other taxable subsidiary corporation or as receiving any income that the subsidiary earns. Rather, the stock issued by the subsidiary is an asset in the hands of the REIT, and the REIT generally recognizes as income the dividends, if any, that it receives from the subsidiary. This treatment can affect the gross income and asset test calculations that apply to the REIT, as described below. Because a parent REIT does not include the assets and income of such subsidiary corporations in determining the parent's compliance with the REIT requirements, such entities may be used by the parent REIT to undertake indirectly activities that the REIT rules might otherwise preclude it from doing directly or through pass-through subsidiaries or render commercially unfeasible (for example, activities that give rise to certain categories of income such as non-qualifying hedging income or inventory sales). We hold assets in our TRSs, subject to the limitation that securities in TRSs may not represent more than 25% (20% for taxable years beginning after December 31, 2017) of our total assets. To the extent that we acquire loans with an intention of selling such loans in a manner that might expose us to a 100% tax on prohibited transactions, such loans will be acquired by a TRS. If dividends are paid to us by our TRSs, then a portion of dividends, if any, that we distribute to stockholders who are taxed at individual rates generally will be eligible for taxation at preferential qualified dividend income tax

rates rather than at ordinary income rates. See Taxation of Taxable U.S. Stockholders and Annual Distribution Requirements.

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Certain restrictions imposed on TRSs are intended to ensure that such entities will be subject to appropriate levels of U.S. federal income taxation. First, if certain tests regarding the TRS debt-to-equity ratio are not satisfied, a TRS may not deduct interest payments made in any year to an affiliated REIT to the extent that such payments exceed, generally, 50% of the TRS's adjusted taxable income for that year (although the TRS may carry forward to, and deduct in, a succeeding year the disallowed interest amount if the 50% test is satisfied in that year). In addition, if amounts are paid to a REIT or a TRS or deducted by a TRS due to transactions between a REIT, its tenants and/or the TRS, that exceed the amount that would be paid to a REIT or deducted by a TRS or are less than the amount that would be paid to a TRS in an arm's-length transaction, the REIT generally will be subject to an excise tax equal to 100% of such excess. We intend to scrutinize all of our transactions with any of our subsidiaries that are treated as TRSs in an effort to ensure that we will not become subject to this excise tax; however, we cannot assure you that we will be successful in avoiding this excise tax.

***Taxable Mortgage Pools***

An entity, or a portion of an entity, may be classified as a taxable mortgage pool, or TMP, under the Internal Revenue Code if:

substantially all of its assets consist of debt obligations or interests in debt obligations;

more than 50% of those debt obligations are real estate mortgages or interests in real estate mortgages as of specified testing dates;

the entity has issued debt obligations that have two or more maturities; and

the payments required to be made by the entity on its debt obligations bear a relationship to the payments to be received by the entity on the debt obligations that it holds as assets.

Under Treasury regulations, if less than 80% of the assets of an entity (or a portion of an entity) consist of debt obligations, these debt obligations are considered not to comprise substantially all of its assets, and therefore the entity would not be treated as a TMP. We may enter into financing and securitization arrangements that give rise to TMPs. Specifically, we may securitize certain loans that we hold and such securitizations may result in us owning interests in a TMP. To the extent that we do so, we may enter into such transactions through a qualified REIT subsidiary or a subsidiary REIT. We would be precluded from selling to outside investors equity interests in securitizations entered into through a qualified REIT subsidiary or from selling any debt securities issued in connection with such securitizations that might be considered equity for U.S. federal income tax purposes in order to ensure that such entity remains a qualified REIT subsidiary.

A TMP generally is treated as a corporation for U.S. federal income tax purposes; it cannot be included in any consolidated U.S. federal corporate income tax return. However, special rules apply to a REIT, a portion of a REIT, or a qualified REIT subsidiary that is a taxable mortgage pool. If a REIT owns directly, or indirectly through one or more qualified REIT subsidiaries or other entities that are disregarded as a separate entity for U.S. federal income tax purposes, 100% of the equity interests in the TMP, the TMP will be a qualified REIT subsidiary and, therefore, ignored as an entity separate from the REIT for U.S. federal income tax purposes and would not generally affect the tax qualification of the REIT. Rather, the consequences of the taxable mortgage pool classification would generally, except as described below, be limited to the REIT's stockholders. See Excess

Inclusion Income.

If we own less than 100% of the ownership interests in a subsidiary that is a TMP, the foregoing rules would not apply unless such subsidiary is itself a REIT. Rather, the subsidiary would be treated as a corporation for U.S. federal income tax purposes, and would be subject to U.S. federal corporate income tax. In addition, this characterization would alter our REIT income and asset test calculations and could adversely affect our compliance with those requirements. We do not expect that we would form any subsidiary that would become a TMP, in which we own some, but less than all, of the ownership interests (unless such subsidiary is a REIT), and we intend to monitor the structure of any TMPs in which we have an interest to ensure that they will not adversely affect our qualification as a REIT.

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**Table of Contents****Gross Income Tests**

In order to maintain our qualification as a REIT, we annually must satisfy two gross income tests. First, at least 75% of our gross income for each taxable year, excluding gross income from sales of inventory or dealer property in prohibited transactions and certain hedging and foreign currency transactions must be derived from investments relating to real property or mortgages on real property, including rents from real property, dividends received from and gains from the disposition of other shares of other REITs, interest income derived from loans secured by real property, and gains from the sale of real estate assets (other than income or gains with respect to debt instruments issued by public REITs that are not otherwise secured by real property), as well as income from certain kinds of temporary investments. Second, at least 95% of our gross income in each taxable year, excluding gross income from prohibited transactions and certain hedging and foreign currency transactions, must be derived from some combination of income that qualifies under the 75% income test described above, as well as other dividends, interest, and gain from the sale or disposition of stock or securities, which need not have any relation to real property. We intend to continue to monitor the amount of our non-qualifying income and manage our portfolio of assets to comply with the gross income tests, but we cannot assure you that we will be successful in this effort.

For purposes of the 75% and 95% gross income tests, a REIT is deemed to have earned a proportionate share of the income earned by any partnership, or any limited liability company treated as a partnership for U.S. federal income tax purposes, in which it owns an interest, which share is determined by reference to its capital interest in such entity, and is deemed to have earned the income earned by any qualified REIT subsidiary.

***Interest Income***

Interest income constitutes qualifying mortgage interest for purposes of the 75% gross income test to the extent that the obligation is secured by a mortgage on real property. If we receive interest income with respect to a loan that is secured by both real property and other property and the highest principal amount of the loan outstanding during a taxable year exceeds the fair market value of the real property on the date of our binding commitment to make or purchase the mortgage loan, then, subject to the exception described below, the interest income will be apportioned between the real property and the other property, and our income from the arrangement will qualify for purposes of the 75% gross income test only to the extent that the interest is allocable to the real property. For taxable years beginning after December 31, 2015, if a loan is secured by both real property and personal property and the fair market value of the personal property does not exceed 15% of the fair market value of all real and personal property securing the loan, the loan is generally treated as secured solely by real property for purposes of these rules. We invest in loans made for purposes of improving or developing real property, the interest from which is qualifying income for purposes of the REIT income tests, provided that the loan value of the real property securing the loan is equal to or greater than the highest outstanding principal amount of the loan during any taxable year, and other requirements are met, or beginning as of 2016, provided the fair market value of the personal property securing the loan does not exceed 15% of the fair market value of the real and personal property securing the loan. With respect to loans made for purposes of improving or developing real property, the loan value of the real property is the fair market value of the land plus the reasonably estimated cost of the improvements or developments (other than personal property) which will secure the loan and which are to be constructed from the proceeds of the loan. In particular, we intend to continue to treat the interest income that we receive from loans secured by the financing of real property included in our sustainable infrastructure projects, which we include in our financing receivables, as interest on obligations secured by mortgages on real property that is qualifying income for purposes of the 75% gross income test. As discussed above under Taxation of Our Company General Real Property Regulations, we received a private letter ruling from the IRS relating to our ability to treat income from certain of our financing receivables as qualifying REIT income to the extent it falls within the scope of such private letter ruling and to the extent such private letter ruling is not inconsistent with the Real

Property Regulations. We are entitled to rely upon this ruling for that income which fits within the scope of such private letter ruling only to the extent that we have the legal and contractual rights described therein and did not misstate or omit in the ruling request a relevant fact and



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that we continue to operate in the future in accordance with the relevant facts described in such request, and no assurance can be given that we will always be able to do so. If we were not able to treat the interest income that we receive as qualifying income for purposes of the REIT gross income tests, we would be required to restructure the manner in which we receive such income and we may realize significant income that does not qualify for the REIT gross income tests, which could cause us to fail to qualify as a REIT. Even if a loan is not secured by real property or is undersecured, the income that it generates may nonetheless qualify for purposes of the 95% gross income test.

In the event that we invest in a financing receivable or other loan that is not fully secured by real property, is secured by personal property and, beginning as of 2016, if the fair market value of the personal property securing the loan exceeds 15% of the fair market value of the real and personal property securing the loan, we would be required to apportion our annual interest income to the real property security based on a fraction, the numerator of which is the value of the real property securing the financing receivable or other loan, determined when we commit to acquire the financing receivable or other loan, and the denominator of which is the highest principal amount of the financing receivable or other loan during the year. The IRS has issued Revenue Procedure 2014-51 addressing a REIT's investment in distressed debt, or the Distressed Debt Revenue Procedure. The Distressed Debt Revenue Procedure interprets the principal amount of the loan to be the face amount of the loan, despite the Internal Revenue Code requiring taxpayers to treat gain attributable to any market discount, that is the difference between the purchase price of the loan and its face amount, for all purposes (other than certain withholding and information reporting purposes) as interest. Any financing receivable that we invest in that is not fully secured by real property, is secured in part by personal property and, beginning in 2016, is secured by personal property the fair market value of which exceeds 15% of the fair market value of all real and personal property securing the mortgage loan will therefore be subject to the interest apportionment rules and the position taken in the Distressed Debt Revenue Procedure, as described above.

In the future, we may hold mezzanine loans secured by equity interests in a pass-through entity that directly or indirectly owns real property, rather than a direct mortgage on the real property. Revenue Procedure 2003-65 provides a safe harbor pursuant to which a mezzanine loan, if it meets each of the requirements contained in the Revenue Procedure, will be treated by the IRS as a real estate asset for purposes of the REIT asset tests (described below), and interest derived from it will be treated as qualifying mortgage interest for purposes of the 75% gross income test. Although the Revenue Procedure provides a safe harbor on which taxpayers may rely, it does not prescribe rules of substantive tax law. The mezzanine loans that we acquire may not meet all of the requirements for reliance on this safe harbor. Hence, there can be no assurance that the IRS will not challenge the qualification of such assets as real estate assets for purposes of the REIT asset tests or the interest generated by these loans as qualifying income under the 75% gross income test.

To the extent that we derive interest income from a loan where all or a portion of the amount of interest payable is contingent, such income generally will qualify for purposes of the gross income tests only if it is based upon the gross receipts or sales and not the net income or profits of any person. This limitation does not apply, however, to a loan where the borrower derives substantially all of its income from the property from the leasing of substantially all of its interest in the property to tenants, to the extent that the rental income derived by the borrower would qualify as rents from real property had it been earned directly by us.

To the extent that the terms of a loan provide for contingent interest that is based on the cash proceeds realized upon the sale of the property securing the loan (or a shared appreciation provision), income attributable to the participation feature will be treated as gain from sale of the underlying property, which generally will be qualifying income for purposes of both the 75% and 95% gross income tests, provided that the property is not inventory or dealer property in the hands of the borrower or us.



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### ***Fee Income***

We may receive various fees in connection with our operations. The fees generally will be qualifying income for purposes of both the 75% and 95% gross income tests if they are received in consideration for entering into an agreement to make a loan secured by real property and the fees are not determined by income or profits. Other fees are not qualifying income for purposes of either the 75% or 95% gross income test. Any fees earned by a TRS are not included for purposes of the gross income tests.

### ***Dividend Income***

We may receive distributions from TRSs or other corporations that are not REITs or qualified REIT subsidiaries. These distributions are generally classified as dividend income to the extent of the earnings and profits of the distributing corporation. Such distributions generally constitute qualifying income for purposes of the 95% gross income test, but not the 75% gross income test. Any dividends received by us from a REIT will be qualifying income in our hands for purposes of both the 95% and 75% gross income tests.

### ***Hedging Transactions***

We have entered and may in the future enter into hedging transactions with respect to one or more of our assets or liabilities. Hedging transactions could take a variety of forms, including hedging instruments such as interest rate swap agreements, interest rate cap agreements, swaptions, and options on such contracts, futures contracts, puts and calls, similar financial instruments or other financial instruments that we deem appropriate. Except to the extent provided by Treasury regulations, any income from a hedging transaction we enter into (1) in the normal course of our business primarily to manage risk of interest rate or price changes or currency fluctuations with respect to borrowings made or to be made, or ordinary obligations incurred or to be incurred, to acquire or carry real estate assets, which is clearly identified as specified in Treasury regulations before the close of the day on which it was acquired, originated, or entered into, including gain from the sale or disposition of such a transaction, (2) primarily to manage risk of currency fluctuations with respect to any item of income or gain that would be qualifying income under the 75% or 95% income tests which is clearly identified as such before the close of the day on which it was acquired, originated, or entered into, and (3) primarily to manage risk with respect to a hedging transaction described in clause (1) or (2) after the extinguishment of such borrowings or disposal of the asset producing such income that is hedged by the hedging transaction, which is clearly identified as such before the close of the day on which it was acquired, originated or entered into, in each case will not constitute gross income for purposes of the 75% or 95% gross income tests. To the extent that we enter into other types of hedging transactions, the income from those transactions is likely to be treated as non-qualifying income for purposes of both of the 75% and 95% gross income tests. We intend to continue to structure any hedging transactions in a manner that does not jeopardize our qualification as a REIT but there can be no assurances we will be successful in this regard.

### ***Phantom Income***

Due to the nature of the assets in which we expect to invest, we may be required to recognize taxable income from those assets in advance of our receipt of cash flow on or proceeds from disposition of such assets, and may be required to report taxable income in early periods that exceeds the economic income ultimately realized on such assets.

To the extent we acquire debt instruments in the secondary market for less than their face amount, the amount of such discount generally will be treated as market discount for U.S. federal income tax purposes. We will accrue

market discount on the basis of a constant yield to maturity of a debt instrument. Accrued market discount is reported as income when, and to the extent that, any payment of principal of the debt instrument is made, unless we elect to include accrued market discount in income as it accrues. Principal payments on certain loans are made monthly, and consequently accrued market discount may have to be included in income each

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month as if the debt instrument were assured of ultimately being collected in full. If we collect less on the debt instrument than our purchase price plus the market discount we had previously reported as income, we may not be able to benefit from any offsetting loss deductions in a subsequent taxable year.

Some of the debt instruments that we acquire may have been issued with original issue discount. In general, we will be required to accrue original issue discount based on the constant yield to maturity of the debt instrument, and to treat it as taxable income in accordance with applicable U.S. federal income tax rules even though smaller or no cash payments are received on such debt instrument. As in the case of the market discount discussed in the preceding paragraph, the constant yield in question will be determined and we will be taxed based on the assumption that all future payments due on the debt instrument in question will be made, with consequences similar to those described in the previous paragraph if all payments on the debt instrument are not made.

Although we do not presently intend to, we may, in the future, acquire debt investments that are subsequently modified by agreement with the borrower. If the amendments to the outstanding debt are significant modifications under the applicable Treasury regulations, the modified debt may be considered to have been reissued to us in a debt-for-debt exchange with the borrower. In that event, we may be required to recognize taxable income to the extent the principal amount of the modified debt exceeds our adjusted tax basis in the unmodified debt, and would hold the modified loan with a cost basis equal to its principal amount for U.S. federal tax purposes.

In addition, in the event that any debt instruments acquired by us are delinquent as to mandatory principal and interest payments, or in the event payments with respect to a particular debt instrument are not made when due, we may nonetheless be required to continue to recognize the unpaid interest as taxable income. Similarly, we may be required to accrue interest income with respect to subordinate mortgage-backed securities at the stated rate regardless of whether corresponding cash payments are received.

Finally, we may be required under the terms of indebtedness that we incur to private lenders to use cash received from interest payments to make principal payments on that indebtedness, with the effect of recognizing income but not having a corresponding amount of cash available for distribution to our stockholders.

Due to each of these potential timing differences between income recognition and the related cash receipts, there is a significant risk that we may have substantial taxable income in excess of cash available for distribution. In that event, we may need to borrow funds or take other action to satisfy the REIT distribution requirements for the taxable year in which this phantom income is recognized. See Annual Distribution Requirements.

***Rents from Real Property***

Rents that we receive from real property or interests therein that we own or purchase in the future qualify as rents from real property in satisfying the gross income tests described above, only if several conditions are met, including the following. If rent attributable to personal property leased in connection with a lease of real property is greater than 15% of the total rent received under any particular lease, then all of the rent attributable to such personal property will not qualify as rents from real property. The determination of whether an item of personal property constitutes real or personal property under the REIT provisions of the Internal Revenue Code is subject to both legal and factual considerations and is therefore subject to different interpretations. We intend to structure any leases so that the rent payable thereunder will qualify as rents from real property, but there can be no assurance we will be successful in this regard.

In addition, in order for rents received by us to qualify as rents from real property, the rent must not be based in whole or in part on the income or profits of any person. However, an amount will not be excluded from rents from

real property solely by being based on a fixed percentage or percentages of sales or if it is based on the net income of a tenant which derives substantially all of its income with respect to such property from subleasing

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of substantially all of such property, to the extent that the rents paid by the subtenants would qualify as rents from real property, if earned directly by us. Moreover, for rents received to qualify as rents from real property, we generally must not operate or manage the property or furnish or render certain services to the tenants of such property, other than through an independent contractor who is adequately compensated and from which we derive no income or through a TRS. We are permitted, however, to perform services that are usually or customarily rendered in connection with the rental of space for occupancy only and are not otherwise considered rendered to the occupant of the property. In addition, we may directly or indirectly provide non-customary services to tenants of our properties without disqualifying all of the rent from the property if the greater of 150% of our direct cost in furnishing or rendering the services or the payment for such services does not exceed 1% of the total gross income from the property. In such a case, only the amounts for non-customary services are not treated as rents from real property and the provision of the services does not disqualify the related rent.

Rental income will qualify as rents from real property only to the extent that we do not directly or constructively own, (1) in the case of any tenant which is a corporation, stock possessing 10% or more of the total combined voting power of all classes of stock entitled to vote, or 10% or more of the total value of shares of all classes of stock of such tenant, or (2) in the case of any tenant which is not a corporation, an interest of 10% or more in the assets or net profits of such tenant.

***Failure to Satisfy the Gross Income Tests***

We intend to continue to monitor our sources of income, including any non-qualifying income received by us, and manage our assets so as to ensure our compliance with the gross income tests. We cannot assure you, however, that we will be able to satisfy the gross income tests. If we fail to satisfy one or both of the 75% or 95% gross income tests for any taxable year, we may still qualify as a REIT for the year if we are entitled to relief under applicable provisions of the Internal Revenue Code. These relief provisions will generally be available if the failure of our company to meet these tests was due to reasonable cause and not due to willful neglect and, following the identification of such failure, we set forth a description of each item of our gross income that satisfies the gross income tests in a schedule for the taxable year filed in accordance with the Treasury regulation. It is not possible to state whether we would be entitled to the benefit of these relief provisions in all circumstances. If these relief provisions are inapplicable to a particular set of circumstances involving our failure to satisfy the gross income tests, we will not qualify as a REIT. As discussed above under Taxation of REITs in General, even where these relief provisions apply, a tax would be imposed upon the profit attributable to the amount by which we fail to satisfy the particular gross income test, which could be a significant amount.

**Asset Tests**

We, at the close of each calendar quarter, must also satisfy five tests relating to the nature of our assets. First, at least 75% of the value of our total assets must be represented by some combination of real estate assets, cash, cash items, U.S. government securities and, under some circumstances, stock or debt instruments purchased with new capital. For this purpose, real estate assets include interests in real property, such as land, buildings, certain building improvements, leasehold interests in real property, stock of other corporations that qualify as REITs, mortgage loans, and beginning in 2016, debt instruments issued by publicly offered REITs and personal property to the extent rents attributable to such personal property are treated as rents from real property for purposes of the 75% and 95% gross income tests discussed above. Assets that do not qualify for purposes of the 75% test are subject to the additional asset tests described below. Second, the value of any one issuer's securities owned by us may not exceed 5% of the value of our total assets. Third, we may not own more than 10% of any one issuer's outstanding securities, as measured by either voting power or value. Fourth, the aggregate value of all securities of TRSs held by us may not exceed 25% (20% for taxable years beginning after December 31, 2017) of the value of

our total assets. Fifth, the aggregate value of debt instruments issued by publicly offered REITs held by us that are not otherwise secured by real property may not exceed 25% of the value of our total assets.



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The 5% and 10% asset tests do not apply to securities of TRSs and qualified REIT subsidiaries. The 10% value test does not apply to certain straight debt and other excluded securities, as described in the Internal Revenue Code, including but not limited to any loan to an individual or an estate, any obligation to pay rents from real property and any security issued by a REIT. In addition, (a) a REIT's interest as a partner in a partnership is not considered a security for purposes of applying the 10% value test; (b) any debt instrument issued by a partnership (other than straight debt or other excluded security) will not be considered a security issued by the partnership if at least 75% of the partnership's gross income is derived from sources that would qualify for the 75% REIT gross income test; and (c) any debt instrument issued by a partnership (other than straight debt or other excluded security) will not be considered a security issued by the partnership to the extent of the REIT's interest as a partner in the partnership.

For purposes of the 10% value test, straight debt means a written unconditional promise to pay on demand or on a specified date a sum certain in money if (i) the debt is not convertible, directly or indirectly, into stock, (ii) the interest rate and interest payment dates are not contingent on profits, the borrower's discretion, or similar factors other than certain contingencies relating to the timing and amount of principal and interest payments, as described in the Internal Revenue Code and (iii) in the case of an issuer which is a corporation or a partnership, securities that otherwise would be considered straight debt will not be so considered if we, and any of our controlled taxable REIT subsidiaries as defined in the Internal Revenue Code, hold any securities of the corporate or partnership issuer which (a) are not straight debt or other excluded securities (prior to the application of this rule), and (b) have an aggregate value greater than 1% of the issuer's outstanding securities (including, for the purposes of a partnership issuer, our interest as a partner in the partnership).

We may hold certain mezzanine loans that do not qualify for the safe harbor in Revenue Procedure 2003-65 discussed above pursuant to which certain loans secured by a first priority security interest in equity interests in a pass-through entity that directly or indirectly own real property will be treated as qualifying assets for purposes of the 75% real estate asset test and therefore not be subject to the 10% vote or value test. In addition such mezzanine loans may not qualify as straight debt securities or for one of the other exclusions from the definition of securities for purposes of the 10% value test. We intend to make any such investments in such a manner as not to fail the asset tests described above but there can be no assurance that we will be successful in this regard.

We may hold certain participation interests, including B Notes, in loans secured by real property and mezzanine loans originated by other lenders. B Notes are interests in underlying loans created by virtue of participations or similar agreements to which the originators of the loans are parties, along with one or more participants. The borrower on the underlying loan is typically not a party to the participation agreement. The performance of this investment depends upon the performance of the underlying loan and, if the underlying borrower defaults, the participant typically has no recourse against the originator of the loan. The originator often retains a senior position in the underlying loan and grants junior participations which absorb losses first in the event of a default by the borrower. We generally expect to treat our participation interests as qualifying real estate assets for purposes of the REIT asset tests and interest that we derive from such investments as qualifying mortgage interest for purposes of the 75% gross income test discussed above. The appropriate treatment of participation interests for U.S. federal income tax purposes is not entirely certain, however, and no assurance can be given that the IRS will not challenge our treatment of our participation interests. In the event of a determination that such participation interests do not qualify as real estate assets, or that the income that we derive from such participation interests does not qualify as mortgage interest for purposes of the REIT asset and income tests, we could be subject to a penalty tax, or could fail to qualify as a REIT.

We intend to continue to treat a portion of our interests in the loans secured by real property included in our sustainable infrastructure projects, which we include in our financing receivables, as real estate assets that qualify

under the 75% asset test. We received a private letter ruling from the IRS relating to our ability to treat certain of our financing receivables as qualifying REIT assets to the extent they fall within the scope of such private letter ruling (see Taxation of Our Company General Real Property Regulations and Gross Income

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Tests Interest Income above). We expect that our holdings of TRSs and other assets is, and will continue to be, structured in a manner that will comply with the foregoing REIT asset requirements, and we intend to continue to monitor compliance on an ongoing basis. There can be no assurance, however, that we will be successful in this effort. In this regard, to determine compliance with these requirements, we will need to estimate the value of our assets. We do not expect to obtain independent appraisals to support our conclusions as to the total value of our assets or the value of any particular security or other asset. Moreover, values of some assets, including our interests in our TRSs, may not be susceptible to a precise determination and are subject to change in the future. Although we will be prudent in making these estimates, there can be no assurance that the IRS will not disagree with these determinations and assert that a different value is applicable, in which case we might not satisfy the REIT asset tests, and could fail to qualify as a REIT. A financing receivable that we own will generally be treated as a real estate asset for purposes of the 75% asset test if, on the date that we acquire or originate the financing receivable, the value of the real property securing the loan is equal or greater to the principal amount of the loan. In the event that we invest in a financing receivable or other loan that is secured by both real property and other property, the Distressed Debt Revenue Procedure may apply to determine what portion of the financing receivable or other loan will be treated as a real estate asset for purposes of the 75% asset test. The interest apportionment rules apply if the financing receivable or other loan in question is secured by both real property and other property. Pursuant to the Distressed Debt Revenue Procedure, the IRS has announced that it will not challenge a REIT's treatment of a financing receivable or other loan as a real estate asset in its entirety to the extent that the value of the financing receivable or other loan is equal to or less than the value of the real property securing the financing receivable or other loan at the relevant testing date. However, uncertainties exist regarding the application of Distressed Debt Revenue Procedure, particularly with respect to the proper treatment under the asset tests of financing receivable or other loans acquired at a discount that increase in value following their acquisition, and no assurance can be given that the IRS would not challenge our treatment of such assets. Furthermore, the proper classification of an instrument as debt or equity for U.S. federal income tax purposes may be uncertain in some circumstances, which could affect the application of the REIT asset tests.

In addition, we may enter into repurchase agreements under which we will nominally sell certain of our assets to a counterparty and simultaneously enter into an agreement to repurchase the sold assets. We believe that we will be treated for U.S. federal income tax purposes as the owner of the assets that are the subject of any repurchase agreement and that the repurchase agreement will be treated as a secured lending transaction notwithstanding that we may transfer record ownership of the assets to the counterparty during the term of the agreement. It is possible, however, that the IRS could assert that we did not own the assets during the term of the repurchase agreement, in which case we could fail to qualify as a REIT.

***Failure to Satisfy the Asset Tests***

After initially meeting the asset tests at the close of any quarter, we will not lose our qualification as a REIT for failure to satisfy the asset tests at the end of a later quarter solely by reason of changes in asset values. If we fail to satisfy the asset tests because we acquire or increase our ownership of assets during a quarter, we can cure this failure by disposing of sufficient non-qualifying assets within 30 days after the close of that quarter. If we fail the 5% asset test, or the 10% vote or value asset tests at the end of any quarter and such failure is not cured within 30 days thereafter, we may dispose of sufficient assets (generally within six months after the last day of the quarter in which our identification of the failure to satisfy these asset tests occurred) to cure such a violation that does not exceed the lesser of 1% of our assets at the end of the relevant quarter or \$10.0 million. If we fail any of the other asset tests or our failure of the 5% and 10% asset tests is in excess of the *de minimis* amount described above, as long as such failure was due to reasonable cause and not willful neglect, we are permitted to avoid disqualification as a REIT, after the 30 day cure period, by taking steps, including the disposition of sufficient assets to meet the asset tests (generally within six months after the last day of the quarter in which our identification of the failure to

satisfy the REIT asset test occurred), and paying a tax equal to the greater of \$50,000 or the highest U.S. federal corporate income tax rate (currently 35%) of the net income generated by the non-qualifying assets during the period in which we failed to satisfy the asset test.

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**Annual Distribution Requirements**

In order to qualify as a REIT, we are required to distribute dividends, other than capital gain dividends, to our stockholders in an amount at least equal to:

(a) the sum of:

90% of our REIT taxable income (computed without regard to our deduction for dividends paid and our net capital gains); and

90% of the net income (after tax), if any, from foreclosure property (as described below); minus

(b) the sum of specified items of non-cash income that exceeds a percentage of our income.

These distributions must be paid in the taxable year to which they relate or in the following taxable year if such distributions are declared in October, November or December of the taxable year, are payable to stockholders of record on a specified date in any such month and are actually paid before the end of January of the following year. Such distributions are treated as both paid by us and received by each stockholder on December 31 of the year in which they are declared. In addition, at our election, a distribution for a taxable year may be declared before we timely file our tax return for the year and be paid with or before the first regular dividend payment after such declaration, provided that such payment is made during the 12-month period following the close of such taxable year. These distributions are taxable to our stockholders in the year in which paid, even though the distributions relate to our prior taxable year for purposes of the 90% distribution requirement.

In order for distributions to be counted towards our distribution requirement and to give rise to a tax deduction by us, they must not be preferential dividends. A dividend is not a preferential dividend if it is *pro rata* among all outstanding shares of stock within a particular class and is in accordance with the preferences among different classes of stock as set forth in the organizational documents. This preferential dividend limitation will no longer apply to us during any period after December 31, 2014 that we are treated as a publicly offered REIT, which generally includes a REIT required to file annually and periodic reports with the SEC.

To the extent that we distribute at least 90%, but less than 100%, of our REIT taxable income, as adjusted, we will be subject to tax at ordinary U.S. federal corporate tax rates on the retained portion. In addition, we may elect to retain, rather than distribute, our net long-term capital gains and pay tax on such gains. In this case, we could elect to have our stockholders include their proportionate share of such undistributed long-term capital gains in income and receive a corresponding credit or refund, as the case may be, for their proportionate share of the tax paid by us. Our stockholders would then increase the adjusted basis of their stock in us by the difference between the designated amounts included in their long-term capital gains and the tax deemed paid with respect to their proportionate shares. Stockholders that are U.S. corporations would also appropriately adjust their earnings and profits for the retained capital gains in accordance with Treasury Regulations to be promulgated.

If we fail to distribute during each calendar year at least the sum of (a) 85% of our REIT ordinary income for such year, (b) 95% of our REIT capital gain net income for such year and (c) any undistributed taxable income from prior periods, we will be subject to a 4% excise tax on the excess of such required distribution over the sum of (x) the amounts actually distributed (taking into account excess distributions from prior periods) and (y) the amounts of income retained on which we have paid U.S. federal corporate income tax. We intend to continue to

make timely distributions so that we are not subject to the 4% excise tax.

It is possible that we, from time to time, may not have sufficient cash to meet the distribution requirements due to timing differences between (a) the actual receipt of cash, including receipt of distributions from our subsidiaries and (b) the inclusion of items in income by us for U.S. federal income tax purposes. In the event that such timing differences occur, in order to meet the distribution requirements, it might be necessary to arrange for short-term, or possibly long-term, borrowings, to use cash reserves, to liquidate non cash assets at rates or times

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we regard as unfavorable, or to pay dividends in the form of taxable in-kind distributions of property including taxable stock dividends. In the case of a taxable stock dividend, stockholders would be required to include the dividend as income and would be required to satisfy the tax liability associated with the distribution with cash from other sources including sales of our common stock. Both a taxable stock distribution and sale of common stock resulting from such distribution could adversely affect the price of our common stock. We may be able to rectify a failure to meet the distribution requirements for a year by paying deficiency dividends to stockholders in a later year, which may be included in our deduction for dividends paid for the earlier year. In this case, we may be able to avoid losing our qualification as a REIT or being taxed on amounts distributed as deficiency dividends. However, we will be required to pay interest and a penalty based on the amount of any deduction taken for deficiency dividends.

## **Recordkeeping Requirements**

We are required to maintain records and request on an annual basis information from specified stockholders. These requirements are designed to assist us in determining the actual ownership of our outstanding stock and maintaining our qualification as a REIT.

## **Excess Inclusion Income**

It is possible that a portion of our income from a TMP arrangement, which might be non-cash accrued income, could be treated as excess inclusion income, although we have no current intention of entering into TMP arrangements that would give rise to excess inclusion income. A REIT's excess inclusion income must be allocated among its stockholders in proportion to dividends paid. We are required to notify stockholders of the amount of excess inclusion income allocated to them. A stockholder's share of excess inclusion income:

cannot be offset by any net operating losses otherwise available to the stockholder,

in the case of a stockholder that is a REIT, a RIC, or a common trust fund or other pass through entity, is considered excess inclusion income of such entity,

is subject to tax as unrelated business taxable income in the hands of most types of stockholders that are otherwise generally exempt from U.S. federal income tax,

results in the application of U.S. federal income tax withholding at the maximum rate (30%), without reduction for any otherwise applicable income tax treaty or other exemption, to the extent allocable to most types of non-U.S. stockholders, and

is taxable (at the highest U.S. federal corporate tax rate, currently 35%) to the REIT, rather than its stockholders, to the extent allocable to the REIT's stock held in record name by disqualified organizations (generally, tax-exempt entities not subject to unrelated business income tax, including governmental organizations).

The manner in which excess inclusion income is calculated, or would be allocated to stockholders, including allocations among shares of different classes of stock, is not clear under current law. As required by IRS guidance, we intend to make such determinations using a reasonable method.

Tax-exempt investors, RIC or REIT investors, non-U.S. investors and taxpayers with net operating losses should

carefully consider the tax consequences described above, and are urged to consult their tax advisors with respect to the U.S. federal income tax consequences of an investment in our common stock.

If a subsidiary partnership of ours that we do not wholly-own, directly or through one or more disregarded entities, were a TMP, the foregoing rules would not apply. Rather, the partnership that is a TMP would be treated as a corporation for U.S. federal income tax purposes, and potentially would be subject to U.S. federal corporate income tax or withholding tax. In addition, this characterization would alter our income and asset test



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calculations, and could adversely affect our compliance with those requirements. We intend to monitor the structure of any TMPs in which we will have an interest to ensure that they will not adversely affect our qualification as a REIT.

**Prohibited Transactions**

Net income we derive from a prohibited transaction is subject to a 100% tax. The term prohibited transaction generally includes a sale or other disposition of property (other than foreclosure property) that is held as inventory or primarily for sale to customers, in the ordinary course of a trade or business by a REIT, by a lower-tier partnership in which the REIT holds an equity interest or by a borrower that has issued a shared appreciation mortgage or similar debt instrument to the REIT. We intend to continue to conduct our operations so that no asset owned by us or our pass-through subsidiaries will be held as inventory or primarily for sale to customers, and that a sale of any assets owned by us directly or through a pass-through subsidiary will not be in the ordinary course of business. However, whether property is held as inventory or primarily for sale to customers in the ordinary course of a trade or business depends on the particular facts and circumstances. No assurance can be given that any particular asset in which we hold a direct or indirect interest will not be treated as property held as inventory or primarily for sale to customers or that certain safe harbor provisions of the Internal Revenue Code that prevent such treatment will apply. The 100% tax will not apply to gains from the sale of property that is held through a TRS or other taxable corporation, although such income will be subject to tax in the hands of the corporation at regular U.S. federal corporate income tax rates.

**Foreclosure Property**

Foreclosure property is real property and any personal property incident to such real property (1) that is acquired by a REIT as a result of the REIT having bid on the property at foreclosure or having otherwise reduced the property to ownership or possession by agreement or process of law after there was a default (or default was imminent) on a lease of the property or a mortgage loan held by the REIT and secured by the property, (2) for which the related loan or lease was acquired by the REIT at a time when default was not imminent or anticipated and (3) for which such REIT makes a proper election to treat the property as foreclosure property. REITs generally are subject to tax at the maximum U.S. federal corporate tax rate (currently 35%) on any net income from foreclosure property, including any gain from the disposition of the foreclosure property, other than income that would otherwise be qualifying income for purposes of the 75% gross income test. Any gain from the sale of property for which a foreclosure property election has been made will not be subject to the 100% tax on gains from prohibited transactions described above, even if the property would otherwise constitute inventory or dealer property in the hands of the selling REIT. We do not anticipate that we will receive any income from foreclosure property that is not qualifying income for purposes of the 75% gross income test, but, if we do receive any such income, we intend to elect to treat the related property as foreclosure property.

**Tax on Built-In Gains**

If we acquire appreciated assets from a subchapter C corporation in a transaction in which the adjusted tax basis of the assets in our hands is determined by reference to the adjusted tax basis of the assets in the hands of the subchapter C corporation (a carry-over basis transaction), and if we subsequently dispose of any such assets during the 5-year period following the acquisition of the assets from the subchapter C corporation, we will be subject to tax at the highest corporate tax rates on any gain from such assets to the extent of the excess of the fair market value of the assets on the date that they were acquired by us over the basis of such assets on such date, which we refer to as built-in gains. However, the built-in gains tax will not apply if the subchapter C corporation elects to be subject to an immediate tax when the asset is acquired by us. We do not expect any tax payable by our company

that is attributable to built-in gains to be material.

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**Table of Contents****Failure to Qualify**

In the event that we violate a provision of the Internal Revenue Code that would result in our failure to qualify as a REIT, we may nevertheless continue to qualify as a REIT under specified relief provisions available to us to avoid such disqualification if (1) the violation is due to reasonable cause and not due to willful neglect, (2) we pay a penalty of \$50,000 for each failure to satisfy a requirement for qualification as a REIT and (3) the violation does not include a violation under the gross income or asset tests described above (for which other specified relief provisions are available). This cure provision reduces the instances that could lead to our disqualification as a REIT for violations due to reasonable cause. If we fail to qualify for taxation as a REIT in any taxable year and none of the relief provisions of the Internal Revenue Code apply, we will be subject to tax, including any applicable alternative minimum tax, on our taxable income at regular corporate rates. Distributions to our stockholders in any year in which we are not a REIT will not be deductible by us, nor will they be required to be made. In this situation, to the extent of current or accumulated earnings and profits, and, subject to limitations of the Internal Revenue Code, distributions to our stockholders will generally be taxable in the case of our stockholders who are individual U.S. stockholders (as defined below), at a maximum rate of 20%, and dividends in the hands of our corporate U.S. stockholders may be eligible for the dividends received deduction. Unless we are entitled to relief under the specific statutory provisions, we will also be disqualified from re-electing to be taxed as a REIT for the four taxable years following a year during which qualification was lost. It is not possible to state whether, in all circumstances, we will be entitled to statutory relief.

**Tax Aspects of Ownership of Equity Interests in Partnerships and Other Transparent Entities*****General***

We hold our assets through entities that are classified as partnerships and other transparent entities, including trusts, for U.S. federal income tax purposes, including our interest in our operating partnership and any equity interests in lower-tier partnerships. For a discussion of the tax treatment of transparent pass-through entities in which we hold interests, see *Effect of Subsidiary Entities Disregarded Subsidiaries*. In general, partnerships are pass-through entities that are not subject to U.S. federal income tax. Rather, partners are allocated their proportionate shares of the items of income, gain, loss, deduction and credit of a partnership, and are subject to tax on these items without regard to whether the partners receive a distribution from the partnership. We include in our income our proportionate share of these partnership items for purposes of the various REIT income tests, based on our capital interest in such partnership, and in the computation of our REIT taxable income. Moreover, for purposes of the REIT asset tests, we include our proportionate share of assets held by subsidiary partnerships, based on our capital interest in such partnerships (other than for purposes of the 10% value test, for which the determination of our interest in partnership assets will be based on our proportionate interest in any securities issued by the partnership excluding, for these purposes, certain excluded securities as described in the Internal Revenue Code). Consequently, to the extent that we hold an equity interest in a partnership, the partnership's assets and operations may affect our ability to qualify as a REIT, even though we may have no control, or only limited influence, over the partnership.

***Entity Classification***

The ownership by us of equity interests in partnerships, including our operating partnership, involves special tax considerations, including the possibility of a challenge by the IRS of the status of any of our subsidiary partnerships as a partnership, as opposed to an association taxable as a corporation, for U.S. federal income tax purposes. Because it is likely that at least half of our operating partnership's investments will be loans secured by real property and the operating partnership intends to use leverage to finance the investments, the taxable mortgage

pool rules potentially could apply to the operating partnership. However, we and the operating partnership do not presently intend that the operating partnership will incur any indebtedness, the payments on which bear a relationship to payments (including payments at maturity) received by the operating partnership from its investments. Accordingly, we and the operating partnership do not believe that the operating partnership will be an obligor under debt obligations with two or more maturities, the payments on which bear a relationship

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to payments on the operating partnership's debt investments, and, therefore, we and the operating partnership do not believe that the operating partnership will be classified as a taxable mortgage pool. Furthermore, a partnership that does not elect to be treated as a corporation nevertheless will be treated as a corporation for U.S. federal income tax purposes if it is a publicly traded partnership and it does not receive at least 90% of its gross income from certain specified sources of qualifying income within the meaning of that section. A publicly traded partnership is any partnership (i) the interests in which are traded on an established securities market or (ii) the interests in which are readily tradable on a secondary market or the substantial equivalent thereof. Although interests in our operating partnership are not traded on an established securities market, there is a significant risk that the right of a holder of such interests to redeem the interests for cash or, at our option, our common stock, could cause the interests in our operating partnership to be considered readily tradable on the substantial equivalent of a secondary market. Under the relevant Treasury Regulations, interests in a partnership will not be considered readily tradable on a secondary market or on the substantial equivalent of a secondary market if the partnership qualifies for specified safe harbors, which are based on the specific facts and circumstances relating to the partnership. We believe that our operating partnership currently satisfies one or more of the applicable safe harbors. However, we cannot provide any assurance that our operating partnership will, in each of its taxable years, qualify for one of these safe harbors. If our operating partnership or any subsidiary partnership were treated as an association for U.S. federal income tax purposes, it would be taxable as a corporation and, therefore, generally would be subject to an entity-level tax on its income. In such a situation, the character of our assets and items of our gross income would change and would preclude us from satisfying the REIT asset tests (particularly the tests generally preventing a REIT from owning more than 10% of the voting securities, or more than 10% of the value of the securities, of a corporation) or the gross income tests as discussed in *Asset Tests and Gross Income Tests* above, and in turn would prevent us from qualifying as a REIT. See *Failure to Qualify*, above, for a discussion of the effect of our failure to meet these tests for a taxable year.

In addition, any change in the status of any of our subsidiary partnerships for tax purposes might be treated as a taxable event, in which case we could have taxable income that is subject to the REIT distribution requirements without receiving any cash.

***Tax Allocations with Respect to Partnership Properties***

The partnership agreement of our operating partnership generally provides that items of operating income and loss will be allocated to the holders of units in proportion to the number of units held by each holder. If an allocation of partnership income or loss does not comply with the requirements of Section 704(b) of the Internal Revenue Code and the Treasury Regulations thereunder, the item subject to the allocation will be reallocated in accordance with the partners' interests in the partnership. This reallocation will be determined by taking into account all of the facts and circumstances relating to the economic arrangement of the partners with respect to such item. Our operating partnership's allocations of income and loss are intended to comply with the requirements of Section 704(b) of the Internal Revenue Code and the Treasury Regulations promulgated under this section of the Internal Revenue Code. Under the Internal Revenue Code and the Treasury Regulations, income, gain, loss and deduction attributable to appreciated or depreciated property that is contributed to a partnership in exchange for an interest in the partnership must be allocated for tax purposes in a manner such that the contributing partner is charged with, or benefits from, the unrealized gain or unrealized loss associated with the property at the time of the contribution. The amount of the unrealized gain or unrealized loss is generally equal to the difference between the fair market value of the contributed property and the adjusted tax basis of such property at the time of the contribution (a book-tax difference). Such allocations are solely for U.S. federal income tax purposes and do not affect partnership capital accounts or other economic or legal arrangements among the partners.

To the extent that any of our subsidiary partnerships acquires appreciated (or depreciated) properties by way of capital contributions from its partners, allocations would need to be made in a manner consistent with these requirements. Where a partner contributes cash to a partnership at a time that the partnership holds appreciated or

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depreciated property, the Treasury regulations provide for a similar allocation of these items to the other (*i.e.*, non-contributing) partners. These rules apply to the contribution that we made to our operating partnership of the cash proceeds received in offerings of shares of our common stock. As a result, the partners of our operating partnership, including us, could be allocated greater or lesser amounts of depreciation and taxable income in respect of the operating partnership's properties than would be the case if all of the partnership's assets (including any contributed assets) had a tax basis equal to their fair market values at the time of any contributions to that partnership. This could cause us to recognize, over a period of time, taxable income in excess of cash flow from the operating partnership, which might adversely affect our ability to comply with the REIT distribution requirements discussed above and result in a greater portion of our distributions being taxable as dividends.

**Taxation of Taxable U.S. Stockholders**

This section summarizes the taxation of U.S. stockholders that are not tax-exempt organizations. For these purposes, a U.S. stockholder is a beneficial owner of our common stock that for U.S. federal income tax purposes is:

a citizen or resident of the U.S.;

a corporation (including an entity treated as a corporation for U.S. federal income tax purposes) created or organized in or under the laws of the U.S. or of a political subdivision thereof (including the District of Columbia);

an estate whose income is subject to U.S. federal income taxation regardless of its source; or

any trust if (1) a U.S. court is able to exercise primary supervision over the administration of such trust and one or more U.S. persons have the authority to control all substantial decisions of the trust or (2) it has a valid election in place to be treated as a U.S. person.

If an entity or arrangement treated as a partnership for U.S. federal income tax purposes holds our stock, the U.S. federal income tax treatment of a partner generally will depend upon the status of the partner and the activities of the partnership. A partner of a partnership holding our common stock should consult its own tax advisor regarding the U.S. federal income tax consequences to the partner of the acquisition, ownership and disposition of our stock by the partnership.

***Distributions***

Provided that we continue to qualify as a REIT, distributions made to our taxable U.S. stockholders out of our current or accumulated earnings and profits, and not designated as capital gain dividends, will generally be taken into account by them as ordinary dividend income and will not be eligible for the dividends received deduction for corporations. In determining the extent to which a distribution with respect to our common stock constitutes a dividend for U.S. federal income tax purposes, our earnings and profits will be allocated first to distributions with respect to our preferred stock, if any, and then to our common stock. Dividends received from REITs are generally not eligible to be taxed at the preferential qualified dividend income rates applicable to individual U.S. stockholders who receive dividends from taxable subchapter C corporations. With limited exceptions, dividends received by individual U.S. stockholders from us that are not designated as capital gain dividends will continue to be taxed at rates applicable to ordinary income, which are as high as 39.6%.

In addition, distributions from us that are designated as capital gain dividends will be taxed to U.S. stockholders as long-term capital gains, to the extent that they do not exceed the actual net capital gain of our company for the taxable year, without regard to the period for which the U.S. stockholder has held its stock. To the extent that we elect under the applicable provisions of the Internal Revenue Code to retain our net capital gains, U.S. stockholders will be treated as having received, for U.S. federal income tax purposes, our undistributed capital gains as well as a corresponding credit or refund, as the case may be, for taxes paid by us on such retained capital gains. U.S. stockholders will increase their adjusted tax basis in our common stock by the



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difference between their allocable share of such retained capital gain and their share of the tax paid by us. Corporate U.S. stockholders may be required to treat up to 20% of some capital gain dividends as ordinary income. Long-term capital gains are generally taxable at maximum U.S. federal rates of 20% in the case of U.S. stockholders who are individuals, and 35% for corporations. Capital gains attributable to the sale of depreciable real property held for more than 12 months are subject to a 25% maximum U.S. federal income tax rate for U.S. stockholders who are individuals, to the extent of previously claimed depreciation deductions.

Distributions in excess of our current and accumulated earnings and profits will not be taxable to a U.S. stockholder to the extent that they do not exceed the adjusted tax basis of the U.S. stockholder's shares of our common stock in respect of which the distributions were made, but rather will reduce the adjusted tax basis of these shares. To the extent that such distributions exceed the adjusted tax basis of a U.S. stockholder's shares of our common stock, they will be included in income as long-term capital gain, or short-term capital gain if the shares have been held for one year or less. In addition, any dividend declared by us in October, November or December of any year and payable to a U.S. stockholder of record on a specified date in any such month will be treated as both paid by us and received by the U.S. stockholder on December 31 of such year, provided that the dividend is actually paid by us before the end of January of the following calendar year.

With respect to U.S. stockholders who are taxed at the rates applicable to individuals, we may elect to designate a portion of our distributions paid to such U.S. stockholders as qualified dividend income. A portion of a distribution that is properly designated as qualified dividend income is taxable to non-corporate U.S. stockholders as capital gain, provided that the U.S. stockholder has held our common stock with respect to which the distribution is made for more than 60 days during the 121-day period beginning on the date that is 60 days before the date on which such common stock became ex-dividend with respect to the relevant distribution. The maximum amount of our distributions eligible to be designated as qualified dividend income for a taxable year is equal to the sum of:

- (a) the qualified dividend income received by us during such taxable year from non-REIT C corporations (including any TRS in which we own an interest);
- (b) the excess of any undistributed REIT taxable income recognized during the immediately preceding year over the U.S. federal income tax paid by us with respect to such undistributed REIT taxable income; and
- (c) the excess of any income recognized during the immediately preceding year attributable to the sale of a built-in-gain asset that was acquired in a carry-over basis transaction from a non-REIT C corporation over the U.S. federal income tax paid by us with respect to such built-in gain.

Generally, dividends that we receive will be treated as qualified dividend income for purposes of (a) above if the dividends are received from a domestic C corporation (other than a REIT or a RIC), any of our TRSs, or a qualified foreign corporation and specified holding period requirements and other requirements are met.

To the extent that we have available net operating losses and capital losses carried forward from prior tax years, such losses may reduce the amount of distributions that must be made in order to comply with the REIT distribution requirements. See Taxation of our Company General and Annual Distribution Requirements. Such losses, however, are not passed through to U.S. stockholders and do not offset income of U.S. stockholders from other sources, nor do they affect the character of any distributions that are actually made by us, which are generally subject to tax in the hands of U.S. stockholders to the extent that we have current or accumulated earnings and profits.

If excess inclusion income from a taxable mortgage pool or REMIC residual interest is allocated to any stockholder, that income will be taxable in the hands of the stockholder and would not be offset by any net operating losses of the stockholder that would otherwise be available. See [Effect of Subsidiary Entities Taxable Mortgage Pools](#) and [Excess Inclusion Income](#). As required by IRS guidance, we intend to notify our stockholders if a portion of a dividend paid by us is attributable to excess inclusion income.

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**Table of Contents*****Dispositions of Our Common Stock***

In general, a U.S. stockholder will realize gain or loss upon the sale, redemption or other taxable disposition of our common stock in an amount equal to the difference between the sum of the fair market value of any property and the amount of cash received in such disposition and the U.S. stockholder's adjusted tax basis in our common stock at the time of the disposition. In general, a U.S. stockholder's adjusted tax basis will equal the U.S. stockholder's acquisition cost, increased by the excess of net capital gains deemed distributed to the U.S. stockholder (discussed above) less tax deemed paid on it and reduced by returns of capital. In general, capital gains recognized by individuals and other non-corporate U.S. stockholders upon the sale or disposition of shares of our common stock will be subject to a maximum U.S. federal income tax rate of 20%, if our common stock is held for more than 12 months, and will be taxed at ordinary income rates (of up to 39.6%) if our common stock is held for 12 months or less. Gains recognized by U.S. stockholders that are corporations are subject to U.S. federal income tax at a maximum rate of 35%, whether or not classified as long-term capital gains. The IRS has the authority to prescribe, but has not yet prescribed, regulations that would apply a capital gain tax rate of 25% (which is generally higher than the long-term capital gain tax rates for non-corporate holders) to a portion of capital gain realized by a non-corporate holder on the sale of REIT stock or depositary shares that would correspond to the REIT's unrecaptured Section 1250 gain.

Holders are advised to consult with their tax advisors with respect to their capital gain tax liability. Capital losses recognized by a U.S. stockholder upon the disposition of our common stock held for more than one year at the time of disposition will be considered long-term capital losses, and are generally available only to offset capital gain income of the U.S. stockholder but not ordinary income (except in the case of individuals, who may offset up to \$3,000 of ordinary income each year). In addition, any loss upon a sale or exchange of shares of our common stock by a U.S. stockholder who has held the shares for six months or less, after applying holding period rules, will be treated as a long-term capital loss to the extent of distributions received from us that were required to be treated by the U.S. stockholder as long-term capital gain.

***Passive Activity Losses and Investment Interest Limitations***

Distributions made by us and gain arising from the sale or exchange by a U.S. stockholder of our common stock will not be treated as passive activity income. As a result, U.S. stockholders will not be able to apply any passive losses against income or gain relating to our common stock. Distributions made by us, to the extent they do not constitute a return of capital, generally will be treated as investment income for purposes of computing the investment interest limitation. A U.S. stockholder that elects to treat capital gain dividends, capital gains from the disposition of stock or qualified dividend income as investment income for purposes of the investment interest limitation will be taxed at ordinary income rates on such amounts.

***Medicare Tax on Unearned Income***

Certain U.S. stockholders that are individuals, estates or trusts must pay an additional 3.8% tax on, among other things, dividends on and capital gains from the sale or other disposition of stock. U.S. stockholders should consult their tax advisors regarding the effect, if any, of this legislation on their ownership and disposition of our common stock.

***Foreign Accounts***

A 30% withholding tax may, pursuant to Treasury Regulations and IRS guidance, be imposed on dividends paid after June 30, 2014, and gross proceeds from the sale or other disposition of our common stock occurring after

December 31, 2018, to foreign financial institutions in respect of accounts of U.S. stockholders at such financial institutions. U.S. stockholders should consult their tax advisors regarding the effect, if any, of this withholding provision on their ownership and disposition of our common stock. See Foreign Accounts below.

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**Table of Contents****Taxation of Tax-Exempt U.S. Stockholders**

U.S. tax-exempt entities, including qualified employee pension and profit sharing trusts and individual retirement accounts, generally are exempt from U.S. federal income taxation. However, they are subject to taxation on their unrelated business taxable income, which we refer to in this prospectus as UBTI. While many investments in real estate may generate UBTI, the IRS has ruled that dividend distributions from a REIT to a tax-exempt entity do not constitute UBTI. Based on that ruling, and provided that (1) a tax-exempt U.S. stockholder has not held our common stock as debt financed property within the meaning of the Internal Revenue Code (*i.e.*, where the acquisition or holding of the property is financed through a borrowing by the tax-exempt stockholder), (2) our common stock is not otherwise used in an unrelated trade or business and (3) we do not hold an asset that gives rise to excess inclusion income (see Effect of Subsidiary Entities, and Excess Inclusion Income), distributions from us and income from the sale of our common stock generally should not give rise to UBTI to a tax-exempt U.S. stockholder. As previously noted, we may engage in transactions that would result in a portion of our dividend income being considered excess inclusion income, and accordingly, it is possible that a portion of our dividends received by a tax-exempt stockholder will be treated as UBTI.

Tax-exempt U.S. stockholders that are social clubs, voluntary employee benefit associations, supplemental unemployment benefit trusts, and qualified group legal services plans exempt from U.S. federal income taxation under Sections 501(c)(7), (c)(9), (c)(17) and (c)(20) of the Internal Revenue Code, respectively, are subject to different UBTI rules, which generally will require them to characterize distributions from us as UBTI, unless they are able to properly exclude certain amounts set aside or placed in reserve for specific purposes so as to offset the income generated by its investment in our common stock. These prospective investors should consult their tax advisors concerning these set aside and reserve requirements.

In certain circumstances, a pension trust (1) that is described in Section 401(a) of the Internal Revenue Code, (2) is tax exempt under Section 501(a) of the Internal Revenue Code, and (3) that owns more than 10% of our stock could be required to treat a percentage of the dividends from us as UBTI if we are a pension-held REIT. We will not be a pension-held REIT unless (1) either (A) one pension trust owns more than 25% of the value of our stock, or (B) a group of pension trusts, each individually holding more than 10% of the value of our stock, collectively owns more than 50% of such stock; and (2) we would not have qualified as a REIT but for the fact that Section 856(h)(3) of the Internal Revenue Code provides that stock owned by such trusts shall be treated, for purposes of the requirement that not more than 50% of the value of the outstanding stock of a REIT is owned, directly or indirectly, by five or fewer individuals (as defined in the Internal Revenue Code to include certain entities), as owned by the beneficiaries of such trusts. Certain restrictions on ownership and transfer of our stock should generally prevent a tax-exempt entity from owning more than 10% of the value of our stock, or us from becoming a pension-held REIT.

Tax-exempt U.S. stockholders are urged to consult their tax advisors regarding the U.S. federal, state, local and foreign tax consequences of owning our stock.

**Taxation of Non-U.S. Stockholders**

The following is a summary of certain U.S. federal income tax consequences of the acquisition, ownership and disposition of our common stock applicable to non-U.S. stockholders of our common stock. For purposes of this summary, a non-U.S. stockholder is a beneficial owner of our common stock that is not a U.S. stockholder or an entity that is treated as a partnership for U.S. federal income tax purposes. The discussion is based on current law and is for general information only. It addresses only selective and not all aspects of U.S. federal income taxation.

Non-U.S. stockholders should consult their tax advisors concerning the U.S. federal estate consequences of ownership of our common stock.

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**Table of Contents*****Ordinary Dividends***

The portion of dividends received by non-U.S. stockholders payable out of our earnings and profits that are not attributable to gains from sales or exchanges of U.S. real property interests and which are not effectively connected with a U.S. trade or business of the non-U.S. stockholder will generally be subject to U.S. federal withholding tax at the rate of 30%, unless reduced or eliminated by an applicable income tax treaty. Under some treaties, however, lower rates generally applicable to dividends do not apply to dividends from REITs. In addition, any portion of the dividends paid to non-U.S. stockholders that are treated as excess inclusion income will not be eligible for exemption from the 30% withholding tax or a reduced treaty rate. As previously noted, we may engage in transactions that would result in a portion of our dividends being considered excess inclusion income, and accordingly, it is possible that a portion of our dividend income will not be eligible for exemption from the 30% withholding rate or a reduced treaty rate. In the case of a taxable stock dividend with respect to which any withholding tax is imposed on a non-U.S. stockholder, we may have to withhold or dispose of part of the shares otherwise distributable in such dividend and use such withheld shares or the proceeds of such disposition to satisfy the withholding tax imposed.

In general, non-U.S. stockholders will not be considered to be engaged in a U.S. trade or business solely as a result of their ownership of our stock. In cases where the dividend income from a non-U.S. stockholder's investment in our common stock is, or is treated as, effectively connected with the non-U.S. stockholder's conduct of a U.S. trade or business, the non-U.S. stockholder generally will be subject to U.S. federal income tax at graduated rates, in the same manner as U.S. stockholders are taxed with respect to such dividends, and may also be subject to the 30% branch profits tax on the income after the application of the income tax in the case of a non-U.S. stockholder that is a corporation.

***Non-Dividend Distributions***

Unless (A) our common stock constitutes a U.S. real property interest, or USRPI, or (B) either (1) the non-U.S. stockholder's investment in our common stock is effectively connected with a U.S. trade or business conducted by such non-U.S. stockholder (in which case the non-U.S. stockholder will be subject to the same treatment as U.S. stockholders with respect to such gain) or (2) the non-U.S. stockholder is a nonresident alien individual who was present in the U.S. for 183 days or more during the taxable year and has a tax home in the U.S. (in which case the non-U.S. stockholder will be subject to a 30% tax on the individual's net capital gain for the year), distributions by us which are not dividends out of our earnings and profits will not be subject to U.S. federal income tax. If it cannot be determined at the time at which a distribution is made whether or not the distribution will exceed current and accumulated earnings and profits, the distribution will be subject to withholding at the rate applicable to dividends. However, the non-U.S. stockholder may seek a refund from the IRS of any amounts withheld if it is subsequently determined that the distribution was, in fact, in excess of our current and accumulated earnings and profits.

If our common stock constitutes a USRPI, as described below, distributions by us in excess of the sum of our earnings and profits plus the non-U.S. stockholder's adjusted tax basis in our common stock will be taxed under the Foreign Investment in Real Property Tax Act of 1980, or FIRPTA, at the rate of tax, including any applicable capital gains rates, that would apply to a U.S. stockholder of the same type (*e.g.*, an individual or a corporation, as the case may be), and the collection of the tax will be enforced by a refundable withholding at a rate of 15% of the amount by which the distribution exceeds the stockholder's share of our earnings and profits. Non-U.S. stockholders that are treated as qualified foreign pension funds or that are non-U.S. publicly traded investment vehicles meeting certain requirements are exempt from the federal income and withholding taxes applicable under FIRPTA on such distributions by us.

***Capital Gain Dividends***

Under FIRPTA, a distribution made by us to a non-U.S. stockholder, to the extent attributable to gains from dispositions of USRPIs held by us directly or through pass-through subsidiaries, or USRPI capital gains, will be

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considered effectively connected with a U.S. trade or business of the non-U.S. stockholder and will be subject to U.S. federal income tax at the rates applicable to U.S. stockholders, without regard to whether the distribution is designated as a capital gain dividend. In addition, we will be required to withhold tax equal to 35% of the amount of capital gain dividends to the extent the dividends constitute USRPI capital gains. Distributions subject to FIRPTA may also be subject to a 30% branch profits tax in the hands of a non-U.S. holder that is a corporation. However, the 35% withholding tax will not apply to any capital gain dividend (i) with respect to any class of our stock which is regularly traded on an established securities market located in the U.S. if the non-U.S. stockholder did not own more than 10% of such class of stock at any time during the one-year period ending on the date of such dividend or (ii) received by certain non-U.S. publicly traded investment vehicles meeting certain requirements. Instead, any capital gain dividend received by such a stockholder will be treated as a distribution subject to the rules discussed above under Taxation of Non-U.S. Stockholders Ordinary Dividends. Also, the branch profits tax will not apply to such a distribution. In addition, non-U.S. stockholders that are treated as qualified foreign pension funds are exempt from income and withholding taxes applicable under FIRPTA on distributions from us. We believe our common stock is, and will continue to be, regularly traded on an established securities market in the United States.

A distribution is not a USRPI capital gain if we held the underlying asset solely as a creditor, although the holding of a shared appreciation mortgage loan would not be solely as a creditor. Capital gain dividends received by a non-U.S. stockholder from a REIT that are not USRPI capital gains are generally not subject to U.S. federal income or withholding tax, unless either (1) the non-U.S. stockholder's investment in our common stock is effectively connected with a U.S. trade or business conducted by such non-U.S. stockholder (in which case the non-U.S. stockholder will be subject to the same treatment as U.S. stockholders with respect to such gain) or (2) the non-U.S. stockholder is a nonresident alien individual who was present in the U.S. for 183 days or more during the taxable year and has a tax home in the U.S. (in which case the non-U.S. stockholder will be subject to a 30% tax on the individual's net capital gain for the year).

***Dispositions of Our Common Stock***

Unless our common stock constitutes a USRPI, a sale of the stock by a non-U.S. stockholder generally will not be subject to U.S. federal income taxation under FIRPTA. Generally, with respect to any particular stockholder, our common stock will constitute a USRPI only if each of the following three statements is true:

- (a) Fifty percent or more of our assets on any of certain testing dates during a prescribed testing period consist of interests in real property located within the United States, excluding for this purpose, interests in real property solely in a capacity as creditor;
- (b) We are not a domestically-controlled qualified investment entity. A domestically-controlled qualified entity includes a REIT, less than 50% of value of which is held directly or indirectly by non-U.S. stockholders at all times during a specified testing period. For this purpose, effective beginning December 18, 2015, a REIT may generally presume that any class of the REIT's stock that is regularly traded, as defined by the applicable Treasury Regulations, on an established securities market is held by U.S. persons except in the case of holders of 5% or more such class of stock and except to the extent that the REIT has actual knowledge that such stock is held by non-U.S. persons. In addition, effective beginning December 18, 2015, certain look-through and presumption rules apply for this purpose to any stock of a REIT that is held by a RIC or another REIT. Although we believe that we are, and will continue to be, a domestically-controlled REIT, because our shares are publicly traded we cannot make any assurance that we will remain a domestically-controlled qualified investment entity; and
- (c) Either (i) our common stock is not regularly traded, as defined by applicable Treasury regulations, on an established securities market; or (ii) our common stock is regularly traded on an established securities market and the selling non-U.S. stockholder has actually or constructively held over 5% of our outstanding common stock any time during the shorter of the five-year period ending

on the date of the sale or the period such selling non-U.S. stockholder held our common stock.

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In addition, even if our common stock is treated as a USRPI, non-U.S. stockholders that are treated as qualified foreign pension funds or that are non-U.S. publicly traded investment vehicles meeting certain requirements are exempt from tax under FIRPTA on the sale of our common stock.

Specific wash sales rules applicable to sales of stock in a domestically-controlled qualified investment entity could result in gain recognition, taxable under FIRPTA, upon the sale of our common stock even if we are a domestically-controlled qualified investment entity. These rules would apply if a non-U.S. stockholder (a) disposes of our common stock within a 30-day period preceding the ex-dividend date of a distribution, any portion of which, but for the disposition, would have been taxable to such non-U.S. stockholder as gain from the sale or exchange of a USRPI, and (b) acquires, or enters into a contract or option to acquire, other shares of our common stock during the 61-day period that begins 30 days prior to such ex-dividend date.

If gain on the sale of our common stock were subject to taxation under FIRPTA, the non-U.S. stockholder would be subject to the same treatment as a U.S. stockholder with respect to such gain, subject to applicable alternative minimum tax and a special alternative minimum tax in the case of non-resident alien individuals, and the purchaser of the stock could be required to withhold 15% of the purchase price and remit such amount to the IRS.

Gain from the sale of our common stock that would not otherwise be subject to FIRPTA will nonetheless be taxable in the U.S. to a non-U.S. stockholder in two cases: (a) if the non-U.S. stockholder's investment in our common stock is effectively connected with a U.S. trade or business conducted by such non-U.S. stockholder, the non-U.S. stockholder will be subject to the same treatment as a U.S. stockholder with respect to such gain, or (b) if the non-U.S. stockholder is a nonresident alien individual who was present in the U.S. for 183 days or more during the taxable year and has a tax home in the U.S., the nonresident alien individual will be subject to a 30% tax on the individual's net capital gain.

## **Backup Withholding and Information Reporting**

We will report to our U.S. stockholders and the IRS the amount of dividends paid during each calendar year and the amount of any tax withheld. Under the backup withholding rules, a U.S. stockholder may be subject to backup withholding with respect to dividends paid unless the holder comes within an exempt category and, when required, demonstrates this fact or provides a taxpayer identification number or social security number, certifies as to no loss of exemption from backup withholding and otherwise complies with applicable requirements of the backup withholding rules. A U.S. stockholder that does not provide his or her correct taxpayer identification number or social security number may also be subject to penalties imposed by the IRS. Backup withholding is not an additional tax. In addition, we may be required to withhold a portion of capital gain distribution to any U.S. stockholder who fails to certify their non-foreign status.

We must report annually to the IRS and to each non-U.S. stockholder the amount of dividends paid to such holder and the tax withheld with respect to such dividends, regardless of whether withholding was required. Copies of the information returns reporting such dividends and withholding may also be made available to the tax authorities in the country in which the non-U.S. stockholder resides under the provisions of an applicable income tax treaty. A non-U.S. stockholder may be subject to backup withholding unless applicable certification requirements are met.

Payment of the proceeds of a sale of our common stock within the U.S. is subject to both backup withholding and information reporting unless the beneficial owner certifies under penalties of perjury that it is a non-U.S. stockholder (and the payor does not have actual knowledge or reason to know that the beneficial owner is a U.S. person) or the holder otherwise establishes an exemption. Payment of the proceeds of a sale of our common stock conducted through certain U.S. related financial intermediaries is subject to information reporting (but not backup

withholding) unless the financial intermediary has documentary evidence in its records that the beneficial owner is a non-U.S. stockholder and specified conditions are met or an exemption is otherwise established.

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Backup withholding is not an additional tax. Any amounts withheld under the backup withholding rules may be allowed as a refund or a credit against such holder's U.S. federal income tax liability provided the required information is timely furnished to the IRS.

## **Foreign Accounts**

Withholding taxes may be imposed on certain types of payments made to foreign financial institutions and certain other non-U.S. entities under certain circumstances. More specifically, the failure to comply with additional certification, information reporting and other specified requirements could result in withholding tax being imposed on payments of dividends and sales proceeds to U.S. stockholders (as defined above) who own shares of our common stock through foreign accounts or foreign intermediaries and to certain non-U.S. stockholders. The 30% withholding tax, pursuant to Treasury Regulations and IRS guidance, is generally imposed on payments occurring after June 30, 2014 with respect to dividends, and after December 31, 2018, with respect to gross proceeds from the sale or other disposition of, our common stock paid to a foreign financial institution or to a foreign entity other than a financial institution, unless (i) the foreign financial institution undertakes certain diligence and reporting obligations or (ii) the foreign entity that is not a financial institution either certifies it does not have any substantial United States owners or furnishes identifying information regarding each substantial United States owner. If the payee is a foreign financial institution, it must enter into an agreement with the U.S. Treasury Department requiring, among other things, that it undertake to identify accounts held by certain United States persons or United States-owned foreign entities, annually report certain information about such accounts, and withhold 30% on payments to account holders whose actions prevent it from complying with these reporting and other requirements. Prospective investors should consult their tax advisors regarding this legislation.

## **State, Local and Foreign Taxes**

We and our stockholders may be subject to state, local or foreign taxation in various jurisdictions, including those in which it or they transact business, own property or reside. The state, local or foreign tax treatment of our company and our stockholders may not conform to the U.S. federal income tax treatment discussed above. Any foreign taxes incurred by us would not pass through to stockholders as a credit against their U.S. federal income tax liability. Prospective stockholders should consult their tax advisors regarding the application and effect of state, local and foreign income and other tax laws on an investment in our company's common stock.

## **Legislative or Other Actions Affecting REITs**

The rules dealing with U.S. federal income taxation are constantly under review by persons involved in the legislative process and by the IRS and the U.S. Treasury Department. No assurance can be given as to whether, when, or in what form, U.S. federal income tax laws applicable to us and our stockholders may be enacted. Changes to the U.S. federal income tax laws and interpretations of U.S. federal income tax laws could adversely affect an investment in shares of our common stock.

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**Table of Contents****BOOK-ENTRY SECURITIES**

We may issue the securities offered by means of this prospectus in whole or in part in book-entry form, meaning that beneficial owners of the securities will not receive certificates representing their ownership interests in the securities, except in the event the book-entry system for the securities is discontinued. If securities are issued in book entry form, they will be represented by one or more global securities that will be deposited with, or on behalf of, a depository identified in the applicable prospectus supplement relating to the securities. The Depository Trust Company is expected to serve as depository. Unless and until it is exchanged in whole or in part for the individual securities represented thereby, a global security may not be transferred except as a whole by the depository for the global security to a nominee of such depository or by a nominee of such depository to such depository or another nominee of such depository or by the depository or any nominee of such depository to a successor depository or a nominee of such successor. Global securities may be issued in either registered or bearer form and in either temporary or permanent form. The specific terms of the depository arrangement with respect to a class or series of securities that differ from the terms described herein will be described in the applicable prospectus supplement.

Unless otherwise indicated in the applicable prospectus supplement, we anticipate that the following provisions will apply to depository arrangements.

Upon the issuance of a global security, the depository for the global security or its nominee will credit on its book-entry registration and transfer system the respective principal amounts of the individual securities represented by such global security to the accounts of persons that have accounts with such depository, who are called participants. Such accounts shall be designated by the underwriters, dealers or agents with respect to the securities or by us if the securities are offered and sold directly by us. Ownership of beneficial interests in a global security will be limited to the depository's participants or persons that may hold interests through such participants. Ownership of beneficial interests in the global security will be shown on, and the transfer of that ownership will be effected only through, records maintained by the applicable depository or its nominee (with respect to beneficial interests of participants) and records of the participants (with respect to beneficial interests of persons who hold through participants). The laws of some states require that certain purchasers of securities take physical delivery of such securities in definitive form. Such limits and laws may impair the ability to own, pledge or transfer beneficial interest in a global security.

So long as the depository for a global security or its nominee is the registered owner of such global security, such depository or nominee, as the case may be, will be considered the sole owner or holder of the securities represented by such global security for all purposes under the applicable instrument defining the rights of a holder of the securities. Except as provided below or in the applicable prospectus supplement, owners of beneficial interest in a global security will not be entitled to have any of the individual securities of the class or series represented by such global security registered in their names, will not receive or be entitled to receive physical delivery of any such securities in definitive form and will not be considered the owners or holders thereof under the applicable instrument defining the rights of the holders of the securities.

Payments of amounts payable with respect to individual securities represented by a global security registered in the name of a depository or its nominee will be made to the depository or its nominee, as the case may be, as the registered owner of the global security representing such securities. None of us, our officers and directors or any trustee, paying agent or security registrar for an individual class or series of securities will have any responsibility or liability for any aspect of the records relating to or payments made on account of beneficial ownership interests in the global security for such securities or for maintaining, supervising or reviewing any records relating to such beneficial ownership interests.

We expect that the depositary for a class or series of securities offered by means of this prospectus or its nominee, upon receipt of any payment of principal, premium, interest, dividend or other amount in respect of a permanent global security representing any of such securities, will immediately credit its participants' accounts.

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with payments in amounts proportionate to their respective beneficial interests in the principal amount of such global security for such securities as shown on the records of such depositary or its nominee. We also expect that payments by participants to owners of beneficial interests in such global security held through such participants will be governed by standing instructions and customary practices, as is the case with securities held for the account of customers in bearer form or registered in street name. Such payments will be the responsibility of such participants.



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**LEGAL MATTERS**

Certain legal matters will be passed upon for us by Clifford Chance US LLP. In addition, the description of U.S. federal income tax consequences contained in the section of the prospectus entitled "U.S. Federal Income Tax Considerations" is based on the opinion of Clifford Chance US LLP. If the validity of any securities is also passed upon by counsel for the underwriters of an offering of those securities, that counsel will be named in the prospectus supplement relating to that offering.

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**EXPERTS**

Ernst & Young LLP, independent registered public accounting firm, has audited our consolidated financial statements included in our Annual Report on Form 10-K for the year ended December 31, 2016, and the effectiveness of our internal control over financial reporting as of December 31, 2016, as set forth in their reports, which are incorporated by reference in this prospectus and elsewhere in the registration statement. Our financial statements are incorporated by reference in reliance on Ernst & Young LLP's report, given on their authority as experts in accounting and auditing.

Deloitte & Touche LLP, an independent auditor, has audited the consolidated financial statements, included in our Annual Report on Form 10-K/A, for the years ended December 31, 2016 and 2015, of Buckeye Wind Energy Class B Holdings LLC and Subsidiaries, as set forth in their report, which is incorporated by reference in this prospectus and elsewhere in the registration statement. Such financial statements have been incorporated by reference in reliance upon the report of Deloitte & Touche LLP, given on their authority as experts in accounting and auditing.

**Table of Contents****WHERE YOU CAN FIND MORE INFORMATION**

We are subject to the informational requirements of the Exchange Act and, in accordance therewith, we file annual, quarterly and current reports, proxy statements and other information with the SEC. You may read and copy any reports, statements or other information we file at the SEC's public reference room located at 100 F Street, NE, Washington, D.C. 20549. Please call the SEC at 1-800-SEC-0330 for further information on the public reference room. Our SEC filings are also available to the public from commercial document retrieval services and at the website maintained by the SEC, containing reports, proxy and information statements, and other information regarding issuers that file electronically with the SEC, at [www.sec.gov](http://www.sec.gov).

This prospectus is a part of a registration statement on Form S-3 that we have filed with the SEC under the Securities Act covering securities that may be offered under this prospectus. This prospectus does not contain all of the information set forth in the registration statement, certain parts of which are omitted in accordance with the rules and regulations of the SEC. For further information concerning us and the securities, reference is made to the registration statement. Statements contained in this prospectus as to the contents of any contract or other documents are not necessarily complete, and in each instance, reference is made to the copy of such contract or documents filed as an exhibit to the registration statement, each such statement being qualified in all respects by such reference.

The SEC allows us to incorporate by reference information into this prospectus, which means that we can disclose important information to you by referring you to another document filed separately with the SEC. The information incorporated by reference herein is deemed to be part of this prospectus, except for any information superseded by information in this prospectus. This prospectus incorporates by reference the documents set forth below that we have previously filed with the SEC. These documents contain important information about us, our business and our finances.

**Document**

Quarterly Report on Form 10-Q (File No. 001-35877)  
 Quarterly Report on Form 10-Q (File No. 001-35877)  
 Annual Report on Form 10-K/A (File No. 001-35877)  
 Annual Report on Form 10-K (File No. 001-35877)

**Period**

Quarter ended June 30, 2017  
 Quarter ended March 31, 2017  
 Year ended December 31, 2016  
 Year ended December 31, 2016

**Document**

Current Report on Form 8-K (File No. 001-35877)  
 Current Report on Form 8-K (File No. 001-35877)  
 Current Report on Form 8-K (File No. 001-35877)  
 Current Report on Form 8-K (File No. 001-35877)

**Filed**

June 5, 2017  
 March 21, 2017  
 March 10, 2017  
 March 6, 2017

**Document**

Definitive Proxy Statement on Schedule 14A (only with respect to information contained in such Definitive Proxy Statement that is incorporated by reference into Part III of our Annual Report on Form 10-K for the year ended December 31, 2016) (File No. 001-35877)

**Filed**

April 10, 2017

**Document****Filed**

Registration Statement on Form 8-A (containing the  
description of shares of our common stock) (File  
No. 001-35877)

April 15, 2013

All documents that we file (but not those that we furnish) pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act on or after the date of this prospectus and prior to the termination of the offering of any of the

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securities covered under this prospectus shall be deemed to be incorporated by reference into this prospectus and will automatically update and supersede the information in this prospectus, the applicable prospectus supplement and any previously filed documents.

If you request, either orally or in writing, we will provide you with a copy of any or all documents that are incorporated by reference. Such documents will be provided to you free of charge, but will not contain any exhibits, unless those exhibits are incorporated by reference into the document. Requests should be addressed to us at 1906 Towne Centre Blvd, Suite 370, Annapolis, Maryland 21401, Attention: Hannon Armstrong Sustainable Infrastructure Capital, Inc., Investor Relations, or contact our offices at (410) 571-9860. The documents may also be accessed on our website at [www.hannonarmstrong.com](http://www.hannonarmstrong.com).

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**\$150,000,000**

**Hannon Armstrong Sustainable**

**Infrastructure Capital, Inc.**

**Common Stock**

**PROSPECTUS SUPPLEMENT**

**FBR**

**BAIRD**

August 4, 2017