HERSHA HOSPITALITY TRUST
Form 424B5
November 03, 2016
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CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities to be Registered	Maximum Aggregate Offering Price	Amount of Registration Fee(1)
6.50% Series E Cumulative Redeemable Preferred Shares, $0.01 par value per share	$115,000,000	$13,328.50

(1) Calculated in accordance with Rule 457(r) under the Securities Act of 1933, as amended.

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Filed pursuant to Rule 424(b)(5)
Registration No. 333-196175

PROSPECTUS SUPPLEMENT

(To Prospectus Dated May 22, 2014)

4,000,000 Shares

6.50% Series E Cumulative Redeemable Preferred Shares

Hersha Hospitality Trust is offering 4,000,000 shares of its 6.50% Series E Cumulative Redeemable Preferred Shares of Beneficial Interest, $0.01 par value per share, which we refer to in this prospectus supplement as the Series E Preferred Shares.

We will pay quarterly cumulative dividends, in arrears, on the Series E Preferred Shares from, and including, the date of original issue, payable on or about January 15th, April 15th, July 15th and October 15th of each year, when and as declared, beginning on January 15, 2017, at a yearly rate of 6.50% of the $25.00 liquidation preference, or $1.625 per Series E Preferred Share per year. The first dividend payment will be for less than a full quarter and will cover the period from, and including, November 7, 2016 to, but excluding, January 15, 2017. Generally, we may not redeem the Series E Preferred Shares until November 7, 2021. On and after, November 7, 2021, we may, at our option, redeem the Series E Preferred Shares, in whole or in part, by paying $25.00 per share, plus all accrued and unpaid dividends to, but excluding, the redemption date. In addition, upon the occurrence of a Change of Control (as defined herein), we may, at our option, redeem the Series E Preferred Shares, in whole or in part and within 120 days after the first date on which such Change of Control occurred, by paying $25.00 per share, plus all accrued and unpaid dividends to, but excluding, the redemption date. If we exercise any of our redemption rights, holders of the Series E Preferred Shares will not have the conversion rights described below. The Series E Preferred Shares have no maturity date and will remain outstanding indefinitely unless redeemed by us or converted in connection with a Change of Control by holders of the Series E Preferred Shares.

Upon the occurrence of a Change of Control, each holder of the Series E Preferred Shares will have the right (unless, prior to the Change of Control Conversion Date (as defined herein), we provide notice of our election to redeem the Series E Preferred Shares) to convert some or all of the Series E Preferred Shares held by such holder on the Change of Control Conversion Date into a number of our common shares per Series E Preferred Share or the equivalent value of the alternative consideration as described herein.

Holders of the Series E Preferred Shares will generally have no voting rights, except if we fail to pay dividends on any Series E Preferred Share for six or more quarterly periods (whether or not consecutive).

The Series E Preferred Shares rank *pari passu* with our 6.875% Series C Cumulative Redeemable Preferred Shares of Beneficial Interest, $0.01 par value per share, which we refer to in this prospectus supplement as the Series C

Preferred Shares (NYSE: HT PRC), and our 6.50% Series D Cumulative Redeemable Preferred Shares of Beneficial Interest, $0.01 par value per share, which we refer to in this prospectus supplement as the Series D Preferred Shares (NYSE: HT PRD).

To assist us in qualifying as a real estate investment trust, or REIT, for federal income tax purposes, among other purposes, under our declaration of trust, ownership of our Series E Preferred Shares by any person is generally limited to 9.9% of the aggregate number of outstanding Series E Preferred Shares.

We intend to file an application to list the Series E Preferred Shares on the New York Stock Exchange, or NYSE, under the symbol HT PRE. If this application is approved, trading of the Series E Preferred Shares on the NYSE is expected to begin within 30 days following initial delivery of the Series E Preferred Shares.

The Series E Preferred Shares have not been rated and are subject to the risks associated with unrated securities.

Investing in the Series E Preferred Shares involves risks. See Risk Factors beginning on page S-8 of this prospectus supplement, on page 2 of the accompanying prospectus, on page 13 of our Annual Report on Form 10-K for the year ended December 31, 2015 and in other reports we file with the SEC from time to time.

	Per Share	Total
Public offering price	$ 25.00	$ 100,000,000
Underwriting discount	$ 0.7875	$ 3,150,000
Proceeds, before expenses, to us	$ 24.2125	$ 96,850,000

The underwriters may also purchase up to an additional 600,000 Series E Preferred Shares from us, at the public offering price, less the underwriting discount, within 30 days from the date of this prospectus supplement.

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

The Series E Preferred Shares will be ready for delivery on or about November 7, 2016.

Joint Book-Running Managers

Morgan Stanley **BofA Merrill Lynch** **Wells Fargo Securities** **Citigroup**

Lead Manager

J.P. Morgan

Co-Managers

Baird	**BBVA**	**Canaccord Genuity**	**FBR**
Fifth Third Securities	**Janney Montgomery Scott**	**JMP Securities**	**PNC Capital Markets LLC**

The date of this prospectus supplement is November 1, 2016.

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Prospectus Supplement

Prospectus

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ABOUT THIS PROSPECTUS SUPPLEMENT

This document is in two parts. The first part is this prospectus supplement, which describes the specific terms of this offering. The second part, the accompanying prospectus, gives more general information, some of which may not apply to this offering.

To the extent the information contained in this prospectus supplement differs or varies from the information contained in the accompanying prospectus or documents incorporated by reference, the information in this prospectus supplement will supersede such information.

This prospectus supplement does not contain all of the information that is important to you. You should read the accompanying prospectus as well as the documents incorporated by reference in this prospectus supplement and the accompanying prospectus. See Incorporation of Certain Documents by Reference in this prospectus supplement and Where You Can Obtain More Information in the accompanying prospectus.

You should rely only on the information contained in or incorporated by reference in this prospectus supplement, the accompanying prospectus and any free writing prospectus prepared by us. We have not, and the underwriters have not, authorized anyone to provide you with information that is different from or additional to that contained or incorporated by reference in this prospectus supplement and the accompanying prospectus. We are not, and the underwriters are not, making an offer of these securities in any jurisdiction where the offer or sale is not permitted. You should not assume that the information contained or incorporated by reference in this prospectus supplement and the accompanying prospectus is accurate as of any date other than the date on the front cover of this prospectus supplement or the date of the document containing the incorporated information. Our business, financial condition, results of operations and prospects may have changed since those respective dates.

FORWARD-LOOKING STATEMENTS

This prospectus supplement and the accompanying prospectus contain forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended, including, without limitation, statements containing the words, believe, expect, anticipate, estimate, pla continue, intend, should, may and words of similar import. Such forward-looking statements relate to future events our plans, strategies, prospects and future financial performance, and involve known and unknown risks that are difficult to predict, uncertainties and other factors which may cause our actual results, performance or achievements or industry results to be materially different from any future results, performance or achievements expressed or implied by such forward-looking statements. Readers should specifically consider the various factors identified in this and other reports filed by us with the SEC, including, but not limited to those discussed in the section entitled Risk Factors of our Annual Report on Form 10-K for the year ended December 31, 2015, that could cause actual results to differ. Statements regarding the following subjects are forward-looking by their nature:

- our business or investment strategy;
- our projected operating results;
- our distribution policy;

our liquidity;

completion of any pending transactions;

our ability to obtain future financing arrangements on favorable terms or at all;

our understanding of our competition;

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- market trends; and
- projected capital expenditures.

Forward-looking statements are based on our beliefs, assumptions and expectations, taking into account all information currently available to us. These beliefs, assumptions and expectations are subject to risks and uncertainties and can change as a result of many possible events or factors, not all of which are known to us. If a change occurs, our business, financial condition, liquidity and results of operations may vary materially from those expressed in our forward-looking statements. Readers should not place undue reliance on forward-looking statements. The following factors could cause actual results to vary from our forward-looking statements:

- general volatility of the capital markets and the market price of our common shares;
- changes in our business or investment strategy;
- availability, terms and deployment of capital;
- availability of qualified personnel;
- changes in our industry and the market in which we operate, interest rates, or the general economy;
- the degree and nature of our competition;
- financing risks, including the risk of leverage and the corresponding risk of default on our mortgage loans and other debt and potential inability to refinance or extend the maturity of existing indebtedness;
- levels of spending in the business, travel and leisure industries, as well as consumer confidence;
- declines in occupancy, average daily rate and RevPAR and other hotel operating metrics;
- hostilities, including future terrorist attacks, or fear of hostilities that affect travel;
- financial condition of, and our relationships with, our joint venture partners, third-party property managers, franchisors and hospitality joint venture partners;

- increased interest rates and operating costs;
- ability to complete development and redevelopment projects;
- risks associated with potential acquisitions, including the ability to ramp up and stabilize newly acquired hotels with limited or no operating history, and dispositions of hotel properties;
- availability of and our ability to retain qualified personnel;
- decreases in tourism due to geopolitical instability or changes in foreign exchange rates;
- our failure to maintain our qualification as a real estate investment trust, or REIT, under the Internal Revenue Code of 1986, as amended;
- environmental uncertainties and risks related to natural disasters;
- changes in real estate and zoning laws and increases in real property tax rates; and
- the factors discussed in Item 1A of our Annual Report on Form 10-K for the year ended December 31, 2015 under the heading Risk Factors and in other reports we file with the SEC from time to time.

These factors are not necessarily all of the important factors that could cause our actual results, performance or achievements to differ materially from those expressed in or implied by any of our forward-looking statements. Other unknown or unpredictable factors, many of which are beyond our control, also could harm our results, performance or achievements.

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All forward-looking statements contained in this prospectus supplement and the accompanying prospectus are expressly qualified in their entirety by the cautionary statements set forth above. Forward-looking statements speak only as of the date they are made, and we do not undertake or assume any obligation to update publicly any of these statements to reflect actual results, new information or future events, changes in assumptions or changes in other factors affecting forward-looking statements, except to the extent required by applicable laws. If we update one or more forward-looking statements, no inference should be drawn that we will make additional updates with respect to those or other forward-looking statements.

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INCORPORATION OF CERTAIN DOCUMENTS BY REFERENCE

The SEC allows us to incorporate by reference into this prospectus supplement and the accompanying prospectus the information we file with the SEC, which means that we can disclose important business, financial and other information to you by referring you to other documents separately filed with the SEC. All information incorporated by reference is part of this prospectus supplement and the accompanying prospectus, unless and until that information is updated and superseded by any information incorporated later. We incorporate by reference the documents listed below that we have filed, or will file, with the SEC:

- our Annual Report on Form 10-K for the year ended December 31, 2015;
- our Quarterly Reports on Form 10-Q for the three months ended March 31, 2016, June 30, 2016 and September 30, 2016;
- our Current Reports on Form 8-K or Form 8-K/A filed with the SEC on February 4, 2016 (but only with respect to Item 1.01), May 5, 2016, May 9, 2016 (but only with respect to Item 8.01), May 10, 2016, May 24, 2016, May 27, 2016, May 31, 2016 and August 5, 2016;
- the information contained in our definitive proxy statement on Schedule 14A filed with the SEC on April 22, 2016 and specifically incorporated by reference into Part III of our Annual Report on Form 10-K for the year ended December 31, 2015;
- the description of our Class A common shares contained in our Registration Statement on Form 8-A filed with the SEC on May 2, 2008;
- the description of our Series C Preferred Shares contained in our Registration Statement on Form 8-A filed with the SEC on March 1, 2013;
- the description of our Series D Preferred Shares contained in our Registration Statement on Form 8-A filed with the SEC on May 27, 2016; and
- all documents we file with the SEC pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934, as amended, or the Exchange Act, from the date of this prospectus supplement to the date upon which the offering is terminated.

You may obtain copies of these filings (other than exhibits and schedules to such filings, unless such exhibits or schedules are specifically incorporated by reference into this prospectus supplement and the accompanying prospectus) at no cost, by requesting them from us by writing or telephoning us at: Hersha Hospitality Trust, 510 Walnut Street, 9th Floor, Philadelphia, Pennsylvania 19106, Telephone: (215) 238-1046, Attention: Ashish R. Parikh, Chief Financial Officer.

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TRADE NAMES, LOGOS AND TRADEMARKS

All brand and trade names, logos or trademarks contained, or referred to, in this prospectus supplement and the accompanying prospectus, as well as any document incorporated by reference in this prospectus supplement and the accompanying prospectus, are the properties of their respective owners. These references shall not in any way be construed as participation by, or endorsement of, the offering of any of our securities by any of our franchisors or managers.

Residence Inn by Marriott, Courtyard by Marriott, SpringHill Suites by Marriott, Fairfield Inn by Marriott, Sherat Hotels, The Ritz-Carlton and TownePlace Suites by Marriott are registered trademarks of Marriott International, Inc. or one of its affiliates. All references below to Marriott mean Marriott International, Inc. and all of its affiliates and subsidiaries, and their respective officers, directors, agents, employees, accountants and attorneys.

Hilton, Hilton Hotels, Hilton Garden Inn and Hampton Inn are registered trademarks of Hilton Worldwide or one o its affiliates. All references below to Hilton mean Hilton Worldwide and all of its affiliates and subsidiaries, and their respective officers, directors, agents, employees, accountants and attorneys.

Hyatt and Hyatt House are registered trademarks of Hyatt Hotels Corporation or one of its affiliates. All references below to Hyatt mean Hyatt Hotels Corporation and/or its affiliates or subsidiaries, and/or their respective officers, directors, agents, employees, accountants and attorneys.

Candlewood Suites, Holiday Inn, Holiday Inn Express and Holiday Inn Express Hotel and Suites are registered trademarks of InterContinental Hotels Group or one of its affiliates. All references below to InterContinental mean InterContinental Hotels Group and all of its affiliates and subsidiaries, and their respective officers, directors, agents, employees, accountants and attorneys.

Comfort Inn is a registered trademark of Choice Hotels International, Inc. or one of its affiliates. All references below to Choice mean Choice Hotels International, Inc. and all of its affiliates and subsidiaries, and their respective officers, directors, agents, employees, accountants and attorneys.

Hawthorn Suites by Wyndham is a registered trademark of Wyndham Hotels and Resorts, LLC or one of its affiliates. All references below to Wyndham mean Wyndham Hotels and Resorts, LLC and all of its affiliates and subsidiaries, and their respective officers, directors, agents, employees, accountants and attorneys.

None of Marriott, Hilton, Hyatt, InterContinental, Choice or Wyndham is responsible for the content of this prospectus supplement and the accompanying prospectus, as well as the information incorporated by reference in this prospectus supplement and the accompanying prospectus, whether relating to hotel information, operating information, financial information, its relationship with us or otherwise. None of Marriott, Hilton, Hyatt, InterContinental, Choice or Wyndham is involved in any way, whether as an issuer or underwriter or otherwise, in the offering by us of the securities covered by this prospectus supplement and the accompanying prospectus. None of Marriott, Hilton, Hyatt, InterContinental, Choice or Wyndham has expressed any approval or disapproval regarding the offering of securities pursuant to this prospectus supplement and the accompanying prospectus, and the grant by any of them of any franchise or other rights to us shall not be construed as any expression of approval or disapproval. None of Marriott, Hilton, Hyatt, InterContinental, Choice or Wyndham has assumed, and none shall have, any liability in connection with the offering of securities contemplated by this prospectus supplement and the accompanying prospectus.

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SUMMARY

The information below is a summary of the more detailed information included elsewhere in, or incorporated by reference in, this prospectus supplement and the accompanying prospectus. You should read carefully the following summary in conjunction with the more detailed information contained in this prospectus supplement, the accompanying prospectus and the information incorporated by reference. This summary is not complete and does not contain all of the information you should consider before purchasing the Series E Preferred Shares. You should carefully read the Risk Factors section beginning on page S-8 of this prospectus supplement, on page 2 of the accompanying prospectus, on page 13 of our Annual Report on Form 10-K for the year ended December 31, 2015 and in other reports we file with the SEC from time to time to determine whether an investment in the Series E Preferred Shares is appropriate for you.

Unless the context otherwise requires, references in this prospectus supplement to our company, we, us and our me Hersha Hospitality Trust and its consolidated subsidiaries, including Hersha Hospitality Limited Partnership, which we refer to in this prospectus supplement as our operating partnership. Unless otherwise indicated, the information in this prospectus supplement assumes no exercise by the underwriters of their option to purchase up to an additional 600,000 Series E Preferred Shares.

Hersha Hospitality Trust

We are a self-advised Maryland real estate investment trust that was organized in 1998 and completed our initial public offering in January of 1999. Our Class A common shares of beneficial interest, par value $0.01 per share (common shares), are traded on the New York Stock Exchange under the symbol HT. Our primary strategy is to continue to own and acquire high quality, upscale, mid-scale and extended-stay hotels in metropolitan markets with high barriers to entry and independent boutique hotels in markets with similar characteristics. We have operated and intend to continue to operate so as to qualify as a REIT for federal income tax purposes.

We aim to create value through our ability to source capital and identify high growth acquisition targets. We seek acquisition candidates located in markets with economic, demographic and supply dynamics favorable to hotel owners and operators. Through our due diligence process, we select those acquisition targets where we believe selective capital improvements and intensive management will increase the hotel s ability to attract key demand segments, enhance hotel operations and increase long-term value. To drive sustainable shareholder value, we also seek to recycle capital from stabilized assets, as evidenced by our recently announced sales of non-core hotels in secondary and tertiary markets. Capital from these types of transactions is intended to be redeployed into high growth acquisitions and share buybacks.

As of September 30, 2016, we owned interests in 55 hotels in major urban gateway markets, including New York, Washington DC, Boston, Philadelphia, San Diego, Los Angeles and Miami, including 43 wholly-owned hotels and interests in 12 hotels owned through unconsolidated joint ventures. Our hotels operate under leading brands, owned by Marriott International, Inc. (Marriott), Hilton Worldwide, Inc. (Hilton), InterContinental Hotels Group (IHG) and Hyatt Hotels Corporation (Hyatt). In addition, some of our hotels operate as independent boutique hotels or with other brands.

We are structured as an umbrella partnership REIT, or UPREIT, and we own our hotels and our investments in joint ventures through our operating partnership, for which we serve as the sole general partner. As of September 30, 2016, we owned an approximately 94.1% partnership interest in our operating partnership, including all general partnership interest.

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The majority of our wholly-owned hotels are managed by Hersha Hospitality Management, L.P. (HHMLP), a privately held, qualified management company owned by certain of our trustees and executive officers and other unaffiliated third party investors. Third party qualified management companies manage most of the hotels that we own through joint venture interests. We lease our wholly-owned hotels to 44 New England Management Company (44 New England), our wholly-owned taxable REIT subsidiary (TRS), or to a wholly owned subsidiary of 44 New England. Each of the hotels that we own through a joint venture investment is leased to another TRS that is owned by the respective joint venture or an entity owned in part by 44 New England.

Our main business office is located at 510 Walnut Street, 9th Floor, Philadelphia, Pennsylvania 19106. Our website address is www.hersha.com. The information found on, or otherwise accessible through, our website is not incorporated into, and does not form a part of, this prospectus supplement or the accompanying prospectus.

Recent Developments

As previously announced, on October 20, 2016, we closed on our acquisition of the Courtyard by Marriott in Sunnyvale, CA for $75.0 million (excluding closing costs), including the assumption of $40.6 million of mortgage debt on the property.

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THE OFFERING

For a more complete description of the rights, preferences and other terms of the Series E Preferred Shares specified in the following summary, please see the information under the captions Description of Series E Preferred Shares in this prospectus supplement and Description of Shares of Beneficial Interest in the accompanying prospectus.

Issuer	Hersha Hospitality Trust
Securities Offered	4,000,000 Series E Preferred Shares (4,600,000 Series E Preferred Shares if the underwriters exercise their option to purchase additional Series E Preferred Shares in full). We reserve the right to reopen this series and issue additional Series E Preferred Shares either through public or private sales at any time.
Ranking	The Series E Preferred Shares will rank: senior to all classes and series of our common shares and all equity securities issued by us ranking junior to such Series E Preferred Shares with respect to the payment of dividends and the distribution of assets in the event of any liquidation, dissolution or winding up; *pari passu* with our Series C Preferred Shares, our Series D Preferred Shares and any class or series of our equity securities the terms of which specifically provide that such class or series are of equal rank with the Series E Preferred Shares as to the payment of dividends and the distribution of assets in the event of any liquidation, dissolution or winding up; and junior to all our indebtedness and to all equity securities issued by us the terms of which specifically provide that such securities rank senior to the Series E Preferred Shares as to the payment of dividends and the distribution of assets in the event of any liquidation, dissolution or winding up. See Description of Series E Preferred Shares Ranking.
Dividend Rate and Payment Dates	Cash dividends on the Series E Preferred Shares are cumulative from, and including, November 7, 2016, payable at the rate of 6.50% per year of the $25.00 liquidation preference per share (equivalent to a fixed

annual amount of $1.625 per share), and payable quarterly in arrears on or about January 15th, April 15th, July 15th and October 15th of each year, beginning on January 15, 2017. The first dividend payment will be for less than a full quarter and will cover the period from, and including, November 7, 2016 to, but excluding, January 15, 2017. Dividends on the Series E Preferred Shares will accrue regardless of whether:

- our agreements at any time prohibit the current payment of dividends;

- we have earnings;

- there are funds legally available for the payment of such dividends; or

- such dividends are authorized by our board of trustees or declared by us.

See Description of Series E Preferred Shares Dividends.

Liquidation Preference	The liquidation preference for each Series E Preferred Share is $25.00, plus all accrued and unpaid dividends. See Description of Series E Preferred Shares Liquidation Preference.
Optional Redemption	We may not redeem the Series E Preferred Shares prior to November 7, 2021, except as described below under Special Optional Redemption and in limited circumstances relating to our continuing qualification as a REIT. On and after November 7, 2021, the Series E Preferred Shares may be redeemed for cash at our option, in whole or in part, at any time and from time to time, by paying $25.00 per share, plus all accrued and unpaid dividends to the redemption date. See Description of Series E Preferred Shares Optional Redemption.
Special Optional Redemption	Upon the occurrence of a Change of Control (as defined below), we may, at our option, redeem the Series E Preferred Shares, in whole or in part and within 120 days after the first date on which such Change of Control occurred, by paying $25.00 per share, plus all accrued and unpaid dividends to the redemption date. If, prior to the Change of Control Conversion Date, we exercise any of our redemption rights relating to the Series E Preferred Shares (whether our optional redemption right or our special optional redemption right), holders of the Series E Preferred Shares will not have the conversion right described below.

A Change of Control is when, after the original issuance of the Series E Preferred Shares, the following have occurred and are continuing:

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

following the closing of any transaction referred to in the bullet point above, neither we nor the acquiring or surviving entity has a

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class of common securities (or American Depositary Receipts, or ADRs, representing such securities) listed on the NYSE, the NYSE MKT LLC, or the NYSE MKT, or the NASDAQ Stock Market, or NASDAQ, or listed or quoted on an exchange or quotation system that is a successor to the NYSE, the NYSE MKT or NASDAQ.

Conversion Rights	Except as described below in connection with a Change of Control, the Series E Preferred Shares are not convertible into or exchangeable for any other securities or property.
Change of Control Rights	Upon the occurrence of a Change of Control, each holder of Series E Preferred Shares will have the right (unless, prior to the Change of Control Conversion Date (as defined below), we provide notice of our election to redeem the Series E Preferred Shares) to convert some or all of the Series E Preferred Shares held by such holder on the Change of Control Conversion Date into a number of our common shares per Series E Preferred Share to be converted equal to the lesser of:

the quotient obtained by dividing (i) the sum of the $25.00 liquidation preference plus the amount of any accrued and unpaid dividends to the Change of Control Conversion Date (unless the Change of Control Conversion Date is after a record date for a Series E Preferred Share dividend payment and prior to the corresponding Series E Preferred Share dividend payment date, in which case no additional amount for such accrued and unpaid dividend will be included in this sum) by (ii) the Common Share Price (as defined below), and

2.80584 (i.e., the Share Cap), subject to certain adjustments, subject, in each case, to provisions for the receipt of alternative consideration as described in this prospectus supplement.

If we provide a redemption notice, whether pursuant to our special optional redemption right in connection with a Change of Control or our optional redemption right, holders of Series E Preferred Shares will not have any right to convert the Series E Preferred Shares in connection with the Change of Control Conversion Right and any Series E Preferred Shares subsequently selected for redemption that have been tendered for conversion will be redeemed on the related redemption date instead of converted on the Change of Control Conversion Date.

For definitions of Change of Control Conversion Right, Change of Control Conversion Date and Common Share Price and for a description of the adjustments and provisions for the receipt of alternative consideration that may be applicable to the Change of Control Conversion Right, see Description of the Series E Preferred Shares Change of Control Rights.

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Maturity	The Series E Preferred Shares do not have any stated maturity date, and we are not required to redeem the Series E Preferred Shares. Accordingly, the Series E Preferred Shares will remain outstanding indefinitely unless we decide to redeem them or repurchase shares in the open market, in each case, at our option, subject to the restrictions on redemption described herein. We are not required to set aside funds to redeem the Series E Preferred Shares.
Voting Rights	Holders of the Series E Preferred Shares will generally have no voting rights. However, if we fail to pay dividends on any Series E Preferred Shares for six or more quarterly periods, whether or not consecutive, the number of trustees then constituting our board of trustees will be increased by two, if not already increased by reason of similar types of provisions with respect to another series of parity preferred (as defined below), and the holders of the Series E Preferred Shares (voting together with the holders of Series C Preferred Shares, the Series D Preferred Shares and all other series of our preferred shares, if any, upon which like voting rights have been conferred and are exercisable (taken together with the Series E Preferred Shares, the parity preferred)) will be entitled to vote for the election of two members to our board of trustees, if not already elected by the holders of parity preferred by reason of similar types of provisions with respect to preferred share trustees, until all dividends accumulated on the Series E Preferred Shares have been fully paid. So long as any Series E Preferred Shares remain outstanding, we will not, without the affirmative vote or consent of the holders of at least two-thirds of the Series E Preferred Shares outstanding at the time, amend, alter or repeal the provisions of our declaration of trust, including the articles supplementary creating the Series E Preferred Shares, whether by merger, consolidation or otherwise, so as to materially and adversely affect any right, preference, privilege or voting power of the Series E Preferred Shares or the holders thereof. See Description of Series E Preferred Shares Voting Rights.
Information Rights	During any period in which we are not subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act and any Series E Preferred Shares are outstanding, we will provide holders of Series E Preferred Shares, without cost, copies of the Annual Reports on Form 10-K and Quarterly Reports on Form 10-Q that we would have been required to file with the SEC pursuant to Section 13 or 15(d) of the Exchange Act if we were subject thereto (other than any exhibits that would have been required). See Description of Series E Preferred Shares Information Rights.
Restrictions on Ownership	Subject to certain exceptions, our declaration of trust provides for an Ownership Limit (as defined in our declaration of trust) by a single

Person (as defined in our declaration of trust) to 9.9% of the aggregate number of outstanding shares of each class or series of our common or preferred shares of beneficial interest (including the

	Series E Preferred Shares). See Description of Series E Preferred Shares Restrictions on Ownership and Transfer.
Use of Proceeds	We estimate that the net proceeds to us from the sale of the Series E Preferred Shares offered hereby will be approximately $96.7 million, after deducting the underwriting discount and the estimated expenses of this offering payable by us. If the underwriters exercise their option to purchase additional Series E Preferred Shares in full, we estimate that our net proceeds will be approximately $111.2 million. We will contribute all of the net proceeds to our operating partnership in exchange for a preferred partnership interest in our operating partnership, the rights, preferences and privileges of which will be substantially equivalent to the terms of the Series E Preferred Shares. We intend to use the net proceeds of this offering for general corporate purposes, including future acquisitions. See Use of Proceeds.
Listing	We intend to apply to list the Series E Preferred Shares on the NYSE under the symbol HT PRE. If this application is approved, trading of the Series E Preferred Shares on the NYSE is expected to begin within 30 days following initial delivery of the Series E Preferred Shares.
Risk Factors	Investing in our Series E Preferred Shares involves risks. See Risk Factors beginning on page S-8 of this prospectus supplement, on page 2 of the accompanying prospectus, on page 13 of our Annual Report on Form 10-K for the year ended December 31, 2015 and in other reports we file with the SEC from time to time.

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RISK FACTORS

Investing in the Series E Preferred Shares involves risk. Before making a decision to invest in the Series E Preferred Shares, you should carefully consider the risks described below as well as those described in Risk Factors beginning on page 2 of the accompanying prospectus, on page 13 of our Annual Report on Form 10-K for the year ended December 31, 2015 and in other reports we file with the SEC from time to time. These risks and uncertainties are not the only ones facing us. Additional risks and uncertainties that we are unaware of, or that we currently deem immaterial, also may become important factors that affect us.

The Series E Preferred Shares have not been rated.

We have not sought to obtain a rating for the Series E Preferred Shares, and the Series E Preferred Shares may never be rated. It is possible, however, that one or more rating agencies might independently determine to assign a rating to the Series E Preferred Shares or that we may elect to obtain a rating of the Series E Preferred Shares in the future. Furthermore, we may elect to issue other securities for which we may seek to obtain a rating. If any ratings are assigned to the Series E Preferred Shares in the future or if we issue other securities with a rating, such ratings, if they are lower than market expectations or are subsequently lowered or withdrawn, could adversely affect the market for or the market value of the Series E Preferred Shares. Ratings only reflect the views of the issuing rating agency or agencies and such ratings could at any time be revised downward or withdrawn entirely at the discretion of the issuing rating agency. Further, a rating is not a recommendation to purchase, sell or hold any particular security, including the Series E Preferred Shares. In addition, ratings do not reflect market prices or suitability of a security for a particular investor and any future rating of the Series E Preferred Shares may not reflect all risks related to us and our business, or the structure or market value of the Series E Preferred Shares.

The Series E Preferred Shares do not have an established trading market, which may negatively affect the market value of, and your ability to transfer or sell, your shares.

The Series E Preferred Shares are a new issue of securities with no established trading market. Since the Series E Preferred Shares have no stated maturity date, investors seeking liquidity will be limited to selling their shares in the secondary market. We intend to apply to list the Series E Preferred Shares on the NYSE, but we cannot assure you that the shares will be approved for listing. If approved, an active trading market on the NYSE for the Series E Preferred Shares may not develop or, even if it develops, may not continue, in which case the trading price of the shares could be adversely affected and your ability to transfer your Series E Preferred Shares would be limited. The trading price of the shares will depend on many factors, including:

- prevailing interest rates;
- the market for similar securities;
- general economic and market conditions; and
- our financial condition, performance and prospects.

For example, an increase in market interest rates may have a negative effect on the trading value of the Series E Preferred Shares. The underwriters are not obligated to make a market in the Series E Preferred Shares, and if they do, may discontinue market-making at any time without notice.

The Series E Preferred Shares are subordinate to our existing and future debt, and your interests could be diluted by the issuance of additional preferred shares and by other transactions.

The Series E Preferred Shares will rank junior to all of our existing and future debt and to other non-equity claims on us and our assets available to satisfy claims against us, including claims in bankruptcy, liquidation or similar proceedings. Our future debt may include restrictions on our ability to pay dividends to preferred shareholders. As of September 30, 2016, our total indebtedness was approximately $1.01 billion. In addition, we may incur additional indebtedness in the future. Our board of trustees has the power under our declaration of trust to classify any of our unissued preferred shares, and to reclassify any of our previously classified but unissued preferred shares of any series, from time to time, in one or more series of preferred shares. The issuance of additional preferred shares on parity with or senior to the Series E Preferred Shares may dilute the interests of the holders of the Series E Preferred Shares, and any issuance of preferred shares senior to the Series E Preferred Shares or of additional indebtedness could affect our ability to pay dividends on, redeem or pay the liquidation preference on the Series E Preferred Shares. Other than the limited conversion right afforded to holders of Series E Preferred Shares that may occur in connection with a Change of Control as described under Description of the Series E Preferred Shares Change of Control Rights below, none of the provisions relating to the Series E Preferred Shares contain any provisions relating to or limiting our indebtedness or affording the holders of the Series E Preferred Shares protection in the event of a highly leveraged or other transaction, including a merger or the sale, lease or conveyance of all or substantially all our assets or business, that might adversely affect the holders of the Series E Preferred Shares, so long as the rights of the Series E Preferred shareholders are not materially and adversely affected.

The change of control conversion feature may not adequately compensate you, and the change of control conversion and redemption features of the Series E Preferred Shares may make it more difficult for a party to take over our company or discourage a party from taking over our company.

Upon the occurrence of a Change of Control as described under Description of Series E Preferred Shares Change of Control Rights below, holders of the Series E Preferred Shares will have the right (unless, prior to the Change of Control Conversion Date, we provide notice of our election to redeem the Series E Preferred Shares) to convert some or all of their Series E Preferred Shares into our common shares (or equivalent value of alternative consideration) and under these circumstances we will also have a special option redemption right to redeem the Series E Preferred Shares. See Description of the Series E Preferred Shares Change of Control Rights and Special Optional Redemption.

Upon such a conversion, the holders of the Series E Preferred Shares will be limited to a maximum number of our common shares equal to the Share Cap multiplied by the number of Series E Preferred Shares converted. If the Common Share Price is less than $8.91 (which is approximately 50% of the per-share closing sale price of our common shares on October 31, 2016), subject to adjustment, the holders of the Series E Preferred Shares will receive a maximum of 2.80584 of our common shares per Series E Preferred Share, which may result in a holder receiving value that is less than the liquidation preference of the Series E Preferred Shares.

In addition, those features of the Series E Preferred Shares may have the effect of inhibiting a third party from making an acquisition proposal for us or of delaying, deferring or preventing a change of control of us under circumstances that otherwise could provide the holders of our common shares and Series E Preferred Shares with the opportunity to realize a premium over the then-current market price or that shareholders may otherwise believe is in their best interests.

As a holder of Series E Preferred Shares, you have extremely limited voting rights.

Your voting rights as a holder of Series E Preferred Shares will be limited. Our common shares are the only class of our securities that carry full voting rights. Voting rights for holders of Series E Preferred Shares exist primarily with respect to the ability to elect two additional trustees to our board of trustees in the event that six quarterly dividends (whether or not consecutive) payable on the Series E Preferred Shares are in arrears, and with respect to voting on amendments to our declaration of trust or articles supplementary relating to the Series E Preferred Shares that materially and adversely affect the rights of holders of the Series E Preferred Shares or create additional classes or series of our shares that are senior to the Series E Preferred Shares. Other than the limited circumstances described in this prospectus supplement, holders of Series E Preferred Shares will not have any voting rights. See Description of the Series E Preferred Shares Voting Rights.

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RATIO OF EARNINGS TO COMBINED FIXED CHARGES AND PREFERRED SHARE DIVIDENDS

The following table sets forth our ratios of earnings to fixed charges and of earnings to combined fixed charges and preferred share dividends for each of the last five fiscal years.

	Nine Months Ended September 30,	Year Ended December 31,				
	2016	2015	2014	2013	2012	2011
Earnings	$ 147,806	$ 83,104	$ 111,177	$ 58,491	$ 45,724	$ 33,208
Combined fixed charges and preferred share dividends	$ 45,933	$ 57,913	$ 58,171	$ 56,866	$ 53,612	$ 46,137
Ratio of earnings to combined fixed charges and preferred share dividends	3.22	1.43	1.91	1.03	0.85	0.72

For the years ended December 31, 2012 and 2011, combined fixed charges and preferred share dividends exceeded earnings. The following table notes the amounts by which combined fixed charges and preferred share dividends exceeded earnings:

	Nine Months Ended September 30,	Year Ended December 31,				
	2016	2015	2014	2013	2012	2011
Combined fixed charged and preferred share dividends in excess of earnings	N/A	N/A	N/A	N/A	$ 7,888	$ 12,929

The ratio of earnings to combined fixed charges and preferred share dividends was computed by dividing earnings by the sum of fixed charges and dividends on preferred shares. Earnings consists of (i) pre-tax (loss) income from continuing operations before income (loss) from equity investees, (ii) interest expensed and amortized premiums, discounts and capitalized expenses related to indebtedness, and (iii) distributed income of equity investees. Combined fixed charges and preferred share dividends consists of (i) interest expensed and amortized premiums, discounts and capitalized expenses related to indebtedness, (ii) interest capitalized, and (iii) preferred share distributions.

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USE OF PROCEEDS

We estimate that the net proceeds to us from the sale of the Series E Preferred Shares offered hereby will be approximately $96.7 million, after deducting the underwriting discount and the estimated expenses of this offering payable by us. If the underwriters exercise their option to purchase additional shares in full, we estimate that our net proceeds will be approximately $111.2 million.

As required by the partnership agreement of our operating partnership, we will contribute all of the net proceeds to our operating partnership in exchange for a preferred partnership interest in the operating partnership, the rights, preferences and privileges of which will be substantially equivalent to the terms of the Series E Preferred Shares.

We intend to use the net proceeds of this offering for general corporate purposes, including future acquisitions.

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CAPITALIZATION

The following table sets forth our capitalization as of September 30, 2016: (i) on an actual basis; (ii) on a pro forma basis to give the effect to (a) our acquisition of the Courtyard by Marriott in Sunnyvale, CA as described in Recent Developments above and (b) an increase in the amount outstanding under our Unsecured Term Loans of $48.0 million and a decrease in our Mortgages Payable of approximately $46.8 million, each subsequent to September 30, 2016; and (iii) on an adjusted basis to give effect both to the transactions described in the preceding clause (ii) and the sale by us of 4,000,000 Series E Preferred Shares in this offering, after deducting the underwriting discount and the estimated expenses of this offering payable by us.

	As of September 30, 2016 (unaudited)		
	Actual	Pro Forma	As Adjusted[1]
	(dollars in thousands)		
Cash and Cash Equivalents	$ 135,960	$ 100,487	$ 197,137
Debt:			
Unsecured Term Loans	609,274	657,274	657,274
Unsecured Notes Payable	50,565	50,565	50,565
Mortgages Payable	350,933	344,783	344,783
Liabilities Related to Hotel Assets Held for Sale	51,428	51,428	51,428
Total Debt	1,062,200	1,104,050	1,104,050
Shareholders Equity:			
6.875% Series C Preferred Shares, $0.01 par value, 3,000,000 shares authorized, 3,000,000 issued and outstanding (aggregate liquidation preference of $75,000) on an actual, pro forma and as adjusted basis	30	30	30
6.500% Series D Preferred Shares, $0.01 par value, 8,050,000 shares authorized and 7,700,000 shares issued and outstanding (aggregate liquidation preference of $192,500) on an actual, pro forma and as adjusted basis	77	77	77
6.500% Series E Preferred Shares, $0.01 par value, no shares authorized and no shares issued and outstanding on an actual and pro forma basis, 4,600,000 shares authorized and 4,000,000 shares issued and outstanding (aggregate liquidation preference of $100,000) on an as adjusted basis			40
Class A Common Shares, $0.01 par value, 75,000,000 shares authorized on an actual and pro forma basis, 90,000,000 shares authorized on an as adjusted basis; 41,917,238 shares issued and outstanding on an actual, pro forma and as adjusted basis[2]	419	419	419
Other Comprehensive Income	(534)	(534)	(534)
Additional Paid-in Capital	1,104,159	1,104,159	1,200,769
Distributions in Excess of Net Income	(345,905)	(345,905)	(345,905)
Total Shareholders Equity	758,246	758,246	854,896

Noncontrolling Interests:			
Noncontrolling Interests Common Units & LTIP Units	40,160	40,160	40,160
Total Noncontrolling Interests	40,160	40,160	40,160
Total Equity	798,406	798,406	895,056
Total Capitalization	$ 1,860,606	$ 1,902,456	$ 1,999,106

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The information set forth above should be read in conjunction with the section captioned Management s Discussion and Analysis of Financial Condition and Results of Operations and our financial statements and related notes in our Annual Report on Form 10-K for the year ended December 31, 2015 and our Quarterly Reports on Form 10-Q for the three months ended March 31, 2016, June 30, 2016 and September 30, 2016, which are incorporated by reference into this prospectus supplement and the accompanying prospectus.

(1) Does not include: (i) up to 600,000 Series E Preferred Shares that may be issued by us upon exercise of the underwriters option to purchase additional shares; (ii) up to 2,613,546 common shares issuable upon redemption of outstanding limited partnership units and LTIP Units in our operating partnership held by the noncontrolling interests in our operating partnership; (iii) 167,061 common shares repurchased subsequent to September 30, 2016; (iv) 942 common shares issued subsequent to September 30, 2016, in connection with our dividend reinvestment plan; and (v) up to 1,916,837 common shares reserved for future issuance pursuant to our Amended and Restated 2012 Equity Incentive Plan.

(2) We intend to amend our declaration of trust to increase the aggregate number of authorized common shares from 75,000,000 to 90,000,000 in order to account for the number of Class A common shares underlying the Series E Preferred Shares that may be issued upon a Change of Control. See Description of Series E Preferred Shares Change of Control Rights.

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DESCRIPTION OF SERIES E PREFERRED SHARES

The following description of the Series E Preferred Shares supplements the description of the general terms and provisions of our shares of beneficial interest, including preferred shares, contained in the accompanying prospectus. You should consult that general description for further information.

General

We currently are authorized to issue up to 29,000,000 preferred shares in one or more series. Each series will have the preferences, conversion and other rights, voting powers, restrictions, limitations as to dividends or distributions, qualifications and terms and conditions of redemption as Maryland law may permit and our board of trustees may determine by adoption of applicable articles supplementary to our declaration of trust. Immediately prior to this offering, there were 3,000,000 Series C Preferred Shares issued and outstanding and 7,700,000 Series D Preferred Shares issued and outstanding.

This summary of the terms and provisions of the Series E Preferred Shares is not complete. Our board of trustees will adopt articles supplementary designating the terms of the Series E Preferred Shares, and you may obtain a complete copy of the articles supplementary designating the Series E Preferred Shares by contacting us. In connection with this offering, we will file the articles supplementary with the SEC. Our board of trustees may authorize the issuance and sale of additional Series E Preferred Shares from time to time.

We intend to file an application to list the Series E Preferred Shares on the NYSE under the symbol HT PRE. If this application is approved, trading of the Series E Preferred Shares on the NYSE is expected to begin within 30 days following initial delivery of the Series E Preferred Shares.

The transfer agent and registrar for the Series E Preferred Shares is expected to be American Stock Transfer & Trust Company, LLC, the transfer agent and registrar of our common shares, our Series C Preferred Shares and our Series D Preferred Shares.

Ranking

With respect to the payment of dividends and amounts upon liquidation, dissolution or winding up, the Series E Preferred Shares will rank:

- senior to all classes and series of our common shares and to all equity securities issued by us ranking junior to such Series E Preferred Shares with respect to the payment of dividends and other amounts upon liquidation;

- *pari passu* with our Series C Preferred Shares, our Series D Preferred Shares and any class or series of our equity securities, the terms of which specifically provide that such class or series are of equal rank with the Series E Preferred Shares as to the payment of dividends and the distribution of assets in the event of any liquidation, dissolution or winding up; and junior to all our indebtedness and to all equity securities issued by us, the terms of which specifically provide that such securities rank senior to the Series E Preferred Shares as to the payment of dividends and the distribution of assets in the event of any liquidation, dissolution or winding up.

Dividends

Holders of Series E Preferred Shares will be entitled to receive, when and as authorized by our board of trustees and declared by us, out of funds legally available for the payment of dividends, cumulative cash dividends at the rate of 6.50% per year of the $25.00 liquidation preference per share, equivalent to a fixed annual amount of $1.625 per share. Dividends on the Series E Preferred Shares are payable quarterly in arrears

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on January 15th, April 15th, July 15th and October 15th of each year, and if such day is not a business day, the next succeeding business day, commencing on January 15, 2017. We refer to each of these dates as a dividend payment date in this prospectus supplement, and the period beginning on, and including, each dividend payment date and ending on, but excluding, the next succeeding dividend payment date is referred to as the dividend period.

The first dividend payment will be for less than a full quarter and will cover the period from, and including, November 7, 2016 to, but excluding, January 15, 2017. Such dividend and any dividend payable on the Series E Preferred Shares for any partial dividend period will be computed on the basis of a 360-day year consisting of twelve 30-day months.

Dividends will be payable to holders of record as they appear in our records at the close of business on the applicable record date, which is the first day of the calendar month in which the applicable dividend payment date falls or on such other date designated by our board of trustees for the payment of dividends that is not more than 30 nor less than 10 days prior to such dividend payment date. We refer to each of these dates as a dividend record date in this prospectus supplement.

No dividends on Series E Preferred Shares may be declared by us or paid or set apart for payment by us if such declaration or payment is restricted or prohibited by law, or at any time at which one or more of our contractual agreements, including any agreement relating to our outstanding indebtedness:

- prohibits the declaration, payment or setting apart for payment of dividends; or
- provides that the declaration, payment or setting apart for payment of dividends would constitute a breach thereof or a default thereunder.

Notwithstanding the foregoing, dividends on the Series E Preferred Shares will accrue regardless of whether:

- our agreements at any time prohibit the current payment of dividends;
- we have earnings;
- there are funds legally available for the payment of such dividends; or
- such dividends are declared.

Accrued but unpaid dividends on the Series E Preferred Shares will accumulate from, and including, the dividend payment date on which they first become payable. No dividends will be declared or paid or set apart for payment, and no distribution will be made, on any of our common shares or any other series of preferred shares ranking, as to dividends, on a parity with or junior to the Series E Preferred Shares, including our Series C Preferred Shares and Series D Preferred Shares, other than a dividend that consists of our common shares or shares of any other class of shares ranking junior to the Series E Preferred Shares as to dividends and upon liquidation, for any period unless full cumulative dividends on the Series E Preferred Shares have been, or contemporaneously are, declared and paid, or declared and a sum sufficient for the payment thereof is set apart for such payment for all past dividend periods.

When dividends are not paid in full (or a sum sufficient for such full payment is not so set apart) with respect to the Series E Preferred Shares and any other series of preferred shares ranking on a parity as to dividends with the Series E Preferred Shares, including the Series C Preferred Shares and the Series D Preferred Shares, all dividends declared upon the Series E Preferred Shares and such other series of preferred shares ranking on a parity as to dividends with the Series E Preferred Shares will be declared pro rata so that the amount of dividends declared per share of Series E Preferred Shares and such other series of preferred shares shall in all cases bear to each other the same ratio that accrued dividends per share on the Series E Preferred Shares and such other series of preferred shares (which shall not include any accrual in respect of unpaid dividends for prior dividend periods if such other series of preferred shares do not have a cumulative dividend, which is not the case with respect to the Series C Preferred Shares and Series D Preferred Shares) bear to each other. No interest, or sum of money in lieu of interest, will be payable in respect of any dividend payment or payments on the Series E Preferred Shares which may be in arrears.

Unless full cumulative dividends on the Series E Preferred Shares have been, or contemporaneously are, declared and paid, or declared and a sum sufficient for the payment thereof is set apart for payment, for all past dividend periods:

- no dividends (other than in our common shares or other shares of beneficial interest ranking junior to the Series E Preferred Shares as to dividends and upon liquidation) shall be declared or paid or set aside for payment;

- no other distribution may be declared or made upon our common shares or any other shares of beneficial interest ranking junior to or on a parity with the Series E Preferred Shares as to dividends or upon liquidation, including the Series C Preferred Shares and the Series D Preferred Shares; and

- no common shares or any other shares of beneficial interest ranking junior to or on a parity with the Series E Preferred Shares as to dividends or upon liquidation, including the Series C Preferred Shares and the Series D Preferred Shares, may be redeemed, purchased or otherwise acquired by us for any consideration (or any moneys be paid to or made available for a sinking fund for the redemption of any such shares) (except by conversion into or exchange for other of our shares of beneficial interest ranking junior to the Series E Preferred Shares as to dividends and upon liquidation, and except for our redemption, purchase or acquisition of Shares-in-Trust under our declaration of trust, which are intended to assist us in qualifying as a REIT for federal income tax purposes).

Holders of the Series E Preferred Shares will not be entitled to any dividend, whether payable in cash, property or shares of beneficial interest, in excess of full cumulative dividends on the Series E Preferred Shares as provided above. Any dividend payment made on the Series E Preferred Shares will first be credited against the earliest accrued but unpaid dividend due with respect to such shares which remains payable.

Liquidation Preference

Upon any voluntary or involuntary liquidation, dissolution or winding up of our affairs, holders of the Series E Preferred Shares will be entitled to be paid out of our assets legally available for distribution to our shareholders a liquidation preference of $25.00 per share, plus all accrued and unpaid dividends to the date of payment, before any distribution of assets is made to holders of our common shares or any other class or series of our shares of beneficial interest that ranks junior to the Series E Preferred Shares as to liquidation rights. Holders of Series E Preferred Shares will be entitled to written notice of any such liquidation. After payment of the full amount of the liquidating distributions to which they are entitled, holders of the Series E Preferred Shares will have no right or claim to any of our remaining assets.

In the event that, upon any voluntary or involuntary liquidation, dissolution or winding up, our available assets are insufficient to pay the amount of the liquidating distributions on all outstanding Series E Preferred Shares and the corresponding amounts payable on all other classes or series of our shares of beneficial interest ranking on a parity with the Series E Preferred Shares in the distribution of assets upon liquidation, including the Series C Preferred Shares and the Series D Preferred Shares, then the holders of the Series E Preferred Shares and all other such classes or series will share ratably in any such distribution of assets in proportion to the full liquidating distributions to which they would otherwise be respectively entitled.

Our consolidation, conversion, combination or merger with or into any other corporation, trust or entity or consolidation or merger of any other corporation with or into us, the sale, lease or conveyance of all or substantially all of our assets, property or business or any statutory share exchange, will not be deemed to constitute a liquidation, dissolution or winding up of us.

Optional Redemption

The Series E Preferred Shares are not redeemable before November 7, 2021. However, the Series E Preferred Shares and any other of our shares of beneficial interest that are owned by a shareholder in excess of a specified ownership limit (rounded up to the nearest whole share) will automatically become Shares-in-Trust under our declaration of trust, which we will have the right to purchase from the holder. See Restrictions on Ownership and Transfer, below.

On and after November 7, 2021, we, at our option upon not less than 30 nor more than 60 days prior written notice, may redeem the Series E Preferred Shares, in whole or in part, at any time or from time to time, for cash by paying $25.00 per share, plus all accrued and unpaid dividends on such shares to the redemption date (except as provided below), without interest. Holders of Series E Preferred Shares to be redeemed must surrender the certificates for the Series E Preferred Shares (if any) at the place designated in the notice and will be entitled to the redemption price and any accrued and unpaid dividends payable upon the redemption following surrender.

If notice of redemption of any Series E Preferred Shares has been given and if the funds necessary for such redemption have been set aside by us in trust for the benefit of the holders of any Series E Preferred Shares called for redemption, then from and after the redemption date:

- dividends will cease to accrue on the Series E Preferred Shares;
- the Series E Preferred Shares will no longer be deemed outstanding; and
- all rights of the holders of the Series E Preferred Shares will terminate, except the holder s right to receive the redemption price and all accrued and unpaid dividends to the redemption date.

If less than all of the outstanding Series E Preferred Shares is to be redeemed, the Series E Preferred Shares to be redeemed will be selected pro rata (as nearly as may be practicable without creating fractional shares), or by lot.

Unless full cumulative dividends on all Series E Preferred Shares have been, or contemporaneously are, declared and paid, or declared and a sum sufficient for the payment thereof is set apart for payment for all dividend periods ending on or prior to the date of any applicable redemption, purchase or acquisition, no Series E Preferred Shares may be redeemed unless all outstanding Series E Preferred Shares are simultaneously redeemed, and we may not purchase or otherwise acquire directly or indirectly any Series E Preferred Shares (except by exchange for shares of beneficial interest ranking junior to the Series E Preferred Shares as to dividends and upon liquidation). This requirement will not prevent the Series E Preferred Shares from becoming Shares-in-Trust under our declaration of trust or the purchase by us of Shares-in-Trust in order to assist us in qualifying as a REIT for federal income tax purposes.

Subject to applicable law, we may purchase Series E Preferred Shares or any other class or series of our shares of beneficial interest in the open market, by tender or by private agreement.

Notice of redemption will be mailed by us, postage prepaid, not less than 30 nor more than 60 days before the redemption date, addressed to the respective holders of record of the Series E Preferred Shares to be redeemed at their respective addresses as they appear on our share transfer records. No failure to give such notice or any defect therein or in the mailing thereof will affect the validity of the proceedings for the redemption of any Series E Preferred Shares except as to the holder to whom notice was defective or not given. Each notice will state:

- the redemption date;

- the redemption price;

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- the number of Series E Preferred Shares to be redeemed;

- the place or places where certificates for the Series E Preferred Shares (if any) are to be surrendered for payment of the redemption price; and

- that dividends on the Series E Preferred Shares to be redeemed will cease to accrue on such redemption date, except as otherwise provided in the articles supplementary.

If less than all of the Series E Preferred Shares held by any holder are to be redeemed, the notice mailed to the holder will also specify the number of shares to be redeemed.

Holders of the Series E Preferred Shares at the close of business on a dividend record date will be entitled to receive the dividend payable with respect to the Series E Preferred Shares on the corresponding dividend payment date notwithstanding the redemption thereof between the dividend record date and the corresponding dividend payment date. Except as provided above, we will make no payment or allowance for unpaid dividends, whether or not in arrears, on Series E Preferred Shares that are called for redemption.

The Series E Preferred Shares have no stated maturity and will not be subject to any sinking fund or mandatory redemption.

Special Optional Redemption

Upon the occurrence of a Change of Control (as defined below), we may, at our option and upon giving notice, (as described below) redeem the Series E Preferred Shares, in whole or in part and within 120 days after the first date on which such Change of Control occurred, by paying $25.00 per share, plus all accrued and unpaid dividends to the redemption date. If, prior to the Change of Control Conversion Date (as described below), we provide notice of redemption with respect to the Series E Preferred Shares (whether pursuant to our optional redemption right or our special optional redemption right), holders of the Series E Preferred Shares will not have the conversion right described below under Change of Control Rights, below.

A Change of Control is when, after the original issuance of the Series E Preferred Shares, the following have occurred and are continuing:

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

- following the closing of any transaction referred to in the bullet point above, neither we nor the acquiring or surviving entity has a class of common securities (or ADRs representing such securities) listed on the NYSE, the NYSE MKT or NASDAQ, or listed or quoted on an exchange or quotation system that is a successor to the NYSE, the NYSE MKT or NASDAQ.

We will mail to you, if you are a record holder of the Series E Preferred Shares, a notice of redemption no fewer than 30 days nor more than 60 days before the redemption date. We will send the notice to your address shown on our share transfer books. A failure to give notice of redemption or any defect in the notice or in its mailing will not affect the validity of the redemption of any Series E Preferred Shares except as to the holder to whom notice was defective. Each notice will state the following:

- the redemption date;
- the redemption price;

the number of Series E Preferred Shares to be redeemed;

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

that the Series E Preferred Shares are being redeemed pursuant to our special optional redemption right in connection with the occurrence of a Change of Control and a brief description of the transaction or transactions constituting such Change of Control;

that the holders of the Series E Preferred Shares to which the notice relates will not be able to tender such Series E Preferred Shares for conversion in connection with the Change of Control and each Series E Preferred Share tendered for conversion that is selected, prior to the Change of Control Conversion Date, for redemption will be redeemed on the related redemption date instead of converted on the Change of Control Conversion Date; and

that dividends on the Series E Preferred Shares to be redeemed will cease to accrue on the redemption date, except as otherwise provided in the articles supplementary.

If we redeem fewer than all of the Series E Preferred Shares, the notice of redemption mailed to each shareholder will also specify the number of Series E Preferred Shares that we will redeem from each shareholder. In this case, we will determine the number of Series E Preferred Shares to be redeemed on a pro rata basis, or by lot.

If we have given a notice of redemption and have set aside sufficient funds for the redemption in trust for the benefit of the holders of the Series E Preferred Shares called for redemption, then from and after the redemption date, those Series E Preferred Shares will be treated as no longer being outstanding, no further dividends will accrue and all other rights of the holders of those Series E Preferred Shares will terminate. The holders of those Series E Preferred Shares will retain their right to receive the redemption price for their shares and all accrued and unpaid dividends to the redemption date.

Holders of the Series E Preferred Shares at the close of business on a dividend record date will be entitled to receive the dividend payable with respect to the Series E Preferred Shares on the corresponding payment date notwithstanding the redemption of the Series E Preferred Shares between such record date and the corresponding payment date or our default in the payment of the dividend due. Except as provided above, we will make no payment or allowance for unpaid dividends, whether or not in arrears, on Series E Preferred Shares to be redeemed.

Change of Control Rights

Except as provided below in connection with a Change of Control, the Series E Preferred Shares are not convertible into or exchangeable for any other securities or property.

Upon the occurrence of a Change of Control, each holder of Series E Preferred Shares will have the right, unless, prior to the Change of Control Conversion Date (as defined below), we provide notice of our election to redeem the Series E Preferred Shares as described above under Optional Redemption or Special Optional Redemption, to convert some or all of the Series E Preferred Shares held by such holder (the Change of Control Conversion Right) on the Change of Control Conversion Date into a number of our common shares per Series E Preferred Share (the Common Share

Conversion Consideration) equal to the lesser of:

the quotient obtained by dividing (i) the sum of the $25.00 liquidation preference plus the amount of any accrued and unpaid dividends to the Change of Control Conversion Date (unless the Change of Control Conversion Date is after a record date for a Series E Preferred Share dividend payment and prior to the corresponding Series E Preferred Share dividend payment date, in which case no additional amount for such accrued and unpaid dividend will be included in this sum) by (ii) the Common Share Price (as defined below) (such quotient, the Conversion Rate); and

2.80584 (i.e., the Share Cap).

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

For the avoidance of doubt, subject to the immediately succeeding sentence, the aggregate number of our common shares (or equivalent Alternative Conversion Consideration (as defined below), as applicable) issuable in connection with the exercise of the Change of Control Conversion Right will not exceed 11,223,360 common shares (or equivalent Alternative Conversion Consideration, as applicable), subject to increase to the extent the underwriters option to purchase additional Series E Preferred Shares is exercised, not to exceed 12,906,864 common shares (or equivalent Alternative Conversion Consideration, as applicable) (the Exchange Cap). The Exchange Cap is subject to pro rata adjustments for any Share Splits on the same basis as the corresponding adjustment to the Share Cap and is subject to increase in the event that additional Series E Preferred Shares are issued in the future.

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

If the holders of our common shares have the opportunity to elect the form of consideration to be received in the Change of Control, the consideration that the holders of the Series E Preferred Shares will receive will be the form and proportion of the aggregate consideration elected by the holders of our common shares who participate in the determination (based on the weighted average of elections) and will be subject to any limitations to which all holders of our common shares are subject, including, without limitation, pro rata reductions applicable to any portion of the consideration payable in the Change of Control.

We will not issue fractional common shares upon the conversion of the Series E Preferred Shares. Instead, we will pay the cash value of such fractional shares based on the Common Share Price.

Within 15 days following the occurrence of a Change of Control, we will provide to holders of Series E Preferred Shares a notice of occurrence of the Change of Control that describes the resulting Change of Control Conversion Right. No failure to give such notice or any defect therein or in the mailing thereof will affect the validity of the proceedings for the redemption of any Series E Preferred Shares except as to the holder to whom notice was defective or not given. This notice will state the following:

- the events constituting the Change of Control;
- the date of the Change of Control;

the Change of Control Conversion Date (as defined below);

the method and period for calculating the Common Share Price;

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

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- if applicable, the type and amount of Alternative Conversion Consideration entitled to be received per Series E Preferred Share;

- the name and address of the paying agent and the conversion agent; and

- the procedures that holders of the Series E Preferred Shares must follow to exercise the Change of Control Conversion Right.

We will issue a press release for publication on the Wall Street Journal, Business Wire, PR Newswire, Bloomberg Business News or such other news or press organization as is reasonably calculated to broadly disseminate the relevant information to the public, or post notice on our website, in any event prior to the opening of business on the first business day following any date on which we provide the notice described above to holders of the Series E Preferred Shares.

To exercise the Change of Control Conversion Right, the holder of Series E Preferred Shares will be required to deliver, on or before the close of business on the Change of Control Conversion Date, the certificates (if any) evidencing Series E Preferred Shares to be converted, duly endorsed for transfer, together with a written conversion notice completed, to our transfer agent. The conversion notice must state:

- the relevant Change of Control Conversion Date;

- the number of Series E Preferred Shares to be converted; and

- that the Series E Preferred Shares are to be converted pursuant to the applicable provisions of the Series E Preferred Shares.

The Change of Control Conversion Date is the date fixed by our board of trustees, in its sole discretion, as the date the Series E Preferred Shares are to be converted, which will be a business day that is no fewer than 20 days nor more than 35 days after the date on which we provide the notice described above to holders of the Series E Preferred Shares.

The Common Share Price will be: (i) the amount of cash consideration per common share, if the consideration to be received in the Change of Control by the holders of our common shares is solely cash; and (ii) the average of the closing prices for our common shares on the NYSE for the ten consecutive trading days immediately preceding, but not including, the effective date of the Change of Control, if the consideration to be received in the Change of Control by the holders of our common shares is other than solely cash.

Holders of Series E Preferred Shares may withdraw any notice of exercise of a Change of Control Conversion Right (in whole or in part) by a written notice of withdrawal delivered to our transfer agent prior to the close of business on the business day prior to the Change of Control Conversion Date. The notice of withdrawal must state:

- the number of withdrawn Series E Preferred Shares;

if certificated Series E Preferred Shares have been issued, the certificate numbers of the withdrawn Series E Preferred Shares; and

the number of Series E Preferred Shares, if any, which remain subject to the conversion notice.

Notwithstanding the foregoing, if the Series E Preferred Shares are held in global form, the conversion notice and/or the notice of withdrawal, as applicable, must comply with applicable procedures of The Depository Trust Company.

Series E Preferred Shares as to which the Change of Control Conversion Right has been properly exercised and for which the conversion notice has not been properly withdrawn will be converted into the applicable

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Conversion Consideration in accordance with the Change of Control Conversion Right on the Change of Control Conversion Date, unless prior to the Change of Control Conversion Date we provide notice of our election to redeem such Series E Preferred Shares, whether pursuant to our optional redemption right or our special optional redemption right. If we elect to redeem Series E Preferred Shares that would otherwise be converted into the applicable Conversion Consideration on a Change of Control Conversion Date, such Series E Preferred Shares will not be so converted and the holders of such shares will be entitled to receive on the applicable redemption date $25.00 per share, plus all accrued and unpaid dividends thereon to the redemption date.

We will deliver amounts owing upon conversion no later than the third business day following the Change of Control Conversion Date.

In connection with the exercise of any Change of Control Conversion Right, we will comply with all federal and state securities laws and stock exchange rules in connection with any conversion of Series E Preferred Shares into our common shares. Notwithstanding any other provision of the Series E Preferred Shares, no holder of Series E Preferred Shares will be entitled to convert such Series E Preferred Shares for our common shares to the extent that receipt of such common shares would cause such holder (or any other person) to exceed the share ownership limits contained in our declaration of trust and the articles supplementary setting forth the terms of the Series E Preferred Shares, unless we provide an exemption from this limitation for such holder. See Restrictions on Ownership and Transfer, below.

These Change of Control conversion and redemption features may make it more difficult for a party to take over our company or discourage a party from taking over our company. See Risk Factors The change of control conversion feature may not adequately compensate you, and the change of control conversion and redemption features of the Series E Preferred Shares may make it more difficult for a party to take over our company or discourage a party from taking over our company.

Voting Rights

Holders of the Series E Preferred Shares will not have any voting rights, except as set forth below.

Whenever we fail to pay dividends on any Series E Preferred Shares for six or more quarterly periods, whether or not consecutive, which we refer to in this prospectus supplement as a preferred dividend default, the number of trustees then constituting our board of trustees will be increased by two, if not already increased by reason of similar types of provisions with respect to another series of parity preferred, and holders of the Series E Preferred Shares (voting together as a single class with the holders of the Series C Preferred Shares, the Series D Preferred Shares and all other series of parity preferred, if any, upon which like voting rights have been conferred and are exercisable) will be entitled to vote, if not already elected by the holders of parity preferred by reason of similar types of provisions with respect to preferred share trustees, for the election of a total of two members of our board of trustees, referred to in this prospectus supplement as preferred trustees :

- at a special meeting of the shareholders called by the holders of record of at least 20% of the Series E Preferred Shares or the holders of 20% of any other series of such parity preferred so in arrears (unless such request is received less than 90 days before the date fixed for the next annual or special meeting of the shareholders); and at each subsequent annual meeting until all dividends accrued on Series E Preferred Shares for all dividend periods ending on or prior to the date of any applicable annual meeting shall have been fully paid.

If and when all accumulated dividends on the Series E Preferred Shares shall have been declared and paid in full, the holders thereof shall be divested of the foregoing voting rights (subject to revesting in the event of each and every preferred dividend default) and, if all accumulated dividends have been paid in full on all series of parity preferred upon which like voting rights have been conferred and are exercisable, the term of office of each preferred trustee so elected shall terminate.

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Any preferred trustee may be removed at any time with or without cause by, and shall not be removed otherwise than by the vote of, the holders of record of a majority of the outstanding Series E Preferred Shares (voting together as a single class with all other series of parity preferred, if any, upon which like voting rights have been conferred and are exercisable). So long as a preferred dividend default shall continue, any vacancy in the office of a preferred trustee may be filled by written consent of the preferred trustee remaining in office, or if none remains in office, by a vote of the holders of record of a majority of the outstanding Series E Preferred Shares when they have the voting rights described above (voting together as a single class with all other series of parity preferred, if any, upon which like voting rights have been conferred and are exercisable). The preferred trustees will each be entitled to one vote per trustee on any matter considered by the board.

So long as any Series E Preferred Shares remain outstanding, we will not, without the affirmative vote or consent of the holders of at least two-thirds of the Series E Preferred Shares outstanding at the time, given in person or by proxy, either in writing or at a meeting (voting separately as a class):

- authorize or create, or increase the authorized or issued amount of, any class or series of shares of beneficial interest ranking senior to Series E Preferred Shares with respect to payment of dividends or the distribution of assets upon liquidation, dissolution or winding up or reclassify any authorized shares of our equity securities into such shares, or create, authorize or issue any obligation or security convertible into or evidencing the right to purchase any such shares; or

- amend, alter or repeal the provisions of our declaration of trust, including the articles supplementary creating the Series E Preferred Shares, whether by merger, consolidation or otherwise (an event), so as to materially and adversely affect any right, preference, privilege or voting power of the Series E Preferred Shares or the holders thereof,

provided, however, with respect to the occurrence of any event set forth in the second bullet point above, the occurrence of any such event will not be deemed to materially and adversely affect any right, preference, privilege or voting power of the Series E Preferred Shares or the holders thereof so long as the Series E Preferred Shares remain outstanding with the terms thereof materially unchanged, or if we are not the surviving entity in any merger, consolidation or other event and the successor entity issues to holders of Series E Preferred Shares preferred shares with substantially identical rights, preferences, privileges and voting powers as the Series E Preferred Shares. Any increase in the amount of the authorized common shares or preferred shares or the creation or issuance of any other series of common shares or preferred shares, ranking on a parity with or junior to Series E Preferred Shares with respect to payment of dividends or the distribution of assets upon liquidation, dissolution or winding up, or any change to the number or classification of our trustees, will not be deemed to materially and adversely affect such rights, preferences, privileges or voting powers. In addition, any amendment to Article VII of our declaration of trust, including the ownership limit, will not be deemed to materially and adversely affect the rights, preferences, privileges or voting powers of holders of the Series E Preferred Shares so long as after such amendment any single holder of the Series E Preferred Shares may maintain beneficial ownership of 9.9% of the outstanding Series E Preferred Shares and 9.9% of any other class or series of shares of beneficial interest without violating the ownership limit.

The foregoing voting provisions will not apply if, at or prior to the time when the act with respect to which such vote would otherwise be required to be effected, all outstanding Series E Preferred Shares have been redeemed or called for redemption upon proper notice and sufficient funds have been deposited in trust to effect such redemption.

Information Rights

During any period in which we are not subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act and any Series E Preferred Shares are outstanding, we will:

transmit by mail or other permissible means under the Exchange Act to all holders of Series E Preferred Shares as their names and addresses appear in our record books and without cost to such holders, copies of the Annual Reports on Form 10-K and Quarterly Reports on Form 10-Q that we would have been required to file with the SEC pursuant to Section 13 or 15(d) of the Exchange Act if we were subject thereto (other than any exhibits that would have been required); and

within 15 days following written request, supply copies of such reports to any prospective holder of the Series E Preferred Shares.

We will mail (or otherwise provide) the reports to the holders of Series C Preferred Shares and the Series D Preferred Shares within 15 days after the respective dates by which we would have been required to file such reports with the SEC if we were subject to Section 13 or 15(d) of the Exchange Act.

Restrictions on Ownership and Transfer

For information regarding restrictions on ownership of the Series E Preferred Shares contained in our declaration of trust, please see the discussion contained in the accompanying prospectus under the heading Restrictions on Ownership and Transfer.

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FEDERAL INCOME TAX CONSEQUENCES OF OUR STATUS AS A REIT

This section summarizes the current material federal income tax consequences to our Company and to our shareholders generally resulting from the treatment of our Company as a REIT that you, as a holder of our Series E Preferred Shares, may consider relevant and is intended to supersede in its entirety the discussion under the heading Federal Income Tax Consequences of our Status as a REIT in the accompanying prospectus. Hunton & Williams LLP has acted as our counsel, has reviewed this summary, and is of the opinion that the description of law and the legal conclusions contained herein are correct in all material respects. Because this section is a summary, it does not address all of the potential tax issues that may be relevant to you in light of your particular circumstances. In addition, this section does not address the tax issues that may be relevant to certain types of holders of our Series E Preferred Shares that are subject to special treatment under the federal income tax laws, such as:

- insurance companies;
- tax-exempt organizations (except to the limited extent discussed in Taxation of Tax-Exempt Shareholders, below);
- financial institutions or broker-dealers;
- non-U.S. individuals and foreign corporations (except to the limited extent discussed in Taxation of Non-U.S. Shareholders, below);
- U.S. expatriates;
- persons who mark-to-market our Series E Preferred Shares;
- subchapter S corporations;
- U.S. shareholders (as defined below) whose functional currency is not the U.S. dollar;
- regulated investment companies and REITs;
- trusts and estates;
- holders who receive our Series E Preferred Shares through the exercise of employee stock options or otherwise as compensation;

- persons holding our Series E Preferred Shares as part of a straddle, hedge, conversion transaction, synthetic security or other integrated investment;
- persons subject to the alternative minimum tax provisions of the Code;
- persons holding our Series E Preferred Shares through a partnership or similar pass-through entity; and
- persons holding a 10% or more (by vote or value) beneficial interest in our Series E Preferred Shares.

This summary assumes that holders of our Series E Preferred Shares hold our Series E Preferred Shares as capital assets for federal income tax purposes, which generally means property held for investment.

The statements in this section and the opinion of Hunton & Williams LLP, described below, are based on the current federal income tax laws governing qualification as a REIT. We cannot assure you that new laws, interpretations of law or court decisions, any of which may take effect retroactively, will not cause any statement in this section to be inaccurate.

We urge you to consult your tax advisor regarding the specific tax consequences to you of investing in our Series E Preferred Shares and of our election to be taxed as a REIT. Specifically, you should consult your tax advisor regarding the federal, state, local, foreign and other tax consequences of such investment and election, and regarding potential changes in applicable tax laws.

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Taxation of Our Company

We elected to be taxed as a REIT under the federal income tax laws beginning with our taxable year ended December 31, 1999. We believe that we have operated in a manner qualifying us as a REIT since our election and intend to continue to so operate. This section discusses the laws governing the federal income tax treatment of a REIT and its shareholders. These laws are highly technical and complex.

In the opinion of Hunton & Williams LLP, we qualified to be taxed as a REIT under the federal income tax laws for our taxable years ended December 31, 2012 through December 31, 2015, and our organization and current and proposed method of operation will enable us to continue to qualify as a REIT for our taxable year ending December 31, 2016 and in the future. You should be aware that Hunton & Williams LLP s opinion is based on existing federal income tax law governing qualification as a REIT, which is subject to change, possibly on a retroactive basis, is not binding on the Internal Revenue Service (IRS) or any court, and speaks as of the date issued. In addition, Hunton & Williams LLP s opinion is based on customary assumptions and is conditioned upon certain representations made by us as to factual matters, including representations regarding the nature of our assets and the future conduct of our business, all of which are described in the opinion. Moreover, our continued qualification and taxation as a REIT depends on our ability to meet, on a continuing basis, through actual operating results, certain qualification tests in the federal income tax laws. Those qualification tests involve the percentage of our income that we earn from specified sources, the percentages of our assets that fall within specified categories, the diversity of our share ownership and the percentage of our earnings that we distribute. While Hunton & Williams LLP has reviewed those matters in connection with the foregoing opinion, Hunton & Williams LLP will not review our compliance with those tests on a continuing basis. Accordingly, no assurance can be given that the actual results of our operations for any particular taxable year will satisfy such requirements. Hunton & Williams LLP s opinion does not foreclose the possibility that we may have to use one or more of the REIT savings provisions described below, which would require us to pay an excise or penalty tax (which could be material) in order to maintain our REIT qualification. For a discussion of the tax consequences of our failure to qualify as a REIT, see Failure to Qualify, below.

If we qualify as a REIT, we generally will not be subject to federal income tax on the taxable income that we distribute to our shareholders. The benefit of that tax treatment is that it avoids the double taxation, or taxation at both the corporate and shareholder levels, that generally results from owning shares in a corporation. However, we will be subject to federal tax in the following circumstances:

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

- We may be subject to the alternative minimum tax on any items of tax preference including any deductions of net operating losses.

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

  - net income from the sale or other disposition of property acquired through foreclosure (foreclosure property) that we hold primarily for sale to customers in the ordinary course of business; and other non-qualifying income from foreclosure property.

We will pay a 100% tax on net income from sales or other dispositions of property, other than foreclosure property, that we hold primarily for sale to customers in the ordinary course of business.

If we fail to satisfy one or both of the 75% gross income test or the 95% gross income test, as described below under Income Tests, and nonetheless continue to qualify as a REIT because we meet other requirements, we will pay a 100% tax on the gross income attributable to the greater of the amount by which we fail the 75% gross income test or the 95% gross income test, multiplied, in either case, by a fraction intended to reflect our profitability.

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If we fail to distribute during a calendar year at least the sum of (i) 85% of our REIT ordinary income for the year, (ii) 95% of our REIT capital gain net income for the year, and (iii) any undistributed taxable income required to be distributed from earlier periods, we will pay a 4% nondeductible excise tax on the excess of the required distribution over the amount we actually distributed.

We may elect to retain and pay income tax on our net long-term capital gain. In that case, a U.S. shareholder would be taxed on its proportionate share of our undistributed long-term capital gain (to the extent that we made a timely designation of such gain to the shareholders) and would receive a credit or refund for its proportionate share of the tax we paid.

We will be subject to a 100% excise tax on transactions with a TRS that are not conducted on an arm s-length basis.

In the event of a failure of any of the asset tests, other than a de minimis failure of the 5% asset test, the 10% vote test or the 10% value test, as described below under Asset Tests, as long as the failure was due to reasonable cause and not to willful neglect, we file a description of each asset that caused such failure with the IRS, and we dispose of the assets causing the failure or otherwise comply with the asset tests within six months after the last day of the quarter in which we identify such failure, we will pay a tax equal to the greater of $50,000 or 35% of the net income from the nonqualifying assets during the period in which we failed to satisfy the asset tests.

In the event we fail to satisfy one or more requirements for REIT qualification, other than the gross income tests and the asset tests, and such failure is due to reasonable cause and not willful neglect, we will be required to pay a penalty of $50,000 for each such failure.

If we acquire any asset from a subchapter C corporation, or a corporation that generally is subject to full corporate-level tax, in a merger or other transaction in which we acquire a basis in the asset that is determined by reference either to the C corporation s basis in the asset or to another asset, we will pay tax at the highest regular corporate rate applicable if we recognize gain on the sale or disposition of the asset during up to the 10-years after we acquire the asset provided no election is made for the transaction to be taxable on a current basis. The amount of gain on which we will pay tax is the lesser of:

- the amount of gain that we recognize at the time of the sale or disposition; and

- the amount of gain that we would have recognized if we had sold the asset at the time we acquired it.

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 a REIT s shareholders, as described below in Recordkeeping Requirements.

The earnings of our lower-tier entities that are subchapter C corporations, including TRSs, are subject to federal corporate income tax.

In addition, we may be subject to a variety of taxes, including payroll taxes and state, local and foreign income, property and other taxes on our assets and operations. We could also be subject to tax in situations and on transactions not presently contemplated.

Requirements for Qualification

A REIT is a corporation, trust, or association that meets each of the following requirements:

1. It is managed by one or more trustees or directors.

2. Its beneficial ownership is evidenced by transferable shares, or by transferable certificates of beneficial interest.

3. It would be taxable as a domestic corporation, but for the REIT provisions of the federal income tax laws.

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4. It is neither a financial institution nor an insurance company subject to special provisions of the federal income tax laws.

5. At least 100 persons are beneficial owners of its shares or ownership certificates.

6. Not more than 50% in value of its outstanding shares or ownership certificates is owned, directly or indirectly, by five or fewer individuals, which the Code defines to include certain entities, during the last half of any taxable year.

7. It elects to be a REIT, or has made such election for a previous taxable year, and satisfies all relevant filing and other administrative requirements established by the IRS that must be met to elect and maintain REIT status.

8. It meets certain other qualification tests, described below, regarding the nature of its income and assets and the amount of its distributions to shareholders.

9. It uses a calendar year for federal income tax purposes and complies with the recordkeeping requirements of the federal income tax laws.

We must meet requirements 1 through 4, 7, 8 and 9 during our entire taxable year and must meet requirement 5 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. If we comply with all the requirements for ascertaining the ownership of our outstanding shares in a taxable year and have no reason to know that we violated requirement 6, we will be deemed to have satisfied requirement 6 for that taxable year. For purposes of determining share ownership under requirement 6, an individual generally includes a supplemental unemployment compensation benefits plan, a private foundation, or a portion of a trust permanently set aside or used exclusively for charitable purposes. An individual, however, generally does not include a trust that is a qualified employee pension or profit sharing trust under the federal income tax laws, and beneficiaries of such a trust will be treated as holding our shares in proportion to their actuarial interests in the trust for purposes of requirement 6. We believe we have issued sufficient shares with sufficient diversity of ownership to satisfy requirements 5 and 6. In addition, our declaration of trust restricts the ownership and transfer of our shares of beneficial interest so that we should continue to satisfy these requirements.

A corporation that is a qualified REIT subsidiary (i.e., a corporation that is 100% owned by a REIT and with respect to which no TRS election has been made) is not treated as a corporation separate from its parent REIT. All assets, liabilities, and items of income, deduction and credit of a qualified REIT subsidiary are treated as assets, liabilities, and items of income, deduction and credit of the REIT. Thus, in applying the requirements described herein, any qualified REIT subsidiary that we own will be ignored, and all assets, liabilities, and items of income, deduction and credit of such subsidiary will be treated as our assets, liabilities, and items of income, deduction and credit.

An unincorporated domestic entity, such as a partnership or limited liability company, that has a single owner for federal income tax purposes generally is not treated as an entity separate from its parent for federal income tax purposes. An unincorporated domestic entity with two or more owners is generally treated as a partnership for federal income tax purposes. In the case of a REIT that is a partner in a partnership that has other partners, the REIT is treated as owning its proportionate share of the assets of the partnership and as earning its allocable share of the gross income of the partnership for purposes of the applicable REIT qualification tests. Thus, our proportionate share of the assets, liabilities and items of income of our operating partnership and any other partnership, joint venture, or limited liability company that is treated as a partnership for federal income tax purposes in which we have acquired or will acquire an interest, directly or indirectly (a subsidiary partnership), will be treated as our assets and gross income for purposes of applying the various REIT qualification requirements. For purposes of the 10% value test (described in Asset Tests, below), our proportionate share is based on our proportionate interest in the equity interests and certain debt securities issued by the partnership.

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For all of the other asset and income tests, our proportionate share is based on our proportionate interest in the capital interests in the partnership.

We have control of our operating partnership and intend to control most of our subsidiary partnerships, and we intend to operate them in a manner consistent with the requirements for our qualification as a REIT. We may from time to time be a limited partner or non-managing member in some of our subsidiary partnerships. If a partnership or limited liability company in which we own an interest takes or expects to take actions that could jeopardize our status as a REIT or require us to pay tax, we may be forced to dispose of our interest in such entity. In addition, it is possible that a partnership or limited liability company could take an action which could cause us to fail a gross income or asset test, and that we would not become aware of such action in time to dispose of our interest in the partnership or limited liability company or take other corrective action on a timely basis. In that case, we could fail to qualify as a REIT unless we were entitled to relief, as described below.

A REIT may own up to 100% of the shares of one or more TRSs. A TRS is a fully taxable corporation that may earn income that would not be qualifying income if earned directly by the parent REIT. However, a TRS may not directly or indirectly operate or manage any lodging facility or health care facility or provide rights to any brand name under which any lodging facility or health care facility is operated, unless such rights are provided to an eligible independent contractor to operate or manage a lodging facility or health care facility if such rights are held by the TRS as a franchisee, licensee, or in a similar capacity and such hotel is either owned by the TRS or leased to the TRS by its parent REIT. A TRS will not be considered to operate or manage a qualified lodging facility or qualified health care property solely because the TRS directly or indirectly possesses a license, permit, or similar instrument enabling it to do so. Additionally, a TRS that employs individuals working at a qualified lodging facility or qualified health care property located outside of the United States will not be considered to operate or manage such facility or property, as long as an eligible independent contractor is responsible for the daily supervision and direction of such individuals on behalf of the TRS pursuant to a management agreement or similar service contract. The subsidiary and the REIT must jointly elect to treat the subsidiary as a TRS. Additionally, a corporation of which a TRS directly or indirectly owns more than 35% of the voting power or value of the securities will automatically be treated as a TRS. We are not treated as holding the assets of a TRS or as receiving any income that the subsidiary earns. Rather, the stock issued by a TRS to us is an asset in our hands, and we treat the distributions paid to us from such taxable subsidiary, if any, as income. Overall, not more than 25% (20% for taxable years beginning after December 31, 2017) of the value of our assets may consist of shares or securities of one or more TRSs.

A TRS will pay income tax at regular corporate rates on any income that it earns. In addition, the TRS rules limit the deductibility of interest paid or accrued by a TRS to its parent REIT to assure that the TRS is subject to an appropriate level of corporate taxation. Further, the rules impose a 100% excise tax on transactions between a TRS and its parent REIT or the REIT s tenants that are not conducted on an arm s-length basis. We lease all of our hotels to TRSs. We lease all of our wholly owned hotels either to 44 New England, a TRS owned by our operating partnership, or to a wholly owned subsidiary of 44 New England. All of our hotels owned by joint ventures are leased (i) to joint ventures, in which we hold equity interests through a TRS, or (ii) to a TRS wholly owned or substantially owned by the joint venture. We have formed several TRSs in connection with the financing of certain of our hotels. Those TRSs generally own a 1% general partnership interest in the partnerships that own those hotels.

Income Tests

We must satisfy two gross income tests annually to maintain our qualification as a REIT. First, at least 75% of our gross income for each taxable year must consist of defined types of income that we derive, directly or indirectly, from investments relating to real property or mortgages on real property or qualified temporary investment income. Qualifying income for purposes of that 75% gross income test generally includes:

rents from real property;

interest on debt secured by mortgages on real property, or on interests in real property;

- dividends or other distributions on, and gain from the sale of, shares in other REITs;
- gain from the sale of real estate assets;
- income and gain from foreclosure property; and
- income derived from the temporary investment of new capital that is attributable to the issuance of our shares or a public offering of our debt with a maturity date of at least five years and that we receive during the one-year period beginning on the date on which we received such new capital.

Although a debt instrument issued by a publicly offered REIT (i.e., a REIT that is required to file annual and periodic reports with the SEC under the Exchange Act) is treated as a real estate asset for the asset tests for taxable years beginning after December 31, 2015, the interest income and gain from the sale of such debt instruments is not treated as qualifying income for the 75% gross income test unless the debt instrument is secured by real property or an interest in real property.

Second, in general, at least 95% of our gross income for each taxable year must consist of income that is qualifying income for purposes of the 75% gross income test, other types of interest and dividends, gain from the sale or disposition of shares or securities, or any combination of these. Gross income from our sale of property that we hold primarily for sale to customers in the ordinary course of business is excluded from both the numerator and the denominator in both income tests. In addition, income and gain from hedging transactions, as defined below in Hedging Transactions, that are clearly and timely identified as such are excluded from both the numerator and the denominator for purposes of the 95% gross income test, but not the 75% gross income test. Income and gain from hedging transactions entered into after July 30, 2008 that are clearly and timely identified as such will also be excluded from both the numerator and the denominator for purposes of the 75% gross income test. In addition, certain foreign currency gains recognized after July 30, 2008 will be excluded from gross income for purposes of one or both of the gross income tests. See Foreign Currency Gain, below. The following paragraphs discuss the specific application of the gross income tests to us.

Rents from Real Property. Rent that we receive from our real property will qualify as rents from real property, which is qualifying income for purposes of the 75% and 95% gross income tests, only if the following conditions are met:

- First, the rent must not be based, in whole or in part, on the income or profits of any person, but may be based on a fixed percentage or percentages of receipts or sales.
- Second, neither we nor a direct or indirect owner of 10% or more of our shares may own, actually or constructively, 10% or more of a tenant from whom we receive rent other than a TRS. If the tenant is a TRS, such TRS may not directly or indirectly operate or manage the related property. Instead, the property must be operated on behalf of the TRS by a person who qualifies as an independent contractor and who is, or is related to a person who is, actively engaged in the trade or business of operating lodging facilities for any person unrelated to us and the TRS.

Third, if the rent attributable to personal property leased in connection with a lease of real property is 15% or less of the total rent received under the lease, then the rent attributable to personal property will qualify as rents from real property. However, if the 15% threshold is exceeded, the rent attributable to personal property will not qualify as rents from real property.

Fourth, we generally must not operate or manage our real property or furnish or render services to our tenants, other than through an independent contractor who is adequately compensated and from whom we do not derive revenue. However, we need not provide services through an independent contractor, but instead may provide services directly to our tenants, if the services are usually or customarily rendered in connection with the rental of space for occupancy only and are not considered to be provided for the tenants convenience. In addition, we may provide a minimal amount of noncustomary services to the tenants of a property, other than through an independent contractor, as long as our income from the services (valued at not less than 150% of our direct cost of performing such services) does not exceed 1% of our income from the related property. Furthermore, we may own up to 100% of the stock of a TRS which may provide customary and noncustomary services to our tenants without tainting our rental income for the related properties.

Pursuant to percentage leases, our TRS lessees lease the land, buildings, improvements, furnishings and equipment comprising our hotels, for five-year terms, with options to renew for terms of five years at the expiration of the initial lease term. The percentage leases with our TRS lessees provide that the lessees are obligated to pay (i) the greater of a minimum base rent or percentage rent and (ii) additional charges or other expenses, as defined in the leases. Percentage rent is calculated by multiplying fixed percentages by gross room revenues and gross food and beverage revenues for each of the hotels. Both base rent and the thresholds in the percentage rent formulas are adjusted for inflation. Base rent and percentage rent accrue and are due monthly or quarterly.

In order for the base rent, percentage rent and additional charges to constitute rents from real property, the percentage leases must be respected as true leases for federal income tax purposes and not treated as service contracts, joint ventures or some other type of arrangement. The determination of whether the percentage leases are true leases depends on an analysis of all the surrounding facts and circumstances. In making such a determination, courts have considered a variety of factors, including the following:

- the intent of the parties;
- the form of the agreement;
- the degree of control over the property that is retained by the property owner, or whether the lessee has substantial control over the operation of the property or is required simply to use its best efforts to perform its obligations under the agreement; and
- the extent to which the property owner retains the risk of loss with respect to the property, or whether the lessee bears the risk of increases in operating expenses or the risk of damage to the property or the potential for economic gain or appreciation with respect to the property.

In addition, federal income tax law provides that a contract that purports to be a service contract or a partnership agreement will be treated instead as a lease of property if the contract is properly treated as such, taking into account all relevant factors, including whether or not:

- the service recipient is in physical possession of the property;
- the service recipient controls the property;
- the service recipient has a significant economic or possessory interest in the property, or whether the property s use is likely to be dedicated to the service recipient for a substantial portion of the useful life of the

property, the recipient shares the risk that the property will decline in value, the recipient shares in any appreciation in the value of the property, the recipient shares in savings in the property s operating costs or the recipient bears the risk of damage to or loss of the property;

the service provider bears the risk of substantially diminished receipts or substantially increased expenditures if there is nonperformance under the contract;

the service provider uses the property concurrently to provide significant services to entities unrelated to the service recipient; and

the total contract price substantially exceeds the rental value of the property for the contract period.

Since the determination whether a service contract should be treated as a lease is inherently factual, the presence or absence of any single factor will not be dispositive in every case.

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We believe that our percentage leases will be treated as true leases for federal income tax purposes. Such belief is based, in part, on the following facts:

- we and the lessees intend for our relationship to be that of a lessor and lessee and such relationship is documented by lease agreements;
- the lessees have the right to the exclusive possession, use and quiet enjoyment of the hotels during the term of the percentage leases;
- the lessees bear the cost of, and are responsible for, day-to-day maintenance and repair of the hotels, other than the cost of maintaining underground utilities, structural elements and capital improvements, and generally dictate how the hotels are operated, maintained and improved;
- the lessees generally bear the costs and expenses of operating the hotels, including the cost of any inventory used in their operation, during the term of the percentage leases;
- the lessees benefit from any savings in the cost of operating the hotels during the term of the percentage leases;
- the lessees generally have indemnified us against all liabilities imposed on us during the term of the percentage leases by reason of (i) injury to persons or damage to property occurring at the hotels, (ii) the lessees use, management, maintenance or repair of the hotels, (iii) any environmental liability caused by acts or grossly negligent failures to act of the lessees, (iv) taxes and assessments in respect of the hotels that are the obligations of the lessees or (v) any breach of the percentage leases or of any sublease of a hotel by the lessees;
- the lessees are obligated to pay substantial fixed rent for the period of use of the hotels;
- the lessees stand to incur substantial losses or reap substantial gains depending on how successfully they operate the hotels;
- we cannot use the hotels concurrently to provide significant services to entities unrelated to the lessees; and
- the total contract price under the percentage leases does not substantially exceed the rental value of the hotels for the term of the percentage leases.

Investors should be aware that there are no controlling Treasury regulations, published rulings or judicial decisions involving leases with terms substantially the same as the percentage leases that discuss whether such leases constitute true leases for federal income tax purposes. If the percentage leases are characterized as service contracts or partnership agreements, rather than as true leases, part or all of the payments that our operating partnership and its subsidiaries receive from the lessees may not be considered rent or may not otherwise satisfy the various requirements for qualification as rents from real property. In that case, we likely would not be able to satisfy either the 75% or 95% gross income test and, as a result, would lose our REIT status unless we qualify for relief, as described below under Failure to Satisfy Gross Income Tests.

As described above, in order for the rent that we receive to constitute rents from real property, several other requirements must be satisfied. One requirement is that the percentage rent must not be based in whole or in part on the income or profits of any person. The percentage rent, however, will qualify as rents from real property if it is based on percentages of receipts or sales and the percentages:

- are fixed at the time the percentage leases are entered into;
- are not renegotiated during the term of the percentage leases in a manner that has the effect of basing percentage rent on income or profits; and
- conform with normal business practice.

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More generally, percentage rent will not qualify as rents from real property if, considering the percentage leases and all the surrounding circumstances, the arrangement does not conform with normal business practice, but is in reality used as a means of basing the percentage rent on income or profits. Since the percentage rent is based on fixed percentages of the gross revenue from the hotels that are established in the percentage leases, and we have represented that the percentages (i) will not be renegotiated during the terms of the percentage leases in a manner that has the effect of basing the percentage rent on income or profits and (ii) conform with normal business practice, the percentage rent should not be considered based in whole or in part on the income or profits of any person. Furthermore, we have represented that, with respect to other hotel properties that we acquire in the future, we will not charge rent for any property that is based in whole or in part on the income or profits of any person, except by reason of being based on a fixed percentage of gross revenues, as described above.

Second, we must not own, actually or constructively, 10% or more of the shares or the assets or net profits of any lessee (a related party tenant) other than a TRS. The constructive ownership rules generally provide that, if 10% or more in value of our shares is owned, directly or indirectly, by or for any person, we are considered as owning the shares owned, directly or indirectly, by or for such person. We do not own any shares or any assets or net profits of any lessee directly or indirectly, other than our indirect ownership of our TRS lessees. We currently lease all of our hotels to TRS lessees, and intend to lease any hotels we acquire in the future to a TRS. Our declaration of trust prohibits transfers of our shares that would cause us to own actually or constructively, 10% or more of the ownership interests in a non-TRS lessee. Based on the foregoing, we should never own, actually or constructively, 10% or more of any lessee other than a TRS. Furthermore, we have represented that, with respect to other hotel properties that we acquire in the future, we will not rent any property to a related party tenant (other than a TRS). However, because the constructive ownership rules are broad and it is not possible to monitor continually direct and indirect transfers of our shares, no absolute assurance can be given that such transfers or other events of which we have no knowledge will not cause us to own constructively 10% or more of a lessee (or a subtenant, in which case only rent attributable to the subtenant is disqualified) other than a TRS at some future date.

As described above, we may own up to 100% of the shares of one or more TRSs. A TRS is a fully taxable corporation that is permitted to lease lodging facilities from the related REIT as long as it does not directly or indirectly operate or manage any lodging facilities or provide rights to any brand name under which any lodging facility is operated, unless such rights are provided to an eligible independent contractor to operate or manage a hotel if such rights are held by the TRS as a franchisee, licensee, or in a similar capacity and such hotel is either owned by the TRS or leased to the TRS by its parent REIT. A TRS will not be considered to operate or manage a qualified lodging facility solely because the TRS directly or indirectly possesses a license, permit, or similar instrument enabling it to do so. Additionally, a TRS that employs individuals working at a qualified lodging facility located outside of the United States will not be considered to operate or manage such facility, as long as an eligible independent contractor is responsible for the daily supervision and direction of such individuals on behalf of the TRS pursuant to a management agreement or similar service contract. However, rent that we receive from a TRS will qualify as rents from real property as long as the property is operated on behalf of the TRS by an independent contractor who is adequately compensated, who does not, directly or through its shareholders, own more than 35% of our shares, taking into account certain ownership attribution rules, and who is, or is related to a person who is, actively engaged in the trade or business of operating qualified lodging facilities for any person unrelated to us and the TRS lessee (an eligible independent contractor). A qualified lodging facility is a hotel, motel, or other establishment more than one-half of the dwelling units in which are used on a transient basis, unless wagering activities are conducted at or in connection with such facility by any person who is engaged in the business of accepting wagers and who is legally authorized to engage in such business at or in connection with such facility. A qualified lodging facility includes customary amenities and facilities operated as part of, or associated with, the lodging facility as long as such amenities and facilities are customary for other properties of a comparable size and class owned by other unrelated owners.

We have formed several TRSs to lease our hotels. We lease all of our wholly owned hotels either to 44 New England, a TRS owned by our operating partnership, or to a wholly-owned subsidiary of 44 New England.

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HHMLP, an eligible independent contractor, or other management companies that qualify as eligible independent contractors, manage those hotels. All of our hotels owned by joint ventures are leased (i) to the joint venture in which we hold our equity interest through a TRS, or (ii) to a TRS wholly owned or substantially owned by the joint venture. Those hotels are operated and managed by HHMLP or other hotel managers that qualify as eligible independent contractors. We have represented that, with respect to properties that we lease to our TRSs in the future, each such TRS will engage an eligible independent contractor to manage and operate the hotels leased by such TRS.

Third, the rent attributable to the personal property leased in connection with the lease of a hotel must not be greater than 15% of the total rent received under the lease. The rent attributable to the personal property contained in a hotel is the amount that bears the same ratio to total rent for the taxable year as the average of the fair market values of the personal property at the beginning and at the end of the taxable year bears to the average of the aggregate fair market values of both the real and personal property contained in the hotel at the beginning and at the end of such taxable year (the personal property ratio). With respect to each hotel, we believe either that the personal property ratio is less than 15% or that any rent attributable to excess personal property will not jeopardize our ability to qualify as a REIT. There can be no assurance, however, that the IRS would not challenge our calculation of a personal property ratio, or that a court would not uphold such assertion. If such a challenge were successfully asserted, we could fail to satisfy the 75% or 95% gross income test and thus potentially lose our REIT status.

Fourth, we cannot furnish or render non-customary services to the tenants of our hotels, or manage or operate our hotels, other than through an independent contractor who is adequately compensated and from whom we do not derive or receive any income. However, we need not provide services through an independent contractor, but instead may provide services directly to our tenants, if the services are usually or customarily rendered in connection with the rental of space for occupancy only and are not considered to be provided for the tenants convenience. Provided that the percentage leases are respected as true leases, we should satisfy that requirement, because we do not perform any services other than customary ones for the lessees. In addition, we may provide a minimal amount of non-customary services to the tenants of a property, other than through an independent contractor, as long as our income from the services does not exceed 1% of our income from the related property. Finally, we may own up to 100% of the shares of one or more TRSs, which may provide non-customary services to our tenants without tainting our rents from the related hotels. We will not perform any services other than customary ones for our lessees, unless such services are provided through independent contractors or TRSs. Furthermore, we have represented that, with respect to other hotel properties that we acquire in the future, we will not perform non-customary services for the lessee of the property to the extent that the provision of such services would jeopardize our REIT status.

If a portion of the rent that we receive from a hotel does not qualify as rents from real property because the rent attributable to personal property exceeds 15% of the total rent for a taxable year, the portion of the rent that is attributable to personal property will not be qualifying income for purposes of either the 75% or 95% gross income test. Thus, if such rent attributable to personal property, plus any other income that is non-qualifying income for purposes of the 95% gross income test, during a taxable year exceeds 5% of our gross income during the year, we would lose our REIT qualification. If, however, the rent from a particular hotel does not qualify as rents from real property because either (i) the percentage rent is considered based on the income or profits of the related lessee, (ii) the lessee either is a related party tenant or fails to qualify for the exception to the related party tenant rule for qualifying TRSs (including as a result of a hotel management company engaged by our TRS lessees to operate our hotels failing to qualify as an eligible independent contractor) or (iii) we furnish non-customary services to the tenants of the hotel, or manage or operate the hotel, other than through a qualifying independent contractor or a TRS, none of the rent from that hotel would qualify as rents from real property. In that case, we might lose our REIT qualification because we would be unable to satisfy either the 75% or 95% gross income test. In addition to the rent, the lessees are required to pay certain additional charges. To the extent that such additional charges represent either (i) reimbursements of amounts that we are obligated to pay to third parties, such as a lessee s proportionate share of a property s operational or capital expenses, or

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(ii) penalties for nonpayment or late payment of such amounts, such charges should qualify as rents from real property. However, to the extent that such charges do not qualify as rents from real property, they instead will be treated as interest that qualifies for the 95% gross income test.

Interest. The term interest generally does not include any amount received or accrued, directly or indirectly, if the determination of such amount depends in whole or in part on the income or profits of any person. However, interest generally includes the following:

- an amount that is based on a fixed percentage or percentages of receipts or sales; and
- an amount that is based on the income or profits of a debtor, as long as the debtor derives substantially all of its income from the real property securing the debt from leasing substantially all of its interest in the property, and only to the extent that the amounts received by the debtor would be qualifying rents from real property if received directly by a REIT.

If a loan contains a provision that entitles a REIT to a percentage of the borrower s gain upon the sale of the real property securing the loan or a percentage of the appreciation in the property s value as of a specific date, income attributable to that loan provision will be treated as gain from the sale of the property securing the loan, which generally is qualifying income for purposes of both gross income tests.

From time to time, we have made mortgage loans in connection with the development of hotel properties. Interest on debt secured by a mortgage on real property or on interests in real property, including, for this purpose, discount points, prepayment penalties, loan assumption fees, and late payment charges that are not compensation for services, generally is qualifying income for purposes of the 75% gross income test. However, except to the extent described below, if a loan is secured by real property and other property and the highest principal amount of a loan outstanding during a taxable year exceeds the fair market value of the real property securing the loan as of the date the REIT agreed to originate or acquire the loan or on the date the REIT modifies the loan (if the modification is treated as significant for federal income tax purposes), a portion of the interest income from such loan will not be qualifying income for purposes of the 75% gross income test, but will be qualifying income for purposes of the 95% gross income test. The portion of the interest income that will not be qualifying income for purposes of the 75% gross income test will be equal to the portion of the principal amount of the loan that is not secured by real property that is, the amount by which the loan exceeds the value of the real estate that is security for the loan. IRS guidance provides that we do not need to redetermine the fair market value of the real property securing a loan in connection with a loan modification that is occasioned by a borrower default or made at a time when we reasonably believe that the modification to the loan will substantially reduce a significant risk of default on the original loan. In addition, for taxable years beginning after December 31, 2015, in the case of a loan that is secured by both real property and personal property, if the fair market value of such personal property does not exceed 15% of the total fair market value of all such property securing the loan, then the personal property securing the loan will be treated as real property for purposes of determining whether the interest on such loan is qualifying income for purposes of the 75% gross income test. We have made and will make mortgage loans in a manner that we believe will enable us to continue to satisfy the REIT gross income and asset tests.

We have also made mezzanine loans that are not secured by a direct interest in real property. Mezzanine loans are loans secured by equity interests in an entity that directly or indirectly owns real property, rather than by a direct mortgage of the real property. IRS 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. Moreover, our mezzanine loans typically do not meet all of the requirements for reliance on this safe harbor. We have made and will make mezzanine loans in a manner that will enable us to continue to satisfy the REIT gross income and asset tests.

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Prohibited Transactions. A REIT will incur a 100% tax on the net income derived from any sale or other disposition of property, other than foreclosure property, that the REIT holds primarily for sale to customers in the ordinary course of a trade or business. We believe that none of our assets are held primarily for sale to customers and that a sale of any of our assets will not be in the ordinary course of our business. Whether a REIT holds an asset primarily for sale to customers in the ordinary course of a trade or business depends, however, on the facts and circumstances in effect from time to time, including those related to a particular asset. A safe harbor to the characterization of the sale of property by a REIT as a prohibited transaction and the 100% prohibited transaction tax is available if the following requirements are met:

- the REIT has held the property for not less than two years;

- the aggregate expenditures made by the REIT, or any partner of the REIT, during the two-year period preceding the date of the sale that are includable in the basis of the property do not exceed 30% of the selling price of the property;

- either (i) during the year in question, the REIT did not make more than seven sales of property other than foreclosure property or sales to which Section 1031 or 1033 of the Code applies, (ii) the aggregate adjusted bases of all such properties sold by the REIT during the year did not exceed 10% of the aggregate bases of all of the assets of the REIT at the beginning of the year, (iii) the aggregate fair market value of all such properties sold by the REIT during the year did not exceed 10% of the aggregate fair market value of all of the assets of the REIT at the beginning of the year, (iv) with respect to taxable years beginning after December 31, 2015, (a) the aggregate adjusted bases of all such properties sold by the REIT during the year did not exceed 20% of the aggregate adjusted bases of all property of the REIT at the beginning of the year and (b) the 3-year average percentage of properties sold by the REIT compared to all the REIT s properties (measured by adjusted bases) taking into account the current and two prior years did not exceed 10% or (v) with respect to taxable years beginning after December 31, 2015, (a) the aggregate fair market value of all such properties sold by the REIT during the year did not exceed 20% of the aggregate fair market value of all property of the REIT at the beginning of the year and (b) the 3-year average percentage of properties sold by the REIT compared to all the REIT s properties (measured by fair market value) taking into account the current and two prior years did not exceed 10%;

- in the case of property not acquired through foreclosure or lease termination, the REIT has held the property for at least two years for the production of rental income; and

- if the REIT has made more than seven sales of non-foreclosure property during the taxable year, substantially all of the marketing and development expenditures with respect to the property were made through an independent contractor from whom the REIT derives no income or, with respect to taxable years beginning after December 31, 2015, a TRS.

We will attempt to comply with the terms of the safe-harbor provisions in the federal income tax laws prescribing when an asset sale will not be characterized as a prohibited transaction. We cannot assure you, however, that we can comply with the safe-harbor provision or that we will avoid owning property that may be characterized as property that we hold primarily for sale to customers in the ordinary course of a trade or business. 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 taxed to the corporation at regular corporate income tax rates.

Foreclosure Property. We will be subject to tax at the maximum corporate rate on any income from foreclosure property, which includes certain foreign currency gains and related deductions, other than income that otherwise would be qualifying income for purposes of the 75% gross income test, less expenses directly connected with the production of that income. However, gross income from foreclosure property will qualify under the 75% and 95% gross income tests. Foreclosure property is any real property, including interests in real property, and any personal property incident to such real property:

- that is acquired by a REIT as the result of the REIT having bid on such property at foreclosure, or having otherwise reduced such property to ownership or possession by agreement or process of law, after there was a default or default was imminent on a lease of such property or on indebtedness that such property secured;

for which the related loan was acquired by the REIT at a time when the default was not imminent or anticipated; and

for which the REIT makes a proper election to treat the property as foreclosure property.

We currently do not have any foreclosure property. Property generally ceases to be foreclosure property at the end of the third taxable year following the taxable year in which the REIT acquired the property, or longer if an extension is granted by the Secretary of the Treasury. However, this grace period terminates and foreclosure property ceases to be foreclosure property on the first day:

on which a lease is entered into for the property that, by its terms, will give rise to income that does not qualify for purposes of the 75% gross income test, or any amount is received or accrued, directly or indirectly, pursuant to a lease entered into on or after such day that will give rise to income that does not qualify for purposes of the 75% gross income test;

on which any construction takes place on the property, other than completion of a building or any other improvement, where more than 10% of the construction was completed before default became imminent; or

which is more than 90 days after the day on which the REIT acquired the property and the property is used in a trade or business which is conducted by the REIT, other than through an independent contractor from whom the REIT itself does not derive or receive any income or, with respect to taxable years beginning after December 31, 2015, a TRS.

Hedging Transactions. From time to time, we or our operating partnership may enter into hedging transactions with respect to one or more of our assets or liabilities. Our hedging activities may include entering into interest rate swaps, caps, and floors, options to purchase such items, and futures and forward contracts. Income and gain from hedging transactions will be excluded from gross income for purposes of both the 75% and 95% gross income tests. A hedging transaction means any of (i) any transaction entered into in the normal course of our or our operating partnership s trade or business primarily to manage the risk of interest rate, 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, (ii) any transaction entered into primarily to manage the risk of currency fluctuations with respect to any item of income or gain that would be qualifying income under the 75% or 95% gross income test (or any property which generates such income or gain) or (iii) any transaction entered into after December 31, 2015 to offset a transaction described in (i) or (ii) if a portion of the hedged indebtedness is extinguished or the related property disposed of. We are required to clearly identify any such hedging transaction before the close of the day on which it was acquired, originated, or entered into and to satisfy other identification requirements. We intend to structure any hedging transactions in a manner that does not jeopardize our qualification as a REIT.

Foreign Currency Gain. Certain foreign currency gains will be excluded from gross income for purposes of one or both of the gross income tests. Real estate foreign exchange gain will be excluded from gross income for purposes of the 75% and 95% gross income tests. Real estate foreign exchange gain generally includes foreign currency gain attributable to any item of income or gain that is qualifying income for purposes of the 75% gross income test, foreign currency gain attributable to the acquisition or ownership of (or becoming or being the obligor under) obligations secured by mortgages on real property or on interest in real property and certain foreign currency gain attributable to certain qualified business units of a REIT. Passive foreign exchange gain will be excluded from gross income for purposes of the 95% gross income test. Passive foreign exchange gain generally includes real estate foreign exchange gain as described above, and also includes foreign currency gain attributable to any item of income or gain that is qualifying income for purposes of the 95% gross income test and foreign currency gain attributable to the acquisition or ownership of (or becoming or being the

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obligor under) obligations. These exclusions for real estate foreign exchange gain and passive foreign exchange gain do not apply to any certain foreign currency gain derived from dealing, or engaging in substantial and regular trading, in securities. Such gain is treated as nonqualifying income for purposes of both the 75% and 95% gross income tests.

Failure to Satisfy Gross Income Tests. If we fail to satisfy one or both of the gross income tests for any taxable year, we nevertheless may qualify as a REIT for that year if we qualify for relief under certain provisions of the federal income tax laws. Those relief provisions are available if:

- our failure to meet those tests is due to reasonable cause and not to willful neglect; and

- following such failure for any taxable year, we file a schedule of the sources of our income with the IRS.

We cannot predict, however, whether in all circumstances we would qualify for the relief provisions. In addition, as discussed above in Taxation of Our Company, even if the relief provisions apply, we would incur a 100% tax on the gross income attributable to the greater of the amount by which we fail the 75% gross income test or the 95% gross income test multiplied, in each case, by a fraction intended to reflect our profitability.

Asset Tests

To maintain our qualification as a REIT, we also must satisfy the following asset tests at the end of each quarter of each taxable year. First, at least 75% of the value of our total assets must consist of:

- cash or cash items, including certain receivables and money market funds;

- government securities;

- interests in real property, including leaseholds, options to acquire real property and leaseholds, and, for taxable years beginning after December 31, 2015, personal property to the extent such personal property is leased in connection with real property and rents attributable to such personal property are treated as rents from real property as a result of such rents not exceeding 15% of the total rent attributable to personal property and real property under such lease;

- interests in mortgages on real property;

- shares in other REITs and debt instruments issued by publicly offered REITs ; and

- investments in shares or debt instruments during the one-year period following our receipt of new capital that we raise through equity offerings or public offerings of debt with at least a five-year term.

Second, of our investments not included in the 75% asset class, the value of our interest in any one issuer s securities may not exceed 5% of the value of our total assets (the 5% asset test).

Third, of our investments not included in the 75% asset class, we may not own more than 10% of the voting power of any issuer s outstanding securities or 10% of the value of any one issuer s outstanding securities (the 10% vote test and the 10% value test, respectively).

Fourth, no more than 25% (20% for taxable years beginning after December 31, 2017) of the value of our total assets may consist of the securities of one or more TRSs.

Fifth, no more than 25% of the value of our total assets may consist of the securities of TRSs and other non- TRS taxable subsidiaries and other assets that are not qualifying assets for purposes of the 75% asset test.

Sixth, no more than 25% of the value of our total assets may consist of debt instruments issued by publicly offered REITs to the extent not secured by real property or interests in real property.

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For purposes of the 5% asset test, the 10% vote test and the 10% value test, the term securities does not include shares in another REIT, debt of publicly offered REITs, equity or debt securities of a qualified REIT subsidiary or TRS, mortgage loans that constitute real estate assets, or equity interests in a partnership. The term securities, however, generally includes debt securities issued by a partnership or another REIT, except that for purposes of the 10% value test, the term securities does not include:

Straight debt securities, which is defined as 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 equity, and (ii) the interest rate and interest payment dates are not contingent on profits, the borrower s discretion, or similar factors. Straight debt securities do not include any securities issued by a partnership or a corporation in which we or any TRS in which we own more than 50% of the voting power or value of the shares hold non- straight debt securities that have an aggregate value of more than 1% of the issuer s outstanding securities. However, straight debt securities include debt subject to the following contingencies:

a contingency relating to the time of payment of interest or principal, as long as either (i) there is no change to the effective yield of the debt obligation, other than a change to the annual yield that does not exceed the greater of 0.25% or 5% of the annual yield, or (ii) neither the aggregate issue price nor the aggregate face amount of the issuer s debt obligations held by us exceeds $1 million and no more than 12 months of unaccrued interest on the debt obligations can be required to be prepaid; and

a contingency relating to the time or amount of payment upon a default or prepayment of a debt obligation, as long as the contingency is consistent with customary commercial practice.

Any loan to an individual or an estate.

Any section 467 rental agreement, other than an agreement with a related party tenant.

Any obligation to pay rents from real property.

Certain securities issued by governmental entities.

Any security issued by a REIT.

Any debt instrument issued by an entity treated as a partnership for federal income tax purposes in which we are a partner to the extent of our proportionate interest in the equity and debt securities of the partnership.

- Any debt instrument issued by an entity treated as a partnership for federal income tax purposes not described in the preceding bullet points if at least 75% of the partnership s gross income, excluding income from prohibited transactions, is qualifying income for purposes of the 75% gross income test described above in Income Tests.

For purposes of the 10% value test, our proportionate share of the assets of a partnership is our proportionate interest in any securities issued by the partnership, without regard to the securities described in the last two bullet points above.

We believe that our existing hotels are qualifying assets for purposes of the 75% asset test. Additionally, as described above, from time to time we have made mortgage and mezzanine loans. We believe that our investments in mortgage loans will generally be treated as real estate assets. However, for purposes of the asset tests, if the outstanding principal balance of a mortgage loan during a taxable year exceeds the fair market value of the real property securing the loan, a portion of such loan likely will not be a qualifying real estate asset. IRS Revenue Procedure 2014-51 provides a safe harbor under which the IRS has stated that it will not challenge a REIT s treatment of a loan as being, in part, a real estate asset for purposes of the 75% asset test if the REIT treats the loan as being a qualifying real estate asset in an amount equal to the lesser of (i) the fair market value of the loan on the relevant quarterly REIT asset testing date or (ii) the greater of (a) the fair market value of the

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real property securing the loan on the relevant quarterly REIT asset testing date or (b) the fair market value of the real property securing the loan on the date the REIT committed to originate or acquire the loan. It is unclear how the safe harbor in Revenue Procedure 2014-51 is affected by the recent legislative changes regarding the treatment of personal property securing a mortgage loan, which treat personal property as real property for purposes of the gross income tests so long as no more than 15% of the fair market value of the property securing a loan is personal property.

As described above under Income Tests, our mezzanine loans typically do not meet all the requirements of the safe harbor in IRS Revenue Procedure 2003-65. Although our mezzanine loans typically do not qualify for that safe harbor, we believe that our mezzanine loans should be treated either as qualifying assets for the 75% asset test or otherwise excluded from the definition of securities for purposes of the 10% value test. We have made, and will continue to make, mortgage and mezzanine loans in a manner that will enable us to continue to satisfy the REIT asset and gross income tests.

We intend to continue monitoring the status of our assets for purposes of the various asset tests and will manage our portfolio in order to comply at all times with such tests. If we fail to satisfy the asset tests at the end of a calendar quarter, we will not lose our REIT qualification if:

- we satisfied the asset tests at the end of the preceding calendar quarter; and
- the discrepancy between the value of our assets and the asset test requirements arose from changes in the market values of our assets and was not wholly or partly caused by the acquisition of one or more non-qualifying assets.

If we did not satisfy the condition described in the second item above, we still could avoid disqualification by eliminating any discrepancy within 30 days after the close of the calendar quarter in which it arose.

If at the end of any calendar quarter, we violate the 5% asset test, the 10% vote test or the 10% value test described above, we will not lose our REIT qualification if (i) the failure is de minimis (up to the lesser of 1% of our assets or $10 million) and (ii) we dispose of assets causing the failure to otherwise comply with the asset tests within six months after the last day of the quarter in which we identify such failure. In the event of a failure of any of the asset tests (other than de minimis failures described in the preceding sentence), as long as the failure was due to reasonable cause and not to willful neglect, we will not lose our REIT status if we (i) dispose of assets or otherwise comply with the asset tests within six months after the last day of the quarter in which we identify the failure, (ii) we file a description of each asset causing the failure with the IRS, and (iii) pay a tax equal to the greater of $50,000 or 35% of the net income from the nonqualifying assets during the period in which we failed to satisfy the asset tests.

Distribution Requirements

Each taxable year, we must distribute dividends, other than capital gain dividends and deemed distributions of retained capital gain, to our shareholders in an aggregate amount at least equal to:

- the sum of

90% of our REIT taxable income, computed without regard to the dividends paid deduction and our net capital gain or loss, and

90% of our after-tax net income, if any, from foreclosure property, minus

the sum of certain items of non-cash income.

Generally, we must pay such distributions in the taxable year to which they relate, or in the following taxable year if we declare the distribution before we timely file our federal income tax return for the year and pay the distribution on or before the first regular dividend payment date after such declaration.

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Further, with respect to our 2014 and prior taxable years, in order for our distributions to be counted as satisfying the annual distribution requirement for REITs and to provide us with the REIT-level tax deduction, such distributions must not have been preferential dividends. A dividend is not a preferential dividend if that distribution is (1) *pro rata* among all outstanding shares within a particular class and (2) in accordance with the preferences among different classes of shares as set forth in our organizational documents. However, for taxable years beginning after December 31, 2014, the preferential dividend rule does not apply to publicly offered REITs. Thus, so long as we continue to qualify as a publicly offered REIT, the preferential dividend rule will not apply to our 2015 and subsequent taxable years.

We will pay federal income tax on taxable income, including net capital gain, that we do not distribute to shareholders. Furthermore, if we fail to distribute during a calendar year, or by the end of January following the calendar year in the case of distributions with declaration and record dates falling in the last three months of the calendar year, at least the sum of:

- 85% of our REIT ordinary income for such year,
- 95% of our REIT capital gain income for such year, and
- any undistributed taxable income from prior periods,

we will incur a 4% nondeductible excise tax on the excess of such required distribution over the amounts we actually distribute.

We may elect to retain and pay income tax on the net long-term capital gain we receive in a taxable year. If we so elect, we will be treated as having distributed any such retained amount for purposes of the 4% nondeductible excise tax described above. We have made, and we intend to continue to make, timely distributions sufficient to satisfy the annual distribution requirements and to avoid corporate income tax and the 4% nondeductible excise tax.

It is possible that, from time to time, we may experience timing differences between the actual receipt of income and actual payment of deductible expenses and the inclusion of that income and deduction of such expenses in arriving at our REIT taxable income. For example, we may not deduct recognized capital losses from our REIT taxable income. Further, it is possible that, from time to time, we may be allocated a share of net capital gain attributable to the sale of depreciated property that exceeds our allocable share of cash attributable to that sale. As a result of the foregoing, we may have less cash than is necessary to distribute taxable income sufficient to avoid corporate income tax and the excise tax imposed on certain undistributed income or even to meet the 90% distribution requirement. In such a situation, we may need to borrow funds or issue additional common or preferred shares or, if possible, pay taxable dividends of our shares of beneficial interest or debt securities.

We may satisfy the REIT annual distribution requirements by making taxable distributions of our shares of beneficial interest. The IRS has issued private letter rulings to other REITs treating certain distributions that are paid partly in cash and partly in shares of beneficial interest as dividends that would satisfy the REIT annual distribution requirement and qualify for the dividends paid deduction for federal income tax purposes. Those rulings may be relied upon only by the taxpayers to whom they were issued, but we could request a similar ruling from the IRS. In addition, the IRS previously issued a revenue procedure authorizing publicly traded REITs to make elective cash/shares dividends, but that revenue procedure has expired. Accordingly, it is unclear whether and to what extent we will be able to make taxable dividends payable in cash and shares of beneficial interest. We have not paid, and currently do not intend to pay taxable dividends payable in cash and shares of beneficial interest.

Under certain circumstances, we may be able to correct a failure to meet the distribution requirement for a year by paying deficiency dividends to our shareholders in a later year. We may include such deficiency dividends in our deduction for dividends paid for the earlier year. Although we may be able to avoid income tax on amounts distributed as deficiency dividends, we will be required to pay interest to the IRS based upon the amount of any deduction we take for deficiency dividends.

Recordkeeping Requirements

We must maintain certain records in order to qualify as a REIT. In addition, to avoid a monetary penalty, we must request on an annual basis information from our shareholders designed to disclose the actual ownership of our outstanding shares of beneficial interest. We have complied, and we intend to continue to comply, with these requirements.

Failure to Qualify

If we fail to satisfy one or more requirements for REIT qualification, other than the gross income tests and the asset tests, we could avoid disqualification if our failure is due to reasonable cause and not to willful neglect and we pay a penalty of $50,000 for each such failure. In addition, there are relief provisions for a failure of the gross income tests and asset tests, as described above in Income Tests and Asset Tests.

If we fail to qualify as a REIT in any taxable year, and no relief provision applies, we would be subject to federal income tax and any applicable alternative minimum tax on our taxable income at regular corporate rates. In calculating our taxable income in a year in which we fail to qualify as a REIT, we would not be able to deduct amounts paid out to shareholders. In fact, we would not be required to distribute any amounts to shareholders in that year. In such event, to the extent of our current and accumulated earnings and profits, distributions to most domestic non-corporate shareholders would generally be taxable at reduced federal income tax rates of up to 20%. Subject to certain limitations of the federal income tax laws, corporate shareholders might be eligible for the dividends received deduction. Unless we qualified for relief under specific statutory provisions, we also would be disqualified from taxation as a REIT for the four taxable years following the year during which we ceased to qualify as a REIT. We cannot predict whether in all circumstances we would qualify for such statutory relief.

Taxation of Taxable U.S. Shareholders

As used herein, the term U.S. shareholder means a beneficial owner of our shares of beneficial interest that for federal income tax purposes is:

- an individual that is a citizen or resident of the United States;

- a corporation (including an entity treated as a corporation for federal income tax purposes) created or organized in or under the laws of the United States, any of its states or the District of Columbia;

- an estate whose income is subject to federal income taxation regardless of its source; or

- any trust if (i) 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 (ii) it has a valid election in place to be treated as a U.S. person.

If a partnership, entity or arrangement treated as a partnership for federal income tax purposes is the beneficial owner of our shares, the federal income tax treatment of a partner in the partnership will generally depend on the status of the partner and the activities of the partnership. If you are a partner in a partnership that is the beneficial owner of our shares, you should consult your tax advisor regarding the consequences of the ownership and disposition of our shares by the partnership.

As long as we qualify as a REIT, a taxable U.S. shareholder must generally take into account as ordinary income distributions made out of our current or accumulated earnings and profits that we do not designate as capital gain dividends or retained long-term capital gain. For purposes of determining whether a distribution is made out of our current or accumulated earnings and profits, our earnings and profits will be allocated first to our preferred share dividends and then to our common share dividends.

Dividends paid to corporate U.S. shareholders will not qualify for the dividends received deduction generally available to corporations. In addition, dividends paid to a U.S. shareholder generally will not qualify for the 20% tax rate for qualified dividend income. The maximum tax rate for qualified dividend income received by U.S. shareholders taxes at individual rates is 20%. Qualified dividend income generally includes dividends paid to U.S. shareholders taxed at individual rates by domestic subchapter C corporations and certain qualified foreign corporations. In general, to qualify for the reduced tax rate on qualified dividend income, a shareholder must hold our shares for more than 60 days during the 121-day period beginning on the date that is 60 days before the date on which our shares become ex-dividend. Because we are not generally subject to federal income tax on the portion of our net taxable income distributed to our shareholders (see Taxation of Our Company, above), our dividends generally will not be eligible for the 20% rate on qualified dividend income. As a result, our ordinary dividends will continue to be taxed at the higher tax rate applicable to ordinary income, which is a maximum rate of 39.6%. However, the 20% tax rate for qualified dividend income will apply to our ordinary dividends to the extent attributable (i) to dividends received by us from non-REIT corporations, such as a TRS, and (ii) to income upon which we have paid corporate income tax (e.g., to the extent that we distribute less than 100% of our taxable income). Individuals, trusts and estates whose income exceeds certain thresholds are also subject to a 3.8% Medicare tax on dividends received from us.

A U.S. shareholder generally will take into account as long-term capital gain any distributions that we designate as capital gain dividends without regard to the period for which the U.S. shareholder has held our shares. We generally will designate our capital gain dividends as either 20% or 25% rate distributions. See Capital Gains and Losses, below. A corporate U.S. shareholder, however, may be required to treat up to 20% of certain capital gain dividends as ordinary income.

We may elect to retain and pay income tax on the net long-term capital gain that we receive in a taxable year. In that case, to the extent that we designate such amount in a timely notice to such shareholder, a U.S. shareholder would be taxed on its proportionate share of our undistributed long-term capital gain. The U.S. shareholder would receive a credit for its proportionate share of the tax we paid. The U.S. shareholder would increase the basis in its stock by the amount of its proportionate share of our undistributed long-term capital gain, minus its share of the tax we paid.

To the extent that we make a distribution in excess of our current and accumulated earnings and profits, such distribution will not be taxable to a U.S. shareholder to the extent that it does not exceed the adjusted tax basis of the U.S. shareholder s shares. Instead, such distribution will reduce the adjusted tax basis of such shares. To the extent that we make a distribution in excess of both our current and accumulated earnings and profits and the U.S. shareholder s adjusted tax basis in its shares, such shareholder will recognize long-term capital gain, or short-term capital gain if the shares have been held for one year or less, assuming the shares are capital assets in the hands of the U.S. shareholder. In addition, if we declare a distribution in October, November, or December of any year that is payable to a U.S. shareholder of record on a specified date in any such month, such distribution shall be treated as both paid by us and received by the U.S. shareholder on December 31 of such year, provided that we actually pay the distribution during January of the following calendar year.

Shareholders may not include in their individual income tax returns any of our net operating losses or capital losses. Instead, we would carry over such losses for potential offset against our future income. Taxable distributions from us and gain from the disposition of our shares will not be treated as passive activity income, and therefore, shareholders generally will not be able to apply any passive activity losses, such as losses from certain types of limited partnerships in which the shareholder is a limited partner to offset the income they derive from our shares. In addition, taxable distributions from us and gain from the disposition of our shares generally may be treated as investment income for purposes of the investment interest limitations (although any capital gains so treated will not qualify for the lower 20% tax rate applicable to capital gains of most domestic non-corporate investors). We will notify shareholders after the close of our taxable year as to the portions of the distributions attributable to that year that constitute ordinary income, return of capital, and capital gain.

Taxation of U.S. Shareholders on the Disposition of our Shares

In general, a U.S. shareholder who is not a dealer in securities must treat any gain or loss realized upon a taxable disposition of our shares as long-term capital gain or loss if the U.S. shareholder has held the shares for more than one year and otherwise as short-term capital gain or loss. In general, a U.S. shareholder will realize gain or loss 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. shareholder s adjusted tax basis. A U.S. shareholder s adjusted tax basis generally will equal the U.S. shareholder s acquisition cost, increased by the excess of net capital gains deemed distributed to the U.S. shareholder less tax deemed paid by it and reduced by any returns of capital. However, a U.S. shareholder must treat any loss upon a sale or exchange of shares held by such shareholder for six months or less as a long-term capital loss to the extent of any actual or deemed distributions from us that such U.S. shareholder previously has characterized as long-term capital gain. All or a portion of any loss that a U.S. shareholder realizes upon a taxable disposition of shares may be disallowed if the U.S. shareholder purchases other shares within 30 days before or after the disposition.

Taxation of U.S. Shareholders on a Conversion of Preferred Shares

The Series E Preferred Shares are convertible into our common shares upon a change in control. See Description of Series E Preferred Shares Change of Control Rights above. Except as provided below, (i) a U.S. shareholder generally will not recognize gain or loss upon the conversion of preferred shares into our common shares, and (ii) a U.S. shareholder s basis and holding period in our common shares received upon conversion generally will be the same as those of the converted preferred shares (but the basis will be reduced by the portion of adjusted tax basis allocated to any fractional share exchanged for cash). Any of our common shares received in a conversion that are attributable to accumulated and unpaid dividends on the converted preferred shares will be treated as a distribution that is potentially taxable as a dividend. Cash received upon conversion in lieu of a fractional share generally will be treated as a payment in a taxable exchange for such fractional share, and gain or loss will be recognized on the receipt of cash in an amount equal to the difference between the amount of cash received and the adjusted tax basis allocable to the fractional share deemed exchanged. This gain or loss will be long-term capital gain or loss if the U.S. shareholder has held the preferred shares for more than one year at the time of conversion. Shareholders are urged to consult with their tax advisors regarding the federal income tax consequences of any transaction by which such holder exchanges shares received on a conversion of preferred shares for cash or other property.

Taxation of U.S. Shareholders on a Redemption of Preferred Shares

A redemption of our preferred shares will be treated under Section 302 of the Code as a distribution that is taxable as dividend income (to the extent of our current or accumulated earnings and profits), unless the redemption satisfies certain tests set forth in Section 302(b) of the Code enabling the redemption to be treated as a sale of the preferred shares (in which case the redemption will be treated in the same manner as a sale described above in Taxation of U.S. Shareholders on the Disposition of our Shares). The redemption will satisfy such tests if it (i) is substantially disproportionate with respect to the U.S. shareholder s interest in our shares, (ii) results in a complete termination of the U.S. shareholder s interest in all of our classes of shares, or (iii) is not essentially equivalent to a dividend with respect to the shareholder, all within the meaning of Section 302(b) of the Code. In determining whether any of these tests have been met, shares considered to be owned by the holder by reason of certain constructive ownership rules set forth in the Code, as well as shares actually owned, generally must be taken into account. Because the determination as to whether any of the three alternative tests of Section 302(b) of the Code described above will be satisfied with respect to any particular U.S. shareholder of the preferred shares depends upon the facts and circumstances at the time that the determination must be made, prospective investors are urged to consult their tax advisors to determine such tax treatment. If a redemption of our preferred shares does not meet any of the three tests described above, the redemption proceeds will be treated as a dividend, as described above Taxation of Taxable U.S. Shareholders. In that case, a U.S. shareholder s adjusted tax basis in the redeemed preferred shares will be transferred to such U.S. shareholder s remaining share holdings in us. If the U.S. shareholder does not retain any of our shares, such basis could be transferred to a related person that holds our shares or it may be lost.

Under proposed Treasury regulations, if any portion of the amount received by a U.S. shareholder on a redemption of any class of our preferred shares is treated as a distribution with respect to our shares but not as a taxable dividend, then such portion will be allocated to all shares of the redeemed class held by the redeemed shareholder just before the redemption on a pro-rata, share-by-share, basis. The amount applied to each share will first reduce the redeemed shareholder s basis in that share and any excess after the basis is reduced to zero will result in taxable gain. If the redeemed shareholder has different bases in its shares, then the amount allocated could reduce some of the basis in certain shares while reducing all the basis and giving rise to taxable gain in others. Thus the redeemed shareholder could have gain even if such shareholder s basis in all its shares of the redeemed class exceeded such portion.

The proposed Treasury regulations permit the transfer of basis in the redeemed preferred shares to the redeemed shareholder s remaining, unredeemed preferred shares of the same class (if any), but not to any other class of shares held (directly or indirectly) by the redeemed shareholder. Instead, any unrecovered basis in the redeemed preferred shares would be treated as a deferred loss to be recognized when certain conditions are satisfied. The proposed Treasury regulations would be effective for transactions that occur after the date the regulations are published as final Treasury regulations. There can, however, be no assurance as to whether, when and in what particular form such proposed Treasury regulations will ultimately be finalized.

Capital Gains and Losses

A taxpayer generally must hold a capital asset for more than one year for gain or loss derived from its sale or exchange to be treated as long-term capital gain or loss. The highest marginal individual income tax rate is 39.6%. However, the maximum tax rate on long-term capital gain applicable to most U.S. shareholders taxed at individual rates is 20%. The maximum tax rate on long-term capital gain from the sale or exchange of Section 1250 property, or depreciable real property, is 25%, computed on the lesser of the total amount of the gain or the accumulated Section 1250 depreciation. Individuals, trusts and estates whose income exceeds certain thresholds are also subject to a 3.8% Medicare tax on gain from the sale of our Series E preferred shares.

With respect to distributions that we designate as capital gain dividends and any retained capital gain that we are deemed to distribute, we generally may designate whether such a distribution is taxable to our non-corporate shareholders at a 20% or 25% rate. Thus, the tax rate differential between capital gain and ordinary income for non-corporate taxpayers may be significant. In addition, the characterization of income as capital gain or ordinary income may affect the deductibility of capital losses. A non-corporate taxpayer may deduct capital losses not offset by capital gains against its ordinary income only up to a maximum annual amount of $3,000. A non-corporate taxpayer may carry forward unused capital losses indefinitely. A corporate taxpayer must pay tax on its net capital gain at ordinary corporate rates. A corporate taxpayer may deduct capital losses only to the extent of capital gains, with unused losses being carried back three years and forward five years.

Taxation of Tax-Exempt Shareholders

Tax-exempt entities, including qualified employee pension and profit sharing trusts and individual retirement accounts and annuities, generally are exempt from federal income taxation. However, they are subject to taxation on their unrelated business taxable income, or UBTI. While many investments in real estate generate UBTI, the IRS has issued a published ruling that dividend distributions from a REIT to an exempt employee pension trust do not constitute UBTI. Based on that ruling, amounts that we distribute to tax-exempt shareholders generally should not constitute UBTI. However, if a tax-exempt shareholder were to finance its acquisition of our shares with debt, a portion of the income that it receives from us would constitute UBTI pursuant to the debt-financed property rules. Furthermore, social clubs, voluntary employee benefit associations, supplemental unemployment benefit trusts, and qualified group legal services plans that are exempt from taxation under special provisions of the federal income tax laws are subject to different UBTI rules, which generally will require them to characterize distributions that they receive from us as UBTI. Finally, in certain circumstances, a qualified employee pension or profit sharing trust that owns more than 10% of our shares of beneficial interest is required to treat a percentage of the dividends that it receives from us as UBTI. Such percentage is equal to the gross income that we derive from an unrelated trade or business, determined as if we were a pension trust, divided by our total gross income for the year in which we pay the dividends. That rule applies to a pension trust holding more than 10% of our shares only if:

- the percentage of our dividends that the tax-exempt trust would be required to treat as UBTI is at least 5%;

- we qualify as a REIT by reason of the modification of the rule requiring that no more than 50% of our shares be owned by five or fewer individuals that allows the beneficiaries of the pension trust to be treated as holding our shares in proportion to their actuarial interests in the pension trust; and

- either (i) one pension trust owns more than 25% of the value of our shares or (ii) a group of pension trusts individually holding more than 10% of the value of our shares collectively owns more than 50% of the value of our shares.

Taxation of Non-U.S. Shareholders

The term non-U.S. shareholder means a beneficial owner of our shares of beneficial interest that is not a U.S. shareholder or a partnership (or entity treated as a partnership for federal income tax purposes). The rules governing federal income taxation of non-U.S. shareholders are complex. This section is only a summary of such rules. **WE URGE NON-U.S. SHAREHOLDERS TO CONSULT THEIR TAX ADVISORS TO DETERMINE THE EFFECT OF FEDERAL, STATE, LOCAL AND FOREIGN INCOME TAX LAWS ON OWNERSHIP OF OUR SHARES, INCLUDING ANY REPORTING REQUIREMENTS.**

A non-U.S. shareholder that receives a distribution that is not attributable to gain from our sale or exchange of a United States real property interest (a USRPI) as defined below, and that we do not designate as a capital gain dividend or retained capital gain, will recognize ordinary income to the extent that we pay such distribution out of our current or accumulated earnings and profits. A withholding tax equal to 30% of the gross amount of the distribution ordinarily will apply to such distribution unless an applicable tax treaty reduces or eliminates the tax. However, if a distribution is treated as effectively connected with the non-U.S. shareholder s conduct of a U.S. trade or business, the non-U.S. shareholder generally will be subject to federal income tax on the distribution at graduated rates, in the same manner as U.S. shareholders are taxed with respect to such distribution, and a non-U.S. shareholder that is a corporation also may be subject to the 30% branch profits tax with respect to that distribution. We plan to withhold U.S. income tax at the rate of 30% on the gross amount of any such distribution paid to a non-U.