

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

**FORM S-3
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933**

UNIVERSAL HEALTH REALTY INCOME TRUST
(Exact name of registrant as specified in its charter)

Maryland
(State or other jurisdiction of
incorporation or organization)

23-6858580
(I.R.S. Employer
Identification No.)

**Universal Corporate Center
367 South Gulph Road
King of Prussia, Pennsylvania 19406
(610) 265-0688**
(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

Alan B. Miller
Chairman of the Board, Chief Executive Officer and President
Universal Health Realty Income Trust
Universal Corporate Center
367 South Gulph Road
King of Prussia, Pennsylvania 19406
(610) 265-0688
(Name, address, including zip code, and telephone number, including area code, of agent for service)

Copies of all communications, including all communications sent to the agent for service, should be sent to:

Warren J. Nimetz, Esq.
Norton Rose Fulbright US LLP
1301 Avenue of the Americas
New York, New York 10103
(212) 318-3000

Approximate date of commencement of proposed sale to the public: From time to time after the effective date of this registration statement.

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

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

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

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

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

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

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

| | | | |
|-------------------------|-------------------------------------|---------------------------|--------------------------|
| Large accelerated filer | <input checked="" type="checkbox"/> | Accelerated filer | <input type="checkbox"/> |
| Non accelerated filer | <input type="checkbox"/> | Smaller reporting company | <input type="checkbox"/> |
| | | Emerging growth company | <input type="checkbox"/> |

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 7(a)(2)(B) of the Securities Act. ☐

The registrant hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this registration statement shall thereafter become effective in accordance with section 8(a) of the Securities Act of 1933, as amended, or until the registration statement shall become effective on such date as the Securities and Exchange Commission acting pursuant to said section 8(a), may determine.

The information in this prospectus is not complete and may be changed. We may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities and it is not soliciting an offer to buy these securities in any state where the offer or sale is not permitted.

SUBJECT TO COMPLETION, DATED April 16, 2024

PROSPECTUS

\$100,000,000

UHT

Universal Health Realty Income Trust

Common Shares of Beneficial Interest
Preferred Shares of Beneficial Interest
Debt Securities

Universal Health Realty Income Trust may offer and sell from time to time, together or separately in one or more offerings, in amounts, at prices and on terms to be determined at the time of each offering, our common shares, preferred shares and debt securities, with an aggregate initial public offering price of up to \$100,000,000.

This prospectus describes some of the general terms that may apply to these securities and the general manner in which they may be offered. The specific terms of any securities to be offered, and the specific manner in which they may be offered, will be described in a supplement to this prospectus. You should read this prospectus, the applicable prospectus supplement, including the information incorporated by reference, carefully before you invest in our securities. This prospectus may not be used to sell securities unless accompanied by the applicable prospectus supplement.

Universal Health Realty Income Trust may offer and sell these securities to or through one or more underwriters, dealers or agents, or directly to purchasers on a continuous or delayed basis. Selling securityholders may also sell these securities from time to time. The prospectus supplement for each offering of securities will describe the plan of distribution for that offering.

Our common shares are quoted on the New York Stock Exchange, or the NYSE, under the symbol “UHT.” On April 10, 2024, the last reported sales price of our common shares on the NYSE was \$33.65 per share.

Investing in our securities involves a high degree of risk. Before buying any of our securities, you should review carefully the risks and uncertainties under the heading “[Risk Factors](#)” on page 4 of this prospectus and the applicable prospectus supplement, and under similar headings in the other documents we file with the Securities and Exchange Commission that are incorporated by reference herein and therein.

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

The date of this prospectus is _____, 2024

TABLE OF CONTENTS

| | Page |
|---|------|
| ABOUT THIS PROSPECTUS | 1 |
| THE TRUST | 2 |
| THE TRUST'S RELATIONSHIP TO UHS | 3 |
| RISK FACTORS | 4 |
| CAUTIONARY STATEMENT REGARDING FORWARD-LOOKING STATEMENTS | 5 |
| USE OF PROCEEDS | 11 |
| DESCRIPTION OF THE TRUST'S COMMON SHARES OF BENEFICIAL INTEREST AND PREFERRED SHARES OF BENEFICIAL INTEREST | 12 |
| DESCRIPTION OF DEBT SECURITIES | 18 |
| CERTAIN PROVISIONS OF MARYLAND LAW AND OF OUR DECLARATION OF TRUST AND BYLAWS | 25 |
| UNITED STATES FEDERAL INCOME TAX CONSIDERATIONS | 30 |
| PLAN OF DISTRIBUTION | 62 |
| LEGAL MATTERS | 65 |
| EXPERTS | 65 |
| WHERE YOU CAN FIND MORE INFORMATION | 65 |
| INCORPORATION OF DOCUMENTS BY REFERENCE | 66 |
| STATEMENT CONCERNING LIMITED LIABILITY | 66 |

All references in this prospectus to “we,” “us,” “our” and the “Trust” refer to Universal Health Realty Income Trust. In this prospectus, the term “revenues” does not include the revenues of the unconsolidated limited liability companies (“LLCs”) or limited partnerships (“LPs”) in which we have various non-controlling equity interests ranging from 33% to 95%. As of February 27, 2024, we had investments in four jointly-owned LLCs/LPs. Our share of the income/loss from our investments in these LLCs/LPs is included in our financial statements for all periods presented on an unconsolidated basis pursuant to the equity method, since they are not variable interest entities for which we are the primary beneficiary, nor do we hold a controlling voting interest.

When acquiring any securities discussed in this prospectus, you should rely only on the information contained or incorporated by reference in this prospectus, in any accompanying prospectus supplement or in any free writing prospectus prepared by or on behalf of us or to which we have referred you. We have not authorized anyone to provide you with any information or to make any representations other than those contained in, or incorporated by reference into, this prospectus, any applicable prospectus supplement or any related free writing prospectuses. If anyone provides you with different or additional information, you should not rely on it. We take no responsibility for, and can provide no assurance as to the reliability of, any other information that others may give you. An offer to sell these securities will not be made in any jurisdiction where the offer and sale is not permitted.

ABOUT THIS PROSPECTUS

This prospectus is part of a registration statement on Form S-3 that we filed with the U.S. Securities and Exchange Commission, or the SEC, using a “shelf” registration process for the delayed offering and sale of securities pursuant to Rule 415 under the Securities Act of 1933, as amended (the “Securities Act”). By using a shelf registration statement, we may offer and sell the securities described in this prospectus in one or more offerings as described in this prospectus. The exhibits to our registration statement and documents incorporated by reference contain the full text of important documents that we have summarized in this prospectus or that we may summarize in a prospectus supplement. Since these summaries may not contain all the information that you may find important in deciding whether to purchase the securities that we may offer, you should review the full text of these documents. The registration statement and the exhibits and other documents can be obtained indicated under the sections entitled “Where You Can Find More Information” and “Incorporation of Documents by Reference.”

This prospectus provides you with a general description of our securities that may be offered by us. Each time our securities are sold, we will provide a prospectus supplement that will contain specific information about the terms of that offering. The prospectus supplement may also modify or supersede information contained in this prospectus. You should read carefully both this prospectus and the applicable prospectus supplement, together with any other document incorporated by reference herein or therein. If this prospectus is inconsistent with the applicable prospectus supplement, you should rely on the prospectus supplement. You should assume that the information appearing in this prospectus and any applicable prospectus supplement to this prospectus is accurate only as of the date on its respective cover, that the information appearing in any applicable free writing prospectus is accurate only as of the date of that free writing prospectus, and that any information incorporated by reference is accurate only as of the date of the document incorporated by reference, unless we indicate otherwise. Our business, operating results, financial condition, capital resources, and prospects may have changed since that date.

THE TRUST

We are a real estate investment trust (“REIT”) that commenced operations in 1986. We invest in healthcare and human service-related facilities including acute care hospitals, behavioral health care hospitals, specialty hospitals, free-standing emergency departments, childcare centers and medical/office buildings. As of February 27, 2024, we had seventy-six real estate investments or commitments located in twenty-one states consisting of:

- six hospital facilities consisting of three acute care and three behavioral health care hospitals;
- four free-standing emergency departments (“FEDs”);
- sixty medical/office buildings, including four owned by unconsolidated LLCs/LPs;
- four preschool and childcare centers;
- one specialty facility that is currently vacant; and
- one vacant land investment located in Chicago, Illinois.

Our principal executive offices are located at Universal Corporate Center, 367 South Gulph Road, King of Prussia, Pennsylvania 19406, and our telephone number is (610) 265-0688.

THE TRUST'S RELATIONSHIP TO UHS

We lease a substantial amount of our property to, and a substantial portion of our revenues are dependent upon, Universal Health Services, Inc. ("UHS"). UHS' principal business is owning and operating, through its subsidiaries, acute care hospitals and outpatient facilities and behavioral health care facilities. As of February 27, 2024, UHS owned and/or operated 360 inpatient facilities and 48 outpatient and other facilities located in 39 states, Washington, D.C., the United Kingdom and Puerto Rico.

Services provided by UHS' hospitals include general and specialty surgery, internal medicine, obstetrics, emergency room care, radiology, oncology, diagnostic care, coronary care, pediatric services, pharmacy services and/or behavioral health services. UHS provides capital resources as well as a variety of management services to its facilities, including central purchasing, information services, finance and control systems, facilities planning, physician recruitment services, administrative personnel management, marketing and public relations.

The foregoing information about us is a general summary and is not intended to be comprehensive. For additional information about us and our relationship to UHS, you should refer to the information under the heading "Incorporation of Documents by Reference."

RISK FACTORS

Investing in our securities involves significant risks. Please see the risk factors under the heading “Risk Factors” in our Annual Report on Form 10-K for the year ended December 31, 2023, which is on file with the SEC and incorporated by reference in this prospectus, and in the documents and reports that we file with the SEC after the date of this prospectus that are deemed to be incorporated by reference into this prospectus, as well as any risks described in the applicable prospectus supplement. Before making an investment decision, you should carefully consider these risks as well as other information we include or incorporate by reference in this prospectus and the applicable prospectus supplement and any free writing prospectus. The risks and uncertainties we have described are not the only ones we face. Additional risks and uncertainties not presently known to us or that we currently deem immaterial may also affect our business operations.

CAUTIONARY STATEMENT REGARDING FORWARD-LOOKING STATEMENTS

This prospectus contains “forward-looking statements” that reflect our current estimates, expectations and projections about our future results, performance, prospects and opportunities. Forward-looking statements include, among other things, information concerning our possible future results of operations, business and growth strategies, financing plans, expectations that regulatory developments or other matters will or will not have a material adverse effect on our business or financial condition, our competitive position and the effects of competition, the projected growth of the industry in which we operate, and the benefits and synergies to be obtained from our completed and any future acquisitions, and statements of our goals and objectives, and other similar expressions concerning matters that are not historical facts. Words such as “may,” “will,” “should,” “could,” “would,” “predicts,” “potential,” “continue,” “expects,” “anticipates,” “future,” “intends,” “plans,” “believes,” “estimates,” “appears,” “projects” and similar expressions, or the negative of those words and expressions, as well as statements in future tense, identify forward-looking statements.

Forward-looking statements should not be read as a guarantee of future performance or results, and will not necessarily be accurate indications of the times at, or by which, such performance or results will be achieved. Forward-looking information is based on information available at the time and/or our good faith belief with respect to future events, and is subject to risks and uncertainties that are difficult to predict and many of which are outside of our control. Many factors, including those set forth herein in *Item 1A. Risk Factors* in our Annual Report on Form 10-K for the year ended December 31, 2023 and other important factors disclosed in this prospectus and our Annual Report on Form 10-K for the year ended December 31, 2023 and from time to time in our other filings with the SEC could cause actual performance or results to differ materially from those expressed in the statements. Such factors include, among other things, the following:

- The increase in interest rates has significantly increased our interest expense thereby reducing our net income and cash provided by operations as well as unfavorably impacting our ability to access the capital markets on favorable terms. In addition, the increased interest rates on our borrowings and/or the increased costs related to new construction could affect our ability to make additional attractive investments. As such, the effects of increased interest rates on our borrowings may unfavorably impact our future expenses and rental revenue and may potentially have a negative impact on future lease renewal terms, the underlying value of our properties, and our ability to grow our portfolio and the value of our common shares.
- In 2021, the rate of inflation in the United States began to increase and has since risen to levels not experienced in over 40 years. Our tenants are experiencing inflationary pressures, primarily in personnel costs, and we anticipate impacts on other cost areas within the next twelve months. The extent of any future impacts from inflation on our tenants’ businesses and results of operations will be dependent upon how long the elevated inflation levels persist and the extent to which the rate of inflation further increases, if at all, neither of which we are able to predict. If elevated levels of inflation were to persist or if the rate of inflation were to accelerate, expenses of our tenants, and our direct operating expenses that are not passed on to our tenants, could increase faster than anticipated and may require utilization of our and our tenants’ capital resources sooner than expected. Further, given the complexities of the reimbursement landscape in which our tenants operate, their payers may be unwilling or unable to increase reimbursement rates to compensate for inflationary impacts. This may impact their ability and willingness to make rental payments.
- A substantial portion of our revenues are dependent upon one operator, UHS, which comprised approximately 41%, 40% and 37% of our consolidated revenues for the years ended December 31, 2023, 2022 and 2021, respectively. As previously disclosed, on December 31, 2021, a wholly-owned subsidiary of UHS purchased the real estate assets of Inland Valley Campus of Southwest Healthcare System from us and in exchange, transferred the real estate assets of Aiken Regional Medical Center and Canyon Creek Behavioral Health to us. These transactions were approved by the Independent Trustees of our Board, as well as the UHS Board of Directors. The aggregate annual rental rate during

2023 pursuant to the leases, as amended, for the two facilities transferred to us is approximately \$5.8 million; there is no bonus rent component applicable to either of these leases. Please see *Note 4 to the condensed consolidated financial statements—Lease Accounting* in our Annual Report on Form 10-K for the year ended December 31, 2023, for additional information related to this asset purchase and sale transaction between us and UHS.

- We cannot assure you that subsidiaries of UHS will renew the leases on the hospital facilities and free-standing emergency departments, upon the scheduled expirations of the existing lease terms. In addition, if subsidiaries of UHS exercise their options to purchase the respective leased hospital facilities and FEDs, and do not enter into a substitution arrangement upon expiration of the lease terms or otherwise, our future revenues and results of operations could decrease if we were unable to earn a favorable rate of return on the sale proceeds received, as compared to the rental revenue currently earned pursuant to these leases. Please see *Note 2 to the consolidated financial statements - Relationship with UHS and Related Party Transactions* in our Annual Report on Form 10-K for the year ended December 31, 2023, for additional information related to a lease renewal between us and Wellington Regional Medical Center, a wholly-owned subsidiary of UHS.
- The nationwide shortage of nurses and other clinical staff and support personnel has been a significant operating issue facing our healthcare provider tenants, including UHS. In some areas, the labor scarcity is putting a strain on the resources of our tenants and their staff, which has required them to utilize higher-cost temporary labor and pay premiums above standard compensation for essential workers. The staffing shortage has required certain of our tenants to enhance wages and benefits to recruit and retain nurses and other clinical staff and support personnel or required them to hire expensive temporary personnel. Our tenants have also experienced general inflationary cost increases related to medical supplies as well as certain other operating expenses. Many of these factors, which had a material unfavorable impact on the operating results of certain of our tenants during 2022, moderated to a certain degree during 2023.
- Future operations and financial results of our tenants, and in turn ours, may be materially impacted by numerous factors including potential future developments related to COVID-19. The impact of the COVID-19 pandemic, which began in March, 2020, has at various times had a material effect on the operations and financial results of our tenants. Previous legislation has provided grant funding to hospitals and other healthcare providers to assist them during the COVID-19 pandemic. Although the federal government had previously declared COVID-19 a national emergency, that declaration expired on May 11, 2023. At that time, many of the favorable payment provisions available to our tenants during the declared national emergency ended, as they were only available for the duration of the Public Health Emergency (“PHE”). Most states have ended their state-level emergency declarations. We cannot predict whether the loss of any such favorable conditions available to providers during the declared PHE will ultimately have a negative financial impact on our tenants (and in turn, us).
- President Biden signed into law fiscal year 2024 appropriations to continue operation of federal agencies. We cannot predict whether or not there will be future issues with Congress adopting legislation that would permit the federal government to avoid a shutdown, however, the operating results and results of operations of certain of our tenants, and therefore potentially ours, could be materially unfavorably impacted by a federal government shutdown should issues arise with adopting such legislation.
- In certain of our markets, the general real estate market has been unfavorably impacted by increased competition/capacity and decreases in occupancy and rental rates which may adversely impact our operating results and the underlying value of our properties.

Table of Contents

- A number of legislative initiatives have recently been passed into law that may result in major changes in the health care delivery system on a national or state level to the operators of our facilities, including UHS. No assurances can be given that the implementation of these new laws will not have a material adverse effect on the business, financial condition or results of operations of our operators.
- A subsidiary of UHS is our Advisor and our officers are all employees of a wholly-owned subsidiary of UHS, which may create the potential for conflicts of interest.
- Lost revenues resulting from the exercise of purchase options, lease expirations and renewals and other transactions (*see Note 4 to the condensed consolidated financial statements – Lease Accounting* in our Annual Report on Form 10-K for the year ended December 31, 2023 for additional disclosure related to lease expirations and subsequent vacancies that occurred during the second and third quarters of 2019 and the fourth quarter of 2021 on three specialty hospital facilities; one of which was divested in December, 2023, and another on which the demolition was substantially completed during the second quarter of 2023).
- Potential unfavorable tax consequences and reduced income resulting from an inability to complete, within the statutory timeframes, anticipated tax deferred like-kind exchange transactions pursuant to Section 1031 of the Internal Revenue Code, if, and as, applicable from time-to-time.
- The potential unfavorable impact on our business of the deterioration in national, regional and local economic and business conditions, including a worsening of credit and/or capital market conditions, which may adversely affect our ability to obtain capital which may be required to fund the future growth of our business and refinance existing debt with near term maturities.
- A deterioration in general economic conditions which may result in increases in the number of people unemployed and/or insured and likely increase the number of individuals without health insurance. Under these circumstances, the operators of our facilities may experience declines in patient volumes which could result in decreased occupancy rates at our medical office buildings.
- A worsening of the economic and employment conditions in the United States would likely materially affect the business of our operators, including UHS, which would likely unfavorably impact our future bonus rental revenue (on one UHS hospital facility) and may potentially have a negative impact on the future lease renewal terms and the underlying value of the hospital properties.
- There is a heightened risk of future cybersecurity threats, including ransomware attacks targeting healthcare providers. If successful, future cyberattacks could have a material adverse effect on our business. Any costs that we, or our third-party property managers, incur as a result of a data security incident or breach, including costs to update security protocols to mitigate such an incident or breach could be significant. Any breach or failure in our, our third-party property managers', our tenants', or our or their respective third-party service providers' operational security systems, can result in loss of data or an unauthorized disclosure of or access to sensitive or confidential member or protected personal or health information and could result in violations of applicable privacy and other laws, significant penalties or fines, litigation, loss of customers, significant damage to our or their reputation and business, and other liability or losses. We may also incur additional costs related to cybersecurity risk management and remediation. There can be no assurance that we, our third-party property managers, our tenants or our or their service providers, if applicable, will not suffer losses relating to cyber-attacks or other information security breaches in the future or that insurance coverage (if applicable) will be adequate to cover all the costs resulting from such events.
- The outcome and effects of known and unknown litigation, government investigations, and liabilities and other claims asserted against us, UHS or the other operators of our facilities. UHS and its subsidiaries are subject to legal actions, purported shareholder class actions and shareholder derivative cases, governmental investigations and regulatory actions and the effects of adverse publicity relating to such matters. Since UHS comprised approximately 41% of our consolidated revenues during the year ended December 31, 2023, and since a subsidiary of UHS is our Advisor, you are encouraged to

obtain and review the disclosures contained in the *Legal Proceedings* section of Universal Health Services, Inc.'s Forms 10-Q and 10-K, as publicly filed with the Securities and Exchange Commission. Those filings are the sole responsibility of UHS and are not incorporated by reference herein.

- Failure of UHS or the other operators of our hospital facilities to comply with governmental regulations related to the Medicare and Medicaid licensing and certification requirements could have a material adverse impact on our future revenues and the underlying value of the property.
- Real estate market factors, including without limitation, the supply and demand of office space and market rental rates, changes in interest rates as well as an increase in the development of medical office condominiums in certain markets.
- The impact of property values and results of operations of severe weather conditions, including the effects of hurricanes.
- Government regulations, including changes in the reimbursement levels under the Medicare and Medicaid programs.
- The issues facing the health care industry that affect the operators of our facilities, including UHS, such as: changes in, or the ability to comply with, existing laws and government regulations; unfavorable changes in the levels and terms of reimbursement by third party payers or government programs, including Medicare (including, but not limited to, the potential unfavorable impact of future reductions to Medicare reimbursements resulting from the Budget Control Act of 2011, as discussed in the next bullet point below) and Medicaid (most states have reported significant budget deficits that have, in the past, resulted in the reduction of Medicaid funding to the operators of our facilities, including UHS); demographic changes; the ability to enter into managed care provider agreements on acceptable terms; an increase in uninsured and self-pay patients which unfavorably impacts the collectability of patient accounts; decreasing in-patient admission trends; technological and pharmaceutical improvements that may increase the cost of providing, or reduce the demand for, health care, and; the ability to attract and retain qualified medical personnel, including physicians.
- The Budget Control Act of 2011 imposed annual spending limits for most federal agencies and programs aimed at reducing budget deficits by \$917 billion between 2012 and 2021, according to a report released by the Congressional Budget Office. Among its other provisions, the law established a bipartisan Congressional committee, known as the Joint Select Committee on Deficit Reduction (the "Joint Committee"), which was tasked with making recommendations aimed at reducing future federal budget deficits by an additional \$1.5 trillion over 10 years. The Joint Committee was unable to reach an agreement by the November 23, 2011 deadline and, as a result, across-the-board cuts to discretionary, national defense and Medicare spending were implemented on March 1, 2013 resulting in Medicare payment reductions of up to 2% per fiscal year with a uniform percentage reduction across all Medicare programs. The Bipartisan Budget Act of 2015, enacted on November 2, 2015, continued the 2% reductions to Medicare reimbursement imposed under the Budget Control Act of 2011. Recent legislation suspended payment reductions through December 31, 2021 in exchange for extended cuts through 2030. Subsequent legislation extended the payment reduction suspension through March 31, 2022, with a 1% payment reduction from then until June 30, 2022 and the full 2% payment reduction thereafter. The most recent legislation extended these reductions through 2032. We cannot predict whether Congress will restructure the implemented Medicare payment reductions or what other federal budget deficit reduction initiatives may be proposed by Congress going forward. We also cannot predict the effect these enactments will have on the operators of our properties (including UHS), and thus, our business.
- An increasing number of legislative initiatives have been passed into law that may result in major changes in the health care delivery system on a national or state level. Legislation has already been enacted that has eliminated the penalty for failing to maintain health coverage that was part of the original Patient Protection and Affordable Care Act (the "ACA"). President Biden has undertaken and

is expected to undertake executive actions that will strengthen the ACA and may reverse the policies of the prior administration. To date, the Biden administration has issued executive orders implementing a special enrollment period permitting individuals to enroll in health plans outside of the annual open enrollment period and reexamining policies that may undermine the ACA or the Medicaid program. The American Rescue Plan Act of 2021's expansion of subsidies to purchase coverage through an exchange, which the Inflation Reduction Act of 2022, passed on August 16, 2022, continues through 2025, is anticipated to increase exchange enrollment. It is also anticipated that these policies, to the extent that they remain as implemented, may create additional cost and reimbursement pressures on hospitals, including ours. In addition, while attempts to repeal the entirety of the ACA have not been successful to date, a key provision of the ACA was eliminated as part of the Tax Cuts and Jobs Act and on December 14, 2018, a federal U.S. District Court Judge in Texas ruled the entire ACA is unconstitutional. That ruling was ultimately appealed to the United States Supreme Court, which decided in *California v. Texas* that the plaintiffs in the matter lacked standing to bring their constitutionality claims. On September 7, 2022, the Patient Protection and Affordable Care Act, as amended by the Health and Education Reconciliation Act (collectively, the "Legislation") faced its most recent challenge when a Texas Federal District Court judge, in the case of *Braidwood Management v. Becerra*, ruled that certain Legislation provisions violate the Appointments Clause of the U.S. Constitution and the Religious Freedom Restoration Act. The government has appealed the decision to the U.S. Circuit Court of Appeals for the Fifth Circuit. Any future efforts to challenge, replace or replace the Legislation or expand or substantially amend its provision is unknown.

- There can be no assurance that if any of the announced or proposed changes described above are implemented there will not be negative financial impact on the operators of our hospitals, which material effects may include a potential decrease in the market for health care services or a decrease in the ability of the operators of our hospitals to receive reimbursement for health care services provided which could result in a material adverse effect on the financial condition or results of operations of the operators of our properties, and, thus, our business.
- Competition for properties include, but are not limited to, other REITs, private investors and firms, banks and other companies, including UHS. In addition, we may face competition from other REITs for our tenants.
- The operators of our facilities face competition from other health care providers, including physician owned facilities and other competing facilities, including certain facilities operated by UHS but the real property of which is not owned by us. Such competition is experienced in markets including, but not limited to, McAllen, Texas, the site of our McAllen Medical Center, a 370-bed acute care hospital.
- Changes in, or inadvertent violations of, tax laws and regulations and other factors that can affect REITs and our status as a REIT, including possible future changes to federal tax laws that could materially impact our ability to defer gains on divestitures through like-kind property exchanges.
- The individual and collective impact of the changes made by the CARES Act on REITs and their security holders are uncertain and may not become evident for some period of time; it is also possible additional legislation could be enacted in the future as a result of the COVID-19 pandemic which may affect the holders of our securities.
- Should we be unable to comply with the strict income distribution requirements applicable to REITs, utilizing only cash generated by operating activities, we would be required to generate cash from other sources which could adversely affect our financial condition.
- Our ownership interest in four LLCs/LPs in which we hold non-controlling equity interests. In addition, pursuant to the operating and/or partnership agreements of the four LLCs/LPs in which we continue to hold non-controlling ownership interests, the third-party member and the Trust, at any time, potentially subject to certain conditions, have the right to make an offer ("Offering Member") to the other member(s) ("Non-Offering Member") in which it either agrees to: (i) sell the entire ownership

interest of the Offering Member to the Non-Offering Member (“Offer to Sell”) at a price as determined by the Offering Member (“Transfer Price”), or; (ii) purchase the entire ownership interest of the Non-Offering Member (“Offer to Purchase”) at the equivalent proportionate Transfer Price. The Non-Offering Member has 60 to 90 days to either: (i) purchase the entire ownership interest of the Offering Member at the Transfer Price, or; (ii) sell its entire ownership interest to the Offering Member at the equivalent proportionate Transfer Price. The closing of the transfer must occur within 60 to 90 days of the acceptance by the Non-Offering Member. Please see *Note 8 to the condensed consolidated financial statements – Summarized Financial Information of Equity Affiliates* in our Annual Report on Form 10-K for the year ended December 31, 2023 for additional disclosure related to a fourth quarter, 2021 transaction between us and the minority partner in Grayson Properties, LP.

- Fluctuations in the value of our common stock, which, among other things could be affected by the current increasing interest rate environment.
- Our business, results of operations, financial condition, or stock price may be adversely affected if we are not able to achieve our environmental, social and governance (“ESG”) goals or comply with emerging ESG regulations, or otherwise meet the expectations of our stakeholders with respect to ESG matters.
- Other factors referenced herein or in our other filings with the SEC.

Given these uncertainties, risks and assumptions, you are cautioned not to place undue reliance on such forward-looking statements. Our actual results and financial condition, including the operating results of our lessees and the facilities leased to subsidiaries of UHS, could differ materially from those expressed in, or implied by, the forward-looking statements.

Forward-looking statements speak only as of the date the statements are made. We assume no obligation to publicly update any forward-looking statements to reflect actual results, changes in assumptions or changes in other factors affecting forward-looking information, except as may be required by law. All forward-looking statements attributable to us or persons acting on our behalf are expressly qualified in their entirety by this cautionary statement.

USE OF PROCEEDS

Unless otherwise specified in the applicable prospectus supplement for any offering of securities, the net proceeds, after estimated expenses, received by the Trust from the sale of these securities will be added to the Trust's general funds. The Trust expects to use the proceeds of any offering of securities for general operating purposes, including working capital, capital expenditures and the repayment of borrowings, or any other purpose that the Trust may specify in the applicable prospectus supplement. Any specific allocation of the net proceeds of an offering of securities will be determined at the time of the offering and will be described in the applicable prospectus supplement. Pending any such use, the Trust may temporarily invest net proceeds in interest-bearing time deposits or short-term marketable securities.

DESCRIPTION OF THE TRUST'S COMMON SHARES OF BENEFICIAL INTEREST AND PREFERRED SHARES OF BENEFICIAL INTEREST

The following description summarizes the material provisions of the common shares and preferred shares that we may offer. This description is not complete and is subject to, and is qualified in its entirety by reference to, our declaration of trust, as amended and/or restated from time to time, and our amended and restated bylaws, as amended and/or restated from time to time, each of which is incorporated herein by reference, and applicable provisions of Titles 1 through 3 of the Corporations and Associations Code of the State of Maryland, as amended (the "Maryland General Corporation Law") and Title 8 of Corporations and Associations Code of the State of Maryland, as amended (the "Maryland REIT Law"). The specific terms of any series of preferred shares will be described in the applicable prospectus supplement. Any series of preferred shares we issue will be governed by our declaration of trust as then in effect, and by articles supplementary related to that series. We will file the articles supplementary with the SEC and incorporate them by reference as an exhibit to our registration statement at or before the time we issue any preferred shares of that series of authorized shares of beneficial interest.

The Trust's authorized capital stock consists of 100,000,000 shares of beneficial interest, 95,000,000 of which are designated as common shares, par value \$0.01 per share, and 5,000,000 of which are designated as preferred shares, par value \$0.01 per share.

Common Shares of Beneficial Interest

Except as otherwise determined by our Board of Trustees with respect to any class of or series of preferred shares, all common shares will participate equally in distributions payable to shareholders when and as declared by our Board of Trustees and in net assets available for distribution to shareholders, on liquidation or dissolution, will have one vote per share on all matters submitted to a vote of the Trust's shareholders and will not have cumulative voting rights in the election of our trustees. The common shares offered hereby will be validly issued, fully paid and, except as set forth below, nonassessable by the Trust upon issuance, and will have no preference, conversion, exchange or preemptive rights.

Preferred Shares of Beneficial Interest

No preferred shares are presently outstanding. Up to 5,000,000 preferred shares may be issued from time to time by our Board of Trustees, without shareholder approval, in such series and with such preferences, conversion or other rights, voting powers, restrictions, limitations as to dividends, qualifications or other provisions, as may be fixed by our Board of Trustees in the resolution authorizing their issuance.

The following description of the terms of the preferred shares sets forth certain general terms and provisions of the preferred shares to which any prospectus supplement may relate. The preferred shares shall have the dividend, liquidation, redemption and voting rights set forth below unless otherwise provided in a prospectus supplement relating to a particular series of preferred shares. The terms of any particular series of preferred shares will be described in the prospectus supplement relating to that particular series of preferred shares, including:

- the number of shares constituting the series and the distinctive designation thereof;
- the voting rights, if any, of the series;
- the rate of dividends payable on the series, the time or times when dividends will be payable, the preference to, or any relation to, the payment of dividends to any other class or series of shares and whether the dividends will be cumulative or non-cumulative;
- whether there shall be a sinking or similar fund for the purchase of shares of the series and, if so, the terms and provisions that shall govern the fund;
- the rights of the holders of shares of the series upon our liquidation, dissolution or winding up;

Table of Contents

- the rights, if any, of holders of shares of the series to convert their shares into or to exchange the shares for, shares of any other class or classes or any other series of the same or of any other class or classes of shares of beneficial interest of the Trust or any other securities, the price or prices or rate or rates of exchange, with such adjustments as shall be provided, at which the shares shall be convertible or exchangeable, whether such rights of conversion or exchange shall be exercisable at the option of the holder of the shares or upon the happening of a specified event and any other terms or conditions of such conversion or exchange; and
- any other preferences, powers and relative participating, optional or other special rights and qualifications, limitations or restrictions of shares of the series.

The preferred shares offered hereby will be validly issued, fully paid and, except as set forth below, nonassessable by the Trust upon issuance, and will have no preemptive rights. Unless otherwise stated in a prospectus supplement relating to a particular series of preferred shares, each series of preferred shares will rank on a parity as to dividends and distributions of assets with each other series of preferred shares. The rights of the holders of each series of preferred shares will be subordinate to those of our general creditors.

Dividend Rights

Holders of preferred shares of each series will be entitled to receive, when, as and if declared by our Board of Trustees, out of funds legally available therefor, cash dividends on the dates and at rates as will be set forth in, or as are determined by the method described in, the prospectus supplement relating to the series of preferred shares. The rate may be fixed or variable or both. Each dividend will be payable to the holders of record as they appear on our books on the record dates fixed by our Board of Trustees, as specified in the prospectus supplement relating to the series of preferred shares.

Dividends may be cumulative or noncumulative, as provided in the prospectus supplement relating to the series of preferred shares. If our Board of Trustees fails to declare a dividend payable on a dividend payment date on any series of preferred shares for which dividends are noncumulative, then the holders of the series of preferred shares will have no right to receive a dividend in respect of the dividend period ending on the dividend payment date, and we will have no obligation to pay the dividend accrued for such period, whether or not dividends on the series are declared payable on any future dividend payment dates. Dividends on the shares of each series of preferred shares for which dividends are cumulative will accrue from the date on which we initially issue shares of the series.

So long as the shares of any series of preferred shares are outstanding, except as otherwise provided in the prospectus supplement relating to such series, we may not declare any dividends on our common shares or any other stock ranking as to dividends or distributions of assets junior to the series of preferred shares or make any payment on account of, or set apart money for, the purchase, redemption or other retirement of, or for a sinking or other analogous fund for, any junior shares or make any distribution in respect thereof, whether in cash or property or in obligations or stock, other than junior shares which are neither convertible into, nor exchangeable or exercisable for, any securities other than junior shares:

- unless, if the preferred shares are cumulative, full dividends for prior dividend periods shall have been paid or declared and set apart for payment on all outstanding preferred shares of the series and all other series of our preferred shares (other than junior shares); and
- unless we are not in default or in arrears with respect to the mandatory or optional redemption or mandatory repurchase or other mandatory retirement of, or with respect to any sinking or other analogous fund for, any preferred shares of the series or of any other series of our preferred shares (other than junior shares).

Liquidation Preference

In the event of any liquidation, dissolution or winding up of us, voluntary or involuntary, the holders of each series of preferred shares will be entitled to receive out of our assets legally available for distribution to shareholders, before any distribution of assets or payment is made to the holders of common shares or any other shares of our beneficial interest ranking junior as to such distribution or payment to such series of preferred shares, the amount set forth in the prospectus supplement relating to such series of preferred shares. If, upon any voluntary or involuntary liquidation, dissolution or winding up of us, the amounts payable with respect to the preferred shares of any series and any other preferred shares (including any other series of the preferred shares) ranking as to any such distribution on a parity with such series of preferred shares are not paid in full, the holders of the preferred shares of such series and of such other preferred shares will share ratably in any such distribution of our assets in proportion to the full respective preferential amounts to which they are entitled. After payment to the holders of the preferred shares of each series of the full preferential amounts of the liquidating distribution to which they are entitled, the holders of each such series of preferred shares will be entitled to no further participation in any distribution of our assets.

If such payment shall have been made in full to all holders of preferred shares, our remaining assets will be distributed among the holders of any other classes of shares of beneficial interest ranking junior to the preferred shares upon liquidation, dissolution or winding up, according to their respective rights and preferences and in each case according to their respective number of shares. For such purposes, our consolidation or merger with or into any other entity, or the sale, lease or conveyance of all or substantially all of our property or business, shall not be deemed to constitute a liquidation, dissolution or winding up of us.

Redemption

A series of preferred shares may be redeemable, in whole or from time to time in part, at our option, and may be subject to mandatory redemption pursuant to a sinking fund or otherwise, in each case upon terms, at the times and at the redemption prices set forth in the prospectus supplement relating to such series. Preferred shares redeemed by us will be restored to the status of authorized but unissued preferred shares.

In the event that fewer than all of the outstanding shares of a series of the preferred shares are to be redeemed, whether by mandatory or optional redemption, the number of shares to be redeemed will be determined by lot or pro rata (subject to rounding to avoid fractional shares) as may be determined by us or by any other method as may be determined by us in our sole discretion to be equitable. From and after the redemption date (unless default shall be made by us in providing for the payment of the redemption price plus accumulated and unpaid dividends, if any), dividends shall cease to accumulate on the preferred shares called for redemption and all rights of the holders thereof (except the right to receive the redemption price plus accumulated and unpaid dividends, if any) shall cease.

So long as any dividends on shares of any series of preferred shares or any other series of preferred shares ranking on a parity as to dividends and distributions of assets with such series of preferred shares are in arrears, no shares of any such series of the preferred shares or such other series of preferred shares will be redeemed (whether by mandatory or optional redemption) unless all such shares are simultaneously redeemed, and we will not purchase or otherwise acquire any such shares. However, the foregoing will not prevent the purchase or acquisition of such preferred shares of such series or of shares of such other series of preferred shares in order to ensure that we continue to meet the requirements for qualification as a REIT for federal income tax purposes or pursuant to a purchase or exchange offer made on the same terms to holders of all outstanding preferred shares of such series and, unless the full cumulative dividends on all outstanding shares of any cumulative preferred shares of such series and any other shares of beneficial interest ranking on a parity with such series as to dividends and upon liquidation shall have been paid or contemporaneously are declared and paid for all past dividend periods, we will not purchase or otherwise acquire directly or indirectly any preferred shares of such series (except by conversion into or exchange for our shares of beneficial interest) ranking junior to the preferred shares of such series as to dividends and upon liquidation.

[Table of Contents](#)

Notice of redemption will be mailed at least 30 days but not more than 60 days before the redemption date to each holder of record of preferred shares to be redeemed at the address shown on our share transfer books. After the redemption date, dividends will cease to accrue on the preferred shares called for redemption and all rights of the holders of such shares will terminate, except the right to receive the redemption price without interest plus accumulated and unpaid dividends, if any.

Conversion Rights

The terms, if any, on which preferred shares of any series may be exchanged for or converted (mandatorily or otherwise) into common shares or another series of preferred shares will be set forth in the prospectus supplement relating thereto.

Voting Rights

Except as indicated below or in a prospectus supplement relating to a particular series of preferred shares, the holders of the preferred shares will not be entitled to vote for any purpose.

So long as any preferred shares remain outstanding, we will not, without the consent or the affirmative vote of such percentage of the holders of each series of preferred shares outstanding at the time as may be specified in the applicable articles supplementary for the preferred shares, given in person or by proxy, either in writing or at a meeting (such series voting separately as a class):

- authorize, create or issue, or increase the authorized or issued amount of, any series of shares of beneficial interest ranking prior to such series of preferred shares with respect to payment of dividends, or the distribution of assets on liquidation, dissolution or winding up or reclassifying any of our authorized shares of beneficial interest into any such shares, or create, authorize or issue any obligation or security convertible into or evidencing the right to purchase any such shares; or
- repeal, amend or otherwise change any of the provisions of our declaration of trust applicable to the preferred shares of such series in any manner which materially and adversely affects the powers, preferences, voting power or other rights or privileges of such series of preferred shares or the holders thereof; provided, however, that any increase in the amount of the authorized preferred shares or the creation or issuance of other series of preferred shares, or any increase in the amount of authorized shares of such series or of any other series of preferred shares, in each case ranking on a parity with or junior to the preferred shares of such series, shall not be deemed to materially and adversely affect such rights, preferences, privileges or voting powers.

The foregoing voting provisions will not apply if, at or prior to the time when the act with respect to which such vote would otherwise be required shall be effected, all outstanding shares of the preferred shares shall have been redeemed or called for redemption and sufficient funds shall have been deposited in trust to effect such redemption.

Redemption and Business Combination Provisions

If our Board of Trustees shall, at any time and in good faith, be of the opinion that direct or indirect ownership of at least 9.8% in value of the outstanding shares of beneficial interest (taking into account the constructive ownership rules contained in Sections 318 and 544 of the Internal Revenue Code of 1986, as amended, or the Internal Revenue Code), has or may become concentrated in the hands of one beneficial owner, our Board of Trustees shall have the power:

- by lot or other means deemed equitable by them to call for the purchase from any such shareholder that number of the Trust's shares of beneficial interest sufficient, in the opinion of our Board of Trustees, to maintain or bring the direct or indirect ownership of the Trust's shares of beneficial interest of such owner to a level equal to 9.8% in value of the outstanding shares; and

Table of Contents

- to refuse to transfer or issue the Trust's shares of beneficial interest to any person whose acquisition of such shares would cause a person to hold in excess of 9.8% in value of the outstanding shares of beneficial interest.

Any transfer of the Trust's shares of beneficial interest that would create a direct or indirect owner of more than 9.8% in value of the outstanding shares of beneficial interest shall be deemed void and the intended transferee shall be deemed never to have had an interest therein. The purchase price for any of the shares of beneficial interest so redeemed shall be equal to the fair market value of the shares reflected in the closing sales price for the shares, if then listed on a national securities exchange, or the average of the closing sales prices for the shares if then listed on more than one national securities exchange, or if the shares are not then listed on a national securities exchange, the latest bid quotation for the shares if then traded over-the-counter, on the last business day immediately preceding the day on which notices of such acquisition are sent by the Trust or, if no such closing sale prices or quotations are available, then the purchase price shall be equal to the net asset value of such shares as determined by our Board of Trustees in accordance with the provisions of applicable law. From and after the date fixed for purchase by our Board of Trustees, the holder of any shares of beneficial interest so called for purchase shall cease to be entitled to distributions, voting rights and other benefits with respect to such shares, except the right to payment of the purchase price for the shares.

If any person knowingly holds in excess of 9.8% in value of the outstanding shares of beneficial interest and the Trust loses its qualification as a REIT under the Internal Revenue Code or becomes a personal holding company, that person would be required to indemnify the Trust for the full amount of any damages and expenses resulting from the loss of its qualification as a REIT or its becoming a personal holding company. These damages and expenses might include increased corporate taxes, attorneys' fees and administrative costs.

Our declaration of trust permits our Board of Trustees to effect any merger or consolidation in accordance with applicable law, except any merger or consolidation with, or any sale, lease, transfer or other disposition of all or any substantial part of the assets of the Trust to, or from, a holder of shares of beneficial interest of the Trust representing, in the aggregate, 5% or more of the total number of votes authorized to be cast by holders of the Trust's shares of beneficial interest. Business combinations with these related persons must be approved by the affirmative vote of the holders of shares representing at least 95% of the total number of votes authorized to be cast by holders of the Trust's shares of beneficial interest unless:

- our Board of Trustees by a vote or written consent of all but one of the trustees have expressly approved in advance the acquisition of the outstanding shares of the Trust that caused that person to become a related person or shall have approved the business combination prior to that person having become a related person; or
- the business combination is solely between the Trust and another trust or the Trust of which 100% of that entity's voting securities are owned directly or indirectly by the Trust.

Shareholder Liability

The Maryland REIT Law provides that a shareholder of a Maryland real estate investment trust shall have immunity from personal liability for the obligations of the real estate investment trust. This Title also provides that the declaration of trust of a real estate investment trust may include any provision expanding or limiting the liability of its shareholders for money damages except for limiting the liability of its shareholders to the extent:

- actual receipt of an improper benefit or profit in money, property or services is proved; or
- active and deliberate dishonesty is established by a final judgment as being material to the cause of action.

In addition, our declaration of trust provides that the Trust's shareholders shall not be subject to any liability for the acts or obligations of the Trust and that, as far as practicable, each of the Trust's written agreements

[Table of Contents](#)

creating an obligation of the Trust shall contain a provision to that effect. With respect to all types of claims in some jurisdictions, tort claims only in other jurisdictions, contract claims where shareholder liability is not disavowed as described above, and claims for taxes and certain statutory liabilities, a shareholder may be held personally liable to the extent that claims are not satisfied by the Trust. Our declaration of trust provides that, upon payment of any such liability, the shareholder will be entitled to reimbursement from the Trust's general assets. There can be no assurance that, at the time any such liability arises, the Trust will have assets sufficient to satisfy this reimbursement obligation. Our Board of Trustees intends to conduct the Trust's operations, with the advice of counsel, in such a way as to avoid, as far as practicable, the ultimate liability of the Trust's shareholders. Our Board of Trustees does not intend to provide insurance covering such risks to the Trust's shareholders.

Transfer Agent and Registrar

Computershare Investor Services acts as transfer agent, registrar and dividend reinvestment agent of the Trust's common shares.

Trading Market

The Trust's common shares currently trade on the NYSE under the symbol "UHT."

DESCRIPTION OF DEBT SECURITIES

The following description summarizes the material provisions of our debt securities. The debt securities are to be issued under an indenture to be entered into between us and a trustee that we will select (the “indenture”). The form of indenture has been filed with the SEC as an exhibit to the registration statement of which this prospectus is a part. This description is not complete and is subject to, and is qualified in its entirety by reference to, the indenture and the Trust Indenture Act of 1939, as amended (the “Trust Indenture Act”).

The particular terms of each series of debt securities that we may offer from time to time will be established in or under a resolution of our Board of Trustees and set forth in an officers’ certificate or a supplemental indenture, and in a form of debt security with respect to that series. We will file the executed indenture, such officers’ certificate or supplemental indenture and the form of debt security with the SEC. The prospectus supplement or any free writing prospectus with respect to the series of debt securities we are offering will describe these particular terms and will indicate the extent to which the general terms described below may not apply to that series of debt securities. Whenever particular defined terms of the indenture, as supplemented or amended from time to time, are referred to in this prospectus or a prospectus supplement, those defined terms are incorporated in this prospectus or such prospectus supplement by reference.

General

Our debt securities will be unsecured obligations of ours. The indenture does not limit the amount of debt securities that we may issue under the indenture. We may issue our debt securities at various times in different series, each of which may have different terms.

We expect that the prospectus supplement relating to the particular series of debt securities we are offering will include the following information concerning those debt securities:

- the title and ranking of the debt securities (including the terms of any subordination provisions);
- any limit on the amount of debt securities that we may offer;
- the price at which we are offering our debt securities. We will usually express the price as a percentage of the principal amount;
- the maturity date of our debt securities;
- the interest rate per annum on our debt securities. We may specify a fixed rate or a variable rate, or we may offer debt securities that do not bear interest but are sold at a substantial discount from the amount payable at maturity;
- the date from which interest on our debt securities will accrue;
- the dates on which we will pay interest and the regular record dates for determining who is entitled to receive the interest;
- the denominations in which we may issue our debt securities, if other than denominations of \$1,000 and any integral multiple thereof;
- if applicable, the dates on which or after which, and the prices at which, we are required to redeem our debt securities or have the option to redeem our debt securities;
- if applicable, any limitations on our right to defease our obligations under our debt securities by depositing cash or securities;
- the amount that we would be required to pay if the maturity of our debt securities is accelerated, if that amount is other than the principal amount;
- any addition to, deletion of or change in the restrictive covenants or other material terms described in this prospectus or in the indenture relating to our debt securities;

[Table of Contents](#)

- any addition to, deletion of or change in the events of default described in this prospectus or in the indenture that will apply to our debt securities and any change in the acceleration provisions described in this prospectus or in the indenture with respect to our debt securities;
- if we will make payments on our debt securities in any currency other than United States dollars, the currency or composite currency in which we will make those payments. If the currency will be determined under an index, the details concerning such index;
- any authenticating or paying agents, transfer agents or registrars, if other than the trustee under the indenture, or any other agents with respect to our debt securities;
- any guarantee or other credit enhancement applicable to our debt securities, if any; and
- any other terms of our debt securities not inconsistent with the provisions of the indenture.

We may issue debt securities that provide for an amount less than their stated principal amount to be due and payable upon declaration of acceleration of their maturity pursuant to the terms of the indenture. We will provide you with information on the federal income tax considerations and other special considerations applicable to any of these debt securities in the applicable prospectus supplement.

Conversion Rights

The terms, if any, on which debt securities of a series may be exchanged for or converted into common or preferred shares, debt securities of another series or other securities will be set forth in the prospectus supplement relating to the series. To protect our status as a REIT, a holder may not convert any debt security, and the debt security is not convertible by any holder, if as a result of the conversion any person would then be deemed to beneficially own, directly or indirectly, 9.8% or more of our common shares.

Payments on Debt Securities

We will make payments on our debt securities at the office or agency we will maintain for that purpose, which will be the corporate trust office of the trustee in New York, New York unless we indicate otherwise in the prospectus supplement, or at such other places and at the respective times and in the manner as we designate in the prospectus supplement.

Covenants

Unless we otherwise specify in the prospectus supplement, there are not any covenants in the indenture or our debt securities that would protect you against a highly leveraged or other transaction involving us that may adversely affect you as a holder of our debt securities. If there are provisions that offer such protection, they will be described in the prospectus supplement.

We may not consolidate or merge or sell or convey all or substantially all of our assets unless the surviving person, if it is not us, is a domestic person and assumes our obligations under our debt securities and the indenture and unless, under the indenture, we or the surviving person is not in default in the performance of any covenant or condition in the indenture.

Any additional covenants that we agree to with respect to a series of the debt securities will be set forth in the applicable prospectus supplement.

Events of Default, Notice and Waiver

An event of default in respect of any series of our debt securities means:

- (1) our failure to pay any interest on that series within 30 days of when that interest is due;

Table of Contents

- (2) our failure to pay any principal, sinking fund installment or analogous obligation on that series when due;
- (3) our failure to perform any other agreement in our debt securities of that series or the indenture, other than an agreement relating solely to another series of our debt securities, for 90 days after written notice of the breach or default;
- (4) acceleration of our indebtedness aggregating more than \$5,000,000;
- (5) our failure to discharge any judgment of \$5,000,000 or more within 60 days after the judgment becomes final and non-appealable;
- (6) certain events of our bankruptcy, insolvency and reorganization; and
- (7) any other event of default provided in the supplemental indenture or resolution of the Board of Trustees under which such series of debt securities is issued or in the form of debt security for such series.

If an event of default described in (1), (2) or (3) above (if the event of default under (3) above is with respect to less than all series of debt securities then outstanding) occurs and is continuing, either the trustee or the holders of not less than 25% in principal amount of the outstanding debt securities of a series may declare the principal and accrued interest, if any, of all securities of that series to be due and payable. If an event default described in (3) (if the event of default under (3) above is with respect to all series of securities then outstanding), (4) or (5) above occurs and is continuing, either the trustee or the holders of no less than 25% in principal amount of the outstanding debt securities of all series may declare the principal and accrued interest, if any, of all the outstanding debt securities to be due and payable.

Within 90 days after a default in respect of any series of our debt securities, the trustee must give to the holders of such series notice of all uncured and unwaived defaults by us known to it. However, except in the case of default in payment, the trustee may withhold such notice if it in good faith determines that withholding is in the interest of such holders. The term “default” means, for this purpose, any event or condition which is, or with notice or lapse of time or both would become, an event of default.

Before the trustee is required to exercise rights under the indenture at the request, order or direction of holders, it is entitled to be indemnified by such holders, subject to its duty, during an event of default, to act with the required standard of care.

If any event of default has occurred, the holders of a majority in principal amount of the outstanding debt securities of any series (with each series voting as a separate class) may direct the time, method and place of conducting proceedings for remedies available to the trustee, or exercising any trust or power conferred on the trustee, in respect of that series.

We must file an annual certificate with the trustee that we are in compliance with the conditions and covenants under the indenture.

The holders of a majority in principal amount of the outstanding debt securities of a series, on behalf of the holders of all debt securities of that series, or the holders of a majority of all outstanding debt securities voting as a single class, on behalf of the holders of all outstanding debt securities, may waive certain past defaults or events of default, or compliance with certain provisions of the indenture, but may not waive among other things an uncured default in payment of interest or principal.

Modification or Amendment of the Indenture

If we receive the consent of the holders of a majority in principal amount of the outstanding debt securities affected, we may enter into supplemental indentures with the trustee that would:

- add, change or eliminate provisions in the indenture or any supplemental indenture; or
- change the rights of the holders of our debt securities.

[Table of Contents](#)

However, unless we receive the consent of all of the affected holders, we may not enter into supplemental indentures that would, with respect to the debt securities of those holders:

- change the final maturity;
- reduce the principal amount;
- reduce the interest rate or extend the time of payment of interest;
- reduce any amount payable on redemption or provable in bankruptcy;
- reduce the amount of the principal of an original issue discount security that would be payable on acceleration;
- impair or affect the right of any holder to institute suit for payment;
- change any right of the holder to require repayment; or
- reduce the requirement for majority approval of supplemental indentures.

Satisfaction and Discharge of Indenture

The indenture, with respect to any and all series of debt securities (except for certain specified surviving obligations including, among other things, our obligation to pay the principal of or interest, if any, on any debt securities), will be discharged and cancelled upon the satisfaction of certain conditions, including the payment in full of the principal of, and interest, if any, on all of the debt securities of that series or the deposit with the trustee of an amount of cash sufficient for the payment or redemption, in accordance with the indenture.

Defeasance

The indenture includes provisions allowing defeasance that we may choose to apply to our debt securities of any series. If we do so, we must deposit with the trustee or another trustee money or U.S. government obligations (or combination thereof) sufficient to make all payments on those debt securities. If we make such a deposit with respect to your debt securities, we may elect:

- to be discharged from all our obligations on our debt securities, except for our obligations to register transfers and exchanges, to replace temporary or mutilated, destroyed, lost or stolen debt securities, to maintain an office or agency in respect of the debt securities and to hold moneys for payment in trust (“defeasance”); or
- to be released from covenants with respect to our debt securities that we may specify in accordance with the indenture (“covenant defeasance”).

In order to exercise defeasance, we must deliver to the trustee an opinion of our counsel stating that we have received, or that there has been a publication of, an Internal Revenue Service ruling, or that there has been a change in applicable U.S. federal income tax law, and that as a result of such ruling or change in law, the holders of our debt securities will not recognize income, gain or loss for U.S. federal income tax purposes as a result of such defeasance and will be subject to U.S. federal income tax on the same amounts, in the same manner and at the same time as would have been the case if such defeasance had not occurred. In order to exercise covenant defeasance, we must deliver to the trustee an opinion of our counsel stating that the holders of our debt securities will not recognize income, gain or loss for U.S. federal income tax purposes as a result of such covenant defeasance and will be subject to U.S. federal income tax in the same amounts, in the same manner and at the same time as would have been the case if such covenant defeasance had not occurred. There are additional conditions to defeasance or covenant defeasance which are described in the indenture.

Governing Law and Consent to Jurisdiction

The indenture is and the debt securities issued thereunder will be governed by and construed in accordance with the laws of the State of New York.

Concerning the Trustee

The trustee will be permitted to engage in other transactions with us. However, if the trustee acquires any conflicting interest it must eliminate such conflict or resign or otherwise comply with the Trust Indenture Act.

The indenture provides that, in case an event of default should occur and be continuing, the trustee will be required to use the degree of care and skill of a prudent person in the conduct of his or her own affairs in the exercise of its powers.

Book-Entry System

Except as otherwise set forth in the applicable prospectus supplement, the debt securities of a series will be issued in the form of one or more fully registered global securities which will be deposited with or on behalf of the Depository Trust Company (“DTC”), or the depository, and will be registered in the name of DTC or its nominee. The global security may not be transferred except as a whole by a nominee of the depository to the depository or to another nominee of the depository, or by the depository or another nominee of the depository to a successor of the depository or a nominee of a successor to the depository.

So long as the depository or its nominee is the registered holder of a global security, the depository or its nominee, as the case may be, will be the sole owner of the debt securities represented thereby for all purposes under the indenture. Except as otherwise provided below, the beneficial owners of the global security or securities representing debt securities will not be entitled to receive physical delivery of certificated notes and will not be considered the registered holders thereof for any purpose under the indenture, and no global security representing debt securities shall be exchangeable or transferable. Accordingly, each beneficial owner must rely on the procedures of the depository and, if that beneficial owner is not a participant, on the procedures of the participant through which that beneficial owner owns its interest in order to exercise any rights of a registered holder under such global security or the indenture. The laws of some jurisdictions require that certain purchasers of securities take physical delivery of securities in certificated form. These limits and laws may impair the ability to transfer beneficial interests in a global security representing debt securities.

Each global security representing debt securities will be exchangeable for certificated notes of like tenor and terms and of differing authorized denominations in a like aggregate principal amount, only if:

- the depository notifies us that it is unwilling or unable to continue as the depository for the global securities or we become aware that the depository has ceased to be a clearing agency registered as such under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), and, in any such case we fail to appoint a successor to the depository within 90 calendar days;
- we, in our sole discretion, determine that the global securities shall be exchangeable for certificated notes; or
- an event of default has occurred and is continuing with respect to the debt securities under the indenture.

Upon any such exchange, the certificated notes will be registered in the names of the beneficial owners of the global security or securities representing debt securities, which names shall be provided by the depository’s relevant participants to the trustee.

The depository is a limited-purpose trust company organized under the New York Banking Law, a “banking organization” within the meaning of the New York Banking Law, a member of the Federal Reserve System, a “clearing corporation” within the meaning of the New York Uniform Commercial Code, and a “clearing agency” registered pursuant to the provisions of Section 17A of the Exchange Act. The depository holds securities that its participants deposit with the depository. The depository also facilitates the settlement among participants of securities transactions, such as transfers and pledges, in deposited securities through electronic computerized

Table of Contents

book-entry changes in participants' accounts, thereby eliminating the need for physical movement of securities certificates. Direct participants of the depositary include securities brokers and dealers (including the agents), banks, trust companies, clearing corporations and certain other organizations. The depositary is owned by a number of its direct participants and by the New York Stock Exchange, Inc., the NYSE MKT LLC, and the National Association of Securities Dealers, Inc. Access to the depositary's system is also available to others, such as securities brokers and dealers, banks and trust companies, that clear through or maintain a custodial relationship with a direct participant, either directly or indirectly, referred to as "indirect participants." The rules applicable to the depositary and its participants are on file with the SEC.

Purchases of debt securities under the depositary's system must be made by or through direct participants, which will receive a credit for the debt securities on the depositary's records. The ownership interest of each actual purchaser of each note represented by a global security, referred to as a "beneficial owner," is in turn to be recorded on the records of direct participants and indirect participants. Beneficial owners will not receive written confirmation from the depositary of their purchase, but beneficial owners are expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the direct participants or indirect participants through which such beneficial owner entered into the transaction. Transfers of ownership interests in a global security representing debt securities are to be accomplished by entries made on the books of participants acting on behalf of beneficial owners. Beneficial owners of a global security representing debt securities will not receive certificated notes representing their ownership interests therein, except in the event that use of the book-entry system for the debt securities is discontinued.

All global securities representing debt securities which are deposited with, or on behalf of, the depositary are registered in the name of the depositary's nominee, Cede & Co. to facilitate subsequent transfers. The deposit of global securities with, or on behalf of, the depositary and their registration in the name of Cede & Co. effect no change in beneficial ownership. The depositary has no knowledge of the actual beneficial owners of the global securities representing the book-entry debt securities. The depositary's records reflect only the identity of the direct participants to whose accounts such debt securities are credited, which may or may not be the beneficial owners. The participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by the depositary to direct participants, by direct participants to indirect participants, and by direct participants and indirect participants to beneficial owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time.

Neither the depositary nor Cede & Co. will consent or vote with respect to the global securities representing the debt securities. Under its usual procedures, the depositary mails an omnibus proxy to a company as soon as possible after the applicable record date. The omnibus proxy assigns Cede & Co.'s consenting or voting rights to those direct participants to whose accounts the debt securities are credited on the applicable record date, identified in a listing attached to the omnibus proxy.

Principal, premium, if any, and/or interest, if any, payments on the global securities representing the debt securities will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. The depositary's practice is to credit direct participants' accounts on the applicable payment date in accordance with their respective holdings shown on the depositary's records unless the depositary has reason to believe that it will not receive payment on such date. Payments by participants to beneficial owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such participant and not of the depositary, the trustee or us, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of principal, premium, if any, and/or interest, if any, to the depositary is the responsibility of us and the trustee, disbursement of such payments to direct participants shall be the responsibility of the depositary, and disbursement of such payments to the beneficial owners shall be the responsibility of direct participants and indirect participants.

Table of Contents

If applicable, redemption notices shall be sent to DTC. If less than all of debt securities are being redeemed, the depositary's practice is to determine by lot the amount of the interest of each direct participant in such issue to be redeemed.

A beneficial owner shall give notice of any option to elect to have its debt securities repaid by us, through its participant, to the trustee, and shall effect delivery of such debt securities by causing the direct participant to transfer the participant's interest in the global security or securities representing such book-entry debt securities, on the depositary's records, to the trustee. The requirement for physical delivery of book-entry debt securities in connection with a demand for repayment will be deemed satisfied when the ownership rights in the global security or securities representing such book-entry debt securities are transferred by direct participants on the depositary's records.

The depositary may discontinue providing its services as securities depositary with respect to the debt securities at any time by giving reasonable notice to us or the trustee. Under such circumstances, in the event that a successor securities depositary is not obtained, certificated notes are required to be printed and delivered.

We may decide to discontinue use of the system of book-entry transfers through the depositary or a successor securities depositary. In that event, certificated notes will be printed, authenticated and delivered.

The information in this section concerning the depositary and the depositary's system has been obtained from sources that we believe to be reliable, but neither we nor the trustee takes any responsibility for the accuracy thereof.

CERTAIN PROVISIONS OF MARYLAND LAW AND OF OUR DECLARATION OF TRUST AND BYLAWS

Although the following summary describes certain provisions of Maryland law and of our Declaration of Trust and bylaws, it is not a complete description of Maryland law and our Declaration of Trust and bylaws, copies of which are available from us upon request. See “Where You Can Find More Information.”

Number of Trustees; Election of Trustees; Qualifications; Vacancies

Our Declaration of Trust and bylaws provide that the number of our Trustees may be established by our Board of Trustees or by amendment of the declaration but may not be fewer than three nor more than seven. Pursuant to our Declaration of Trust, a majority of our Trustees must be “Independent Trustees” with each class of Trustees containing at least one Independent Trustee. The Declaration of Trust defines an “Independent Trustee” as a Trustee who is not an affiliate of UHS, the parent company of our advisor, and does not perform any services for us, except as Trustee. Our Declaration of Trust and bylaws also provide that any and all vacancies on our Board of Trustees may be filled by the remaining Trustee or by a majority of the remaining Trustees in office (or a majority of the remaining Independent Trustees, if any, if the vacant position was formerly held by an independent trustee or is required to be held by an Independent Trustee), or if no Trustees remain, by the vote of a majority of all the votes cast at a meeting of the shareholders at which a quorum is present, and any individual elected to fill such vacancy will serve for the remainder of the full term of the class in which the vacancy occurred.

Pursuant to our Declaration of Trust, Trustees have been divided into three classes with a term of three years. Each of our Trustees will be elected by our shareholders to serve until his or her successor is duly elected and qualifies. A majority of all votes cast on the matter at a meeting of shareholders at which a quorum is present is sufficient to elect a Trustee. The presence in person or by proxy of shareholders entitled to cast a majority of all the votes entitled to be cast at a meeting constitutes a quorum.

Removal of Trustees

Our Declaration of Trust provides that a Trustee may be removed at any time with or without any cause by the affirmative vote or consent of at least two-thirds of the votes entitled to be cast generally in the election of Trustees, or with cause by all remaining Trustees.

Business Combinations

Our Declaration of Trust provides that the affirmative vote of the holders of shares representing 95% of the total number votes authorized to be cast by holders of shares then outstanding and entitled to vote thereon shall be required for the approval or authorization of certain business combination of the Trust with a “related person”, including a merger, consolidation, or, in certain circumstances specified in the Declaration of Trust, an asset transfer or issuance of equity securities, except when (1) the Board of Trustees by the votes or written consent of all or all but one of the continuing Trustees approved in advance the transaction by which the person otherwise would have become a related person, or the business combination prior to the related person involved in the business combination having become a related person, or (2) the business combination is solely between the Trust and another trust or corporation, 100% of the voting securities of which is owned directly or indirectly by the Trust. A related person generally refers to any person who, directly or indirectly, beneficially owns shares of beneficial interest of the Trust representing 5% or more of the total number of votes authorized to be cast by holders of share then outstanding entitled to vote generally in the election of Trustees. Our Declaration of Trust elects not to be governed by the provisions of Subtitle 6 of Title 3 of the Maryland General Corporation Law relating to certain business combinations between a Maryland real estate investment trust and an “interested shareholder” or, generally, any person who, directly or indirectly, beneficially owns 10% or more of the voting power of the trust’s outstanding voting shares or an affiliate or associate of the trust who, at any time within the

[Table of Contents](#)

two-year period prior to the date in question, was the beneficial owner, directly or indirectly, of 10% or more of the voting power of the then outstanding voting shares of beneficial interest of the trust, or an affiliate of such an interested shareholder.

The provisions in our Declaration of Trust relating to the business combination may discourage others from trying to acquire control of us and increase the difficulty of consummating any offer.

Control Share Acquisitions

The Maryland General Corporation Law provides that holders of “control shares” of a Maryland real estate investment trust acquired in a “control share acquisition” have no voting rights with respect to the control shares except to the extent approved by the affirmative vote of two-thirds of the votes entitled to be cast on the matter, excluding shares of beneficial interest in a real estate investment trust in respect of which any of the following persons is entitled to exercise or direct the exercise of the voting power of such shares in the election of trustees: (1) a person who makes or proposes to make a control share acquisition, (2) an officer of the trust or (3) an employee of the trust who is also a trustee of the trust. “Control shares” are voting shares which, if aggregated with all other such shares owned by the acquirer, or in respect of which the acquirer is able to exercise or direct the exercise of voting power (except solely by virtue of a revocable proxy), would entitle the acquirer to exercise voting power in electing trustees within one of the following ranges of voting power: (A) one-tenth or more but less than one-third, (B) one-third or more but less than a majority or (C) a majority or more of all voting power. Control shares do not include shares that the acquirer is then entitled to vote as a result of having previously obtained shareholder approval. A “control share acquisition” means the acquisition of issued and outstanding control shares, subject to certain exceptions.

A person who has made or proposes to make a control share acquisition, upon satisfaction of certain conditions (including an undertaking to pay expenses and making an “acquiring person statement” as described in the Maryland General Corporation Law), may compel the board of trustees of a Maryland real estate investment trust to call a special meeting of shareholders to be held within 50 days of demand to consider the voting rights of the shares. If no request for a meeting is made, the real estate investment trust may itself present the question at any shareholders’ meeting.

If voting rights are not approved at the meeting or if the acquirer does not deliver an acquiring person statement as required by the statute, then, subject to certain conditions and limitations, the trust may redeem any or all of the control shares (except those for which voting rights have previously been approved) for fair value determined, without regard to the absence of voting rights for the control shares, as of the date of the last control share acquisition by the acquirer or of any meeting of shareholders at which the voting rights of such shares are considered and not approved. If voting rights for control shares are approved at a shareholders’ meeting and the acquirer becomes entitled to vote a majority of the shares entitled to vote, all other shareholders may exercise appraisal rights. The fair value of the shares as determined for purposes of such appraisal rights may not be less than the highest price per share paid by the acquirer in the control share acquisition.

The control share acquisition statute does not apply to, among others, (a) shares acquired in a merger, consolidation or statutory share exchange if the trust is a party to the transaction or (b) acquisitions approved or exempted by the declaration of trust or bylaws of the trust.

Subtitle 8

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

- a classified board;

[Table of Contents](#)

- a two-thirds vote requirement for removing a trustee;
- a requirement that the number of trustees be fixed only by vote of the trustees;
- a requirement that a vacancy on the board be filled only by the remaining trustees and for the remainder of the full term of the class of trustees in which the vacancy occurred; and
- a provision requiring that a special meeting of shareholders be called upon the written request of shareholders entitled to cast a majority of all the votes entitled to be cast at such meeting.

Our Declaration of Trust and bylaws are silent with respect to Subtitle 8 of Title 3 of the Maryland General Corporation Law. However, through provisions in our Declaration of Trust and bylaws unrelated to Subtitle 8, we already (1) have a classified board, and (2) require the affirmative vote of the holders of not less than two-thirds of all of the votes entitled to be cast on the matter for the removal of any trustee from the board, which removal will be allowed with or without any cause.

Meetings of Shareholders

Pursuant to our Declaration of Trust and bylaws, a meeting of our shareholders for the purpose of the election of Trustees and the transaction of any business will be held annually on a date and at the time and place set by our Board of Trustees. In addition, our Chief Executive Officer, or a majority of the Trustees or of the Independent Trustee may call a special meeting of shareholders, and our Chief Executive Officer shall call a special meeting upon the written request of shareholders holding in aggregate no less than 10% of the total votes authorized to be cast by the outstanding shares of the Trust entitled to vote at such meeting.

Mergers; Extraordinary Transactions

Under the Maryland REIT Law, a Maryland real estate investment trust generally cannot merge with another entity or convert into another entity unless advised by its board of trustees and approved by the affirmative vote of shareholders entitled to cast at least two-thirds of the votes entitled to be cast on the matter unless a lesser percentage (but not less than a majority of all of the votes entitled to be cast on the matter) is set forth in the trust's declaration of trust. Our Declaration of Trust provides that, except with respect to the business combinations discussed above, we may effect any merger or consolidation in accordance with applicable law. Notwithstanding the foregoing, many of our operating assets will be held by our subsidiaries, and these subsidiaries may be able to sell all or substantially all of their assets or merge with another entity without the approval of our shareholders.

Amendment to Our Declaration of Trust and Bylaws

Under the Maryland REIT Law, a Maryland real estate investment trust generally cannot amend its declaration of trust unless advised by its board of trustees and approved by the affirmative vote of shareholders entitled to cast at least two-thirds of the votes entitled to be cast on the matter unless a different percentage (but not less than a majority of all of the votes entitled to be cast on the matter) is set forth in the trust's declaration of trust.

Except for amendments to certain provisions of our Declaration of Trust, including those related to the personal liability of the shareholders, Trustees, and of the officers, employees and agents of the Trust, and certain amendments described in our Declaration of Trust that require only approval by our Board of Trustees, our Declaration of Trust may be amended only at a meeting of shareholders by holders of shares representing 95% of the total number of votes authorized to be cast in respect of shares then outstanding and entitled to vote thereon. Notwithstanding the foregoing, if all or all but one of the continuing Trustees vote in favor of any proposed amendment, the affirmative vote of shareholders entitled to cast a majority of all the votes entitled to be cast on the matter will be required to amend the Declaration of Trust.

Our Board of Trustees may adopt, alter or repeal any provision of our bylaws and to make new bylaws.

Our Termination

Our Declaration of Trust provides for us to have a perpetual existence. Our termination must be approved by a unanimous vote of the continuing Trustees or the affirmative vote at a meeting of shareholders entitled to cast 95% of all the votes then outstanding and entitled to be cast on the matter.

Advance Notice of Trustee Nominations and New Business

Our bylaws provide that, with respect to an annual meeting of shareholders, nominations of individuals for election to our Board of Trustees may be made only (1) by or at the direction of our Board of Trustees or any duly authorized committee thereof or (2) by a shareholder who is entitled to vote at the meeting in the election of such individual at the annual meeting and who has complied with the advance notice provisions set forth in our bylaws. Our bylaws permit a shareholder, or group of up to 20 shareholders, owning 3% or more of the Trust's outstanding shares of beneficial interest continuously for at least three years to nominate and include in our proxy materials Trustees constituting up to 20% of the Board of Trustees, provided that such nominating shareholder(s) and nominee(s) satisfy the requirements specified therein for a nomination pursuant to the proxy access provisions, including timely submission of a notice of such a nomination to the Secretary of the Trust at its principal executive office (no earlier than 150 days and no later than 120 days before the anniversary of the date that we mailed our proxy statement for the previous year's annual meeting of shareholders) that contains the required information specified in our bylaws.

For nominations of individuals for election to our Board of Trustees at an annual meeting and the proposal of business to be considered by shareholders that are not intended to be included in our proxy materials, our bylaws currently require the shareholder generally to provide notice to the Secretary containing the information required by our bylaws not later than the close of business, on the 90th day nor earlier than the close of business, on the 120th day prior to the first anniversary of the preceding year's annual meeting. The notice of a proposed item of business or trustee nomination must provide information as required in our bylaws.

Anti-takeover Effect of Certain Provisions of Maryland Law and of Our Declaration of Trust and Bylaws

The control share acquisition provisions of the Maryland General Corporation Law, as well as the provisions in our Declaration of Trust and bylaws, as applicable, on the classification of our Board of Trustees, the business combinations, removal of trustees and the filling of trustee vacancies and the restrictions on ownership and transfer of our shares of beneficial interest, together with the advance notice provisions of our bylaws, alone or in combination, could serve to delay, deter or prevent a transaction or a change in our control that might involve a premium price for holders of our common shares or otherwise be in their best interests.

Indemnification and Limitation of Trustees' and Officers' Liability

Section 4.5 of our Declaration of Trust contains provisions for the indemnification and advancement of expenses of its trustees, officers and employees within the limitations permitted by the Maryland General Corporation Law.

Section 2-418 of the Maryland General Corporation Law generally permits indemnification of any director or officer made a party to any proceedings by reason of service as a director or officer unless it is established that (i) the act or omission of such person was material to the matter giving rise to the proceeding and was committed in bad faith or was the result of active and deliberate dishonesty; or (ii) such person actually received an improper personal benefit in money, property or services; or (iii) in the case of any criminal proceeding, such person had reasonable cause to believe that the act or omission was unlawful. The indemnity may include judgments, penalties, fines, settlements and reasonable expenses actually incurred by the director or officer in connection with the proceeding; provided, however, that if the proceeding is one by, or in the right of the Trust, indemnification is not permitted with respect to any proceeding in which the director or officer has been

[Table of Contents](#)

adjudged to be liable to the Trust. The termination of any proceeding by conviction or upon a plea of nolo contendere or its equivalent or upon an entry of an order of probation prior to judgment creates a rebuttable presumption that the director or officer did not meet the requisite standard of conduct required for permitted indemnification. The termination of any proceeding by judgment, order or settlement, however, does not create a presumption that the director or officer failed to meet the requisite standard of conduct for permitted indemnification. The Maryland General Corporation Law permits a corporation to advance reasonable expenses to a director or officer upon receipt of a written affirmation by the director or officer of his or her good faith belief that he or she has met the standard of conduct necessary for indemnification and a written undertaking by him or her or on his or her behalf to repay the amount paid or reimbursed if it is ultimately determined that the standard of conduct was not met.

In addition, we maintain insurance under which coverage is provided to our Trustees and officers against certain losses arising from claims of breach of duty.

Approval of Certain Matters by the Board of Trustees

The action of a majority of the members of our Board of Trustees present at a meeting at which a quorum is present is generally sufficient to approve any matter.

UNITED STATES FEDERAL INCOME TAX CONSIDERATIONS

The following is a general summary of the material United States federal income tax considerations regarding our election to be taxed as a REIT and the ownership and disposition of certain of the securities offered by this prospectus. This summary is based on current law, is for general information only and is not tax advice. The anticipated income tax treatment described in this prospectus may be changed, perhaps retroactively, by legislative, administrative or judicial action at any time.

This summary assumes that the securities offered by this prospectus are held as “capital assets” (generally, property held for investment within the meaning of Section 1221 of the Internal Revenue Code). Your tax treatment will vary depending on the terms of the specific securities that you acquire, as well as your particular situation. The material United States federal income tax considerations relevant to your ownership of the particular securities offered by this prospectus may be provided in the prospectus supplement that relates to those securities. This discussion does not purport to deal with all aspects of taxation that may be relevant to holders in light of their personal investment or tax circumstances, or to holders who receive special treatment under the United States federal income tax laws except to the extent discussed specifically herein. Holders of securities offered by this prospectus receiving special treatment include, without limitation:

- banks, insurance companies or other financial institutions;
- broker or dealers in securities or commodities;
- traders in securities that elect to use a mark-to-market method of accounting for their securities holdings;
- expatriates and certain former citizens or long-term residents of the United States;
- except to the extent specifically discussed below, tax-exempt organizations;
- retirement plans and tax-deferred accounts;
- persons who are subject to the alternative minimum tax;
- persons who hold their securities offered by this prospectus as part of a “wash sale,” “straddle,” “hedge,” “conversion transaction,” “synthetic security” or other integrated investment;
- persons deemed to sell their securities offered by this prospectus under the constructive sale provisions of the Internal Revenue Code;
- trusts and estates;
- REITs and regulated investment companies;
- persons that are S-corporations, partnerships, or other pass-through entities, and persons holding our securities through an S corporation, partnership or similar pass-through entity;
- U.S. holders (as defined below) who have a functional currency other than the United States dollar;
- persons who hold our securities on behalf of other persons as nominees;
- persons who receive our securities through the exercise of employee stock options or otherwise as compensation;
- persons who hold 10% or more (by vote or value) of our outstanding shares of beneficial interest;
- corporations that accumulate earnings to avoid U.S. federal income tax;
- persons who indirectly own our securities through a controlled foreign corporation or a passive foreign investment company;
- foreign governments and international organizations; or
- except to the extent specifically discussed below, non-U.S. holders (as defined below).

[Table of Contents](#)

Certain accrual method taxpayers are required to include certain amounts in income for U.S. federal income tax purposes no later than the time such amounts are reflected on certain financial statements. This summary does not address the impact of those rules.

If a partnership or other entity or arrangement treated as a partnership for U.S. federal income tax purposes holds our securities, the tax treatment of a partner in the partnership will generally depend upon the status of the partner and the activities of the partnership. A partner in a partnership holding our securities is urged to consult its own tax advisor regarding the U.S. federal income tax consequences of investing in our securities.

In addition, this discussion does not address any United States federal tax considerations other than income tax considerations (such as gift or estate tax) or any state, local or foreign tax consequences of ownership of the securities offered by this prospectus or our election to be taxed as a REIT.

The information in this summary is based on:

- the Internal Revenue Code;
- current, temporary and proposed Treasury Regulations promulgated under the Internal Revenue Code;
- the legislative history of the Internal Revenue Code;
- current published administrative interpretations and practices of the Internal Revenue Service; and
- court decisions;

in each case, as of the date of this prospectus. In addition, the administrative interpretations and practices of the Internal Revenue Service include its practices and policies as expressed in private letter rulings that are not binding on the Internal Revenue Service except with respect to the particular taxpayers who requested and received those rulings. Future legislation, Treasury Regulations, administrative interpretations and practices and/or court decisions may adversely affect the tax considerations described in this prospectus. Any such change could apply retroactively to transactions preceding the date of the change. We have not requested and do not intend to request a ruling from the Internal Revenue Service that we qualify as a REIT, and the statements in this prospectus are not binding on the Internal Revenue Service or any court. Thus, we can provide no assurance that the tax considerations contained in this summary will not be challenged by the Internal Revenue Service or will be sustained by a court if so challenged.

The summary below is for general information only and is not tax advice. You are urged to consult your own tax advisor regarding the specific tax consequences to you of:

- **the acquisition, ownership and sale or other disposition of the securities offered by this prospectus, including the United States federal, state, local, foreign income and other tax consequences;**
- **our election to be taxed as a REIT for United States federal income tax purposes; and**
- **potential changes in applicable tax laws.**

Taxation of the Trust

General

We elected to be taxed as a REIT under Sections 856 through 860 of the Internal Revenue Code, commencing with our taxable year ended December 31, 1986. We believe we have been organized and have operated in a manner which allows us to qualify for taxation as a REIT under the Internal Revenue Code commencing with our taxable year ended December 31, 1986. We currently intend to continue to be organized and operate in this manner. However, qualification and taxation as a REIT depend upon our ability to meet the

Table of Contents

various qualification tests imposed under the Internal Revenue Code, including through actual annual operating results, asset composition, distribution levels and diversity of ownership of beneficial interest in the Trust. Accordingly, no assurance can be given that we have been organized and have operated or will continue to be organized and operate in a manner so as to qualify or remain qualified as a REIT. See “—Failure to Qualify.”

The sections of the Internal Revenue Code and the corresponding Treasury Regulations that relate to the qualification and taxation of a REIT are highly technical and complex. The following sets forth only the material aspects of the sections of the Internal Revenue Code that govern the United States federal income tax treatment of a REIT and its shareholders. This summary is qualified in its entirety by the applicable Internal Revenue Code provisions, Treasury Regulations, and related administrative and judicial interpretations thereof.

Norton Rose Fulbright US LLP has acted as our tax counsel in connection with the registration statement of which this prospectus is a part. Norton Rose Fulbright US LLP has rendered an opinion to us to the effect that, commencing with our taxable year ended December 31, 1986, we have been organized and have operated in conformity with the requirements for qualification and taxation as a REIT, and that our proposed method of operation will enable us to continue to meet the requirements for qualification and taxation as a REIT under the Internal Revenue Code. It must be emphasized that this opinion was based on various assumptions and representations as to factual matters, including representations made by us in a factual certificate provided by one of our officers. In addition, this opinion was based upon our factual representations set forth in this prospectus. The opinion of Norton Rose Fulbright US LLP is expressly conditioned upon the accuracy of these and other assumptions and upon our representations, which Norton Rose Fulbright US LLP has not verified and will not verify. Moreover, our qualification and taxation as a REIT depend upon our ability, on a continuing basis, to meet the various qualification requirements imposed under the Internal Revenue Code which are discussed below, including through actual annual and quarterly operating results and the percentage of our gross income that we earn from specified sources, asset composition, distribution levels and diversity of ownership of beneficial interest in the Trust, the results of which have not been and will not be reviewed by Norton Rose Fulbright US LLP. Accordingly, no assurance can be given by tax counsel or by us that our actual results of operation for any particular taxable year have satisfied or will satisfy those requirements. Further, the opinion will be expressed as of the date issued and the anticipated income tax treatment described in this prospectus may be changed, perhaps retroactively, by legislative, administrative or judicial action at any time. In addition, Norton Rose Fulbright US LLP’s opinion is not binding upon the Internal Revenue Service or any court. Norton Rose Fulbright US LLP has no obligation to update its opinion subsequent to its date, and the opinion does not foreclose that we may have to use one or more of the REIT savings provisions described below, which may require us to pay a material excise tax or penalty in order to maintain our REIT qualifications. For a discussion of the tax consequences of our failure to maintain our qualification as a REIT, see “—Failure to Qualify.”

Provided we qualify for taxation as a REIT, generally we will be entitled to a deduction for dividends that we pay and therefore will not be subject to United States federal corporate income tax on our REIT taxable income that is currently distributed to our shareholders. This treatment substantially eliminates the “double taxation” that ordinarily results from investment in a C corporation. A C corporation generally is required to pay tax at the corporate level. Double taxation generally means taxation that occurs once at the corporate level when income is earned and once again at the shareholder level when the income is distributed. In general, the income that we generate is taxed only at the shareholder level upon a distribution of dividends to our shareholders.

Even if we qualify to be taxed as a REIT, we will nonetheless be subject to United States federal tax in the following circumstances:

- We will be required to pay tax at regular corporate tax rates on any REIT taxable income, including undistributed net capital gains, that we do not distribute to stockholders during, or within a specified time period after, the calendar year in which the income is earned.
- If we have: (a) net income from the sale or other disposition of “foreclosure property” which is held primarily for sale to customers in the ordinary course of business; or (b) other nonqualifying income

from foreclosure property, we will be required to pay tax at the highest corporate rate on this income. Foreclosure property generally is defined as property we acquired through foreclosure or after a default on a loan secured by the property or a lease of the property and for which an election to treat the property as foreclosure property is in effect.

- We will be required to pay a 100% tax on any net income from prohibited transactions. Prohibited transactions are, in general, sales or other taxable dispositions of property, other than foreclosure property, held as inventory or primarily for sale to customers in the ordinary course of business.
- If we fail to satisfy the 75% gross income test or the 95% gross income test, as discussed below, but nonetheless maintain our qualification to be taxed as a REIT because we satisfy other requirements, we will be subject to a 100% tax on an amount based on the magnitude of the failure, as adjusted to reflect the profit margin associated with our gross income.
- If we violate the asset tests (other than a de minimis failure of the 5% or 10% asset tests) or certain other requirements applicable to REITs, as described below, and yet maintain our qualification to be taxed as a REIT because there is reasonable cause for the failure and other applicable requirements are met, we may be subject to a penalty tax. In that case, the amount of the penalty tax will be at least \$50,000 per failure, and, in the case of certain asset test failures, will be determined as the amount of net income generated by the non-qualifying assets in question multiplied by the highest corporate tax rate if that amount exceeds \$50,000 per failure.
- If we fail to distribute during each calendar year at least the sum of (a) 85% of our ordinary income for such year, (b) 95% of our capital gain net income for such year and (c) any undistributed net taxable income from prior periods, we will be subject to a nondeductible 4% excise tax on the excess of the required distribution over the sum of (i) the amounts that we actually distributed and (ii) the amounts we retained and upon which we paid income tax at the corporate level.
- We may be required to pay monetary penalties to the Internal Revenue Service 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 "—Requirements for Qualification as a REIT."
- If we fail to satisfy any provision of the Internal Revenue Code that would result in our failure to qualify as a REIT (other than a violation of the gross income tests or certain violations of the asset tests, as described below) and the violation is due to reasonable cause and not due to willful neglect, we may retain our REIT qualification but we will be required to pay a penalty of \$50,000 for such failure.
- If we acquire appreciated assets from a corporation that is not a REIT (i.e., a corporation taxable under subchapter C of the Internal Revenue Code) in a transaction in which the adjusted tax basis of the assets in our hands is determined by reference to the adjusted tax basis of the assets in the hands of the subchapter C corporation (including upon a liquidation of a taxable REIT subsidiary), we may be subject to tax on such appreciation at the highest corporate income tax rate then applicable if we subsequently recognize gain on a disposition of any such assets during the five-year period following their acquisition from the subchapter C corporation.
- Certain of our properties may be owned wholly or partially through one or more "taxable REIT subsidiaries." To treat a subsidiary as a taxable REIT subsidiary, we and the subsidiary must make a joint election by filing a Form 8875 with the Internal Revenue Service. The earnings of our taxable REIT subsidiary will generally be subject to United States federal corporate income tax, but such earnings may include types of income that might otherwise jeopardize our REIT status if earned by us directly. To prevent the shifting of income and expenses between us and a taxable REIT subsidiary, we will be required to pay a 100% tax on any "redetermined rents," "redetermined deductions" or "excess interest." In general, redetermined rents are rents from real property that are overstated as a result of services furnished to any of our tenants by a taxable REIT subsidiary of ours. Redetermined deductions and excess interest generally represent amounts that are deducted by a taxable REIT subsidiary of ours

for amounts paid to us that are in excess of the amounts that would have been deducted based on arm's-length negotiations.

- We may elect to retain and pay income tax on our net capital gain. In that case, a stockholder would include its proportionate share of our undistributed capital gain (to the extent we make a timely designation of such gain to the stockholder) in its income, would be deemed to have paid the tax that we paid on such gain, and would be allowed a credit for its proportionate share of the tax deemed to have been paid, and an adjustment would be made to increase the tax basis of the stockholder in our capital stock.

In addition, we and our subsidiaries may be subject to a variety of taxes, including payroll taxes and state, local, and foreign income, property, gross receipts 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 as a REIT

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

- (1) that is managed by one or more trustees or directors;
- (2) that issues transferable shares or transferable certificates to evidence its beneficial ownership;
- (3) that would be taxable as a domestic corporation but for special Internal Revenue Code provisions applicable to REITs;
- (4) that is not a financial institution or an insurance company within the meaning of certain provisions of the Internal Revenue Code;
- (5) that is beneficially owned by 100 or more persons;
- (6) not more than 50% in value of the outstanding shares of which is owned, actually or constructively, by five or fewer individuals, including certain specified tax-exempt entities (described below), during the last half of each taxable year;
- (7) that meets other tests, described below, regarding the nature of its income and assets; and
- (8) that properly elects to be taxed as a REIT and such election has not been terminated or revoked.

The Internal Revenue Code provides that conditions (1) to (4), inclusive, must be met during the entire taxable year and that condition (5) must be met during at least 335 days of a taxable year of twelve months, or during a proportionate part of a taxable year of less than twelve months. Conditions (5) and (6) do not apply until after the first taxable year for which an election is made to be taxed as a REIT. For purposes of condition (6) the term "individual" includes a supplemental unemployment compensation benefit plan, a private foundation or a portion of a trust permanently set aside or used exclusively for charitable purposes, but generally does not include a qualified pension or profit-sharing trust, and beneficiaries of such a trust will be treated as holding our stock in proportion to their actuarial interests in the trust for purposes of condition (6).

We believe that we have been organized, have operated and have issued sufficient shares of beneficial interest with sufficient diversity of ownership to allow us to satisfy conditions (1) through (8) inclusive, during the relevant time periods. In addition, our declaration of trust provides for restrictions regarding ownership and transfer of our shares which are intended to assist us in continuing to satisfy the ownership requirements described in conditions (5) and (6) above. These restrictions, however, may not ensure that we will, in all cases, be able to satisfy the share ownership requirements described in conditions (5) and (6) above. If we fail to satisfy these share ownership requirements, except as provided in the next two sentences, our status as a REIT will terminate. See "—Failure to Qualify." If, however, we comply with the rules contained in applicable Treasury Regulations that require us to ascertain the actual ownership of our shares and we do not know, or would not have known through the exercise of reasonable diligence, that we failed to meet the requirement described in condition (6) above, we will be treated as having met this requirement.

To monitor compliance with the share ownership requirements, we generally are required to maintain records regarding the actual ownership of our shares. To do so, we must demand written statements each year from the record holders of significant percentages of our shares pursuant to which the record holders must disclose the actual owners of the shares (i.e., the persons required to include our dividends in their gross income). We must maintain a list of those persons failing or refusing to comply with this demand as part of our records. We could be subject to monetary penalties if we fail to comply with these record-keeping requirements. If such record holder fails or refuses to comply with the demands, such record holder will be required by Treasury Regulations to submit a statement with such record holder's tax return disclosing such record holder's actual ownership of our shares and other information.

In addition, we may not maintain our status as a REIT unless our taxable year is the calendar year. We have and will continue to have a calendar taxable year.

Effect of Subsidiary Entities

Ownership of Interests in Partnerships and Limited Liability Companies

We own and operate one or more properties through partnerships and limited liability companies that are classified as partnerships for United States federal income tax purposes. Treasury Regulations provide that if we are a partner in a partnership, we will be deemed to own our proportionate share of the assets of the partnership based on our interest in partnership capital, subject to special rules relating to the 10% REIT asset test described below. Also, we will be deemed to be entitled to our proportionate share of the income of the partnership. The assets and gross income of the partnership retains the same character in our hands, including for purposes of satisfying the gross income tests and the asset tests. In addition, for these purposes, the assets and items of income of any partnership in which we own a direct or indirect interest include such partnership's share of assets and items of income of any partnership in which it owns an interest. A brief summary of the rules governing the United States federal income taxation of partnerships and their partners is included below in "—Tax Aspects of the Partnerships." The treatment described above also applies with respect to the ownership of interests in limited liability companies or other entities that are treated as partnerships for tax purposes.

We have direct or indirect control of certain partnerships and limited liability companies that are classified as partnerships for United States federal income tax purposes and intend to continue to operate them in a manner consistent with the requirements for our qualification as a REIT. We are a limited partner or non-managing member in certain partnerships and limited liability companies. If any such partnership or limited liability company were 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 REIT income or asset test, and that we would not become aware of such action in a time frame which would allow us to dispose of our interest in the applicable entity or take other corrective action on a timely basis. In that case, unless we were entitled to relief, as described below, we would fail to qualify as a REIT.

Disregarded Subsidiaries

If we own a corporate subsidiary that is a "qualified REIT subsidiary," that subsidiary is generally disregarded for federal income tax purposes, and all of the subsidiary's assets, liabilities and items of income, deduction and credit are treated as our assets, liabilities and items of income, deduction and credit, including for purposes of the gross income and asset tests applicable to REITs. A qualified REIT subsidiary is generally any corporation, other than a taxable REIT subsidiary (as described below) wholly owned by a REIT and for which a qualified REIT subsidiary election has been made. Other entities that are wholly owned by us, including any single member limited liability companies that have not elected to be taxed as corporations or that have elected to be taxed as disregarded entities for federal income tax purposes, are also generally disregarded as separate entities for federal income tax purposes, including for purposes of the REIT income and asset tests. Disregarded

subsidiaries, along with any partnerships in which we hold an equity interest, are sometimes referred to herein as “pass-through subsidiaries.” Disregarded subsidiaries are not subject to U.S. federal corporate income tax, but they may be subject to state or local taxes in certain states.

In the event that a disregarded subsidiary of ours ceases to be wholly owned—for example, if any equity interest in the subsidiary is acquired by a person other than us or another disregarded subsidiary of ours—the subsidiary’s separate existence would no longer be disregarded for federal income tax purposes. Instead, the subsidiary would have multiple owners and would be treated as either a partnership or a taxable corporation. Such an event could, depending on the circumstances, adversely affect our ability to satisfy the various asset and gross income requirements applicable to REITs, including the requirement that REITs generally may not own, directly or indirectly, more than 10% of the securities of another corporation. See “—Asset Tests” and “—Income Tests.”

Taxable Subsidiaries

In general, we may in the future jointly elect, with a subsidiary corporation, whether or not wholly owned, to treat such subsidiary corporation as a taxable REIT subsidiary. We generally may not own more than 10% of the securities of a taxable corporation, as measured by voting power or value, unless we and such corporation elect to treat such corporation as a taxable REIT subsidiary. A corporation with respect to which a taxable REIT subsidiary directly or indirectly owns more than 35% of the voting power or value of the stock will automatically be treated as a taxable REIT subsidiary. The separate existence of a taxable REIT subsidiary or other taxable corporation is not ignored for federal income tax purposes. Accordingly, a taxable REIT subsidiary or other taxable corporation generally is subject to corporate income tax on its earnings. Such corporate income tax on taxable REIT subsidiaries or other corporations in which we hold an interest may reduce the cash flow that we and our subsidiaries generate in the aggregate, and may reduce our ability to make distributions to our shareholders. Overall, no more than 20% of the value of a REIT’s assets may consist of stock or securities of one or more taxable REIT subsidiaries.

We are not treated as holding the assets of a taxable REIT subsidiary or any other taxable subsidiary corporation or as receiving any income that the subsidiary earns. Rather, the stock issued by a taxable subsidiary to us is an asset in our hands, and we treat the dividends paid to us from such taxable subsidiary, if any, as income. This treatment can affect our income and asset test calculations, as described below. Because we do not include the assets and income of taxable REIT subsidiaries or other taxable subsidiary corporations in determining our compliance with the REIT requirements, we may use such entities to undertake indirectly activities that the REIT rules might otherwise preclude us from doing directly or through pass-through subsidiaries. For example, we may use taxable REIT subsidiaries or other taxable subsidiary corporations to conduct activities that give rise to certain categories of income or to undertake activities that, if undertaken by us directly, could be treated as prohibited transactions.

The taxable REIT subsidiary rules limit the deductibility of interest paid or accrued by a taxable REIT subsidiary to its parent REIT to assure that the taxable REIT subsidiary is subject to an appropriate level of corporate taxation. Accordingly, if we lend money to a taxable REIT subsidiary, the taxable REIT subsidiary may be unable to deduct all or a part of the interest paid on that loan, and the lack of an interest deduction could result in a material increase in the amount of tax paid by the taxable REIT subsidiary. Further, the rules impose a 100% excise tax on transactions between a taxable REIT subsidiary and its parent REIT or the REIT’s tenants that are not conducted on an arm’s-length basis. We intend to conduct all of our transactions with our taxable REIT subsidiary on an arm’s-length basis; however, we cannot assure you that we will be successful in avoiding this excise tax.

For taxable years beginning after December 31, 2017, taxpayers are subject to a limitation on their ability to deduct net business interest (even if paid to third parties) generally equal to the sum of a taxpayer’s business interest income and 30% (adjusted, in the absence of an election otherwise, to 50% for the 2020 taxable year

under the CARES Act) of adjusted taxable income, which is its taxable income computed without regard to business interest income or expense, net operating losses or the pass-through income deduction (and for taxable years before 2022, excluded depreciation and amortization), subject to certain exceptions. This provision may limit the ability of our taxable REIT subsidiaries to deduct interest, which could increase their taxable income.

Income Tests

We must satisfy two gross income requirements annually to maintain our qualification as a REIT:

- First, in each taxable year, we must derive directly or indirectly at least 75% of our gross income from (a) certain investments relating to real property or mortgages on real property, including “rents from real property,” gain from the sale of real estate assets (other than property held primarily for sale to customers in the ordinary course of business), and interest on debt secured by mortgages on real property or on interests in real property, (b) dividends or other distributions on, and gain from the sale of, shares in other REITs; (c) debt instruments issued by “publicly offered REITs” (i.e., REITs that are required to file annual and periodic reports with the Securities and Exchange Commission under the Exchange Act), unless the debt instrument is secured by real property or an interest in real property; (d) income derived from the operation, and gain from the sale, of foreclosure property; (e) amounts (other than amounts the determination of which depends in whole or in part on the income or profits of any person) received or accrued as consideration for entering into agreements to make loans secured by mortgages on real property or interests in real property or to purchase or lease real property (including interests in real property and interests in mortgages on real property); or (f) income derived from the temporary investment of new capital that is attributable to the issuance of our stock 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; and
- Second, in each taxable year, we must derive at least 95% of our gross income from income that is qualifying income for purposes of the 75% gross income test described above, as well as other dividends, interest and gain from the sale or disposition of stock or securities, which need not have any relation to real property.

The following items of income or gain will be excluded from both the numerator and the denominator for purposes of both the 75% and 95% gross income tests: cancellation of indebtedness income; gross income from our sale of property that we hold primarily for sale to customers in the ordinary course of business; and income and gain from “hedging transactions” that we enter into to hedge indebtedness incurred or to be incurred to acquire or carry real estate assets and that are clearly and timely identified as such. In addition, certain foreign currency gains will be excluded from gross income for purposes of one or both of the gross income tests. The following paragraphs discuss the specific application of the gross income tests to us.

Rents from Real Property

Rents we receive from a tenant will qualify as “rents from real property” for the purpose of satisfying the gross income requirements for a REIT described above only if all of the following conditions are met:

- The amount of rent must not be based in any way on the income or profits of any person. However, an amount we receive or accrue generally will not be excluded from the term “rents from real property” solely because it is based on a fixed percentage or percentages of receipts or sales or if it is based on the net income of a tenant which derives substantially all of its income with respect to such property from subleasing of substantially all of such property, to the extent that the rents paid by the subtenants would qualify as rents from real property if we earned such amounts directly;
- We, or an actual or constructive owner of 10% or more of our shares, must not actually or constructively own 10% or more of the interests in the assets or net profits of the tenant, or, if the tenant is a corporation, 10% or more of the voting power or value of all classes of stock of the tenant.

Rents we receive from such a tenant that also is our taxable REIT subsidiary, however, will not be excluded from the definition of “rents from real property” as a result of this condition if at least 90% of the space at the property to which the rents relate is leased to third parties, and the rents paid by the taxable REIT subsidiary are substantially comparable to rents paid by our other tenants for comparable space. Whether rents paid by a taxable REIT subsidiary are substantially comparable to rents paid by other tenants is determined at the time the lease with the taxable REIT subsidiary is entered into, extended, and modified, if such modification increases the rents due under such lease. Notwithstanding the foregoing, however, if a lease with a “controlled taxable REIT subsidiary” is modified and such modification results in an increase in the rents payable by such taxable REIT subsidiary, any such increase will not qualify as “rents from real property.” For purposes of this rule, a “controlled taxable REIT subsidiary” is a taxable REIT subsidiary in which we own stock possessing more than 50% of the voting power or more than 50% of the total value of the outstanding stock. In addition, rents we receive from a tenant that also is our taxable REIT subsidiary will not be excluded from the definition of “rents from real property” as a result of our ownership interest in the taxable REIT subsidiary if the property to which the rents relate is a qualified lodging facility or a qualified health care property, and such property is operated on behalf of the taxable REIT subsidiary by a person who is an independent contractor and certain other requirements are met;

- Rent attributable to personal property, leased in connection with a lease of real property, must not be greater than 15% of the total rent we receive under the lease. If this condition is not met, then the portion of rent attributable to the personal property will not qualify as “rents from real property;”
- We generally must not operate or manage the property or furnish or render services to our tenants, subject to a 1% *de minimis* exception and except as provided below. We may, however, perform services that are “usually or customarily rendered” in connection with the rental of space for occupancy only and are not otherwise considered “rendered to the occupant” of the property. Examples of such services include the provision of light, heat, or other utilities, trash removal and general maintenance of common areas. In addition, we may employ an independent contractor from whom we derive no revenue to provide customary services, or a taxable REIT subsidiary, which may be wholly or partially owned by us, to provide both customary and non-customary services to our tenants without causing the rent we receive from those tenants to fail to qualify as “rents from real property.” Any amounts we receive from a taxable REIT subsidiary with respect to the taxable REIT subsidiary’s provision of non-customary services will, however, be nonqualifying income under the 75% gross income test and, except to the extent received through the payment of dividends, the 95% gross income test; and
- Leases must qualify as leases for United States federal income tax purposes and not treated as service contracts, joint ventures or some other type of arrangement for United States federal income tax purposes. The determination of whether our leases are leases for United States federal income tax purposes depends on an analysis of all the surrounding facts and circumstances. While we believe that our current leases qualify as true leases for federal income tax purposes, there can be no assurance that the Internal Revenue Service will agree with this characterization.

We generally do not intend to receive rent which fails to satisfy any of the above conditions. Notwithstanding the foregoing, we may have taken and may continue to take actions which fail to satisfy one or more of the above conditions to the extent that we determine, based on the advice of our tax adviser, that those actions will not jeopardize our tax status as a REIT. In addition, with respect to the limitation on the rental of personal property, we have not obtained appraisals of the real property and personal property leased to tenants. Accordingly, there can be no assurance that the Internal Revenue Service will agree with our determinations of value.

Interest

We currently do not intend to, but may in the future, on a limited basis, originate or invest in mortgage debt and/or mezzanine loans. Interest income constitutes qualifying mortgage interest for purposes of the 75% gross

[Table of Contents](#)

income test (as described above) to the extent that the obligation upon which such interest is paid is secured by a mortgage on real property. If we receive interest income with respect to a mortgage loan that is secured by both real property and other property, and the highest principal amount of the loan outstanding during a taxable year exceeds the fair market value of the real property on the date that we acquired or originated the mortgage loan (or, if there has been a “significant modification” to the loan since its origination or acquisition by the REIT, then as of the date of that “significant modification”), the interest income will be apportioned between the real property and the other collateral, and our income from the arrangement will qualify for purposes of the 75% gross income test only to the extent that the interest is allocable to the real property.

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, we anticipate that any mezzanine loans we may originate or acquire may not meet all of the requirements for reliance on this safe harbor. We intend to invest in any mortgage debt and mezzanine loans in a manner that will enable us to continue to satisfy the gross income tests.

For these purposes, the term “interest” generally does not include any amount received or accrued, directly or indirectly, if the determination of all or some of the amount depends in any way on the income or profits of any person. However, an amount received or accrued generally will not be excluded from the term “interest” solely by reason of being based on a fixed percentage or percentages of receipts or sales. Furthermore, to the extent that interest from a loan that is based on the profit or net cash proceeds from the sale of the property securing the loan constitutes a “shared appreciation provision,” income attributable to such participation feature will be treated as gain from the sale of the secured property.

Dividends

We may directly or indirectly receive distributions from taxable REIT subsidiaries or other corporations that are not REITs or qualified REIT subsidiaries. These distributions generally are treated as dividend income to the extent of the earnings and profits of the distributing corporation. Such distributions will generally constitute qualifying income for purposes of the 95% gross income test, but not for purposes of the 75% gross income test. Any dividends that we receive from another REIT, however, will be qualifying income for purposes of both the 95% and 75% gross income tests.

Prohibited Transaction Income

Net income that we derive from a prohibited transaction is subject to a 100% tax. The term “prohibited transaction” generally includes a sale or other disposition of property (other than foreclosure property, as discussed below) that is held primarily for sale to customers in the ordinary course of a trade or business (“Dealer Property”) by us, or by a borrower that has issued a shared appreciation mortgage or similar debt instrument to us. Whether property is Dealer Property depends on the particular facts and circumstances. A safe harbor to the characterization of the sale of property that is a real estate asset by a REIT as a prohibited transaction (Dealer Property) 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 net selling price of the property;
- either (1) 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 1033 of the Internal Revenue Code applies, (2) 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, (3) 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, (4) (i) the aggregate adjusted bases of all such property 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 (ii) the average annual percentage of properties sold by the REIT compared to all the REIT's properties (measured by adjusted bases) in the current and two prior years did not exceed 10% or (5) (i) the aggregate fair market value of all such property 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 (ii) the average annual percentage of properties sold by the REIT compared to all the REIT's properties (measured by fair market value) in the current and two prior years did not exceed 10%;

- in the case of property consisting of land or improvements (except for property 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 a taxable REIT subsidiary.

We will attempt to comply with the terms of the safe-harbor provisions in the U.S. federal income tax laws prescribing when a property sale will not be characterized as a prohibited transaction. However, no assurance can be given that we can comply with the safe-harbor provisions or that any property that we sell will not be treated as Dealer Property. Moreover, the avoidance of this tax on prohibited transactions could cause us to undertake less substantial sales of property than we would otherwise undertake in order to maximize our profits. In addition, we may have to sell numerous properties to a single or a few purchasers, which could cause us to be less profitable than would be the case if we sold properties on a property-by-property basis. The 100% tax does not apply to gains from the sale of property that is held through a taxable REIT subsidiary or other taxable corporation, although such income will be subject to tax in the hands of the corporation at regular corporate rates.

Like-Kind Exchanges

We may dispose of properties in transactions intended to qualify as like-kind exchanges under the Internal Revenue Code. Such like-kind exchanges are intended to result in the deferral of gain for United States federal income tax purposes. The failure of any such transaction as a like-kind exchange could require us to pay federal income tax, possibly including the 100% prohibited transaction tax, depending on the facts and circumstances surrounding the particular transaction.

Tax Liabilities and Attributes Inherited in Connection with Acquisitions

From time to time, we may acquire other corporations or entities and, in connection with such acquisitions, we may succeed to the historical tax attributes and liabilities of such entities. For example, if we acquire a C corporation and subsequently dispose of its assets within five years of the acquisition, we could be required to pay tax on the appreciation of such assets as of the time of our acquisition, as described above under “—General.” In addition, in order to qualify as a REIT, at the end of any taxable year, we must not have any earnings and profits accumulated in a non-REIT year. As a result, if we acquire a C corporation (including upon a liquidation of a taxable REIT subsidiary), we must distribute the corporation's earnings and profits accumulated prior to the acquisition before the end of the taxable year in which we acquire the corporation. We also could be required to pay the acquired entity's unpaid taxes even though such liabilities arose prior to the time we acquired the entity.

Table of Contents

Furthermore, after our acquisition of another corporation or entity, the asset and income tests will apply to all of our assets, including the assets we acquire from such corporation or entity, and to all of our income, including the income derived from the assets we acquire from such corporation or entity. As a result, the nature of the assets that we acquire from such corporation or entity and the income we derive from those assets may have an effect on our tax status as a REIT.

Foreclosure Property

Foreclosure property is real property (including interests in real property) and any personal property incident to such real property (1) that we acquire as the result of having bid in the property at foreclosure, or having otherwise reduced the property to ownership or possession by agreement or process of law, after a default (or upon imminent default) on a lease of the property or a mortgage loan held by us and secured by the property, (2) for which we acquired the related loan or lease at a time when default was not imminent or anticipated and (3) with respect to which we made a proper election to treat the property as foreclosure property. Foreclosure property also includes certain qualified healthcare property acquired by a REIT as the result of the termination or expiration of a lease of such property (other than by reason of a default, or the imminence of a default, on the lease). In general, we may operate a qualified healthcare facility acquired in this manner through, and in certain circumstances may derive income from, an independent contractor for two years (or up to six years if extensions are granted). For purposes of this rule, a “qualified healthcare property” means a hospital, nursing facility, assisted living facility, congregate care facility, qualified continuing care facility, or other licensed facility which extends medical or nursing or ancillary services to patients and which is operated by a provider which is eligible for participation in the Medicare program with respect to such facility, along with any real property or personal property necessary or incidental to the use of any such facility. Different rules apply to foreclosure property other than qualified healthcare property acquired by a REIT as the result of the termination or expiration of a lease, including rules for when the property ceases to be foreclosure property.

We will generally be subject to tax at the maximum corporate rate (currently 21%) on any net income from foreclosure property, including any gain from the disposition of the foreclosure property, other than income that would otherwise be qualifying income for purposes of the 75% gross income test. However, gross income from foreclosure property will qualify under the 75% and 95% gross income tests. Any gain from the sale of property for which a foreclosure property election has been made will not be subject to the 100% tax on gains from prohibited transactions described above, even if the property would otherwise constitute inventory or dealer property.

Hedging Transactions

From time to time, we or our subsidiaries may enter into hedging transactions with respect to one or more of our or our subsidiaries’ assets or liabilities. 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 either (1) any transaction entered into in the normal course of our or our subsidiaries’ 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, (2) 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 (3) transactions entered into to hedge the income or loss from prior hedging transactions with respect to which the property or indebtedness which was the subject of the prior hedging transaction was disposed of or extinguished. 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; however, no assurance can be given that our hedging activities will give rise to income that qualifies for purposes of either or both of the gross income tests.

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 an interest in real property and certain foreign currency gain attributable to certain “qualified business units” of a REIT that would satisfy the 75% gross income test and 75% asset test (discussed below) on a stand-alone basis. “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 obligor under) obligations. These exclusions for real estate foreign exchange gain and passive foreign exchange gain do not apply to foreign currency gain derived from dealing, or engaging in substantial and regular trading, in securities. Such gain is treated as non-qualifying income for purposes of both the 75% and 95% gross income tests.

Failure to Satisfy the Gross Income Tests

We believe that the aggregate amount of our nonqualifying income, from all sources, in any taxable year will not exceed the limit on nonqualifying income under the gross income tests. If we fail to satisfy one or both of the 75% or 95% gross income tests for any taxable year, we may nevertheless qualify as a REIT for the year if we are entitled to relief under certain provisions of the Internal Revenue Code. Commencing with our taxable year beginning January 1, 2005, we generally may make use of the relief provisions if:

- following our identification of the failure to meet the 75% or 95% gross income tests for any taxable year, we file a schedule with the Internal Revenue Service setting forth each item of our gross income for purposes of the 75% or 95% gross income tests for such taxable year in accordance with Treasury Regulations to be issued; and
- our failure to meet these tests was due to reasonable cause and not due to willful neglect.

It is not possible, however, to state whether in all circumstances we would be entitled to the benefit of these relief provisions. For example, if we fail to satisfy the gross income tests because nonqualifying income that we intentionally accrue or receive exceeds the limits on nonqualifying income, the Internal Revenue Service could conclude that our failure to satisfy the tests was not due to reasonable cause. If these relief provisions do not apply to a particular set of circumstances, we will not qualify as a REIT. As discussed above in “—Taxation of the Trust—General,” even if these relief provisions apply, and we retain our status as a REIT, a 100% tax would be imposed on the gross income attributable to the greater of (1) the amount by which we fail the 75% gross income test, or (2) the amount by which we fail the 95% gross income test, multiplied, in either case, by a fraction intended to reflect our profitability. We may not always be able to comply with the gross income tests for REIT qualification despite our periodic monitoring of our income.

Asset Tests

At the close of each calendar quarter of our taxable year, we also must satisfy several tests relating to the nature of our assets.

First, at least 75% of the value of our total assets generally must be represented by some combination of “real estate assets,” cash, cash items, United States government securities, and stock or debt instruments held for less than one year that are purchased with the proceeds from or offering of shares of our stock and public offerings of debt with at least a five-year term. For this purpose, real estate assets include interests in real

[Table of Contents](#)

property (including leaseholds and options to acquire real property and leaseholds) and stock of other corporations that qualify as REITs, as well as some kinds of mortgage-backed securities and mortgage loans, debt instruments issued by publicly offered REITs, and personal property leased in connection with a lease of real property for which the rent attributable to personal property is not greater than 15% of the total rent received under the lease. Assets that do not qualify for purposes of the 75% asset test are subject to the additional asset tests described below.

Second, of our investments not included in the 75% asset class, the value of any one issuer's securities that we own may not exceed 5% of the value of our total assets.

Third, of our investments not included in the 75% asset class, we may not own more than 10% of any one issuer's outstanding securities, as measured by either voting power or value (referred to as the 10% asset value test).

The 5% and 10% asset tests do not apply to securities of taxable REIT subsidiaries and qualified REIT subsidiaries, and the 10% asset value test does not apply to "straight debt" having specified characteristics and to certain other securities described below.

Fourth, not more than 25% of the value of our total assets may be represented by securities (including securities of taxable REIT subsidiaries) other than those securities includible in the 75% asset test.

Fifth, not more than 20% of the value of our total assets may be represented by the securities of one or more taxable REIT subsidiaries.

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

Notwithstanding the general rule, as noted above, that for purposes of the REIT income and asset tests we are treated as owning our proportionate share of the underlying assets of a subsidiary partnership, if we hold indebtedness issued by a partnership, the indebtedness will be subject to, and may cause a violation of, the asset tests unless the indebtedness is a qualifying mortgage asset or other conditions are met. Similarly, although stock of another REIT is a qualifying asset for purposes of the REIT asset tests, any non-mortgage debt that is issued by another REIT may not so qualify (although such debt will not be treated as "securities" for purposes of the 10% asset test, as explained below).

Certain instruments are not treated as securities for purposes of, and will not cause a violation of, the 10% asset value test described above. Such securities include instruments that constitute "straight debt," which term generally excludes, among other things, securities having contingency features (other than certain contingencies relating to the time of payment of interest or principal). A security does not qualify as "straight debt" where a REIT (or a controlled taxable REIT subsidiary of the REIT) owns other securities of the same issuer which do not qualify as straight debt, unless the value of those other securities constitute, in the aggregate, 1% or less of the total value of that issuer's outstanding securities. In addition to straight debt, the Internal Revenue Code provides that certain other securities will not violate the 10% asset value test. Such securities include (1) any loan made to an individual or an estate, (2) certain rental agreements (known as "Section 467 rental agreements") pursuant to which one or more payments are to be made in subsequent years (other than agreements between a REIT and certain persons related to the REIT under attribution rules), (3) any obligation to pay rents from real property, (4) securities issued by governmental entities that are not dependent in whole or in part on the profits of (or payments made by) a nongovernmental entity, (5) any security (including debt securities) issued by another REIT and (6) any debt instrument issued by a partnership if the partnership's income (excluding gross income from prohibited transactions) is of a nature that it would satisfy the 75% gross income test described above under "—Income Tests." In applying the 10% asset value test, a debt security issued by a partnership is not taken into account to the extent, if any, of the REIT's proportionate interest in the equity and certain debt securities issued by that partnership.

[Table of Contents](#)

No independent appraisals have been obtained to support our conclusions as to the value of our total assets or the value of any particular security or securities. Moreover, the values of some assets may not be susceptible to a precise determination, and values are subject to change in the future. Furthermore, the proper classification of an instrument as debt or equity for United States federal income tax purposes may be uncertain in some circumstances, which could affect the application of the REIT asset requirements. Accordingly, there can be no assurance that the Internal Revenue Service will not contend that our interests in our subsidiaries or in the securities of other issuers will not cause a violation of the REIT asset tests.

However, certain relief provisions are available to allow REITs to satisfy the asset requirements or to maintain REIT qualification notwithstanding certain violations of the asset tests. For example, if we should fail to satisfy the asset tests at the end of a calendar quarter such a failure would not cause us to lose our REIT qualification if (a) we satisfied the asset tests at the close of the preceding calendar quarter and (b) the discrepancy between the value of our assets and the asset requirements was not wholly or partly caused by an acquisition of non-qualifying assets, but instead arose from changes in the relative market values of our assets. If the condition described in (b) were not satisfied, we still could avoid disqualification by eliminating any discrepancy within 30 days after the close of the calendar quarter in which it arose or by making use of the relief provisions described above.

In the case of *de minimis* violations of the 10% and 5% asset tests, a REIT may maintain its qualification despite a violation of such requirements if (i) the value of the assets causing the violation does not exceed the lesser of 1% of the REIT's total assets and \$10,000,000 and (ii) the REIT either disposes of the assets causing the failure within six months after the last day of the quarter in which it identifies the failure, or the relevant tests are otherwise satisfied within that time frame.

Even if we did not qualify for the foregoing relief provisions, one additional provision allows a REIT that fails one or more of the asset requirements to nevertheless maintain its REIT qualification if (1) the REIT provides the Internal Revenue Service with a description of each asset causing the failure, (2) the failure is due to reasonable cause and not willful neglect, (3) the REIT pays a tax equal to the greater of (a) \$50,000 per failure and (b) the product of the net income generated by the assets that caused the failure multiplied by the highest applicable corporate tax rate and (4) the REIT either disposes of the assets causing the failure within six months after the last day of the quarter in which it identifies the failure, or otherwise satisfies the relevant asset tests within that time frame.

Although we believe that we have satisfied the asset tests described above and plan to take steps to ensure that we satisfy such tests for any quarter with respect to which retesting is to occur, there can be no assurance that we will always be successful or will not require a reduction in our overall interest in an issuer. If we fail to cure any noncompliance with the asset tests in a timely manner and the relief provisions described above are not available, we would cease to qualify as a REIT. See “—Failure to Qualify” below.

Annual Distribution Requirements

To maintain our qualification as a REIT, we are required to distribute dividends, other than capital gain dividends, to our shareholders in an amount at least equal to the sum of:

- 90% of our “REIT taxable income”; and
- 90% of our after tax net income, if any, from foreclosure property; minus
- the excess of the sum of specified items of our non-cash income over 5% of our “REIT taxable income” as described below.

For these purposes, our “REIT taxable income” is computed without regard to the dividends paid deduction and our net capital gain. In addition, for purposes of this test, non-cash income means income attributable to leveling of stepped rents, original issue discount on purchase money debt, cancellation of indebtedness, and any like-kind exchanges that are later determined to be taxable.

Table of Contents

In addition, if we dispose of any asset we acquired from a corporation which is or has been a C corporation in a transaction in which our basis in the asset is determined by reference to the basis of the asset in the hands of that C corporation within the five-year period following our acquisition of such asset, we would be required to distribute at least 90% of the after-tax gain, if any, we recognized on the disposition of the asset, to the extent that gain does not exceed the excess of (a) the fair market value of the asset, over (b) our adjusted basis in the asset, in each case, on the date we acquired the asset.

We generally must pay, or be treated as paying, the distributions described above in the taxable year to which they relate. At our election, a distribution will be treated as paid in a taxable year if it is declared before we timely file our tax return for such year and paid on or before the first regular dividend payment after such declaration, provided such payment is made during the twelve-month period following the close of such year. These distributions generally are taxable to our existing shareholders, other than tax-exempt entities, in the year in which paid. This is so even though these distributions relate to the prior year for purposes of the 90% distribution requirement.

For taxable years beginning after December 31, 2017, and except as provided below, a taxpayer's deduction for net business interest expense will generally be limited to 30% of its taxable income, subject to certain adjustments. Any business interest deduction that is disallowed due to this limitation may be carried forward to future taxable years. If we or any of our subsidiary partnerships are subject to this interest expense limitation, our REIT taxable income for a taxable year may be increased. Taxpayers that conduct certain real estate businesses may elect not to have this interest expense limitation apply to them, provided that they use an alternative depreciation system to depreciate certain property. If such election is made, although we or such subsidiary partnership, as applicable, would not be subject to the interest expense limitation described above, our depreciation deductions may be reduced and, as a result, our REIT taxable income for a taxable year may be increased.

The CARES Act increased the aforementioned limitation from 30% to 50% of adjusted taxable income, but only for tax years that begin in 2019 or 2020 and permitted an entity to elect to use its 2019 adjusted taxable income to calculate the applicable limitation for its 2020 taxable year, with a pro-rata mechanism for short taxable years.

To the extent that we do not distribute all of our net capital gain, or distribute at least 90%, but less than 100%, of our "REIT taxable income," as adjusted, we will be required to pay tax on the undistributed amount at regular corporate tax rates. We believe we have made, and intend to continue to make, timely distributions sufficient to satisfy these annual distribution requirements and to minimize our corporate tax obligations.

We anticipate that we generally will have sufficient cash or liquid assets to enable us to satisfy the distribution requirements described above. However, from time to time, we may not have sufficient cash or other liquid assets to meet these distribution requirements due to timing differences between the actual receipt of income and payment of deductible expenses, and the inclusion of income and deduction of expenses in determining our taxable income. In addition, we may decide to retain our cash, rather than distribute it, in order to repay debt or for other reasons. If these timing differences occur, we may be required to borrow funds to pay cash dividends or, if possible, pay dividends consisting, in whole or in part, of our shares. The IRS has issued Revenue Procedure 2017-45 authorizing elective cash/stock dividends to be made by "publicly offered REITs." Pursuant to Revenue Procedure 2017-45, the IRS will treat the distribution of stock pursuant to an elective cash/stock dividend as a distribution of property under Section 301 of the Code (i.e., a dividend), as long as at least 20% of the total dividend is available in cash and certain other parameters detailed in the Revenue Procedure are satisfied. Although we do not currently intend to pay dividends in our stock, if in the future we choose to pay dividends in our stock, our stockholders may be required to pay tax in excess of the cash that they receive.

We will be required to pay a 4% excise tax to the extent we fail to distribute during each calendar year, or in the case of distributions with declaration and record dates falling in the last three months of the calendar year, by

[Table of Contents](#)

the end of January immediately following such year, at least the sum of 85% of our ordinary income for such year, 95% of our capital gain net income for the year and any undistributed taxable income from prior periods. Any ordinary income and net capital gain on which this excise tax is imposed for any year is treated as an amount distributed during that year for purposes of calculating such tax.

Under certain circumstances, we may be able to rectify an inadvertent failure to meet the 90% distribution requirement for a year by paying “deficiency dividends” to our shareholders in a later year, which may be included in our deduction for dividends paid for the earlier year. Thus, we may be able to avoid being taxed on amounts distributed as deficiency dividends, subject to the 4% excise tax described above. However, we will be required to pay interest to the Internal Revenue Service based upon the amount of any deduction claimed for deficiency dividends.

For purposes of the 90% distribution requirement and excise tax described above, distributions declared during the last three months of the taxable year, payable to shareholders of record on a specified date during such period and paid during January of the following year, will be treated as paid by us and received by our shareholders on December 31 of the year in which they are declared.

Failure to Qualify

Specified cure provisions are available to us in the event that we discover a violation of a provision of the Internal Revenue Code that would result in our failure to qualify as a REIT. Except with respect to violations of the REIT income tests and assets tests (for which the cure provisions are described above), and provided the violation is due to reasonable cause and not due to willful neglect, these cure provisions generally impose a \$50,000 penalty for each violation in lieu of a loss of REIT status. If we fail to qualify for taxation as a REIT in any taxable year, and the relief provisions of the Internal Revenue Code do not apply, we will be required to pay tax on our taxable income at regular corporate tax rates. Distributions to our shareholders in any year in which we fail to qualify as a REIT will not be deductible by us, and we will not be required to distribute any amounts to our shareholders. As a result, we anticipate that our failure to qualify as a REIT would reduce the cash available for distribution by us to our shareholders. In addition, if we fail to qualify as a REIT, all distributions to our shareholders will be taxable as regular corporate dividends to the extent of our current and accumulated earnings and profits. In this event, subject to certain limitations under the Internal Revenue Code, corporate distributees may be eligible for the dividends-received deduction and individuals may be eligible for preferential tax rates on any qualified dividend income. Unless entitled to relief under specific statutory provisions, we will also be disqualified from taxation as a REIT for the four taxable years following the year in which we lost our qualification. It is not possible to state whether in all circumstances we would be entitled to this statutory relief.

Tax Aspects of the Partnerships

General

We own, directly or indirectly, interests in various partnerships and limited liability companies which are treated as partnerships or disregarded entities for United States federal income tax purposes and may own interests in additional partnerships and limited liability companies in the future. Our ownership interests in such partnerships and limited liability companies involve special tax considerations. These special tax considerations include, for example, the possibility that the Internal Revenue Service might challenge the status of one or more of the partnerships or limited liability companies in which we own an interest as partnerships or disregarded entities, as opposed to associations taxable as corporations, for United States federal income tax purposes. If a partnership or limited liability company in which we own an interest, or one or more of its subsidiary partnerships or limited liability companies, were treated as an association, it would be taxable as a corporation and would therefore be subject to an entity-level tax on its income. In this situation, the character of our assets and items of gross income would change, and could prevent us from satisfying the REIT asset tests and possibly

the REIT income tests. See “—Taxation of the Trust—Asset Tests” and “—Taxation of the Trust—Income Tests.” This, in turn, could prevent us from qualifying as a REIT. See “—Failure to Qualify” for a discussion of the effect of our failure to meet these tests. In addition, a change in the tax status of one or more of the partnerships or limited liability companies in which we own an interest might be treated as a taxable event. If so, we might incur a tax liability without any related cash distributions.

Treasury Regulations provide that a domestic business entity not organized or otherwise required to be treated as a corporation (an “eligible entity”) may elect to be taxed as a partnership or disregarded entity for United States federal income tax purposes. Unless it elects otherwise, an eligible entity in existence prior to January 1, 1997, will have the same classification for United States federal income tax purposes that it claimed under the entity classification Treasury Regulations in effect prior to this date. In addition, an eligible entity which did not exist or did not claim a classification prior to January 1, 1997, will be classified as a partnership or disregarded entity for federal income tax purposes unless it elects otherwise. All of the partnerships and limited liability companies in which we own an interest intend to claim classification as partnerships or disregarded entities under these Treasury Regulations. As a result, we believe that these partnerships and limited liability companies will be classified as partnerships or disregarded entities for United States federal income tax purposes.

Allocations of Income, Gain, Loss and Deduction

A partnership or limited liability company agreement generally will determine the allocation of income and losses among partners or members. These allocations, however, will be disregarded for tax purposes if they do not comply with the provisions of Section 704(b) of the Internal Revenue Code and the related Treasury Regulations. Generally, Section 704(b) of the Internal Revenue Code and the related Treasury Regulations require that partnership and limited liability company allocations respect the economic arrangement of the partners or members. If an allocation is not recognized for United States federal income tax purposes, the relevant item will be reallocated according to the partners’ or members’ interests in the partnership or limited liability company, as the case may be. This reallocation will be determined by taking into account all of the facts and circumstances relating to the economic arrangement of the partners or members with respect to such item. The allocations of taxable income and loss in each of the entities treated as partnerships in which we own an interest are intended to comply with the requirements of Section 704(b) of the Internal Revenue Code and the applicable Treasury Regulations.

Tax Allocations with Respect to the Properties

Under Section 704(c) of the Internal Revenue Code, income, gain, loss and deduction attributable to appreciated or depreciated property that is contributed to a partnership or limited liability company in exchange for an interest in the partnership or limited liability company must be allocated in a manner so that the contributing partner or member is charged with the unrealized gain or benefits from the unrealized loss associated with the property at the time of the contribution. The amount of the unrealized gain or unrealized loss generally is equal to the difference between the fair market value or book value and the adjusted tax basis of the contributed property at the time of contribution. These allocations are solely for United States federal income tax purposes and do not affect the book capital accounts or other economic or legal arrangements among the partners or members. Some of the partnerships and/or limited liability companies in which we own an interest were formed by way of contributions of appreciated property. The relevant partnership and/or limited liability company agreements require that allocations be made in a manner consistent with Section 704(c) of the Internal Revenue Code. This could cause us to be allocated lower amounts of depreciation deductions for tax purposes than would be allocated to us if the contributed properties were acquired in a cash purchase, and could cause us to be allocated taxable gain upon a sale of the contributed properties in excess of the economic or book income allocated to us as a result of such sale. These adjustments could make it more difficult for us to satisfy the REIT distribution requirements.

Partnership Audit

New rules apply to U.S. federal income tax audits of partnerships effective for taxable years beginning after December 31, 2017, that may require a partnership to pay taxes (including interest and penalties) resulting from an adjustment of partnership tax items on audit or in other tax proceedings, unless the partnership elects an alternative method under which the taxes resulting from the adjustment (and interest and penalties) are assessed at the partner level (often referred to as a “push out election”), subject to a higher rate of interest than otherwise would apply. Treasury Regulations provide that when a push-out election affects a partner that is a REIT, such REIT may be able to use deficiency dividend procedures with respect to adjustments resulting from such election. It is possible that partnerships in which we directly and indirectly invest may be subject to U.S. federal income tax, interest and penalties in the event of a U.S. federal income tax audit at the partnership level. If such partnerships make a push out election we could be required to bear the economic costs of taxes attributable to such audits and we may make deficiency distributions.

Taxation of Holders of Our Shares

The following summary describes certain of the United States federal income tax consequences of owning and disposing of our common shares.

Taxable U.S. Shareholders Generally

This section is a summary of the rules governing the U.S. federal income taxation of “U.S. holders” (as defined below) and is for general information only. We urge you to consult your own tax advisors to determine the impact of U.S. federal, state and local income tax laws on the purchase, ownership and disposition of our common shares.

Definition of U.S. Holder

A “U.S. holder” is a beneficial holder of common shares or a beneficial holder of debt securities who is:

- an individual citizen or resident of the United States;
- a corporation or other entity taxable as a corporation for United States federal income tax purposes created or organized in the United States or under the laws of the United States, any state thereof, or the District of Columbia;
- an estate the income of which is subject to United States federal income taxation regardless of its source; or
- a trust that (1) is subject to the primary supervision of a United States court and the control of one or more United States persons or (2) has a valid election in effect under applicable Treasury Regulations to be treated as a United States person.

If any entity that is treated as a partnership for United States federal income tax purposes holds our shares of beneficial interest, the tax treatment of a partner in the partnership will generally depend upon the status of the partner and the activities of the partnership. An investor that is a partnership and the partners in such partnership are urged to consult their tax advisors about the United States federal income tax consequences of the acquisition, ownership and disposition of our shares of beneficial interest.

Distributions Generally

Distributions out of our current or accumulated earnings and profits will be treated as dividends and, other than capital gain dividends and certain amounts that have previously been subject to corporate level tax,

[Table of Contents](#)

discussed below, will be taxable to taxable U.S. holders as ordinary income when actually or constructively received. See “—Tax Rates” below. However, for taxable years beginning after December 31, 2017, and before January 1, 2026, individuals and other non-corporate taxpayers generally may deduct 20% of dividends received from us, other than capital gain dividends or dividends treated as qualified dividend income, subject to certain limitations. See “—Tax Rates” below. As long as we qualify as a REIT, these distributions will not be eligible for the dividends-received deduction in the case of U.S. holders that are corporations or, except to the extent provided in “—Tax Rates” below, the preferential rates on qualified dividend income applicable to non-corporate taxpayers. Qualified dividend income generally includes dividends paid by domestic C corporations and certain qualified foreign corporations to U.S. holders that are taxed at individual rates.

To the extent that we make distributions on our shares in excess of our current and accumulated earnings and profits, these distributions will be treated first as a tax-free return of capital to a U.S. holder. This treatment will reduce the U.S. holder’s adjusted tax basis in its shares by the amount of the distribution, but not below zero. Distributions in excess of our current and accumulated earnings and profits and in excess of a U.S. holder’s adjusted tax basis in its shares will be taxable as capital gain. Such gain will be taxable as long-term capital gain if the shares have been held for more than one year. Dividends we declare in October, November, or December of any year and which are payable to a holder of record on a specified date in any of these months will be treated as both paid by us and received by the holder on December 31 of that year, provided we actually pay the dividend on or before January 31 of the following year. U.S. holders may not include in their own income tax returns any of our net operating losses or capital losses.

Capital Gain Dividends

Dividends that we properly designate as capital gain dividends will be taxable to taxable U.S. holders as gains from the sale or disposition of a capital asset, to the extent that such gains do not exceed our actual net capital gain for the taxable year. These dividends may be taxable to non-corporate U.S. holders at a 20% or 25% rate. See “—Tax Rates” below. U.S. holders that are corporations may, however, be required to treat up to 20% of some capital gain dividends as ordinary income.

Retention of Net Capital Gains

We may elect to retain, rather than distribute as a capital gain dividend, all or a portion of our net capital gains. If we make this election, we would pay tax on our retained net capital gains. In addition, to the extent we so elect and designate such amount in a timely notice to our stockholders, a U.S. holder generally would:

- include its *pro rata* share of our undistributed net capital gains in computing its long-term capital gains in its return for its taxable year in which the last day of our taxable year falls, subject to certain limitations as to the amount that is includable;
- be deemed to have paid the United States federal corporate income tax imposed on us on the designated amounts included in the U.S. holder’s long-term capital gains;
- receive a credit or refund for the amount of tax deemed paid by it;
- increase the adjusted basis of its shares by the difference between the amount of includable gains and the tax deemed to have been paid by it; and
- in the case of a U.S. holder that is a corporation, appropriately adjust its earnings and profits for the retained capital gains in accordance with Treasury Regulations to be promulgated by the Internal Revenue Service.

Passive Activity Losses and Investment Interest Limitations

Distributions we make and gain arising from the sale or exchange by a U.S. holder of our shares will not be treated as passive activity income. As a result, U.S. holders generally will not be able to apply any “passive

losses” against this income or gain. A U.S. holder may elect to treat capital gain dividends, capital gains from the disposition of shares and qualified dividend income as investment income for purposes of computing the investment interest limitation, but in such case, the U.S. holder will be taxed at ordinary income rates on such amount. Other distributions made by us, to the extent they do not constitute a return of capital, generally will be treated as investment income for purposes of computing the investment interest limitation.

Dispositions of Our Shares

If a U.S. holder sells or disposes of our common shares to a person other than us, it will recognize gain or loss for United States federal income tax purposes in an amount equal to the difference between the amount of cash and the fair market value of any property received on the sale or other disposition and its adjusted basis in the shares for tax purposes. This gain or loss, except as provided below, will be long-term capital gain or loss if the U.S. holder has held the shares for more than one year at the time of such sale or disposition. If, however, a U.S. holder recognizes loss upon the sale or other disposition of our shares that it has held for six months or less, after applying certain holding period rules, the loss recognized will be treated as a long-term capital loss, to the extent the U.S. holder received distributions from us which were required to be treated as long-term capital gains. All or a portion of any loss that a U.S. holder realizes on a taxable disposition of our shares may be disallowed if the U.S. holder makes a purchase of our shares within 30 days before or after the disposition. Capital losses generally are available only to offset capital gains of the U.S. holder except in the case of individuals, who may offset up to \$3,000 of ordinary income each year.

If an investor recognizes a loss upon a subsequent disposition of our shares or other securities in an amount that exceeds a prescribed threshold, it is possible that the provisions of Treasury Regulations involving “reportable transactions” could apply, with a resulting requirement to separately disclose the loss-generating transaction to the Internal Revenue Service. These regulations, though directed towards “tax shelters,” are broadly written and apply to transactions that would not typically be considered tax shelters. The Internal Revenue Code imposes significant penalties for failure to comply with these requirements. You are urged to consult with your own tax advisor concerning any possible disclosure obligation with respect to the receipt or disposition of our shares or securities or transactions that we might undertake directly or indirectly. Moreover, you should be aware that we and other participants in the transactions in which we are involved (including their advisors) might be subject to disclosure or other requirements pursuant to these regulations.

Tax Rates

The maximum tax rate for non-corporate taxpayers for (1) capital gains, including certain “capital gain dividends,” is currently 20% (although depending on the characteristics of the assets which produced these gains and on designations which we may make, certain capital gain dividends may be taxed at a 25% rate) and (2) “qualified dividend income” is currently 20%. In general, dividends payable by REITs are not eligible for the reduced tax rate on qualified dividend income, and, therefore, will be subject to tax at ordinary income rates (generally, a maximum rate of 37%), except for (1) to the extent that certain holding requirements have been met, dividends attributable to dividends received by the REIT from taxable corporations (such as its taxable REIT subsidiaries), (2) dividends attributable to income that was subject to tax at the corporate/REIT level (for example, taxable income that the REIT retained and paid tax on in the prior taxable year), or (3) dividends properly designated by the REIT as “capital gain dividends.” In general, to qualify for the reduced tax rate on qualified dividend income, a stockholder must hold our common 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 common shares becomes ex-dividend. In addition, U.S. holders that are corporations may be required to treat up to 20% of some capital gain dividends as ordinary income. Finally, certain U.S. holders who are individuals, estates or trusts and whose income exceeds certain thresholds will be required to pay a 3.8% Medicare tax on dividends and certain other investment income, including capital gains from the sale or other disposition of our shares of beneficial interest.

For taxable years beginning after December 31, 2017, and before January 1, 2026, non-corporate taxpayers may deduct up to 20% of certain qualified business income, including “qualified REIT dividends” (generally,

[Table of Contents](#)

dividends received by a REIT stockholder that are not designated as capital gain dividends or qualified dividend income), subject to certain limitations, resulting in an effective maximum U.S. federal income tax rate of 29.6% on such income. In order for a dividend paid by a REIT to be eligible to be treated as a “qualified REIT dividend,” the U.S. holder must meet two holding period-related requirements. First, the U.S. holder must hold the REIT stock for a minimum of 46 days (taking into account certain special holding period rules) during the 91-day period that begins 45 days before the date on which the REIT stock becomes ex-dividend with respect to the dividend. Second, the qualifying portion of the REIT dividend is reduced to the extent that the U.S. holder is under an obligation (whether pursuant to a short sale or otherwise) to make related payments with respect to positions in substantially similar or related property.

The temporary 20% deduction for ordinary REIT dividends received by non-corporate taxpayers is not applicable for purposes of determining the amount of net investment income subject to the 3.8% Medicare tax.

Backup Withholding

We report to our U.S. holders and the Internal Revenue Service the amount of dividends paid during each calendar year, and the amount of any tax withheld. Under the backup withholding rules, a U.S. holder may be subject to backup withholding with respect to dividends paid unless the U.S. holder is a corporation or comes within certain other exempt categories and, when required, demonstrates this fact, or provides a taxpayer identification number, certifies as to no loss of exemption from backup withholding, and otherwise complies with applicable requirements of the backup withholding rules. A U.S. holder that does not provide us with its correct taxpayer identification number may also be subject to penalties imposed by the Internal Revenue Service. Backup withholding is not an additional tax. Any amount paid as backup withholding will be creditable against the U.S. holder’s United States federal income tax liability, provided the required information is furnished to the Internal Revenue Service on a timely basis. In addition, we may be required to withhold a portion of capital gain distributions to any holders who fail to certify their non-foreign status. See “—Non-U.S. Shareholders.”

FATCA Withholding

Under the Foreign Account Tax Compliance Act, or FATCA, a U.S. withholding tax at a 30% rate will be imposed on dividends paid to certain U.S. holders who own our shares through foreign accounts or foreign intermediaries if certain disclosure requirements related to U.S. accounts or ownership are not satisfied. The compliance requirements under FATCA are complex and special requirements may apply to certain categories of payees. We will not pay any additional amounts in respect of any amounts withheld pursuant to FATCA. Prospective investors should consult their own tax advisors regarding the application of FATCA in their particular circumstances.

Tax-Exempt Shareholders

Dividend income from us and gain arising upon a sale of our common shares generally will not be unrelated business taxable income to a tax-exempt holder, except as described below. This income or gain will be unrelated business taxable income, however, if a tax-exempt holder holds its shares as “debt-financed property” within the meaning of the Internal Revenue Code or if the shares are used in a trade or business of the tax-exempt holder. Generally, debt-financed property is property the acquisition or holding of which was financed through a borrowing by the tax-exempt holder.

For tax-exempt holders which are social clubs, voluntary employee benefit associations, or supplemental unemployment benefit trusts exempt from United States federal income taxation under Sections 501(c)(7), (c)(9) or (c)(17) of the Internal Revenue Code, respectively, income from an investment in our shares will constitute unrelated business taxable income unless the organization is able to properly claim a deduction for amounts set aside or placed in reserve for specific purposes so as to offset the income generated by its investment in our shares. These prospective investors should consult their own tax advisors concerning these “set aside” and reserve requirements.

Notwithstanding the above, however, a portion of the dividends paid by a “pension-held REIT” may be treated as unrelated business taxable income as to certain trusts that hold more than 10%, by value, of the interests in the REIT. A REIT will not be a “pension-held REIT” if it is able to satisfy the “not closely held” requirement without relying on the “look-through” exception with respect to certain trusts or if such REIT is not “predominantly held” by “qualified trusts.” As a result of limitations on the transfer and ownership of shares contained in our charter, we do not expect to be classified as a “pension-held REIT,” and as a result, the tax treatment described in this paragraph should be inapplicable to our holders. However, because our shares are publicly traded, we cannot guarantee that this will always be the case.

Tax-exempt holders are urged to consult their tax advisors regarding the United States federal, state, local and foreign income and other tax consequences of owning our shares.

Non-U.S. Shareholders

The following discussion addresses the rules governing United States federal income taxation of the ownership and disposition of our common shares by non-U.S. holders. The term “non-U.S. holder” means a beneficial owner of a common share that is not a U.S. holder or a partnership (or entity or arrangement taxed as a partnership for United States federal income tax purposes). These rules are complex, and no attempt is made herein to provide more than a brief summary of such rules. Accordingly, the discussion does not address all aspects of United States federal income taxation that may be relevant to a non-U.S. holder in light of its particular circumstances and does not address any state, local or foreign tax consequences. We urge non-U.S. holders to consult their own tax advisors to determine the impact of federal, state, local and United States foreign income tax laws on the acquisition, ownership, and disposition of our shares, including any reporting requirements.

Distributions Generally

Ordinary Dividends

Distributions (including any taxable stock distributions) that are neither attributable to gains from sales or exchanges by us of United States real property interests nor designated by us as capital gain dividends or retained long-term capital gain (except as described below) will be treated as dividends of ordinary income to the extent that they are made out of our current or accumulated earnings and profits. Such distributions ordinarily will be subject to United States withholding tax at the rate of 30%, unless reduced or eliminated by an applicable treaty, unless the distribution is treated as effectively connected with a United States trade or business conducted by such non-U.S. holder and, if certain treaties apply, is attributable to a U.S. permanent establishment maintained by the non-U.S. holder (discussed below). Under some treaties, however, lower withholding rates generally applicable to dividends do not apply to dividends from REITs. Certain certification and disclosure requirements must be satisfied for a non-U.S. holder to be exempt from withholding under the effectively connected income exemption.

In general, non-U.S. holders will not be considered to be engaged in a United States trade or business solely as a result of their ownership of our shares. In cases where the dividend income from a non-U.S. holder’s investment in our shares is, or is treated as, effectively connected with the non-U.S. holder’s conduct of a United States trade or business, the non-U.S. holder will generally be subject to United States federal income tax at graduated rates, in the same manner as United States holders are taxed with respect to such dividends. Such effectively connected income must generally be reported on a United States income tax return filed by or on behalf of the non-U.S. holder. The income may also be subject to a branch profits tax at the rate of 30% (unless reduced or eliminated by treaty) in the case of a non-U.S. holder that is a corporation.

Non-Dividend Distributions

Distributions in excess of our current and accumulated earnings and profits will not be taxable to a non-U.S. holder to the extent that such distributions do not exceed the adjusted tax basis of the holder’s common shares,

but rather will reduce the adjusted tax basis of such stock. To the extent that such distributions exceeds both our current and accumulated earnings and profits and the non-U.S. holder's adjusted tax basis in such common shares, they generally will give rise to gain from the sale or exchange of such stock, the tax treatment of which is described below under "—Dispositions of Our Shares." However, although we may be required to withhold 15% of any distribution that exceeds our current and accumulated earnings and profits, because we generally cannot determine at the time we make a distribution whether the distribution will exceed our earnings and profits, we may withhold tax at a rate of 30% (unless reduced or eliminated by an applicable treaty) on the entire amount of any distribution. A non-U.S. holder may seek a refund from the Internal Revenue Service of any amounts withheld if it is subsequently determined that the distribution was, in fact, in excess of our current and accumulated earnings and profits.

Capital Gain Dividends

Subject to the exceptions discussed below for 10% or smaller holders of classes of stock of a corporation that are regularly traded on an established securities market located in the United States and the special rules for "qualified shareholders" and "qualified foreign pension funds" discussed below, under Foreign Investment in Real Property Tax Act of 1980 ("FIRPTA"), a distribution that we make to a non-U.S. holder, to the extent attributable to gains from dispositions of United States real property interest, whether or not we designate the distribution as a capital gain dividend, will be considered effectively connected with a United States trade or business of the non U.S. holder and will be subject to United States income tax at the regular rates applicable to United States individuals or corporations, subject to any applicable alternative minimum tax and a special alternative minimum tax in the case of nonresident alien individuals. In addition, we will be required to withhold tax equal to 21% of the maximum amount that could have been designated as United States real property interest capital gain dividends. Distributions subject to FIRPTA may also be subject to a branch profits tax at the rate of 30% (unless reduced or eliminated by an applicable treaty) in the hands of a non-U.S. holder that is a corporation. A distribution is not attributable to United States real property interest capital gain if we held an interest in the underlying real property asset solely as a creditor.

Capital gain dividends received by a non-U.S. holder that are attributable to dispositions of our assets other than United States real property interests are not subject to United States federal income or withholding tax, unless (1) the gain is effectively connected with the non-U.S. holder's United States trade or business and, if certain treaties apply, is attributable to a U.S. permanent establishment maintained by the non-U.S. holder, in which case the non-U.S. holder would be subject to the same treatment as U.S. holders with respect to such gain, except that a non-U.S. holder that is a corporation may also be subject to a branch profits tax at the rate of 30% (unless reduced or eliminated by an applicable treaty) or (2) the non-U.S. holder is a nonresident alien individual who was present in the United States for 183 days or more during the taxable year and has a "tax home" in the United States, in which case the non-U.S. holder will incur a 30% tax on his capital gains (or such lower rate specified by an applicable income tax treaty), which may be offset by U.S. source capital losses of the non-U.S. holder (even though the individual is not considered a resident of the United States), provided the non-U.S. holder has timely filed U.S. federal income tax returns with respect to such losses.

Notwithstanding the foregoing, a capital gain dividend that would otherwise have been treated as a United States real property interest capital gain will not be so treated or be subject to FIRPTA, and will generally not be treated as income that is effectively connected with a United States trade or business, but instead will be treated in the same manner as an ordinary dividend (see "—Distributions Generally"), if (1) the capital gain dividend is received with respect to a class of shares that is regularly traded on an established securities market located in the United States and (2) the recipient non-U.S. holder does not own more than 10% of that class of shares at any time during the one-year period ending on the date on which the capital gain dividend is received.

In addition, distributions to certain non-U.S. publicly traded shareholders that meet certain record-keeping and other requirements ("qualified shareholders") are exempt from FIRPTA, except to the extent owners of such qualified shareholders that are not also qualified shareholders own, actually or constructively, more than 10% of

Table of Contents

our beneficial interests. Furthermore, distributions to “qualified foreign pension funds” or entities all of the interests of which are held by “qualified foreign pension funds” are exempt from FIRPTA. Non-U.S. holders that may be qualified shareholders or qualified foreign pension funds should consult their own tax advisors regarding the application of these rules.

Retention of Net Capital Gains

Although the law is not clear on the matter, it appears that amounts we designate as retained capital gains in respect of the common shares held by U.S. holders generally should be treated with respect to non-U.S. holders in the same manner as actual distributions by us of capital gain dividends. Under this approach, a non-U.S. holder would be able to offset as a credit against its United States federal income tax liability resulting from its proportionate share of the tax paid by us on such retained capital gains, and to receive from the Internal Revenue Service a refund to the extent of the non-U.S. holder’s proportionate share of such tax paid by us exceeds its actual United States federal income tax liability.

Dispositions of Our Shares

Gain recognized by a non-U.S. holder upon the sale or exchange of our common shares generally will not be subject to United States federal income taxation unless such shares constitutes a United States real property interest within the meaning of FIRPTA. Our shares will not constitute a United States real property interest so long as we are a domestically-controlled qualified investment entity. A domestically-controlled qualified investment entity includes a REIT in which at all times during a specified testing period less than 50% in value of its shares is held directly or indirectly by non-U.S. holders. We believe, but cannot guarantee, that we have been a domestically-controlled qualified investment entity. Even if we have been a domestically-controlled qualified investment entity, because our shares of beneficial interest are publicly traded, no assurance can be given that we will continue to be a domestically-controlled qualified investment entity.

In general, even if we are a domestically controlled qualified investment entity, upon disposition of our shares (subject to the 10% exception applicable to “regularly traded” shares described below), a non-U.S. holder may be treated as having gain from the sale or exchange of United States real property interest if the non-U.S. holder (1) disposes of our shares within a 30-day period preceding the ex-dividend date of a distribution, any portion of which, but for the disposition, would have been treated as gain from the sale or exchange of a United States real property interest and (2) acquires, or enters into a contract or option to acquire, other shares of ours within 30 days after such ex-dividend date. Non-U.S. holders should contact their tax advisors regarding the tax consequences of any sale, exchange, or other taxable disposition of our common shares.

Even if we do not qualify as a domestically-controlled qualified investment entity at the time a non-U.S. holder sells or exchanges our shares, gain arising from such a sale or exchange would not be subject to United States taxation under FIRPTA as a sale of a United States real property interest if:

- (1) our shares are “regularly traded,” as defined by applicable Treasury Regulations, on an established securities market, such as the NYSE; and
- (2) such non-U.S. holder owned, actually and constructively, 10% or less of our shares throughout the applicable testing period (the shorter of the period during which the non-U.S. holder held the stock and the five-year period ending on the date of disposition).

If gain on the sale or exchange of our shares were subject to United States taxation under FIRPTA, the non-U.S. holder would be subject to regular United States federal income tax with respect to such gain in the same manner as a taxable U.S. holder (subject to any applicable alternative minimum tax and a special alternative minimum tax in the case of nonresident alien individuals). In addition, if our shares are not then traded on an established securities market, the purchaser of the common shares would be required to withhold and remit to the Internal Revenue Service 15% of the purchase price. If amounts withheld on a sale, redemption,

Table of Contents

repurchase, or exchange of our common shares exceed the holder's substantive tax liability resulting from such disposition, such excess may be refunded or credited against such non-U.S. holder's United States federal income tax liability, provided that the required information is provided to the Internal Revenue Service on a timely basis. Amounts withheld on any such sale, exchange or other taxable disposition of our common shares may not satisfy a non-U.S. holder's entire tax liability under FIRPTA, and such non-U.S. holder remains liable for the timely payment of any remaining tax liability.

Notwithstanding the foregoing, gain from the sale or exchange of our shares not otherwise subject to FIRPTA will be taxable to a non-U.S. holder if either (1) the investment in our shares is treated as effectively connected with the non-U.S. holder's United States trade or business and, if certain treaties apply, is attributable to a U.S. permanent establishment maintained by the non-U.S. holder, in which case the non-U.S. holder would be subject to regular United States federal income tax with respect to such gain in the same manner as a taxable U.S. holder and may be subject to the 30% branch profits tax in the case of a non-U.S. corporation, or (2) the non-U.S. holder is a nonresident alien individual who is present in the United States for 183 days or more during the taxable year and certain other conditions are met, in which case the non-U.S. holder will incur a 30% tax on his or her net U.S. source capital gains (or such lower rate specified by an applicable income tax treaty), which may be offset by U.S. source capital losses of the non-U.S. holder (even though the individual is not considered a resident of the United States), provided the non-U.S. holder has timely filed U.S. federal income tax returns with respect to such losses.

Qualified Shareholders

Subject to the exception discussed below, any distribution to a "qualified shareholder" who holds REIT stock directly or indirectly (through one or more partnerships) will not be subject to federal income taxation under FIRPTA and thus will not be subject to the special withholding rules under FIRPTA. While a "qualified shareholder" generally will not be subject to FIRPTA withholding on REIT distributions, the portion of REIT distributions attributable to certain investors in a "qualified shareholder" (i.e., non-U.S. persons who hold interests in the "qualified shareholder" (other than interests solely as a creditor), and directly or indirectly hold more than 10% of the stock of such REIT (whether or not by reason of the investor's ownership in the "qualified shareholder"))) may be subject to FIRPTA withholding. REIT distributions received by a "qualified shareholder" that are exempt from FIRPTA withholding may still be subject to regular U.S. withholding tax.

In addition, a sale of our stock by a "qualified shareholder" who holds such stock directly or indirectly (through one or more partnerships) generally will not be subject to federal income taxation under FIRPTA. As with distributions, the portion of amounts realized attributable to certain investors in a "qualified shareholder" (i.e., non-U.S. persons who hold interests in the "qualified shareholder" (other than interests solely as a creditor), and directly or indirectly hold more than 10% of the stock of such REIT (whether or not by reason of the investor's ownership in the "qualified shareholder"))) may be subject to federal income taxation and FIRPTA withholding on a sale of our stock.

A "qualified shareholder" is a foreign person that (i) either is eligible for the benefits of a comprehensive income tax treaty which includes an exchange of information program and whose principal class of interests is listed and regularly traded on one or more recognized stock exchanges (as defined in such comprehensive income tax treaty), or is a foreign partnership that is created or organized under foreign law as a limited partnership in a jurisdiction that has an agreement for the exchange of information with respect to taxes with the United States and has a class of limited partnership units representing greater than 50% of the value of all the partnership units that is regularly traded on the NYSE or Nasdaq markets, (ii) is a qualified collective investment vehicle (defined below), and (iii) maintains records on the identity of each person who, at any time during the foreign person's taxable year, is the direct owner of 5% or more of the class of interests or units (as applicable) described in (i), above.

A qualified collective investment vehicle is a foreign person that (i) would be eligible for a reduced rate of withholding under the comprehensive income tax treaty described above, even if such entity holds more than

Table of Contents

10% of the stock of such REIT, (ii) is publicly traded, is treated as a partnership under the Code, is a withholding foreign partnership, and would be treated as a “United States real property holding corporation” if it were a domestic corporation, or (iii) is designated as such by the Secretary of the Treasury and is either (a) fiscally transparent within the meaning of Section 894 of the Code, or (b) required to include dividends in its gross income, but is entitled to a deduction for distributions to its investors.

Qualified Foreign Pension Funds

Any distribution to a “qualified foreign pension fund” (or an entity all of the interests of which are held by a “qualified foreign pension fund”) who holds REIT stock directly or indirectly (through one or more partnerships) will not be subject to federal income taxation under FIRPTA and thus will not be subject to the special withholding rules under FIRPTA. REIT distributions received by a “qualified foreign pension fund” that are exempt from FIRPTA withholding may still be subject to regular U.S. withholding tax. In addition, a sale of our stock by a “qualified foreign pension fund” that holds such stock directly or indirectly (through one or more partnerships) will not be subject to federal income taxation under FIRPTA.

A qualified foreign pension fund is any trust, corporation, or other organization or arrangement (i) which is created or organized under the law of a country other than the United States, (ii) which is established to provide retirement or pension benefits to participants or beneficiaries that are current or former employees (or persons designated by such employees) of one or more employers in consideration for services rendered, (iii) which does not have a single participant or beneficiary with a right to more than 5% of its assets or income, (iv) which is subject to government regulation and provides annual information reporting about its beneficiaries to the relevant tax authorities in the country in which it is established or operates, and (v) with respect to which, under the laws of the country in which it is established or operates, (a) contributions to such organization or arrangement that would otherwise be subject to tax under such laws are deductible or excluded from the gross income of such entity or taxed at a reduced rate, or (b) taxation of any investment income of such organization or arrangement is deferred or such income is taxed at a reduced rate.

FATCA

Under FATCA, a U.S. withholding tax at a 30% rate will be imposed on dividends paid to certain non-U.S. holders if certain disclosure requirements related to U.S. accounts or ownership are not satisfied. The compliance requirements under FATCA are complex and special requirements may apply to certain categories of payees. If payment of withholding taxes is required, non-U.S. holders that are otherwise eligible for an exemption from, or reduction of, U.S. withholding taxes with respect to such dividends will be required to seek a refund from the IRS to obtain the benefit of such exemption or reduction. We will not pay any additional amounts in respect of any amounts withheld pursuant to FATCA. Prospective investors should consult their own tax advisors regarding the application of FATCA in their particular circumstances.

Backup Withholding Tax and Information Reporting

Generally, we must report annually to the Internal Revenue Service the amount of dividends paid to a non-U.S. holder, such non-U.S. holder’s name and address, and the amount of tax withheld, if any. A similar report is sent to the non-U.S. holder. Pursuant to tax treaties or other agreements, the Internal Revenue Service may make its reports available to tax authorities in the non-U.S. holder’s country of residence.

Payments of dividends or of proceeds from the disposition of shares made to a non-U.S. holder may be subject to information reporting and backup withholding unless such non-U.S. holder establishes an exemption, for example, by properly certifying its non-U.S. status on an Internal Revenue Service Form W-8BEN or W-8BEN-E, or another appropriate version of Internal Revenue Service Form W-8. Notwithstanding the foregoing, backup withholding and information reporting may apply if either we have or our paying agent has actual knowledge, or reason to know, that a non-U.S. holder is a United States person. Payments of the proceeds

from a disposition of shares that occurs outside the United States by a non-U.S. holder made by or through a foreign office of a broker generally will not be subject to information reporting or backup withholding. However, information reporting (but not backup withholding) generally will apply to the payment if the broker has certain connections with the United States unless the broker has documentary evidence in its records that demonstrates that the beneficial owner is a non-U.S. holder and specified conditions are met or an exemption is otherwise established. Payment of the proceeds from a disposition of shares by a non-U.S. holder made by or through the United States office of a broker generally is subject to information reporting and backup withholding unless the non-U.S. holder certifies under penalties of perjury that it is not a United States person and satisfies certain other requirements, or otherwise establishes an exemption from information reporting and backup withholding.

Backup withholding is not an additional tax. Rather, the United States income tax liability of persons subject to backup withholding will be reduced by the amount of tax withheld. If withholding results in an overpayment of taxes, a refund or credit may be obtained, provided that the required information is furnished to the Internal Revenue Service on a timely basis.

Other Tax Considerations

State and Local Taxes

We may be required to pay tax in various state or local jurisdictions, including those in which we transact business, and our holders may be required to pay tax in various state or local jurisdictions, including those in which they reside. Our state and local tax treatment may not conform to the United States federal income tax consequences discussed above. In addition, a holder's state and local tax treatment may not conform to the United States federal income tax consequences discussed above. Consequently, prospective investors should consult their own tax advisors regarding the effect of state and local tax laws on an investment in our shares.

Legislative or Other Actions Affecting REITs

The present United States federal income tax treatment of REITs may be modified, possibly with retroactive effect, by legislative, judicial or administrative action at any time. The REIT rules are constantly under review by persons involved in the legislative process and by the Internal Revenue Service and the Treasury, which review may result in statutory changes as well as revisions to regulations and interpretations. Changes to the United States federal tax laws and interpretations thereof could adversely affect an investment in our shares of beneficial interest.

Taxation of Holders of Our Debt Securities

The following summary describes certain United States federal income tax consequences of owning and disposing of our debt securities. This discussion is limited to holders of our debt securities who purchase the securities in the original offering of such securities. This discussion assumes the debt securities will be treated as debt for United States federal income tax purposes and would not be treated as a contingent payment debt obligation or otherwise provide for payments other than in respect of stated interest and principal. This discussion further assumes that the securities will be issued without original issue discount, sometimes referred to as "OID," will be issued in United States dollars, and will not be redeemable or convertible into our shares. If one or more series of debt securities are issued with OID, or is redeemable or convertible, or otherwise is issued with terms inconsistent with these assumptions, the United States federal income tax consequences could differ from the following summary and a disclosure concerning the tax considerations arising therefrom will be included with the applicable prospectus supplement.

Taxable U.S. Holders of Our Debt Securities

Stated Interest

U.S. holders generally must include interest on the debt securities in their United States federal taxable income as ordinary income:

- when it accrues, if the U.S. holder uses the accrual method of accounting for United States federal income tax purposes; or
- when the U.S. holder actually or constructively receives it, if the U.S. holder uses the cash method of accounting for United States federal income tax purposes.

Sale, Exchange or Other Taxable Disposition of the Debt Securities

Unless a nonrecognition provision applies, U.S. holders must recognize taxable gain or loss on the sale, exchange, redemption, retirement or other taxable disposition of a debt security. The amount of gain or loss equals the difference between (i) the amount the U.S. holder receives for the debt security in cash or other property, valued at fair market value, less the amount thereof that is attributable to accrued but unpaid interest on the debt security and (ii) the U.S. holder's adjusted tax basis in the debt security. A U.S. holder's initial tax basis in a debt security generally will equal the price the U.S. holder paid for the debt security.

Gain or loss generally will be capital gain or loss and will be long-term capital gain or loss if at the time the debt security is disposed of it has been held for more than one year. Otherwise, it will be a short-term capital gain or loss.

Payments attributable to accrued interest which have not yet been included in income will be taxed as ordinary interest income and subject to ordinary income rates (generally, a maximum rate of 37%). The maximum United States federal income tax rate on long-term capital gain on most capital assets held by an individual is currently 20%. The deductibility of capital losses is subject to limitations. In addition, certain U.S. holders who are individuals, estates or trusts and whose income exceeds certain thresholds will be required to pay a 3.8% Medicare tax on interest income and certain other investment income, including capital gains from the sale or other disposition of our debt securities.

Information Reporting and Backup Withholding

Under Section 3406 of the Internal Revenue Code and the Treasury Regulations thereunder, backup withholding at the applicable statutory rate may apply when a U.S. holder receives interest payments on a debt security or proceeds upon the sale or other disposition of a debt security. Certain U.S. holders including, among others, corporations, financial institutions and certain tax-exempt organizations, are generally not subject to backup withholding. In addition, backup withholding will not apply to a U.S. holder who provides his or her social security or other taxpayer identification number in the prescribed manner unless:

- the Internal Revenue Service notifies us or our paying agent that the taxpayer identification number provided is incorrect;
- the U.S. holder fails to report interest and dividend payments received on the U.S. holder's tax return and the Internal Revenue Service notifies us or our paying agent that backup withholding is required; or
- the U.S. holder fails to certify under penalty of perjury that backup withholding does not apply.

A U.S. holder of debt securities who provides us or our paying agent with an incorrect taxpayer identification number may be subject to penalties imposed by the Internal Revenue Service. If backup withholding does apply, the U.S. holder may request a refund of the amounts withheld or use the amounts

Table of Contents

withheld as a credit against the U.S. holder's United States federal income tax liability as long as the U.S. holder provides the required information to the Internal Revenue Service on a timely basis. U.S. holders should consult their own tax advisors as to their qualification for exemption from backup withholding and the procedures for obtaining the exemption.

We will be required to furnish annually to the Internal Revenue Service and to holders of debt securities information relating to the amount of interest paid on the debt securities, and that information reporting may also apply to payments of proceeds from the sale of the debt securities to those holders. Some U.S. holders, including corporations, financial institutions and certain tax-exempt organizations, generally are not subject to information reporting.

Non-U.S. Holders of Our Debt Securities

This section applies to you if you are a non-U.S. holder of the debt securities. The term "non-U.S. holder" means a beneficial owner of a debt security that is not a U.S. holder or a partnership (or entity or arrangement taxed as a partnership for United States federal income tax purposes).

Special rules may apply to certain non-U.S. holders such as "controlled foreign corporations" and "passive foreign investment companies." Such entities are encouraged to consult their own tax advisors to determine the United States federal, state, local and other tax consequences that may be relevant to them.

Payments of Interest

Interest paid to a non-U.S. holder will not be subject to United States federal income taxes or withholding tax if the interest is not effectively connected with the non-U.S. holder's conduct of a trade or business within the United States, and the non-U.S. holder:

- does not actually or constructively own a 10% or greater interest in the total combined voting power of all classes of our voting shares;
- is not a controlled foreign corporation with respect to which we are a "related person" within the meaning of Section 864(d)(4) of the Internal Revenue Code;
- is not a bank that received such debt securities on an extension of credit made pursuant to a loan agreement entered into in the ordinary course of its trade or business; and
- either (i) provides the appropriate certification as to the non-U.S. holder's status; or (ii) the non-U.S. holder holds its debt securities through a "qualified intermediary" (within the meaning of the Treasury Regulations) and certain conditions are satisfied. A non-U.S. holder can generally meet the certification requirement by providing a properly executed Internal Revenue Service Form W-8BEN or W-8BEN-E, or appropriate substitute form to us or our paying agent. If the debt securities are held through a financial institution or other agent acting on the non-U.S. holder's behalf, the non-U.S. holder may be required to provide appropriate documentation to the agent. The agent will then generally be required to provide appropriate certifications to us or our paying agent, either directly or through other intermediaries. Special certification rules apply to foreign partnerships, estates and trusts, and in certain circumstances certifications as to foreign status of partners, trust owners or beneficiaries may have to be provided to us or our paying agent.

If a non-U.S. holder does not qualify for an exemption under these rules, interest income from the debt securities may be subject to withholding tax at the rate of 30% (or lower applicable treaty rate) at the time such interest is paid. The payment of interest effectively connected with a United States trade or business and, if required by an applicable income tax treaty, the non-U.S. holder maintains a permanent establishment in the United States to which such interest is attributable), however, would not be subject to a 30% withholding tax so long as the non-U.S. holder provides us or our paying agent an adequate certification (currently on Internal

Table of Contents

Revenue Service Form W-8ECI), but such interest would be subject to United States federal income tax on a net basis at the rates applicable to United States persons generally. In addition, if the payment of interest is effectively connected with a foreign corporation's conduct of a United States trade or business, that foreign corporation may also be subject to a 30% (or lower applicable treaty rate) branch profits tax. To claim the benefit of a tax treaty, a non-U.S. holder must provide a properly executed Internal Revenue Service Form W-8BEN or W-8BEN-E before the payment of interest and a non-U.S. holder may be required to obtain a United States taxpayer identification number and provide documentary evidence issued by foreign governmental authorities to prove residence in the foreign country.

Sale, Exchange or Other Taxable Disposition of Debt Securities

Non-U.S. holders generally will not be subject to United States federal income tax on any amount which constitutes capital gain upon a sale, exchange, redemption, retirement or other taxable disposition of a debt security, unless either of the following is true:

- the non-U.S. holder's investment in the debt securities is effectively connected with the conduct of a United States trade or business and, if required by an applicable income tax treaty, the non-U.S. holder maintains a permanent establishment in the United States to which such gain is attributable; or
- the non-U.S. holder is a nonresident alien individual holding the debt security as a capital asset, is present in the United States for 183 or more days in the taxable year within which the sale, redemption or other disposition takes place, and certain other requirements are met.

For non-U.S. holders described in the first bullet point above, the net gain derived from the retirement or taxable disposition of the debt securities generally would be subject to United States federal income tax at the rates applicable to United States persons generally. In addition, foreign corporations may be subject to a 30% (or lower applicable treaty rate) branch profits tax if the investment in the debt security is effectively connected with the foreign corporation's conduct of a United States trade or business. Non-U.S. holders described in the second bullet point above will be subject to a flat 30% United States federal income tax on the gain derived from the retirement or taxable disposition of their debt securities, which may be offset by United States source capital losses, even though non-U.S. holders are not considered residents of the United States. Non-U.S. holders should consult their own tax advisors regarding any applicable income tax treaties that may provide for different rules.

Backup Withholding and Information Reporting

No backup withholding or information reporting will generally be required with respect to interest paid to non-U.S. holders of debt securities if the beneficial owner of the debt security provides the certification described above in "Non-U.S. Holders of Our Debt Securities—Payments of Interest" or is an exempt recipient and, in each case, we do not have actual knowledge or reason to know that the beneficial owner is a United States person.

Information reporting requirements and backup withholding tax generally will not apply to any payments of the proceeds of the sale of a debt security effected outside the United States by a foreign office or a foreign broker (as defined in applicable Treasury Regulations). However, unless such broker has documentary evidence in its records that the beneficial owner is a non-U.S. holder and certain other conditions are met, or the beneficial owner otherwise establishes an exemption, information reporting but not backup withholding will apply to any payment of the proceeds of the sale of a debt security effected outside the United States by a broker if it has certain connections to the United States.

Payment of the proceeds of any sale by a non-U.S. holder of a debt security effected by the United States office of a broker will be subject to information reporting and backup withholding requirements, unless the holder or beneficial owner of the debt security provides the certification described above in "Non-U.S. Holders of Our Debt Securities—Payments of Interest" or otherwise establishes an exemption from back-up withholding.

Non-U.S. holder of debt securities should consult their own tax advisors regarding the application of information reporting and backup withholding in their particular situation, the availability of an exemption therefrom, and the procedure for obtaining the exemption, if available. Any amounts withheld from payments to a non-U.S. holder under the backup withholding rules will be allowed as a refund or a credit against the non-U.S. holder's federal income tax liability, provided that the required information is furnished to the Internal Revenue Service on a timely basis.

Foreign Account Tax Compliance Act

FATCA imposes United States withholding taxes on certain United States source payments, including interest, made to "foreign financial institutions" and certain other non-U.S. entities. Under FATCA, the failure to comply with certification, information reporting and other specified requirements could result in withholding tax being imposed on payments of interest to U.S. holders who own their debt securities through foreign accounts or foreign intermediaries and certain non-U.S. holders. The compliance requirements under FATCA are complex and special requirements may apply to certain categories of payees. We will not pay any additional amounts in respect of any amounts withheld pursuant to FATCA. Prospective investors should consult their own tax advisors regarding the application of FATCA in their particular circumstances.

PLAN OF DISTRIBUTION

We may sell the securities offered by this prospectus from time to time in one or more transactions, including without limitation:

- through underwriting syndicates represented by one or more managing underwriters;
- to or through underwriters or dealers;
- through agents;
- directly to one or more purchasers;
- in a rights offering;
- in “at the market” offerings, within the meaning of Rule 415(a)(4) of the Securities Act to or through a market maker or into an existing trading market on an exchange or otherwise;
- in block trades;
- through a combination of any of these methods; or
- through any other method permitted by applicable law and described in a prospectus supplement.

In addition, we may issue the securities as a dividend or distribution to our existing shareholders or other securityholders.

The prospectus supplement with respect to any offering of securities will include the following information:

- the terms of the offering;
- the names of any underwriters, dealers or agents;
- the name or names of any managing underwriter or underwriters;
- the purchase price or initial public offering price of the securities;
- the net proceeds from the sale of the securities;
- any delayed delivery arrangements;
- any over-allotment options under which underwriters may purchase additional securities from us;
- any underwriting discounts, commissions and other items constituting underwriters’ compensation;
- any discounts or concessions allowed or reallocated or paid to dealers;
- any commissions paid to agents; and
- any securities exchange on which the securities may be listed.

Sale through Underwriters or Dealers

If underwriters are used in the sale, the underwriters may resell the securities from time to time in one or more transactions, including negotiated transactions, at a fixed public offering price or at varying prices determined at the time of sale. Underwriters may offer securities to the public either through underwriting syndicates represented by one or more managing underwriters or directly by one or more firms acting as underwriters. Unless we inform you otherwise in the applicable prospectus supplement, the obligations of the underwriters to purchase the securities will be subject to certain conditions, and the underwriters will be obligated to purchase all of the offered securities if they purchase any of them. The underwriters may change from time to time any initial public offering price and any discounts or concessions allowed or reallocated or paid to dealers. Only those underwriters identified in such prospectus supplement are deemed to be underwriters in connection with the securities offered in the prospectus supplement.

[Table of Contents](#)

In connection with the sale of the securities, underwriters may receive compensation from us or from purchasers of the securities, for whom they may act as agents, in the form of discounts, concessions or commissions. Underwriters may sell the securities to or through dealers, and these dealers may receive compensation in the form of discounts, concessions or commissions from the underwriters and/or commissions from the purchasers for whom they may act as agents, which is not expected to exceed that customary in the types of transactions involved. Underwriters, dealers and agents that participate in the distribution of the securities may be deemed to be underwriters, and any discounts or commissions they receive from us, and any profit on the resale of the securities they realize may be deemed to be underwriting discounts and commissions, under the Securities Act. The prospectus supplement will identify any underwriter or agent and will describe any compensation they receive from us.

Underwriters could make sales in privately negotiated transactions and/or any other method permitted by law, including sales deemed to be an “at-the-market” offering, sales made directly on the NYSE, the existing trading market for our common shares, or sales made to or through a market maker other than on an exchange. The name of any such underwriter or agent involved in the offer and sale of our securities, the amounts underwritten, and the nature of its obligations to take our securities will be described in the applicable prospectus supplement.

Unless otherwise specified in the prospectus supplement, each series of the securities will be a new issue with no established trading market, other than the Trust’s common shares, which is currently listed on the NYSE. We currently intend to list any of the Trust’s common shares sold pursuant to this prospectus on the NYSE. We may elect to list any series of debt securities or preferred shares on an exchange, but are not obligated to do so. It is possible that one or more underwriters may make a market in a series of the securities, but underwriters will not be obligated to do so and may discontinue any market making at any time without notice. Therefore, we can give no assurance about the liquidity of the trading market for any of the securities.

Under agreements we may enter into, we may indemnify underwriters, dealers and agents who participate in the distribution of the securities against certain liabilities, including liabilities under the Securities Act, or contribute with respect to payments that the underwriters, dealers or agents may be required to make.

To facilitate the offering of securities, certain persons participating in the offering may engage in transactions that stabilize, maintain, or otherwise affect the price of the securities. This may include over-allotments or short sales of the securities, which involve the sale by persons participating in the offering of more securities than we sold to them. In these circumstances, these persons would cover such over-allotments or short positions by making purchases in the open market or by exercising their over-allotment option, if any. In addition, these persons may stabilize or maintain the price of the securities by bidding for or purchasing securities in the open market or by imposing penalty bids, whereby selling concessions allowed to dealers participating in the offering may be reclaimed if securities sold by them are repurchased in connection with stabilization transactions. The effect of these transactions may be to stabilize or maintain the market price of the securities at a level above that which might otherwise prevail in the open market. These transactions may be discontinued at any time.

From time to time, we may engage in transactions with these underwriters, dealers and agents, or their affiliates or associates, in the ordinary course of business. Underwriters have from time to time in the past provided, and may from time to time in the future provide, investment banking services to us or our affiliates for which they have in the past received, and may in the future receive, customary fees.

Direct Sales and Sales through Agents

We may sell the securities directly. In this case, no underwriters or agents would be involved. We also may sell the securities through agents designated by us from time to time. In the applicable prospectus supplement, we will name any agent involved in the offer or sale of the offered securities, and we will describe any commissions

[Table of Contents](#)

payable to the agent. Unless we inform you otherwise in the applicable prospectus supplement, any agent will agree to use its commercially reasonable efforts to solicit purchases for the period of its appointment.

We may sell the securities directly to institutional investors or others who may be deemed to be underwriters within the meaning of the Securities Act with respect to any sale of those securities. We will describe the terms of any sales of these securities in the applicable prospectus supplement.

Remarketing Arrangements

Securities also may be offered and sold, if so indicated in the applicable prospectus supplement, in connection with a remarketing upon their purchase, in accordance with a redemption or repayment pursuant to their terms, or otherwise, by one or more remarketing firms, acting as principals for their own accounts or as agents for us. Any remarketing firm will be identified and the terms of its agreements, if any, with us and its compensation will be described in the applicable prospectus supplement.

Delayed Delivery Contracts

If indicated in the prospectus supplement, we may authorize underwriters or other persons acting as our agents to solicit offers by institutions to purchase securities from us pursuant to contracts providing for payment and delivery on a future date. Institutions with which we may make these delayed delivery contracts include commercial and savings banks, insurance companies, pension funds, investment companies, educational and charitable institutions and others. The obligations of any purchaser under any such delayed delivery contract will be subject to the condition that the purchase of the securities shall not at the time of delivery be prohibited under the laws of the jurisdiction to which the purchaser is subject. The underwriters and other agents will not have any responsibility with regard to the validity or performance of these delayed delivery contracts.

LEGAL MATTERS

Unless otherwise indicated in the applicable prospectus supplement, the validity of the securities offered hereby and tax matters will be passed upon for us by Norton Rose Fulbright US LLP, New York, New York.

EXPERTS

The consolidated financial statements of Universal Health Realty Income Trust as of December 31, 2023 and 2022, and for each of the years in the three-year period ended December 31, 2023, and the financial statement schedule and management's assessment of the effectiveness of internal control over financial reporting as of December 31, 2023 have been incorporated by reference herein in reliance upon the reports of KPMG LLP, independent registered public accounting firm, incorporated by reference herein., and upon the authority of said firm as experts in accounting and auditing.

WHERE YOU CAN FIND MORE INFORMATION

We file annual, quarterly and current reports, proxy statements and other information with the SEC. Our filings with the SEC are available at the SEC's EDGAR website at <http://www.sec.gov>. Our SEC filings are also available at the offices of the NYSE, 20 Broad Street, New York, New York 10005. For further information on obtaining copies of our public filings at the NYSE, you can call (212) 656-5060.

We also make available free of charge on or through our website, <http://www.uhrit.com>, our Annual Report on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K and amendments to those reports filed or furnished pursuant to Section 13(a) or 15(d) of the Exchange Act, as soon as reasonably practicable after we electronically file such material with, or furnish it to, the SEC. The contents of our website are not incorporated by reference into, and are not otherwise a part of, this prospectus or the applicable prospectus supplement or incorporated into any other filing that we submit to the SEC.

This prospectus and any prospectus supplement are part of a registration statement that we filed with the SEC and do not contain all of the information in the registration statement. The full registration statement may be obtained from the SEC or us, as provided below. Forms of the indenture and other documents establishing the terms of the offered securities are or may be filed as exhibits to the registration statement or documents incorporated by reference in the registration statement. Statements in this prospectus or any prospectus supplement about these documents are summaries and each statement is qualified in all respects by reference to the document to which it refers. You should refer to the actual documents for a more complete description of the relevant matters. You may inspect a copy of the registration statement through the SEC's website, as provided above.

INCORPORATION OF DOCUMENTS BY REFERENCE

This prospectus is part of a registration statement that we have filed with the SEC. The SEC allows us to “incorporate by reference” the information contained in documents that we file with the SEC, which means that we can disclose important information to you by referring you to those documents. The information incorporated by reference is considered to be part of this prospectus, and later information that we file with the SEC will automatically update and supersede this information. We incorporate by reference the documents listed below and any future documents filed with the SEC under Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act (excluding any information that is deemed to have been “furnished” and not “filed” with the SEC) on or after the date of this prospectus but prior to the termination of any offering made under this prospectus:

- our Annual Report on [Form 10-K](#) for the fiscal year ended December 31, 2023, filed with the SEC on February 27, 2024; and
- the description of the Trust’s common shares contained in the Trust’s Current Report on [Form 8-K](#), filed with the SEC on August 13, 2009, including any amendments or reports filed for the purpose of updating such description.

Any statement contained in a document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded for purposes of this prospectus to the extent that a statement contained herein or in any other subsequently filed document which also is or is deemed to be incorporated by reference herein modifies or supersedes such statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this prospectus.

You may request a free copy of any documents referred to above, including exhibits specifically incorporated by reference in those documents, by contacting us in writing or by telephone at the following address or telephone number:

Universal Health Realty Income Trust
Universal Corporate Center
367 South Gulph Road
King of Prussia, Pennsylvania 19406
Attention: Chief Financial Officer
(610) 265-0688

STATEMENT CONCERNING LIMITED LIABILITY

The declaration of trust establishing Universal Health Realty Income Trust, dated August 5, 1986, a copy of which, together with all amendments thereto (the “Declaration”), is filed in The Office of The Department of Assessments and Taxation of The State of Maryland, provides that the name “Universal Health Realty Income Trust” refers to the trustees under the Declaration collectively as trustees, but not individually or personally, and that no trustee, officer, shareholder, employee or agent of the Trust shall be held to any personal liability, jointly or severally, for any obligation of, or claim against, the Trust. All persons dealing with the Trust, in any way, shall look only to the assets of the Trust for the payment of any sum or the performance of any obligation.

\$100,000,000

UHT

Universal Health Realty Income Trust

**Common Shares of Beneficial Interest
Preferred Shares of Beneficial Interest
Debt Securities**

PROSPECTUS

, 2024

PART II

INFORMATION NOT REQUIRED IN PROSPECTUS

Item 14. Other Expenses of Issuance and Distribution

The following is a statement of the estimated expenses, other than underwriting discounts and commissions payable by us or any selling security holders, to be incurred by the Trust in connection with the issuance and distribution of securities registered under this registration statement on Form S-3. All amounts shown are estimates except for the Securities and Exchange Commission registration fee.

| | |
|---|-------------|
| Securities and Exchange Commission registration fee | \$ 14,760 * |
| Accounting fees and expenses | ** |
| Legal fees and expenses | ** |
| Trustee, transfer agent and listing fees | ** |
| Miscellaneous | ** |
| Total | ** |

- * The registrant previously registered \$100,000,000 in aggregate offering price of securities pursuant to the Registration Statement on Form S-3 (No. 333-238301), originally filed by the registrant with the Securities and Exchange Commission on May 15, 2020 (the “2020 Registration Statement”). Pursuant to Rule 457(p) under the Securities Act, the registrant is offsetting the registration fee due hereunder by \$12,944.45, which represents the portion of the registration fee previously paid with respect to \$99,726,085 of unsold securities previously registered on the 2020 Registration Statement and remain unsold. In connection with the filing of a Prospectus Supplement under the 2020 Registration Statement pursuant to Rule 424(b)(5) under the Securities Act on June 8, 2020 covering an at-the-market offering of the registrant’s Common Shares, the registrant paid a filing fee of \$5,255.91 associated with the offering of a portion of the unsold securities (based on the filing fee rate in effect at the time of the filing of the 2020 Registration Statement) and offset \$7,724.09 with respect to \$76,703,973 of unsold securities previously registered pursuant to the registrant’s prior registration statement on Form S-3 (File No. 333-208264), originally filed by the registrant on November 30, 2015 and declared effective on December 22, 2015. As a result, \$1,815.55 is being paid herewith.
- ** Estimated expenses are not presently known. The foregoing sets forth the general categories of expenses (other than underwriting discounts and commissions) that we anticipate we will incur in connection with the offering of securities under this registration statement on Form S-3. An estimate of the aggregate expenses in connection with the issuance and distribution of the securities being offered will be included in the applicable prospectus supplement.

Item 15. Indemnification of Directors and Officers

Section 4.5 of the Trust’s Declaration of Trust contains provisions for the indemnification and advancement of expenses of its trustees, officers and employees within the limitations permitted by the Maryland General Corporation Law.

Section 2-418 of the Maryland General Corporation Law generally permits indemnification of any director or officer made a party to any proceedings by reason of service as a director or officer unless it is established that (i) the act or omission of such person was material to the matter giving rise to the proceeding and was committed in bad faith or was the result of active and deliberate dishonesty; or (ii) such person actually received an improper personal benefit in money, property or services; or (iii) in the case of any criminal proceeding, such person had reasonable cause to believe that the act or omission was unlawful. The indemnity may include judgments, penalties, fines, settlements and reasonable expenses actually incurred by the director or officer in connection with the proceeding; provided, however, that if the proceeding is one by, or in the right of the Trust, indemnification is not permitted with respect to any proceeding in which the director or officer has been adjudged to be liable to the Trust. The termination of any proceeding by conviction or upon a plea of nolo contendere or it equivalent or upon an entry of an order of probation prior to judgment creates a rebuttable

Table of Contents

presumption that the director or officer did not meet the requisite standard of conduct required for permitted indemnification. The termination of any proceeding by judgment, order or settlement, however, does not create a presumption that the director or officer failed to meet the requisite standard of conduct for permitted indemnification. The Maryland General Corporation Law permits a corporation to advance reasonable expenses to a director or officer upon receipt of a written affirmation by the director or officer of his or her good faith belief that he or she has met the standard of conduct necessary for indemnification and a written undertaking by him or her or on his or her behalf to repay the amount paid or reimbursed if it is ultimately determined that the standard of conduct was not met.

In addition, the Trust maintains insurance under which coverage is provided to its Trustees and officers against certain losses arising from claims of breach of duty.

Item 16. Exhibits

The following exhibits are filed herewith or incorporated by reference herein:

| Exhibit Number | Exhibit Title |
|-----------------------|--|
| 1.1* | Form of Underwriting Agreement by and among the Trust and the underwriters named therein. |
| 3.1 | Declaration of Trust, dated as of August 5, 1986, previously filed as Exhibit 4.1 to the Trust's Registration Statement on Form S-3 (File No. 333-60638) is incorporated herein by reference.(P) |
| 3.2 | Amendment to Declaration of Trust, dated as of June 15, 1993, previously filed as Exhibit 4.2 to the Trust's Registration Statement on Form S-3 (File No. 333-60638) is incorporated herein by reference.(P) |
| 3.3 | <u>Amended and restated bylaws, previously filed as Exhibit 3.1 to the Trust's Current Report on Form 8-K dated September 28, 2016 is incorporated herein by reference.</u> |
| 3.4 | <u>Amendment to the bylaws, effective as of September 6, 2013, previously filed as Exhibit 3.2 to the Trust's Current Report on Form 8-K dated September 6, 2013, is incorporated herein by reference.</u> |
| 3.5 | Form of Certificate for Common Shares of Beneficial Interest, previously filed as Exhibit 7 to the Trust's Registration Statement on Form 8-A (Registration No. 1-9321) is incorporated by reference.(P) |
| 3.6* | Form of Certificate for Preferred Shares of Beneficial Interest. |
| 3.7* | Form of Articles Supplementary for Preferred Shares of Beneficial Interest. |
| 4.1 | <u>Form of Indenture.</u> |
| 5.1 | <u>Opinion of Norton Rose Fulbright US LLP.</u> |
| 8.1 | <u>Tax Opinion of Norton Rose Fulbright US LLP.</u> |
| 23.1 | <u>Consent of KPMG LLP, Independent Registered Public Accounting Firm.</u> |
| 23.2 | Consent of Norton Rose Fulbright US LLP (included in Exhibits <u>5.1</u> and <u>8.1</u>). |
| 24.1 | <u>Power of Attorney of certain trustees and officers of the Registrant (included on the signature page of this Form S-3 and incorporated herein by reference).</u> |
| 25.1** | Statement of Eligibility on Form T-1 under the Trust Indenture Act of 1939, as amended, with respect to the Debt Securities. |
| 107 | <u>Calculation of Filing Fee Tables</u> |

* To be filed by amendment to the registration statement or as an exhibit to a Current Report on Form 8-K incorporated by reference in connection with the offering of securities.

** Where applicable, to be filed in accordance with Section 305(b)(2) of the Trust Indenture Act of 1939, as amended.

Item 17. Undertakings

(a) The undersigned registrant hereby undertakes:

(1) to file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

(i) to include any prospectus required by section 10(a)(3) of the Securities Act of 1933;

(ii) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than 20% change in the maximum aggregate offering price set forth in the “Calculation of Registration Fee” table in the effective registration statement;

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;

provided, however, that paragraphs (a)(1)(i), (a)(1)(ii) and (a)(i)(iii) do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Commission by the registrant pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the registration statement, or is contained in a form of prospectus filed pursuant to Rule 424(b) that is part of the registration statement.

(2) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(4) That, for the purpose of determining liability under the Securities Act of 1933 to any purchaser:

A. Each prospectus filed by the registrant pursuant to Rule 424(b)(3) shall be deemed to be part of the registration statement as of the date the filed prospectus was deemed part of and included in the registration statement; and

B. Each prospectus required to be filed pursuant to Rule 424(b)(2), (b)(5), or (b)(7) as part of a registration statement in reliance on Rule 430B relating to an offering made pursuant to Rule 415(a)(1)(i), (vii), or (x) for the purpose of providing the information required by section 10(a) of the Securities Act of 1933 shall be deemed to be part of and included in the registration statement as of the earlier of the date such form of prospectus is first used after effectiveness or the date of the first contract of sale of securities in the offering described in the prospectus. As provided in Rule 430B, for liability purposes of the issuer and any person that is at that date an underwriter, such date shall be deemed to be a new effective date of the registration statement relating to the securities in the registration statement to which that prospectus relates, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof. *Provided, however*, that no statement made in a registration statement or prospectus that is part of the registration statement or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such

Table of Contents

effective date, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such effective date;

(5) That, for the purpose of determining liability of the registrant under the Securities Act of 1933 to any purchaser in the initial distribution of the securities: The undersigned registrant undertakes that in a primary offering of securities of the undersigned registrant pursuant to this registration statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, the undersigned registrant will be a seller to the purchaser and will be considered to offer or sell such securities to such purchaser:

(i) Any preliminary prospectus or prospectus of the undersigned registrant relating to the offering required to be filed pursuant to Rule 424;

(ii) Any free writing prospectus relating to the offering prepared by or on behalf of the undersigned registrant or used or referred to by the undersigned registrant;

(iii) The portion of any other free writing prospectus relating to the offering containing material information about the undersigned registrant or its securities provided by or on behalf of the undersigned registrant; and

(iv) Any other communication that is an offer in the offering made by the undersigned registrant to the purchaser.

(b) The undersigned registrant hereby undertakes that, for purposes of determining any liability under the Securities Act of 1933, each filing of the registrant's annual report pursuant to section 13(a) or section 15(d) of the Securities Exchange Act of 1934 that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

(h) Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act and will be governed by the final adjudication of such issue.

(j) The undersigned registrant hereby undertakes to file an application for the purpose of determining the eligibility of the trustee to act under subsection (a) of Section 310 of the Trust Indenture Act in accordance with the rules and regulations prescribed by the Commission under Section 305(b)(2) of the Trust Indenture Act.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-3 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in King of Prussia, Commonwealth of Pennsylvania, on April 16, 2024.

UNIVERSAL HEALTH REALTY INCOME TRUST

By: /s/ Alan B. Miller
Alan B. Miller
Chairman of the Board, Chief Executive Officer and
President

POWER OF ATTORNEY

KNOWN ALL MEN BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Alan B. Miller and Charles F. Boyle, and each of them, as his or her true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to this Registration Statement and any related registration statement filed pursuant to Rule 462(b) of the Securities Act of 1933, as amended, and to file the same, with all exhibits thereto, and any other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do so and perform each and every act and thing requisite and necessary to be done in connection therewith, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that each of said attorneys-in-fact and agents, or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, as amended, this registration statement has been signed below by the following persons in the capacities and on the dates indicated.

| Signature | Title | Date |
|---|---|----------------|
| <u>/s/ Alan B. Miller</u> Alan B. Miller | Chairman of the Board, Chief Executive Officer and President (Principal Executive Officer) | April 16, 2024 |
| <u>/s/ Charles F Boyle</u> Charles F. Boyle | Senior Vice President and Chief Financial Officer (Principal Financial and Accounting Officer) | April 16, 2024 |
| <u>/s/ Gayle L. Capozzalo</u> Gayle L. Capozzalo | Trustee | April 16, 2024 |
| <u>/s/ Michael Allan Domb</u> Michael Allan Domb | Trustee | April 16, 2024 |
| <u>/s/ Robert F McCadden</u> Robert F. McCadden | Trustee | April 16, 2024 |
| <u>/s/ Marc D. Miller</u> Marc D. Miller | Trustee | April 16, 2024 |

[Table of Contents](#)

| Signature | Title | Date |
|---|---------|----------------|
| <div>/s/ James P Morey</div> <div>James P. Morey</div> | Trustee | April 16, 2024 |
| <div>/s/ Rebecca A. Guzman</div> <div>Rebecca A. Guzman</div> | Trustee | April 16, 2024 |

UNIVERSAL HEALTH REALTY INCOME TRUST

and

[],

as Trustee

INDENTURE

Dated as of , 20__

Debt Securities

CROSS-REFERENCE TABLE*

| <u>Trust Indenture Act Section</u> | <u>Indenture Section</u> |
|------------------------------------|--------------------------|
| 310(a)(1) | 6.9 |
| (a)(2) | 6.9 |
| (a)(3) | Not applicable |
| (a)(4) | Not applicable |
| (b) | 6.8 |
| (c) | Not applicable |
| 311(a) | 6.13 |
| (b) | 6.13 |
| (c) | Not applicable |
| 312(a) | 4.1 |
| (b) | 4.2 |
| (c) | 4.2 |
| 313(a) | 4.4 |
| (b)(1) | 4.4 |
| (b)(2) | 4.4 |
| (c) | 4.4 |
| (d) | 4.4 |
| 314(a) | 4.3 |
| (b) | Not applicable |
| (c)(1) | 13.5 |
| (c)(2) | 13.5 |
| (c)(3) | Not applicable |
| (d) | Not applicable |
| (e) | 13.5 |
| 315(a) | 6.1, 6.7 |
| (b) | 5.11 |
| (c) | 6.1 |
| (d) | 6.1 |
| (e) | 5.12 |
| 316(a)(1)(A) | 5.9 |
| (a)(1)(B) | 5.10 |
| (a)(2) | Not applicable |
| (b) | 5.7 |
| 317(a)(1) | 5.2 |
| (a)(2) | 5.4 |
| (b) | 3.5 |
| 318(a) | 13.7 |

* Note: This Cross Reference Table shall not, for any purpose, be deemed to be part of the Indenture.

TABLE OF CONTENTS

| | Page |
|---|------|
| ARTICLE ONE DEFINITIONS | 1 |
| SECTION 1.1 Certain Terms Defined | 1 |
| ARTICLE TWO SECURITIES | 4 |
| SECTION 2.1 Forms Generally | 4 |
| SECTION 2.2 Form of Trustee's Certificate of Authentication | 5 |
| SECTION 2.3 Amount Unlimited; Issuable in Series | 5 |
| SECTION 2.4 Authentication and Delivery of Securities | 7 |
| SECTION 2.5 Execution of Securities | 9 |
| SECTION 2.6 Certificate of Authentication | 9 |
| SECTION 2.7 Denomination and Date of Securities; Payments of Interest | 9 |
| SECTION 2.8 Registration, Transfer and Exchange | 10 |
| SECTION 2.9 Mutilated, Defaced, Destroyed, Lost and Stolen Securities | 12 |
| SECTION 2.10 Cancellation of Securities; Destruction Thereof | 12 |
| SECTION 2.11 Temporary Securities | 13 |
| SECTION 2.12 CUSIP Numbers | 13 |
| ARTICLE THREE COVENANTS OF THE ISSUER | 13 |
| SECTION 3.1 Payment of Principal and Interest | 13 |
| SECTION 3.2 Offices for Payments, etc. | 14 |
| SECTION 3.3 Existence | 14 |
| SECTION 3.4 Appointment to Fill a Vacancy in Office of Trustee | 14 |
| SECTION 3.5 Paying Agents | 14 |
| SECTION 3.6 Written Statement to Trustee | 15 |
| ARTICLE FOUR SECURITYHOLDERS' LISTS AND REPORTS BY THE ISSUER AND THE TRUSTEE | 15 |
| SECTION 4.1 Issuer to Furnish Trustee Information as to Names and Addresses of Securityholders | 15 |
| SECTION 4.2 Preservation and Disclosure of Securityholders' Lists | 16 |
| SECTION 4.3 Reports by the Issuer | 16 |
| SECTION 4.4 Reports by the Trustee | 16 |

TABLE OF CONTENTS

(continued)

| | Page |
|--|-------------|
| ARTICLE FIVE REMEDIES OF THE TRUSTEE AND SECURITYHOLDERS ON EVENT OF DEFAULT | 17 |
| SECTION 5.1 Event of Default Defined; Acceleration of Maturity; Waiver of Default | 17 |
| SECTION 5.2 Collection of Indebtedness by Trustee; Trustee May Prove Debt | 19 |
| SECTION 5.3 Application of Proceeds | 20 |
| SECTION 5.4 Suits for Enforcement | 21 |
| SECTION 5.5 Restoration of Rights on Abandonment of Proceedings | 21 |
| SECTION 5.6 Limitations on Suits by Securityholders | 22 |
| SECTION 5.7 Unconditional Right of Securityholders to Institute Certain Suits | 22 |
| SECTION 5.8 Powers and Remedies Cumulative; Delay or Omission Not Waiver of Default | 22 |
| SECTION 5.9 Control by Securityholders | 23 |
| SECTION 5.10 Waiver of Past Defaults | 23 |
| SECTION 5.11 Trustee to Give Notice of Default, But May Withhold in Certain Circumstances | 23 |
| SECTION 5.12 Right of Court to Require Filing of Undertaking to Pay Costs | 24 |
| ARTICLE SIX CONCERNING THE TRUSTEE | 24 |
| SECTION 6.1 Duties and Responsibilities of the Trustee; During Default; Prior to Default | 24 |
| SECTION 6.2 Certain Rights of the Trustee | 25 |
| SECTION 6.3 Trustee Not Responsible for Recitals, Disposition of Securities or Application of Proceeds Thereof | 27 |
| SECTION 6.4 Trustee and Agents May Hold Securities; Collections, etc. | 27 |
| SECTION 6.5 Moneys Held by Trustee | 27 |
| SECTION 6.6 Compensation and Indemnification of Trustee and Its Prior Claim | 27 |
| SECTION 6.7 Right of Trustee to Rely on Officers' Certificate, etc. | 28 |
| SECTION 6.8 Conflicting Interests | 28 |
| SECTION 6.9 Persons Eligible for Appointment as Trustee | 28 |
| SECTION 6.10 Resignation and Removal; Appointment of Successor Trustee | 28 |
| SECTION 6.11 Acceptance of Appointment by Successor Trustee | 29 |
| SECTION 6.12 Merger, Conversion, Consolidation or Succession to Business of Trustee | 30 |
| SECTION 6.13 Preferential Collection of Claims Against the Issuer | 31 |

TABLE OF CONTENTS

(continued)

| | Page |
|--|-------------|
| ARTICLE SEVEN CONCERNING THE SECURITYHOLDERS | 31 |
| SECTION 7.1 Evidence of Action Taken by Securityholders | 31 |
| SECTION 7.2 Proof of Execution of Instruments and of Holding of Securities | 32 |
| SECTION 7.3 Holders to be Treated as Owners | 32 |
| SECTION 7.4 Securities Owned by Issuer Deemed Not Outstanding | 32 |
| SECTION 7.5 Right of Revocation of Action Taken | 33 |
| ARTICLE EIGHT SUPPLEMENTAL INDENTURES | 33 |
| SECTION 8.1 Supplemental Indentures Without Consent of Securityholders | 33 |
| SECTION 8.2 Supplemental Indentures With Consent of Securityholders | 34 |
| SECTION 8.3 Effect of Supplemental Indenture | 35 |
| SECTION 8.4 Documents to Be Given to Trustee | 35 |
| SECTION 8.5 Notation on Securities in Respect of Supplemental Indentures | 35 |
| ARTICLE NINE CONSOLIDATION, MERGER, SALE OR CONVEYANCE | 36 |
| SECTION 9.1 Issuer May Consolidate, etc., on Certain Terms | 36 |
| SECTION 9.2 Successor Person Substituted | 36 |
| SECTION 9.3 Opinion of Counsel to Trustee | 36 |
| ARTICLE TEN SATISFACTION AND DISCHARGE OF INDENTURE; UNCLAIMED MONEYS | 37 |
| SECTION 10.1 Satisfaction and Discharge of Indenture | 37 |
| SECTION 10.2 Application by Trustee of Funds Deposited for Payment of Securities | 38 |
| SECTION 10.3 Repayment of Moneys Held by Paying Agent | 38 |
| SECTION 10.4 Return of Moneys Held by Trustee and Paying Agent Unclaimed for Three Years | 38 |
| ARTICLE ELEVEN REDEMPTION OF SECURITIES AND SINKING FUNDS | 38 |
| SECTION 11.1 Applicability of Article | 38 |
| SECTION 11.2 Notice of Redemption; Partial Redemptions | 38 |
| SECTION 11.3 Payment of Securities Called for Redemption | 39 |
| SECTION 11.4 Exclusion of Certain Securities from Eligibility for Selection for Redemption | 40 |
| SECTION 11.5 Mandatory and Optional Sinking Funds | 40 |

TABLE OF CONTENTS

(continued)

| | Page |
|--|-------------|
| ARTICLE TWELVE DEFEASANCE | 42 |
| SECTION 12.1 Applicability of Article: Issuer's Option to Effect Defeasance | 42 |
| SECTION 12.2 Defeasance and Discharge | 42 |
| SECTION 12.3 Covenant Defeasance | 43 |
| SECTION 12.4 Conditions to Defeasance | 43 |
| ARTICLE THIRTEEN MISCELLANEOUS PROVISIONS | 45 |
| SECTION 13.1 Incorporators, Stockholders, Officers and Directors of Issuer Exempt from Individual Liability | 45 |
| SECTION 13.2 Provisions of Indenture for the Sole Benefit of Parties and Securityholders | 45 |
| SECTION 13.3 Successors and Assigns of Issuer Bound by Indenture | 45 |
| SECTION 13.4 Notices and Demands on Issuer, Trustee and Securityholders | 45 |
| SECTION 13.5 Officers' Certificates and Opinions of Counsel; Statements to Be Contained Therein | 46 |
| SECTION 13.6 Payments Due on Saturdays, Sundays and Holidays | 47 |
| SECTION 13.7 Conflict of Any Provision of Indenture with Trust Indenture Act | 47 |
| SECTION 13.8 New York Law to Govern | 47 |
| SECTION 13.9 Counterparts | 47 |
| SECTION 13.10 Effect of Headings | 47 |

EXHIBITS

| | |
|-------------------------------|-----|
| Exhibit A Form of Security | A-1 |
|-------------------------------|-----|

INDENTURE, dated as of _____, 20____, between UNIVERSAL HEALTH REALTY INCOME TRUST, a Maryland real estate investment trust (the “Issuer”), and _____, a national banking association duly organized and existing under the laws of the United States of America, as trustee (the “Trustee”).

W I T N E S S E T H :

WHEREAS, the Issuer has duly authorized the issue from time to time of its unsecured debentures, notes and other evidences of indebtedness to be issued in one or more series (the “Securities”), up to such principal amount or amounts as may from time to time be authorized in accordance with the terms of this Indenture and to provide, among other things, for the authentication, delivery and administration thereof, the Issuer has duly authorized the execution and delivery of this Indenture; and

WHEREAS, all things necessary to make this Indenture a valid indenture and agreement according to its terms have been done.

NOW, THEREFORE, in consideration of the premises and the purchases of the Securities by the holders thereof, the receipt and sufficiency of which is hereby acknowledged, the Issuer and the Trustee mutually covenant and agree, for the equal and proportionate benefit of the respective holders from time to time of the Securities, as follows:

ARTICLE ONE

DEFINITIONS

SECTION 1.1 Certain Terms Defined. The following terms (except as otherwise expressly provided or unless the context otherwise clearly requires) for all purposes of this Indenture and of any indenture supplemental hereto shall have the respective meanings specified in this Section. All other terms used in this Indenture that are defined in the Trust Indenture Act or the definitions of which in the Securities Act of 1933 are referred to in the Trust Indenture Act, including terms defined therein by reference to the Securities Act of 1933 (except as herein otherwise expressly provided or unless the context otherwise clearly requires), shall have the meanings assigned to such terms in said Trust Indenture Act and in said Securities Act as in force at the date of this Indenture. All accounting terms used herein and not expressly defined shall have the meanings assigned to such terms in accordance with generally accepted accounting principles, and the term “generally accepted accounting principles” means such accounting principles as are generally accepted at the time of any computation. The words “herein”, “hereof” and “hereunder” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision. The terms defined in this Article have the meanings assigned to them in this Article and include the plural as well as the singular.

“Board of Trustees” means either the Board of Trustees of the Issuer or any committee of such Board duly authorized to act hereunder.

“Business Day” means, with respect to any Security, a day that in the city (or in any of the cities, if more than one) in which amounts are payable, as specified in the form of such Security, is not a day on which banking institutions are authorized by law or regulation to close.

“Commission” means the Securities and Exchange Commission, as from time to time constituted, created under the Securities Exchange Act of 1934, as amended, or if at any time after the execution and delivery of this Indenture such Commission is not existing and performing the duties now assigned to it under the Trust Indenture Act, then the body performing such duties on such date.

“Corporate Trust Office” means the office of the Trustee at which the corporate trust business of the Trustee shall, at any particular time, be administered, which office is, at the date as of which this Indenture is dated, located at _____, provided that for purposes of Section 3.2 of the Indenture such term shall mean the office or agency of the Trustee located in the Borough of Manhattan, the City of New York, which office is located at _____.

“Depository” means, with respect to the Securities of any series issuable or issued in whole or in part in the form of one or more Global Securities, the Person designated as Depository by the Issuer pursuant to Section 2.3 until a successor Depository shall have become such pursuant to the applicable provisions hereof, and thereafter “Depository” shall mean or include each Person who is then a Depository hereunder, and if at any time there is more than one such Person, “Depository” as used with respect to the Securities of any such series shall mean the Depository with respect to the Securities of that series.

“Event of Default” means any event or condition specified as such in Section 5.1.

“Exchange Act” means the Securities Exchange Act of 1934, as amended.

“Global Security” means a Security evidencing all or a part of a series of Securities, issued to the Depository for such series in accordance with Section 2.4, and bearing the legend prescribed in Section 2.4.

“Holder,” “holder of securities,” “Securityholder” or other similar terms mean the registered holder of any Security.

“Indenture” means this instrument as originally executed and delivered or, if amended or supplemented as herein provided, as so amended or supplemented or both, and shall include the forms and terms of particular series of Securities established as contemplated hereunder.

“Interest” means, when used with respect to non-interest bearing Securities, interest payable after maturity.

“Issuer” means (except as otherwise provided in Article Six) Universal Health Realty Income Trust, a Maryland real estate investment trust, and, subject to the provisions of Article Nine, its successors and assigns.

“Officers’ Certificate” means a certificate signed by the chairman of the Board of Trustees or any vice chairman of the Board of Trustees or the president or any vice president and by the treasurer or the secretary or any assistant secretary of the Issuer and delivered to the Trustee. Each such certificate shall include the statements provided for in Section 13.5.

“Opinion of Counsel” means an opinion in writing signed by legal counsel, who may be an employee of or counsel to the Issuer, and who shall be satisfactory to the Trustee. Each such opinion shall include the statements provided for in Section 13.5, if and to the extent required hereby.

“Original issue date” of any Security (or portion thereof) means the earlier of (a) the date of such Security or (b) the date of any Security (or portion thereof) for which such Security was issued (directly or indirectly) on registration of transfer, exchange or substitution.

“Outstanding”, when used with reference to Securities, shall, subject to the provisions of Section 7.4, mean, as of any particular time, all Securities authenticated and delivered by the Trustee under this Indenture, except (a) Securities theretofore cancelled by the Trustee or delivered to the Trustee for cancellation; (b) Securities, or portions thereof, for the payment or redemption of which moneys in the necessary amount shall have been deposited in trust with the Trustee or with any paying agent (other than the Issuer) or shall have been set aside, segregated and held in trust by the Issuer for the holders of such Securities (if the Issuer shall act as its own paying agent); provided that if such Securities, or portions thereof, are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given as herein provided, or provision satisfactory to the Trustee shall have been made for giving such notice; (c) Securities in substitution for which other Securities shall have been authenticated and delivered, or which shall have been paid, pursuant to the terms of Section 2.9 (except with respect to any such Security as to which proof satisfactory to the Trustee is presented that such Security is held by a Person in whose hands such Security is a legal, valid and binding obligation of the Issuer); and (d) except to the extent provided in Sections 12.2 and 12.3, Securities with respect to which the Issuer has effected defeasance and/or covenant defeasance as provided in Article Twelve.

“Person” means any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization or government or any agency or political subdivision thereof.

“principal”, whenever used with reference to the Securities or any Security or any portion thereof, shall be deemed to include “and premium, if any.”

“Record date” has the meaning given in Section 2.7.

“Responsible Officer” shall mean, when used with respect to the Trustee, any officer within the corporate trust department of the Trustee, including any vice president, assistant vice president, assistant secretary, assistant treasurer, trust officer or any other officer of the Trustee who customarily performs functions similar to those performed by the Persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred because of such person’s knowledge of and familiarity with the particular subject and who shall have direct responsibility for the administration of this Indenture.

“Security” or “Securities” has the meaning stated in the first recital of this Indenture, or, as the case may be, Securities that have been authenticated and delivered under this Indenture.

“Subsidiary” means (a) any corporation, association or other business entity of which more than 50% of the total voting power of shares of capital stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time owned or controlled, directly or indirectly, by the Issuer or one or more of the other Subsidiaries of the Issuer (or a combination thereof) and (b) any partnership (i) the sole general partner or the managing general partner of which is the Issuer or a Subsidiary of the Issuer or (ii) the only general partners of which are the Issuer or of one or more Subsidiaries of the Issuer (or any combination thereof).

“Trustee” means the Person identified as “Trustee” in the first paragraph hereof and, subject to the provisions of Article Six, shall also include any successor trustee.

“Trust Indenture Act” means the Trust Indenture Act of 1939 as amended by the Trust Indenture Reform Act of 1990 and in force at the date as of which this Indenture was originally executed (except as otherwise provided in Sections 8.1 and 8.2 in reference to the Trust Indenture Act as in force on the date of execution of a supplemental indenture).

“U.S. Government Obligations” means securities that are (x) direct obligations of the United States of America for the payment of which its full faith and credit is pledged or (y) obligations of a Person controlled or supervised by and acting as an agency or instrumentality of the United States of America the payment of which is unconditionally guaranteed as a full faith and credit obligation by the United States of America, which, in either case, are not callable or redeemable at the option of the issuer thereof, and shall also include a depository receipt issued by a bank (as defined in Section 3(a)(2) of the Securities Act of 1933, as amended) as custodian with respect to any such U.S. Government Obligation or a specific payment of principal of or interest on any such U.S. Government Obligation held by such custodian for the account of the holder of such depository receipt, provided that (except as required by law) such custodian is not authorized to make any deduction from the amount payable to the holder of such depository receipt from any amount received by the custodian in respect of the U.S. Government Obligation or the specific payment of principal of or interest on the U.S. Government Obligation evidenced by such depository receipt.

“Vice president” when used with respect to the Issuer or the Trustee, means any vice president, whether or not designated by a number or a word or words added before or after the title of “vice president.”

ARTICLE TWO

SECURITIES

SECTION 2.1 Forms Generally. The Securities of each series shall be substantially in such form (including global form) (not inconsistent with this Indenture) as shall be established by or pursuant to a resolution of the Board of Trustees or in one or more indentures supplemental hereto, in each case with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Indenture and may have imprinted or otherwise reproduced thereon such legend or legends, not inconsistent with the provisions of this Indenture, as may be required to comply with any law or with any rules or regulations pursuant thereto, or with any rules of any securities exchange or to conform to general usage, all as may be determined by the officers executing such Securities, as evidenced by their execution of the Securities.

If any Security of a series is issuable in the form of a Global Security or Securities, each such Global Security may provide that it shall represent the aggregate amount of Outstanding Securities from time to time endorsed thereon and may also provide that the aggregate amount of Outstanding Securities represented thereby may from time to time be reduced to reflect exchanges. Any endorsement of a Global Security to reflect the amount of Outstanding Securities represented thereby shall be made by the Trustee and in such manner as shall be specified on such Global Security. Any instructions by the Issuer with respect to a Global Security, after its initial issuance, shall be in writing but need not comply with Section 13.5.

The definitive Securities shall be printed, lithographed or produced in any other manner, all as determined by the officers executing such Securities, as evidenced by their execution of such Securities.

SECTION 2.2 Form of Trustee's Certificate of Authentication. The Trustee's certificate of authentication on all Securities shall be in substantially the following form:

This is one of the Securities described in the within-mentioned Indenture.

Dated: _____, as Trustee

By: _____
Authorized Signatory

SECTION 2.3 Amount Unlimited; Issuable in Series. The aggregate principal amount of securities which may be authenticated and delivered under this Indenture is unlimited.

The Securities may be issued in one or more series. There shall be established in or pursuant to a resolution of the Board of Trustees and set forth in an Officers' Certificate, or established in one or more indentures supplemental hereto, prior to the issuance of Securities of any series:

(1) the title of the Securities of the series (which shall distinguish the Securities of the series from all other Securities);

(2) any limit upon the aggregate principal amount of the Securities of the series that may be authenticated and delivered under this Indenture (except for Securities authenticated and delivered upon registration of transfer of, or in exchange for, or in lieu of, other Securities of the series pursuant to Section 2.8, 2.9, 2.11, 5.3, 8.5 or 12.3);

(3) if other than U.S. dollars, the currency, currencies or currency units in which the principal of, premium, if any, and interest on the Securities of the series is payable, and the Person who shall serve as Exchange Rate Agent for purposes of making any related calculations of the Market Exchange Rate;

(4) the date or dates on which the principal of the Securities of the series is payable, or the method by which such date or dates will be determined or extended;

(5) the rate or rates at which the Securities of the series shall bear interest, if any, or the method by which such rate or rates shall be determined, the date or dates from which such interest shall accrue, or the method by which such date or dates shall be determined, the interest payment dates on which such interest shall be payable and the record dates for the determination of Holders to whom interest is payable;

(6) the place or places where the principal and any interest on Securities of the series shall be payable (if other than as provided in Section 3.2);

(7) the price or prices at which, the period or periods within which and the terms and conditions upon which Securities of the series may be redeemed, in whole or in part, at the option of the Issuer, pursuant to any sinking fund or otherwise;

(8) the obligation, if any, of the Issuer to redeem, purchase or repay Securities of the series pursuant to any sinking fund or analogous provisions or at the option of a Holder thereof and the price or prices at which and the period or periods within which and the terms and conditions upon which Securities of the series shall be redeemed, purchased or repaid, in whole or in part, pursuant to such obligation;

(9) if other than denominations of \$1,000 and any multiple thereof, the denominations in which Securities of the series shall be issuable;

(10) if other than the principal amount thereof, the portion of the principal amount of Securities of the series which shall be payable upon declaration of acceleration of the maturity thereof pursuant to Section 5.1 or provable in bankruptcy pursuant to Section 5.2;

(11) any limitations on the applicability of Section 12.2 or 12.3 to the Securities of the series;

(12) any authenticating or paying agents, transfer agents or registrars, if other than the Trustee, or any other agents with respect to the Securities of such series;

(13) the coin or currency in which the Securities of that series are denominated and, if other than the coin or currency in which the Securities of that series are denominated, the coin or currency in which payment of the principal of and/or interest, if any, on the Securities of such series shall be payable;

(14) if the amount of payments of principal of and interest, if any, on the Securities of the series may be determined with reference to an index based on a coin or currency other than that in which the Securities of the series are denominated, the manner in which such amounts shall be determined;

(15) whether the Securities of such series shall be issued in whole or in part in the form of one or more Global Securities and, in such case, the Depositary for such Global Security or Securities and whether beneficial owners of interests in any such Global Securities may exchange such interests for other Securities of such series in the manner provided in Section 2.8, and the manner and the circumstances under which and the place or places where any such exchanges may occur if other than in the manner provided in Section 2.8, and any other terms of the series relating to the global nature of the Securities of such series and the exchange, registration or transfer thereof and the payment of any principal thereof, or interest thereon;

(16) any Events of Default with respect to the Securities of such series which may be in addition to, or modification or deletion of, those provided herein, and any covenants or obligations of the Issuer to the Holders of such Securities in addition to, or modification or deletion of, those set forth herein; and

(17) any other terms of the series (which terms shall not be inconsistent with the provisions of this Indenture).

All Securities of any one series shall be substantially identical except as to denomination and except as may otherwise be provided in or pursuant to such resolution of the Board of Trustees or in any such indenture supplemental hereto. Except as provided in such resolution, the Securities of any one series need not be issued at the same time and a series may be reopened without the consent of the Holders, for issuances of additional Securities of such series.

SECTION 2.4 Authentication and Delivery of Securities. At any time and from time to time after the execution and delivery of this Indenture, the Issuer may deliver Securities of any series executed by the Issuer to the Trustee for authentication, and the Trustee shall thereupon authenticate and deliver such Securities to or upon the written order of the Issuer, signed by both (a) the chairman of its Board of Trustees, or any vice chairman of its Board of Trustees, or its president or any vice president and (b) by its treasurer or any assistant treasurer, without any further action by the Issuer. If any Security of a series shall be represented by a Global Security, then, for purposes of this Section and Section 2.11, the notation of the record owner's interest therein upon original issuance of such Security shall be deemed to be delivery in connection with the original issuance of each beneficial owner's interest in such Global Security. In authenticating such Securities and accepting the additional responsibilities under this Indenture in relation to such Securities, the Trustee shall be entitled to receive, and (subject to Section 6.1) shall be fully protected in relying upon:

(a) a certified copy of any resolution or resolutions of the Board of Trustees authorizing the action taken pursuant to the resolution or resolutions delivered under clause (b) below;

(b) a copy of any resolution or resolutions of the Board of Trustees relating to such series, in each case certified by the secretary or an assistant secretary of the Issuer;

(c) an executed supplemental indenture, if any;

(d) an Officers' Certificate setting forth the form and terms of the Securities as required pursuant to Section 2.1 and 2.3, respectively, and prepared in accordance with Section 13.5; and

(e) an Opinion of Counsel, prepared in accordance with Section 13.5, which shall state:

(i) if the form or forms of such Securities have been established by or pursuant to a resolution or resolutions of the Board of Trustees or by a supplemental indenture as permitted by Section 2.1, that such form or forms have been established in conformity with the provisions of this Indenture;

(ii) if the terms of such Securities have been established by or pursuant to a resolution or resolutions of the Board of Trustees or by a supplemental indenture as permitted by Section 2.3, that such terms have been established in conformity with the provisions of this Indenture;

(iii) that such Securities, when authenticated and delivered by the Trustee and issued by the Issuer in the manner and subject to any conditions specified in such Opinion of Counsel, will constitute valid and legally binding obligations of the Issuer enforceable in accordance with their terms, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar laws of general applicability relating to or affecting creditors' rights and to general equity principles; and

(iv) such other matters as the Trustee may reasonably request.

If the Issuer shall establish pursuant to Section 2.3 that the Securities of a series are to be issued in whole or in part in the form of one or more Global Securities, then the Issuer shall execute and the Trustee shall, in accordance with this Section and the authentication order of the Issuer with respect to such series, authenticate and deliver one or more Global Securities in temporary or permanent form that shall: (i) represent and be denominated in an aggregate amount equal to the aggregate principal amount of the Outstanding Securities of such series to be represented by one or more Global Securities; (ii) be registered in the name of the Depositary for such Global Security or Securities or the nominee of such Depositary; (iii) be delivered by the Trustee to such Depositary or pursuant to such Depositary's instruction; and (iv) bear a legend substantially to the following effect or in other form satisfactory to the Depositary:

Unless and until it is exchanged in whole or in part for Securities in definitive form, this Security may not be transferred except as a whole by the Depositary to a nominee of the Depositary or by a nominee of the Depositary to the Depositary or another nominee of the Depositary or by the Depositary or any nominee to a successor Depositary or a nominee of any successor Depositary.

Each Depositary designated pursuant to Section 2.3 for a Global Security in registered form must, at the time of its designation and at all times while it serves as a Depositary, be a clearing agency registered under the Exchange Act and shall be eligible to serve as such under any other applicable statute or regulation.

The Trustee shall have the right to decline to authenticate and deliver any Securities under this Section if the Trustee, being advised by counsel, determines that such action may not lawfully be taken by the Issuer or if the Trustee in good faith by its board of directors or board of trustees, executive committee, or a trust committee of directors or trustees or Responsible Officers shall determine that such action would expose the Trustee to personal liability to existing Holders or would affect the Trustee's rights, duties or immunities under the Securities or this Indenture.

SECTION 2.5 Execution of Securities. The Securities shall be signed on behalf of the Issuer by both (a) the chairman of its Board of Trustees or any vice chairman of its Board of Trustees or its president or any vice president and (b) by its treasurer or any assistant treasurer or its secretary or any assistant secretary, under its corporate seal, which may, but need not, be attested. Such signatures may be manual or facsimile. The seal of the Issuer may be in the form of a facsimile thereof and may be impressed, affixed, imprinted or otherwise reproduced on the Securities. Typographical and other minor errors or defects in any such reproduction of the seal or any such signature shall not affect the validity or enforceability of any Security that has been duly authenticated and delivered by the Trustee.

In case any officer of the Issuer who shall have signed any of the Securities shall cease to be such officer before the Security so signed shall be authenticated and delivered by the Trustee or disposed of by the Issuer, such Security nevertheless may be authenticated and delivered or disposed of as though the person who signed such Security had not ceased to be such officer of the Issuer; and any Security may be signed on behalf of the Issuer by such persons as, at the actual date of the execution of such Security, shall be the proper officers of the Issuer, although at the date of the execution and delivery of this Indenture any such person was not such an officer.

SECTION 2.6 Certificate of Authentication. Only such Securities as shall bear thereon a certificate of authentication substantially in the form hereinbefore recited, executed by the Trustee by the manual signature of one of its authorized signatories, shall be entitled to the benefits of this Indenture or be valid or obligatory for any purpose. Such certificate by the Trustee upon any Security executed by the Issuer shall be conclusive evidence that the Security so authenticated has been duly authenticated and delivered hereunder and that the holder is entitled to the benefits of this Indenture.

SECTION 2.7 Denomination and Date of Securities; Payments of Interest. The Securities shall be issuable as registered securities without coupons and in denominations as shall be specified as contemplated by Section 2.3. In the absence of any such specification with respect to the Securities of any series, the Securities of such series shall be issuable in denominations of \$1,000 and any multiple thereof. The Securities shall be numbered, lettered, or otherwise distinguished in such manner or in accordance with such plan as the officers of the Issuer executing the same may determine with the approval of the Trustee as evidenced by the execution and authentication thereof. Each Security shall be dated the date of its authentication, shall bear interest, if any, from the date and shall be payable on the dates, in each case, which shall be specified as contemplated by Section 2.3.

The Person in whose name any Security of any series is registered at the close of business on any record date applicable to a particular series with respect to any interest payment date for such series shall be entitled to receive the interest, if any, payable on such interest payment date notwithstanding any transfer or exchange of such Security subsequent to the record date and prior to such interest payment date, except if and to the extent the Issuer shall default in the payment of the interest due on such interest payment date for such series, in which case such defaulted interest shall be paid to the Persons in whose names Outstanding Securities for such series are registered at the close of business on a subsequent record date (which shall be not less than five Business Days prior to the date of payment of such defaulted interest) established by notice given by mail by or on behalf of the Issuer to the holders of Securities not less than 15 days preceding such subsequent record date. The term "record date" as used with respect to any interest payment date (except a date for payment of defaulted interest) shall mean the date specified as such in the terms of the Securities of any particular series, or, if no such date is so specified, if such interest payment date is the first day of a calendar month, the fifteenth day of the next preceding calendar month or, if such interest payment date is the fifteenth day of a calendar month, the first day of such calendar month, whether or not such record date is a Business Day.

SECTION 2.8 Registration, Transfer and Exchange. With respect to each series of Securities, the Issuer will cause to be kept at each office or agency to be maintained for that purpose, as provided in Section 3.2, a register or registers in which, subject to such reasonable regulations as it may prescribe, it will provide for the registration and transfer thereof as in this Article provided.

Such register shall be in written form in the English language or in any other form capable of being converted into such form within a reasonable time. In the event that such registers are not maintained by the Trustee, at all reasonable times such register or registers shall be open for inspection by the Trustee.

Upon due presentation for registration of transfer of any Security of any series at any such office or agency to be maintained for that purpose as provided in Section 3.2, the Issuer shall execute and the Trustee shall authenticate and deliver in the name of the transferee or transferees a new Security or Securities of the same series, in authorized denominations, for a like aggregate principal amount.

Notwithstanding any other provision of this Section, unless and until it is exchanged in whole or in part for Securities in definitive form, a Global Security representing all or a portion of the Securities of a series may not be transferred except as a whole by the Depositary for such series to a nominee of such Depositary or by a nominee of such Depositary to such Depositary or another nominee of such Depositary or by such Depositary or any such nominee to a successor Depositary for such series or a nominee of such successor Depositary.

Any Security or Securities of any series (other than a Global Security, except as set forth herein) may be exchanged for a Security or Securities of the same series in other authorized denominations, in an equal aggregate principal amount. Securities of any series to be exchanged shall be surrendered at any office or agency to be maintained by the Issuer for the purpose as provided in Section 3.2, and the Issuer shall execute and the Trustee shall authenticate and deliver in exchange therefor the Security or Securities of the same series which the Securityholder making the exchange shall be entitled to receive, bearing numbers not contemporaneously outstanding.

If at any time the Depositary for the Securities of a series notifies the Issuer that it is unwilling or unable to continue as Depositary for the Securities of such series or if at any time the Depositary for the Securities of such series shall no longer be eligible under Section 2.4, the Issuer shall appoint a successor Depositary with respect to the Securities of such series. If a successor Depositary for the Securities of such series is not appointed by the Issuer within 90 days after the Issuer receives such notice or becomes aware of such ineligibility, the Issuer's election pursuant to Section 2.3(15) shall no longer be effective with respect to the Securities of such series and the Issuer will execute, and the Trustee, upon receipt of an order of the Issuer for the authentication and delivery of definitive Securities of such series, will authenticate and deliver Securities of such series in definitive form in the aggregate principal amount equal to the principal amount of the Global Security or Securities representing such series in exchange for such Global Security or Securities.

The Issuer may at any time and in its sole discretion determine that the Securities of any series issued in the form of one or more Global Securities shall no longer be represented by such Global Security or Securities. In the event of such a determination by the Issuer or if an Event of Default has occurred and is continuing and the beneficial owners representing a majority in principal amount of the applicable series of Securities represented by one or more Global Securities advise the Depositary to cease acting as depositary for such Global Security or Securities, the Issuer will execute, and the Trustee, upon receipt of an order of the Issuer for the authentication and delivery of definitive Securities of such series, will authenticate and deliver Securities of such series in definitive form in an aggregate principal amount equal to the principal amount of the Global Security or Securities representing such series in exchange for such Global Security or Securities.

If specified by the Issuer pursuant to Section 2.3 with respect to a series of Securities, the Depositary for such series of Securities may surrender a Global Security for such series of Securities in exchange in whole or in part for the Securities of such series in definitive form on such terms as are acceptable to Issuer and such Depositary. Thereupon, the Issuer shall execute, and the Trustee shall authenticate and deliver, without service charge:

(1) to each Person specified by such Depositary, a new Security or Securities of the same series, of any authorized denomination as requested by such Person in aggregate principal amount equal to and in exchange for such Person's beneficial interest in the Global Security; and

(2) to such Depositary, a new Global Security in a denomination equal to the difference, if any, between the principal amount of the surrendered Global Security and the aggregate principal amount of Securities delivered to Holders thereof.

Upon the exchange of the Global Security for Securities in definitive form, such Global Security shall be cancelled by the Trustee. Securities issued in exchange for a Global Security pursuant to this Section shall be registered in such names and in such authorized denominations as the Depositary for such Global Security, pursuant to instructions from its direct or indirect participants or otherwise, shall instruct the Trustee. The Trustee shall deliver such Securities to the Persons in whose names such Securities are so registered.

All Securities presented for registration of transfer, exchange, redemption or payment shall (if so required by the Issuer) be duly endorsed by, or be accompanied by a written instrument or instruments of transfer in form satisfactory to the Issuer and the Security registrar duly executed by, the holder or his attorney duly authorized in writing.

The Issuer may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any exchange or registration of transfer of Securities. No service charge shall be made for any such transaction.

The Issuer shall not be required to exchange or register a transfer of (a) any Securities of any series for a period of 15 days next preceding the date of selection of Securities of such series to be redeemed, or (b) any Securities selected, called or being called for redemption except, in the case of any Security where public notice has been given that such Security is to be redeemed in part, the portion thereof not so to be redeemed.

All Securities issued upon any transfer or exchange of Securities shall be valid obligations of the Issuer, evidencing the same debt, and entitled to the same benefits under this Indenture, as the Securities surrendered upon such transfer or exchange.

SECTION 2.9 Mutilated, Defaced, Destroyed, Lost and Stolen Securities. In case any temporary or definitive Security shall become mutilated, defaced or be destroyed, lost or stolen, the Issuer in its discretion may execute, and upon the written request of any officer of the Issuer, the Trustee shall authenticate and deliver, a new Security of the same series, bearing a number not contemporaneously outstanding, in exchange and substitution for the mutilated or defaced Security, or in lieu of and substitution for the Security so destroyed, lost or stolen. In every case the applicant for a substitute Security shall furnish to the Issuer and to the Trustee and any agent of the Issuer or the Trustee such security or indemnity as may be required by them to indemnify and defend and to save each of them harmless and, in every case of destruction, loss or theft, evidence to their satisfaction of the destruction, loss or theft of such Security and of the ownership thereof.

Upon the issuance of any substitute Security, the Issuer may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Trustee) connected therewith. In case any Security which has matured or is about to mature or has been called for redemption in full shall become mutilated or defaced or be destroyed, lost or stolen, the Issuer may, instead of issuing a substitute Security, pay or authorize the payment of the same (without surrender thereof except in the case of a mutilated or defaced Security), if the applicant for such payment shall furnish to the Issuer and to the Trustee and any agent of the Issuer or the Trustee such security or indemnity as any of them may require to save each of them harmless, and, in every case of destruction, loss or theft, the applicant shall also furnish to the Issuer and the Trustee and any agent of the Issuer or the Trustee evidence to their satisfaction of the destruction, loss or theft of such Security and of the ownership thereof.

Every substitute Security of any series issued pursuant to the provisions of this Section by virtue of the fact that any such Security is destroyed, lost or stolen shall constitute an additional contractual obligation of the Issuer, whether or not the destroyed, lost or stolen Security shall be at any time enforceable by anyone and shall be entitled to all the benefits of (but shall be subject to all the limitations of rights set forth in) this Indenture equally and proportionately with any and all other Securities of such series duly authenticated and delivered hereunder. All Securities shall be held and owned upon the express condition that, to the extent permitted by law, the foregoing provisions are exclusive with respect to the replacement or payment of mutilated, defaced or destroyed, lost or stolen Securities and shall preclude any and all other rights or remedies notwithstanding any law or statute existing or hereafter enacted to the contrary with respect to the replacement or payment of negotiable instruments or other securities without their surrender.

SECTION 2.10 Cancellation of Securities; Destruction Thereof. Unless otherwise provided with respect to any series of Securities, all Securities surrendered for payment, redemption, registration of transfer or exchange, or for credit against any payment in respect of a sinking or analogous fund, if surrendered to the Issuer or any agent of the Issuer or the Trustee, shall be delivered to the Trustee for cancellation or, if surrendered to the Trustee, shall be cancelled by it; and no Securities shall be issued in lieu thereof except as expressly permitted by any of the

provisions of this Indenture. The Trustee shall cancel Securities held by it and deliver a certificate of cancellation to the Issuer at the Issuer's written direction. If the Issuer shall acquire any of the Securities, such acquisition shall not operate as a redemption or satisfaction of the indebtedness represented by such Securities unless and until the same are delivered to the Trustee for cancellation.

SECTION 2.11 Temporary Securities. Pending the preparation of a permanent Global Security or Securities or definitive Securities for any series, the Issuer may execute and the Trustee shall authenticate and deliver temporary Securities for such series or one or more temporary Global Securities (printed, lithographed, typewritten or otherwise reproduced, in each case in form satisfactory to the Trustee). Temporary Securities of any series shall be issuable as registered Securities without coupons, of any authorized denomination, and substantially in the form of the definitive Securities or permanent Global Security, as the case may be, of such series but with such omissions, insertions and variations as may be appropriate for temporary Securities, all as may be determined by the Issuer with the concurrence of the Trustee. Temporary Securities may contain such reference to any provisions of this Indenture as may be appropriate. Every temporary Security shall be executed by the Issuer and be authenticated by the Trustee upon the same conditions and in substantially the same manner, and with like effect, as the definitive Securities. Without unreasonable delay, the Issuer shall execute and shall furnish a permanent Global Security or Securities or definitive Securities of such series and thereupon temporary Securities of such series may be surrendered in exchange therefor, without charge, at each office or agency to be maintained by the Issuer for that purpose pursuant to Section 3.2, and the Trustee shall authenticate and deliver in exchange for such temporary Securities of such series a like aggregate principal amount of permanent global securities or definitive Securities of the same series of authorized denominations. Until so exchanged, the temporary Securities of any series shall be entitled to the same benefits under this Indenture as permanent global securities or definitive Securities of such series.

SECTION 2.12 CUSIP Numbers. The Issuer in issuing the Securities may use "CUSIP" numbers (if then generally in use), and, if so, the Trustee shall use "CUSIP" numbers in notices of redemption as a convenience to Holders; provided that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Securities or as contained in any notice of a redemption and that reliance may be placed only on the other identification numbers printed on the Securities, and any such redemption shall not be affected by any defect in or omission of such numbers. The Issuer will promptly notify the Trustee of any change in the "CUSIP" numbers.

ARTICLE THREE

COVENANTS OF THE ISSUER

SECTION 3.1 Payment of Principal and Interest. The Issuer covenants and agrees for the benefit of the Holders of each series of Securities that it will duly and punctually pay or cause to be paid the principal of, and interest on, each of the Securities of such series at the office or agency of the Issuer maintained for such purpose pursuant to Section 3.2 or at such other place or places, at the respective times and in the manner provided in such Securities.

Unless otherwise specified with respect to the Securities of any series in accordance with Section 2.3, at the option of the Issuer, each installment on any such series may be paid (i) by mailing a check for such interest, payable to or upon the written order of the Person entitled thereto pursuant to Section 2.7, to the address of such Person as it appears on the Security register or (ii) by wire transfer to an account maintained by the payee and located inside the United States.

SECTION 3.2 Offices for Payments, etc. So long as any of the Securities remain outstanding, the Issuer will maintain the following for each series: an office or agency (a) where the Securities may be presented for payment; (b) where the Securities may be presented for registration of transfer and for exchange as in this Indenture provided; and (c) where notices and demands to or upon the Issuer in respect of the Securities or of this Indenture may be served.

The Issuer will give to the Trustee written notice of the location of any such office or agency and of any change of location thereof. Unless otherwise specified in accordance with Section 2.3, the Issuer hereby appoints the Trustee as paying agent and registrar and designates the corporate trust office of _____, located at _____, as the office to be maintained by it for each such purpose. In case the Issuer shall fail to so designate or maintain any such office or agency or shall fail to give such notice of the location or any change in the location thereof, presentations and demands may be made and notices may be served at the Corporate Trust Office.

SECTION 3.3 Existence. Subject to Article Nine, the Issuer will do or cause to be done all things necessary to preserve and keep in full force and effect its existence and the corporate, partnership or other existence of each Subsidiary of the Issuer in accordance with the respective organizational documents of the Issuer and each such Subsidiary and the rights (charter and statutory) and material franchises of the Issuer and its Subsidiaries; provided, however, that the Issuer shall not be required to preserve any such right or franchise, or the existence of any Subsidiary, if the Board of Trustees or management of the Issuer or such Subsidiary shall determine that the preservation thereof is no longer desirable in the conduct of business of the Issuer and its Subsidiaries, taken as a whole.

SECTION 3.4 Appointment to Fill a Vacancy in Office of Trustee. The Issuer, whenever necessary to avoid or fill a vacancy in the office of Trustee, will appoint, in the manner provided in Section 6.10, a Trustee, so that there shall at all times be a Trustee with respect to each series of Securities hereunder.

SECTION 3.5 Paying Agents. Whenever the Issuer shall appoint a paying agent other than the Trustee with respect to the Securities of any series, it will cause such paying agent to execute and deliver to the Trustee an instrument in which such agent shall agree with the Trustee, subject to the provisions of this Section:

(a) that it will hold all sums received by it as such agent for the payment of the principal of or interest on the Securities of such series (whether such sums have been paid to it by the Issuer or by any other obligor on the Securities of such series) in trust for the benefit of the holders of the Securities of such series or of the Trustee;

(b) that it will give the Trustee notice of any default by the Issuer (or by any other obligor on the Securities of such series) to make any payment of the principal of or interest on the Securities of such series when the same shall be due and payable; and

(c) at any time during the continuance of such default, upon written request of the Trustee, forthwith pay to the Trustee all sums so held in trust by such paying agent.

The Issuer will, on or prior to each due date of the principal of or interest on the Securities of such series, deposit with the paying agent a sum sufficient to pay such principal or interest so becoming due, and (unless such paying agent is the Trustee) the Issuer will promptly notify the Trustee of any failure to take such action.

If the Issuer shall act as its own paying agent with respect to the Securities of any series, it will, on or before each due date of the principal of or interest on the Securities of such series, set aside, segregate and hold in trust for the benefit of the holders of the Securities of such series a sum sufficient to pay such principal or interest so becoming due. The Issuer will promptly notify the Trustee of such action.

Anything in this Section to the contrary notwithstanding, the Issuer may at any time, for the purpose of obtaining a satisfaction and discharge with respect to one or more or all series of Securities hereunder, or for any other reason, pay or cause to be paid to the Trustee all sums held in trust for any such series by the Issuer or any paying agent hereunder, as required by this Section, such sums to be held by the Trustee upon the trusts herein contained.

Anything in this Section to the contrary notwithstanding, the agreement to hold sums in trust as provided in this Section is subject to the provisions of Sections 10.3 and 10.4.

SECTION 3.6 Written Statement to Trustee. The Issuer will deliver to the Trustee on or before April 15 in each year, a brief certificate from its principal executive, accounting or financial officer (which need not comply with Section 13.5), as to his or her knowledge of the Issuer's compliance with all conditions and covenants in this Indenture (without regard to any period of grace or requirement of notice provided under this Indenture).

ARTICLE FOUR

SECURITYHOLDERS' LISTS AND REPORTS BY THE ISSUER AND THE TRUSTEE

SECTION 4.1 Issuer to Furnish Trustee Information as to Names and Addresses of Securityholders. The Issuer covenants and agrees that it will furnish or cause to be furnished to the Trustee a list in such form as the Trustee may reasonably require of the names and addresses of the holders of the Securities of each series:

(a) semiannually and not more than 15 days after each record date for the payment of interest on such Securities, as hereinabove specified, as of such record date and on dates to be determined pursuant to Section 2.3 for non-interest bearing securities in each year; and

(b) at such other times as the Trustee may request in writing, within 30 days after receipt by the Issuer of any such request as of a date not more than 15 days prior to the time such information is furnished, provided that if and so long as the Trustee shall be the Security registrar for such series, such list shall not be required to be furnished.

SECTION 4.2 Preservation and Disclosure of Securityholders' Lists. (a) The Trustee shall preserve, in as current a form as is reasonably practicable, all information as to the names and addresses of the holders of each series of Securities contained in the most recent list furnished to it as provided in Section 4.1 or maintained by the Trustee in its capacity as Security registrar for such series, if so acting. The Trustee may destroy any list furnished to it as provided in Section 4.1 upon receipt of a new list so furnished.

(b) The rights of Holders of Securities of any series to communicate with other Holders of Securities of such series with respect to their rights under this Indenture or under the Securities, and the corresponding rights and duties of the Trustee, shall be as provided by the Trust Indenture Act.

(c) Each and every holder of Securities, by receiving and holding the same, agrees with the Issuer and the Trustee that neither the Issuer nor the Trustee nor any agent of the Issuer or the Trustee shall be held accountable by reason of the disclosure of any such information as to the names and addresses of the holders of Securities made pursuant to the Trust Indenture Act.

SECTION 4.3 Reports by the Issuer. The Issuer shall file with the Trustee and the Commission, and transmit to Holders, such information, documents and other reports, and such summaries thereof, as may be required pursuant to the Trust Indenture Act at the times and in the manner provided pursuant to the Trust Indenture Act; provided that any such information, documents or reports required to be filed with the Commission pursuant to Section 13 or 15(d) of the Exchange Act shall be filed with the Trustee within 15 days after the same is so required to be filed with the Commission.

SECTION 4.4 Reports by the Trustee. (a) The Trustee shall transmit to Holders and other persons such reports concerning the Trustee and its actions under this Indenture as may be required pursuant to the Trust Indenture Act on or before July 15 in each year that such report is required, such reports to be dated as of the immediately preceding May 15.

(b) A copy of each such report shall, at the time of such transmission to Securityholders, be furnished to the Issuer and be filed by the Trustee with each stock exchange upon which the Securities of any applicable series are listed and also with the Commission. The Issuer agrees to notify the Trustee with respect any series when and as the Securities of such series become admitted to trading on any national securities exchange.

ARTICLE FIVE
REMEDIES OF THE TRUSTEE AND SECURITYHOLDERS
ON EVENT OF DEFAULT

SECTION 5.1 Event of Default Defined; Acceleration of Maturity; Waiver of Default. “Event of Default” with respect to Securities of any series, wherever used herein, means each one of the following events which shall have occurred and be continuing (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(a) default in the payment of any installment of interest upon any of the Securities of such series as and when the same shall become due and payable, and continuance of such default for a period of 30 days; or

(b) default in the payment of all or any part of the principal of any of the Securities of such series as and when the same shall become due and payable either at maturity, upon redemption, by declaration or otherwise; or

(c) default in the payment of all or any part of any sinking fund installment or other similar obligation as and when the same shall become due and payable by the terms of the Securities of such series; or

(d) default in the performance, or breach, of any covenant or warranty of the Issuer in respect of the Securities of such series (other than a covenant or warranty in respect of the Securities of such series a default in whose performance or whose breach is elsewhere in this Section specifically dealt with), and continuance of such default or breach for a period of 90 days after there has been given, by registered or certified mail, to the Issuer by the Trustee or to the Issuer and the Trustee by the Holders of at least 25% in principal amount of the Outstanding Securities of all series affected thereby, a written notice specifying such default or breach and requiring it to be remedied and stating that such notice is a “Notice of Default” hereunder or, if there is a judicial or administrative proceeding pending at any time during the above-referenced 90-day period in which one of the disputed issues relates to whether or not there was a default or breach, for a period of 90 days after the final resolution of whether or not there was a default or breach; or

(e) acceleration of indebtedness of the Issuer, under the terms of the instruments evidencing such indebtedness, aggregating more than \$5,000,000 at the time outstanding; or

(f) judgments for the payment of more than \$5,000,000 at the time outstanding rendered against the Issuer and not discharged within 60 days after such judgment becomes final and nonappealable; or

(g) a court having jurisdiction in the premises shall enter a decree or order for relief in respect of the Issuer in an involuntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or appointing a receiver, liquidator, assignee, custodian, trustee or sequestrator (or similar official) of the Issuer or for any substantial part of its property or ordering the winding up or liquidation of its affairs, and such decree or order shall remain unstayed and in effect for a period of 60 consecutive days; or

(h) the Issuer shall commence a voluntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or consent to the entry of an order for relief in an involuntary case under any such law, or consent to the appointment of or taking possession by a receiver, liquidator, assignee, custodian, trustee or sequestrator (or similar official) of the Issuer or for any substantial part of its property, or make any general assignment for the benefit of creditors; or

(i) any other Event of Default provided in the supplemental indenture or resolution of the Board of Trustees under which such series of Securities is issued or in the form of Security for such series.

If an Event of Default described in clauses (a), (b), (c) or (d) above (if the Event of Default under clause (d) is with respect to less than all series of Securities then Outstanding) occurs and is continuing, then, and in each and every such case, unless the principal of all of the Securities of such series shall have already become due and payable, either the Trustee or the holders of not less than 25% in aggregate principal amount of the Securities of such series then outstanding hereunder (each such series voting as a separate class) by notice in writing to the Issuer (and to the Trustee if given by Securityholders), may declare the entire principal of all Securities of such series and the interest accrued thereon, if any, to be due and payable immediately, and upon any such declaration the same shall become immediately due and payable. If an Event of Default described in clause (d) (if the Event of Default under clause (d) is with respect to all series of Securities then Outstanding), (e) or (f) occurs and is continuing, then and in each and every such case, unless the principal of all the Securities shall have already become due and payable, either the Trustee or the Holders of not less than 25% in aggregate principal amount of all the Securities then Outstanding hereunder (treated as one class), by notice in writing to the Issuer (and to the Trustee if given by Securityholders), may declare the entire principal of all the Securities then outstanding and interest accrued thereon, if any, to be due and payable immediately, and upon any such declaration the same shall become immediately due and payable.

The foregoing provisions, however, are subject to the condition that if, at any time after the principal of the Securities of any series (or of all the Securities, as the case may be) shall have been so declared due and payable, and before any judgment or decree for the payment of the moneys due shall have been obtained or entered as hereinafter provided, the Issuer shall pay or shall deposit with the Trustee a sum sufficient to pay all matured installments of interest upon all the Securities of such series (or of all the Securities, as the case may be) and the principal of any and all Securities of such series (or of all the Securities, as the case may be) which shall have become due otherwise than by acceleration (with interest upon such principal and, to the extent that payment of such interest is enforceable under applicable law, on overdue installments of interest, at the same rate as the rate of interest specified in the Securities of such series to the date of such payment or deposit) and such amount as shall be sufficient to cover reasonable compensation to the Trustee, its agents, attorneys and counsel, and all other expenses and liabilities incurred, and all advances made, by the Trustee except as a result of negligence or bad faith, and if any and all Events of Default under the Indenture, other than the non-payment of the principal of Securities which shall have become due by acceleration, shall have been cured, waived or otherwise remedied as provided herein—then and in every such case the holders of a majority in aggregate principal amount of all the Securities of such series, each series voting as a separate class (or of all the Securities, as the case may be, voting as a single class) then Outstanding, by written notice to the Issuer and to the Trustee, may waive all defaults with respect to such series (or with respect to all the Securities, as the case may be) and rescind and annul such declaration and its consequences, but no such waiver or rescission and annulment shall extend to or shall affect any subsequent default or shall impair any right consequent thereon.

SECTION 5.2 Collection of Indebtedness by Trustee; Trustee May Prove Debt. The Issuer covenants that (a) in case default shall be made in the payment of any installment of interest on any of the securities of any series when such interest shall have become due and payable, and such default shall have continued for a period of 30 days or (b) in case default shall be made in the payment of all or any part of the principal of any of the Securities of any series when the same shall have become due and payable, whether upon maturity of the Securities of such series or upon any redemption or by declaration or otherwise—then, upon demand of the Trustee, the Issuer will pay to the Trustee for the benefit of the Holders of the Securities of such series the whole amount that then shall have become due and payable on all Securities of such series for principal or interest, as the case may be (with interest to the date of such payment upon the overdue principal and, to the extent that payment of such interest is enforceable under applicable law, on overdue installments of interest at the same rate as the rate of interest specified in the Securities of such series); and in addition thereto, such further amount as shall be sufficient to cover the costs and expenses of collection, including reasonable compensation to the Trustee and each predecessor Trustee, their respective agents, attorneys and counsel, and any expenses and liabilities incurred, and all advances made, by the Trustee and each predecessor Trustee except as a result of its negligence or bad faith.

Until such demand is made by the Trustee, the Issuer may pay the principal of and interest on the Securities of any series to the registered holders, whether or not the principal of and interest on the Securities of such series be overdue.

In case the Issuer shall fail forthwith to pay such amounts upon such demand, the Trustee, in its own name and as trustee of an express trust, shall be entitled and empowered to institute any action or proceedings at law or in equity for the collection of the sums so due and unpaid, and may prosecute any such action or proceedings to judgment or final decree, and may enforce any such judgment or final decree against the Issuer or other obligor upon such Securities and collect in the manner provided by law out of the property of the Issuer or other obligor upon such Securities, wherever situated, the moneys adjudged or decreed to be payable.

In case there shall be pending proceedings relative to the Issuer or any other obligor upon the Securities under Title 11 of the United States Code or any other applicable Federal or state bankruptcy, insolvency or other similar law, or in case a receiver, assignee or trustee in bankruptcy or reorganization, liquidator, sequestrator or similar official shall have been appointed for or taken possession of the Issuer or its property or such other obligor, or in case of any other comparable judicial proceedings relative to the Issuer or other obligor upon the Securities of any series, or to the creditors or property of the Issuer or such other obligor, the Trustee, irrespective of whether the principal of any Securities shall then be due and payable as therein expressed or by declaration or otherwise and irrespective of whether the Trustee shall have made any demand pursuant to the provisions of this Section, shall be entitled and empowered, by intervention in such proceedings or otherwise:

(a) to file and prove a claim or claims for the whole amount of principal and interest owing and unpaid in respect of the Securities of any series, and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for reasonable compensation to the Trustee and each predecessor Trustee, and their respective agents, attorneys and counsel, and for reimbursement of all expenses and liabilities incurred, and all advances made, by the Trustee and each predecessor Trustee, except as a result of negligence or bad faith) and of the Securityholders allowed in any judicial proceedings relative to the Issuer or other obligor upon the Securities of any series, or to the creditors or property of the Issuer or such other obligor;

(b) unless prohibited by applicable law and regulations, to vote on behalf of the holders of the Securities of any series in any election of a trustee or a standby trustee in arrangement, reorganization, liquidation or other bankruptcy or insolvency proceedings or person performing similar functions in comparable proceedings; and

(c) to collect and receive any moneys or other property payable or deliverable on any such claims, and to distribute all amounts received with respect to the claims of the Securityholders and of the Trustee on their behalf; and any trustee, receiver, or liquidator, custodian or other similar official is hereby authorized by each of the Securityholders to make payments to the Trustee, and, in the event that the Trustee shall consent to the making of payments directly to the Securityholders, to pay to the Trustee such amounts as shall be sufficient to cover reasonable compensation to the Trustee, each predecessor Trustee and their respective agents, attorneys and counsel, and all other expenses and liabilities incurred, and all advances made, by the Trustee and each predecessor Trustee except as a result of negligence or bad faith and all other amounts due to the Trustee or any predecessor Trustee pursuant to Section 6.6.

Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or vote for or accept or adopt on behalf of any Securityholder any plan of reorganization, arrangement, adjustment or composition affecting the Securities of any series or the rights of any Holder thereof, or to authorize the Trustee to vote in respect of the claim of any Securityholder in any such proceeding except, as aforesaid, to vote for the election of a trustee in bankruptcy or similar person.

All rights of action and of asserting claims under this Indenture, or under any of the Securities, may be enforced by the Trustee without the possession of any of the Securities or the production thereof on any trial or other proceedings relative thereto, and any such action or proceedings instituted by the Trustee shall be brought in its own name as trustee of an express trust, and any recovery of judgment, subject to the payment of the expenses, disbursements and compensation of the Trustee, each predecessor Trustee and their respective agents and attorneys, shall be for the ratable benefit of the holders of the Securities in respect of which such action was taken.

In any proceedings brought by the Trustee (and also any proceedings involving the interpretation of any provision of this Indenture to which the Trustee shall be a party) the Trustee shall be held to represent all the holders of the Securities in respect to which such action was taken, and it shall not be necessary to make any holders of such Securities parties to any such proceedings.

SECTION 5.3 Application of Proceeds. Any moneys collected by the Trustee pursuant to this Article in respect of any series shall be applied in the following order at the date or dates fixed by the Trustee and, in case of the distribution of such moneys on account of principal or interest, upon presentation of the several Securities in respect of which monies have been collected and stamping (or otherwise noting) thereon the payment, or issuing Securities of such series in reduced principal amounts in exchange for the presented Securities of like series if only partially paid, or upon surrender thereof if fully paid:

First: To the payment of all amounts due the Trustee under Section 6.6;

Second: To the payment of any other costs and expenses applicable to such series in respect of which monies have been collected;

Third: In case the principal of the Securities of such series in respect of which moneys have been collected shall not have become and be then due and payable, to the payment of interest on the Securities of such series in default in the order of the maturity of the installments of such interest, with interest (to the extent that such interest has been collected by the Trustee) upon the overdue installments of interest at the same rate as the rate of interest specified in such Securities, such payments to be made ratably to the persons entitled thereto, without discrimination or preference;

Fourth: In case the principal of the Securities of such series in respect of which moneys have been collected shall have become and shall be then due and payable, to the payment of the whole amount then owing and unpaid upon all the Securities of such series for principal and interest, with interest upon the overdue principal, and (to the extent that such interest has been collected by the Trustee) upon overdue installments of interest at the same rate as the rate of interest specified in the Securities of such series; and in case such moneys shall be insufficient to pay in full the whole amount so due and unpaid upon the Securities of such series, then to the payment of such principal and interest, without preference or priority of principal over interest, or of interest over principal, or of any installment of interest over any other installment of interest, or of any Security of such series over any other Security of such series, ratably to the aggregate of such principal and accrued and unpaid interest; and

Fifth: To the payment of the remainder, if any, to the Issuer or any other person lawfully entitled thereto.

SECTION 5.4 Suits for Enforcement. In case an Event of Default has occurred, has not been waived and is continuing, the Trustee may in its discretion proceed to protect and enforce the rights vested in it by this Indenture by such appropriate judicial proceedings as the Trustee shall deem most effectual to protect and enforce any of such rights, either at law or in equity or in bankruptcy or otherwise, whether for the specific enforcement of any covenant or agreement contained in this Indenture or in aid of the exercise of any power granted in this Indenture or to enforce any other legal or equitable right vested in the Trustee by this Indenture or by law.

SECTION 5.5 Restoration of Rights on Abandonment of Proceedings. In case the Trustee shall have proceeded to enforce any right under this Indenture and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Trustee, then and in every such case the Issuer, the Trustee and the Securityholders shall be restored respectively to their former positions and rights hereunder, and all rights, remedies and powers of the Issuer, the Trustee and the Securityholders shall continue as though no such proceedings had been taken.

SECTION 5.6 Limitations on Suits by Securityholders. No holder of any Security of any series shall have any right by virtue or by availing of any provision of this Indenture to institute any action or proceeding at law or in equity or in bankruptcy or otherwise upon or under or with respect to this Indenture, or for the appointment of a trustee, receiver, liquidator, custodian or other similar official or for any other remedy hereunder, unless such holder previously shall have given to the Trustee written notice of default and of the continuance thereof, as hereinbefore provided, and unless also the holders of not less than 25% in aggregate principal amount of the Securities of such series then outstanding shall have made written request upon the Trustee to institute such action or proceeding in its own name as trustee hereunder and shall have offered to the Trustee such reasonable indemnity as it may require against the costs, expenses and liabilities to be incurred therein or thereby and the Trustee for 60 days after its receipt of such notice, request and offer of indemnity shall have failed to institute any such action or proceeding and no direction inconsistent with such written request shall have been given to the Trustee pursuant to Section 5.9; it being understood and intended, and being expressly covenanted by the taker and Holder of every Security with every other taker and Holder and the Trustee, that no one or more Holders of Securities of any series shall have any right in any manner whatever by virtue or by availing of any provision of this Indenture to affect, disturb or prejudice the rights of any other such Holder of Securities, or to obtain or seek to obtain priority over or preference to any other such Holder or to enforce any right under this Indenture, except in the manner herein provided and for the equal, ratable and common benefit of all Holders of Securities of the applicable series. For the protection and enforcement of the provisions of this Section, each and every Securityholder and the Trustee shall be entitled to such relief as can be given either at law or in equity.

SECTION 5.7 Unconditional Right of Securityholders to Institute Certain Suits. Notwithstanding any other provision in this Indenture and any provision of any Security, the right of any Holder of any Security to receive payment of the principal of and interest on such Security on or after the respective due dates expressed in such Security, or to institute suit for the enforcement of any such payment on or after such respective dates, shall not be impaired or affected without the consent of such Holder.

SECTION 5.8 Powers and Remedies Cumulative; Delay or Omission Not Waiver of Default. Except as provided in Section 5.6, no right or remedy herein conferred upon or reserved to the Trustee or to the Securityholders is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

No delay or omission of the Trustee or of any Securityholder to exercise any right or power accruing upon any Event of Default occurring and continuing as aforesaid shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or an acquiescence therein; and, subject to Section 5.6, every power and remedy given by this Indenture or by law to the Trustee or to the Securityholders may be exercised from time to time, and as often as shall be deemed expedient, by the Trustee or by the Securityholders.

SECTION 5.9 Control by Securityholders. The Holders of a majority in aggregate principal amount of the Securities of each series affected (with each series voting as a separate class) at the time Outstanding shall have the right to direct the time, method, and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred on the Trustee with respect to the Securities of such series by this Indenture; provided that such direction shall not be otherwise than in accordance with law and the provisions of this Indenture and provided further that (subject to the provisions of Section 6.1) the Trustee shall have the right to decline to follow any such direction if the Trustee, being advised by counsel, shall determine that the action or proceeding so directed may not lawfully be taken or if the Trustee in good faith by its board of directors, the executive committee, or a trust committee of directors or Responsible Officers of the Trustee shall determine that the action or proceedings so directed would involve the Trustee in personal liability or if the Trustee in good faith shall so determine that the actions or forbearances specified in or pursuant to such direction would be unduly prejudicial to the interests of Holders of the Securities of all series so affected not joining in the giving of said direction, it being understood that (subject to Section 6.1) the Trustee shall have no duty to ascertain whether or not such actions or forbearances are unduly prejudicial to such Holders.

Nothing in this Indenture shall impair the right of the Trustee in its discretion to take any action deemed proper by the Trustee and which is not inconsistent with such direction or directions by Securityholders.

SECTION 5.10 Waiver of Past Defaults. Prior to the declaration of the acceleration of the maturity of the Securities of any series as provided in Section 5.1, the Holders of a majority in aggregate principal amount of the Securities of such series at the time Outstanding may on behalf of the Holders of all the Securities of such series waive any past default or Event of Default described in clause (c) of Section 5.1 (or, in the case of an event specified in clause (d) of Section 5.1 which relates to less than all series of Securities then Outstanding, the Holders of a majority in aggregate principal amount of the Securities then outstanding affected thereby (each series voting as a separate class) may waive any such default or Event of Default, or, in the case of an event specified in clause (d) (if the Event of Default under clause (d) relates to all series of Securities then Outstanding), (e) or (f) of Section 5.1, the Holders of Securities of a majority in principal amount of all the Securities then Outstanding (voting as one class) may waive any such default or Event of Default), and its consequences except a default in respect of a covenant or provision hereof which cannot be modified or amended without the consent of the Holder of each Security affected.

Upon any such waiver, such default shall cease to exist and be deemed to have been cured and not to have occurred, and any Event of Default arising therefrom shall be deemed to have been cured, and not to have occurred for every purpose of this Indenture, and the Issuer, the Trustee and the Holders of the Securities of such series shall be restored to their former positions and rights hereunder, respectively; but no such waiver shall extend to any subsequent or other default or Event of Default or impair any right consequent thereon.

SECTION 5.11 Trustee to Give Notice of Default, But May Withhold in Certain Circumstances. The Trustee shall transmit to the Securityholders of any series, as the names and addresses of such Holders appear on the registry books, notice by mail of all defaults which have occurred with respect to such series, such notice to be transmitted within 90 days after the occurrence thereof, unless such defaults shall have been cured before the giving of such notice (the

term “default” or “defaults” for the purposes of this Section being hereby defined to mean any event or condition which is, or with notice or lapse of time or both would become, an Event of Default); provided that, except in the case of default in the payment of the principal of, interest on, or any sinking fund installment or other similar obligation with respect to, any of the Securities of such series, the Trustee shall be protected in withholding such notice if and so long as the board of directors, the executive committee, or a trust committee of directors or trustees and/or Responsible Officers of the Trustee in good faith determines that the withholding of such notice is in the interests of the Securityholders of such series.

SECTION 5.12 Right of Court to Require Filing of Undertaking to Pay Costs. All parties to this Indenture agree, and each Holder of any Security by his acceptance thereof shall be deemed to have agreed, that any court may in its discretion require, in any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken, suffered or omitted by it as Trustee, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and that such court may in its discretion assess reasonable costs, including reasonable attorneys’ fees, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant; but the provisions of this Section shall not apply to any suit instituted by the Trustee, to any suit instituted by any Holder, or group of Holders, holding in the aggregate more than 10% in principal amount of the Outstanding Securities of all series (or, if the matter in issue does not relate to all series of Securities, then the Holders of 10% in principal amount of the Outstanding Securities of all series to which such issue relates), treated as a single class, or to any suit instituted by any Securityholder for the enforcement of the payment of the principal of or interest on any Security on or after the due date expressed in such Security.

ARTICLE SIX

CONCERNING THE TRUSTEE

SECTION 6.1 Duties and Responsibilities of the Trustee; During Default; Prior to Default. With respect to the Holders of any series of Securities issued hereunder, the Trustee, prior to the occurrence of an Event of Default with respect to the Securities of a particular series and after the curing or waiving of all Events of Default which may have occurred with respect to such series, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture. In case an Event of Default with respect to the Securities of a series has occurred (which has not been cured or waived) the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in their exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

No provision of this Indenture shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act or its own willful misconduct, except that:

(a) prior to the occurrence of an Event of Default with respect to the Securities of any series and after the curing or waiving of all such Events of Default with respect to such series which may have occurred:

(i) the duties and obligations of the Trustee with respect to the Securities of any Series shall be determined solely by the express provisions of this Indenture, and the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Indenture, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(ii) in the absence of bad faith on the part of the Trustee, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any statements, certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture; but in the case of any such statements, certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Indenture;

(b) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer or Responsible Officers of the Trustee, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts; and

(c) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the holders pursuant to Section 5.9 relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Indenture.

None of the provisions contained in this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur personal financial liability in the performance of any of its duties or in the exercise of any of its rights or powers, if there shall be reasonable ground for believing that the repayment of such funds or adequate indemnity against such liability is not reasonably assured to it.

The provisions of this Section 6.1 are in furtherance of and subject to Sections 315 and 316 of the Trust Indenture Act.

SECTION 6.2 Certain Rights of the Trustee. In furtherance of and subject to the Trust Indenture Act and subject to Section 6.1:

(a) the Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, Officers' Certificate or any other certificate, statement, instrument, opinion, report, notice, request, consent, order, bond, debenture, note, coupon, security or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;

(b) any request, direction, order or demand of the Issuer mentioned herein shall be sufficiently evidenced by an Officers' Certificate (unless other evidence in respect thereof be herein specifically prescribed); and any resolution of the Board of Trustees may be evidenced to the Trustee by a copy thereof certified by the secretary or an assistant secretary of the Issuer;

(c) the Trustee may consult with counsel of its selection and any advice or Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted to be taken by it hereunder in good faith and in accordance with such advice or Opinion of Counsel;

(d) the Trustee shall be under no obligation to exercise any of the trusts or powers vested in it by this Indenture with the request, order or direction of any of the Securityholders pursuant to the provisions of this Indenture, unless such Securityholders shall have offered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities which might be incurred therein or thereby;

(e) the Trustee shall not be liable for any action taken or omitted by it in good faith and believed by it to be authorized or within the discretion, rights or powers conferred upon it by this Indenture;

(f) prior to the occurrence of an Event of Default hereunder and after the curing or waiving of all Events of Default, the Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, approval, appraisal, bond, debenture, note, coupon, security, or other paper or document unless requested in writing to do so by the holders of not less than a majority in aggregate principal amount of the Securities of all series affected then outstanding; provided that, if the payment within a reasonable time to the Trustee of the costs, expenses or liabilities likely to be incurred by it in the making of such investigation is, in the opinion of the Trustee, not reasonably assured to the Trustee by the security afforded to it by the terms of this Indenture, the Trustee may require reasonable indemnity against such expenses or liabilities as a condition to proceeding; the reasonable expenses of every such investigation shall be paid by the Issuer or, if paid by the Trustee or any predecessor trustee, shall be repaid by the Issuer upon demand;

(g) the Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys not regularly in its employ and the Trustee shall not be responsible for any misconduct or negligence on the part of any such agent or attorney appointed with due care by it hereunder;

(h) In no event shall the Trustee be liable for any consequential loss or damage of any kind whatsoever (including but not limited to lost profits), even if the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action other than any such loss or damage caused by the Trustee's willful misconduct or gross negligence. The Trustee shall not be charged with knowledge of any Default or Event of Default, unless either (1) a Responsible Officer shall have actual knowledge of such Default or Event of Default or (2) written notice of such Default or Event of Default shall have been given to a Responsible Officer of the Trustee by the Issuer or by any holder; and

(i) In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services; it being understood that the Trustee shall use reasonable efforts that are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

SECTION 6.3 Trustee Not Responsible for Recitals, Disposition of Securities or Application of Proceeds Thereof. The recitals contained herein and in the Securities, except the Trustee's certificates of authentication, shall be taken as the statements of the Issuer, and the Trustee assumes no responsibility for the correctness of the same. The Trustee makes no representation as to the validity or sufficiency of this Indenture or of the Securities. The Trustee shall not be accountable for the use or application by the Issuer of any of the Securities or of the proceeds thereof.

SECTION 6.4 Trustee and Agents May Hold Securities; Collections, etc. The Trustee or any agent of the Issuer or the Trustee, in its individual or any other capacity, may become the owner or pledgee of Securities with the same rights it would have if it were not the Trustee or such agent and, subject to Sections 6.8 and 6.13, if operative, may otherwise deal with the Issuer and receive, collect, hold and retain collections from the Issuer with the same rights it would have if it were not the Trustee or such agent.

SECTION 6.5 Moneys Held by Trustee. Subject to the provisions of Section 10.4 hereof, all moneys received by the Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received, but need not be segregated from other funds except to the extent required by mandatory provisions of law. Neither the Trustee nor any agent of the Issuer or the Trustee shall be under any liability for interest on any moneys received by it hereunder.

SECTION 6.6 Compensation and Indemnification of Trustee and Its Prior Claim. The Issuer covenants and agrees to pay to the Trustee from time to time, and the Trustee shall be entitled to, such compensation (which shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust) to be agreed to in writing by the Trustee and the Issuer, and the Issuer covenants and agrees to pay or reimburse the Trustee and each predecessor Trustee upon its request for all reasonable expenses, disbursements and advances incurred or made by or on behalf of it in accordance with any of the provisions of this Indenture (including (i) the reasonable compensation and the expenses and disbursements of its counsel and of all agents and other persons not regularly in its employ and (ii) interest at the prime rate on any disbursements and advances made by the Trustee and not paid by the Issuer within 5 days after receipt of an invoice for such disbursement or advance) except any such expense, disbursement or advance as may arise from its negligence or bad faith. The Issuer also covenants to indemnify the Trustee and each predecessor Trustee for, and to hold it harmless against, any loss, liability or expense incurred without negligence or bad faith on its part, arising out of or in connection with the acceptance or administration of this Indenture or the trusts hereunder and its duties hereunder, including the costs and expenses of defending itself against or investigating any claim of liability in the premises. The obligations of the Issuer under this Section to compensate and indemnify the Trustee and each predecessor Trustee and to pay or reimburse the Trustee and each predecessor Trustee for expenses, disbursements and advances shall constitute additional indebtedness hereunder and shall survive the satisfaction and discharge of this Indenture. Such additional indebtedness shall be a senior claim to that of the Securities upon all property and funds held or collected by the Trustee as such, except funds held in trust for the benefit of the holders of particular Securities, and the Securities are hereby subordinated to such senior claim. The provisions of this Section shall survive the termination of this Indenture.

SECTION 6.7 Right of Trustee to Rely on Officers' Certificate, etc. Subject to Sections 6.1 and 6.2, whenever in the administration of the trusts of this Indenture the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering or omitting any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of negligence or bad faith on the part of the Trustee, be deemed to be conclusively proved and established by an Officers' Certificate delivered to the Trustee, and such certificate, in the absence of negligence or bad faith on the part of the Trustee, shall be full warrant to the Trustee for any action taken, suffered or omitted by it under the provisions of this Indenture upon the faith thereof.

SECTION 6.8 Conflicting Interests. If the Trustee has or shall acquire a conflicting interest within the meaning of the Trust Indenture Act, the Trustee shall either eliminate such interest or resign, to the extent and in the manner provided by, and subject to the provisions of, the Trust Indenture Act.

SECTION 6.9 Persons Eligible for Appointment as Trustee. The Trustee for each series of Securities hereunder shall at all times be a corporation or banking association having a combined capital and surplus of at least \$50,000,000. If such corporation or banking association publishes reports of condition at least annually, pursuant to law or to the requirements of the aforesaid supervising or examining authority, then for the purposes of this Section, the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. In case at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section, the Trustee shall resign immediately in the manner and with the effect specified in Section 6.10.

SECTION 6.10 Resignation and Removal; Appointment of Successor Trustee. (a) The Trustee, or any trustee or trustees hereafter appointed, may at any time resign with respect to one or more or all series of Securities by giving written notice of resignation to the Issuer and by mailing notice thereof by first class mail to Holders of the applicable series of Securities at their last addresses as they shall appear on the Security register. Upon receiving such notice of resignation, the Issuer shall promptly appoint a successor trustee or trustees with respect to the applicable series by written instrument in duplicate, executed by authority of the Board of Trustees, one copy of which instrument shall be delivered to the resigning Trustee and one copy to the successor trustee or trustees. If no successor trustee shall have been so appointed with respect to any series and have accepted appointment within 30 days after the mailing of such notice of resignation, the resigning trustee may petition any court of competent jurisdiction for the appointment of a successor trustee, or any Securityholder who has been a bona fide Holder of a Security or Securities of the applicable series for at least six months may, subject to the provisions of Section 5.12, on behalf of himself and all others similarly situated, petition any such court for the appointment of a successor trustee. Such court may thereupon, after such notice, if any, as it may deem proper and prescribe, appoint a successor trustee.

(b) In case at any time any of the following shall occur:

(i) the Trustee shall fail to comply with the provisions of Section 6.8 with respect to any series of Securities after written request therefor by the Issuer or by any Securityholder who has been a bona fide Holder of a Security or Securities of such series for at least six months; or

(ii) the Trustee shall cease to be eligible in accordance with the provisions of Section 6.9 and shall fail to resign after written request therefor by the Issuer or by any Securityholder; or

(iii) the Trustee shall become incapable of acting with respect to any series of Securities, or shall be adjudged a bankrupt or insolvent, or a receiver or liquidator of the Trustee or of its property shall be appointed, or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation; or

(iv) the Issuer shall determine that the Trustee has failed to perform its obligations under this Indenture in any material respect; then, in any such case, the Issuer may remove the Trustee with respect to the applicable series of Securities and appoint a successor trustee for such series by written instrument, in duplicate, executed by order of the Board of Trustees of the Issuer, one copy of which instrument shall be delivered to the Trustee so removed and one copy to the successor trustee, or, subject to the provisions of Section 5.12, any Securityholder who has been a bona fide Holder of a Security or Securities of such series for at least six months may on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor trustee with respect to such series. Such court may thereupon, after such notice, if any, as it may deem proper and prescribe, remove the Trustee and appoint a successor trustee. If no successor trustee shall have been appointed with respect to any series and have accepted appointment within 30 days after a notice of removal has been given, the removed trustee may petition a court of competent jurisdiction for the appointment of a successor trustee.

(c) The Holders of a majority in aggregate principal amount of the Securities of each series at the time outstanding may at any time remove the Trustee with respect to Securities of such series and appoint a successor trustee with respect to the Securities of such series by delivering to the Trustee so removed, to the successor trustee so appointed and to the Issuer the evidence provided for in Section 7.1 of the action in that regard taken by the Securityholders.

(d) Any resignation or removal of the Trustee with respect to any series and any appointment of a successor trustee with respect to such series pursuant to any of the provisions of this Section 6.10 shall become effective upon acceptance of appointment by the successor trustee as provided in Section 6.11.

SECTION 6.11 Acceptance of Appointment by Successor Trustee. Any successor trustee appointed as provided in Section 6.10 shall execute and deliver to the Issuer and to its predecessor trustee an instrument accepting such appointment hereunder, and thereupon the resignation or removal of the predecessor trustee with respect to all or any applicable series shall become effective and such successor trustee, without any further act, deed or conveyance, shall

become vested with all rights, powers, duties and obligations with respect to such series of its predecessor hereunder, with like effect as if originally named as trustee for such series hereunder; but, nevertheless, on the written request of the Issuer or of the successor trustee, upon payment of its charges then unpaid, the trustee ceasing to act shall, subject to Section 10.4, pay over to the successor trustee all moneys at the time held by it hereunder and shall execute and deliver an instrument transferring to such successor trustee all such rights, powers, duties and obligations. Upon request of any such successor trustee, the Issuer shall execute any and all instruments in writing for more fully and certainly vesting in and confirming to such successor trustee all such rights and powers.

Any trustee ceasing to act shall, nevertheless, retain a prior claim upon all property or funds held or collected by such trustee to secure any amounts then due it pursuant to the provisions of Section 6.6.

If a successor trustee is appointed with respect to the Securities of one or more (but not all) series, the Issuer, the predecessor trustee and each successor trustee with respect to the Securities of any applicable series shall execute and deliver an indenture supplemental hereto which shall contain such provisions as shall be deemed necessary or desirable to confirm that all the rights, powers, trusts and duties of the predecessor trustee with respect to the Securities of any series as to which the predecessor trustee is not retiring shall continue to be vested in the predecessor trustee, and shall add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one trustee, it being understood that nothing herein or in such supplemental indenture shall constitute such trustees co-trustees of the same trust and that each such trustee shall be trustee of a trust or trusts under separate indentures.

No successor trustee with respect to any series of Securities shall accept appointment as provided in this Section 6.11 unless at the time of such acceptance such successor trustee shall be qualified under the provisions of Section 6.8 and eligible under the provisions of Section 6.9.

Upon acceptance of appointment by any successor trustee as provided in this Section 6.11, the Issuer shall mail notice thereof by first class mail to the Holders of Securities of any series for which such successor trustee is acting as trustee at their last addresses as they shall appear in the Security register. If the acceptance of appointment is substantially contemporaneous with the resignation, then the notice called for by the preceding sentence may be combined with the notice called for by Section 6.10. If the Issuer fails to mail such notice within ten days after acceptance of appointment by the successor trustee, the successor trustee shall cause such notice to be mailed at the expense of the Issuer.

SECTION 6.12 Merger, Conversion, Consolidation or Succession to Business of Trustee. Any corporation or banking association into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation or banking association resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation or banking association succeeding to all or substantially all of the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder, provided that such corporation or banking association shall be qualified under the provisions of Section 6.8 and eligible under the provisions of Section 6.9, without the execution or filing of any paper or any

further act on the part of any of the parties hereto, anything herein to the contrary notwithstanding. In case at the time such successor to the Trustee shall succeed to the trusts created by this Indenture any of the Securities of any series shall have been authenticated but not delivered, any such successor to the Trustee may adopt the certificate of authentication of any predecessor Trustee and deliver such Securities so authenticated; and, in case at that time any of the Securities of any series shall not have been authenticated, any successor to the Trustee may authenticate such Securities either in the name of any predecessor hereunder or in the name of the successor Trustee; and in all such cases such certificate shall have the full force which it is anywhere in the Securities of such series or in this Indenture provided that the certificate of the Trustee shall have; provided, that the right to adopt the certificate of authentication of any predecessor Trustee or to authenticate Securities of any series in the name of any predecessor Trustee shall apply only to its successor or successors by merger, conversion or consolidation.

SECTION 6.13 Preferential Collection of Claims Against the Issuer. The Trustee shall comply with the provisions of Section 311 of the Trust Indenture Act.

ARTICLE SEVEN

CONCERNING THE SECURITYHOLDERS

SECTION 7.1 Evidence of Action Taken by Securityholders. Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given or taken by a specified percentage in principal amount of the Securityholders of any or all series may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such specified percentage of Securityholders in person or by agent duly appointed in writing; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to the Trustee. Proof of execution of any instrument or of a writing appointing any such agent shall be sufficient for any purpose of this Indenture and (subject to Sections 6.1 and 6.2) conclusive in favor of the Trustee and the Issuer, if made in the manner provided in this Article.

If the Issuer shall solicit from the Securityholders any request, demand, authorization, direction, notice, consent, waiver or other act of the Securityholders, the Issuer may, at its option, by a resolution of the Board of Trustees, fix in advance a record date for the determination of Securityholders entitled to give such request, demand, authorization, direction, notice, consent, waiver or other act, but the Issuer shall have no obligation to do so. If such a record date is fixed, such request, demand, authorization, direction, notice, consent, waiver or other act may be given before or after such record date, but only the Securityholders of record at the close of business on such record date shall be deemed to be Securityholders for the purposes of determining whether Securityholders of the requisite proportion of Outstanding Securities have authorized or agreed or consented to such request, demand, authorization, direction, notice, consent, waiver or other act, and for that purpose the Outstanding Securities shall be computed as of such record date; provided that no such authorization, agreement or consent by the Securityholders on such record date shall be deemed effective unless it shall become effective pursuant to the provisions of this Indenture not later than six months after the record date.

If any Security of a series is issuable in the form of a Global Security or Securities, the Depositary therefor may grant proxies and otherwise authorize participants to give or take any request, demand, authorization, direction, notice, consent, waiver or other action which the Holder of such Security is entitled to grant or take under this Indenture.

SECTION 7.2 Proof of Execution of Instruments and of Holding of Securities. Subject to Sections 6.1 and 6.2, the execution of any instrument by a Securityholder or his agent or proxy may be proved in accordance with such reasonable rules and regulations as may be prescribed by the Trustee or in such manner as shall be satisfactory to the Trustee. The holding of Securities shall be proved by the Security register or by a certificate of the registrar thereof.

SECTION 7.3 Holders to be Treated as Owners. The Issuer, the Trustee and any agent of the Issuer or the Trustee may deem and treat the Person in whose name any Security shall be registered upon the Security register for such series as the absolute owner of such Security (whether or not such Security shall be overdue and notwithstanding any notation of ownership or other writing thereon) for the purpose of receiving payment of or on account of the principal of and, subject to the provisions of this Indenture, interest on such Security and for all other purposes; and neither the Issuer nor the Trustee nor any agent of the Issuer or the Trustee shall be affected by any notice to the contrary. All such payments so made to any such Person, or upon his order, shall be valid, and, to the extent of the sum or sums so paid, effectual to satisfy and discharge the liability for moneys payable upon any such Security.

None of the Issuer, the Trustee any paying agent, or the Security Registrar will have any responsibility or liability for any aspect of the records relating to or payments made on account of beneficial ownership interests of a Global Security or for maintaining, supervising or reviewing any records relating to such beneficial ownership interests.

SECTION 7.4 Securities Owned by Issuer Deemed Not Outstanding. In determining whether the Holders of the requisite aggregate principal amount of Outstanding Securities of any or all series have concurred in any direction, consent or waiver under this Indenture, Securities which are owned by the Issuer or any other obligor on the Securities with respect to which such determination is being made or by any Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Issuer or any other obligor on the Securities with respect to which such determination is being made shall be disregarded and deemed not to be Outstanding for the purpose of any such determination, except that for the purpose of determining whether the Trustee shall be protected in relying on any such direction, consent or waiver only Securities which the Trustee knows are so owned shall be so disregarded. Securities so owned which have been pledged in good faith may be regarded as Outstanding if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to such Securities and that the pledgee is not the Issuer or any other obligor upon the Securities or any Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Issuer or any other obligor on the Securities. In case of a dispute as to such right, the advice of counsel shall be full protection in respect of any decision made by the Trustee in accordance with such advice. Upon request of the Trustee, the Issuer shall furnish to the Trustee promptly an Officers' Certificate listing and identifying all Securities, if any, known by the Issuer to be owned or held by or for the account of any of the above-described Persons; and, subject to Sections 6.1 and 6.2, the Trustee shall be entitled to accept such Officers' Certificate as conclusive evidence of the facts therein set forth and of the fact that all Securities not listed therein are Outstanding for the purpose of any such determination.

SECTION 7.5 Right of Revocation of Action Taken. At any time prior to (but not after) the evidencing to the Trustee, as provided in Section 7.1, of the taking of any action by the Holders of the percentage in aggregate principal amount of the Securities of any or all series, as the case may be, specified in this Indenture in connection with such action, any Holder of a Security the serial number of which is shown by the evidence to be included among the serial numbers of the Securities the Holders of which have consented to such action may, by filing written notice at the Corporate Trust Office and upon proof of holding as provided in this Article, revoke such action so far as concerns such Security. Except as aforesaid any such action taken by the Holder of any Security shall be conclusive and binding upon such Holder and upon all future Holders and owners of such Security and of any Securities issued in exchange or substitution therefor, irrespective of whether or not any notation in regard thereto is made upon any such Security. Any action taken by the Holders of the percentage in aggregate principal amount of the Securities of any or all series, as the case may be, specified in this Indenture in connection with such action shall be conclusively binding upon the Issuer, the Trustee and the Holders of all the Securities affected by such action.

ARTICLE EIGHT

SUPPLEMENTAL INDENTURES

SECTION 8.1 Supplemental Indentures Without Consent of Securityholders. The Issuer, when authorized by a resolution of its Board of Trustees, and the Trustee may from time to time and at any time enter into an indenture or indentures supplemental hereto (which shall conform to the provisions of the Trust Indenture Act as in force at the date of the execution thereof) for one or more of the following purposes:

- (a) to convey, transfer, assign, mortgage or pledge to the Trustee as security for the Securities of one or more series any property or assets;
- (b) to evidence the succession of another Person to the Issuer, or successive successions, and the assumption by the successor Person of the covenants, agreements and obligations of the Issuer pursuant to Article Nine;
- (c) to add to the covenants of the Issuer such further covenants, restrictions, conditions or provisions as its Board of Trustees and the Trustee shall consider to be for the protection of the Holders of Securities, and to make the occurrence, or the occurrence and continuance, of a default in any such additional covenants, restrictions, conditions or provisions an Event of Default permitting the enforcement of all or any of the several remedies provided in this Indenture as herein set forth; provided, that in respect of any such additional covenant, restriction, condition or provision such supplemental indenture may provide for a particular period of grace after default (which period may be shorter or longer than that allowed in the case of other defaults) or may provide for an immediate enforcement upon such an Event of Default or may limit the remedies available to the Trustee upon such an Event of Default or may limit the right of the Holders of a majority in aggregate principal amount of the Securities of such series to waive such an Event of Default;

(d) to cure any ambiguity or to correct or supplement any provision contained herein or in any supplemental indenture which may be defective or inconsistent with any other provision contained herein or in any supplemental indenture; or to make such other provisions in regard to matters or questions arising under this Indenture or under any supplemental indenture as the Board of Trustees may deem necessary or desirable and which shall not adversely affect the interests of the Holders of the Securities;

(e) to establish the form or terms of Securities of any series as permitted by Sections 2.1 and 2.3, including, without limitation, any terms relating to the issuance, exchange, registration or transfer of Securities issued in whole or in part in the form of one or more global Securities and the payment of any principal thereof, or interest or premium, if any, thereon; and

(f) to evidence and provide for the acceptance of appointment hereunder by a successor trustee with respect to the Securities of one or more series and to add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one trustee, pursuant to the requirements of Section 6.11.

The Trustee is hereby authorized to join with the Issuer in the execution of any such supplemental indenture, to make any further appropriate agreements and stipulations which may be therein contained and to accept the conveyance, transfer, assignment, mortgage or pledge of any property thereunder, but the Trustee shall not be obligated to enter into any such supplemental indenture which affects the Trustee's own rights, duties or immunities under this Indenture or otherwise.

Any supplemental indenture authorized by the provisions of this Section may be executed without the consent of the Holders of any of the Securities at the time outstanding, notwithstanding any of the provisions of Section 8.2.

SECTION 8.2 Supplemental Indentures With Consent of Securityholders. With the consent (evidenced as provided in Article Seven) of the Holders of not less than a majority in aggregate principal amount of the Securities at the time outstanding of all series affected by such supplemental indenture (voting as one class), the Issuer, when authorized by a resolution of its Board of Trustees, and the Trustee may, from time to time and at any time, enter into an indenture or indentures supplemental hereto (which shall conform to the provisions of the Trust Indenture Act as in force at the date of execution thereof) for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture or of any supplemental indenture or of modifying in any manner the rights of the Holders of the Securities of each such series; provided, that no such supplemental indenture shall (a) change the final maturity of any Security, or reduce the principal amount thereof, or reduce the rate or extend the time of payment of interest thereon, or reduce any amount payable on redemption thereof or reduce the amount of the principal of an Original Issue Discount Security that could be due and payable upon an acceleration of the maturity thereof pursuant to Section 5.1 or the amount thereof provable in bankruptcy pursuant to Section 5.2, or impair or affect the right of any Securityholder to institute suit for the payment thereof or, if the Securities provide therefor, any right of repayment at the option of the Securityholder without the consent of the Holder of each Security so affected, or (b) reduce the aforesaid percentage of Securities of any series, the consent of the Holders of which is required for any such supplemental indenture, without the consent of the Holders of each Security so affected.

Upon the request of the Issuer, accompanied by a copy of a resolution of the Board of Trustees certified by the secretary or an assistant secretary of the Issuer authorizing the execution of any such supplemental indenture, and upon the filing with the Trustee of evidence of the consent of Securityholders as aforesaid and other documents, if any, required by Section 7.1, the Trustee shall join with the Issuer in the execution of such supplemental indenture unless such supplemental indenture affects the Trustee's own rights, duties or immunities under this Indenture or otherwise, in which case the Trustee may in its discretion, but shall not be obligated to, enter into such supplemental indenture.

It shall not be necessary for the consent of the Securityholders under this Section to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such consent shall approve the substance thereof.

Promptly after the execution by the Issuer and the Trustee of any supplemental indenture pursuant to the provisions of this Section, the Issuer shall mail a notice thereof by first class mail to the Holders of Securities of each series affected thereby at their addresses as they shall appear on the registry books of the Issuer, setting forth in general terms the substance of such supplemental indenture. Any failure of the Issuer to mail such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such supplemental indenture.

SECTION 8.3 Effect of Supplemental Indenture. Upon the execution of any supplemental indenture pursuant to the provisions hereof, this Indenture shall be and be deemed to be modified and amended in accordance therewith and the respective rights, limitations of rights, obligations, duties and immunities under this Indenture of the Trustee, the Issuer and the Holders of Securities of each series affected thereby shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modifications and amendments, and all the terms and conditions of any such supplemental indenture shall be and be deemed to be part of the terms and conditions of this Indenture for any and all purposes.

SECTION 8.4 Documents to Be Given to Trustee. The Trustee, subject to the provisions to Sections 6.1 and 6.2, shall be provided an Officers' Certificate and an Opinion of Counsel as conclusive evidence that any supplemental indenture executed pursuant to this Article Eight complies with the applicable provisions of this Indenture and is authorized or permitted by this Indenture.

SECTION 8.5 Notation on Securities in Respect of Supplemental Indentures. Securities of any series authenticated and delivered after the execution of any supplemental indenture pursuant to the provisions of this Article may bear a notation in form approved by the Trustee for such series as to any matter provided for by such supplemental indenture. If the Issuer or the Trustee shall so determine, new Securities of any series so modified as to conform, in the opinion of the Trustee and the Board of Trustees, to any modification of this Indenture contained in any such supplemental indenture may be prepared and executed by the Issuer, authenticated by the Trustee and delivered in exchange for the Securities of such series then outstanding.

ARTICLE NINE
CONSOLIDATION, MERGER, SALE OR CONVEYANCE

SECTION 9.1 Issuer May Consolidate, etc., on Certain Terms. The Issuer covenants that it will not merge or consolidate with any other Person or sell or convey all or substantially all of its assets to any Person, unless (i) either the Issuer shall be the continuing Person, or the successor Person or the Person which acquires by sale or conveyance substantially all of the assets of the Issuer (if other than the Issuer) shall be a Person organized under the laws of the United States of America or any State thereof and shall expressly assume the due and punctual payment of the principal of and interest on all the Securities, according to their tenor, and the due and punctual performance and observance of all of the covenants and conditions of this Indenture to be performed or observed by the Issuer, by supplemental indenture satisfactory to the Trustee, executed and delivered to the Trustee by such Person, and (ii) the Issuer or such successor Person, as the case may be, shall not, immediately after such merger or consolidation, or such sale or conveyance, be in default in the performance of any such covenant or condition.

SECTION 9.2 Successor Person Substituted. In case of any such consolidation, merger, sale or conveyance, and following such an assumption by the successor Person, such successor Person shall succeed to and be substituted for the Issuer, with the same effect as if it had been named herein.

Such successor Person may cause to be signed, and may issue either in its own name or in the name of the Issuer prior to such succession any or all of the Securities issuable hereunder which theretofore shall not have been signed by the Issuer and delivered to the Trustee; and, upon the order of such successor Person instead of the Issuer and subject to all the terms, conditions and limitations in this Indenture prescribed, the Trustee shall authenticate and shall deliver any Securities which previously shall have been signed and delivered by the officers of the Issuer to the Trustee for authentication, and any Securities which such successor Person thereafter shall cause to be signed and delivered to the Trustee for that purpose. All of the Securities so issued shall in all respects have the same legal rank and benefit under this Indenture as the Securities theretofore or thereafter issued in accordance with the terms of this Indenture as though all of such Securities had been issued at the date of the execution hereof.

In case of any such consolidation, merger, sale, lease or conveyance such changes in phraseology and form (but not in substance) may be made in the Securities thereafter to be issued as may be appropriate.

In the event of any such sale or conveyance (other than a conveyance by way of lease) the Issuer or any successor Person which shall theretofore have become such in the manner described in this Article shall be discharged from all obligations and covenants under this Indenture and the Securities and may be liquidated and dissolved.

SECTION 9.3 Opinion of Counsel to Trustee. The Trustee, subject to the provisions of Sections 6.1 and 6.2, shall be provided an Opinion of Counsel and an Officer's Certificate, prepared in accordance with Section 13.5, as conclusive evidence that any such consolidation, merger, sale, lease or conveyance, and any such assumption, and any such liquidation or dissolution, complies with the applicable provisions of this Indenture.

ARTICLE TEN
SATISFACTION AND DISCHARGE OF INDENTURE;
UNCLAIMED MONEYS

SECTION 10.1 Satisfaction and Discharge of Indenture. If at any time (a) the Issuer shall have paid or caused to be paid the principal of and interest on all the Securities of any series outstanding hereunder (other than Securities which have been destroyed, lost or stolen and which have been replaced or paid as provided in Section 2.9) as and when the same shall have become due and payable, or (b) the Issuer shall have delivered to the Trustee for cancellation all Securities of any series theretofore authenticated (other than any Securities of such series which shall have been destroyed, lost or stolen and which shall have been replaced or paid as provided in Section 2.9) or (c) (i) all the securities of such series not theretofore delivered to the Trustee for cancellation shall have become due and payable, or are by their terms to become due and payable within one year or are to be called for redemption within one year under arrangements satisfactory to the Trustee for the giving of notice of redemption, and (ii) the Issuer shall have irrevocably deposited or caused to be deposited with the Trustee as trust funds the entire amount in cash (other than moneys repaid by the Trustee or any paying agent to the Issuer in accordance with Section 10.4) sufficient to pay at maturity or upon redemption all Securities of such series (other than any Securities of such series which shall have been destroyed, lost or stolen and which shall have been replaced or paid as provided in Section 2.9) not theretofore delivered to the Trustee for cancellation, including principal and interest due or to become due to such date of maturity as the case may be, and if, in any such case, the Issuer shall also pay or cause to be paid all other sums payable hereunder by the Issuer with respect to Securities of such series, then this Indenture shall cease to be of further effect with respect to Securities of such series (except as to (i) rights of registration of transfer and exchange, and the Issuer's right of optional redemption, (ii) substitution of mutilated, defaced, destroyed, lost or stolen Securities, (iii) rights of holders to receive payments of principal thereof and interest thereon and remaining rights of the holders to receive mandatory sinking fund payments, if any, (iv) the rights, obligations and immunities of the Trustee hereunder and (v) the rights of the Securityholders of such series as beneficiaries hereof with respect to the property so deposited with the Trustee payable to all or any of them), and the Trustee, on demand of the Issuer accompanied by an Officers' Certificate and an Opinion of Counsel and at the cost and expense of the Issuer, shall execute proper instruments acknowledging such satisfaction of and discharging this Indenture with respect to such series; provided, that the rights of Holders of the Securities to receive amounts in respect of principal of and interest on the Securities held by them shall not be delayed longer than required by then-applicable mandatory rules or policies of any securities exchange upon which the Securities are listed. The Issuer agrees to reimburse the Trustee for any costs or expenses thereafter reasonably and properly incurred and to compensate the Trustee for any services thereafter reasonably and properly rendered by the Trustee in connection with this Indenture or the Securities of such series.

SECTION 10.2 Application by Trustee of Funds Deposited for Payment of Securities. Subject to Section 10.4, all moneys deposited with the Trustee pursuant to Section 10.1, all money and U.S. Government Obligations deposited with the Trustee pursuant to Section 12.4 and all money received by the Trustee in respect of U.S. Government Obligations deposited with the Trustee pursuant to Section 12.4 shall be held in trust and applied by it to the payment, either directly or through any paying agent (including the Issuer acting as its own paying agent), to the Holders of the particular Securities of such series for the payment or redemption of which such moneys have been deposited with the Trustee, of all sums due and to become due thereon for principal and interest or to make mandatory sinking fund payments or analogous payments as contemplated by Section 12.4; but such money need not be segregated from other funds except to the extent required by law.

SECTION 10.3 Repayment of Moneys Held by Paying Agent. In connection with the satisfaction and discharge of this Indenture with respect to Securities of any series, all moneys then held by any paying agent under the provisions of this Indenture with respect to such series of Securities shall, upon demand of the Issuer, be repaid to it or paid to the Trustee and thereupon such paying agent shall be released from all further liability with respect to such moneys.

SECTION 10.4 Return of Moneys Held by Trustee and Paying Agent Unclaimed for Three Years. Any moneys deposited with or paid to the Trustee or any paying agent for the payment of the principal of or interest on any Security of any series and not applied but remaining unclaimed for three years after the date upon which such principal or interest shall have become due and payable, shall, upon the written request of the Issuer and unless otherwise required by mandatory provisions of applicable escheat or abandoned or unclaimed property law, be repaid to the Issuer by the Trustee for such series or such paying agent, and the Holder of the Security of such series shall, unless otherwise required by mandatory provisions of applicable escheat or abandoned or unclaimed property laws, thereafter look only to the Issuer for any payment which such Holder may be entitled to collect, and all liability of the Trustee or any paying agent with respect to such moneys shall thereupon cease.

ARTICLE ELEVEN

REDEMPTION OF SECURITIES AND SINKING FUNDS

SECTION 11.1 Applicability of Article. The provisions of this Article shall be applicable to the Securities of any series which are redeemable before their maturity or to any sinking fund for the retirement of Securities of a series except as otherwise specified as contemplated by Section 2.3 for Securities of such series.

SECTION 11.2 Notice of Redemption; Partial Redemptions. Notice of redemption to the Holders of Securities of any series to be redeemed as a whole or in part at the option of the Issuer shall be given by mailing notice of such redemption by first class mail, postage prepaid, at least 30 days and not more than 60 days prior to the date fixed for redemption to such Holders of Securities of such series at their last addresses as they shall appear upon the registry books. Any notice which is mailed in the manner herein provided shall be conclusively presumed to have been duly given, whether or not the Holder receives the notice. Failure to give notice by mail, or any defect in the notice, to the Holder of any Security of a series designated for redemption as a whole or in part shall not affect the validity of the proceedings for the redemption of any other Security of such series.

The notice of redemption to each such Holder shall specify the principal amount of each Security of such series held by such Holder to be redeemed, the date fixed for redemption, the redemption price, the place or places of payment, that payment will be made upon presentation and surrender of such Securities, that such redemption is pursuant to the mandatory or optional sinking fund, or both, if such be the case, that interest accrued to the date fixed for redemption will be paid as specified in such notice and that on and after said date interest thereon or on the portions thereof to be redeemed will cease to accrue. In case any Security of a series is to be redeemed in part only the notice of redemption shall state the serial number of the Security and the portion of the principal amount thereof to be redeemed and shall state that on and after the date fixed for redemption, upon surrender of such Security, a new Security or Securities of such series in principal amount equal to the unredeemed portion thereof will be issued.

The notice of redemption of Securities of any series to be redeemed at the option of the Issuer shall be given by the Issuer or, at the Issuer's request, by the Trustee in the name and at the expense of the Issuer.

At least one Business Day prior to the redemption date specified in the notice of redemption given as provided in this Section, the Issuer will deposit with the Trustee or with one or more paying agents (or, if the Issuer is acting as its own paying agent, set aside, segregate and hold in trust as provided in Section 3.5) an amount of money sufficient to redeem on the redemption date all the Securities of such series so called for redemption at the appropriate redemption price, together with accrued interest to the date fixed for redemption. If less than all the outstanding Securities of a series are to be redeemed, the Issuer will deliver to the Trustee at least 70 days (or shorter period satisfactory to the Trustee) prior to the date fixed for redemption an Officers' Certificate stating the aggregate principal amount of Securities to be redeemed.

If less than all the Securities of a series are to be redeemed, the Trustee shall select, in such manner as it shall deem appropriate and fair, Securities of such series to be redeemed in whole or in part. Securities may be redeemed in part in multiples equal to the minimum authorized denomination for Securities of such series or any multiple thereof. The Trustee shall promptly notify the Issuer in writing of the serial numbers of the Securities of such series selected for redemption and, in the case of any Securities of such series selected for partial redemption, the principal amount thereof to be redeemed.

For all purposes of this Indenture, unless the context otherwise requires, all provisions relating to the redemption of Securities of any series shall relate, in the case of any Security redeemed or to be redeemed only in part, to the portion of the principal amount of such Security which has been or is to be redeemed.

SECTION 11.3 Payment of Securities Called for Redemption. If notice of redemption had been given as above provided, the Securities or portions of Securities specified in such notice shall become due and payable on the date and at the place stated in such notice at the applicable redemption price, together with interest accrued to the date fixed for redemption, and on and after said date (unless the Issuer shall default in the payment of such Securities at the redemption price, together with interest accrued to said date) interest on the Securities or portions of Securities so called for redemption shall cease to accrue and, except as provided in Sections 6.5 and 10.4, such Securities shall cease from and after the date fixed for redemption to be entitled to

any benefit or security under this Indenture, and the Holders thereof shall have no right in respect of such Securities except the right to receive the redemption price thereof and unpaid interest to the date fixed for redemption. On presentation and surrender of such Securities at a place of payment specified in said notice, said Securities or the specified portions thereof shall be paid and redeemed by the Issuer at the applicable redemption price, together with interest accrued thereon to the date fixed for redemption; provided that any semiannual payment of interest becoming due on the date fixed for redemption shall be payable to the Holders of such Securities registered as such on the relevant record date subject to the terms and provisions of Section 2.7 hereof.

If any Security called for redemption shall not be so paid upon surrender thereof for redemption, the principal shall, until paid or duly provided for, bear interest from the date fixed for redemption at the rate of interest borne by the Security.

Upon presentation of any Security redeemed in part only, the Issuer shall execute and the Trustee shall authenticate and deliver to or on the order of the Holder thereof, at the expense of the Issuer, a new Security or Securities of such series, of authorized denominations, in principal amount equal to the unredeemed portion of the Security so presented.

SECTION 11.4 Exclusion of Certain Securities from Eligibility for Selection for Redemption. Securities shall be excluded from eligibility for selection for redemption if they are identified by registration and certificate number in a written statement signed by an authorized officer of the Issuer and delivered to the Trustee at least 40 days (or shorter period satisfactory to the Trustee) prior to the last date on which notice of redemption may be given as being owned of record and beneficially by, and not pledged or hypothecated by either (a) the Issuer or (b) an entity specifically identified in such written statement directly or indirectly controlling or controlled by or under direct or indirect common control with the Issuer.

SECTION 11.5 Mandatory and Optional Sinking Funds. The minimum amount of any sinking fund payment provided for by the terms of Securities of any series is herein referred to as a “mandatory sinking fund payment”, and any payment in excess of such minimum amount provided for by the terms of Securities of any series is herein referred to as an “optional sinking fund payment.” The date on which a sinking fund payment is to be made is herein referred to as the “sinking fund payment date.”

In lieu of making all or any part of any mandatory sinking fund payment with respect to any series of Securities in cash, the Issuer may at its option (a) deliver to the Trustee Securities of such series theretofore purchased or otherwise acquired (except upon redemption pursuant to the mandatory sinking fund) by the Issuer or receive credit for Securities of such series (not previously so credited) theretofore purchased or otherwise acquired (except as aforesaid) by the Issuer and delivered to the Trustee for cancellation pursuant to Section 2.10, (b) receive credit for optional or mandatory sinking fund payments (not previously so credited) made pursuant to this Section, or (c) receive credit for Securities of such series (not previously so credited) redeemed by the Issuer through any optional redemption provision contained in the terms of such series. Securities so delivered or credited shall be received or credited by the Trustee at the sinking fund redemption price specified in such Securities.

On or before the sixtieth day (or shorter period satisfactory to the Trustee) next preceding each sinking fund payment date for any series, the Issuer will deliver to the Trustee a written statement (which need not contain the statements required by Section 13.5) signed by an authorized officer of the Issuer (a) specifying the portion of the mandatory sinking fund payment to be satisfied by payment of cash and the portion to be satisfied by credit of Securities of such series, (b) stating that none of the Securities of such series has theretofore been so credited, (c) stating that no defaults in the payment of interest or Events of Default with respect to such series have occurred (which have not been waived or cured) and are continuing and (d) stating whether or not the Issuer intends to exercise its right to make an optional sinking fund payment with respect to such series and, if so, specifying the amount of such optional sinking fund payment which the Issuer intends to pay on or before the next succeeding sinking fund payment date. Any Securities of such series to be credited and required to be delivered to the Trustee in order for the Issuer to be entitled to credit therefor as aforesaid which have not heretofore been delivered to the Trustee shall be delivered for cancellation pursuant to Section 2.10 to the Trustee with such written statement (or reasonably promptly thereafter if acceptable to the Trustee). Such written statement shall be irrevocable and upon its receipt by the Trustee the Issuer shall become unconditionally obligated to make all the cash payments or payments therein referred to, if any, on or before the next succeeding sinking fund payment date. Failure of the Issuer, on or before any such sixtieth day, to deliver such written statement and Securities specified in this paragraph, if any, shall not constitute a default but shall constitute, on and as of such date, the irrevocable election of the Issuer (i) that the mandatory sinking fund payment for such series due on the next succeeding sinking fund payment date shall be paid entirely in cash without the option to deliver or credit Securities of such series in respect thereof and (ii) that the Issuer will make no optional sinking fund payment with respect to such series as provided in this Section.

If the sinking fund payment or payments (mandatory or optional or both) to be made in cash on the next succeeding sinking fund payment date plus any unused balance of any preceding sinking fund payments made in cash shall exceed \$50,000 (or a lesser sum if the Issuer shall so request) with respect to the Securities of any particular series, such cash shall be applied on the next succeeding sinking fund payment date to the redemption of Securities of such series at the sinking fund redemption price together with accrued interest to the date fixed for redemption. If such amount shall be \$50,000 or less and the Issuer makes no such request then it shall be carried over until a sum in excess of \$50,000 is available. The Trustee shall select, in the manner provided in Section 11.2, for redemption on such sinking fund payment date a sufficient principal amount of Securities of such series to absorb said cash, as nearly as may be, and shall (if requested in writing by the Issuer) inform the Issuer of the serial numbers of the Securities of such series (or portions thereof) so selected. Securities of any series which are (a) owned by the Issuer or an entity known by the Trustee to be directly or indirectly controlling or controlled by or under direct or indirect common control with the Issuer, as shown by the Security register, and not known to the Trustee to have been pledged or hypothecated by the Issuer or any such entity or (b) identified in an Officers' Certificate delivered to the Trustee at least 60 days prior to the sinking fund payment date as being beneficially owned by, and not pledged or hypothecated by, the Issuer or an entity directly or indirectly controlling or controlled by or under direct or indirect common control with the Issuer shall be excluded from Securities of such series eligible for selection for redemption. The Trustee, in the name and at the expense of the Issuer (or the Issuer, if it shall so request the Trustee in writing) shall cause notice of redemption of the Securities of such series to be given in substantially the manner provided in Section 11.2 (and with the effect provided in Section 11.3)

for the redemption of Securities of such series in part at the option of the Issuer. The amount of any sinking fund payments not so applied or allocated to the redemption of Securities of such series shall be added to the next cash sinking fund payment for such series and, together with such payment, shall be applied in accordance with the provisions of this Section. Any and all sinking fund moneys held on the stated maturity date of the Securities of any particular series (or earlier, if such maturity is accelerated), which are not held for the payment or redemption of particular Securities of such series shall be applied, together with other moneys, if necessary, sufficient for the purpose, to the payment of the principal of, and interest on, the Securities of such series at maturity.

At least one Business Day before each sinking fund payment date, the Issuer shall pay to the Trustee in cash or shall otherwise provide for the payment of all interest accrued to the date fixed for redemption on Securities to be redeemed on such sinking fund payment date.

The Trustee shall not redeem or cause to be redeemed any Securities of a series with sinking fund moneys or mail any notice of redemption of Securities for such series by operation of the sinking fund during the continuance of a default in payment of interest on such Securities or of any Event of Default except that, where the mailing of notice of redemption of any Securities shall theretofore have been made, the Trustee shall redeem or cause to be redeemed such Securities, provided that it shall have received from the Issuer a sum sufficient for such redemption. Except as aforesaid, any moneys in the sinking fund for such series at the time when any such default or Event of Default shall occur, and any moneys thereafter paid into the sinking fund, shall, during the continuance of such default or Event of Default, be deemed to have been collected under Article Five and held for the payment of all such Securities. In case such Event of Default shall have been waived as provided in Section 5.10 or the default cured on or before the sixtieth day preceding the sinking fund payment date in any year, such moneys shall thereafter be applied on the next succeeding sinking fund payment date in accordance with this Section to the redemption of such Securities.

ARTICLE TWELVE

DEFEASANCE

SECTION 12.1 Applicability of Article: Issuer's Option to Effect Defeasance. Except to the extent otherwise provided pursuant to Section 2.3 in respect of either or both of (a) defeasance of the Securities of a series under Section 12.2 or (b) covenant defeasance of the Securities of a series under Section 12.3, then the provisions of such Section or Sections, as the case may be, together with the other provisions of this Article Twelve, shall be applicable to the Securities of such series, and the Issuer may at its option by resolution of the Board of Trustees, at any time, with respect to the Securities of such series, elect to have either Section 12.2 (if applicable) or Section 12.3 (if applicable) be applied to the Outstanding Securities of such series upon compliance with the conditions set forth below in this Article Twelve.

SECTION 12.2 Defeasance and Discharge. Upon the Issuer's exercise of the above option applicable to this Section, the Issuer shall be deemed to have been discharged from its obligations with respect to the Outstanding Securities of such series on the date the conditions set forth below are satisfied (hereinafter, "defeasance"). For this purpose, such defeasance means that

the Issuer shall be deemed to have paid and discharged the entire indebtedness represented by the Outstanding Securities of such series and to have satisfied all its other obligations under such Securities and this Indenture insofar as such Securities are concerned (and the Trustee, at the expense of the Issuer, shall execute proper instruments acknowledging the same), except for the following which shall survive until otherwise terminated or discharged hereunder: (A) the rights of Holders of Outstanding Securities of such series to receive solely from the trust fund described in Section 12.4 and as more fully set forth in such Section, payments in respect of the principal of and interest on such Securities when such payments are due, (B) the Issuer's obligations with respect to such Securities under Sections 2.8, 2.9, 2.11, 3.2 and 3.4, (C) the rights, powers, trusts, duties, and immunities of the Trustee hereunder and (D) this Article Twelve. Subject to compliance with this Article Twelve, the Issuer may exercise its option under this Section 12.2 notwithstanding the prior exercise of its options under Section 12.3 with respect to Securities of such series.

SECTION 12.3 Covenant Defeasance. Upon the Issuer's exercise of the above option applicable to this Section, the Issuer shall be released from its obligations under covenants which may be specified in respect of such Securities pursuant to Section 2.3(16) with respect to the Outstanding Securities of such series on and after the date the conditions set forth below are satisfied (hereinafter, "covenant defeasance"). For this purpose, such covenant defeasance means that, with respect to the Outstanding Securities of such series, the Issuer may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such Section, whether directly or indirectly by reason of any reference elsewhere herein to any such Section or by reason of any reference in any such Section to any other provision herein or in any other document, but the remainder of this Indenture and such Securities shall be unaffected thereby.

SECTION 12.4 Conditions to Defeasance. The following shall be the conditions to application of either Section 12.2 or Section 12.3 to the Outstanding Securities of such series:

(a) The Issuer shall irrevocably have deposited or caused to be deposited with the Trustee (or another trustee satisfying the requirements of Section 6.9 who shall agree to comply with the provisions of this Article Twelve applicable to it) as trust funds in trust for the purpose of making the following payments, specifically pledged as security for, and dedicated solely to, the benefit of the Holders of such Securities, (i) money in an amount, or (ii) U.S. Government Obligations which through the scheduled payment of principal and interest in respect thereof in accordance with their terms will provide, not later than one day before the due date of any payment referred to in this subparagraph (a) money in an amount, or (iii) a combination thereof, sufficient, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee, to pay and discharge, and which shall be applied by the Trustee (or other qualifying trustee) to pay and discharge, (A) the principal of and each installment of principal of and interest on the Outstanding Securities of such series on the date that such principal or installment of principal or interest is due and payable and (B) any mandatory sinking fund payments or analogous payments applicable to the Outstanding Securities of such series on the day on which such payments are due and payable in accordance with the terms of this Indenture and of such Securities.

(b) No Event of Default or event with which notice or lapse of time or both would become an Event of Default with respect to the Securities of such series shall have occurred and be continuing on the date of such deposit or, at any time during the period ending on the 91st day after the date of such deposit or, if longer, ending on the day following the expiration of the longest preference period applicable to the Issuer under any applicable bankruptcy, insolvency or similar law in respect of such deposit (it being understood that this condition shall not be deemed satisfied until the expiration of such period).

(c) Such defeasance or covenant defeasance shall not cause the Trustee for the Securities of such series to have a conflicting interest as defined in Section 6.8 and for purposes of the Trust Indenture Act with respect to any securities of the Issuer.

(d) Such defeasance or covenant defeasance shall not result in a breach or violation of, or constitute a default under, this Indenture or any other agreement or instrument to which the Issuer is a party or by which it is bound.

(e) Such defeasance or covenant defeasance shall not cause any Securities of such series then listed on any registered national securities exchange under the Exchange Act to be delisted.

(f) In the case of an election under Section 12.2, the Issuer shall have delivered to the Trustee an Opinion of Counsel stating that (x) the Issuer has received from, or there has been published by, the Internal Revenue Service a ruling, or (y) since the date of this Indenture there has been a change in the applicable Federal income tax law, in either case to the effect that, and based thereon such opinion shall confirm that, the Holders of the Outstanding Securities of such series will not recognize income, gain or loss for Federal income tax purposes as a result of such defeasance and will be subject to Federal income tax on the same amounts, in the same manner and at the same time as would have been the case if such defeasance had not occurred.

(g) In the case of an election under Section 12.3, the Issuer shall have delivered to the Trustee an Opinion of Counsel to the effect that the Holders of the Outstanding Securities of such series will not recognize income, gain or loss for Federal income tax purposes as a result of such covenant defeasance and will be subject to Federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such covenant defeasance had not occurred.

(h) Such defeasance or covenant defeasance shall be effected in compliance with any additional terms, conditions or limitations which may be imposed on the Issuer in connection therewith pursuant to Section 2.3.

(i) The Issuer shall have delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent provided for relating to either the defeasance under Section 12.2 or the covenant defeasance under Section 12.3 (as the case may be) have been complied with.

(j) Such defeasance or covenant defeasance shall not result in the trust arising from such deposit constituting an investment company within the meaning of the Investment Company Act of 1940, as amended, unless such trust shall be registered under such Act or exempt from registration thereunder.

ARTICLE THIRTEEN
MISCELLANEOUS PROVISIONS

SECTION 13.1 Incorporators, Stockholders, Officers and Directors of Issuer Exempt from Individual Liability. No recourse under or upon any obligation, covenant or agreement contained in this Indenture, or in any Security, or because of any indebtedness evidenced thereby, shall be had against any incorporator, as such, or against any past, present or future stockholder, officer or director, as such, of the Issuer or of any successor, either directly or through the Issuer or any successor, under any rule of law, statute or constitutional provision or by the enforcement of any assessment or by any legal or equitable proceeding or otherwise, all such liability being expressly waived and released by the acceptance of the Securities by the holders thereof and as part of the consideration for the issue of the Securities.

SECTION 13.2 Provisions of Indenture for the Sole Benefit of Parties and Securityholders. Nothing in this Indenture or in the Securities, expressed or implied, shall give or be construed to give to any person, firm or corporation, other than the parties hereto, any Paying Agent, and their successors and the Holders of the Securities, any legal or equitable right, remedy or claim under this Indenture or under any covenant or provision herein contained, all such covenants and provisions being for the sole benefit of the parties hereto and their successors and of the Holders of the Securities.

SECTION 13.3 Successors and Assigns of Issuer Bound by Indenture. All the covenants, stipulations, promises and agreements in this Indenture contained by or in behalf of the Issuer shall bind its successors and assigns, whether so expressed or not.

SECTION 13.4 Notices and Demands on Issuer, Trustee and Securityholders. Any notice or demand which any provision of this Indenture is required or permitted to be given or served by the Trustee or by the Holders of Securities to or on the Issuer may be given or served by being deposited postage prepaid, first class mail (except as otherwise specifically provided herein) addressed (until another address of the Issuer is filed by the Issuer with the Trustee) to Universal Health Realty Income Trust, Universal Corporate Center, 367 South Gulph Road, King of Prussia, Pennsylvania 19406, Attention: Secretary. Any notice, direction, request or demand by the Issuer or any Securityholder to or upon the Trustee shall be deemed to have been sufficiently given or made, for all purposes, if given or made at the Corporate Trust Office, when received by the Trustee.

Where this Indenture provides for notice to Holders, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and mailed, first class postage prepaid, to each Holder entitled thereto, at his last address as it appears in the Security register. In any case where notice to Holders is given by mail, neither the failure to mail such notice, nor any defect in any notice so mailed, to any particular Holder shall affect the sufficiency of such notice with respect to other Holders. Where this Indenture provides for notice in any manner, such notice may be waived in writing by the person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Trustee, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

In case, by reason of the suspension of or irregularities in regular mail service, it shall be impracticable to mail notice to the Issuer and Securityholders when such notice is required to be given pursuant to any provision of this Indenture, then any manner of giving such notice as shall be satisfactory to the Trustee shall be deemed to be a sufficient giving of such notice.

SECTION 13.5 Officers' Certificates and Opinions of Counsel; Statements to Be Contained Therein. Upon any application or demand by the Issuer to the Trustee to take any action under any of the provisions of this Indenture, the Issuer shall furnish to the Trustee an Officers' Certificate stating that all conditions precedent provided for in this Indenture relating to the proposed action have been complied with and an Opinion of Counsel stating that in the Opinion of such counsel all such conditions precedent have been complied with, except that in the case of any such application or demand as to which the furnishing of such documents is specifically required by any provision of this Indenture relating to such particular application or demand, no additional certificate or opinion need be furnished.

Each certificate or opinion provided for in this Indenture and delivered to the Trustee with respect to compliance with a condition or covenant provided for in this Indenture shall include: (a) a statement that the person making such certificate or opinion has read such covenant or condition; (b) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based; (c) a statement that, in the opinion of such person, he has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been complied with; and (d) a statement as to whether or not, in the opinion of such person, such condition or covenant has been complied with.

Any certificate, statement or opinion of an officer of the Issuer may be based, insofar as it relates to legal matters, upon a certificate or opinion of or representations by counsel, unless such officer knows that the certificate or opinion or representations with respect to the matters upon which his certificate, statement or opinion may be based as aforesaid are erroneous, or in the exercise of reasonable care should know that the same are erroneous. Any certificate, statement or opinion of counsel may be based, insofar as it relates to factual matters, information with respect to which is in the possession of the Issuer, upon the certificate, statement or opinion of or representations by an officer of officers of the Issuer, unless such counsel knows that the certificate, statement or opinion or representations with respect to the matters upon which his certificate, statement or opinion may be based as aforesaid are erroneous, or in the exercise of reasonable care should know that the same are erroneous.

Any certificate, statement or opinion of an officer of the Issuer or of counsel may be based, insofar as it relates to accounting matters, upon a certificate or opinion of or representations by an accountant or firm of accountants in the employ of the Issuer, unless such officer or counsel, as the case may be, knows that the certificate or opinion or representations with respect to the accounting matters upon which his certificate, statement or opinion may be based as aforesaid are erroneous, or in the exercise of reasonable care should know that the same are erroneous.

Any certificate or opinion of any independent firm of public accountants filed with the Trustee shall contain a statement that such firm is independent.

SECTION 13.6 Payments Due on Saturdays, Sundays and Holidays. If the date of maturity of interest on or principal of the Securities of any series or the date fixed for redemption or repayment of any such Security shall not be a Business Day, then payment of interest or principal need not be made on such date, but may be made on the next succeeding Business Day, with the same force and effect as if made on the date of maturity or the date fixed for redemption, and no interest shall accrue for the period after such date.

SECTION 13.7 Conflict of Any Provision of Indenture with Trust Indenture Act. If any provision hereof limits, qualifies or conflicts with a provision of the Trust Indenture Act that is required under such Act to be a part of and govern this Indenture without such limitation, qualification or conflict, the latter provision shall control. If any provision of this Indenture modifies or excludes any provision of the Trust Indenture Act that may be so modified or excluded, the latter provision shall be deemed to apply to this Indenture as so modified or excluded, as the case may be.

SECTION 13.8 New York Law to Govern. This Indenture and each Security shall be deemed to be a contract under the laws of the State of New York, and for all purposes shall be construed in accordance with the laws of such State, except as may otherwise be required by mandatory provisions of law. EACH OF THE ISSUER AND THE TRUSTEE HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE NOTES OR THE TRANSACTION CONTEMPLATED HEREBY.

SECTION 13.9 Counterparts. This Indenture may be executed in any number of counterparts, each of which shall be an original; but such counterparts shall together constitute but one and the same instrument.

SECTION 13.10 Effect of Headings. The Article and Section headings herein and the Table of Contents are for convenience only and shall not affect the construction hereof.

IN WITNESS WHEREOF, the parties hereto have caused this Indenture, to be duly executed, and their respective corporate seals to be hereunto affixed and attested, all as of the date first above written.

UNIVERSAL HEALTH REALTY INCOME TRUST

By: _____
Name: _____
Title: _____, as Trustee

[SEAL]

By: _____
Name: _____
Title: _____

[Signature Page]

EXHIBIT A – FORM OF SECURITY

[FORM OF FACE OF [SECURITY]]

[GLOBAL SECURITY]

Unless and until this Security is exchanged in whole or in part for Securities in definitive form, this Security may not be transferred except as a whole by The Depository Trust Company, a New York corporation (“DTC” or the “Depository”), to a nominee of DTC or by a nominee of DTC to DTC or another nominee of DTC or by DTC or any nominee to a successor Depository or a nominee of any successor Depository. Unless this certificate is presented by an authorized representative of DTC to the Issuer or its agent for registration of transfer, exchange or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

UNIVERSAL HEALTH REALTY INCOME TRUST

[title of Security]

Principal Amount \$

CUSIP No.

UNIVERSAL HEALTH REALTY INCOME TRUST, a Delaware corporation (the “Issuer”), for value received, hereby promises to pay to [Cede & Co.] or registered assigns, at the agency of the Issuer in the City of New York, New York, the principal sum of DOLLARS on , in immediately available funds in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts, and to pay interest, semiannually on and of each year (each, an “Interest Payment Date”), commencing, on said principal sum at said office or agency, in like coin or currency, at the rate per annum specified in the title of this [Security], from the most recent Interest Payment Date to which interest has been paid or, if no interest has been paid, from , until payment of said principal sum has been made or duly provided for; provided, that payment of interest may be made at the option of the Issuer by check mailed to the address of the person entitled thereto as such address shall appear on the [Security] register. The amount of interest payable on any interest Payment Date shall be computed on the basis of a 360-day year of twelve 30-day months. Each payment of interest in respect of an Interest Payment Date shall include interest accrued through the day prior to such Interest Payment Date. The interest so payable on any Interest Payment Date will, subject to certain exceptions provided in the Indenture referred to on the reverse hereof, be paid to the person in whose name this [Security] is registered at the close of business on the or , as the case may be, which shall be a Business Day next preceding such Interest Payment Date.

Exhibit A - 1

Reference is made to the further provisions of this [Security] set forth on the reverse hereof. Such further provisions shall for all purposes have the same effect as though fully set forth at this place.

This [Security] shall not be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been signed by the Trustee under the Indenture referred to on the reverse hereof.

Exhibit A - 2

IN WITNESS WHEREOF, Universal Health Realty Income Trust has caused this instrument to be signed by facsimile by its duly authorized officers and has caused a facsimile of its corporate seal to be affixed hereunto or imprinted hereon.

UNIVERSAL HEALTH REALTY INCOME TRUST

By: _____
Name: _____
Title: _____

[SEAL]

By: _____
Name: _____
Title: _____

[FORM OF TRUSTEE’S CERTIFICATE OF AUTHENTICATION]

This is one of the Securities described in the within-mentioned Indenture.

Dated: _____, as Trustee

By: _____
Authorized Signatory

[FORM OF REVERSE OF SECURITY]
UNIVERSAL HEALTH REALTY INCOME TRUST
[TITLE OF SECURITY]

This [Security] is one of a duly authorized issue of unsecured debentures, notes or other evidence of indebtedness of the Issuer (hereinafter called the "Securities") of the series hereinafter specified, all issued or to be issued under and pursuant to an indenture dated as of _____, 20____ (herein called the "Indenture"), duly executed and delivered by the Issuer to _____, as Trustee (herein called the "Trustee"), to which Indenture and all indentures supplemental thereto reference is hereby made for a description of the rights, limitations of rights, obligations, duties and immunities thereunder of the Trustee, the Issuer and the holders of the Securities. The Securities may be issued in one or more series, which different series may be issued in various aggregate principal amounts, may mature at different times, may bear interest (if any) at different rates, may be subject to different redemption provisions (if any), may be subject to different sinking, purchase or analogous funds (if any) and may otherwise vary as in the Indenture provided. This [Security] is one of a series designated as the % [Securities] due of the Issuer, limited in aggregate principal amount to \$ (herein called the "Securities").

[The [Securities] will not be redeemable prior to.][The [Securities] may be redeemed at the option of the Issuer as a whole, or from time to time in part, in the amount of \$ or any multiple thereof, on any date after and prior to maturity, upon mailing a notice of such redemption not less than 30 nor more than 60 days prior to the date fixed for redemption to the Holders of [Securities] at their last registered addresses, all as further provided in the Indenture, at the following redemption prices (expressed in percentages of the principal amount) together in each case with accrued interest to the date fixed for redemption:

If redeemed on or before _____, _____ %, and if redeemed during the twelve-month period beginning,

| <u>Year</u> | <u>Percentage</u> | <u>Year</u> | <u>Percentage</u> |
|-------------|-------------------|-------------|-------------------|
|-------------|-------------------|-------------|-------------------|

and thereafter at 100% of their principal amount.]

In case an Event of Default with respect to the [Securities] shall have occurred and be continuing, the principal hereof may be declared, and upon such declaration shall become, due and payable, in the manner, with the effect and subject to the conditions provided in the Indenture.

The Indenture contains provisions permitting the Issuer and the Trustee, with the consent of the Holders of not less than a majority in aggregate principal amount of the Securities at the time Outstanding (as defined in the Indenture) of all series to be affected (voting as one class), evidenced as in the Indenture provided, to execute supplemental indentures adding any provisions to or changing in any manner or eliminating any of the provisions of the Indenture or of any supplemental indenture or modifying in any manner the rights of the Holders of the Securities of each such series; provided, however, that no such supplemental indenture shall (i) change the final maturity of any Security, or reduce the principal amount thereof or any premium thereon, or reduce

the rate or extend the time of payment of any interest thereon, or reduce any amount payable on redemption thereof or reduce the amount of the principal of an Original Issue Discount Security (as defined in the Indenture) payable upon acceleration thereof or the amount thereof provable in bankruptcy, or impair or affect the rights of any Holder to institute suit for the payment thereof, or, if the Securities provide therefor, any right of repayment at the option of the Holder, without the consent of the Holder of each Security so affected, or (ii) reduce the aforesaid percentage of Securities, the Holders of which are required to consent to any such supplemental indenture, without the consent of the Holder of each Security affected. It is also provided in the Indenture that, with respect to certain defaults or Events of Default regarding the Securities of any series, prior to any declaration accelerating the maturity of such Securities, the Holders of a majority in aggregate principal amount Outstanding of the Securities of such series (or, in the case of certain defaults or Events of Default, all or certain series of the Securities) may on behalf of the Holders of all the Securities of such series (or all or certain series of the Securities, as the case may be) waive any such past default or Event of Default and its consequences. The preceding sentence shall not, however, apply to a default in the payment of the principal of or premium, if any, or interest on any of the Securities. Any such consent or waiver by the Holder of this [Security] (unless revoked as provided in the Indenture) shall be conclusive and binding upon such Holder and upon all future Holders and owners of this [Security] and any [Securities] which may be issued in exchange or substitution herefor, irrespective of whether or not any notation thereof is made upon this [Security] or such other [Securities]. No reference herein to the Indenture and no provision of this [Security] or of the Indenture shall alter or impair the obligation of the Issuer, which is absolute and unconditional, to pay the principal of and any premium and interest on this [Security] in the manner, at the respective times, at the rate and in the coin or currency herein prescribed.

The [Securities] are issuable only in registered form, without coupons, in denominations of \$1,000 and any integral multiple thereof, and in book-entry form. The [Securities] may be represented by one or more Global Securities (each, a “Global [Security]”) deposited with the Depositary and registered in the name of the nominee of the Depositary, with certain limited exceptions. So long as the Depositary or any successor Depositary or its nominee is the registered Holder of a Global [Security], such successor Depositary or such nominee, as the case may be, will be considered the sole owner or Holder of the [Securities] represented by such Global [Security] for all purposes under the Indenture and the [Securities]. Beneficial interest in the [Securities] will be evidenced only by, and transfer thereof will be effected only through, records maintained by DTC and its participants. Except as provided below, an owner of a beneficial interest in a Global [Security] will not be entitled to have [Securities] represented by such Global [Security] registered in such owner’s name, will not receive or be entitled to receive physical delivery of the [Securities] in certificated form and will not be considered the owner or Holder thereof under the Indenture.

No Global [Security] may be transferred except as a whole by such Depositary to a nominee of such Depositary or by a nominee of such Depositary to such Depositary or another nominee of such Depositary or by such Depositary or any such nominee to a successor Depositary for such series or a nominee of such successor Depositary. Global [Securities] are exchangeable for certificated [Securities] only if (x) the Depositary notifies the Issuer that it is unwilling or unable to continue as Depositary for such Global [Securities] or if at any time the Depositary ceases to be a clearing agency registered under the Exchange Act and the Issuer fails within 90 days thereafter to appoint a successor Depositary, (y) the Issuer in its sole discretion determines that such Global

[Securities] shall be so exchangeable or (z) there shall have occurred and be continuing an Event of Default or an event which with the giving of notice or lapse of time or both would constitute an Event of Default with respect to the [Securities] represented by such Global [Securities]. In such event, the Issuer will issue [Securities] in certificated form in exchange for such Global [Securities]. In any such instance, an owner of a beneficial interest in the Global [Securities] will be entitled to physical delivery in certificated form of [Securities] equal in principal amount to such beneficial interest and to have such [Securities] registered in its name. [Securities] so issued in certificated form will be issued in denominations of \$1,000 or any integral multiple thereof, and will be issued in registered form only, without coupons.

The Issuer, the Trustee and any authorized agent of the Issuer or the Trustee may deem and treat the registered Holder hereof as the absolute owner of this [Security] (whether or not this [Security] shall be overdue and notwithstanding any notation of ownership or other writing hereon), for the purpose of receiving payment of, or on account of, the principal hereof and premium, if any, and subject to the provisions on the face hereof, interest hereon, and for all other purposes, and neither the Issuer nor the Trustee nor any authorized agent of the Issuer or the Trustee shall be affected by any notice to the contrary.

No recourse under or upon any obligation, covenant or agreement of the Issuer in the Indenture or any indenture supplemental thereto or in any [Security], or because of the creation of any indebtedness represented thereby, shall be had against incorporator, stockholder, officer or director, as such, of the Issuer or of any successor Person, either directly or through the

Issuer or any successor Person, under any rule of law, statute or constitutional provision or by the enforcement of any assessment or by any legal or equitable proceeding or otherwise, all such liability being expressly waived and released by the acceptance hereof and as part of the consideration for the issue hereof.

The acceptance of this [Security] shall be deemed to constitute the consent and agreement of the Holder hereof to all of the terms and provisions of the Indenture. Terms used herein which are defined in the Indenture shall have the respective meanings assigned thereto in the Indentures.

THE INDENTURE AND THE [SECURITIES] SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICTS OF LAW PRINCIPLES THEREOF.



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April 16, 2024

Universal Health Realty Income Trust
 Universal Corporate Center
 367 South Gulph Road
 P.O. Box 61558
 King of Prussia, Pennsylvania 19406-0958

Ladies and Gentlemen:

We have acted as counsel to Universal Health Realty Income Trust, a Maryland real estate investment trust (the “Trust”), with respect to certain legal matters in connection with the Trust’s registration pursuant to a shelf registration statement on Form S-3 (such registration statement, as it may be amended from time to time, the “Registration Statement”) under the Securities Act of 1933, as amended (the “Securities Act”), of the offer and sale by the Trust from time to time, pursuant to Rule 415 under the Securities Act, of (i) common shares of beneficial interest of the Trust, \$.01 par value per share (the “Common Shares”); (ii) preferred shares of beneficial interest of the Trust, \$.01 par value per share (the “Preferred Shares”, and along with the Common Shares, the “Trust Shares”); and (iii) senior unsecured debt securities (the “Debt Securities”), that may be issued, in one or more series, pursuant to an indenture, the form of which is filed as an exhibit to the Registration Statement (as it may be amended, the “Indenture”), and resolutions of the Board of Trustees of the Trust or one or more indentures supplemental thereto (the “Supplemental Documents”), in each case on terms to be determined at the time of offering by the Trust. The Trust Shares and Debt Securities are collectively referred to herein as the “Securities.” The Securities will be offered in amounts, at prices and on terms to be set forth in supplements (each, a “Prospectus Supplement”) to the base prospectus (the “Base Prospectus”) contained in the Registration Statement.

We have examined such records of the Trust, other documents and questions of law as we have considered necessary or appropriate for the purposes of this opinion letter. In our examination of the foregoing documents, we have assumed the genuineness of all signatures and the authenticity of all documents submitted to us as originals, the conformity to original documents of all documents submitted to us as certified or photostatic copies, and the authenticity of the originals of such latter documents.

In addition, in connection with rendering the opinions set forth below, we have assumed that (i) the Declaration of Trust of the Trust dated as of August 5, 1986, filed with the Maryland State Department of Assessments and Taxation on August 6, 1986, and as further amended on June 15, 1993 (as amended, the “Declaration of Trust”) and bylaws of the Trust will not have been amended in any manner that would affect any legal conclusion set forth herein, and any articles supplementary in respect of any series of Preferred Shares will be in conformity therewith and with applicable law; (ii) at the time of offer, issuance and sale of any Securities, the Registration Statement, and any amendments thereto (including post-effective amendments), will have become effective under the Securities Act, and no stop order suspending its effectiveness will

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have been issued and remain in effect; (iii) a Prospectus Supplement will have been prepared and filed with the Securities and Exchange Commission (the “Commission”) describing the Securities offered thereby; (iv) all Securities will be offered and sold in compliance with applicable federal and state securities or “blue sky” laws and in the manner specified in the Registration Statement and the applicable Prospectus Supplement, as applicable; (v) the Indenture and any supplemental indentures relating to the Debt Securities will be duly authorized, executed and delivered by the parties thereto and the Debt Securities will have been validly executed and delivered by the Trust and validly executed, delivered and authenticated by the Trustee; (vi) each person signing the Indenture and any supplemental indentures will have the legal capacity and authority to do so; (vii) a definitive purchase, sales, underwriting or similar agreement with respect to any Securities offered will have been duly authorized and validly executed and delivered by the Trust and the other parties thereto; (viii) in the case of Preferred Shares of any series, the Board of Trustees of the Trust will have taken all necessary action to designate and establish the terms of such series in accordance with the Declaration of Trust of the Trust and Maryland law and to approve the issuance of Preferred Shares of such series, and appropriate articles supplementary to the Declaration of Trust will be prepared and filed with the Maryland State Department of Assessments and Taxation, and the terms of such series of Preferred Shares will not violate any applicable law or result in a default under or breach of any agreement or instrument binding upon the Trust and will comply with any requirements or restrictions imposed by any court or governmental body having jurisdiction over the Trust; (ix) certificates representing Trust Shares will have been duly executed, countersigned, registered and delivered, or if uncertificated, valid book-entry notations will have been made in the share register of the Trust, in each case in accordance with the provisions of the Declaration of Trust and the Trust’s bylaws; (x) there will be sufficient Common Shares or Preferred Shares authorized under the Declaration of Trust and not otherwise issued or reserved for issuance; (xi) the purchase price for Trust Shares payable to the Trust or, if such shares are issuable upon conversion, exchange, redemption or exercise of other Securities, the consideration payable to the Trust for such conversion, exchange, redemption or exercise will not be less than the par value of such shares, in the case of Common Shares, or the lesser of such purchase price or such consideration, as the case may be, or the amount of such purchase price or such consideration, as the case may be, timely determined by the Trust’s Board of Trustees to constitute the stated capital applicable to such shares, in the case of shares of Preferred Shares; and (xii) any Securities issuable upon conversion, exchange or exercise of any Securities being offered will have been duly authorized, created and, if appropriate, reserved for issuance upon such conversion, exchange or exercise.

Based on the foregoing, and subject to the assumptions, qualifications, limitations, and exceptions set forth herein, we are of the opinion that:

1. With respect to the Trust Shares, when (i) the Trust has taken all necessary action to approve the issuance of the Trust Shares, the terms of the offering and related matters; and (ii) the Trust Shares have been issued and delivered in accordance with the terms of the applicable definitive purchase, sales, underwriting or similar agreement approved by the Trust, upon payment of the consideration therefor provided for therein, the Trust Shares will be legally issued, fully paid and nonassessable with no personal liability attaching to ownership thereof other than as described under the caption “Description of the Trust’s Common Shares of Beneficial Interest and Preferred Shares of Beneficial Interest—Shareholder Liability” in the Base Prospectus.

2. With respect to the Debt Securities, when (i) the Indenture and any supplemental indentures relating to the Debt Securities have been duly qualified under the Trust Indenture Act of 1939, as amended; (ii) the Trust has taken all necessary action to approve the issuance and terms of such Debt Securities; (iii) the terms of such Debt Securities and of their issuance and sale have been duly established in conformity with the Indenture and the applicable Supplemental Documents so as not to violate any applicable law or result in a default under or breach of any agreement or instrument binding upon the Trust and so as to comply with any requirements or restrictions imposed by any court or governmental body having jurisdiction over the Trust; and (iv) such Debt Securities have been duly executed and authenticated in accordance with the provisions of the Indenture and the applicable Supplemental Documents and issued and sold as contemplated in the Registration Statement and upon payment of the consideration as provided for in the applicable definitive purchase, underwriting or similar agreement approved by the Trust, such Debt Securities will be legally issued and will constitute valid and legally binding obligations of the Trust, enforceable against the Trust in accordance with their terms, except as such enforcement is subject to any applicable bankruptcy, insolvency (including, without limitation, all laws relating to fraudulent transfers), reorganization, moratorium and similar laws relating to or affecting creditors' rights generally and to general equitable principles (regardless of whether enforcement is sought in a proceeding in equity or at law).

We express no opinion concerning (a) the validity or enforceability of any provisions contained in the Indenture or any Supplemental Documents that purport to waive or not give effect to rights to notices, defenses, subrogation or other rights or benefits that cannot be effectively waived under applicable law; (b) any provision that relates to severability or separability or purports to require that all amendments, supplements or waivers be in writing; or (c) the enforceability of indemnification provisions to the extent they purport to relate to liabilities resulting from or based upon negligence or any violation of federal or state securities or blue sky laws.

The foregoing opinions are limited to the laws of the State of New York (as to the opinions given in paragraph 2), the Maryland REIT law (MD CODE ANN., CORPS & ASS'NS § 8-101, *et seq.*) and applicable federal laws of the United States of America (in each case in effect as of the date hereof) and we express no opinion as to the effect of the laws of any other jurisdiction, domestic or foreign.

We hereby consent to the references to this firm under the caption "Legal Matters" in the Base Prospectus and to the filing of this opinion as an exhibit to the Registration Statement. By giving Universal Health Realty Income Trust such consent, we do not admit that we are within the category of persons whose consent is required under Section 7 of the Securities Act or the rules and regulations thereunder.

Very truly yours,

/s/ Norton Rose Fulbright US LLP

Norton Rose Fulbright US LLP



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April 16, 2024

Universal Health Realty Income Trust
Universal Corporate Center
367 South Gulph Road
P.O. Box 61558
King of Prussia, Pennsylvania 19406-0958

Ladies and Gentlemen:

We have acted as outside tax counsel to Universal Health Realty Income Trust, a Maryland real estate investment trust (the “Trust”), in connection with the registration under the Securities Act of 1933, as amended, of the Trust’s (i) common shares of beneficial interest, \$0.01 par value per share, (ii) preferred shares of beneficial interest, \$0.01 par value per share, and (iii) debt securities, on a shelf registration statement on Form S-3 (such registration statement, including the base prospectus therein, as they may be amended or supplemented from time to time, the “Registration Statement”). Such securities will be offered pursuant to the Registration Statement in amounts, at prices and on terms to be set forth in prospectus supplements to the base prospectus contained in the Registration Statement. You have requested our opinions as to certain United States federal income tax matters in connection with the Registration Statement. Capitalized terms used in this letter that are not otherwise defined herein have the meanings ascribed to them in the Registration Statement.

The opinions set forth herein are based on relevant provisions of the Internal Revenue Code of 1986, as amended (the “Code”), Treasury Regulations promulgated thereunder and interpretations of the foregoing as expressed in court decisions and published administrative determinations of the Internal Revenue Service (“IRS”), all as they exist as of the date hereof (or, where applicable, as in effect during earlier periods in question). These provisions and interpretations could be changed at any time, perhaps with retroactive effect. In addition, some of the issues under existing law that could significantly affect our opinions have not yet been authoritatively addressed by the IRS or the courts.

We are opining herein only as to the federal income tax law of the United States, and we express no opinion with respect to the applicability thereto, or the effect thereon, of other federal laws, the laws of any state or other jurisdiction or as to any matters of municipal law or the laws of any other local agencies within any state.

For purposes of rendering the opinions contained in this letter, we have reviewed and relied upon the following, with your consent: (i) the Registration Statement, (ii) a representation letter containing certain factual statements, factual representations and covenants of a duly appointed and knowledgeable (with respect to matters therein) officer of the Trust (the “Representation”).

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Letter”) relating to, among other things, the actual prior formation, organization, ownership and operations and proposed organization, ownership and operations of the Trust and the entities in which it holds, or has held, a direct or indirect interest and (iii) such other documents, information (including prior representation certificates), laws and facts as we have deemed necessary. In our review, we have assumed the genuineness of all signatures on documents we have examined; the proper execution of all documents; the compliance of each party with all material provisions of such documents; the authority and capacity of the individual or individuals who executed any such documents on behalf of any person; the authenticity of all documents submitted to us as originals, the conformity to originals of all documents submitted to us as copies; the conformity, to the extent relevant to our opinions, of final documents to all documents submitted to us as drafts, the authenticity of the originals of any copies, and the accuracy and completeness of all records made available to us.

These opinions also are premised on the assumptions identified herein and the various assumptions and representations described in the Registration Statement under the heading “UNITED STATES FEDERAL INCOME TAX CONSIDERATIONS” (the “Tax Section”).

For purposes of our opinions we have not independently verified the facts, representations, statements and covenants set forth in the Representation Letter, the Registration Statement or in any other document, or made an independent investigation or audit of the matters relating to such assumptions. We have relied on the representation contained in the Representation Letter that the information contained in the Representation Letter and the Registration Statement, or otherwise furnished to us, accurately and completely describes all material facts relevant to our opinions. We note that the Trust may engage in transactions in connection with which we have not provided legal advice, have not reviewed and/or of which we may be unaware. In rendering this opinion we have assumed the truth and accuracy of all facts, representations, statements and covenants made to us which are qualified as to knowledge, belief, intent or materiality, without regard to such qualifications.

In addition, for purposes of rendering our opinions, we have assumed without independent verification that (i) each partnership and limited liability company in which the Trust owns an interest is properly and currently classified as a partnership or disregarded entity and not as an association for United States federal income tax purposes, (ii) the restrictions on the redemption, transfer and issuance of shares of beneficial interest in the Trust, as set forth in the Declaration of Trust and described in the Registration Statement, are enforceable in accordance with their terms under Maryland law, (iii) the Trust and each partnership, limited liability company, qualified REIT subsidiary (if any) and taxable REIT subsidiary in which the Trust owns an interest have been and will continue to be organized and operated in accordance with the laws of the jurisdictions in which they were formed and in the manner described in the relevant organizational documents, (iv) there will be no changes in the applicable laws of the State of Maryland or of any other jurisdiction under the laws of which the Trust or any partnership, limited liability company, qualified REIT subsidiary (if any) or taxable REIT subsidiary in which the Trust owns an interest have been formed and (v) each of the written agreements to which the Trust, and each partnership, limited liability company, qualified REIT subsidiary (if any) and taxable REIT subsidiary in which the Trust owns an interest is a party has been and will be implemented, construed and enforced in accordance with its terms.

Based solely upon and subject to the foregoing, and subject to the restrictions and limitations set forth herein and in the Tax Section, we are of the opinion that, for United States federal income tax purposes, (a) the Trust was organized and has operated in conformity with the requirements for qualification as a REIT under the Code for each of its prior taxable years, (b) the current and proposed method of operation of the Trust will enable the Trust to continue to satisfy the requirements for such qualification for its taxable year ending December 31, 2024, and for subsequent taxable years, and (c) the descriptions of the law and the legal conclusions contained in the Tax Section, insofar as such statements purport to summarize matters of U.S. federal income tax law, constitute accurate summaries of the matters described therein in all material respects as of the date hereof.

We express no opinion other than the opinions expressly set forth herein.

An opinion of counsel with respect to an issue represents counsel's best judgment as to the outcome on the merits with respect to such issue. Our opinions are not binding on the IRS or the courts, and it is possible that the IRS may disagree with our opinions and that a court will sustain a contrary position if asserted by the IRS. Accordingly, although we believe that our opinions would be sustained if challenged, there can be no assurance that the IRS will not challenge, or that the courts will agree with, our conclusions.

Our opinions are based upon the law in effect as of the date of this opinion letter or, to the extent different and relevant for a prior taxable year or other period, as in effect for the applicable taxable year or period. We undertake no obligation to update this opinion to reflect any legal developments subsequent to the date hereof. Consequently, future changes in the law, or interpretations of law, may cause the United States federal income tax treatment of the matters referred to herein and in the Tax Section to be materially and adversely different from that described above and in the Tax Section.

In addition, any variation in the facts, representations, statements or covenants or in the operations of the Trust from those referred to, set forth or assumed herein or in the Registration Statement, the Representation Letter or otherwise provided to us may affect the conclusions stated in our opinions. Moreover, the Trust's qualification and taxation as a REIT has depended in the past and necessarily depends for the current and future taxable years upon the Trust's ability to actually meet, for each such taxable year, certain requirements relating to the Trust's asset composition, the sources of its income, distribution levels, diversity of stock ownership and various other qualification requirements under the Code, and may depend in part upon operating results, organizational structure and entity classification for United States federal income tax purposes of certain entities in which it invests. We will not review or monitor (and have not reviewed or monitored) the Trust's results or compliance with these requirements. Accordingly, notwithstanding the opinions expressed above, no assurance can be given that the actual ownership and results of the Trust's operations for any taxable year will in fact satisfy (or have satisfied) the requirements for the Trust to qualify (or to have qualified) as a REIT under the Code. We are under no obligation to supplement or revise our opinions to reflect any factual matters arising subsequent to the date hereof, or the impact of any information, document, certificate, record, statement, representation, covenant or assumption relied upon herein that is or becomes incorrect or untrue.

We note that the Registration Statement does not currently address the United States federal income tax considerations that may be relevant to a holder of preferred shares. It is our understanding that in the event the Trust issues preferred shares the Trust will prepare a supplement to the prospectus included in the Registration Statement, which supplement will address the United States federal income tax considerations that are likely to be material to a holder of such securities.

Our opinions do not preclude the possibility that the Trust may need to use one or more of the various “savings provisions” under the Code and the regulations thereunder (including, without limitation, any applicable deficiency dividend procedures (i.e., section 860 of the Code, and section 852(e) of the Code and section 1.857-11 of the Treasury Regulations)) that would permit the Trust to cure certain violations of the requirements for qualification and taxation as a REIT. Using such savings provisions could require the Trust to pay significant penalty or excise taxes and/or interest charges and/or make additional distributions to shareholders that the Trust would not otherwise make.

This opinion is rendered only to you, and is solely for your use in connection with the issuance of shares of beneficial interest and/or debt securities by the Trust pursuant to the Registration Statement. This opinion may not be relied upon by you for any other purpose, or furnished to, quoted to or relied upon by any other person, firm or corporation, for any purpose, without our prior written consent. We hereby consent to the filing of this opinion as an exhibit to the Registration Statement and to the use of our name in the Tax Section and the section under the heading “LEGAL MATTERS” of each prospectus included in the Registration Statement. In giving such consent, we do not thereby admit that we are in the category of persons whose consent is required under Section 7 of the Securities Act of 1933, as amended.

Very truly yours,

/s/ Norton Rose Fulbright US LLP

Norton Rose Fulbright US LLP

Consent of Independent Registered Public Accounting Firm

We consent to the use of our reports dated February 27, 2024, with respect to the consolidated financial statements and financial statement schedule III of Universal Health Realty Income Trust and subsidiaries, and the effectiveness of internal control over financial reporting, incorporated herein by reference, and to the reference to our firm under the heading “Experts” in the prospectus.

/s/ KPMG LLP

Philadelphia, Pennsylvania
April 16, 2024

Calculation of Filing Fee Tables
FORM S-3
(Form Type)
UNIVERSAL HEALTH REALTY INCOME TRUST
(Exact Name of Registrant as Specified in its Charter)

Table 1: Newly Registered and Carry Forward Securities

| | Security Type | Security Class Title | Fee Calculation or Carry Forward Rule | Amount Registered | Proposed Maximum Offering Price Per Unit | Maximum Aggregate Offering Price | Fee Rate | Amount of Registration Fee | Carry Forward Form Type | Carry Forward File Number | Carry Forward Initial effective date | Filing Fee Previously Paid In Connection with Unsold Securities to be Carried Forward |
|------------------------------------|-------------------------------|---|---------------------------------------|-------------------|--|----------------------------------|------------|----------------------------|-------------------------|---------------------------|--------------------------------------|---|
| Newly Registered Securities | | | | | | | | | | | | |
| Fees to Be Paid | Equity | Common Shares of beneficial interest, \$0.01 par value | (1) | (1) | (1) | (1) | (1) | (1) | | | | |
| Fees to Be Paid | Equity | Preferred Shares of beneficial interest, \$0.01 par value | (1) | (1) | (1) | (1) | (1) | (1) | | | | |
| Fees to Be Paid | Debt | Debt Securities | (1) | (1) | (1) | (1) | (1) | (1) | | | | |
| Fees to Be Paid | Unallocated (Universal) Shelf | — | 457(o) | (1) | (1) | \$100,000,000 (2) | 0.00014760 | \$14,760 | | | | |
| Fees Previously Paid | — | — | — | — | — | — | | — | | | | |
| Carry Forward Securities | | | | | | | | | | | | |
| Carry Forward Securities | — | — | — | — | | — | | | — | — | — | — |
| | Total Offering Amounts | | | | | \$100,000,000 | | \$14,760 | | | | |
| | Total Fees Previously Paid | | | | | | | — | | | | |
| | Total Fee Offsets | | | | | | | \$12,944.45 | | | | |
| | Net Fee Due | | | | | | | \$1,815.55 | | | | |

- (1) Pursuant to Instruction 2.A.iii.b of Item 16(b) of Form S-3, this information is not required to be included. An indeterminate amount of the securities of each identified class is being registered as may from time to time be offered under this registration statement at indeterminate prices, along with an indeterminate number of securities that may be issued upon exercise, settlement, exchange or conversion of securities offered or sold under this registration statement, as shall have an aggregate initial offering price up to \$100,000,000. Pursuant to Rule 416 under the Securities Act of 1933, as amended (the “Securities Act”), this registration statement also covers any additional securities that may be offered or issued in connection with any stock split, stock dividend or pursuant to anti-dilution provisions of any of the securities. Separate consideration may or may not be received for securities that are issuable upon conversion, exercise or exchange of other securities.
- (2) The proposed maximum aggregate offering price has been calculated pursuant to Rule 457(o) under the Securities Act.

Table 2: Fee Offset Claims and Sources

| | Registrant or Filer Name | Form or Filing Type | File Number | Initial Filing Date | Filing Date | Fee Offset Claimed | Security Type Associated with Fee Offset Claimed | Security Title Associated with Fee Offset Claimed | Unsold Securities Associated with Fee Offset Claimed | Unsold Aggregate Offering Amount Associated with Fee Offset Claimed | Fee Paid with Fee Offset Source |
|------------------------------------|--|------------------------------|----------------|---------------------------|----------------|-----------------------|---|--|---|--|--|
| Rules 457(b) and 0-11(a)(2) | | | | | | | | | | | |
| Fee Offset Claims | — | — | — | — | — | — | — | — | — | — | — |
| Fee Offset Sources | — | — | — | — | — | — | — | — | — | — | — |
| Rule 457(p) | | | | | | | | | | | |
| Fee Offset Claims | Universal Health Realty Income Trust | S-3 | 333-238301 | 5/15/2020 | | \$12,944.45 (1) | (2) | (2) | (2) | \$99,726,084.80 | — |
| Fee Offset Sources | Universal Health Realty Income Trust | S-3 | 333-238301 | — | 5/15/2020 | — | — | — | — | — | \$5,255.91 (3) |
| Fee Offset Sources | Universal Health Realty Income Trust | S-3 | 333-208264 | — | 11/30/2015 | — | — | — | — | — | \$7,688.54 (3) |

- (1) Pursuant to Rule 457(p) under the Securities Act, the registrant is offsetting the registration fee due under this registration statement by \$12,944.45, which represents the portion of the registration fee previously paid with respect to \$99,726,084.80 of unsold securities (the “Unsold Offset Securities”) previously registered on the Registration Statement on Form S-3, originally filed by the registrant on filed May 15, 2020 (File No. 333-238301) (the “2020 Registration Statement”). The offering of the Unsold Offset Securities pursuant to the 2020 Registration Statement associated with the claimed fee offset pursuant to Rule 457(p) have been completed or terminated.
- (2) The 2020 Registration Statement registered for sale the registrant’s Common Shares, Preferred Shares and Debt Securities.
- (3) In connection with the filing of a Prospectus Supplement under the 2020 Registration Statement pursuant to Rule 424(b)(5) under the Securities Act on June 8, 2020 covering an at-the-market offering of the registrant’s Common Shares, the registrant paid a filing fee of \$5,255.91 associated with the offering of a portion of the unsold securities (based on the filing fee rate in effect at the time of the filing of the 2020 Registration Statement) and offset \$7,724.09 with respect to \$76,703,973 of unsold securities previously registered pursuant to the registrant’s prior registration statement on Form S-3 (File No. 333-208264), originally filed by the registrant on filed November 30, 2015 and declared effective on December 22, 2015.