

Apollo Commercial Real Estate Finance, Inc.
Form 424B5
March 12, 2014
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**Filed Pursuant to Rule 424(b)(5)
Registration No. 333-187973**

Prospectus Supplement to Prospectus dated April 30, 2013.

\$125,000,000

5.50% Convertible Senior Notes due 2019

Interest payable March 15 and September 15

Issue Price: 100%

We are offering \$125,000,000 principal amount of our 5.50% convertible senior notes due 2019, or the notes. The notes will bear interest at a rate of 5.50% per year, payable semiannually in arrears on March 15 and September 15 of each year, beginning on September 15, 2014. The notes will mature on March 15, 2019, unless earlier repurchased or converted.

Holders may convert all or any portion of their notes, in integral multiples of \$1,000 principal amount, at their option, at any time prior to the close of business on the second scheduled trading day immediately preceding the maturity date, unless the notes have been previously repurchased by us. The initial conversion rate for the notes is 55.3649 shares of our common stock, \$0.01 par value per share, or the common stock, per \$1,000 principal amount of notes (equivalent to an initial conversion price of approximately \$18.06 per share of common stock), subject to adjustment as described in this prospectus supplement. In addition, following certain corporate events referred to herein as make-whole fundamental changes that occur prior to the maturity date, we will increase the conversion rate for a holder who elects to convert its notes in connection with such a corporate event in certain circumstances as described under Description of Notes Conversion Rights Increase in Conversion Rate Upon Conversion Upon a Make-whole Fundamental Change.

Upon conversion, we will pay or deliver, as the case may be, cash, shares of our common stock or a combination of cash and shares of our common stock, at our election. If we satisfy our conversion obligation solely in cash or through payment and delivery, as the case may be, of a combination of cash and shares of our common stock, the amount of cash and shares of common stock, if any, due upon conversion will be

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based on a daily conversion value calculated for each trading day in a 25 trading day observation period. See Description of Notes Conversion Rights Settlement upon Conversion.

Following certain corporate events referred to herein as fundamental changes, subject to certain conditions, holders may require us to repurchase for cash all or part of their notes in principal amounts of \$1,000 or an integral multiple thereof. The fundamental change repurchase price generally will be equal to 100% of the principal amount of the notes to be repurchased, plus accrued and unpaid interest to, but excluding, the fundamental change repurchase date. No sinking fund will be provided for the notes.

The notes will be our senior unsecured obligations and will rank senior in right of payment to any of our existing and future indebtedness that is expressly subordinated in right of payment to the notes; equal in right of payment to any of our existing and future liabilities that are not so subordinated; effectively junior in right of payment to any of our secured indebtedness to the extent of the value of the assets securing such indebtedness; and structurally junior to all existing and future indebtedness, other liabilities (including trade payables) and (to the extent not held by us) preferred stock, if any, of our subsidiaries.

We do not intend to apply to list the notes on any securities exchange or any automated dealer quotation system. Our common stock is listed on The New York Stock Exchange under the symbol ARI. The last reported sale price of our common stock on The New York Stock Exchange on March 11, 2014 was \$16.42 per share.

See Risk Factors beginning on page S-9 of this prospectus supplement and in our Annual Report on Form 10-K for the year ended December 31, 2013 for a discussion of important factors that you should consider before investing in the notes.

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

	Per Note	Total
Public offering price	100%	\$ 125,000,000
Underwriting discount	3%	\$ 3,750,000
Proceeds to us, before expenses	97%	\$ 121,250,000

The offering price set forth above does not include accrued interest, if any. Interest on the notes will accrue from, and including, the date of original issuance, which is expected to be March 17, 2014.

The underwriters will have the option to purchase, within 30 days from the date of this prospectus supplement, up to an additional \$18,750,000 principal amount of notes from us at the public offering price less the underwriting discount.

The underwriters expect to deliver the notes in book-entry form only through the facilities of The Depository Trust Company on or about March 17, 2014.

J.P. Morgan

BofA Merrill Lynch

Citigroup

March 11, 2014.

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About this Prospectus Supplement

This document is in two parts. The first part is the prospectus supplement, which describes the specific terms of this offering and also updates information contained in the accompanying prospectus and the documents incorporated by reference into the prospectus. The second part is the accompanying prospectus, which gives more general information, some of which may not apply to this offering. To the extent there is a conflict between the information contained in this prospectus supplement and the information contained in the accompanying prospectus, the information in this prospectus supplement shall control. In addition, any statement in a filing we make with the Securities and Exchange Commission, or the SEC, that adds to, updates or changes information contained in an earlier filing we made with the SEC shall be deemed to modify and supersede such information in the earlier filing.

You should read this document together with additional information described under the heading *Where you Can Find More Information and Incorporation by Reference* in this prospectus supplement. You should rely only on the information contained or incorporated by reference in this prospectus supplement and the accompanying prospectus. Neither we nor the underwriters have authorized anyone to provide you with different information. If anyone provides you with different or inconsistent information, you should not rely on it. You should assume that the information in this prospectus supplement and the accompanying prospectus, as well as the information we have previously filed with the SEC and incorporated by reference in this document, is accurate only as of its date or the dates which are specified in those documents.

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Cautionary Note Regarding Forward-Looking Statements

We make forward-looking statements in this prospectus supplement within the meaning of Section 27A of the Securities Act of 1933, as amended, or the Securities Act, and Section 21E of the Securities Exchange Act of 1934, as amended, or the Exchange Act. For these statements, we claim the protections of the safe harbor for forward-looking statements contained in such sections. Forward-looking statements are subject to substantial risks and uncertainties, many of which are difficult to predict and are generally beyond our control. These forward-looking statements include information about possible or assumed future results of our business, financial condition, liquidity, results of operations, plans and objectives. When we use the words believe, expect, anticipate, estimate, plan, continue, intend, should, may expressions, we intend to identify forward-looking statements. Statements regarding the following subjects, among others, may be forward-looking:

the use of proceeds of this offering;

market trends in our industry, interest rates, real estate values, the debt securities markets or the general economy or the demand for commercial real estate loans;

our business and investment strategy;

our operating results;

actions and initiatives of the U.S. government and changes to U.S. government policies and the execution and impact of these actions, initiatives and policies;

the state of the U.S. economy generally or in specific geographic regions;

economic trends and economic recoveries;

our ability to obtain and maintain financing arrangements, including securitizations;

anticipated shortfall of debt financing from traditional lenders;

the volume of short-term loan extensions;

the demand for new capital to replace maturing loans;

our expected leverage;

general volatility of the securities markets in which we participate;

changes in the value of our assets;

the scope of our target assets;

interest rate mismatches between our target assets and any borrowings used to fund such assets;

changes in interest rates and the market value of our target assets;

changes in prepayment rates on our target assets;

effects of hedging instruments on our target assets;

rates of default or decreased recovery rates on our target assets;

the degree to which hedging strategies may or may not protect us from interest rate volatility;

the impact of and changes in governmental regulations, tax law and rates, accounting guidance and similar matters;

our ability to maintain our qualification as a real estate investment trust, or REIT, for U.S. federal income tax purposes;

our ability to remain excluded from registration under the Investment Company Act of 1940, or the 1940 Act;

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the availability of opportunities to acquire commercial mortgage-related, real estate-related and other securities;

the availability of qualified personnel;

estimates relating to our ability to make distributions to our stockholders in the future;

our understanding of our competition; and

the closing of our investment in KBC Bank Deutschland AG.

The forward-looking statements are based on our beliefs, assumptions and expectations of our future performance, taking into account all information currently available to us. Forward-looking statements are not predictions of future events. These beliefs, assumptions and expectations can change as a result of many events or factors, not all of which are known to us. Some of these factors are described in "Risk Factors" beginning on page S-9 of this prospectus supplement and set forth under the caption "Risk Factors" in our Annual Report on Form 10-K for the year ended December 31, 2013 and our other filings under the Exchange Act (which are incorporated by reference into this prospectus supplement). These and other risks, uncertainties and factors, including those described in the annual, quarterly and current reports that we file with the SEC, could cause our actual results to differ materially from those included in any forward-looking statements we make. All forward-looking statements speak only as of the date they are made. New risks and uncertainties arise over time and it is not possible to predict those events or how they may affect us. Except as required by law, we are not obligated to, and we do not intend to, update or revise any forward-looking statements, whether as a result of new information, future events or otherwise.

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Prospectus Summary

This summary highlights some of the information in this prospectus supplement and the accompanying prospectus. It does not contain all of the information that you should consider before making a decision to invest in the notes. You should read carefully the more detailed information in this prospectus supplement and the accompanying prospectus, and the information incorporated by reference into this prospectus supplement and the accompanying prospectus. Unless the context requires otherwise, references in this prospectus supplement to the company, we, us, our or our company are to Apollo Commercial Real Estate Finance, Inc., a Maryland corporation, together with its consolidated subsidiaries; references in this prospectus supplement to Apollo refer to Apollo Global Management, LLC, a Delaware limited liability company, together with its subsidiaries; and references in this prospectus supplement to our Manager refer to ACREFI Management, LLC, a Delaware limited liability company and an indirect subsidiary of Apollo Global Management, LLC. Unless indicated otherwise, the information in this prospectus supplement assumes no exercise by the underwriters of their option to purchase additional notes.

Our Company

General

We are a Maryland corporation that has elected to qualify as a real estate investment trust, or REIT, for U.S. federal income tax purposes. We primarily originate, acquire, invest in and manage performing commercial first mortgage loans, subordinate financings, commercial mortgage-backed securities, or CMBS, and other commercial real estate-related debt investments. We refer to the assets we target for acquisition as our target assets.

We are externally managed and advised by our Manager, an indirect subsidiary of Apollo, a leading global alternative investment manager with a contrarian and value-oriented investment approach in private equity, credit and real estate. Apollo had total assets under management of approximately \$161.2 billion as of December 31, 2013. Our Manager is led by an experienced team of professionals who have significant expertise in underwriting and structuring commercial real estate financing transactions. We benefit from Apollo's global infrastructure and operating platform, through which we are able to source, evaluate and manage potential investments in our target assets.

Our principal business objective is to make investments in our target assets in order to provide attractive risk adjusted returns to our stockholders over the long term, primarily through dividends and secondarily through capital appreciation.

We were organized in 2009 and have elected to be taxed as a REIT for U.S. federal income tax purposes, commencing with our taxable year ended December 31, 2009. We are generally not subject to U.S. federal income taxes on our taxable income to the extent that we annually distribute our net taxable income to stockholders and satisfy certain other requirements that allow us to maintain our intended qualification as a REIT. We also intend to operate our business in a manner that will permit us to continue to remain excluded from registration as an investment company under the 1940 Act.

Our Corporate Information

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Our principal executive offices are located at 9 West 57th Street, 43rd Floor, New York, New York 10019. Our telephone number is (212) 515-3200. Our website is www.apolloreit.com. The information on our website does not form a part of and is not incorporated by reference into this prospectus supplement or the accompanying prospectus.

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The Offering

*The following is a brief summary of the terms of this offering and the notes. We provide the following summary solely for your convenience. This summary is not a complete description of this offering or the notes. You should read the full text and more specific details contained elsewhere in this prospectus supplement and the accompanying prospectus. For a more detailed description of the notes, see *Description of Notes* in this prospectus supplement and *Description of Debt Securities* in the accompanying prospectus. With respect to the terms of the notes on the cover page of this prospectus supplement, in this section and in the section entitled *Description of Notes*, the terms *the Company*, *we*, *our*, and *us* refer to Apollo Commercial Real Estate Finance, Inc. and not to any of its subsidiaries.*

Issuer	Apollo Commercial Real Estate Finance, Inc., a Maryland corporation.
Securities	\$125.0 million principal amount of 5.50% convertible senior notes due 2019 (plus up to an additional \$18.75 million principal amount pursuant to the underwriters' option to purchase additional notes).
Maturity date	March 15, 2019, unless earlier repurchased or converted.
Interest rate	5.50% per year. Interest will accrue from, and including, March 17, 2014 and will be payable semiannually in arrears on March 15 and September 15 of each year, beginning on September 15, 2014. We will pay additional interest, if any, at our election as the sole remedy relating to the failure to comply with our reporting obligations as described under <i>Description of Notes</i> Events of Default.
Ranking	<p>The notes will be our senior unsecured obligations and will rank:</p> <ul style="list-style-type: none"> senior in right of payment to any of our existing and future indebtedness that is expressly subordinated in right of payment to the notes; equal in right of payment to any of our existing and future unsecured indebtedness that is not so subordinated; effectively junior in right of payment to any of our secured indebtedness to the extent of the value of the assets securing such indebtedness; and structurally junior to all existing and future indebtedness, other liabilities (including trade payables) and (to the extent not held by us) preferred stock, if any, of our subsidiaries. <p>As of December 31, 2013, on a consolidated basis, we had approximately \$202.0 million of borrowings outstanding, all of which was incurred by our subsidiaries. As of such date, our subsidiaries had (i) approximately \$47.8 million of borrowings outstanding under a master repurchase agreement, or the Wells Facility, with Wells Fargo Bank, N.A., or Wells Fargo, under which no further borrowings are permitted, (ii) approximately \$20.4 million of borrowings outstanding under a repurchase facility, or the JPMorgan</p>

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Facility, with JPMorgan Chase Bank, N.A., an affiliate of one of the underwriters in this

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offering, or JPMorgan, which permits borrowings of up to \$100.0 million, and (iii) approximately \$133.9 million of borrowings outstanding under a fully utilized repurchase facility, or the UBS Facility, with UBS AG, London Branch, or UBS. After giving effect to the issuance of the notes (assuming no exercise of the underwriters' option to purchase additional notes), our total consolidated indebtedness as of December 31, 2013 would have been \$306.7 million (without giving effect to the equity component of convertible debt or any debt discount or fees and expenses). See Capitalization.

The indenture governing the notes does not limit the amount of debt that we or our subsidiaries may incur.

Conversion rights

Holders may convert all or any portion of their notes, in multiples of \$1,000 principal amount, at their option, at any time prior to the close of business on the second scheduled trading day immediately preceding the maturity date, unless the notes have been previously purchased by us.

The initial conversion rate for the notes is 55.3649 shares of our common stock per \$1,000 principal amount of notes (equivalent to an initial conversion price of approximately \$18.06 per share of our common stock), subject to adjustment as described in this prospectus supplement.

Upon conversion, we will pay or deliver, as the case may be, cash, shares of our common stock or a combination of cash and shares of our common stock, at our election. If we satisfy our conversion obligation solely in cash or through payment and delivery, as the case may be, of a combination of cash and shares of our common stock (excluding cash paid in lieu of any fractional share), the amount of cash and shares of our common stock, if any, due upon conversion will be based on a daily conversion value (as described herein) calculated for each trading day in a 25 trading day observation period (as described herein). See Description of Notes Conversion Rights Settlement Upon Conversion.

In addition, following a make-whole fundamental change (as defined in this prospectus supplement under Description of Notes Conversion Rights Increase in Conversion Rate Upon Conversion Upon a Make-whole Fundamental Change) that occurs prior to the maturity date, we will increase the conversion rate for a holder who elects to convert its notes in connection with such a corporate event in certain circumstances. See Description of Notes Conversion Rights Increase in Conversion Rate Upon Conversion Upon a Make-whole Fundamental Change.

You will not receive any additional cash payment or additional shares representing accrued and unpaid interest, if any, upon conversion of a

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note, except in limited circumstances. Instead, interest will be deemed to be paid by the cash, shares of our common stock or a combination of cash and shares of our common stock paid or delivered, as the case may be, to you upon conversion of a note.

Any conversion of notes into shares of our common stock will be subject to certain ownership limitations more fully described in [Description of Notes Restrictions on Ownership and Transfer of Stock; Limitation on Stock Issuable Upon Conversion](#).

No redemption; no sinking fund

We may not redeem the notes prior to the maturity date, and no sinking fund is provided for the notes, which means that we are not required to redeem or retire the notes periodically.

Fundamental change

Following a fundamental change (as defined in this prospectus supplement under [Description of Notes Fundamental Change Permits Holders to Require Us to Repurchase Notes](#)), subject to certain conditions, holders may require us to repurchase for cash all or part of their notes in principal amounts of \$1,000 or an integral multiple thereof. The fundamental change repurchase price will generally be equal to 100% of the principal amount of the notes to be repurchased, plus accrued and unpaid interest to, but excluding, the fundamental change repurchase date. See [Description of Notes Fundamental Change Permits Holders to Require Us to Repurchase Notes](#).

Book-entry form

The notes will be issued in book-entry form and will be represented by one or more permanent global certificates deposited with, or on behalf of, The Depository Trust Company, or DTC, and registered in the name of a nominee of DTC. Beneficial interests in any of the notes will be shown on, and transfers will be effected only through, records maintained by DTC or its nominee, and any such interest may not be exchanged for certificated securities, except in limited circumstances.

No prior market

The notes are a new issue of securities with no established trading market. We have been advised by the representatives of the underwriters that certain underwriters intend to make a market in the notes but are not obligated to do so and may discontinue market making at any time without notice. Accordingly, we cannot assure you as to the development or liquidity of the trading market for the notes.

No listing

We do not intend to apply for listing of the notes on any securities exchange. Our common stock is listed on The New York Stock Exchange under the symbol [ARI](#).

Trustee, paying agent and conversion agent

Wells Fargo Bank, National Association.

U.S. federal income tax considerations

For certain material U.S. federal income tax considerations relating to the purchase, ownership and disposition of the notes and the shares of

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our common stock, if any, into which the notes are convertible, see **Additional U.S. Federal Income Tax Considerations** in this prospectus supplement and **U.S. Federal Income Tax Considerations** in the accompanying prospectus.

Use of proceeds

We intend to use the net proceeds of this offering to repay amounts outstanding under the JPMorgan Facility, and the balance, if any (including as a result of the underwriters exercise of their option to purchase additional notes) to acquire our target assets and for general corporate purposes. An affiliate of J.P. Morgan Securities LLC, an underwriter in this offering, is the lender under the JPMorgan Facility and, as such, will receive a portion of the proceeds of this offering in connection with our repayment of amounts outstanding under such facility. See **Use of Proceeds**.

Risk factors

See **Risk Factors** beginning on page S-9 and in our Annual Report on Form 10-K for the year ended December 31, 2013 for a discussion of factors that should be considered before investing in the notes.

Restrictions on ownership and transfer of common stock

To assist us in complying with the limitations on the concentration of ownership of a REIT imposed by the Internal Revenue Code of 1986, as amended, or the Internal Revenue Code, among other purposes, our charter contains restrictions on the ownership and transfer of our stock. Our charter generally prohibits, among other prohibitions, any stockholder from beneficially or constructively owning more than 9.8% in value or in number of shares, whichever is more restrictive, of the outstanding shares of our common stock, or 9.8% in value or in number of shares, whichever is more restrictive, of the outstanding shares of all classes or series of our capital stock. Our board of directors has established exemptions from the common stock ownership limit that permit Apollo and certain of its affiliates collectively to hold up to 25% of our common stock and certain institutional investors, each together with certain of their specified affiliates, each collectively to hold up to 15% of our common stock. In addition, our charter contains various other restrictions on the ownership and transfer of our common stock. See **Description of Notes Restrictions on Ownership and Transfer of Stock; Limitation on Stock Issuable Upon Conversion** in this prospectus supplement and **Restrictions on Ownership and Transfer** in the accompanying prospectus. The indenture governing the notes will provide that, notwithstanding any other provision of the indenture or the notes, no holder of notes will be entitled to receive shares of our common stock upon conversion to the extent (but only to the extent) that such receipt would cause a violation of the restrictions on ownership and transfer of our stock set forth in our charter. Any purported delivery of shares of our common stock upon conversion of notes will be void and have no effect to the extent (but only to the extent) that such delivery would result in a violation of the restrictions on ownership and transfer of our stock set forth in our charter.

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Risk Factors

Investing in the notes being offered by this prospectus supplement and the accompanying prospectus involves a high degree of risk. Before deciding whether to invest in the notes, you should consider carefully the risk factors related to the notes and this offering described below and the other risk factors incorporated herein by reference to our Annual Report on Form 10-K for the year ended December 31, 2013. If any of these risks actually occurs, it may materially harm our business, financial condition, operating results or cash flow. As a result, the market price of our common stock and, in turn, the trading price of the notes could decline, and you could lose part or all of your investment. Additional risks and uncertainties that are not yet identified or that we think are immaterial may also materially harm our business, operating results and financial condition and could result in a complete loss of your investment.

Risks Related to the Notes and this Offering

The notes are effectively subordinated to any of our existing and future secured debt and structurally subordinated to the liabilities of our subsidiaries.

The notes will be our general unsecured obligations and will rank equal in right of payment with any other senior unsecured indebtedness we incur and senior in right of payment to any existing and future indebtedness that is contractually subordinated to the notes. The notes, however, will be effectively subordinated to our existing and future secured indebtedness to the extent of the value of the collateral securing such indebtedness and structurally subordinated to all existing and future indebtedness, other liabilities (including trade payables) and (to the extent not held by us) preferred stock, if any, of our subsidiaries. As of December 31, 2013, on a consolidated basis, we had approximately \$202.0 million of borrowings outstanding (exclusive of trade and other payables and other liabilities), all of which were incurred by our subsidiaries. Consequently, in the event of a bankruptcy, liquidation, dissolution, reorganization or similar proceeding with respect to us, we, as a common equity owner of such subsidiary, and, therefore, holders of our debt, including holders of the notes, will be subject to the prior claims of such subsidiary's creditors, including trade creditors and preferred equity holders. The provisions of the indenture governing the notes will not prohibit us from incurring additional secured indebtedness nor will it prohibit any of our subsidiaries from incurring additional indebtedness or issuing preferred stock in the future.

Our indebtedness and liabilities could limit cash flow available for our operations, expose us to risks that could adversely affect our business, financial condition and results of operations and impair our ability to satisfy our obligations under the notes.

As of December 31, 2013, our total consolidated liabilities were approximately \$224.5 million. We will incur \$125.0 million of additional indebtedness if and when we sell the notes, or \$143.75 million of additional indebtedness if the underwriters exercise in full their option to purchase additional notes. We may also incur additional indebtedness to meet future financing needs. Our indebtedness could have significant negative consequences for our business, results of operations and financial condition, including:

increasing our vulnerability to adverse economic and industry conditions;

limiting our ability to obtain additional financing;

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requiring the dedication of a substantial portion of our cash flow from operations to service our indebtedness, thereby reducing the amount of our cash flow available for other purposes;

limiting our flexibility in planning for, or reacting to, changes in our business;

dilution experienced by our existing stockholders as a result of the issuance of shares of common stock, if any, upon conversion of the notes offered hereby; and

placing us at a possible competitive disadvantage with less leveraged competitors and competitors that may have better access to capital resources.

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We may not continue to maintain sufficient cash reserves, our business may not continue to generate cash flow from operations at levels sufficient to permit us to pay principal, premium, if any, and interest on our indebtedness, including the notes, and our cash needs may increase. If we are unable to generate sufficient cash flow or otherwise obtain funds necessary to make required payments, or if we fail to comply with the various requirements of the notes or any other indebtedness then outstanding, we would be in default, which could permit the holders of the affected indebtedness to accelerate the maturity of such indebtedness and could cause defaults under our other indebtedness. Any default under the notes or any other indebtedness could have a material adverse effect on our business, results of operations and financial condition. For an additional discussion of our outstanding indebtedness, see Management's Discussion and Analysis of Financial Condition and Results of Operations Liquidity and Capital Resources included in our Annual Report on Form 10-K for the year ended December 31, 2013, incorporated herein by reference.

We may not have the ability to raise the funds necessary to settle conversions of the notes in cash or to repurchase the notes for cash upon a fundamental change, and our future debt may contain limitations on our ability to repurchase the notes.

Holders of the notes will have the right to require us to repurchase their notes upon the occurrence of a fundamental change at a repurchase price generally equal to 100% of their principal amount, plus accrued and unpaid interest, if any, as described under Description of Notes Fundamental Change Permits Holders to Require Us to Repurchase Notes. In addition, upon conversion of the notes, unless we elect to deliver solely shares of our common stock to settle such conversion (other than paying cash in lieu of delivering any fractional share), we will be required to make cash payments in respect of the notes being converted as described in under Description of Notes Conversion Rights Settlement Upon Conversion. However, we may not have enough available cash or be able to obtain financing at the time we are required to make repurchases of the notes upon a fundamental change or to settle conversion of the notes in cash.

In addition, our ability to repurchase the notes may be limited by law, by regulatory authority or by agreements governing our future indebtedness. Our failure to repurchase notes at a time when the repurchase is required by the indenture would constitute a default under the indenture. A default under the indenture or the fundamental change itself could also lead to a default under agreements governing our other indebtedness. If the repayment of the related indebtedness were to be accelerated after any applicable notice or grace periods, we may not have sufficient funds to repay the indebtedness and repurchase the notes.

Management may invest or spend the proceeds of this offering in ways with which you may not agree and in ways that may not yield a return to our stockholders.

Management will retain broad discretion over the use of proceeds from this public offering. Stockholders and holders of the notes may not deem such uses desirable, and our use of the proceeds may not yield a significant return or any return at all for our stockholders. We intend to use the net proceeds from this offering to repay amounts outstanding under the JPMorgan Facility, and the balance, if any (including as a result of the underwriters' exercise of their option to purchase additional notes) to acquire our target assets and for general corporate purposes. Because of the number and variability of factors that determine our use of the proceeds from this offering, our actual uses of the proceeds from this offering may vary substantially from our currently planned uses.

The conversion rate of the notes may not be adjusted for all dilutive events.

The conversion rate of the notes is subject to adjustment for certain events, including, but not limited to, certain payments of dividends on our common stock above a specific threshold, the issuance of certain rights, options or warrants to holders of our common stock, subdivisions or combinations of our common stock, certain distributions of assets, debt securities, capital stock or cash to holders of our common stock and

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certain tender or exchange offers, as described under [Description of Notes](#) [Conversion Rights](#) [Conversion Rate Adjustments](#). The conversion rate will not be adjusted for other events, such as a payment of dividends on our common stock

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below a specified threshold or an issuance of our common stock for cash, that may adversely affect the trading price of the notes and the market price of our common stock. An event may occur that is adverse to the interests of the holders of the notes and their value, but that does not result in an adjustment to the conversion rate.

Some significant restructuring transactions may not constitute fundamental changes, in which case we would not be obligated to offer to repurchase the notes.

Upon the occurrence of specified fundamental changes, you will have the option to require us to repurchase all or any portion of your notes as described in this prospectus supplement under **Description of Notes Fundamental Change Permits Holders to Require Us to Repurchase Notes**. However, the definition of **fundamental change** is limited to specified corporate events and may not include other events that might adversely affect our financial condition or the trading price of the notes. For example, events such as leveraged recapitalizations, refinancings, restructurings or acquisitions initiated by us may not constitute a fundamental change requiring us to repurchase the notes. The occurrence of any such events would not grant the holders of the notes the right to require us to repurchase the notes, even though each of these transactions could increase the amount of our indebtedness, or otherwise adversely affect our capital structure or any credit ratings, thereby adversely affecting the trading price of the notes.

The adjustment to the conversion rate for notes converted in connection with make-whole fundamental changes may not adequately compensate holders for the lost option value of their notes as a result of any such transaction. In addition, the definition of a make-whole fundamental change is limited and may not protect you from losing some of the option value of your notes in the event of a variety of transactions that do not constitute a make-whole fundamental change.

If certain corporate events that constitute a make-whole fundamental change occur, under certain circumstances and subject to certain limitations, we will increase the conversion rate by a number of additional shares of our common stock. This increased conversion rate will apply only to holders who convert their notes in connection with any such transaction. The number of additional shares of our common stock will be determined based on the date on which the make-whole fundamental change transaction becomes effective and the price paid (or deemed paid) per share of our common stock in such transaction, as described in this prospectus under **Description of Notes Conversion Rights Increase in Conversion Rate Upon Conversion Upon a Make-whole Fundamental Change**. While the increase in the conversion rate is designed to compensate holders for the lost option value of the notes as a result of such transaction, the increase in the conversion rate is only an approximation of such lost value and may not adequately compensate holders for such loss. In addition, notwithstanding the foregoing, if the price paid (or deemed paid) for our common stock in any such transaction is greater than \$22.00 per share or less than \$16.42 per share (in each case, subject to adjustment in accordance with the indenture), then we will not be required to adjust the conversion rate if you convert your notes in connection with such transaction. Moreover, in no event will we increase the conversion rate pursuant to these provisions to an amount that exceeds 60.9013 shares per \$1,000 principal amount of notes, subject to adjustment under certain circumstances.

Furthermore, the definition of make-whole fundamental change that will be contained in the indenture is limited to certain enumerated transactions. As a result, the make-whole fundamental change provisions of the indenture will not afford protection to holders of the notes in the event that other transactions occur that could adversely affect the option value of the notes. For example, transactions, such as a spin-off or sale of a subsidiary with volatile earnings, or a change in our subsidiaries' lines of business, could significantly affect the trading characteristics of our common stock and thereby reduce the option value embedded in the notes without triggering a make-whole fundamental change.

Our obligation to increase the conversion rate upon certain make-whole fundamental change transactions could be considered a penalty, in which case the enforceability thereof would be subject to general principles of reasonableness of economic remedies.

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There is currently no trading market for the notes, and an active trading market for the notes may not develop or, if it develops, may not be maintained.

The notes will be new securities for which there is no established trading market. We do not intend to apply for listing of the notes on any securities exchange or for quotation of the notes on any automated dealer quotation system. Although the representatives of the underwriters have informed us that certain of the underwriters intend to make a market in the notes, they are not obligated to do so and may discontinue market making at any time without notice. Accordingly, an active trading market may not develop for the notes, and, even if one develops, such market may not be maintained. If an active trading market for the notes does not develop or is not maintained, the market price and liquidity of the notes is likely to be adversely affected and holders may not be able to sell their notes at desired times and prices, or at all. If any of the notes are traded after their purchase, they may trade at a discount from their purchase price.

The liquidity of the trading market, if any, and future trading prices of the notes will depend on many factors, including, among other things, the market price of our common stock, prevailing interest rates, our dividend yield, financial condition, results of operations, business, prospects and credit quality relative to our competitors, the market for similar securities and the overall securities market, and may be adversely affected by unfavorable changes in any of these factors, some of which are beyond our control and others of which may not affect debt that is not convertible into capital stock. Historically, the market for convertible debt has been volatile. Market volatility could materially and adversely affect the notes, regardless of our financial condition, results of operations, business, prospects or credit quality.

The issuance of additional stock will dilute all existing stockholders and could affect the market price of our common stock and, therefore, the trading price of the notes.

Our charter authorizes us to issue additional authorized but unissued shares of common stock. In addition, our board of directors may, without stockholder approval, amend our charter to increase the aggregate number of shares of our common stock that we have the authority to issue. The issuance of these unissued shares, as well as any shares of our common stock issued in connection with the exercise of stock options, restricted stock units, under convertible or derivative instruments or otherwise would dilute the ownerships interests of existing stockholders (to the extent they do not participate in such issuance), including holders of any shares issued upon conversion of the notes. In addition, we may issue a substantial number of shares of our common stock upon conversion of the notes.

Recent and future regulatory actions and other events may adversely affect the trading price and liquidity of the notes.

We expect that many investors in, and potential purchasers of, the notes will employ, or seek to employ, a convertible arbitrage strategy with respect to the notes. Investors would typically implement such a strategy by selling short the shares of our common stock underlying the notes and adjusting their short position over time while continuing to hold the notes. Investors may also implement this type of strategy by entering into swaps on our common stock in lieu of or in addition to short selling our common stock.

The SEC and other regulatory and self-regulatory authorities have implemented various rules and taken certain actions, and may in the future adopt additional rules and take other actions, that may impact those engaging in short selling activity involving equity securities (including our common stock). These rules and actions include Rule 201 of SEC Regulation SHO, the adoption by the Financial Industry Regulatory Authority, Inc. and the national securities exchanges of a Limit Up-Limit Down program, the imposition of market-wide circuit breakers that halt trading of securities for certain periods following specific market declines, and the implementation of certain regulatory reforms required by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. Any governmental or regulatory action that restricts the ability of investors in, or potential purchasers of, the notes to effect short sales of our common stock or enter into swaps on our common stock could

adversely affect the trading price and the liquidity of the notes.

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In addition, if investors and potential purchasers seeking to employ a convertible arbitrage strategy are unable to borrow or enter into swaps on our common stock, in each case on commercially reasonable terms, the trading price and liquidity of the notes may be adversely affected.

Upon conversion of the notes, you may receive less valuable consideration than expected because the value of our common stock may decline after you exercise your conversion right but before we settle our conversion obligation.

A converting holder will be exposed to fluctuations in the trading price of our common stock during the period from the date the holder elects to convert its notes until the date we settle our conversion obligation. We will have the option to pay or deliver, as the case may be, cash, shares of our common stock or a combination of cash and shares of common stock, at our election to settle our conversion obligation. If we elect to settle our conversion obligation solely in cash or in a combination of cash and shares of common stock, then the amount of consideration that you will receive upon conversion of your notes will be determined by reference to the volume-weighted average prices of our common stock for each trading day in a 25 consecutive trading-day observation period. As described under Description of Notes Settlement Upon Conversion, this period would be (i) if the relevant conversion date occurs before December 15, 2018, the 25 consecutive trading days beginning on, and including, the second trading day after the conversion date; and (ii) if the relevant conversion date occurs on or after December 15, 2018, the 25 consecutive trading days beginning on, and including, the 27th scheduled trading day immediately preceding the maturity date. Accordingly, if the trading price of our common stock decreases during this period, or after this period and until we deliver the consideration due upon conversion, the amount or value of consideration you receive will be adversely affected. In addition, if the market price of our common stock on the date we deliver the consideration due upon conversion is below the average of the volume-weighted average price of our common stock during the relevant observation period, then the amount of cash or the value of any shares of our common stock that you will receive in satisfaction of our conversion obligation will be less than the value used to determine the amount of cash or number of shares that you will receive.

The accounting method for convertible debt securities that may be settled in cash, such as the notes we are offering, could have a material effect on our reported financial results.

In May 2008, the Financial Accounting Standards Board, or FASB, issued FASB Staff Position No. APB 14-1, Accounting for Convertible Debt Instruments That May Be Settled in Cash upon Conversion (Including Partial Cash Settlement), which has subsequently been codified as Accounting Standards Codification 470-20, Debt with Conversion and Other Options, or ASC 470-20. ASC 470-20 requires an entity to separately account for the liability and equity components of convertible debt instruments whose conversion may be settled entirely or partially in cash (such as the notes we are offering) in a manner that reflects the issuer's economic interest cost for non-convertible debt. The liability component of the notes we are offering will initially be valued at the fair value of a similar debt instrument that does not have an associated equity component and will be reflected as a liability in our consolidated balance sheet. The equity component of the notes we are offering will be included in the additional paid-in capital section of our stockholders' equity on our consolidated balance sheet, and the value of the equity component will be treated as original issue discount for purposes of accounting for the debt component. This original issue discount will be amortized to non-cash interest expense over the term of the notes, and we will record a greater amount of non-cash interest expense in current periods as a result of this amortization. Accordingly, we will report lower net income in our financial results because ASC 470-20 will require the interest expense associated with the notes to include both the current period's amortization of the debt discount and the notes' coupon interest, which could adversely affect our reported or future financial results, the trading price of our common stock and the trading price of the notes.

Furthermore, under certain circumstances, convertible debt instruments whose conversion may be settled entirely or partly in cash (such as the notes we are offering) are currently accounted for using the treasury stock method. Under this method, the shares issuable upon conversion of the notes are not included in the calculation of diluted earnings per share unless the conversion value of the notes exceeds their principal amount at the end of the relevant reporting period. If the conversion value exceeds their principal amount, then, for diluted earnings

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per share purposes, the notes are accounted for as if the number of shares of common stock that would be necessary to settle the excess, if we elected to settle the excess in shares, are issued. The accounting standards in the future may not continue to permit the use of the treasury stock method. If we are unable to use the treasury stock method in accounting for the shares, if any, issuable upon conversion of the notes, then our diluted earnings per share could be adversely affected.

Investing in the notes and in our common stock may involve a high degree of risk. Holders of the notes, as potential holders of our common stock, may experience losses, volatility, and poor liquidity, and we may reduce our dividends in a variety of circumstances.

An investment in the notes and in our common stock may involve a high degree of risk, particularly when compared to other types of investments. Risks related to the economy, the financial markets, our industry, our investing activity, our other business activities, our financial results, the amount of dividends we distribute, the manner in which we conduct our business and the way we have structured and limited our operations could result in a reduction in, or the elimination of, the value of our common stock, and in turn, of the notes. The level of risk associated with an investment in the notes and in our common stock may not be suitable for the risk tolerance of many investors. Investors may experience volatile returns and material losses. In addition, the trading volume of shares of our common stock may be insufficient to allow investors to sell their shares when they want to or at a price they consider reasonable.

Our earnings, cash flows, book value, and dividends can be volatile and difficult to predict. Investors in the notes and in our common stock should not rely on our estimates, projections or predictions or on management's beliefs about future events. In particular, the sustainability of our earnings and our cash flows will depend on numerous factors, including our level of investment activity, our access to debt and equity financing, the returns we earn, payment rates on loans we invest in or originate or that underlie the mortgage backed securities or other asset-backed securities that we invest in, the expense of running our business, and other factors, including the risk factors described herein and in our Annual Report on Form 10-K for the year ended December 31, 2013. As a consequence, although we seek to pay a regular common stock dividend rate that is sustainable, we may reduce our regular dividend rate, or stop paying dividends, in the future for a variety of reasons. We may not provide public warnings of dividend reductions prior to their occurrence. Changes to the amount of dividends we distribute may result in a reduction in the value of our common stock, and in turn, of the notes.

You may be subject to tax upon an adjustment to, or a failure to adjust, the conversion rate of the notes even though you do not receive a corresponding cash distribution.

The conversion rate of the notes is subject to adjustment in certain circumstances, including the payment of certain cash dividends. If the conversion rate is adjusted, you may be deemed to have received for U.S. federal income tax purposes a taxable dividend to the extent of our earnings and profits without the receipt of any cash. In addition, a failure to adjust (or adjust adequately) the conversion rate after an event that increases your proportionate interest in us could be treated as a deemed taxable dividend to you. Such deemed dividend may be subject to U.S. federal withholding tax or backup withholding, which may be set off against payments on the notes or common stock. See "Description of Notes Conversion Rights Conversion Rate Adjustments and Additional U.S. Federal Income Tax Considerations" in this prospectus supplement.

The notes may not be rated or may receive a lower rating than anticipated.

We do not intend to seek a rating on the notes. However, if one or more rating agencies rates the notes and assigns the notes a rating lower than the rating expected by investors, or reduces their rating in the future, the trading price of the notes and the market price of our common stock could be harmed.

In addition, the trading price of the notes will be directly affected by market perceptions of our creditworthiness. Consequently, if a credit ratings agency rates any of our debt in the future or downgrades or withdraws any such rating, or puts us on credit watch, the trading price of the notes is likely to decline.

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The notes are not protected by restrictive covenants.

The indenture governing the notes will not contain any financial or operating covenants or restrictions on the payments of dividends, the incurrence of indebtedness or the issuance or repurchase of securities by us or any of our subsidiaries. The indenture governing the notes will not contain any covenants or other provisions to afford protection to holders of the notes in the event of a fundamental change involving us except to the extent described in this prospectus supplement under Description of Notes Conversion Rights Recapitalizations, Reclassifications and Changes of Our Common Stock, Conversion Rights Increase in Conversion Rate Upon Conversion Upon a Make-whole Fundamental Change, Fundamental Change Permits Holders to Require Us to Repurchase Notes and Consolidation, Merger and Sale of Assets.

Holders of the notes will not be entitled to any rights with respect to our common stock, but will be subject to all changes made with respect to our common stock.

If you hold notes, you will not be entitled to any rights with respect to our common stock (including, without limitation, voting rights and rights to receive any dividends or other distributions on our common stock) until the conversion date for those notes (if we elect to settle the conversion by delivering solely shares of our common stock, excluding cash in lieu of any fractional share) or the last trading day of the relevant observation period (if we elect to pay and deliver, as the case may be, a combination of cash and shares of our common stock in respect of the relevant conversion, and shares of common stock become due upon settlement of that conversion), but you will be subject to all changes affecting our common stock. For example, if we propose an amendment to our charter requiring stockholder approval and the record date for determining the stockholders of record entitled to vote on the amendment occurs before the date you are deemed to be the record owner of the shares of our common stock, if any, due upon conversion, you will not be entitled to vote on the amendment, although you will nevertheless be subject to any changes to the provisions of our charter.

Certain provisions in the indenture governing the notes could delay or prevent an otherwise beneficial takeover or takeover attempt of us.

Certain provisions in the notes and the indenture could make it more difficult or more expensive for a third party to acquire us. For example, if a takeover would constitute a fundamental change, holders of the notes will have the right to require us to repurchase their notes in cash. In addition, if a takeover constitutes a make-whole fundamental change, we may be required to increase the conversion rate for holders who convert their notes in connection with such takeover. In either case, and in other cases, our obligations under the notes and the indenture could increase the cost of acquiring us or otherwise discourage a third party from acquiring us or removing incumbent management.

The notes will initially be held in book-entry form, and, therefore, holders must rely on the procedures and the relevant clearing systems to exercise their rights and remedies.

Unless and until certificated notes are issued in exchange for book-entry interests in the notes, owners of the book-entry interests will not be considered owners or holders of notes. Instead, DTC or its nominee will be the sole holder of the notes. Payments of principal, interest and other amounts owing on or in respect of the notes in global form will be made to the paying agent, which will make payments to DTC. Thereafter, such payments will be credited to DTC participants' accounts that hold book-entry interests in the notes in global form and credited by such participants to indirect participants. Unlike holders of the notes themselves, owners of book-entry interests will not have the direct right to act upon our solicitations for consents or requests for waivers or other actions from holders of the notes. Instead, if a holder owns a book-entry interest, such holder will be permitted to act only to the extent such holder has received appropriate proxies to do so from DTC or, if applicable, a DTC participant. The procedures implemented for the granting of such proxies may not be sufficient to enable holders to vote on any requested

actions on a timely basis.

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Use of Proceeds

The net proceeds from this offering will be approximately \$120.9 million (or approximately \$139.0 million if the underwriters' option to purchase additional notes is exercised in full) after deducting the underwriting discount and our estimated offering expenses.

We intend to use the net proceeds of this offering to repay amounts outstanding under the JPMorgan Facility. As of the date of this prospectus supplement, the annual interest rate payable on the JPMorgan Facility was approximately 2.65% and the principal amount outstanding is approximately \$32.3 million. An affiliate of J.P. Morgan Securities LLC is the lender under the JPMorgan Facility and, as such, will receive a portion of the proceeds of this offering in connection with our repayment of amounts outstanding under such facility. See "Underwriting" in this prospectus supplement.

To the extent that there are additional net proceeds remaining after we repay amounts outstanding under the JPMorgan Facility, including as a result of the underwriters exercising their option to purchase additional notes, we intend to use the net proceeds of this offering to acquire our target assets and for general corporate purposes. Until appropriate assets can be identified, our Manager may invest the net proceeds of this offering in interest-bearing short-term investments, including money market accounts, that are consistent with our intention to qualify as a REIT. These investments are expected to provide a lower net return than we will seek to achieve from our target assets. For further information about our objectives and strategies, please see "Business Investment Strategy" included in our Annual Report on Form 10-K for the year ended December 31, 2013, which is incorporated by reference into this prospectus supplement.

Table of Contents**Ratios of Earnings to Fixed Charges and Earnings to Combined Fixed Charges and Preferred Stock Dividends**

The following table sets forth our ratio of earnings to fixed charges and ratio of earnings to combined fixed charges and preferred stock dividends for the periods indicated. The ratio of earnings to fixed charges was computed by dividing earnings by our fixed charges, and our ratio of earnings to combined fixed charges and preferred stock dividends was computed by dividing earnings by our combined fixed charges and preferred stock dividends. For purposes of calculating this ratio, earnings include pre-tax income from continuing operations before extraordinary items plus fixed charges less interest capitalized. Fixed charges consists of interest expense and interest capitalized. This ratio is calculated in accordance with accounting principles generally accepted in the United States.

	For the period from	For the year ended December 31,			
	September 29, 2009 (commencement of operations) to December 31, 2009 ⁽¹⁾⁽²⁾	2010 ⁽²⁾	2011 ⁽²⁾	2012	2013
Ratio of earnings to fixed charges	(5.79x)	1.61x	2.66x	5.61	11.56
Ratio of earnings to combined fixed charges and preferred stock dividends	(5.79x)	1.61x	2.66x	4.37x	4.86
Pro forma ratio of earnings to fixed charges ⁽³⁾	N/A	N/A	N/A	N/A	4.85
Pro forma ratio of earnings to combined fixed charges and preferred stock dividends ⁽³⁾	N/A	N/A	N/A	N/A	3.36

(1) We commenced operations on September 29, 2009.

(2) We had no shares of preferred stock outstanding during the period presented.

(3) In calculating the pro forma ratios of earnings to fixed charges and earnings to combined fixed charges and preferred stock dividends, we have assumed that the notes were issued on the first day of the applicable period. For purposes of these pro forma calculations, we have also assumed the repayment of all of our outstanding borrowings under the JPMorgan Facility (approximately \$20.4 million as of December 31, 2013) with the net proceeds from this offering; therefore, the pro forma ratio excludes the effect of the amount of the related interest expense under the JPMorgan Facility for the period. In addition, we have calculated these pro forma ratios incorporating the amortization of the underwriting discount and deferred financing costs as well as cash interest payments that we would have paid on the notes, assuming they were issued on the first day of the applicable period. Accordingly, these pro forma ratios do not reflect the additional interest expense we would incur for accounting purposes as a result of separating the notes into a liability and an equity component and amortizing the deemed debt discount into interest expense over the term of the notes in accordance with ASC 470-20.

Table of Contents**Capitalization**

The following table sets forth our capitalization as of December 31, 2013 (1) on an actual basis and (2) on an as adjusted basis to reflect the issuance of the \$125,000,000 principal amount of notes in this offering, after deducting the underwriting discount and our estimated offering expenses, and the application of the net proceeds as described above under "Use of Proceeds" in this prospectus supplement. You should read this table in conjunction with "Management's Discussion and Analysis of Financial Condition and Results of Operations" in our Annual Report on Form 10-K for the year ended December 31, 2013.

(In thousands, except share and per share data)	As of December 31, 2013	
	Actual	As adjusted ⁽¹⁾
Debt:		
5.50% convertible senior notes due 2019 offered hereby ⁽²⁾	\$ 125,000	\$ 125,000
Borrowings under repurchase agreements	202,033	181,650
Total Debt	202,033	306,650
Stockholders' Equity:		
Preferred stock, par value \$0.01 per share; 50,000,000 shares authorized; 3,450,000 shares issued and outstanding	35	35
Common stock, par value \$0.01 per share; 450,000,000 shares authorized; 36,888,467 shares issued and outstanding	369	369
Additional paid-in capital ⁽²⁾	697,610	697,610
Retained earnings	(14,188)	(14,188)
Accumulated other comprehensive income	(870)	(870)
Total Stockholders' Equity	682,956	682,956
Total Capitalization	\$ 884,989	\$ 989,606

(1) Assumes no exercise of the underwriters' option to purchase additional notes.

(2) In accordance with ASC 470-20, convertible debt that may be wholly or partially settled in cash is required to be separated into a liability and an equity component, such that interest expense reflects the issuer's nonconvertible debt interest rate. Upon issuance, a debt discount is recognized as a decrease in debt and an increase in equity. The debt component accretes up to the principal amount over the expected term of the debt. ASC 470-20 (additional paid-in capital) does not affect the actual amount that we are required to pay, and the amount shown in the table above for the notes is the aggregate principal amount of the notes, without reflecting the debt discount or fees and expenses that we are required to recognize or the increase in paid-in capital.

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Description of Notes

We will issue the notes under a base indenture (the "base indenture") between us and Wells Fargo Bank, National Association, as trustee, as supplemented by a supplemental indenture with respect to the notes (the "supplemental indenture"), each to be dated as of the date of the initial issuance of the notes. In this section, we refer to the base indenture, as supplemented by the supplemental indenture, collectively as the "indenture." The notes will be a series of debt securities under the base indenture the terms of which will be established by the supplemental indentures. This description of the notes supplements and, to the extent it is inconsistent, replaces the description of the general provisions of the notes and the base indenture in the accompanying prospectus.

The following description is a summary of the material provisions of the notes and the indenture and does not purport to be complete. This summary is subject to and is qualified by reference to all the provisions of the notes and the indenture, including the definitions of certain terms used in the indenture. The terms of the notes include those expressly set forth in the indenture and those made part of the indenture by reference to the Trust Indenture Act of 1939, as amended (the "Trust Indenture Act"). We urge you to read the indenture because it, and not this description, defines your rights as a holder of the notes. You may request a copy of the indenture from us. The form of the base indenture is incorporated by reference as an exhibit to the registration statement of which the accompanying prospectus is a part. We will file the base indenture and the supplemental indenture by means of a Current Report on Form 8-K. See "Where You Can Find More Information and Incorporation by Reference" in this prospectus supplement.

For purposes of this description, references to "the Company," "we," "our" and "us" refer only to Apollo Commercial Real Estate Finance, Inc. and not to its subsidiaries.

General

The notes will:

be our general unsecured, senior obligations;

initially be limited to an aggregate principal amount of \$125.0 million (or \$143.75 million if the underwriters' option to purchase additional notes is exercised in full);

bear cash interest from, and including, March 17, 2014 at an annual rate of 5.50%, payable semiannually on March 15 and September 15 of each year, beginning on September 15, 2014;

not be redeemable prior to maturity;

be subject to repurchase by us at the option of the holders following a fundamental change (as defined below under "Fundamental Change Permits Holders to Require Us to Repurchase Notes"), at a repurchase price generally equal to 100% of the principal amount of the notes to be repurchased, plus accrued and unpaid interest to, but excluding, the fundamental change repurchase date;

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mature on March 15, 2019, unless earlier converted or repurchased;

be issued in denominations of \$1,000 and integral multiples of \$1,000; and

be represented by one or more registered notes in global form, but in certain limited circumstances may be represented by notes in definitive form. See Book-Entry, Settlement and Clearance.

The notes may be converted based on an initial conversion rate of 55.3649 shares of common stock per \$1,000 principal amount of notes (equivalent to an initial conversion price of approximately \$18.06 per share of common stock). The conversion rate is subject to adjustment if certain events occur.

We will settle conversions of notes by paying or delivering, as the case may be, cash, shares of our common stock or a combination of cash and shares of our common stock, at our election, as described under Conversion Rights Settlement Upon Conversion. You will not receive any separate cash payment for interest, if any, accrued and unpaid to the conversion date except under the limited circumstances described below.

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Any conversion of notes into shares of our common stock will be subject to certain restrictions on ownership and transfer of our stock set forth in our charter, as more fully described in [Restrictions on Ownership and Transfer of Stock; Limitation on Stock Issuable upon Conversion](#).

The indenture does not limit the amount of debt, including secured debt, that may be issued by us or our subsidiaries. The indenture does not contain any financial covenants and does not restrict us from paying dividends or issuing or repurchasing our other securities. Other than restrictions described under [Fundamental Change Permits Holders to Require Us to Repurchase Notes](#) and [Consolidation, Merger and Sale of Assets](#) below, and except for the provisions set forth under [Conversion Rights Increase in Conversion Rate Upon Conversion Upon a Make-whole Fundamental Change](#), the indenture does not contain any covenants or other provisions designed to afford holders of the notes protection in the event of a highly leveraged transaction involving us or in the event of a decline in our credit rating as the result of a takeover, recapitalization, highly leveraged transaction or similar restructuring involving us that could adversely affect such holders.

We may, without the consent of the holders, reopen the indenture for the notes and issue additional notes under the indenture with the same terms and the same CUSIP number as the notes offered hereby (other than differences in the issue price and interest accrued prior to the issue date of such additional notes) in an unlimited aggregate principal amount. However, if any such additional notes are not fungible with the notes offered hereby for U.S. federal income tax purposes, then such additional notes will have a separate CUSIP number.

No sinking fund will be provided for the notes.

We do not intend to list the notes on any securities exchange or any automated dealer quotation system.

Purchase and Cancellation

We will cause all notes surrendered for payment, repurchase (including as described below), registration of transfer or exchange or conversion, if surrendered to any person other than the trustee (including any of our agents, subsidiaries or affiliates), to be delivered to the trustee for cancellation. All notes delivered to the trustee shall be cancelled promptly by the trustee in accordance with its customary procedures. No notes shall be authenticated in exchange for any notes cancelled as provided in the indenture.

We may, to the extent permitted by law, and directly or indirectly (regardless of whether such notes are surrendered to us), repurchase notes in the open market or otherwise, whether by us or our subsidiaries or through a private or public tender or exchange offer or through counterparties to private agreements, including by cash-settled swaps or other derivatives, in each case without prior notice to the holders of the notes. We will cause any notes so repurchased (other than notes repurchased pursuant to cash-settled swaps or other derivatives) to be surrendered to the trustee for cancellation, and they will no longer be considered [outstanding](#) under the indenture upon their repurchase.

Payments on the Notes; Paying Agent and Registrar; Transfer and Exchange

We will pay or cause the paying agent to pay the principal of, and interest on, notes in global form registered in the name of or held by DTC or its nominee in immediately available funds to DTC or its nominee, as the case may be, as the registered holder of such global note.

We will pay or cause the paying agent to pay the principal of any certificated notes at the office or agency designated by us for that purpose. We have initially designated the trustee as our paying agent and registrar and its corporate trust office in New York, New York, as a place where notes may be presented for payment or for registration of transfer. We may, however, change the paying agent or registrar without prior notice to the holders of the notes, and we may act as paying agent or registrar. Interest on certificated notes will be payable (i) to holders holding certificated notes having an aggregate principal amount of \$5,000,000 or less, by check mailed to the holders of these notes and (ii) to holders holding certificated notes having an aggregate principal amount of more than \$5,000,000, either by check mailed to each holder or, upon written application by such a holder to the

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registrar not later than the relevant regular record date, by wire transfer in immediately available funds to that holder's account within the United States, which application shall remain in effect until the holder notifies, in writing, the registrar to the contrary.

A holder of notes may transfer or exchange notes at the office of the registrar in accordance with the indenture. The registrar and the trustee may require a holder, among other things, to furnish appropriate endorsements and transfer documents. No service charge will be imposed by us, the trustee or the registrar for any registration of transfer or exchange of notes, but we may require a holder to pay a sum sufficient to cover any transfer tax or other similar governmental charge required by law or permitted by the indenture. We are not required to transfer or exchange any note surrendered for conversion or required repurchase.

The registered holder of a note will be treated as its owner for all purposes.

Interest

The notes will bear cash interest at a rate of 5.50% per year until maturity. Interest on the notes will accrue from, and including, March 17, 2014 or from the most recent date on which interest has been paid or duly provided for. Interest will be payable semiannually in arrears on March 15 and September 15 of each year, beginning on September 15, 2014.

Interest will be paid to the person in whose name a note is registered at the close of business on March 1 or September 1, as the case may be, immediately preceding the relevant interest payment date, whether or not a business day (each, a "regular record date"). Interest on the notes will be computed on the basis of a 360-day year composed of twelve 30-day months and, for partial months, on the basis of the number of days actually elapsed in a 30-day month.

For purposes of this description, "close of business" means 5:00 p.m., New York City time, and "open of business" means 9:00 a.m., New York City time.

If any interest payment date, the maturity date or any earlier required repurchase date upon a fundamental change of a note falls on a day that is not a business day, the required payment will be made on the next succeeding business day and no interest on such payment will accrue in respect of the delay. The term "business day" means, with respect to any note, any day other than a Saturday, a Sunday or a day on which the Federal Reserve Bank of New York is authorized or required by law or executive order to close or be closed.

The terms of the notes provide that we are permitted to withhold from interest payments and payments upon conversion, redemption or maturity of the notes any amounts we are required to withhold by law. For example, non-United States holders of notes may, under some circumstances, be subject to U.S. federal withholding tax with respect to payments of interest on the notes. See "Additional U.S. Federal Income Tax Considerations—Taxation of Noteholders—Non-U.S. Holders of Notes."

Unless the context otherwise requires, all references to interest in this prospectus supplement include additional interest, if any, payable at our election as the sole remedy relating to the failure to comply with our reporting obligations as described under "Events of Default."

Ranking

The notes will be our general unsecured obligations that rank senior in right of payment to all of our existing and future indebtedness that is expressly subordinated in right of payment to the notes. The notes will rank equal in right of payment with all of our existing and future liabilities that are not so subordinated. The notes will effectively rank junior to any of our secured indebtedness to the extent of the value of the assets securing such indebtedness. In the event of our bankruptcy, liquidation, reorganization or other winding up, our assets that secure secured debt will be available to pay obligations on the notes only after all indebtedness under such secured debt has been repaid in full from such assets. The notes will rank structurally junior to all existing and

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future indebtedness and other liabilities and (to the extent we are not a holder thereof) preferred stock, if any, of our subsidiaries (including trade payables).

As of December 31, 2013, on a consolidated basis, we had approximately \$202.0 million of borrowings outstanding, all of which was incurred by our subsidiaries. As of such date, our subsidiaries had (i) approximately \$47.8 million of borrowings outstanding under the Wells Facility, with Wells Fargo, under which no further borrowings are permitted (ii) approximately \$20.4 million of borrowings outstanding under the JPMorgan Facility, with JPMorgan, an affiliate of one of the underwriters in this offering, which permits borrowings of up to \$100.0 million, and (iii) approximately \$133.9 million of borrowings outstanding under the fully utilized UBS Facility, with UBS. After giving effect to the issuance of the notes (assuming no exercise of the underwriters' option to purchase additional notes), our total consolidated indebtedness as of December 31, 2013 would have been \$306.7 million (without giving effect to the equity component of convertible debt or any debt discount or fees and expenses).

Our subsidiaries have no obligation to pay any amounts due on the notes or to provide us with funds for our payment obligations, whether by dividends, distributions, loans or other payments. In addition, any payment of dividends, distributions, loans or advances by our subsidiaries to us could be subject to statutory or contractual restrictions. Payments to us by our subsidiaries will also be contingent upon our subsidiaries' earnings. We may not be able to pay the cash portions of any settlement amount due upon conversion of the notes, or to pay cash for the fundamental change repurchase price upon a fundamental change if a holder requires us to repurchase notes as described below. See **Risk Factors** **Risks Related to the Notes and this Offering**. We may not have the ability to raise the funds necessary to settle conversions of the notes in cash or to repurchase the notes for cash upon a fundamental change, and our future debt may contain limitations on our ability to repurchase the notes.

Conversion Rights

General

Prior to the close of business on the second scheduled trading day immediately preceding the maturity date, holders may convert all or any portion of their notes, in integral multiples of \$1,000 principal amount, at any time.

Any conversion of notes into shares of our common stock will be subject to certain ownership limitations more fully described in **Restrictions on Ownership and Transfer of Stock; Limitation on Stock Issuable Upon Conversion**.

The conversion rate initially will be 55.3649 shares of common stock per \$1,000 principal amount of notes (equivalent to an initial conversion price of approximately \$18.06 per share of common stock). Upon conversion of a note, we will satisfy our conversion obligation by paying or delivering, as the case may be, cash, shares of our common stock or a combination of cash and shares of our common stock, at our election, all as set forth below under **Settlement Upon Conversion**. If we satisfy our conversion obligation solely in cash or through payment and delivery, as the case may be, of a combination of cash and shares of our common stock, the amount of cash and the number of shares of common stock, if any, due upon conversion will be based on a daily conversion value (as defined below under **Settlement Upon Conversion**) calculated for each trading day in a 25 trading day observation period (as defined below under **Settlement Upon Conversion**). The trustee initially will act as the conversion agent.

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Upon conversion, you will not receive any separate cash payment for accrued and unpaid interest, if any, except as described below. We will not issue fractional shares of our common stock upon conversion of notes. Instead, we will pay cash in lieu of delivering any fractional share as described under Settlement Upon Conversion. Our payment and delivery, as the case may be, to you of the cash, shares of our common stock or a

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combination thereof, as the case may be, into which a note is convertible will be deemed to satisfy in full our obligation to pay:

the principal amount of the note; and

accrued and unpaid interest, if any, to, but not including, the relevant conversion date.

As a result, except as described below, accrued and unpaid interest, if any, to, but not including, the relevant conversion date will be deemed to be paid in full rather than cancelled, extinguished or forfeited. Upon a conversion of notes into a combination of cash and shares of our common stock, accrued and unpaid interest will be deemed to be paid first out of the cash paid upon such conversion.

Notwithstanding the above, if notes are converted after the close of business on a regular record date for the payment of interest, holders of such notes at the close of business on such regular record date will receive the full amount of interest payable on such notes on the corresponding interest payment date notwithstanding the conversion. Notes surrendered for conversion during the period after the close of business on any regular record date to the open of business on the immediately following interest payment date must be accompanied by funds equal to the amount of interest payable, on such interest payment date, on such notes; provided, that no such payment need be made:

for conversions following the regular record date immediately preceding the maturity date;

if we have specified a fundamental change repurchase date that is after a regular record date and on or prior to the corresponding interest payment date; or

to the extent of any overdue interest, if any overdue interest exists at the time of conversion with respect to such note.

Therefore, for the avoidance of doubt, all record holders as of the close of business on the regular record date immediately preceding the maturity date will receive the full interest payment due on the maturity date regardless of whether their notes have been converted following such regular record date.

If a holder converts notes, we will pay any documentary, stamp or similar issue or transfer tax due on any issuance of any shares of our common stock upon the conversion, unless the tax is due because the holder requests any such shares to be issued in a name other than the holder's name, in which case the holder will pay that tax.

Any conversion of notes into shares of our common stock will be subject to certain restrictions on ownership and transfer of our stock set forth in our charter, as more fully described in [Restrictions on Ownership and Transfer of Stock; Limitation on Stock Issuable Upon Conversion](#).

Conversion Procedures

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If you hold a beneficial interest in a global note, to convert you must comply with DTC's procedures for converting a beneficial interest in a global note and, if required, pay funds equal to interest payable on the next interest payment date.

If you hold a certificated note, to convert you must:

complete and manually sign the conversion notice on the back of the note, or a facsimile of the conversion notice;

deliver the conversion notice, which is irrevocable, and the note to the conversion agent;

if required, furnish appropriate endorsements and transfer documents; and

if required, pay funds equal to interest payable on the next interest payment date.

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We refer to the date you comply with the relevant procedures for conversion described above as the conversion date.

If a holder has delivered a repurchase notice as described under Fundamental Change Permits Holders to Require Us to Repurchase Notes with respect to a note, the holder may not convert that note until the holder has withdrawn the repurchase notice in accordance with the relevant provisions of the indenture. If a holder submits its notes for required repurchase, the holder's right to withdraw the repurchase notice and convert the notes that are subject to repurchase will terminate at the close of business on the business day immediately preceding the relevant fundamental change repurchase date.

Settlement Upon Conversion

Upon conversion, we may choose to pay or deliver, as the case may be, either cash (cash settlement), shares of our common stock (physical settlement) or a combination of cash and shares of our common stock (combination settlement), as described below. We refer to each of these settlement methods as a settlement method.

Subject to the limitations on conversions that would cause a violation of the restrictions on ownership and transfer of our stock set forth in our charter and described in Restrictions on Ownership and Transfer of Stock; Limitation on Stock Issuable Upon Conversion, we will use the same settlement method for all conversions occurring on the same conversion date, but we will not have any obligation to use the same settlement method with respect to conversions that occur on different conversion dates. That is, we may choose for notes converted on one conversion date to settle conversions with physical settlement, and choose cash settlement or combination settlement for notes converted on another conversion date. Notwithstanding the foregoing, all conversions occurring on or after December 15, 2018 will be settled using the same settlement method, and we will notify holders of that settlement method no later than December 15, 2018.

If we elect a settlement method, we will inform holders so converting through the conversion agent and the trustee of the settlement method we have selected no later than the close of business on the trading day immediately following the related conversion date (or, with respect to conversions occurring on or after December 15, 2018, no later than December 15, 2018). If we do not timely elect a settlement method, we will no longer have the right to elect cash settlement or physical settlement and we will be deemed to have elected combination settlement in respect of our conversion obligation, as described below, and the specified dollar amount (as defined below) per \$1,000 principal amount of notes will be equal to \$1,000. If we elect combination settlement, but we do not timely notify converting holders of the specified dollar amount per \$1,000 principal amount of notes, such specified dollar amount will be deemed to be \$1,000. It is our current intent and policy to settle conversions through combination settlement with a specified dollar amount per \$1,000 principal amount of notes of \$1,000. Settlement amounts will be computed as follows:

if we elect physical settlement, we will deliver to the converting holder, in respect of each \$1,000 principal amount of notes being converted, a number of shares of common stock equal to the conversion rate;

if we elect cash settlement, we will pay to the converting holder, in respect of each \$1,000 principal amount of notes being converted, cash in an amount equal to the sum of the daily conversion values for each of the 25 consecutive trading days during the related observation period; and

if we elect (or are deemed to have elected) combination settlement, we will pay or deliver, as the case may be, to the converting holder, in respect of each \$1,000 principal amount of notes being converted, a settlement amount equal to the sum of the daily settlement amounts for each of the 25 consecutive trading days during the related observation period.

The daily settlement amount, for each of the 25 consecutive trading days during the observation period, shall consist of:

cash equal to the lesser of (i) the maximum cash amount per \$1,000 principal amount of notes to be received upon conversion (excluding cash in lieu of any fractional share of our common stock) as

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specified in the notice specifying our chosen settlement method or as otherwise deemed to have been specified by us (the specified dollar amount), *divided by* 25 (such quotient, the daily measurement value) and (ii) the daily conversion value; and

if the daily conversion value exceeds the daily measurement value, a number of shares equal to (i) the difference between the daily conversion value and the daily measurement value, *divided by* (ii) the daily VWAP for such trading day.

The daily conversion value means, for each of the 25 consecutive trading days during the observation period, one-25th of the product of (1) the conversion rate on such trading day and (2) the daily VWAP on such trading day.

The daily VWAP means, for each of the 25 consecutive trading days during the relevant observation period, the per share volume-weighted average price as displayed under the heading Bloomberg VWAP on Bloomberg page ARI UN<equity> AQR (or its equivalent successor if such page is not available) in respect of the period from the scheduled open of trading until the scheduled close of trading of the primary trading session on such trading day (or if such volume-weighted average price is unavailable, the market value of one share of our common stock on such trading day determined, using a volume-weighted average method, by a nationally recognized independent investment banking firm retained for this purpose by us). The daily VWAP will be determined without regard to after-hours trading or any other trading outside of the regular trading session trading hours.

The observation period with respect to any note surrendered for conversion means:

if the relevant conversion date occurs prior to December 15, 2018, the 25 consecutive trading day period beginning on, and including, the second trading day immediately succeeding such conversion date; and

if the relevant conversion date occurs on or after December 15, 2018, the 25 consecutive trading days beginning on, and including, the 27th scheduled trading day immediately preceding the maturity date.

For the purposes of determining amounts due upon conversion only, trading day means a day on which (i) there is no market disruption event (as defined below) and (ii) trading in our common stock generally occurs on The New York Stock Exchange or, if our common stock is not then listed on The New York Stock Exchange, on the principal other U.S. national or regional securities exchange on which our common stock is then listed or, if our common stock is not then listed on a U.S. national or regional securities exchange, on the principal other market on which our common stock is then listed or admitted for trading; provided, however, that if our common stock is not so listed or admitted for trading, trading day means a business day. For all other purposes, trading day means a day on which (i) trading in our common stock generally occurs on the principal U.S. national or regional securities exchange or market on which our common stock is listed or admitted for trading and (ii) a last reported sale price (as defined below) for our common stock is available; provided, however, that if our common stock is not listed or traded on any exchange or other market, trading day means a business day.

Scheduled trading day means a day that is scheduled to be a trading day on the principal U.S. national or regional securities exchange or market on which our common stock is listed or admitted for trading. If our common stock is not so listed or admitted for trading, scheduled trading day means a business day.

Market disruption event means (i) a failure by the primary U.S. national or regional securities exchange or market on which our common stock is listed or admitted for trading to open for trading during its regular trading session or (ii) the occurrence or existence prior to 1:00 p.m., New York City time, on any scheduled trading day for our common stock for more than one half-hour period in the aggregate during regular trading

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hours of any suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the relevant stock exchange or otherwise) in our common stock or in any options contracts or futures contracts relating to our common stock.

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Except as described under **Increase in Conversion Rate upon Conversion Upon a Make-whole Fundamental Change and Recapitalizations, Reclassifications and Changes of Our Common Stock**, we will deliver the consideration due in respect of conversion on the third business day immediately following the relevant conversion date, if we elect physical settlement, or on the third business day immediately following the last trading day of the relevant observation period, in the case of any other settlement method. We refer to the date on which we are required to deliver the consideration due upon conversion as the **conversion settlement date**.

Notwithstanding anything to the contrary above, we will pay cash in lieu of delivering any fractional share of common stock issuable upon conversion based on the daily VWAP on the relevant conversion date (in the case of physical settlement) or based on the daily VWAP on the last trading day of the relevant observation period (in the case of combination settlement).

Each conversion will be deemed to have been effected as to any notes surrendered for conversion on the conversion date; provided, however, that the person in whose name any shares of our common stock shall be issuable upon such conversion will be deemed to be the holder of record of such shares as of the close of business on the conversion date (in the case of physical settlement) or the last trading day of the relevant observation period (in the case of combination settlement).

Conversion Rate Adjustments

The conversion rate will be adjusted as described below, except that we will not make any adjustments to the conversion rate if each holder of the notes participates (other than in the case of a stock split or stock combination), at the same time and upon the same terms as holders of our common stock and solely as a result of holding the notes, in any of the transactions described below without having to convert its notes as if such holder held a number of shares of common stock equal to the conversion rate, multiplied by the principal amount (expressed in thousands) of notes held by such holder.

- (1) If we exclusively issue shares of our common stock as a dividend or distribution on all or substantially all shares of our common stock, or if we effect a stock split or stock combination, the conversion rate will be adjusted based on the following formula:

$$CR_1 = CR_0 \times \frac{OS_1}{OS_0}$$

where,

- CR₀ = the conversion rate in effect immediately prior to the open of business on the ex-dividend date (as defined below) of such dividend or distribution, or immediately prior to the open of business on the effective date (as defined below) of such stock split or stock combination, as applicable;
- CR₁ = the conversion rate in effect immediately after the open of business on such ex-dividend date or effective date, as applicable;
- OS₀ = the number of shares of our common stock outstanding immediately prior to the open of business on such ex-dividend date or effective date, as applicable; and
- OS₁ = the number of shares of our common stock outstanding immediately after giving effect to such dividend, distribution, stock split or stock combination, as applicable.

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Any adjustment made under this clause (1) shall become effective immediately after the open of business on the ex-dividend date for such dividend or distribution, or immediately after the open of business on the effective date for such stock split or stock combination, as applicable. If any dividend, distribution, stock split or stock combination of the type described in this clause (1) is declared but not so paid or made, the conversion rate shall be immediately readjusted, effective as of the date our board

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of directors or a committee thereof determines not to pay such dividend or distribution or effect such stock split or stock combination to the conversion rate that would then be in effect if such dividend or distribution or stock split or stock combination had not been declared or announced.

- (2) If we issue to all or substantially all holders of our common stock any rights, options or warrants (other than rights issued pursuant to a stockholder rights plan) entitling them, for a period of not more than 45 calendar days after the announcement date of such issuance, to subscribe for or purchase shares of our common stock at a price per share that is less than the average of the last reported sale prices of our common stock for the 10 consecutive trading day period ending on, and including, the trading day immediately preceding the date of announcement of such issuance, the conversion rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{OS_0 + X}{OS_0 + Y}$$

where,

- CR₀ = the conversion rate in effect immediately prior to the open of business on the ex-dividend date for such issuance;
- CR₁ = the conversion rate in effect immediately after the open of business on such ex-dividend date;
- OS₀ = the number of shares of our common stock outstanding immediately prior to the open of business on such ex-dividend date;
- X = the total number of shares of our common stock issuable pursuant to such rights, options or warrants; and
- Y = the number of shares of our common stock equal to the aggregate price payable to exercise such rights, options or warrants, *divided by* the average of the last reported sale prices of our common stock over the 10 consecutive trading day period ending on, and including, the trading day immediately preceding the date of announcement of the issuance of such rights, options or warrants.

The last reported sale price of our common stock on any date means the closing sale price per share (or if no closing sale price is reported, the average of the bid and ask prices or, if more than one in either case, the average of the average bid and the average ask prices) on that date as reported in composite transactions for the principal U.S. national or regional securities exchange on which our common stock is traded. If our common stock is not listed for trading on a U.S. national or regional securities exchange on the relevant date, the last reported sale price will be the last quoted bid price per share for our common stock in the over-the-counter market on the relevant date as reported by OTC Markets Group, Inc. or a similar organization. If our common stock is not so quoted, the last reported sale price will be the average of the mid-point of the last bid and ask prices per share for our common stock on the relevant date from each of at least three nationally recognized independent investment banking firms selected by us for this purpose. The last reported sale price will be determined without regard to after-hours trading or any other trading outside of regular trading session hours.

Any increase made under this clause (2) will be made successively whenever any such rights, options or warrants are issued and shall become effective immediately after the open of business on the ex-dividend date for such issuance. To the extent that shares of common stock are not delivered after the expiration of such rights, options or warrants, the conversion rate shall be decreased to the conversion rate that would then be in effect had the increase with respect to the issuance of such rights, options or warrants been made on the basis of delivery of only the number of shares of common stock actually delivered. If such rights, options or warrants are not so issued, the conversion rate shall be decreased to the conversion rate that would then be in effect if such ex-dividend date for such issuance had not occurred.

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For the purpose of this clause (2), in determining whether any rights, options or warrants entitle the holders to subscribe for or purchase shares of our common stock at a price per share price that is less

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than such average of the last reported sale prices for the 10 consecutive trading day period ending on, and including, the trading day immediately preceding the date of announcement of such issuance, and in determining the aggregate price payable to exercise such rights, options or warrants, there shall be taken into account any consideration received by us for such rights, options or warrants and any amount payable on exercise or conversion thereof, the value of such consideration, if other than cash, to be determined by our board of directors or a committee thereof.

- (3) If we distribute shares of our capital stock, evidences of our indebtedness, other assets or property of ours or rights, options or warrants to acquire our capital stock or other securities, to all or substantially all holders of our common stock, excluding:

dividends, distributions or issuances as to which an adjustment was effected pursuant to clause (1) or (2) above;

dividends or distributions paid exclusively in cash as to which an adjustment was effected pursuant to clause (4) below;

cash dividends that do not result in an adjustment to the conversion rate pursuant to clause (4) below; and

spin-offs as to which the provisions set forth below in this clause (3) shall apply,

then the conversion rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{SP_0}{FMV}$$

where,

- CR₀ = the conversion rate in effect immediately prior to the open of business on the ex-dividend date for such distribution;
- CR₁ = the conversion rate in effect immediately after the open of business on such ex-dividend date;
- SP₀ = the average of the last reported sale prices of our common stock over the 10 consecutive trading day period ending on, and including, the trading day immediately preceding the ex-dividend date for such distribution; and
- FMV = the fair market value (as determined by our board of directors or a committee thereof) of the shares of capital stock, evidences of indebtedness, assets, property, rights, options or warrants distributed with respect to each outstanding share of our common stock on the ex-dividend date for such distribution.

Any increase made under the portion of this clause (3) above will become effective immediately after the open of business on the ex-dividend date for such distribution. If such distribution is not so paid or made, or if any rights, options or warrants are not exercised before their expiration date, the conversion rate shall be readjusted to be the conversion rate that would then be in effect if such distribution had not been declared or on the basis of the rights, options or warrants actually exercised before their expiration date, as applicable. Notwithstanding the foregoing, if FMV (as defined above) is equal to or greater than SP₀ (as defined above), in lieu of the foregoing increase, each holder of a note shall receive, in respect of each \$1,000 principal amount thereof, at the same time and upon the same terms as holders of our common stock, the amount and kind of our capital stock, evidences of our indebtedness, other assets or property of ours or rights, options or warrants to acquire our capital stock or other securities that such holder would have received if such holder owned a number of shares of common stock equal to the conversion rate in effect on the record date for the distribution.

With respect to an adjustment pursuant to this clause (3) where there has been a payment of a dividend or other distribution on our common stock of shares of capital stock of any class or series, or similar equity interest, of or relating to a subsidiary or other business unit of ours, and such capital stock or

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equity interest is, or, when issued, will be, listed or admitted for trading on a U.S. national securities exchange, which we refer to as a spin-off, the conversion rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{FMV_0 + MP_0}{MP_0}$$

where,

- CR₀ = the conversion rate in effect immediately prior to the open of business on the ex-dividend date of the spin-off;
- CR₁ = the conversion rate in effect immediately after the open of business on the ex-dividend date of the spin-off;
- FMV₀ = the average of the last reported sale prices of the capital stock or similar equity interest distributed to holders of our common stock applicable to one share of our common stock (determined by reference to the definition of last reported sale price set forth above as if references therein to our common stock were instead to such capital stock or similar equity interest) over the first 10 consecutive trading day period after, and including, the ex-dividend date of the spin-off (the valuation period); and
- MP₀ = the average of the last reported sale prices of our common stock over the valuation period.

The adjustment to the conversion rate under the preceding paragraph will be calculated as of the close of business on the last trading day of the valuation period but will be given effect as of immediately after the open of business on the ex-dividend date of the spin-off. Because we will make the adjustment to the conversion rate with retroactive effect, we will delay the settlement of any conversion of notes where the conversion date (in the case of physical settlement) or any trading day of the applicable observation period (in the case of cash settlement or combination settlement) occurs during the valuation period until the third business day after the last day of the valuation period. If any distribution of the type described in this clause (3) is declared but not so made, the conversion rate shall be immediately readjusted, effective as of the date our board of directors or a committee thereof determines not to make such distribution, to the conversion rate that would then be in effect if such distribution had not been declared.

- (4) If any cash dividend or distribution is made to all or substantially all holders of our common stock, to the extent that the aggregate of all such cash dividends or distributions paid in any calendar quarter exceeds the dividend threshold amount (as defined below) for such calendar quarter, the conversion rate will be adjusted based on the following formula:

$$CR_1 = CR_0 \times \frac{SP_0}{SP_0 - C}$$

where,

- CR₀ = the conversion rate in effect immediately prior to the open of business on the ex-dividend date for such dividend or distribution;
- CR₁ = the conversion rate in effect immediately after the open of business on the ex-dividend date for such dividend or distribution;
- SP₀ = the last reported sale price of our common stock on the trading day immediately preceding the ex-dividend date for such dividend or distribution;

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DTA = the dividend threshold amount, which shall initially be \$0.40 per calendar quarter; and

C = the amount in cash per share we dividend or distribute to holders of our common stock in excess of the DTA.

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The DTA is subject to adjustment on an inversely proportional basis whenever the conversion rate is adjusted other than adjustments made pursuant to this clause (4).

Any increase to the conversion rate made under this clause (4) shall become effective immediately after the open of business on the ex-dividend date for the dividend or distribution triggering such adjustment. If such dividend or distribution is not so paid, the conversion rate shall be readjusted, effective as of the date our board of directors or a committee thereof determines not to make or pay such dividend or distribution, to be the conversion rate that would then be in effect if such dividend or distribution had not been declared. Notwithstanding the foregoing, if C (as defined above) is equal to or greater than SP_0 (as defined above), in lieu of the foregoing increase, each holder of a note shall receive, for each \$1,000 principal amount of notes, at the same time and upon the same terms as holders of shares of our common stock, the amount of cash that such holder would have received if such holder owned a number of shares of our common stock equal to the conversion rate in effect on the record date for such cash dividend or distribution.

- (5) If we or any of our subsidiaries make a payment in respect of a tender or exchange offer for our common stock, to the extent that the cash and value of any other consideration included in the payment per share of common stock exceeds the last reported sale price of our common stock on the trading day next succeeding the last date (such last date, the expiration date) on which tenders or exchanges may be made pursuant to such tender or exchange offer, the conversion rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{AC + (SP_1 \times OS_1)}{OS_0 \times SP_1}$$

where,

- CR_0 = the conversion rate in effect immediately prior to the close of business on the expiration date;
- CR_1 = the conversion rate in effect immediately after the close of business on the expiration date;
- AC = the aggregate value of all cash and any other consideration (as determined by our board of directors or a committee thereof) paid or payable for shares purchased or exchanged in such tender or exchange offer;
- OS_0 = the number of shares of our common stock outstanding immediately prior to the time (the expiration time) such tender or exchange offer expires (prior to giving effect to the purchase or exchange of all shares accepted for purchase or exchange in such tender or exchange offer);
- OS_1 = the number of shares of our common stock outstanding immediately after the expiration time (after giving effect to the purchase or exchange of all shares accepted for purchase or exchange in such tender or exchange offer); and
- SP_1 = the average of the last reported sale prices of our common stock over the 10 consecutive trading day period (the averaging period) commencing on, and including, the trading day next succeeding the date such tender or exchange offer expires.

The adjustment to the conversion rate under this clause (5) will be calculated as of the close of business on the last trading day of the averaging period but will be given effect as of immediately after the close of business on the expiration date. Because we will make the adjustment to the conversion rate with retroactive effect, we will delay the settlement of any conversion of notes where the conversion date (in the case of physical settlement) or any trading day of the applicable observation period (in the case of cash settlement or combination settlement) occurs during the averaging period until the third business day after the last day of the averaging period.

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Notwithstanding the foregoing, if, in the case of any conversion of a note to which combination settlement applies, on any trading day during the observation period for such note, shares of our common stock are deliverable as part of the daily settlement amount for such trading day, and:

the record date for any issuance, dividend or distribution, the effective date for any stock split or combination or the expiration date for any tender or exchange offer by us that, in each case, would require an adjustment to the conversion rate under clauses (1) through (5) above occurs prior to our delivery of such shares of our common stock to the converting holder;

the applicable conversion rate for such trading day will not reflect such adjustment; and

the shares that we will deliver to the converting holder with respect of such trading day are not entitled to participate in the relevant event (because the converting holder is not treated as the record holder of such shares on the related record date, effective date, expiration date or otherwise),

then we will adjust the number of shares that we deliver to such holder as part of the daily settlement amount for such trading day in a manner that, in our good faith, reasonable judgment, appropriately reflects the relevant distribution, transaction or event.

In addition, notwithstanding the foregoing, in respect of any physical settlement, if any adjustment to the conversion rate described in clauses (1) through (5) above becomes effective on any ex-dividend date and a holder that has converted its notes would:

receive shares of our common stock based on the conversion rate as so adjusted; and

be a record holder of such shares of our common stock on the record date for the dividend, distribution or other event giving rise to the adjustment,

then, in lieu of receiving shares of our common stock at such adjusted conversion rate, such holder shall receive a number of shares of our common stock based on the unadjusted conversion rate and will participate in the related dividend, distribution or other event giving rise to the adjustment.

Except as stated herein, we will not adjust the conversion rate for the issuance of shares of our common stock or any securities convertible into or exchangeable for shares of our common stock or the right to purchase shares of our common stock or such convertible or exchangeable securities. If, however, the application of the foregoing formulas would result in a decrease in the conversion rate, no adjustment to the conversion rate will be made (other than as a result of a stock combination pursuant to clause (1) above or the reversal of an increase to the conversion rate where the relevant event did not occur, as expressly specified in the indenture).

As used in this section, *ex-dividend date* means the first date on which the shares of our common stock trade on the applicable exchange or in the applicable market, regular way, without the right to receive the issuance, dividend or distribution in question, from us or, if applicable, from the seller of our common stock on such exchange or market (in the form of due bills or otherwise) as determined by such exchange or market, and *effective date* means, with respect to a stock split or stock combination, the first date on which the shares of our common stock trade on the applicable exchange or in the applicable market, regular way, reflecting such stock split or stock combination, as applicable.

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Subject to the applicable listing standards of The New York Stock Exchange, we are permitted to increase the conversion rate of the notes by any amount for a period of at least 20 business days if our board of directors or a committee thereof determines that such increase would be in our best interest. Subject to the applicable listing standards of The New York Stock Exchange, we may also (but are not required to) increase the conversion rate to avoid or diminish income tax to holders of our common stock or rights to purchase shares of our common stock in connection with a dividend or distribution of shares (or rights to acquire shares) or similar event.

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A holder may, in some circumstances, including a distribution of cash dividends to holders of our shares of common stock, be deemed to have received a distribution subject to U.S. federal income tax as a result of an adjustment or the nonoccurrence of an adjustment to the conversion rate. Because a deemed distribution would not give rise to any cash from which any applicable withholding could be satisfied, if we pay withholding taxes on behalf of a holder we may, at our option, set off any such payment against payments of cash and common stock payable on the notes (or, in some circumstances, against any payments on the common stock). For a discussion of the U.S. federal income tax treatment of an adjustment to the conversion rate, see Additional U.S. Federal Income Tax Considerations.

We currently do not have a stockholder rights plan. If we have a rights plan in effect upon conversion of the notes, you will also receive, to the extent, if at all, you receive any shares of common stock upon such conversion, rights under the rights plan. However, if, prior to any conversion, the rights have separated from the shares of common stock in accordance with the provisions of the applicable rights plan, the conversion rate will be adjusted at the time of separation as if we distributed to all or substantially all holders of our common stock, shares of our capital stock, evidences of indebtedness, other assets, property, rights, options or warrants as described in clause (3) above, subject to readjustment in the event of the expiration, termination or redemption of such rights.

Notwithstanding any of the foregoing, the conversion rate will not be adjusted:

upon the issuance of any shares of our common stock pursuant to any present or future plan providing for the reinvestment of dividends or interest payable on our securities and the investment of additional optional amounts in shares of our common stock under any plan;

upon the issuance of any shares of our common stock or options or rights to purchase those shares pursuant to any present or future employee, director or consultant benefit plan or program of or assumed by us or any of our subsidiaries;

upon the issuance of any shares of our common stock pursuant to any option, warrant, right or exercisable, exchangeable or convertible security not described in the preceding bullet and outstanding as of the date the notes were first issued;

upon the repurchase of any shares of our common stock pursuant to an open-market share repurchase program or other buy-back transaction that is not a tender offer or exchange offer of the nature described under clause (5) above;

solely for a change in the par value of our common stock; or

for accrued and unpaid interest, if any.

Adjustments to the conversion rate will be calculated to the nearest 1/10,000th of a share.

We will not adjust the conversion rate pursuant to the clauses above unless the adjustment would result in a change of at least 1% in the then-effective conversion rate. However, we will carry forward any adjustment that we would otherwise have to make and take that adjustment into account in any subsequent adjustment. Notwithstanding the foregoing, all such carried-forward adjustments shall be made with respect to the notes (i) annually on March 15 of each year, (ii) in connection with any subsequent adjustment to the conversion rate that, together with all carried-forward adjustments, would constitute a change of at least 1% in the then-effective conversion rate and (iii) (x) on the conversion date for any notes (in the case of physical settlement) or (y) on each trading day of any observation period (in the case of cash settlement or combination settlement).

Recapitalizations, Reclassifications and Changes of Our Common Stock

In the case of:

any recapitalization, reclassification or change of our common stock (other than a change only in par value, from par value to no par value or from no par value to par value, or changes resulting from a subdivision or combination of our common stock),

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any consolidation or merger involving us,

any sale, lease or other transfer to a third party of all or substantially all of the consolidated assets of us and our subsidiaries, taken as a whole, or

any statutory share exchange,

in each case, as a result of which our common stock would be converted into, or exchanged for, or represent solely the right to receive, stock, other securities, other property or assets (including cash or any combination thereof) (such stock, other securities, other property or assets, the reference property, and the amount and kind of reference property that a holder of one share of our common stock would be entitled to receive on account of such transaction, a reference property unit), then, notwithstanding anything to the contrary herein, at the effective time of the transaction, the consideration due upon conversion of any notes will be determined in the same manner as if each reference to any number of shares of our common stock in this section titled Conversion rights were instead a reference to the same number of reference property units. For these purposes, the daily VWAP or last reported sale price of any reference property unit or portion thereof that does not consist of a class of securities will be the fair value of such reference property unit or portion thereof, as applicable, determined in good faith by us (or, in the case of cash denominated in U.S. dollars, the face amount thereof).

If the transaction causes our common stock to be converted into, or exchanged for, the right to receive more than a single type of consideration (determined based in part upon any form of stockholder election), the composition of the reference property unit will be deemed to be (i) the weighted average, per share of our common stock, of the types and amounts of consideration received by the holders of our common stock that affirmatively make such an election or (ii) if no holders of our common stock affirmatively make such an election, the types and amounts of consideration actually received, per share of our common stock, by the holders of our common stock. If the holders receive only cash in such transaction, then for all conversions that occur after the effective date of such transaction (i) the consideration due upon conversion of each \$1,000 principal amount of notes shall, for the avoidance of doubt, be solely cash in an amount equal to the conversion rate in effect on the conversion date (as may be increased as described under Increase in Conversion Rate Upon Conversion Upon a Make-whole Fundamental Change), multiplied by the price paid per share of common stock in such transaction and (ii) we will satisfy our conversion obligation by paying cash to converting holders on the third business day immediately following the conversion date. We will notify holders, the trustee and the conversion agent (if other than the trustee) of the weighted average as soon as practicable after such determination is made. We will agree in the indenture not to become a party to any such transaction unless its terms are consistent with the foregoing.

Adjustments of Prices

Whenever any provision of the indenture requires us to calculate the last reported sale prices, the daily VWAPs, the daily conversion values or the daily settlement amounts over a span of multiple days (including an observation period and the stock price for purposes of a make-whole fundamental change), our board of directors or a committee thereof will make appropriate adjustments to each to account for any adjustment to the conversion rate that becomes effective, or any event requiring an adjustment to the conversion rate where the ex-dividend date of the event occurs, at any time during the period when such last reported sale prices, daily VWAPs, daily conversion values or daily settlement amounts are to be calculated.

Increase in Conversion Rate Upon Conversion Upon a Make-whole Fundamental Change

If the effective date (as defined below) of a make-whole fundamental change (as defined below) occurs prior to the maturity date of the notes and a holder elects to convert its notes in connection with such make-whole fundamental change, we will, under certain circumstances, increase

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the conversion rate for the notes so surrendered for conversion by a number of additional shares of common stock (the additional shares), as described below. A make-whole fundamental change means any transaction or event that constitutes a fundamental change defined below in Fundamental Change Permits Holders to Require Us to Repurchase

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Notes, after giving effect to any exceptions or exclusions from such definition, but without regard to subclause (a) of the proviso in clause (2) of the definition thereof. A conversion of notes will be deemed for these purposes to be in connection with such make-whole fundamental change if the relevant notice of conversion of the notes is received by the conversion agent from, and including, the effective date of the make-whole fundamental change up to, and including, the business day immediately prior to the related fundamental change repurchase date (or, in the case of a make-whole fundamental change that would have been a fundamental change but for subclause (a) of the proviso in clause (2) of the definition thereof, the 35th trading day immediately following the effective date of such make-whole fundamental change). Upon surrender of notes for conversion in connection with a make-whole fundamental change, we will, at our option, satisfy our conversion obligation by physical settlement, cash settlement or combination settlement, based on the conversion rate as increased to reflect the additional shares pursuant to the table set forth below, as described under Settlement Upon Conversion. However, if the consideration for our common stock in any make-whole fundamental change described in clause (2) of the definition of fundamental change is composed entirely of cash, for any conversion of notes following the effective date of such make-whole fundamental change, the conversion obligation will be calculated based solely on the stock price (as defined below) for the transaction and will be deemed to be an amount of cash per \$1,000 principal amount of converted notes equal to the conversion rate (including any increase to reflect the additional shares as described in this section), multiplied by such stock price. In such event, the conversion obligation will be determined and paid to holders in cash on the third business day following the conversion date. We will notify holders of the effective date of any make-whole fundamental change no later than five business days after such effective date.

The number of additional shares, if any, by which the conversion rate will be increased will be determined by reference to the table below, based on the date on which the make-whole fundamental change occurs or becomes effective (the effective date) and the price (the stock price) paid (or deemed to be paid) per share of our common stock in the make-whole fundamental change. If the holders of our common stock receive in exchange for their common stock only cash in a make-whole fundamental change described in clause (2) of the definition of fundamental change, the stock price will be the cash amount paid per share. Otherwise, the stock price will be the average of the last reported sale prices of our common stock over the five trading day period ending on, and including, the trading day immediately preceding the effective date of the make-whole fundamental change.

The stock prices set forth in the column headings of the table below will be adjusted as of any date on which the conversion rate of the notes is otherwise adjusted. The adjusted stock prices will equal the stock prices immediately prior to such adjustment, multiplied by a fraction, the numerator of which is the conversion rate immediately prior to the adjustment giving rise to the stock price adjustment and the denominator of which is the conversion rate as so adjusted. The number of additional shares as set forth in the table below will be adjusted in the same manner and at the same time as the conversion rate as set forth under Conversion Rate Adjustments.

The following table sets forth the number of additional shares by which the conversion rate will be increased per \$1,000 principal amount of notes for each stock price and effective date set forth below:

Effective Date	Stock Price											
	\$16.42	\$17.00	\$17.50	\$18.06	\$18.50	\$19.00	\$19.50	\$20.00	\$20.50	\$21.00	\$21.50	\$22.00
March 17, 2014	5.5364	4.1366	3.1621	2.2422	1.6241	1.0445	0.5892	0.2713	0.0930	0.0197	0.0011	0.0000
March 15, 2015	5.5364	4.9220	3.8574	2.8458	2.1591	1.5001	0.9603	0.5382	0.2443	0.0811	0.0156	0.0003
March 15, 2016	5.5364	5.4247	4.2925	3.2110	2.4724	1.7629	1.1743	0.7025	0.3550	0.1403	0.0369	0.0041
March 15, 2017	5.5364	5.5090	4.3334	3.2143	2.4533	1.7276	1.1307	0.6597	0.3212	0.1200	0.0299	0.0024
March 15, 2018	5.5364	4.9790	3.7732	2.6489	1.9013	1.2133	0.6828	0.3165	0.1104	0.0242	0.0014	0.0000
March 15, 2019	5.5364	3.4586	1.7780	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000

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The exact stock prices and effective dates may not be set forth in the table above, in which case:

If the stock price is between two stock prices in the table or the effective date is between two effective dates in the table, the number of additional shares by which the conversion rate will be increased will be determined by a straight-line interpolation between the number of additional shares set forth for the higher and lower stock prices and the earlier and later effective dates, as applicable, based on a 365- or 366-day year, as applicable.

If the stock price is greater than \$22.00 per share (subject to adjustment in the same manner as the stock prices set forth in the column headings of the table above), no additional shares will be added to the conversion rate.

If the stock price is less than \$16.42 per share (subject to adjustment in the same manner as the stock prices set forth in the column headings of the table above), no additional shares will be added to the conversion rate.

Notwithstanding the foregoing, in no event will the conversion rate be increased pursuant to the provisions described above to exceed 60.9013 shares of common stock per \$1,000 principal amount of notes, subject to adjustment in the same manner as the conversion rate as set forth under Conversion Rate Adjustments.

Our obligation to increase the conversion rate for notes converted in connection with a make-whole fundamental change could be considered a penalty, in which case the enforceability thereof would be subject to general principles of reasonableness and equitable remedies.

Fundamental Change Permits Holders to Require Us to Repurchase Votes

If a fundamental change (as defined below in this section) occurs at any time prior to the maturity date, holders will have the right, at their option, to require us to repurchase for cash all of their notes, or any portion of the principal amount thereof that is equal to \$1,000 or an integral multiple of \$1,000. The fundamental change repurchase date will be a date specified by us that is not less than 20 or more than 35 calendar days following the date of our fundamental change notice as described below or, if we fail to specify a fundamental change repurchase date, the 35th calendar day following the date of our fundamental change notice.

The fundamental change repurchase price we are required to pay will be equal to 100% of the principal amount of the notes to be repurchased, plus accrued and unpaid interest to, but excluding, the fundamental change repurchase date (unless the fundamental change repurchase date falls after a regular record date but on or prior to the interest payment date to which such regular record date relates, in which case we will instead pay, on such interest payment date, the full amount of accrued and unpaid interest to the holder of record on such regular record date, and the fundamental change repurchase price will be equal to 100% of the principal amount of the notes to be repurchased).

A fundamental change will be deemed to have occurred at the time after the notes are originally issued if any of the following occurs:

- (1) a person or group within the meaning of Section 13(d) of the Exchange Act, other than us, our subsidiaries and our or their employee benefit plans, files a Schedule TO or any schedule, form or report under the Exchange Act disclosing that such person or group has become the direct or indirect beneficial owner, as defined in Rule 13d-3 under the Exchange Act, of our common equity representing

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more than 50% of the voting power of our common equity;

- (2) the consummation of (A) any recapitalization, reclassification or change of our common stock (other than a change only in par value, from par value to no par value or from no par value to par value, or changes resulting from a subdivision or combination of our common stock) as a result of which our common stock would be converted into, or exchanged for, or represent solely the right to receive, stock, other securities, other property or assets; (B) any statutory share exchange, consolidation or

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merger of us pursuant to which our common stock will be converted into, or exchanged for, or represent solely the right to receive, stock, other securities, other property or assets; or (C) any sale, lease or other transfer in one transaction or a series of transactions of all or substantially all of the consolidated assets of us and our subsidiaries, taken as a whole, to any person other than one of our subsidiaries; provided, however, that neither (a) a transaction described in clause (A) or (B) in which the holders of all classes of our common equity immediately prior to such transaction beneficially own, directly or indirectly, more than 50% of all classes of common equity of the continuing or surviving entity or the parent thereof immediately after such transaction in substantially the same proportions as such ownership immediately prior to such transaction nor (b) any merger of us solely for the purpose of changing our jurisdiction of incorporation that results in a reclassification, conversion or exchange of outstanding shares of our common stock solely into shares of common stock of the surviving entity shall be a fundamental change pursuant to this clause (2);

- (3) our stockholders approve any plan or proposal for the liquidation or dissolution of us; or
- (4) our common stock (or other reference property) ceases to be listed or quoted on any of The New York Stock Exchange, The NASDAQ Global Select Market or The NASDAQ Global Market (or any of their respective successors).

A transaction or transactions described in clause (1) or (2) above will not constitute a fundamental change, however, if at least 90% of the consideration received or to be received by our common stockholders (excluding cash payments for fractional shares or pursuant to dissenters appraisal rights) in connection with such transaction or transactions consists of shares of common stock or common equity interests that are listed or quoted on any of The New York Stock Exchange, The NASDAQ Global Select Market or The NASDAQ Global Market (or any of their respective successors), or will be so listed or quoted when issued or exchanged in connection with such transaction or transactions, and as a result of such transaction or transactions the notes become convertible (assuming physical settlement) into such consideration, excluding cash payments for fractional shares (subject to the provisions set forth above under Conversion Rights Settlement Upon Conversion).

For the purposes of this definition of fundamental change, any transaction or event that constitutes a fundamental change under both clause (1) and clause (2) above will be deemed to constitute a fundamental change solely under clause (2) of this definition of fundamental change.

On or before the 10th calendar day after the occurrence of a fundamental change, we will provide to all holders of the notes, the conversion agent, the trustee and the paying agent a written notice of the occurrence of the fundamental change and of the resulting repurchase right. Such notice shall state, among other things:

the events causing a fundamental change;

the effective date of the fundamental change;

the last date on which a holder may exercise the repurchase right;

the fundamental change repurchase price;

the fundamental change repurchase date;

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

the conversion rate and, if applicable, any adjustments to the conversion rate resulting from such fundamental change;

that the notes with respect to which a fundamental change repurchase notice has been delivered by a holder may be converted only if the holder withdraws the fundamental change repurchase notice in accordance with the terms of the indenture; and

the procedures that holders must follow to require us to repurchase their notes.

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To exercise the fundamental change repurchase right, you must deliver, on or before the business day immediately preceding the fundamental change repurchase date, the notes to be repurchased, duly endorsed for transfer, together with a written repurchase notice, to the paying agent. Each repurchase notice must state:

if certificated, the certificate numbers of your notes to be delivered for repurchase;

the portion of the principal amount of notes to be repurchased, which must be \$1,000 or an integral multiple thereof; and

that the notes are to be repurchased by us pursuant to the applicable provisions of the notes and the indenture.

If the notes are not in certificated form, such repurchase notice must comply with appropriate DTC procedures.

Holders may withdraw any repurchase notice (in whole or in part) by a written notice of withdrawal delivered to the paying agent prior to the close of business on the business day immediately preceding the fundamental change repurchase date. The notice of withdrawal shall state:

the principal amount of the withdrawn notes, which must be \$1,000 aggregate principal amount or an integral multiple thereof;

if certificated notes have been issued, the certificate numbers of the withdrawn notes; and

the principal amount, if any, which remains subject to the repurchase notice, which must be \$1,000 aggregate principal amount or an integral multiple thereof.

If the notes are not in certificated form, such notice of withdrawal must comply with appropriate DTC procedures.

We will be required to repurchase the notes on the fundamental change repurchase date. Holders who have exercised the repurchase right will receive payment of the fundamental change repurchase price on the later of (i) the fundamental change repurchase date and (ii) the time of book-entry transfer or the delivery of the notes. If the paying agent holds money sufficient to pay the fundamental change repurchase price of the notes on the fundamental change repurchase date, then, with respect to the notes that have been properly surrendered for repurchase and have not been validly withdrawn:

the notes will cease to be outstanding and interest will cease to accrue (whether or not book-entry transfer of the notes is made or whether or not the notes are delivered to the paying agent); and

all other rights of the holder will terminate (other than the right to receive the fundamental change repurchase price).

In connection with any repurchase offer pursuant to a fundamental change repurchase notice, we will, if required:

comply with the provisions of Rule 13e-4, Rule 14e-1 and any other tender offer rules under the Exchange Act that may then be applicable;

file a Schedule TO or any other required schedule under the Exchange Act; and

otherwise comply with all federal and state securities laws in connection with any offer by us to repurchase the notes,

in each case, so as to permit the rights and obligations as described under this Fundamental Change Permits Holders to Require Us to Repurchase Notes to be exercised in the time and in the manner specified in the indenture.

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No notes may be repurchased by us on any date at the option of holders upon a fundamental change if the principal amount of the notes has been accelerated, and such acceleration has not been rescinded, on or prior to such date (except in the case of an acceleration resulting from a default by us in the payment of the fundamental change repurchase price with respect to such notes).

The repurchase rights of the holders could discourage a potential acquirer of us. The fundamental change repurchase feature, however, is not the result of management's knowledge of any specific effort to obtain control of us by any means or part of a plan by management to adopt a series of anti-takeover provisions.

We will not be required to make an offer to purchase the notes upon a fundamental change if a third party makes such an offer in the manner, at the times and otherwise in compliance with the requirements therefor in the indenture and such third party purchases all notes properly tendered and not validly withdrawn under its offer in the same manner as we would have been required to pursuant to the indenture.

To the extent that the provisions of any securities laws or regulations conflict with the provisions of the indenture relating to our obligations to purchase the notes upon a fundamental change, we will comply with the applicable securities laws and regulations and will not be deemed to have breached our obligations under such provisions of the indenture by virtue of such conflict.

The term fundamental change is limited to specified transactions and may not include other events that might adversely affect our financial condition. In addition, the requirement that we offer to repurchase the notes upon a fundamental change may not protect holders in the event of a highly leveraged transaction, reorganization, merger or similar transaction involving us. Furthermore, holders may not be entitled to require us to repurchase their notes upon a fundamental change or entitled to an increase in the conversion rate upon conversion as described under

Conversion Rights Increase in Conversion Rate Upon Conversion Upon a Make-whole Fundamental Change in circumstances involving a significant change in the composition of our board, unless such change is in connection with a fundamental change or make-whole fundamental change as described herein.

The definition of fundamental change includes a phrase relating to the sale, lease or other transfer of all or substantially all of the consolidated assets of us and our subsidiaries, taken as a whole. There is no precise, established definition of the phrase substantially all under applicable law. Accordingly, the ability of a holder of the notes to require us to repurchase its notes as a result of the sale, conveyance, lease or other transfer of less than all of our assets may be uncertain.

If a fundamental change were to occur, we may not have enough funds to pay the fundamental change repurchase price. Our ability to repurchase the notes for cash may be limited by restrictions on our ability to obtain funds for such repurchase through dividends from our subsidiaries, the terms of our then existing borrowing arrangements or otherwise. See Risk Factors Risks Related to the Notes and this Offering We may not have the ability to raise the funds necessary to settle conversions of the notes in cash or to repurchase the notes for cash upon a fundamental change, and our future debt may contain limitations on our ability to repurchase the notes. If we fail to repurchase the notes when required following a fundamental change, we will be in default under the indenture. In addition, we may in the future incur other indebtedness with similar change-in-control provisions permitting our holders to accelerate or to require us to repurchase our indebtedness upon the occurrence of similar events or on some specific dates.

Restrictions on Ownership and Transfer of Stock; Limitation on Stock Issuable Upon Conversion

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To assist us in complying with the limitations on the concentration of ownership of a REIT imposed by the Internal Revenue Code, among other purposes, our charter contains restrictions on the ownership and transfer of our stock. Our charter generally prohibits, among other prohibitions, any stockholder from beneficially or constructively owning more than 9.8% in value or in number of shares, whichever is more restrictive, of the outstanding shares of our common stock, or 9.8% in value or in number of shares, whichever is more restrictive, of the outstanding shares of all classes or series of our capital stock (the "ownership limit"). Our board of

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directors has established exemptions from the ownership limit that permit Apollo and certain of its affiliates collectively to hold up to 25% of our common stock and certain institutional investors, each together with certain of their specified affiliates, each collectively to hold up to 15% of our common stock. In addition, our charter contains various other restrictions on the ownership and transfer of our common stock. See

Restrictions on Ownership and Transfer in the accompanying prospectus. The indenture will provide that, notwithstanding any other provision of the indenture or the notes, no holder of the notes will be entitled to receive shares of our common stock upon conversion to the extent (but only to the extent) that such receipt would cause a violation of the restrictions on ownership and transfer of our stock set forth in our charter. Any purported delivery of shares of our common stock upon conversion of notes will be void and have no effect to the extent (but only to the extent) that such delivery would result in a violation of the restrictions on ownership and transfer of our stock set forth in our charter. If any delivery of shares of our common stock owed to a holder upon conversion of notes is not made, in whole or in part, as a result of the ownership limit or the other restrictions on ownership and transfer of our stock set forth in our charter, our obligation to make such delivery will not be extinguished, and we will deliver such shares as promptly as practicable after the applicable holder gives notice to us that such delivery would not result in a violation of the restrictions on ownership and transfer of our stock set forth in our charter.

Consolidation, Merger and Sale of Assets

The provisions described below apply to the notes in lieu of the provisions described in the accompanying prospectus under the heading

Description of Debt Securities Mergers and Other Transactions. The provisions described below apply only to the notes and not to any other series of debt securities issued pursuant to the base indenture.

The indenture provides that we shall not consolidate with or merge with or into, or sell, convey, transfer or lease of all or substantially all of the consolidated assets of us and our subsidiaries, taken as a whole, to, another person, unless (i) the resulting, surviving or transferee person (if not us) is a corporation organized and existing under the laws of the United States of America, any state thereof or the District of Columbia, and such corporation (if not us) expressly assumes by supplemental indenture all of our obligations under the notes and the indenture; (ii) immediately after giving effect to such transaction, no default or event of default has occurred and is continuing under the indenture and (iii) we have delivered an officers certificate and an opinion of counsel to the trustee providing that such merger, consolidation, sale, conveyance, transfer or lease and supplemental indenture (if any) comply with the indenture and an opinion of counsel stating that the notes and the indenture are valid and binding obligations of such surviving or transferee person. Upon any such consolidation, merger or sale, conveyance, transfer or lease, the resulting, surviving or transferee person (if not us) shall succeed to, and may exercise, every right and power of ours under the indenture, and we shall be discharged from our obligations under the notes and the indenture, except in the case of any such lease.

Although these types of transactions are permitted under the indenture, certain of the foregoing transactions could constitute a fundamental change permitting each holder to require us to repurchase the notes of such holder as described above.

Events of Default