Ares Commercial Real Estate Corp
Form S-3
May 09, 2013

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As filed with the Securities and Exchange Commission on May 9, 2013

Registration No. 333-

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM S-3

REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

Ares Commercial Real Estate Corporation

(Exact name of registrant as specified in its charter)

Delaware	**45-3148087**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification Number)

Two North LaSalle Street, Suite 925
Chicago, IL 60602
(312) 324-5900

(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

Michael D. Weiner
2000 Avenue of the Stars, 12th Floor
Los Angeles, California 90067
(310) 201-4100

(Name, address, including zip code, and telephone number, including area code, of agent for service)

Copies of all communications to:

Monica J. Shilling
Proskauer Rose LLP
2049 Century Park East, Suite 3200
Los Angeles, California 90067
Tel: (310) 557-2900
Fax: (310) 557-2193

Approximate date of commencement of proposed sale to the public:
From time to time after the effective date of this registration statement as determined by market conditions.

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

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

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

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

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

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

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

Large accelerated filer o	Accelerated filer o	Non-accelerated filer ý (Do not check if a smaller reporting company)	Smaller reporting company o

CALCULATION OF REGISTRATION FEE

Title of each class of securities to be registered	Amount to be registered	Proposed maximum offering price per share	Proposed maximum aggregate offering price(1)	Amount of registration fee
Common Stock, $0.001 par value per share(2)(3)				
Preferred Stock, $0.001 par value per share(2)				
Subscription Rights(2)				
Warrants(4)				
Debt Securities(5)				
Units(6)				
Total			$1,500,000,000(1)	$204,600

(1) Estimated pursuant to Rule 457(o) solely for the purpose of determining the registration fee. The proposed maximum offering price per security will be determined from time to time, by the Registrant in connection with the sale by the Registrant of the securities registered under this registration statement.

(2)

Subject to Note 7 below, there is being registered hereunder an indeterminate number of shares of common stock or preferred stock, or subscription rights to purchase shares of common stock as may be sold, from time to time separately or as units in combination with other securities registered hereunder.

(3)

Includes such indeterminate number of shares of common stock as may, from time to time, be issued upon conversion or exchange of other securities registered hereunder, to the extent any such securities are, by their terms, convertible or exchangeable for common stock.

(4)

Subject to Note 7 below, there is being registered hereunder an indeterminate number of warrants as may be sold, from time to time separately or as units in combination with other securities registered hereunder, representing rights to purchase common stock, preferred stock or debt securities.

(5)

Subject to Note 7 below, there is being registered hereunder an indeterminate principal amount of debt securities as may be sold, from time to time separately or as units in combination with other securities registered hereunder. If any debt securities are issued at an original issue discount, then the offering price shall be in such greater principal amount as shall result in an aggregate price to investors not to exceed $1,500,000,000.

(6)

Subject to Note 7 below, there is being registered hereunder an indeterminate number of units. Each unit may consist of a combination of any one or more of the securities being registered hereunder and may also include securities issued by third parties, including the U.S. Treasury.

(7)

In no event will the aggregate offering price of all securities issued from time to time pursuant to this registration statement exceed $1,500,000,000.

THE REGISTRANT HEREBY AMENDS THIS REGISTRATION STATEMENT ON SUCH DATE OR DATES AS MAY BE NECESSARY TO DELAY ITS EFFECTIVE DATE UNTIL THE REGISTRANT SHALL FILE A FURTHER AMENDMENT WHICH SPECIFICALLY STATES THAT THIS REGISTRATION STATEMENT SHALL THEREAFTER BECOME EFFECTIVE IN ACCORDANCE WITH SECTION 8(a) OF THE SECURITIES ACT OF 1933, AS AMENDED, OR UNTIL THIS REGISTRATION STATEMENT SHALL BECOME EFFECTIVE ON SUCH DATE AS THE COMMISSION, ACTING PURSUANT TO SECTION 8(a), MAY DETERMINE.

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

Subject to Completion, dated May 9, 2013

PROSPECTUS

$1,500,000,000

Common Stock
Preferred Stock
Debt Securities
Subscription Rights
Warrants
Units

Ares Commercial Real Estate Corporation is a Maryland corporation that was incorporated on September 1, 2011, and was initially funded and commenced investment operations on December 9, 2011. We are focused primarily on originating, investing in and managing middle market commercial real estate loans and other CRE-related investments. We completed our initial public offering on May 1, 2012. We are externally managed by Ares Commercial Real Estate Management LLC, a Securities and Exchange Commission registered investment adviser and a wholly owned subsidiary of Ares Management LLC, or "Ares Management," a global alternative asset manager and also a Securities and Exchange Commission registered investment adviser.

Our common stock is traded on the New York Stock Exchange under the symbol "ACRE." On May 8, 2013 the last reported sales price of our common stock on the New York Stock Exchange was $16.90 per share.

Investing in our securities involves material risks and uncertainties that should be considered. See "Risk Factors" beginning on page 3 of our Annual Report on Form 10-K for the year ended December 31, 2012.

We may offer, from time to time, in one or more offerings or series, up to $1,500,000,000 of our common stock, preferred stock, debt securities, subscription rights to purchase shares of our common stock, warrants representing rights to purchase shares of our common stock, preferred stock or debt securities, or units comprised of any combination of the foregoing, which we refer to, collectively, as the "securities." The preferred stock, debt securities, subscription rights and warrants (including as part of a unit) offered hereby may be convertible or exchangeable into shares of our common stock. The securities may be offered at prices and on terms to be described in one or more supplements to this prospectus.

You should carefully read this prospectus and the accompanying prospectus supplement, as well as any documents incorporated by reference herein or therein, before you invest in our securities. **This prospectus may not be used to consummate sales of securities unless accompanied by a prospectus supplement.**

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

The date of this prospectus is , 2013.

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ABOUT THIS PROSPECTUS

This prospectus is part of a shelf registration statement. Under this shelf registration statement, we may offer, from time to time, in one or more offerings or series, up to $1,500,000,000 of our common stock, preferred stock, debt securities, subscription rights to purchase shares of our common stock, warrants representing rights to purchase shares of our common stock, preferred stock or debt securities, or units. You should rely only on the information provided or incorporated by reference in this prospectus or any applicable prospectus supplement. We have not authorized anyone to provide you with different or additional information. We are not making an offer to sell these securities in any jurisdiction where the offer or sale of these securities is not permitted. You should not assume that the information appearing in this prospectus or any applicable prospectus supplement or the documents incorporated by reference herein or therein is accurate as of any date other than their respective dates. Our business, financial condition, results of operations and prospects may have changed since those dates. You should read carefully the entire prospectus, as well as the documents incorporated by reference in the prospectus, before making an investment decision.

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PROSPECTUS SUMMARY

This summary description about us and our business highlights selected information contained elsewhere in or incorporated by reference into this prospectus. This summary does not contain all of the information that you should consider before investing in our securities. You should read in their entirety this prospectus, any accompanying prospectus supplement and any other offering materials, together with all documents incorporated by reference herein and therein and the additional information described under the heading "Where You Can Find More Information." Except where the context suggests otherwise, the terms "ACRE," the "Company," "we," "us," and "our" refer to Ares Commercial Real Estate Corporation, a Maryland corporation, together with its consolidated subsidiaries; our "Manager" refers to Ares Commercial Real Estate Management LLC, a Delaware limited liability company, our external manager and an affiliate of Ares Management; our "Manager's servicer" refers to Ares Commercial Real Estate Servicer LLC, a Delaware limited liability company and a subsidiary of our Manager; "Ares Management" refers to Ares Management LLC, its subsidiaries and its affiliated investment vehicles (other than us and portfolio companies of its affiliated investment vehicles) and "Ares Investments" refers to Ares Investments Holdings LLC, an affiliate of Ares Management. On February 22, 2012, we effected a one-for-two reverse stock split of our issued and outstanding common stock. Unless indicated otherwise, the information presented in this prospectus gives effect to this reverse stock split.

Our Company

Ares Commercial Real Estate Corporation (together with our consolidated subsidiaries, the "Company," "ACRE," "we," "us" and "our") is a Maryland corporation that was incorporated on September 1, 2011, and was initially funded and commenced investment operations on December 9, 2011. We are focused primarily on originating, investing in and managing middle-market commercial real estate, or "CRE," loans and other CRE-related investments. We completed the initial public offering, or the "IPO," of our common stock on May 1, 2012. We are externally managed by Ares Commercial Real Estate Management LLC, "ACREM" or our "Manager," a Securities and Exchange Commission, or "SEC," registered investment adviser and a wholly owned subsidiary of Ares Management LLC, or "Ares Management," a global alternative asset manager and also a SEC registered investment adviser.

Our target investments include: "transitional senior" mortgage loans, "stretch senior" mortgage loans, subordinate debt mortgage loans such as B-notes and mezzanine loans and other select CRE debt and preferred equity investments. "Transitional senior" mortgage loans provide strategic, flexible, short-term financing solutions on transitional CRE middle market assets that are the subject of a business plan that is expected to enhance the value of the property. They are usually funded over time as the borrower's business plan for the property is executed, and have a lower initial loan-to-value ratio as compared to "stretch senior" mortgage loans. "Stretch senior" mortgage loans provide flexible "one stop" financing on quality CRE middle market assets that are typically stabilized or near-stabilized properties with healthy balance sheets and steady cash flows, with the mortgage loans having higher leverage (and thus higher loan-to-value ratios) than conventional mortgage loans and are typically fully funded at closing and non-recourse to the borrower (as compared to conventional mortgage loans, which are usually full recourse to the borrower).

We intend to elect and qualify to be taxed as a real estate investment trust, or "REIT," under the Internal Revenue Code of 1986, as amended, or the "Code," commencing with the Company's taxable year ended December 31, 2012. To the extent that we annually distribute at least 90% of our REIT taxable income (which does not equal net income, as calculated in accordance with generally accepted accounting principles, or "GAAP") to our stockholders and comply with various other requirements as a REIT, we generally will not be subject to U.S. federal income taxes on our REIT taxable income, determined without regard to the deduction for dividends paid and excluding net capital gains.

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Corporate Information

We are a Maryland corporation. Our principal executive offices are located at Two North LaSalle Street, Suite 925, Chicago, IL 60602. Our telephone number is (312) 324-5900. Our website is www.arescre.com. The contents of our website are not a part of this prospectus. The information contained on, or that can be accessed through, our website is not part of, and is not incorporated into, this prospectus. We own or have rights to trademarks or trade names that we use in conjunction with the operation of our business. Any trademark, trade name or service mark of any other company appearing in this prospectus or any document incorporated by reference herein belongs to its holder. Use or display by us of other parties' trademarks, trade names or service marks is not intended to and does not imply a relationship with, or endorsement or sponsorship by us of, the trademark, trade name or service mark owner.

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RISK FACTORS

Investment in our securities involves a high degree of risk. You should carefully consider the risks described in the section "Risk Factors" contained in our Annual Report on Form 10-K for the year ended December 31, 2012, which has been filed with the SEC as well as other information in this prospectus and any applicable prospectus supplement before purchasing our securities. Each of the risks described could materially adversely affect our business, financial condition, results of operations, or ability to make distributions to our stockholders. In such case, you could lose all or a portion of your original investment. See "Where You Can Find More Information" beginning on page 61 of this prospectus.

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FORWARD-LOOKING STATEMENTS

We make forward-looking statements in this prospectus that are subject to risks and uncertainties. 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" or similar expressions, we intend to identify forward-looking statements. Statements regarding the following subjects, among others, may be forward-looking:

- the use of proceeds of any offering pursuant to this prospectus and any accompanying prospectus supplement;
- our business and investment strategy;
- our projected operating results;
- the timing of cash flows, if any, from our investments;
- the state of the U.S. economy generally or in specific geographic regions;
- defaults by borrowers in paying debt service on outstanding items;
- actions and initiatives of the U.S. Government and changes to U.S. Government policies;
- our ability to obtain financing arrangements;
- the amount of commercial mortgage loans requiring refinancing;
- financing and advance rates for our target investments;
- our expected leverage;
- general volatility of the securities markets in which we may invest;
- the impact of a protracted decline in the liquidity of credit markets on our business;
- the uncertainty surrounding the strength of the U.S. economic recovery;
- the return or impact of current and future investments;

allocation of investment opportunities to us by our Manager;

changes in interest rates and the market value of our investments;

effects of hedging instruments on our target investments;

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

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

changes in governmental regulations, tax law and rates, and similar matters (including interpretation thereof);

our ability to maintain our qualification as a REIT;

our ability to maintain our exemption from registration under the Investment Company Act of 1940, as amended;

availability of investment opportunities in mortgage related and real estate related investments and securities;

the ability of our Manager to locate suitable investments for us, monitor, service and administer our investments and execute our investment strategy;

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our ability to successfully complete and integrate any acquisitions;

availability of qualified personnel;

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

our understanding of our competition; and

market trends in our industry, interest rates, real estate values, the debt securities markets or the general economy.

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. You should not place undue reliance on these forward-looking statements. These beliefs, assumptions and expectations can change as a result of many possible events or factors, not all of which are known to us. Some of these factors are included in our Annual Report on Form 10-K for the fiscal year ended December 31, 2012, which is incorporated by reference into this prospectus. If a change occurs, our business, financial condition, liquidity and results of operations may vary materially from those expressed in our forward-looking statements. Any forward-looking statement speaks only as of the date on which it is made. New risks and uncertainties arise over time, and it is not possible for us to predict those events or how they may affect us. Such new risks and uncertainties may be included in the documents that we file pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act after the date of this prospectus which will be considered to be incorporated by reference into this prospectus. Except as required by law, we are not obligated to, and do not intend to, update or revise any forward-looking statements, whether as a result of new information, future events or otherwise. You should carefully consider these risks before you make an investment decision with respect to our securities.

For more information regarding risks that may cause our actual results to differ materially from any forward-looking statements, see "Risk Factors" in our Annual Report on Form 10-K for the year ended December 31, 2012 and in the other documents that we file pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act after the date of this prospectus, which will be considered to be incorporated by reference into this prospectus.

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RATIO OF EARNINGS TO FIXED CHARGES AND RATIO OF EARNINGS TO COMBINED FIXED CHARGES AND PREFERRED STOCK DIVIDENDS

The following table sets forth (i) our ratio of earnings to fixed charges and (ii) our ratio of earnings to combined fixed charges and preferred stock dividends for the periods indicated. For purposes of calculating these ratios, "earnings" includes income from continuing operations plus fixed charges. "Fixed charges" consists of interest expense and amortization of discounts and capitalized expenses related to indebtedness. In computing the ratios of earnings to combined fixed charges and preferred stock dividends, preferred stock dividends consists of 2012 dividends on our Series A Convertible Preferred Stock. We redeemed all of the outstanding shares of our Series A Convertible Preferred Stock on May 1, 2012.

	For the Year Ended December 31, 2012	For the Period September 1, 2011 (inception) to December 31, 2011
Ratio of Earnings to Fixed Charges	1.34x	(3.17)x[(a)]
Ratio of Earnings to Combined Fixed Charges and Preferred Stock Dividends	1.07x	(3.17)x[(a)]

(a) Our earnings were insufficient to cover our fixed charges and our combined fixed charges and preferred stock dividends by $0.2 million.

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USE OF PROCEEDS

Unless otherwise specified in the applicable prospectus supplement, we intend to use the net proceeds from the sale of the securities to acquire target assets, repay indebtedness or for general corporate purposes. Further details relating to the use of the net proceeds will be set forth in the applicable prospectus supplement.

DESCRIPTION OF SECURITIES

This prospectus contains a summary of our capital stock, preferred stock, subscription rights, debt securities, warrants and units. These summaries are not meant to be a complete description of each security. However, this prospectus and the accompanying prospectus supplement will contain the material terms and conditions for each security.

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DESCRIPTION OF OUR CAPITAL STOCK

General

We were formed under the laws of the state of Maryland. The rights of our stockholders are governed by Maryland law as well as our charter and bylaws. The following summary of the terms of our capital stock is only a summary, and you should refer to the Maryland General Corporate Law (the "MGCL"), and our charter and bylaws for a full description. The following summary is qualified in its entirety by the detailed information contained in our charter and bylaws. Copies of our charter and bylaws are filed as exhibits to the registration statement, of which this prospectus is a part. See "Where You Can Find More Information."

Our charter authorizes us to issue up to 450,000,000 shares of common stock, $0.01 par value per share, and 50,000,000 shares of undesignated preferred stock, $0.01 par value per share. Our charter authorizes our board of directors to amend our charter from time to time to increase or decrease the aggregate number of authorized shares of stock or the number of shares of stock of any class or series that we have authority to issue without stockholder approval. Under Maryland law, stockholders are not generally liable for our debts or obligations.

Our charter also contains a provision permitting our board of directors, by resolution, to classify or reclassify any unissued common stock or preferred stock into one or more classes or series by setting or changing the preferences, conversion or other rights, voting powers, restrictions, limitations as to dividends or other distributions, qualifications, or terms or conditions of redemption of any new class or series of stock, subject to certain restrictions, including the express terms of any class or series of stock outstanding at the time. We believe that the power to classify or reclassify unissued shares of stock and thereafter issue the classified or reclassified shares provides us with increased flexibility in structuring possible future financings and acquisitions and in meeting other needs that might arise.

Our charter and bylaws contain certain provisions that could make it more difficult to acquire control of the Company by means of a tender offer, a proxy contest or otherwise. These provisions are expected to discourage certain types of coercive takeover practices and inadequate takeover bids and to encourage persons seeking to acquire control of the Company to negotiate first with our board of directors. We believe that these provisions increase the likelihood that proposals initially will be on more attractive terms than would be the case in their absence and facilitate negotiations that may result in improvement of the terms of an initial offer that might involve a premium price for our common stock or otherwise be in the best interest of our stockholders. See "Risk Factors Risks Related to Our Organization and Structure."

Common Stock

Subject to any preferential rights of any other class or series of stock and to the provisions of our charter regarding the restrictions on the ownership and transfer of stock, the holders of common stock are entitled to such distributions as may be authorized from time to time by our board of directors out of legally available funds and declared by us and, upon our liquidation, are entitled to receive all assets available for distribution to our stockholders. Holders of common stock generally will not have preemptive rights, which means that they will not have an automatic option to purchase any new shares that we issue, or preference, conversion, exchange, sinking fund or redemption rights. Holders of common stock generally will have no appraisal rights unless our board of directors determines that appraisal rights apply, with respect to all or any classes or series of stock, to one or more transactions occurring after the date of such determination in connection with which stockholders would otherwise be entitled to exercise appraisal rights.

The holders of common stock vote together as a single class on all matters. Holders of shares of common stock are entitled to vote for the election of directors. Directors may be removed from office,

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only for cause, by the affirmative vote of stockholders entitled to cast not less than two-thirds of the votes entitled to be cast generally in the election of directors. Vacancies on the board of directors resulting from death, resignation, removal or otherwise and newly created directorships resulting from any increase in the number of directors may be filled only by a majority of the directors then in office (although less than a quorum). Any such director elected to fill a vacancy will serve for the remainder of the full term of the class in which such vacancy occurred and until his or her successor is elected and qualifies or until his or her earlier death, resignation or removal.

Preferred Stock

Our charter authorizes our board of directors, without stockholder approval, to designate and issue one or more classes or series of preferred stock and to set or change the voting, conversion or other rights, preferences, restrictions, limitations as to dividends or other distributions and qualifications or terms or conditions of redemption of each class of shares so issued. If any preferred stock is offered, the terms and conditions of such preferred stock, including any convertible preferred stock, will be set forth in articles supplementary and if such preferred stock is offered pursuant to a registration statement, described in a registration statement registering the issuance of such preferred stock. Because our board of directors has the power to establish the preferences and rights of each class or series of preferred stock, it may afford the holders of any series or class of preferred stock preferences, powers, and rights senior to the rights of holders of common stock or other preferred stock. If we ever create and issue additional preferred stock with a distribution preference over common stock or preferred stock, payment of any distribution preferences of new outstanding preferred stock would reduce the amount of funds available for the payment of distributions on the common stock and junior preferred stock. Further, holders of preferred stock are normally entitled to receive a preference payment if we liquidate, dissolve, or wind up before any payment is made to the common stockholders, likely reducing the amount common stockholders would otherwise receive upon such an occurrence. In addition, under certain circumstances, the issuance of additional preferred stock may delay, prevent, render more difficult or tend to discourage the following:

a merger, tender offer, or proxy contest;

the assumption of control by a holder of a large block of our securities; or

the removal of incumbent management.

Also, our board of directors, without stockholder approval, may issue additional preferred stock with voting and conversion rights that could adversely affect the holders of common stock or preferred stock.

Meetings and Special Voting Requirements

Subject to our charter restrictions on ownership and transfer of our stock and except as may otherwise be specified in our charter, including with respect to the vote by the common stock for the election of directors, each holder of common stock is entitled at each meeting of stockholders to one vote per share owned by such stockholder on all matters submitted to a vote of stockholders. There is no cumulative voting in the election of our board of directors, which means that the holders of a majority of shares of our outstanding common stock can elect all the directors then standing for election and the holders of the remaining shares of common stock will not be able to elect any directors.

Under Maryland law, a Maryland corporation generally cannot dissolve, amend its charter, merge, sell all or substantially all of its assets, engage in a share exchange or engage in similar transactions outside the ordinary course of business, unless declared advisable by the board of directors and approved by the affirmative vote of stockholders holding at least two-thirds of the votes entitled to be

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cast on the matter. However, a Maryland corporation may provide in its charter for approval of these matters by a lesser percentage, but not less than a majority of all the votes entitled to be cast on the matter. Except for certain amendments of our charter relating to the removal of directors and the vote required to amend certain provisions of the charter, our charter provides for a majority vote in these situations.

An annual meeting of our stockholders will be held each year beginning in 2013. Special meetings of stockholders may be called upon the request of a majority of our directors, the chairman of the board of directors, the president or the chief executive officer and must be called by our secretary to act on any matter that may properly be considered at a meeting of stockholders upon the written request of stockholders entitled to cast at least a majority of the votes entitled to be cast on such matter at the meeting (subject to the stockholders' compliance with certain procedures set forth in our bylaws). The presence of stockholders entitled to cast at least a majority of all the votes entitled to be cast at such meeting on any matter, either in person or by proxy, will constitute a quorum.

One or more persons who together are and for at least six months have been stockholders of record of at least five percent of the outstanding shares of any class of our stock are entitled to receive a copy of our stockholder list upon request in accordance with Maryland law. The list provided by us will include each stockholder's name and address and the number of shares owned by each stockholder and will be made available within 20 days of the receipt by us of the request. Stockholders and their representatives shall also be given access to our bylaws, the minutes of stockholder proceedings, our annual statements of affairs and any voting trust agreements on file at our principal office during usual business hours. We have the right to request that a requesting stockholder represent to us that the list and records will not be used to pursue commercial interests.

Restrictions on Ownership and Transfer

Our charter contains restrictions on the ownership and transfer of our stock. The relevant sections of our charter provide that, subject to certain exceptions, no person or entity may own, or be deemed to own, beneficially or by virtue of the applicable constructive ownership provisions of the Internal Revenue Code of 1986, as amended, or the Internal Revenue Code, more than 9.8% by value or number of shares, whichever is more restrictive, of the outstanding shares of our common stock or 9.8% by value or number of shares, whichever is more restrictive, of the outstanding shares of all classes and series of our capital stock. For a description of these ownership limits and other restrictions on ownership and transfer of our stock, see "Restrictions on Ownership and Transfer."

Stockholder Liability

The MGCL provides that our stockholders:

- are not liable personally or individually in any manner whatsoever for any debt, act, omission or obligation incurred by us or our board of directors; and
- are under no obligation to us or our creditors with respect to their shares other than the obligation to pay to us the full amount of the consideration for which their shares were issued.

Business Combinations

Under Maryland law, "business combinations" between a Maryland corporation and an interested stockholder or an affiliate of an interested stockholder are prohibited for five years after the most recent date on which the interested stockholder becomes an interested stockholder. These business combinations include a merger, consolidation, share exchange, or, in circumstances specified in the

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statute, an asset transfer or issuance or reclassification of equity securities. An interested stockholder is defined as:

- any person who beneficially owns 10% or more of the voting power of the corporation's outstanding voting stock; or
- an affiliate or associate of the corporation who, at any time within the two-year period prior to the date in question, was the beneficial owner of 10% or more of the voting power of the then-outstanding stock of the corporation.

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

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

- 80% of the votes entitled to be cast by holders of outstanding shares of voting stock of the corporation; and
- two-thirds of the votes entitled to be cast by holders of voting stock of the corporation other than shares held by the interested stockholder with whom or with whose affiliate the business combination is to be effected or held by an affiliate or associate of the interested stockholder.

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

The statute permits various exemptions from its provisions, including business combinations that are exempted by the board of directors before the time that the interested stockholder becomes an interested stockholder. Pursuant to the statute, our board of directors has adopted a resolution exempting any business combination with Ares Investments or any of its affiliates. Consequently, the five-year prohibition and the supermajority vote requirements will not apply to business combinations between us and Ares Investments or any of its affiliates. As a result, Ares Investments or any of its affiliates may be able to enter into business combinations with us that may not be in the best interest of our stockholders, without compliance with the supermajority vote requirements and the other provisions of the statute.

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

Control Share Acquisitions

With some exceptions, Maryland law provides that control shares of a Maryland corporation acquired in a control share acquisition have no voting rights except to the extent approved by a vote of stockholders holding two-thirds of the votes entitled to be cast on the matter, excluding "control shares":

- owned by the acquiring person;
- owned by our officers; and
- owned by our employees who are also directors.

"Control shares" mean voting shares of stock which, if aggregated with all other shares of stock owned by the acquirer in respect of which the acquirer can exercise or direct the exercise of voting

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power, would entitle the acquiring person to exercise voting power in electing directors within one of the following ranges of voting power:

one-tenth or more, but less than one-third of all voting power;

one-third or more, but less than a majority of all voting power; or

a majority or more of all voting power.

Control shares do not include shares the acquiring person is then entitled to vote as a result of having previously obtained stockholder approval. A control share acquisition occurs when, subject to some exceptions, a person directly or indirectly acquires ownership or the power to direct the exercise of voting power (except solely by virtue of a revocable proxy) of issued and outstanding control shares. A person who has made or proposes to make a control share acquisition, upon satisfaction of some specific conditions, including an undertaking to pay expenses, may compel our board of directors to call a special meeting of our stockholders to be held within 50 days of a request to consider the voting rights of the control shares. If no request for a meeting is made, we may present the question at any stockholders' meeting.

If voting rights are not approved at the meeting or if the acquiring person does not deliver an acquiring person statement on or before the 10th day after the control share acquisition as required by the statute, then, subject to some conditions and limitations, we may redeem any or all the control shares (except those for which voting rights have been previously approved) for fair value, determined without regard to the absence of voting rights for the control shares, as of the date of the last control share acquisition by the acquirer or of any meeting of stockholders at which the voting rights of such shares are considered and not approved. If voting rights for control shares are approved at a stockholders meeting and the acquirer becomes entitled to vote a majority of the shares entitled to vote, all other stockholders may exercise appraisal rights. The fair value of the shares as determined for purposes of such appraisal rights may not be less than the highest price per share paid by the acquirer in the control share acquisition. The control share acquisition statute does not apply to shares acquired in a merger, consolidation, or share exchange if we are a party to the transaction or to acquisitions approved or exempted by our charter or bylaws.

As permitted by the MGCL, our bylaws contain a provision exempting from the control share acquisition statute any and all acquisitions of our stock. There can be no assurance that this provision will not be amended or eliminated at any time in the future.

Subtitle 8

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

a classified board;

a two-thirds vote requirement for removing a director;

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

a requirement that a vacancy on the board of directors be filled only by affirmative vote of a majority of the remaining directors in office and for the remainder of the full term of the class of directors in which the vacancy occurred; and

a majority requirement for the calling of a special meeting of stockholders.

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Pursuant to Subtitle 8, we have elected in our charter and bylaws to provide that vacancies on our board of directors may be filled by the remaining directors and any such director elected to fill a vacancy will serve for the remainder of the full term of the class in which such vacancy occurred and until his or her successor is elected and qualifies or until his or her earlier death, resignation or removal. Through provisions unrelated to Subtitle 8, our charter also vests in the board of directors the exclusive power to fix the number of directorships, provides that any director may be removed from office, only for cause, by the affirmative vote of stockholders entitled to cast not less than two-thirds of the votes entitled to be cast generally in the election of directors, and requires (unless called upon the request of a majority of our directors, the chairman of the board of directors, the president or the chief executive officer) the written request of stockholders entitled to cast at least a majority of the votes entitled to be cast on any matter that may properly be considered at a meeting of stockholders to call a special meeting to act on such matter.

Transfer Agent and Registrar

The transfer agent and registrar for our shares of common stock will be Computershare Trust Company, N.A.

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SUMMARY OF OUR CHARTER AND BYLAWS

Each stockholder is bound by and deemed to have agreed to the terms of our organizational documents by virtue of the election to become a stockholder. Our organizational documents consist of our charter and bylaws. The following is a summary of material provisions of our organizational documents and does not contain all of the information about our charter and bylaws that you should consider before investing in our common stock. Our organizational documents are filed as exhibits to our registration statement, of which this prospectus is part. See "Where You Can Find More Information."

Charter and Bylaw Provisions

The rights of stockholders and related matters are governed by our organizational documents and Maryland law. Certain provisions of these documents or of Maryland law, summarized below, may make it difficult to change the composition of our board of directors and could have the effect of delaying, deferring, or preventing a change in control of us, including an extraordinary transaction (such as a merger, tender offer or sale of all or substantially all of our assets) that might provide a premium price for holders of our common stock. See generally "Risk Factors Risks Related to Our Organization and Structure."

Stockholders' Meetings and Voting Rights

We expect we will hold an annual meeting of stockholders beginning in 2013. The purpose of each annual meeting will be to elect directors and to transact any other business. The chairman, the chief executive officer, the president or a majority of the directors also may call a special meeting of the stockholders. The secretary must call a special meeting to act on any matter that may properly be considered at a meeting of stockholders when stockholders entitled to cast not less than a majority of all votes entitled to be cast on such matter at the meeting make a written request (subject to the stockholders' compliance with certain procedures set forth in our bylaws).

We will give notice of any annual or special meeting of stockholders not less than ten nor more than ninety days before the meeting. The notice must state the purpose of the special meeting. At any meeting of the stockholders, each stockholder is entitled to one vote for each share owned of record on the applicable record date. In general, the presence in person or by proxy of stockholders entitled to cast at least a majority of all the votes entitled to be cast at the meeting on any matter will constitute a quorum. Directors are elected by a plurality of the votes cast and a majority of votes cast will be sufficient to approve any other matter that may properly come before the meeting, unless more than a majority of the votes cast is required by law or our charter.

Classified Board of Directors

Pursuant to our charter, our board of directors will be divided into three classes of directors. The initial terms of the first, second and third classes will expire in 2013, 2014 and 2015, respectively. Beginning in 2013, directors of each class will be chosen for three-year terms upon the expiration of their current terms with the term of office of only one of the three classes expiring each year. A classified board may render a change in control of us or removal of our incumbent management more difficult. We believe, however, that the longer time required to elect a majority of a classified board of directors helps to ensure the continuity and stability of our management and policies. Under our organizational documents, we must have at least the minimum number of directors required by the MGCL but not more than 15 directors. We currently have eight directors. A director may resign at any time. A director may be removed from office only for cause by the affirmative vote of stockholders entitled to cast not less than two-thirds of the votes entitled to be cast generally in the election of directors. A vacancy on the board of directors caused by the death, removal or resignation of a director

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or by an increase in the number of directors, within the limits described above, may be filled only by the vote of a majority of the remaining directors whether or not the voting directors constitute a quorum.

These provisions preclude stockholders from (a) removing incumbent directors except upon a substantial affirmative vote, and (b) filling the vacancies created by such removal with their own nominees.

Maryland law provides that any action required or permitted to be taken at a meeting of the board of directors also may be taken without a meeting by the unanimous written or electronic consent of all directors.

The approval by our board of directors and by holders of a majority of our outstanding voting shares of stock is generally necessary for us to do any of the following:

amend certain provisions of our charter;

transfer all or substantially all of our assets other than in the ordinary course of business;

engage in mergers, consolidations or share exchanges; or

liquidate and dissolve.

Inspection of Books and Records; Stockholder Lists

Any stockholder or his or her designated representative will be permitted, during usual business hours, to inspect and obtain copies of our bylaws, the minutes of stockholder proceedings, our annual statements of affairs and any voting trust agreements on file at our principal office. One or more persons who together are and for at least six months have been stockholders of record of at least five percent of the outstanding shares of any class of our stock may also request a copy of our stockholder list, although the request cannot be made to secure a copy of our stockholder list or other information for the purpose of selling the list or using the list or other information for a commercial purpose.

Amendment of the Charter and Bylaws

Except for those amendments permitted to be made without stockholder approval and certain amendments relating to the removal of directors and the vote required to amend certain provisions of our charter (which require the approval of stockholders entitled to cast two-thirds of the votes entitled to be cast in the matter), our charter may be amended only if the amendment is declared advisable by our board of directors and approved by the stockholders entitled to cast a majority of all the votes entitled to be cast on the matter. Our bylaws may be amended in any manner not inconsistent with the charter by a majority vote of our directors present at a board meeting at which a quorum is present.

Dissolution or Termination of the Company

As a Maryland corporation, we may be dissolved at any time after a determination by a majority of the entire board of directors that dissolution is advisable and the approval of stockholders entitled to cast at least a majority of the votes entitled to be cast on the matter.

Advance Notice of Director Nominations and New Business

Proposals to elect directors or conduct other business at an annual or special meeting must be brought in accordance with our bylaws. The bylaws provide that any business may be transacted at the annual meeting without being specifically designated in the notice of meeting. However, with respect to special meetings of stockholders, only the business specified in the notice of the special meeting may be brought at that meeting.

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Our bylaws also provide that with respect to an annual meeting of stockholders, nominations of individuals for election to the board of directors and the proposal of business to be considered by stockholders may be made only (a) pursuant to the Company's notice of meeting, (b) by or at the direction of our board of directors, or (c) by any stockholder who is a stockholder of record both at the time of giving of notice pursuant to the bylaws and at the time of the annual meeting, who is entitled to vote at the meeting in the election of each individual so nominated or on any such other business and who has complied with the advance notice procedures set forth in our bylaws.

A notice of a director nomination or stockholder proposal to be considered at an annual meeting must be delivered to our secretary at our principal executive offices:

not later than 5:00 p.m., Eastern time, on the 120th day nor earlier than 150 days prior to the first anniversary of the date of release of the proxy statement for the previous year's annual meeting; or

if the date of the meeting is advanced or delayed by more than 30 days from the anniversary date of the preceding year's annual meeting or if an annual meeting has not yet been held, not earlier than 150 days prior to the annual meeting or not later than 5:00 p.m., Eastern time, on the later of the 120th day prior to the annual meeting or the tenth day following the day on which public announcement of the date of such meeting is first made.

The purpose of requiring stockholders to give us advance notice of nominations and other business is to afford our board of directors a meaningful opportunity to consider the qualifications of the proposed nominees and the advisability of any other proposed business and, to the extent deemed necessary or desirable by our board of directors, to inform stockholders and make recommendations about such qualifications or business, as well as to provide a more orderly procedure for conducting meetings of stockholders. Although our bylaws do not give our board of directors any power to disapprove stockholder nominations for the election of directors or proposals recommending certain action, they may have the effect of precluding a contest for the election of directors or the consideration of stockholder proposals if proper procedures are not followed and of discouraging or deterring a third party from conducting a solicitation of proxies to elect its own slate of directors or to approve its own proposal without regard to whether consideration of such nominees or proposals might be harmful or beneficial to us and our stockholders.

Nominations of individuals for election to the board of directors may be made at a special meeting, (a) by or at the direction of our board of directors or (b) provided that the special meeting has been called for the purpose of electing directors, by any stockholder who is a stockholder of record both at the time of giving of notice and at the time of the special meeting, who is entitled to vote at the meeting in the election of each individual so nominated and who complies with the notice procedures set forth in our bylaws.

A notice of a director nomination to be considered at a special meeting must be delivered to our secretary at our principal executive offices:

not earlier than 150 days prior to the special meeting; and

not later than 5:00 p.m., Eastern time, on the later of either:

120 days prior to the special meeting; or

ten days following the day of our first public announcement of the date of the special meeting and the nominees proposed by our board of directors to be elected at the meeting.

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Indemnification and Limitation of Directors' and Officers' Liability

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

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

- the act or omission of the director or officer was material to the matter giving rise to the proceeding and (a) was committed in bad faith or (b) was the result of active and deliberate dishonesty;
- the director or officer actually received an improper personal benefit in money, property or services; or
- in the case of any criminal proceeding, the director or officer had reasonable cause to believe that the act or omission was unlawful.

However, under the MGCL, a Maryland corporation may not indemnify a director or officer for an adverse judgment in a suit by or in the right of the corporation or for a judgment of liability on the basis that personal benefit was improperly received. A court may order indemnification if it determines that the director or officer is fairly and reasonably entitled to indemnification, even though the director or officer did not meet the prescribed standard of conduct or was adjudged liable on the basis that personal benefit was improperly received. However, indemnification for an adverse judgment in a suit by us or in our right, or for a judgment of liability on the basis that personal benefit was improperly received, is limited to expenses.

In addition, the MGCL permits a corporation to advance reasonable expenses to a director or officer upon the corporation's receipt of:

- a written affirmation by the director or officer of his or her good faith belief that he or she has met the standard of conduct necessary for indemnification by the corporation; and
- a written undertaking by the director or officer or on the director's or officer's behalf to repay the amount paid or reimbursed by the corporation if it is ultimately determined that the director or officer did not meet the standard of conduct.

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

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

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manager of such corporation, REIT, limited liability company, partnership, joint venture, trust, employee benefit plan or other enterprise and who is made or threatened to be made a party to the proceeding by reason of his or her service in that capacity.

Our charter and bylaws also permit us to indemnify and advance expenses to any person who served a predecessor of ours in any of the capacities described above and to any employee or agent of the Company or a predecessor of the Company.

In connection with this offering, we have entered into indemnification agreements with each of our directors and executive officers that provide for indemnification to the maximum extent permitted by Maryland law.

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

REIT Qualification

Our charter provides that our board of directors may revoke or otherwise terminate our REIT election, without approval of our stockholders, if it determines that it is no longer in our best interests to continue to qualify as a REIT.

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DESCRIPTION OF PREFERRED STOCK

In addition to shares of common stock, our charter authorizes the issuance of preferred stock. If we offer preferred stock under this prospectus, we will issue an appropriate prospectus supplement. We may issue preferred stock from time to time in one or more classes or series, without stockholder approval. Prior to issuance of shares of each class or series, our board of directors is required by Maryland law and by our charter to set the terms, preferences, conversion or other rights, voting powers, restrictions, limitations as to dividends or other distributions, qualifications and terms or conditions of redemption for each class or series. Any such an issuance must adhere to the requirements of Maryland law and any other limitations imposed by law.

For any series of preferred stock that we may issue, our board of directors will determine and the articles supplementary and the prospectus supplement relating to such series will describe:

- the designation and number of shares of such series;
- the rate and time at which, and the preferences and conditions under which, any dividends will be paid on shares of such series, as well as whether such dividends are participating or non-participating;
- any provisions relating to convertibility or exchangeability of the shares of such series, including adjustments to the conversion price of such series;
- the rights and preferences, if any, of holders of shares of such series upon our liquidation, dissolution or winding up of our affairs;
- the voting powers, if any, of the holders of shares of such series;
- any provisions relating to the redemption of the shares of such series;
- any limitations on our ability to pay dividends or make distributions on, or acquire or redeem, other securities while shares of such series are outstanding;
- any conditions or restrictions on our ability to issue additional shares of such series or other securities;
- if applicable, a discussion of certain U.S. federal income tax considerations; and
- any other relative powers, preferences and participating, optional or special rights of shares of such series, and the qualifications, limitations or restrictions thereof.

All shares of preferred stock that we may issue will be identical and of equal rank except as to the particular terms thereof that may be fixed by our board of directors, and all shares of each series of preferred stock will be identical and of equal rank except as to the dates from which dividends, if any, thereon will be cumulative.

DESCRIPTION OF OUR SUBSCRIPTION RIGHTS

General

We may issue subscription rights to our stockholders to purchase common stock. Subscription rights may be issued independently or together with any other offered security and may or may not be transferable by the person purchasing or receiving the subscription rights. In connection with a subscription rights offering to our stockholders, we would distribute certificates evidencing the subscription rights and a prospectus supplement to our stockholders on the record date that we set for receiving subscription rights in such subscription rights offering.

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The applicable prospectus supplement would describe the following terms of subscription rights in respect of which this prospectus is being delivered:

- the period of time the offering would remain open (which shall be open a minimum number of days such that all record holders would be eligible to participate in the offering and shall not be open longer than 120 days);
- the title of such subscription rights;
- the exercise price for such subscription rights (or method of calculation thereof);
- the ratio of the offering (which, in the case of transferable rights, will require a minimum of three shares to be held of record before a person is entitled to purchase an additional share);
- the number of such subscription rights issued to each stockholder;
- the extent to which such subscription rights are transferable and the market on which they may be traded if they are transferable;
- if applicable, a discussion of certain U.S. federal income tax considerations applicable to the issuance or exercise of such subscription rights;
- the date on which the right to exercise such subscription rights shall commence, and the date on which such right shall expire (subject to any extension);
- the extent to which such subscription rights include an over-subscription privilege with respect to unsubscribed securities and the terms of such over-subscription privilege;
- any termination right we may have in connection with such subscription rights offering; and
- any other terms of such subscription rights, including exercise, settlement and other procedures and limitations relating to the transfer and exercise of such subscription rights.

We will not offer any subscription rights to purchase shares of our common stock under this prospectus or an accompanying prospectus supplement without first filing a new post-effective amendment to the registration statement.

Exercise Of Subscription Rights

Each subscription right would entitle the holder of the subscription right to purchase for cash such amount of shares of common stock at such exercise price as shall in each case be set forth in, or be determinable as set forth in, the prospectus supplement relating to the subscription rights offered thereby. Subscription rights may be exercised at any time up to the close of business on the expiration date for such subscription rights set forth in the prospectus supplement. After the close of business on the expiration date, all unexercised subscription rights would become void.

Subscription rights may be exercised as set forth in the prospectus supplement relating to the subscription rights offered thereby. Upon receipt of payment and the subscription rights certificate properly completed and duly executed at the corporate trust office of the subscription rights agent or any other office indicated in the prospectus supplement we will forward, as soon as practicable, the shares of common stock

purchasable upon such exercise. To the extent permissible under applicable law, we may determine to offer any unsubscribed offered securities directly to persons other than stockholders, to or through agents, underwriters or dealers or through a combination of such methods, as set forth in the applicable prospectus supplement.

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DESCRIPTION OF OUR WARRANTS

The following is a general description of the terms of the warrants we may issue from time to time. Particular terms of any warrants we offer will be described in the prospectus supplement relating to such warrants.

We may issue warrants to purchase shares of our common stock, preferred stock or debt securities. Such warrants may be issued independently or together with shares of common stock, preferred stock or debt securities and may be attached or separate from such securities. We will issue each series of warrants under a separate warrant agreement to be entered into between us and a warrant agent. The warrant agent will act solely as our agent and will not assume any obligation or relationship of agency for or with holders or beneficial owners of warrants.

A prospectus supplement will describe the particular terms of any series of warrants we may issue, including the following:

- the title of such warrants;
- the aggregate number of such warrants;
- the price or prices at which such warrants will be issued;
- the currency or currencies, including composite currencies, in which the price of such warrants may be payable;
- if applicable, the designation and terms of the securities with which the warrants are issued and the number of warrants issued with each such security or each principal amount of such security;
- in the case of warrants to purchase debt securities, the principal amount of debt securities purchasable upon exercise of one warrant and the price at which and the currency or currencies, including composite currencies, in which this principal amount of debt securities may be purchased upon such exercise;
- in the case of warrants to purchase common stock or preferred stock, the number of shares of common stock or preferred stock, as the case may be, purchasable upon exercise of one warrant and the price at which and the currency or currencies, including composite currencies, in which these shares may be purchased upon such exercise;
- the date on which the right to exercise such warrants shall commence and the date on which such right will expire;
- whether such warrants will be issued in registered form or bearer form;
- if applicable, the minimum or maximum amount of such warrants which may be exercised at any one time;
- if applicable, the date on and after which such warrants and the related securities will be separately transferable;
- information with respect to book-entry procedures, if any;

the terms of the securities issuable upon exercise of the warrants;

if applicable, a discussion of certain U.S. federal income tax considerations; and

any other terms of such warrants, including terms, procedures and limitations relating to the exchange and exercise of such warrants.

We and the warrant agent may amend or supplement the warrant agreement for a series of warrants without the consent of the holders of the warrants issued thereunder to effect changes that

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are not inconsistent with the provisions of the warrants and that do not materially and adversely affect the interests of the holders of the warrants.

Prior to exercising their warrants, holders of warrants will not have any of the rights of holders of the securities purchasable upon such exercise, including, in the case of warrants to purchase debt securities, the right to receive principal, premium, if any, or interest payments, on the debt securities purchasable upon exercise or to enforce covenants in the applicable indenture or, in the case of warrants to purchase common stock or preferred stock, the right to receive dividends, if any, or payments upon our liquidation, dissolution or winding up or to exercise any voting rights.

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DESCRIPTION OF OUR DEBT SECURITIES

We may issue debt securities in one or more series. The specific terms of each series of debt securities will be described in the particular prospectus supplement relating to that series. The prospectus supplement may or may not modify the general terms found in this prospectus and will be filed with the SEC. For a complete description of the terms of a particular series of debt securities, prospective holders should read both this prospectus and the prospectus supplement relating to that particular series.

As required by federal law for all bonds and notes of companies that are publicly offered, the debt securities are governed by a document called an "indenture." An indenture is a contract between us and a trustee to be specified in the applicable prospectus supplement acting as trustee on the holders' behalf, and is subject to and governed by the Trust Indenture Act of 1939, as amended. The trustee has two main roles. First, the trustee can enforce a holder's rights against us if we default. There are some limitations on the extent to which the trustee acts on a holder's behalf, described in the second paragraph under "Events of Default Remedies if an Event of Default Occurs." Second, the trustee performs certain administrative duties for us.

Because this section is a summary, it does not describe every aspect of the debt securities and the indenture. We urge prospective holders to read the indenture because it, and not this description, defines the rights of a holder of debt securities. For example, in this section, we use capitalized words to signify terms that are specifically defined in the indenture. Some of the definitions are repeated in this prospectus, but for the rest a prospective holder will need to read the indenture. In connection with an offering of debt securities, we will have filed the form of the indenture with the SEC. See "Available Information" for information on how to obtain a copy of the indenture.

The prospectus supplement, which will accompany this prospectus, will describe the particular series of debt securities being offered, including, among other things:

- the designation or title of the series of debt securities;
- the total principal amount of the series of debt securities;
- the percentage of the principal amount at which the series of debt securities will be offered;
- the date or dates on which principal will be payable;
- the rate or rates (which may be either fixed or variable) and/or the method of determining such rate or rates of interest, if any;
- the date or dates from which any interest will accrue, or the method of determining such date or dates, and the date or dates on which any interest will be payable;
- the terms for redemption, extension or early repayment, if any;
- the currencies in which the series of debt securities are issued and payable;
- whether the amount of payments of principal, premium or interest, if any, on a series of debt securities will be determined with reference to an index, formula or other method (which could be based on one or more currencies, commodities, equity indices or other indices) and how these amounts will be determined;

the place or places, if any, other than or in addition to the City of New York, of payment, transfer, conversion and/or exchange of the debt securities;

the denominations in which the offered debt securities will be issued;

the provision for any sinking fund;

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any restrictive covenants;

any Events of Default;

whether the series of debt securities are issuable in certificated form;

any provisions for defeasance or covenant defeasance;

if applicable, U.S. federal income tax considerations relating to original issue discount;

whether and under what circumstances we will pay additional amounts in respect of any tax, assessment or governmental charge and, if so, whether we will have the option to redeem the debt securities rather than pay the additional amounts (and the terms of this option);

any provisions for convertibility or exchangeability of the debt securities into or for any other securities;

whether the debt securities are subject to subordination and the terms of such subordination;

any security or collateral provisions;

the listing, if any, on a securities exchange; and

any other terms.

The debt securities may be secured or unsecured obligations. Unless the prospectus supplement states otherwise, principal (and premium, if any) and interest, if any, will be paid by us in immediately available funds.

General

The indenture will provide that any debt securities proposed to be sold under this prospectus and the attached prospectus supplement ("offered debt securities") and any debt securities issuable upon the exercise of warrants or upon conversion or exchange of other offered securities ("underlying debt securities"), may be issued under the indenture in one or more series.

For purposes of this prospectus, any reference to the payment of principal of or premium or interest, if any, on debt securities will include additional amounts if required by the terms of the debt securities.

The indenture will not limit the amount of debt securities that may be issued thereunder from time to time. Debt securities issued under the indenture, when a single trustee is acting for all debt securities issued under the indenture, are called the "indenture securities." The indenture also provides that there may be more than one trustee thereunder, each with respect to one or more different series of indenture securities. See "Resignation of Trustee" below. At a time when two or more trustees are acting under the indenture, each with respect to only certain series, the term "indenture securities" means the one or more series of debt securities with respect to which each respective trustee is acting. In the event that there is more than one trustee under the indenture, the powers and trust obligations of each trustee described in this prospectus will extend only to the one or more series of indenture securities for which it is trustee. If two or more trustees are acting under the indenture, then the indenture securities for which each trustee is acting would be treated as if issued under separate indentures.

The indenture will not contain any provisions that give holders protection in the event we issue a large amount of debt or we are acquired by another entity.

We refer prospective holders to the prospectus supplement for information with respect to any deletions from, modifications of or additions to the Events of Default or our covenants that are

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described below, including any addition of a covenant or other provision providing event risk or similar protection.

We have the ability to issue indenture securities with terms different from those of indenture securities previously issued and, without the consent of the holders thereof, to reopen a previous issue of a series of indenture securities and issue additional indenture securities of that series unless the reopening was restricted when that series was created.

We expect that we will usually issue debt securities in book entry only form represented by global securities.

Conversion And Exchange

If any debt securities are convertible into or exchangeable for other securities, the prospectus supplement will explain the terms and conditions of the conversion or exchange, including the conversion price or exchange ratio (or the calculation method), the conversion or exchange period (or how the period will be determined), if conversion or exchange will be mandatory or at the option of the holder or us, provisions for adjusting the conversion price or the exchange ratio and provisions affecting conversion or exchange in the event of the redemption of the underlying debt securities. These terms may also include provisions under which the number or amount of other securities to be received by the holders of the debt securities upon conversion or exchange would be calculated according to the market price of the other securities as of a time stated in the prospectus supplement.

Payment And Paying Agents

The following information is applicable to payment and paying agent terms unless the prospectus supplement relating to a series of debt securities states otherwise.

We will pay interest to the person listed in the applicable trustee's records as the owner of the debt security at the close of business on a particular day in advance of each due date for interest, even if that person no longer owns the debt security on the interest due date. That day, usually about two weeks in advance of the interest due date, is called the "record date." Because we will pay all the interest for an interest period to the holders on the record date, holders buying and selling debt securities must work out between themselves the appropriate purchase price. The most common manner is to adjust the sales price of the debt securities to prorate interest fairly between buyer and seller based on their respective ownership periods within the particular interest period. This prorated interest amount is called "accrued interest."

Payments on Global Securities

We will make payments on a global security in accordance with the applicable policies of the depositary as in effect from time to time. Under those policies, we will make payments directly to the depositary, or its nominee, and not to any indirect holders who own beneficial interests in the global security. An indirect holder's right to those payments will be governed by the rules and practices of the depositary and its participants.

Payments on Certificated Securities

We will make payments on a certificated debt security as follows. We will pay interest that is due on an interest payment date by check mailed on the interest payment date to the holder at his or her address shown on the trustee's records as of the close of business on the regular record date. We will make all payments of principal and premium, if any, by check at the office of the applicable trustee in New York, NY and/or at other offices that may be specified in the prospectus supplement or in a notice to holders against surrender of the debt security.

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Alternatively, if the holder asks us to do so, we will pay any amount that becomes due on the debt security by wire transfer of immediately available funds to an account at a bank in New York City, on the due date. To request payment by wire, the holder must give the applicable trustee or other paying agent appropriate transfer instructions at least 15 business days before the requested wire payment is due. In the case of any interest payment due on an interest payment date, the instructions must be given by the person who is the holder on the relevant regular record date. Any wire instructions, once properly given, will remain in effect unless and until new instructions are given in the manner described above.

Payment When Offices Are Closed

If any payment is due on a debt security on a day that is not a business day, we will make the payment on the next day that is a business day. Payments made on the next business day in this situation will be treated under the indenture as if they were made on the original due date, except as otherwise indicated in the attached prospectus supplement. Such payment will not result in a default under any debt security or the indenture, and no interest will accrue on the payment amount from the original due date to the next day that is a business day.

Book-entry and other indirect holders should consult their banks or brokers for information on how they will receive payments on their debt securities.

Events Of Default

Holders will have rights if an Event of Default occurs in respect of the debt securities of their series and is not cured, as described later in this subsection unless the prospectus supplement relating to such series of debt securities states otherwise.

The term "Event of Default" in respect of a series of debt securities means any of the following:

- We do not pay the principal of, or any premium on, a debt security of the series on its due date, and do not cure this default within 5 days.
- We do not pay interest on a debt security of the series when due, and such default is not cured within 30 days.
- We do not deposit any sinking fund payment in respect of debt securities of the series on its due date, and do not cure this default within 5 days.
- We remain in breach of a covenant in respect of debt securities of the series for 60 days after we receive a written notice of default stating we are in breach in accordance with the terms of the indenture.
- We file for bankruptcy or certain other events of bankruptcy, insolvency or reorganization occur and remain undischarged or unstayed for a period of 60 days.
- Any other Event of Default in respect of debt securities of the series described in the applicable prospectus supplement occurs.

An Event of Default for a particular series of debt securities does not necessarily constitute an Event of Default for any other series of debt securities issued under the same or any other indenture. The trustee may withhold notice to the holders of debt securities of any default, except in the payment of principal, premium or interest, if it considers the withholding of notice to be in the best interests of the holders.

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Remedies if an Event of Default Occurs

If an Event of Default has occurred and has not been cured, the trustee or the holders of at least 25% in principal amount of the debt securities of the affected series may declare the entire principal amount of all the debt securities of that series to be due and immediately payable. This is called a declaration of acceleration of maturity. In certain circumstances, a declaration of acceleration of maturity may be canceled by the holders of a majority in principal amount of the debt securities of the affected series.

The trustee is not required to take any action under the indenture at the request of any holders unless the holders offer the trustee reasonable protection from expenses and liability (called an "indemnity") (Section 315 of the Trust Indenture Act of 1939). If reasonable indemnity is provided, the holders of a majority in principal amount of the outstanding debt securities of the relevant series may direct the time, method and place of conducting any lawsuit or other formal legal action seeking any remedy available to the trustee. The trustee may refuse to follow those directions in certain circumstances. No delay or omission in exercising any right or remedy will be treated as a waiver of that right, remedy or Event of Default.

Before a holder is allowed to bypass your trustee and bring its own lawsuit or other formal legal action or take other steps to enforce its rights or protect its interests relating to the debt securities, the following must occur:

- The holder must give its trustee written notice that an Event of Default has occurred and remains uncured.
- The holders of at least 25% in principal amount of all outstanding debt securities of the relevant series must make a written request that the trustee take action because of the default and must offer reasonable indemnity to the trustee against the cost and other liabilities of taking that action.
- The trustee must not have taken action for 60 days after receipt of the above notice and offer of indemnity.
- The holders of a majority in principal amount of the debt securities must not have given the trustee a direction inconsistent with the above notice during that 60 day period.

However, a holder is entitled at any time to bring a lawsuit for the payment of money due on debt securities it holds on or after the due date.

Holders of a majority in principal amount of the debt securities of the affected series may waive any past defaults other than:

- the payment of principal, any premium or interest; or
- in respect of a covenant that cannot be modified or amended without the consent of each holder.

Book-entry and other indirect holders should consult their banks or brokers for information on how to give notice or direction to or make a request of the trustee and how to declare or cancel an acceleration of maturity.

Each year, we will furnish to each trustee a written statement of certain of our officers certifying that to their knowledge we are in compliance with the indenture and the debt securities, or else specifying any default.

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Merger Or Consolidation

Under the terms of the indenture, we are generally permitted to consolidate or merge with another entity. We are also permitted to sell all or substantially all of our assets to another entity. However, unless the prospectus supplement relating to certain debt securities states otherwise, we may not take any of these actions unless all the following conditions are met:

Where we merge out of existence or sell our assets, the resulting entity must agree to be legally responsible for our obligations under the debt securities.

Immediately after giving effect to such transaction, no Default or Event of Default shall have happened and be continuing.

Under the indenture, no merger or sale of assets may be made if as a result any of our property or assets or any property or assets of one of our subsidiaries, if any, would become subject to any mortgage, lien or other encumbrance unless either (a) the mortgage, lien or other encumbrance could be created pursuant to the limitation on liens covenant in the indenture without equally and ratably securing the indenture securities or (b) the indenture securities are secured equally and ratably with or prior to the debt secured by the mortgage, lien or other encumbrance.

We must deliver certain certificates and documents to the trustee.

We must satisfy any other requirements specified in the prospectus supplement relating to a particular series of debt securities.

Modification Or Waiver

Unless the prospectus supplement relating to a series of debt securities states otherwise, there are three types of changes we can make to the indenture and the debt securities issued thereunder.

Changes Requiring a Holder's Approval

First, there are changes that we cannot make to a series debt securities without a holder's specific approval. The following is a list of those types of changes:

change the stated maturity of the principal of or the fixed date on which interest is due on a debt security;

reduce any amounts due on a debt security;

reduce the amount of principal payable upon acceleration of the maturity of a security following a default;

change the place (except as otherwise described in the prospectus or prospectus supplement) or currency of payment on a debt security;

impair a holder's right to sue for payment;

reduce the percentage of holders of debt securities whose consent is needed to modify or amend the indenture;

reduce the percentage of holders of debt securities whose consent is needed to waive compliance with certain provisions of the indenture or to waive certain defaults;

modify any other aspect of the provisions of the indenture dealing with supplemental indentures, modification and waiver of past defaults, changes to the quorum or voting requirements or the waiver of certain covenants; and

change any obligation we have to pay additional amounts.

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Changes Not Requiring Approval

The second type of change does not require any vote by the holders of the debt securities. This type is limited to clarifications and certain other changes that would not adversely affect holders of the outstanding debt securities in any material respect. We also do not need any approval to make any change that affects only debt securities to be issued under the indenture after the change takes effect.

Changes Requiring Majority Approval

Any other change to the indenture and the debt securities would require the following approval:

If the change affects only one series of debt securities, it must be approved by the holders of a majority in principal amount of that series.

If the change affects more than one series of debt securities issued under the same indenture, it must be approved by the holders of a majority in principal amount of all of the series affected by the change, with all affected series voting together as one class for this purpose.

The holders of a majority in principal amount of all of the series of debt securities issued under an indenture, voting together as one class for this purpose, may waive our compliance with some of our covenants in that indenture. However, we cannot obtain a waiver of a payment default or of any of the matters covered by the bullet points included above under " Changes Requiring a Holder's Approval."

Further Details Concerning Voting

When taking a vote, we will use the following rules to decide how much principal to attribute to a debt security:

For original issue discount securities, we will use the principal amount that would be due and payable on the voting date if the maturity of these debt securities were accelerated to that date because of a default.

For debt securities whose principal amount is not known (for example, because it is based on an index), we will use a special rule for that debt security described in the prospectus supplement.

For debt securities denominated in one or more foreign currencies, we will use the U.S. dollar equivalent.

Debt securities will not be considered outstanding, and therefore not eligible to vote, if we have deposited or set aside in trust money for their payment or redemption. Debt securities will also not be eligible to vote if they have been fully defeased as described later under "Defeasance Full Defeasance."

We will generally be entitled to set any day as a record date for the purpose of determining the holders of outstanding indenture securities that are entitled to vote or take other action under the indenture. If we set a record date for a vote or other action to be taken by holders of one or more series, that vote or action may be taken only by persons who are holders of outstanding indenture securities of those series on the record date and must be taken within eleven months following the record date.

Book-entry and other indirect holders should consult their banks or brokers for information on how approval may be granted or denied if we seek to change the indenture or the debt securities or request a waiver.

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Defeasance

The following provisions will be applicable to each series of debt securities unless the applicable prospectus supplement states otherwise.

Covenant Defeasance

If certain conditions are satisfied, we can make the deposit described below and be released from some of the restrictive covenants in the indenture under which the particular series was issued. This is called "covenant defeasance." In that event, a holder of such debt securities would lose the protection of those restrictive covenants but would gain the protection of having money and government securities set aside in trust to repay its debt securities. If applicable, such holder also would be released from the subordination provisions described under "Indenture Provisions Subordination" below. In order to achieve covenant defeasance, we must do the following:

- If the debt securities of the particular series are denominated in U.S. dollars, we must deposit in trust for the benefit of all holders of such debt securities a combination of money and United States government or United States government agency notes or bonds that will generate enough cash to make interest, principal and any other payments on the debt securities on their various due dates.

- We must deliver to the trustee a legal opinion of our counsel confirming that, under current U.S. federal income tax law, we may make the above deposit without causing holders to be taxed on the debt securities any differently than if we did not make the deposit and just repaid the debt securities ourselves at maturity.

If we accomplish covenant defeasance, a holder can still look to us for repayment of the debt securities if there were a shortfall in the trust deposit or the trustee is prevented from making payment. For example, if one of the remaining Events of Default occurred (such as our bankruptcy) and the debt securities became immediately due and payable, there might be a shortfall. Depending on the event causing the default, holders may not be able to obtain payment of the shortfall.

Full Defeasance

If there is a change in U.S. federal tax law, as described below, we can legally release ourselves from all payment and other obligations on the debt securities of a particular series (called "full defeasance") if we put in place the following other arrangements for holders to be repaid:

- If the debt securities of the particular series are denominated in U.S. dollars, we must deposit in trust for the benefit of all holders of such debt securities a combination of money and United States government or United States government agency notes or bonds that will generate enough cash to make interest, principal and any other payments on the debt securities on their various due dates.

- We must deliver to the trustee a legal opinion confirming that there has been a change in current U.S. federal tax law or an IRS ruling that allows us to make the above deposit without causing holders to be taxed on the debt securities any differently than if we did not make the deposit and just repaid the debt securities ourselves at maturity. Under current U.S. federal tax law, the deposit and our legal release from the debt securities would be treated as though we paid holders their share of the cash and notes or bonds at the time the cash and notes or bonds were deposited in trust in exchange for such holders' debt securities and holders would recognize gain or loss on the debt securities at the time of the deposit.

If we ever did accomplish full defeasance, as described above, holders would have to rely solely on the trust deposit for repayment of the debt securities. Holders could not look to us for repayment in

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the unlikely event of any shortfall. Conversely, the trust deposit would most likely be protected from claims of our lenders and other creditors if we ever became bankrupt or insolvent. If applicable, holders would also be released from the subordination provisions described later under "Indenture Provisions Subordination."

Form, Exchange And Transfer Of Certificated Registered Securities

The following provisions will be applicable to each series of debt securities unless the applicable prospectus supplement states otherwise.

Holders may exchange their certificated securities, if any, for debt securities of smaller denominations or combined into fewer debt securities of larger denominations, as long as the total principal amount is not changed.

Holders may exchange or transfer their certificated securities, if any, at the office of their trustee. We have appointed the trustee to act as our agent for registering debt securities in the names of holders transferring debt securities. We may appoint another entity to perform these functions or perform them ourselves.

Holders will not be required to pay a service charge to transfer or exchange their certificated securities, if any, but they may be required to pay any tax or other governmental charge associated with the transfer or exchange. The transfer or exchange will be made only if our transfer agent is satisfied with the holder's proof of legal ownership.

If we have designated additional transfer agents for a particular debt security, they will be named in the prospectus supplement. We may appoint additional transfer agents or cancel the appointment of any particular transfer agent. We may also approve a change in the office through which any transfer agent acts.

If any certificated securities of a particular series are redeemable and we redeem less than all the debt securities of that series, we may block the transfer or exchange of those debt securities during the period beginning 15 days before the day we mail the notice of redemption and ending on the day of that mailing, in order to freeze the list of holders to prepare the mailing. We may also refuse to register transfers or exchanges of any certificated securities selected for redemption, except that we will continue to permit transfers and exchanges of the unredeemed portion of any debt security that will be partially redeemed.

Resignation Of Trustee

Each trustee may resign or be removed with respect to one or more series of indenture securities provided that a successor trustee is appointed to act with respect to these series. In the event that two or more persons are acting as trustee with respect to different series of indenture securities under the indenture, each of the trustees will be a trustee of a trust separate and apart from the trust administered by any other trustee.

Indenture Provisions Subordination

The following provisions will be applicable to each series of debt securities unless the applicable prospectus supplement states otherwise.

Upon any distribution of our assets upon our dissolution, winding up, liquidation or reorganization, the payment of the principal of (and premium, if any) and interest, if any, on any indenture securities denominated as subordinated debt securities is to be subordinated to the extent provided in the indenture in right of payment to the prior payment in full of all Senior Indebtedness (as defined below), but our obligation to holders to make payment of the principal of (and premium, if any) and

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interest, if any, on such subordinated debt securities will not otherwise be affected. In addition, no payment on account of principal (or premium, if any), sinking fund or interest, if any, may be made on such subordinated debt securities at any time unless full payment of all amounts due in respect of the principal (and premium, if any), sinking fund and interest on Senior Indebtedness has been made or duly provided for in money or money's worth.

In the event that, notwithstanding the foregoing, any payment by us is received by the trustee in respect of subordinated debt securities or by the holders of any of such subordinated debt securities before all Senior Indebtedness is paid in full, the payment or distribution must be paid over to the holders of the Senior Indebtedness or on their behalf for application to the payment of all the Senior Indebtedness remaining unpaid until all the Senior Indebtedness has been paid in full, after giving effect to any concurrent payment or distribution to the holders of the Senior Indebtedness. Subject to the payment in full of all Senior Indebtedness upon this distribution by us, the holders of such subordinated debt securities will be subrogated to the rights of the holders of the Senior Indebtedness to the extent of payments made to the holders of the Senior Indebtedness out of the distributive share of such subordinated debt securities.

By reason of this subordination, in the event of a distribution of our assets upon our insolvency, certain of our senior creditors may recover more, ratably, than holders of any subordinated debt securities. The indenture provides that these subordination provisions will not apply to money and securities held in trust under the defeasance provisions of the indenture.

"Senior Indebtedness" is defined in the indenture as the principal of (and premium, if any) and unpaid interest on:

- our indebtedness (including indebtedness of others guaranteed by us), whenever created, incurred, assumed or guaranteed, for money borrowed (other than indenture securities issued under the indenture and denominated as subordinated debt securities), unless in the instrument creating or evidencing the same or under which the same is outstanding it is provided that this indebtedness is not senior or prior in right of payment to the subordinated debt securities; and

- renewals, extensions, modifications and refinancings of any of this indebtedness.

If this prospectus is being delivered in connection with the offering of a series of indenture securities denominated as subordinated debt securities, the accompanying prospectus supplement will set forth the approximate amount of our Senior Indebtedness outstanding as of a recent date.

The Trustee Under The Indenture

A trustee to serve as the trustee under the indenture will be disclosed in the applicable prospectus supplement.

Certain Considerations Relating To Foreign Currencies

Debt securities denominated or payable in foreign currencies may entail significant risks. These risks include the possibility of significant fluctuations in the foreign currency markets, the imposition or modification of foreign exchange controls and potential illiquidity in the secondary market. These risks will vary depending upon the currency or currencies involved and will be more fully described in the applicable prospectus supplement.

Book-Entry Debt Securities

The following provisions will be applicable to each series of debt securities unless the applicable prospectus supplement states otherwise.

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The Depository Trust Company ("DTC"), New York, NY, will act as securities depository for the debt securities. The debt securities will be issued as fully registered securities registered in the name of Cede & Co. (DTC's partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully registered certificate will be issued for the debt securities, in the aggregate principal amount of such issue, and will be deposited with DTC. If, however, the aggregate principal amount of any issue exceeds $500 million, one certificate will be issued with respect to each $500 million of principal amount, and an additional certificate will be issued with respect to any remaining principal amount of such issue.

DTC is a limited purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Exchange Act. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity, corporate and municipal debt issues, and money market instruments from over 100 countries that DTC's participants ("Direct Participants") deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities through electronic computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly owned subsidiary of The Depository Trust & Clearing Corporation ("DTCC").

DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants"). DTC has a Standard & Poor's rating of AA+. The DTC Rules applicable to its Participants are on file with the SEC. More information about DTC can be found at www.dtcc.com.

Purchases of debt securities under the DTC system must be made by or through Direct Participants, which will receive a credit for the debt securities on DTC's records. The ownership interest of each actual purchaser of each security ("Beneficial Owner") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the debt securities are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in debt securities, except in the event that use of the book-entry system for the debt securities is discontinued.

To facilitate subsequent transfers, all debt securities deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co. or such other name as may be requested by an authorized representative of DTC. The deposit of debt securities with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the debt securities; DTC's records reflect only the identity of the Direct Participants to whose accounts such debt securities are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

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

Redemption notices shall be sent to DTC. If less than all of the debt securities within an issue are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to the debt securities unless authorized by a Direct Participant in accordance with DTC's Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to us as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts the debt securities are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Redemption proceeds, distributions, and dividend payments on the debt securities will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from us or the trustee on the payment date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC nor its nominee, the trustee, or us, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, distributions, and dividend payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of us or the trustee, but disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

DTC may discontinue providing its services as depository with respect to the debt securities at any time by giving reasonable notice to us or to the trustee. Under such circumstances, in the event that a successor depository is not obtained, certificates are required to be printed and delivered. We may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, certificates will be printed and delivered to DTC.

The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that we believe to be reliable, but we take no responsibility for the accuracy thereof.

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DESCRIPTION OF OUR UNITS

The following is a general description of the terms of the units we may issue from time to time. Particular terms of any units we offer will be described in the prospectus supplement relating to such units. For a complete description of the terms of particular units, a prospective holder should read both this prospectus and the prospectus supplement relating to those particular units.

We may issue units comprised of one or more of the other securities described in this prospectus in any combination. Each unit may also include debt obligations of third parties, such as U.S. Treasury securities. Each unit will be issued so that the holder of the unit is also the holder of each security included in the unit. Thus, the holder of a unit will have the rights and obligations of a holder of each included security.

A prospectus supplement will describe the particular terms of any series of units we may issue, including the following:

- the designation and terms of the units and of the securities comprising the units, including whether and under what circumstances the securities comprising the units may be held or transferred separately;
- a description of the terms of any unit agreement governing the units;
- a description of the provisions for the payment, settlement, transfer or exchange of the units; and
- whether the units will be issued in fully registered or global form.

We will not offer any units under this prospectus or an accompanying prospectus supplement without first filing a new post-effective amendment to the registration statement.

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RESTRICTIONS ON OWNERSHIP AND TRANSFER

In order for us to qualify as a REIT, we must meet the following criteria regarding our stockholders' ownership of our shares:

- we cannot be "closely held" under Code Section 856(h); that is, five or fewer individuals (as specially defined in the Code to include specified private foundations, employee benefit plans and trusts and charitable trusts and subject to certain constructive ownership rules) may not own, directly or indirectly, more than 50% in value of our outstanding shares during the last half of a taxable year, other than our first REIT taxable year; and

- 100 or more persons must beneficially own our shares during at least 335 days of a taxable year of twelve months or during a proportionate part of a shorter taxable year, other than our first REIT taxable year.

See "Material U.S. Federal Income Tax Considerations" for further discussion of this topic. We may prohibit certain acquisitions and transfers of shares so as to ensure our initial and continued qualification as a REIT under the Code. However, there can be no assurance that this prohibition will be effective. Because we believe it is essential for us to qualify as a REIT, and, once qualified, to continue to qualify, among other purposes, our charter provides (subject to certain exceptions) that no person may own, or be deemed to own by virtue of the attribution provisions of the Code, more than 9.8% in value of the aggregate of our outstanding shares of stock or more than 9.8% (in value or number of shares, whichever is more restrictive) of any class or series of our shares of our stock.

Our board of directors, in its sole discretion, may waive this ownership limit (prospectively or retroactively) if evidence satisfactory to our directors, including certain representations and undertakings required by our charter, is presented that such ownership will not then or in the future jeopardize our status as a REIT. Also, these restrictions on transferability and ownership will not apply if our directors determine that it is no longer in our best interests to continue to qualify as a REIT or that compliance with such restrictions is no longer required in order for us to qualify as a REIT.

Our board of directors has established an excepted holder limit for Ares Investments, an affiliate of our Manager, that allows Ares Investments to own, subject to certain conditions, up to 22% of the outstanding shares of our common stock.

In addition to prohibiting the transfer or ownership of our stock that would result in any person owning, directly or indirectly, shares of our stock in excess of the foregoing ownership limitations, our charter prohibits the transfer or ownership of our stock if such transfer or ownership would:

- with respect to transfers only, result in our capital stock being beneficially owned by fewer than 100 persons, determined without reference to any rules of attribution;

- result in our being "closely held" within the meaning of Code Section 856(h) (regardless of whether the ownership interest is held during the last half of a taxable year);

- result in our owning, directly or indirectly, more than 9.8% of the ownership interests in any tenant or subtenant; or

- otherwise result in our disqualification as a REIT.

In the case of any attempted transfer of our stock which, if effective, would result in a violation of these limitations, then the number of shares causing the violation (rounded up to the nearest whole share) will be automatically transferred to a trust for the exclusive benefit of one or more charitable beneficiaries (or, in the case of a transfer that would result in our stock being beneficially owned by fewer than 100 persons, be void), and the proposed transferee will not acquire any rights in the shares. To avoid confusion, these shares so transferred to a beneficial trust will be referred to in this prospectus as "Excess Securities." Excess Securities will remain issued and outstanding shares and will

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be entitled to the same rights and privileges as all other shares of the same class or series. The trustee of the beneficial trust, as holder of the Excess Securities, will be entitled to receive all distributions authorized by the board of directors on such securities for the benefit of the charitable beneficiary. Our charter further entitles the trustee of the beneficial trust to vote all Excess Securities. Subject to Maryland law, the trustee will have the authority (a) to rescind as void any vote cast by the proposed transferee prior to our discovery that the shares have been transferred to the beneficial trust and (b) to recast the vote in accordance with the desires of the trustee acting for the benefit of the charitable beneficiary. However, if we have already taken irreversible corporate action, then the trustee will not have the authority to rescind and recast the vote. If a transfer to the trust would be ineffective for any reason to prevent a violation of any of the foregoing restrictions, the transfer resulting in such violation will be void from the time of such purported transfer.

The trustee of the beneficial trust will select a transferee to whom the Excess Securities may be sold as long as such sale does not violate the 9.8% ownership limit or the other restrictions on ownership and transfer. Upon sale of the Excess Securities, the intended transferee (the transferee of the Excess Securities whose ownership would have violated the 9.8% ownership limit or the other restrictions on ownership and transfer) will receive from the trustee of the beneficial trust the lesser of such sale proceeds, or the price per share the intended transferee paid for the Excess Securities (or, in the case of a gift or devise to the intended transferee, the price per share equal to the market value per share on the date of the transfer to the intended transferee). The trustee may reduce the amount payable to the intended transferee by the amount of dividends and other distributions which have been paid to the intended transferee and are owed by the intended transferee to the trustee. The trustee of the beneficial trust will distribute to the charitable beneficiary any amount the trustee receives in excess of the amount to be paid to the intended transferee.

In addition, we have the right to purchase any Excess Securities at the lesser of (a) the price per share paid in the transfer that created the Excess Securities (or, in the case of a devise or gift, the market price at the time of such devise or gift) and (b) the market price on the date we, or our designee, exercise such right. We may reduce the amount payable to the intended transferee by the amount of dividends and other distributions which have been paid to the intended transferee and are owed by the intended transferee to the trustee. We will have the right to purchase the Excess Securities until the trustee has sold the shares. Upon a sale to us, the interest of the charitable beneficiary in the shares sold will terminate and the trustee will distribute the net proceeds of the sale to the intended transferee.

Any person who (a) acquires or attempts or intends to acquire shares in violation of the foregoing ownership limitations, or (b) would have owned shares that resulted in a transfer to a charitable trust, is required to give us immediate written notice or, in the case of a proposed or intended transaction, 15 days' written notice. In both cases, such persons must provide to us such other information as we may request in order to determine the effect, if any, of such transfer on our status as a REIT. The foregoing restrictions will continue to apply until our board of directors determines it is no longer in our best interest to continue to qualify as a REIT or that compliance with such restrictions is no longer required in order for us to qualify as a REIT.

The 9.8% ownership limit does not apply to the underwriters in a public offering of shares. Any person who owns more than 5% of the outstanding shares during any taxable year will be asked to deliver a statement or affidavit setting forth the name and address of such owner, the number of shares beneficially owned, directly or indirectly, and a description of the manner in which such shares are held. Each such person also must provide us with such additional information as we may request in order to determine the effect of such ownership on our status as a REIT and to ensure compliance with the 9.8% ownership limit.

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MATERIAL U.S. FEDERAL INCOME TAX CONSIDERATIONS

The following summary discusses the material U.S. federal income tax considerations associated with our qualification and taxation as a REIT and the acquisition, ownership and disposition of our shares of common stock. Supplemental U.S. federal income tax considerations relevant to the acquisition, ownership and disposition of the other securities offered by this prospectus may be provided in the prospectus supplement that relates to those securities. This summary is based upon the laws, regulations, and reported judicial and administrative rulings and decisions in effect as of the date of this prospectus, all of which are subject to change, retroactively or prospectively, and to possibly differing interpretations. This summary does not purport to deal with the U.S. federal income and other tax consequences applicable to all investors in light of their particular investment or other circumstances, or to all categories of investors, some of whom may be subject to special rules (for example, insurance companies, entities treated as partnerships for U.S. federal income tax purposes and investors therein, trusts, financial institutions and broker-dealers and, except to the extent discussed below, tax-exempt organizations and Non-U.S. Stockholders, as defined below). No ruling on the U.S. federal, state, or local tax considerations relevant to our operation or to the purchase, ownership or disposition of our shares, has been requested from the Internal Revenue Service, or "IRS," or other tax authority. No assurance can be given that the IRS would not assert, or that a court would not sustain, a position contrary to any of the tax consequences described below.

This summary is also based upon the assumption that the operation of the Company, and of its subsidiaries and other lower-tier and affiliated entities, will in each case be in accordance with its applicable organizational documents or partnership agreements. This summary does not discuss the impact that U.S. state and local taxes and taxes imposed by non-U.S. jurisdictions could have on the matters discussed in this summary. In addition, this summary assumes that security holders hold our common stock as a capital asset, which generally means as property held for investment.

Prospective investors are urged to consult their tax advisors in order to determine the U.S. federal, state, local, foreign and other tax consequences to them of the purchase, ownership and disposition of our shares, the tax treatment of a REIT and the effect of potential changes in the applicable tax laws.

We intend to elect and qualify to be taxed as a REIT under the applicable provisions of the Code and the Treasury Regulations promulgated thereunder commencing with our taxable year ended December 31, 2012. Furthermore, we intend to continue operating as a REIT; however, we cannot assure you that we will meet the applicable requirements under U.S. federal income tax laws, which are highly technical and complex.

In brief, a corporation that complies with the provisions in Sections 856 through 860 of the Code, and qualifies as a REIT generally is not taxed on its net taxable income to the extent such income is distributed currently to stockholders, thereby completely or substantially eliminating the "double taxation" that a corporation and its stockholders generally bear together. However, as discussed in greater detail below, a corporation could be subject to U.S. federal income tax in some circumstances even if it qualifies as a REIT and would likely suffer adverse consequences, including reduced cash available for distribution to its stockholders, if it failed to qualify as a REIT.

Proskauer Rose LLP has acted as our tax counsel in connection with this registration statement. Proskauer Rose LLP is of the opinion that commencing with our taxable year ended December 31, 2012, we have been organized in conformity with the requirements for qualification as a REIT under the Code, and our proposed method of operation will enable us to continue to meet the requirements for qualification and taxation as a REIT under the Code. This opinion will be filed as an exhibit to the registration statement of which this prospectus is a part, and is based and conditioned, in part, on various assumptions and representations as to factual matters and covenants made to Proskauer Rose LLP by us and based upon certain terms and conditions set forth in the opinion, including that we timely file an election to be treated as a REIT and such election is not either revoked or

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intentionally terminated. Our qualification as a REIT depends upon our ability to meet, through operation of the properties we acquire and our investment in other assets, the applicable requirements under U.S. federal income tax laws. Proskauer Rose LLP has not reviewed these operating results for compliance with the applicable requirements under U.S. federal income tax laws. Therefore, we cannot assure you that our actual operating results allow us to satisfy the applicable requirements to qualify as a REIT under U.S. federal income tax laws in any taxable year.

General

The term "REIT taxable income" means the taxable income as computed for a corporation that is not a REIT:

- without the deductions allowed by Code Sections 241 through 247, and 249 (relating generally to the deduction for dividends received);
- excluding amounts equal to: the net income from foreclosure property and the net income derived from prohibited transactions;
- deducting amounts equal to: the net loss from foreclosure property, the net loss derived from prohibited transactions, the tax imposed by Code Section 857(b)(5) upon a failure to meet the 95% and/or the 75% gross income tests, the tax imposed by Code Section 856(c)(7)(C) upon a failure to meet the quarterly asset tests, the tax imposed by Code Section 856(g)(5) for otherwise avoiding REIT disqualification, and the tax imposed by Code Section 857(b)(7) on redetermined rents, redetermined deductions and excess interest;
- deducting the amount of dividends paid under Code Section 561, computed without regard to the amount of the net income from foreclosure property (which is excluded from REIT taxable income); and
- without regard to any change of annual accounting period pursuant to Code Section 443(b).

In any year in which we qualify as a REIT and have a valid election in place, we will claim deductions for the dividends we pay to the stockholders, and therefore will not be subject to U.S. federal income tax on that portion of our taxable income or capital gain which is distributed to our stockholders.

Although we can eliminate or substantially reduce our U.S. federal income tax liability by maintaining our REIT qualification and paying sufficient dividends, we will be subject to U.S. federal tax in the following circumstances:

- We will be taxed at normal corporate rates on any undistributed REIT taxable income or net capital gain.
- If we fail to satisfy either the 95% Gross Income Test or the 75% Gross Income Test (each of which is described below), but our failure is due to reasonable cause and not willful neglect, and we therefore maintain our REIT qualification, we will be subject to a tax equal to the product of (a) the amount by which we failed the 75% or 95% Test (whichever amount is greater) multiplied by (b) a fraction intended to reflect our profitability.
- We will be subject to an excise tax if we fail to currently distribute sufficient income. In order to make the "required distribution" with respect to a calendar year, we must distribute the sum of (a) 85% of our REIT ordinary income for the calendar year, (b) 95% of our REIT capital gain net income for the calendar year, and (c) the excess, if any, of the grossed up required distribution (as defined in the Code) for the preceding calendar year over the distributed amount for that preceding calendar year. Any excise tax liability would be equal to 4% of the

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difference between the amount required to be distributed under this formula and the amount actually distributed and would not be deductible by us.

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

If we have net income from prohibited transactions such income would be subject to a 100% tax. See the section entitled " REIT Qualification Tests" below.

We will be subject to U.S. federal income tax at the highest corporate rate on any non-qualifying income from foreclosure property, although we will not own any foreclosure property unless we make loans or accept purchase money notes secured by interests in real property and foreclose on the property following a default on the loan, or foreclose on property pursuant to a default on a lease.

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

If we fail to satisfy any other provision of the Code that would result in our failure to qualify as a REIT (other than a gross income or asset test requirement) and that violation is due to reasonable cause, we may retain our REIT qualification, but we will be required to pay a penalty of $50,000 for each such failure.

If we derive "excess inclusion income" from an interest in certain mortgage loan securitization structures (i.e., a "TMP" or a residual interest in a real estate mortgage investment conduit, or "REMIC"), we could be subject to corporate-level U.S. federal income tax at a 35% rate to the extent that such income is allocable to specified types of tax-exempt stockholders known as "disqualified organizations" that are not subject to unrelated business taxable income, or "UBTI." See the "Excess Inclusion Income" portion of this section below.

We may be required to pay monetary penalties to the IRS in certain circumstances, including if we fail to meet record-keeping requirements intended to monitor our compliance with rules relating to the composition of our stockholders. Such penalties generally would not be deductible by us.

If we acquire any asset from a corporation that is subject to full corporate-level U.S. federal income tax in a transaction in which our basis in the asset is determined by reference to the transferor corporation's basis in the asset, and we recognize gain on the disposition of such an asset during the ten-year period beginning on the date we acquired such asset, then the excess of the fair market value as of the beginning of the applicable recognition period over our adjusted basis in such asset at the beginning of such recognition period will be subject to U.S. federal income tax at the highest regular corporate U.S. federal income tax rate. The results described in this paragraph assume that the non-REIT corporation will not elect, in lieu of this treatment, to be subject to an immediate tax when the asset is acquired by us.

A 100% tax may be imposed on transactions between us and a taxable REIT subsidiary, or "TRS," that do not reflect arm's length terms.

The earnings of our subsidiaries that are C corporations, including any subsidiary we may elect to treat as a TRS, generally will be subject to U.S. federal corporate income tax.

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

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

REIT Qualification Tests

Organizational Requirements. The Code defines a REIT as a corporation, trust or association:

(1) that is managed by one or more trustees or directors;

(2) the beneficial ownership of which is evidenced by transferable shares or by transferable certificates of beneficial interest;

(3) that would be taxable as a domestic corporation but for its qualification as a REIT;

(4) that is neither a financial institution nor an insurance company;

(5) that meets the gross income, asset and annual distribution requirements;

(6) the beneficial ownership of which is held by 100 or more persons on at least 335 days in each full taxable year, proportionately adjusted for a short taxable year;

(7) generally in which, at any time during the last half of each taxable year, no more than 50% in value of the outstanding stock is owned, directly or indirectly, by five or fewer individuals (as defined in the Code to include specified entities);

(8) that makes an election to be taxable as a REIT for the current taxable year, or has made this election for a previous taxable year, which election has not been revoked or terminated, and satisfies all relevant filing and other administrative requirements established by the IRS that must be met to maintain qualification as a REIT; and

(9) that uses a calendar year for U.S. federal income tax purposes.

Organizational requirements (1) through (5) must be met during each taxable year for which REIT qualification is sought, while conditions (6) and (7) do not have to be met until after the first taxable year for which a REIT election is made. We have adopted December 31 as our year end, thereby satisfying condition (9).

Ownership of Interests in Partnerships, Limited Liability Companies and Qualified REIT Subsidiaries. A REIT that is a partner in a partnership or a member in a limited liability company treated as a partnership for U.S. federal income tax purposes, will be deemed to own its proportionate share of the assets of the partnership or limited liability company, as the case may be, based on its interest in partnership capital, and will be deemed to be entitled to its proportionate share of the income of that entity. The assets and gross income of the partnership or limited liability company retain the same character in the hands of the REIT. Thus, our pro rata share of the assets and items of income of any partnership or limited liability company treated as a partnership or disregarded entity for U.S. federal

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income tax purposes in which we own an interest is treated as our assets and items of income for purposes of Asset Tests and Gross Income Tests (each as defined below).

We expect to control our subsidiary partnerships and limited liability companies and intend to operate them in a manner consistent with the requirements for our qualification as a REIT. If we become a limited partner or non-managing member in any partnership or limited liability company and such entity takes or expects to take actions that could jeopardize our qualification as a REIT or require us to pay tax, we may be forced to dispose of our interest in such entity. In addition, it is possible that a partnership or limited liability company could take an action which could cause us to fail a Gross Income Test or Asset Test (each as defined below), and that we would not become aware of such action in time to dispose of our interest in the partnership or limited liability company or take other corrective action on a timely basis. In that case, we could fail to qualify as a REIT unless we were entitled to relief, as described below.

We may from time to time own certain assets through subsidiaries that we intend to be treated as "qualified REIT subsidiaries." A corporation will qualify as our qualified REIT subsidiary if we own 100% of the corporation's outstanding stock and do not elect with the subsidiary to treat it as a TRS, as described below. A qualified REIT subsidiary is not treated as a separate corporation, and all assets, liabilities and items of income, gain, loss, deduction and credit of a qualified REIT subsidiary are treated as assets, liabilities and items of income, gain, loss, deduction and credit of the parent REIT for purposes of the Asset Tests and Gross Income Tests (each as defined below). A qualified REIT subsidiary is not subject to U.S. federal income tax, but may be subject to state or local tax, and our ownership of the stock of a qualified REIT subsidiary will not violate the restrictions on ownership of securities, as described below under " Asset Tests."

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

Ownership of Interests in TRSs. We expect to own an interest in one or more TRS and may acquire securities in additional TRSs in the future. A TRS is a corporation other than a REIT in which a REIT directly or indirectly holds stock, and that has made a joint election with such REIT to be treated as a TRS. If a TRS owns more than 35% of the total voting power or value of the outstanding securities of another corporation, such other corporation will also be treated as a TRS. Other than some activities relating to lodging and health care facilities, a TRS may generally engage in any business, including investing in assets and engaging in activities that could not be held or conducted directly by us without jeopardizing our qualification as a REIT. For example, to the extent that we acquire loans with an intention of selling such loans in a manner that might expose us to a 100% tax on "prohibited transactions," we expect such loans will be acquired by a TRS.

A TRS is subject to U.S. federal income tax as a regular C corporation. In addition, if certain tests regarding the TRS's debt-to-equity ratio are not satisfied, a TRS generally may not deduct interest payments made in any year to an affiliated REIT to the extent that such payments exceed 50% of the TRS's adjusted taxable income (as defined in the Code) for that year (although the TRS may carry forward to, and deduct in, a succeeding year the disallowed interest amount if the 50% test is satisfied in that year). A REIT's ownership of securities of a TRS is not subject to the 5% or 10% asset tests described below. However, no more than 25% of the gross value of a REIT's assets may be comprised of securities of one or more TRS. See " Asset Tests."

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Share Ownership Requirements

The common stock and any other stock we issue must be held by a minimum of 100 persons (determined without attribution to the owners of any entity owning our stock) for at least 335 days in each full taxable year, proportionately adjusted for partial taxable years. In addition, we cannot be "closely held", which means that at all times during the second half of each taxable year, no more than 50% in value of our stock may be owned, directly or indirectly, by five or fewer individuals (determined by applying certain attribution rules under the Code to the owners of any entity owning our stock) as specifically defined for this purpose. However, these two requirements do not apply until after the first taxable year an entity elects REIT status.

Our charter contains certain provisions intended, among other requirements, to enable us to meet requirements (6) and (7) above. First, subject to certain exceptions, our charter provides that no person may beneficially or constructively own (applying certain attribution rules under the Code) more than 9.8% in value of the aggregate of our outstanding shares of capital stock and not more than 9.8% (in value or in number of shares, whichever is more restrictive) of any class or series of our shares of capital stock. See "Description of Capital Stock Restrictions on Ownership and Transfer." Our charter also contains provisions requiring each holder of our shares to disclose, upon demand, constructive or beneficial ownership of shares as deemed necessary to comply with the requirements of the Code. Furthermore, stockholders failing or refusing to comply with our disclosure request will be required, under Treasury Regulations promulgated under the Code, to submit a statement of such information to the IRS at the time of filing their annual income tax returns for the year in which the request was made.

Asset Tests

At the close of each calendar quarter of the taxable year, we must satisfy four tests based on the composition of our assets, or the "Asset Tests." After initially meeting the Asset Tests at the close of any quarter, we will not lose our qualification as a REIT for failure to satisfy the Asset Tests at the end of a later quarter solely due to changes in value of our assets. In addition, if the failure to satisfy the Asset Tests results from an acquisition during a quarter, the failure generally can be cured by disposing of non-qualifying assets within 30 days after the close of that quarter. We intend to maintain adequate records of the value of our assets to ensure compliance with these tests and will act within 30 days after the close of any quarter as may be required to cure any noncompliance.

75% Asset Test. At least 75% of the value of our assets must be represented by "real estate assets," cash, cash items (including receivables) and government securities, which we refer to as the 75% Asset Test. Real estate assets include (a) real property (including interests in real property and interests in mortgages on real property), (b) shares in other qualifying REITs, and (c) any property (not otherwise a real estate asset) attributable to the temporary investment of "new capital" in stock or a debt instrument, but only for the one-year period beginning on the date we received the new capital. A real estate mortgage loan that we own generally will be treated as a real estate asset for purposes of the 75% Asset Test if, on the date that we acquire or originate the mortgage loan, the value of the real property securing the loan is equal to or greater than the principal amount of the loan. Property will qualify as being attributable to the temporary investment of new capital if the money used to purchase the stock or debt instrument is received by us in exchange for our stock or in a public offering of debt obligations that have a maturity of at least five years. Additionally, regular and residual interests in a REMIC are considered real estate assets. However, if less than 95% of the assets of a REMIC are real estate assets, we will be treated as holding and earning a proportionate share of the assets and income of the REMIC directly. In the case of any interests in grantor trusts, we would be treated as owning an undivided beneficial interest in the mortgage loans held by the grantor trust. Assets that do not qualify for purposes of the 75% test are subject to the additional asset tests described below under " 25% Asset Test."

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If we invest directly in real property, our purchase contracts for such real property will apportion no more than 5% of the purchase price of any property to property other than "real property," as defined in the Code. However, there can be no assurance that the IRS will not contest such purchase price allocation. If the IRS were to prevail, resulting in more than 5% of the purchase price of property being allocated to other than "real property," we may be unable to continue to qualify as a REIT under the 75% Asset Test, and also may be subject to additional taxes, as described below.

25% Asset Test. Except as described below, the remaining 25% of our assets generally may be invested without restriction, which we refer to as the 25% Asset Test. However, if we invest in any securities that do not qualify under the 75% Asset Test, other than investments in other REITs, our qualified REIT subsidiaries and TRSs, such securities may not exceed either (a) 5% of the value of our assets as to any one issuer, or (b) 10% of the outstanding securities by vote or value of any one issuer. The 10% value test does not apply to certain "straight debt" and other excluded securities, as described in the Code, including but not limited to any loan to an individual or estate, any obligation to pay rents from real property and any security issued by a REIT. In addition, a partnership interest held by a REIT is not considered a "security" for purposes of the 10% value test; instead, the REIT is treated as owning directly its proportionate share of the partnership's assets, which is based on the REIT's proportionate interest in any securities issued by the partnership (disregarding for this purpose the general rule that a partnership interest is not a security), but excluding certain securities described in the Code.

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

We may from time to time own 100% of the securities of one or more corporations that will elect, together with us, to be treated as our TRSs. So long as each of these companies qualifies as a TRS, we will not be subject to the 5% asset test, the 10% voting securities limitation or the 10% value limitation with respect to our ownership of their securities. We believe that the aggregate value of our TRSs will not exceed 25% of the aggregate value of our gross assets. No independent appraisals have been obtained to support these conclusions. In addition, there can be no assurance that the IRS will not disagree with our determinations of value.

We expect that the assets comprising our mortgage-related investments and securities that we own generally will be qualifying assets for purposes of the 75% Asset Test, and that our ownership of TRSs and other assets will be structured in a manner that will comply with the foregoing Asset Tests, and we intend to monitor compliance on an ongoing basis. There can be no assurance, however, that we will be successful in this effort. In this regard, to determine compliance with these requirements, we will need to estimate the value of our assets, and we do not expect to obtain independent appraisals to support our conclusions as to the total value of our assets or the value of any particular security or other asset. Moreover, values of some assets, including our interests in our TRSs, may not be susceptible to a precise determination and are subject to change in the future. Although we will be prudent in making these estimates, there can be no assurance that the IRS will not disagree with these determinations and assert that a different value is applicable, in which case we might not satisfy the Asset Tests, and could fail to qualify as a REIT.

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If we invest in a mortgage loan that is not fully secured by real property, Revenue Procedure 2011-16 may apply to determine what portion of the mortgage loan will be treated as a real estate asset for purposes of the 75% Asset Test. Pursuant to Revenue Procedure 2011-16, the IRS has announced that it will not challenge a REIT's treatment of a loan as a real estate asset in its entirety to the extent that the value of the loan is equal to or less than the value of the real property securing the loan at the relevant testing date. However, uncertainties exist regarding the application of Revenue Procedure 2011-16, particularly with respect to the proper treatment under the Asset Tests of mortgage loans acquired at a discount that increase in value following their acquisition, and no assurance can be given that the IRS would not challenge our treatment of such assets.

Furthermore, the proper classification of an instrument as debt or equity for U.S. federal income tax purposes may be uncertain in some circumstances, which could affect the application of the Asset Tests. Accordingly, there can be no assurance that the IRS will not contend that our interests in subsidiaries or in the securities of other issuers cause a violation of the Asset Tests.

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

We may acquire certain mezzanine loans secured by equity interests in pass-through entities that directly or indirectly own real property. Mezzanine loans meeting the requirements of the safe harbor set forth in Revenue Procedure 2003-65 will be treated by the IRS as real estate assets for purposes of the Asset Tests. In addition, any interest derived from such mezzanine loans will be treated as qualifying mortgage interest for purposes of the 75% Gross Income Test (as defined below). Although Revenue Procedure 2003-65 provides a safe harbor on which taxpayers may rely, it does not prescribe rules of substantive tax law. The mezzanine loans that we acquire may not meet all of the requirements of the safe harbor. Accordingly, there can be no assurance that the IRS will not challenge the qualification of such assets as real estate assets or the interest generated by these loans as qualifying income under the 75% Gross Income Test.

We may acquire certain participation interests, or "B-Notes," in mortgage loans originated by other lenders. A B-Note is an interest created in an underlying loan by virtue of a participation or similar agreement, to which the originator of the loan is a party, along with one or more participants. The borrower on the underlying loan is typically not a party to the participation agreement. The performance of a participant's investment depends upon the performance of the underlying loan, and if the underlying borrower defaults, the participant typically has no recourse against the originator of the loan. The originator often retains a senior position in the underlying loan, and grants junior participations, which will be a first loss position in the event of a default by the borrower. We may invest in participations in real estate loans that we believe qualify for purposes of the 75% Asset Test, and that interest derived from such investments will be treated as qualifying mortgage interest for purposes of the 75% Gross Income Test (as defined below). The appropriate treatment of participation interests for U.S. federal income tax purposes is not entirely certain, and no assurance can be given that the IRS will not challenge our treatment of participation interests.

A REIT is able to cure certain asset test violations. As noted above, a REIT cannot own securities of any one issuer representing more than 5% of the total value of the REIT's assets or more than 10% of the outstanding securities, by vote or value, of any one issuer. However, a REIT would not lose its REIT qualification for failing to satisfy these 5% or 10% asset tests in a quarter if the failure is due to

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the ownership of assets the total value of which does not exceed the lesser of (a) 1% of the total value of the REIT's assets at the end of the quarter for which the measurement is done, and (b) $10 million; *provided* in either case that the REIT either disposes of the assets within six months after the last day of the quarter in which the REIT identifies the failure (or such other time period prescribed by the Treasury), or otherwise meets the requirements of those rules by the end of that period.

If a REIT fails to meet any of the asset test requirements for a quarter and the failure exceeds the de minimis threshold described above, then the REIT still would be deemed to have satisfied the requirements if (a) following the REIT's identification of the failure, the REIT files a schedule with a description of each asset that caused the failure, in accordance with regulations prescribed by the Treasury, (b) the failure was due to reasonable cause and not to willful neglect, (c) the REIT disposes of the assets within six months after the last day of the quarter in which the identification occurred or such other time period as is prescribed by the Treasury (or the requirements of the rules are otherwise met within that period), and (d) the REIT pays a tax on the failure equal to the greater of (i) $50,000, or (ii) an amount determined (under regulations) by multiplying (A) the highest rate of tax for corporations under Section 11 of the Code, by (B) the net income generated by the assets that caused the failure for the period beginning on the first date of the failure and ending on the date the REIT has disposed of the assets (or otherwise satisfies the requirements).

Gross Income Tests

For each calendar year, we must satisfy two separate tests based on the composition of our gross income, as defined under our method of accounting, or the "Gross Income Tests."

75% Gross Income Test. At least 75% of our gross income for the taxable year (excluding gross income from prohibited transactions) must result from (a) rents from real property, (b) interest on obligations secured by mortgages on real property or on interests in real property, (c) gains from the sale or other disposition of real property (including interests in real property and interests in mortgages on real property) other than property held primarily for sale to customers in the ordinary course of our trade or business, (d) dividends from other qualifying REITs and gain (other than gain from prohibited transactions) from the sale of shares of other qualifying REITs, (e) other specified investments relating to real property or mortgages thereon, and (f) for a limited time, temporary investment income (as described under the 75% Asset Test above). We refer to this requirement as the 75% Gross Income Test.

95% Gross Income Test. At least 95% of our gross income (excluding gross income from prohibited transactions) for the taxable year must be derived from (a) sources that satisfy the 75% Gross Income Test, (b) dividends, (c) interest, or (d) gain from the sale or disposition of stock or other securities that are not assets held primarily for sale to customers in the ordinary course of our trade or business. We refer to this requirement as the 95% Gross Income Test. It is important to note that dividends and interest on obligations not collateralized by an interest in real property qualify under the 95% Gross Income Test, but not under the 75% Gross Income Test.

Interest Income. All interest income qualifies under the 95% Gross Income Test, and interest on loans secured by real property qualifies under the 75% Gross Income Test, provided in both cases, that the interest does not depend, in whole or in part, on the income or profits of any person (excluding amounts based on a fixed percentage of receipts or sales). If a loan is secured by both real property and other property, the interest on it may nevertheless qualify under the 75% Gross Income Test. Interest income constitutes qualifying mortgage interest for purposes of the 75% Gross Income Test to the extent that the obligation is secured by a mortgage on real property. If we receive interest income with respect to a mortgage loan that is secured by both real property and other property, and the highest principal amount of the loan outstanding during a taxable year exceeds the fair market value of the real property on the date that we acquired or originated the mortgage loan, the interest income will

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be apportioned between the real property and the other property, and our income from the loan will qualify for purposes of the 75% Gross Income Test only to the extent that the interest is allocable to the real property.

If we invest in a mortgage loan that is not fully secured by real property, we would be required to apportion our annual interest income to the real property security based on a fraction, the numerator of which is the value of the real property securing the loan, determined when we commit to acquire the loan, and the denominator of which is the highest "principal amount" of the loan during the year. The IRS recently issued Revenue Procedure 2011-16, which interprets the "principal amount" of the loan to be the face amount of the loan, despite the Code requiring taxpayers to treat any market discount (i.e., the difference between the purchase price of the loan and its face amount), for all purposes (other than certain withholding and information reporting purposes) as interest rather than principal. Any mortgage loan that we invest in that is not fully secured by real property may therefore be subject to the interest apportionment rules and the position taken in Revenue Procedure 2011-16 as described above.

To the extent that we derive interest income from a loan where all or a portion of the amount of interest payable is contingent, such income generally will qualify for purposes of the 75% and 95% Gross Income Tests only if it is based upon the gross receipts or sales and not the net income or profits of any person. This limitation does not apply, however, to a mortgage loan where the borrower derives substantially all of its income from the property from the leasing of substantially all of its interest in the property to tenants, to the extent that the rental income derived by the borrower would qualify as rents from real property had it been earned directly by us.

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

Any amount includible in our gross income with respect to a regular or residual interest in a REMIC generally is treated as interest on an obligation secured by a mortgage on real property. If, however, less than 95% of the assets of a REMIC consists of real estate assets (determined as if we held such assets), we will be treated as receiving directly our proportionate share of the income of the REMIC for purposes of determining the amount that is treated as interest on an obligation secured by a mortgage on real property.

We believe that substantially all of the interest income that we receive from our mortgage-related investments and securities generally will be qualifying income for purposes of both the 75% and 95% Gross Income Tests. However, to the extent we own non-REMIC collateralized mortgage obligations or other debt instruments secured by mortgage loans (rather than by real property) or secured by non-real estate assets, or debt securities that are not secured by mortgages on real property or interests in real property, the interest income received with respect to such securities generally will be qualifying income for purposes of the 95% Gross Income Test, but not the 75% Gross Income Test.

We expect that the mortgage-backed securities that we invest in will be treated either as interests in a grantor trust or as interests in a REMIC for U.S. federal income tax purposes and that all interest income, original issue discount and market discount from such mortgage-backed securities will be qualifying income for the 95% Gross Income Test. In the case of mortgage-backed securities treated as interests in grantor trusts, we would be treated as owning an undivided beneficial ownership interest in the mortgage loans held by the grantor trust. The interest, original issue discount and market discount on such mortgage loans would be qualifying income for purposes of the 75% Gross Income Test to the extent that the obligation is adequately secured by real property, as discussed above. In the case of

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mortgage-backed securities treated as interests in a REMIC, income derived from REMIC interests generally will be treated as qualifying income for purposes of the 75% and 95% Gross Income Tests. As discussed above, if less than 95% of the assets of the REMIC are real estate assets, however, then only a proportionate part of our interest in the REMIC and income derived from the interest will qualify for purposes of the 75% Gross Income Test. In addition, some REMIC securitizations include imbedded interest swap or cap contracts or other derivative instruments that potentially could produce non-qualifying income for the holder of the related REMIC securities. We expect that substantially all of our income from mortgage-backed securities will be qualifying income for purposes of the Gross Income Tests.

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

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

We will monitor the amount of the dividend and other income from our TRSs and will take actions intended to keep this income, and any other nonqualifying income, within the limitations of the Gross Income Tests. Although we intend to take these actions to prevent a violation of the Gross Income Tests, we cannot guarantee that such actions will in all cases prevent such a violation.

Hedging Transactions. From time to time, we may enter into hedging transactions with respect to one or more of our assets or liabilities. Our hedging activities could take a variety of forms, including hedging instruments such as interest rate swap agreements, interest rate cap agreements, interest rate floor or collar agreements, investments in stripped securities receiving interest-only on the underlying assets, or "IO Strips," options, futures contracts, forward contracts, similar financial instruments or other financial instruments that we deem appropriate. Income from a hedging transaction, including gain from the sale or disposition of such a transaction, that is clearly identified as a hedging transaction as specified in the Code will not constitute gross income and thus will be exempt from the 75% and 95% Gross Income Tests. The term "hedging transaction," as used in the prior sentence, generally means any transaction we enter into in the normal course of our business primarily to manage risk of (a) interest rate changes or fluctuations with respect to borrowings made or to be made by us to acquire or carry real estate-related assets, or (b) currency fluctuations with respect to an item of qualifying income under the 75% or 95% Gross Income Test. To the extent that we do not properly identify such transactions as hedges or we hedge with other types of financial instruments, the income from those transactions is likely to be treated as non-qualifying income for purposes of the Gross Income Tests. We intend to structure any hedging transactions in a manner that does not jeopardize our qualification as a REIT.

Foreign Currency Gain. From time to time we may acquire non-U.S. investments. These investments could cause us to incur foreign currency gains or losses. Any foreign currency gains we recognize that are attributable to specified assets or items of qualifying income or gain for purposes of the 75% or 95% Gross Income Test generally will not constitute gross income for purposes of the applicable test, and therefore will be exempt from such test, provided we do not deal in or engage in substantial and regular trading such securities.

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Rents from Real Property. Income attributable to a lease of real property generally will qualify as "rents from real property" under the 75% and 95% Gross Income Tests if such lease is respected as a true lease for U.S. federal income tax purposes (see " Characterization of Property Leases") and subject to the rules discussed below.

Rent from a particular tenant will not qualify if we, or an owner of 10% or more of our stock, directly or indirectly, owns 10% or more of the voting stock or the total number of shares of all classes of stock in, or 10% or more of the assets or net profits of, the tenant (subject to certain exceptions). In addition to the 9.8% ownership restrictions contained in our charter described above under " Share Ownership Tests," our charter prohibits the transfer or ownership of our stock if such transfer or ownership would result in our owning, directly or indirectly, more than 9.8% of the ownership interests in any tenant or subtenant.

The portion of rent attributable to personal property rented in connection with real property will not qualify, unless the portion attributable to personal property is 15% or less of the total rent received under, or in connection with, the lease.

Generally, rent will not qualify if it is based in whole, or in part, on the income or profits of any person from the underlying property. However, rent will not fail to qualify if it is based on a fixed percentage (or designated varying percentages) of receipts or sales, including amounts above a base amount so long as the base amount is fixed at the time the lease is entered into, the provisions are in accordance with normal business practice and the arrangement is not an indirect method for basing rent on income or profits.

If a REIT operates or manages a property or furnishes or renders certain "impermissible services" to the tenants at the property, and the income derived from the services exceeds 1% of the total amount received by that REIT with respect to the property, then no amount received by the REIT with respect to the property will qualify as "rents from real property." Impermissible services are services other than services "usually or customarily rendered" in connection with the rental of real property and not otherwise considered "rendered to the occupant." For these purposes, the income that a REIT is considered to receive from the provision of "impermissible services" will not be less than 150% of the cost of providing the service. If the amount so received is 1% or less of the total amount received by us with respect to the property, then only the income from the impermissible services will not qualify as "rents from real property." However, this rule generally will not apply if such services are provided to tenants through an independent contractor from whom we derive no revenue, or though a TRS.

Amounts received as rent from a TRS are not excluded from rents from real property by reason of the related party rules described above, if the activities of the TRS and the nature of the properties it leases meet certain requirements. The TRSs will pay regular corporate tax rates on any income they earn. In addition, the TRS rules limit the deductibility of interest paid or accrued by a TRS to its parent REIT to assure that the TRS is subject to an appropriate level of corporate taxation. Further, the rules impose a 100% excise tax on transactions between a TRS and its parent REIT or the REIT's tenants whose terms are not on an arm's length basis.

Prohibited Transaction Income. Any gain that we realize on the sale of an asset (other than foreclosure property) held as inventory or otherwise held primarily for sale to customers in the ordinary course of business, either directly or through any subsidiary partnership or by a borrower that has issued a shared appreciation mortgage or similar debt instrument to us, will be treated as income from a prohibited transaction that is subject to a 100% penalty tax, unless certain safe harbor exceptions apply. This prohibited transaction income may also adversely affect our ability to satisfy the Gross Income Tests. Under existing law, whether an asset is held as inventory or primarily for sale to customers in the ordinary course of a trade or business is a question of fact that depends on all the facts and circumstances surrounding the particular transaction. We intend to conduct our operations so that no asset owned by us will be held as inventory or primarily for sale to customers, and that a sale

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of any assets owned by us will not be in the ordinary course of business. However, the IRS may successfully contend that some or all of the sales made by us, our subsidiary partnerships, or by a borrower that has issued a shared appreciation mortgage or similar debt instrument to us are prohibited transactions. We would be required to pay the 100% penalty tax on our allocable share of the gains resulting from any such sales. The 100% tax will not apply to gains from the sale of assets that are held through a TRS, although such income will be subject to tax at regular U.S. federal corporate income tax rates.

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

Failure to Satisfy the Gross Income Tests. If we fail to satisfy either the 75% Gross Income or 95% Gross Income Tests for any taxable year, we may retain our qualification as a REIT for such year if we satisfy the IRS that (a) the failure was due to reasonable cause and not due to willful neglect, (b) we attach to our return a schedule describing the nature and amount of each item of our gross income, and (c) any incorrect information on such schedule was not due to fraud with intent to evade U.S. federal income tax. If this relief provision is available, we would remain subject to tax equal to the greater of the amount by which we failed the 75% Gross Income Test or the 95% Gross Income Test, as applicable, multiplied by a fraction meant to reflect our profitability.

Annual Distribution Requirements

In addition to the other tests described above, we are required to distribute dividends (other than capital gain dividends) to our stockholders each year in an amount at least equal to the excess of: (a) the sum of: (i) 90% of our REIT taxable income (determined without regard to the deduction for dividends paid and by excluding any net capital gain); and (ii) 90% of the net income (after tax) from foreclosure property; less (b) the sum of some types of items of non-cash income. Whether sufficient amounts have been distributed is based on amounts paid in the taxable year to which they relate, or in the following taxable year if we: (a) declared a dividend before the due date of our tax return (including extensions); (b) distribute the dividend within the 12-month period following the close of the taxable year (and not later than the date of the first regular dividend payment made after such declaration); and (c) file an election with our tax return. Additionally, dividends that we declare in October, November or December in a given year payable to stockholders of record in any such month will be treated as having been paid on December 31 of that year so long as the dividends are actually paid during January of the following year. In order for distributions to be counted as satisfying the annual distribution requirements for REITs, and to provide us with a REIT-level tax deduction, the distributions must not be "preferential dividends." A dividend is not a preferential dividend if the distribution is (a) pro rata among all outstanding shares of stock within a particular class, and (b) in accordance with the preferences among different classes of stock as set forth in our organizational

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documents. If we fail to meet the annual distribution requirements as a result of an adjustment to our U.S. federal income tax return by the IRS, or under certain other circumstances, we may cure the failure by paying a "deficiency dividend" (plus penalties and interest to the IRS) within a specified period.

If we do not distribute 100% of our REIT taxable income, we will be subject to U.S. federal income tax on the undistributed portion. We also will be subject to an excise tax if we fail to currently distribute sufficient income. In order to make the "required distribution" with respect to a calendar year and avoid the excise tax, we must distribute the sum of (a) 85% of our REIT ordinary income for the calendar year, (b) 95% of our REIT capital gain net income for the calendar year, and (c) the excess, if any, of the grossed up required distribution (as defined in the Code) for the preceding calendar year over the distributed amount for that preceding calendar year. Any excise tax liability would be equal to 4% of the difference between the amount required to be distributed and the amount actually distributed and would not be deductible by us.

We intend to pay sufficient dividends each year to satisfy the annual distribution requirements and avoid U.S. federal income and excise taxes on our earnings; however, it may not always be possible to do so. It is possible that we may not have sufficient cash or other liquid assets to meet the annual distribution requirements due to tax accounting rules and other timing differences. Other potential sources of non-cash taxable income include:

- "residual interests" in REMICs or TMPs;
- loans or mortgage-backed securities held as assets that are issued at a discount and require the accrual of taxable economic interest in advance of receipt in cash; and
- loans on which the borrower is permitted to defer cash payments of interest, distressed loans on which we may be required to accrue taxable interest income even though the borrower is unable to make current servicing payments in cash, and debt securities purchased at a discount.

We will closely monitor the relationship between our REIT taxable income and cash flow, and if necessary to comply with the annual distribution requirements, will attempt to borrow funds to fully provide the necessary cash flow or to pay dividends in the form of taxable in-kind distributions of property, including taxable stock dividends.

Phantom Income

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

We may acquire debt instruments in the secondary market for less than their face amount. The amount of such discount generally will be treated as "market discount" for U.S. federal income tax purposes. We expect to accrue market discount on the basis of a constant yield to maturity of a debt instrument. Accrued market discount is reported as income when, and to the extent that, any payment of principal of the debt instrument is made, unless we elect to include accrued market discount in income as it accrues. Principal payments on certain loans are made monthly, and consequently accrued market discount may have to be included in income each month as if the debt instrument were assured of ultimately being collected in full. If we collect less on the debt instrument than our purchase price plus the market discount we had previously reported as income, we may not be able to benefit from any offsetting loss deductions in a subsequent taxable year.

Some of the mortgage-backed securities that we acquire may have been issued with original issue discount. In general, we will be required to accrue original issue discount based on the constant yield to

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maturity of the mortgage-backed securities, and to treat it as taxable income in accordance with applicable U.S. federal income tax rules even though smaller or no cash payments are received on such debt instrument. As in the case of the market discount discussed in the preceding paragraph, the constant yield in question will be determined and we will be taxed based on the assumption that all future payments due on mortgage-backed securities in question will be made, with consequences similar to those described in the previous paragraph if all payments on the mortgage-backed securities are not made.

We may acquire distressed debt investments that are subsequently modified by agreement with the borrower. If the amendments to the outstanding debt are "significant modifications" under the applicable Treasury Regulations, the modified debt may be considered to have been reissued to us in a debt-for-debt exchange with the borrower. In that event, we may be required to recognize taxable income to the extent the issue price (generally, the principal amount) of the modified debt exceeds our adjusted tax basis in the unmodified debt, and would hold the modified loan with a cost basis equal to its issue price for U.S. federal tax purposes.

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

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

Failure to Qualify

If we fail to qualify, for U.S. federal income tax purposes, as a REIT in any taxable year, we may be eligible for relief provisions if the failures are due to reasonable cause and not willful neglect and if a penalty tax is paid with respect to each failure to satisfy the applicable requirements. If the applicable relief provisions are not available or cannot be met, we will not be able to deduct our dividends and will be subject to U.S. federal income tax (including any applicable alternative minimum tax) on our taxable income at regular corporate rates, thereby reducing cash available for distributions. In such event, all distributions to stockholders (to the extent of our current and accumulated earnings and profits) will be taxable as ordinary dividend income. This "double taxation" results from our failure to qualify as a REIT. Unless entitled to relief under specific statutory provisions, we will not be eligible to elect REIT qualification for the four taxable years following the year during which qualification was lost.

Recordkeeping Requirements

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

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Taxable Mortgage Pools

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

- substantially all of its assets consist of debt obligations or interests in debt obligations;
- more than 50% of those debt obligations are real estate mortgages or interests in real estate mortgages as of specified testing dates;
- the entity has issued debt obligations that have two or more maturities; and
- the payments required to be made by the entity, or portion of an entity, on its debt obligations "bear a relationship" to the payments it will receive on the debt obligations that it holds as assets.

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

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

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

Excess Inclusion Income

Pursuant to IRS guidance, a REIT's excess inclusion income, including any excess inclusion income from a residual interest in a REMIC, must be allocated among its stockholders in proportion to dividends paid. The REIT is required to notify stockholders of the amount of "excess inclusion income" allocated to them. A stockholder's share of excess inclusion income:

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

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is subject to tax as UBTI in the hands of most types of stockholders that are otherwise generally exempt from U.S. federal income tax; and

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

See " Taxation of U.S. Stockholders." Pursuant to IRS guidance, to the extent that excess inclusion income is allocated to a tax-exempt stockholder of a REIT that is not subject to unrelated business taxable income (such as a government entity or charitable remainder trust), the REIT may be subject to tax on this income at the highest applicable corporate tax rate (currently 35%). In that case, the REIT could reduce distributions to such stockholders by the amount of such tax paid by the REIT attributable to such stockholder's ownership. Treasury Regulations provide that such a reduction in distributions does not give rise to a preferential dividend that could adversely affect the REIT's compliance with its distribution requirements. See " REIT Qualification Tests Annual Distribution Requirements." The manner in which excess inclusion income is calculated, or would be allocated to stockholders, including allocations among shares of different classes of stock, is not clear under current law. As required by IRS guidance, we intend to make such determinations using a reasonable method. Tax-exempt investors, foreign investors and taxpayers with net operating losses should carefully consider the tax consequences described above, and are urged to consult their tax advisors.

Characterization of Property Leases

We may purchase either new or existing properties and lease them to tenants. Our ability to claim certain tax benefits associated with ownership of these properties, such as depreciation, would depend on a determination that the lease transactions are true leases, under which we would be the owner of the leased property for U.S. federal income tax purposes, rather than a conditional sale of the property or a financing transaction. A determination by the IRS that we are not the owner of any properties for U.S. federal income tax purposes may have adverse consequences to us, such as the denial of depreciation deductions (which could affect the determination of our REIT taxable income subject to the distribution requirements) or the aggregate value of our assets invested in real estate (which could affect REIT asset testing).

Taxation of U.S. Stockholders

Taxation of Taxable U.S. Stockholders. As long as we qualify as a REIT, distributions paid to our U.S. stockholders out of current or accumulated earnings and profits (and not designated as capital gain dividends or qualified dividend income) will be ordinary income. Generally, for purposes of this discussion, a "U.S. Stockholder" is a person (other than a partnership or entity treated as a partnership for U.S. federal income tax purposes) that is, for U.S. federal income tax purposes:

an individual citizen or resident of the United States for U.S. federal income tax purposes;

a corporation, or other entity taxable as a corporation, created or organized in or under the laws of the United States, any state thereof or the District of Columbia;

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

a trust if (a) a court within the United States is able to exercise primary supervision over its administration and one or more U.S. persons have the authority to control all substantial decisions of the trust, or (b) the trust has a valid election in effect under current Treasury Regulations to be treated as a U.S. person.

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

Distributions in excess of current and accumulated earnings and profits are treated first as a tax-deferred return of capital to the U.S. Stockholder, reducing the U.S. Stockholder's tax basis in his or her common stock by the amount of such distribution, and then as capital gain. Because our earnings and profits are reduced for depreciation and other non-cash items, it is possible that a portion of each distribution will constitute a tax-deferred return of capital. Additionally, because distributions in excess of earnings and profits reduce the U.S. Stockholder's basis in our stock, this will increase the U.S. Stockholder's gain, or reduce the U.S. Stockholder's loss, on any subsequent sale of the stock.

Distributions that are designated as capital gain dividends will be taxed as long-term capital gain to the extent they do not exceed our actual net capital gain for the taxable year, without regard to the period for which the U.S. Stockholder that receives such distribution has held its stock. However, corporate stockholders may be required to treat up to 20% of some types of capital gain dividends as ordinary income. We also may decide to retain, rather than distribute, our net capital gain and pay any tax thereon. In such instances, U.S. Stockholders would include their proportionate shares of such gain in income as long-term capital gain, receive a credit on their returns for their proportionate share of our tax payments, and increase the tax basis of their shares of stock by the after-tax amount of such gain.

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

(a) the qualified dividend income received by us during such taxable year from C corporations (including any TRSs);

(b) the excess of any "undistributed" REIT taxable income recognized during the immediately preceding year over the U.S. federal income tax paid by us with respect to such undistributed REIT taxable income; and

(c) the excess of any income recognized during the immediately preceding year attributable to the sale of a built-in-gain asset that was acquired in a carry-over basis transaction from a non-REIT corporation or had appreciated at the time our REIT election became effective over the U.S. federal income tax paid by us with respect to such built in gain.

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

Dividend income is characterized as "portfolio" income under the passive loss rules and cannot be offset by a stockholder's current or suspended passive losses. Corporate stockholders cannot claim the dividends-received deduction for such dividends unless we lose our REIT qualification. Although U.S. Stockholders generally will recognize taxable income in the year that a distribution is received, any distribution that we declare in October, November or December of any year that is payable to a U.S. Stockholder of record on a specific date in any such month will be treated as both paid by us and

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received by the U.S. Stockholder on December 31 of the year it was declared even if paid by us during January of the following calendar year. Because we are not a pass-through entity for U.S. federal income tax purposes, U.S. Stockholders may not use any of our operating or capital losses to reduce their tax liabilities.

We have the ability to declare a large portion of a dividend in shares of our stock. As long as a portion of such dividend is paid in cash (which portion can be as low as 20%) and certain requirements are met, the entire distribution will be treated as a dividend for U.S. federal income tax purposes. As a result, U.S. Stockholders will be taxed on 100% of the dividend in the same manner as a cash dividend, even though most of the dividend was paid in shares of our stock. In general, any dividend on shares of our preferred stock will be taxable as a dividend, regardless of whether any portion is paid in stock.

In general, the sale of our common stock held for more than 12 months will produce long-term capital gain or loss. All other sales will produce short-term gain or loss. In each case, the gain or loss is equal to the difference between the amount of cash and fair market value of any property received from the sale and the U.S. Stockholder's basis in the common stock sold. However, any loss from a sale or exchange of common stock by a U.S. Stockholder who has held such stock for six months or less generally will be treated as a long-term capital loss, to the extent that the U.S. Stockholder treated our distributions as long-term capital gain. The use of capital losses is subject to limitations.

If excess inclusion income from a REMIC residual interest is allocated to any stockholder, that income will be taxable in the hands of the stockholder and would not be offset by any net operating losses of the stockholder that would otherwise be available. As required by IRS guidance, we intend to notify our stockholders if a portion of a dividend paid by us is attributable to excess inclusion income.

Currently, the maximum tax rate applicable to individuals and certain other noncorporate taxpayers on net capital gain recognized on the sale or other disposition of shares is 20%, and the maximum marginal tax rate payable by them on dividends received from corporations that are subject to a corporate level of tax has been reduced. Except in limited circumstances, as discussed above with respect to "qualified dividend income," this reduced tax rate will not apply to dividends paid by us.

Cost Basis Reporting. U.S. federal income tax information reporting rules may apply to certain transactions in our shares. Where such rules apply, the "cost basis" calculated for the shares involved will be reported to the IRS and to you. Generally these rules apply to all shares purchased. For "cost basis" reporting purposes, you may identify by lot the shares that you transfer or that are redeemed, but if you do not timely notify us of your election, we will identify the shares that are transferred or redeemed on a "first in/first out" basis.

Information reporting (transfer statements) on other transactions may also be required under these rules. Generally, these reports are made for certain transactions. Transfer statements are issued between "brokers" and are not issued to the IRS or to you.

Stockholders should consult their tax advisors regarding the consequences of these rules.

Taxation of Tax-Exempt Stockholders. U.S. tax-exempt entities, including qualified employee pension and profit sharing trusts and individual retirement accounts, generally are exempt from U.S. federal income taxation. However, they are subject to taxation on their UBTI. While many investments in real estate may generate UBTI, the IRS has ruled that dividend distributions from a REIT to a tax-exempt entity do not constitute UBTI. Based on that ruling, our distributions to a U.S. Stockholder that is a domestic tax-exempt entity should not constitute UBTI unless such U.S. Stockholder borrows funds (or otherwise incurs acquisition indebtedness within the meaning of the Code) to acquire its common stock, or the common stock are otherwise used in an unrelated trade or business of the tax-exempt entity. Furthermore, part or all of the income or gain recognized with respect to our stock held by certain domestic tax-exempt entities including social clubs, voluntary employee benefit associations, supplemental unemployment benefit trusts and qualified group legal service plans (all of

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which are exempt from U.S. federal income taxation under Sections 501(c)(7), (9), (17) or (20) of the Code), may be treated as UBTI.

Special rules apply to the ownership of REIT shares by some tax-exempt pension trusts. If we would be "closely held" (discussed above with respect to the share ownership tests) because the stock held by tax-exempt pension trusts was viewed as being held by the trusts rather than by their respective beneficiaries, tax-exempt pension trusts owning more than 10% by value of our stock may be required to treat a percentage of our dividends as UBTI. This rule applies if: (a) at least one tax-exempt pension trust owns more than 25% by value of our shares; or (b) one or more tax-exempt pension trusts (each owning more than 10% by value of our shares) hold in the aggregate more than 50% by value of our shares. The percentage treated as UBTI is our gross income (less direct expenses) derived from an unrelated trade or business (determined as if we were a tax-exempt pension trust) divided by our gross income from all sources (less direct expenses). If this percentage is less than 5%, however, none of the dividends will be treated as UBTI. Because of the restrictions in our charter regarding the ownership concentration of our common stock, we believe that a tax-exempt pension trust should not become subject to these rules. However, because our common stock may be publicly traded, we can give no assurance of this.

Prospective tax-exempt purchasers should consult their own tax advisors and financial planners as to the applicability of these rules and consequences to their particular circumstances.

Backup Withholding and Information Reporting. We will report to our U.S. Stockholders and the IRS the amount of dividends paid during each calendar year and the amount of any tax withheld. Under the backup withholding rules, a U.S. Stockholder may be subject to backup withholding at the current rate of 28% with respect to dividends paid, unless the U.S. Stockholder (a) is a corporation or comes within other exempt categories and, when required, demonstrates this fact, or (b) provides a taxpayer identification number or social security number, certifies under penalties of perjury that such number is correct and that such U.S. Stockholder is not subject to backup withholding and otherwise complies with applicable requirements of the backup withholding rules. A U.S. Stockholder that does not provide his or her correct taxpayer identification number or social security number may also be subject to penalties imposed by the IRS. In addition, we may be required to withhold a portion of capital gain distribution to any U.S. Stockholder who fails to certify its non-foreign status.

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

Taxation of Non-U.S. Stockholders

General. The rules governing the U.S. federal income taxation of Non-U.S. Stockholders are complex, and as such, only a summary of such rules is provided in this prospectus. Non-U.S. investors should consult with their own tax advisors and financial planners to determine the impact that U.S. federal, state and local income tax or similar laws will have on such investors as a result of an investment in our REIT. A "Non-U.S. Stockholder" means a person (other than a partnership or entity treated as a partnership for U.S. federal income tax purposes) that is not a U.S. Stockholder.

Distributions In General. Distributions paid by us that are not attributable to gain from our sales or exchanges of U.S. real property interests, or "USRPIs," and not designated by us as capital gain dividends will be treated as dividends of ordinary income to the extent that they are made out of our current or accumulated earnings and profits. Such dividends to Non-U.S. Stockholders ordinarily will be subject to a withholding tax equal to 30% of the gross amount of the dividend unless an applicable tax treaty reduces or eliminates that tax. Under some treaties, however, lower rates generally applicable to dividends do not apply to dividends from REITs.

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If income from the investment in the common stock is treated as effectively connected with the Non-U.S. Stockholder's conduct of a U.S. trade or business, the Non-U.S. Stockholder generally will be subject to a tax at the graduated rates applicable to ordinary income, in the same manner as U.S. stockholders are taxed with respect to such dividends (and also may be subject to the 30% branch profits tax in the case of a stockholder that is a foreign corporation that is not entitled to any treaty exemption). In general, Non-U.S. Stockholders will not be considered to be engaged in a U.S. trade or business solely as a result of their ownership of our stock. Dividends in excess of our current and accumulated earnings and profits will not be taxable to a stockholder to the extent they do not exceed the adjusted basis of the stockholder's shares. Instead, they will reduce the adjusted basis of such shares. To the extent that such dividends exceed the adjusted basis of a Non-U.S. Stockholder's shares, they will give rise to tax liability if the Non-U.S. Stockholder would otherwise be subject to tax on any gain from the sale or disposition of his shares, as described in the "Sales of Shares" portion of this Section below.

Distributions Attributable to Sale or Exchange of Real Property. Pursuant to the Foreign Investment in Real Property Tax Act of 1980, or "FIRPTA," distributions that are attributable to gain from our sales or exchanges of USRPIs will be taxed to a Non-U.S. Stockholder as if such gain were effectively connected with a U.S. trade or business. Non-U.S. Stockholders would thus be taxed at the normal capital gain rates applicable to U.S. Stockholders, and would be subject to applicable alternative minimum tax and a special alternative minimum tax in the case of nonresident alien individuals. For these purposes, however, a distribution is not attributable to gain from sales or exchanges by us of a USRPI if we held the underlying asset solely as a creditor, although the holding of a shared appreciation mortgage loan, for example, would not be solely as a creditor. Also, such dividends may be subject to a 30% branch profits tax in the hands of a corporate Non-U.S. Stockholder not entitled to any treaty exemption. However, generally, pursuant to FIRPTA, a capital gain dividend from a REIT is not treated as effectively connected income for a Non-U.S. Stockholder if (a) the distribution is received with respect to a class of stock that is regularly traded on an established securities market located in the United States, and (b) the Non-U.S. Stockholder does not own more than 5% of the class of stock at any time during the one-year period ending on the date of such distribution. Distributions that qualify for this exception are subject to withholding tax in the manner described above as dividends of ordinary income. We anticipate that our shares will be "regularly traded" on an established securities market, although, no assurance can be given that this will be the case.

U.S. Federal Income Tax Withholding on Distributions. For U.S. federal income tax withholding purposes, we generally will withhold tax at the rate of 30% on the amount of any distribution (other than distributions designated as capital gain dividends) made to a Non-U.S. Stockholder, unless the Non-U.S. Stockholder provides us with appropriate documentation (a) evidencing that such Non-U.S. Stockholder is eligible for an exemption or reduced rate under an applicable income tax treaty, generally an IRS Form W-8BEN (in which case we will withhold at the lower treaty rate), or (b) claiming that the dividend is effectively connected with the Non-U.S. Stockholder's conduct of a trade or business within the U.S., generally an IRS Form W-8ECI (in which case we will not withhold tax). We are also generally required to withhold tax at the rate of 35% on the portion of any dividend to a Non-U.S. Stockholder that is or could be designated by us as a capital gain dividend, to the extent attributable to gain on a sale or exchange of an interest in U.S. real property. Such withheld amounts of tax do not represent actual tax liabilities, but rather, represent payments in respect of those tax liabilities described in the preceding two paragraphs. Therefore, such withheld amounts are creditable by the Non-U.S. Stockholder against its actual U.S. federal income tax liabilities, including those described in the preceding two paragraphs. The Non-U.S. Stockholder would be entitled to a refund of any amounts withheld in excess of such Non-U.S. Stockholder's actual U.S. federal income tax liabilities, *provided* that the Non-U.S. Stockholder files applicable returns or refund claims with the IRS.

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Sales of Shares. Unless our common stock constitutes a USRPI, a sale of the stock by a Non-U.S. Stockholder generally will not be subject to U.S. federal income taxation under FIRPTA. The common stock will not be treated as a USRPI if less than 50% of our assets throughout a prescribed testing period consist of interests in real property located within the United States, excluding, for this purpose, interests in real property solely in a capacity as a creditor. We do not expect that 50% or more of our assets will consist of interests in real property located in the United States.

Even if our shares of common stock otherwise would be a USRPI under the foregoing test, our shares of common stock will not constitute a USRPI for a Non-U.S. Stockholder that owns 5% or less of our publicly traded shares throughout a prescribed testing period or if we are "domestically controlled," which generally means that less than 50% in value of our shares continues to be held directly or indirectly by foreign persons during a continuous five-year period ending on the date of disposition or, if shorter, during the entire period of our existence. We cannot assure you that we will qualify as "domestically controlled." If we were not domestically controlled, a Non-U.S. Stockholder's sale of common stock would be subject to tax, unless the common stock was "regularly traded" on an established securities market and the selling Non-U.S. Stockholder has not directly, or indirectly, owned at some time during the five-year period ending on the date of sale more than 5% in value of our outstanding common stock. We anticipate that our common stock will be "regularly traded" on an established securities market for the foreseeable future, although, no assurance can be given that this will be the case.

If the gain on the sale of our common stock were to be subject to U.S. federal income taxation under FIRPTA, the Non-U.S. Stockholder would be subject to the same treatment as U.S. Stockholders with respect to such gain, and the purchaser of such common stock may be required to withhold 10% of the gross purchase price.

Gain recognized by a Non-U.S. Stockholder upon a sale of shares that is not otherwise subject to U.S. federal income taxation under FIRPTA, generally will not be subject to U.S. federal income taxation, *provided* that: (a) such gain is not effectively connected with the conduct by such Non-U.S. Stockholder of a trade or business within the U.S. and (b) the Non-U.S. Stockholder is an individual and is not present in the U.S. for 183 days or more during the taxable year and certain other conditions apply.

If the proceeds of a disposition of common stock are paid by or through a U.S. office of a broker-dealer, the payment is generally subject to information reporting and to backup withholding unless the disposing Non-U.S. Stockholder certifies as to its name, address and non-U.S. status or otherwise establishes an exemption. Generally, U.S. information reporting and backup withholding will not apply to a payment of disposition proceeds if the payment is made outside the U.S. through a foreign office of a foreign broker-dealer. Under Treasury Regulations, if the proceeds from a disposition of common stock paid to or through a foreign office of a U.S. broker-dealer or a non-U.S. office of a foreign broker-dealer that is (a) a "controlled foreign corporation" for U.S. federal income tax purposes, (b) a person 50% or more of whose gross income from all sources for a three-year period was effectively connected with a U.S. trade or business, (c) a foreign partnership with one or more partners who are U.S. persons and who, in the aggregate, hold more than 50% of the income or capital interest in the partnership, or (d) a foreign partnership engaged in the conduct of a trade or business in the U.S., then (x) backup withholding will not apply unless the broker-dealer has actual knowledge that the owner is not a Non-U.S. Stockholder, and (y) information reporting will not apply if the Non-U.S. Stockholder certifies its non-U.S. status and further certifies that it has not been, and at the time the certificate is furnished reasonably expects not to be, present in the U.S. for a period aggregating 183 days or more during each calendar year to which the certification pertains. Prospective foreign purchasers should consult their tax advisors and financial planners concerning these rules.

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With respect to payments made after December 31, 2013, a withholding tax of 30% will be imposed on dividends from, and, after December 31, 2014, the gross proceeds of a disposition of, our common stock paid to certain foreign entities unless various information reporting requirements are satisfied. Such withholding tax will generally apply to non-U.S. financial institutions, which is generally defined for this purpose as any non-U.S. entity that (a) accepts deposits in the ordinary course of a banking or similar business, (b) is engaged in the business of holding financial assets for the account of others, or (c) is engaged or holds itself out as being engaged primarily in the business of investing, reinvesting, or trading in securities, partnership interests, commodities, or any interest in such assets. We will not pay any additional amounts in respect of any amounts withheld. Non-U.S. Stockholders are encouraged to consult their tax advisors regarding the implications of this legislation on their investment in our common stock.

Medicare Tax

Certain net investment income earned by U.S. citizens and resident aliens and certain estates and trusts for taxable years beginning after December 31, 2012 is subject to a 3.8% Medicare tax. Net investment income includes, among other things, dividends on and capital gains from the sale or other disposition of shares of stock. Holders of shares of our common stock should consult their tax advisors regarding the effect, if any, of this tax on their ownership and disposition of such shares.

Foreign Accounts

Withholding taxes may apply to certain types of payments made to "foreign financial institutions" (as specially defined in the Code) and certain other non-U.S. entities. A withholding tax of 30% generally will be imposed on dividends on, and gross proceeds from the sale or other disposition of, our common stock paid to (a) a foreign financial institution unless such foreign financial institution agrees to verify, report and disclose its U.S. accountholders and meets certain other specified requirements or (b) a non-financial foreign entity that is the beneficial owner of the payment unless such entity certifies that it does not have any substantial U.S. owners or furnishes identifying information regarding each substantial U.S. owner and such entity meets certain other specified requirements. Applicable Treasury Regulations provide that these rules generally will apply to payments of dividends on our common stock made after December 31, 2013 and generally will apply to payments of gross proceeds from a sale or other disposition of our common stock after December 31, 2016. We will not pay any additional amounts in respect of any amounts withheld. U.S. Stockholders and Non-U.S. Stockholders are encouraged to consult their tax advisors regarding the particular consequences to them of this legislation and guidance.

Other Tax Considerations

State, Local and Foreign Taxes. We and you may be subject to state, local or foreign taxation in various jurisdictions, including those in which we transact business or reside. Our and your state, local and foreign tax treatment may not conform to the U.S. federal income tax consequences discussed above. Any foreign taxes incurred by us would not pass through to stockholders as a credit against their U.S. federal income tax liability. You should consult your own tax advisors and financial planners regarding the effect of state, local and foreign tax laws on an investment in the common stock.

Legislative Proposals. You should recognize that our and your present U.S. federal income tax treatment may be modified by legislative, judicial or administrative actions at any time, which may be retroactive in effect. The rules dealing with U.S. federal income taxation are constantly under review by Congress, the IRS and the Treasury Department, and statutory changes as well as promulgation of new regulations, revisions to existing statutes, and revised interpretations of established concepts occur frequently. We are not currently aware of any pending legislation that would materially affect our or your taxation as described in this prospectus. You should, however, consult your advisors concerning the status of legislative proposals that may pertain to a purchase of our common stock.

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PLAN OF DISTRIBUTION

We may sell the securities to one or more underwriters for public offering and sale by them or may sell the securities to investors directly or through agents. Any underwriter or agent involved in the offer and sale of the securities will be named in the applicable prospectus supplement. Underwriters and agents in any distribution contemplated hereby may from time to time be designated on terms to be set forth in the applicable prospectus supplement.

Underwriters or agents could make sales in privately negotiated transactions and any other method permitted by law. Securities may be sold in one or more of the following transactions: (a) block transactions (which may involve crosses) in which a broker-dealer may sell all or a portion of the securities as agent but may position and resell all or a portion of the block as principal to facilitate the transaction; (b) purchases by a broker-dealer as principal and resale by the broker-dealer for its own account pursuant to a prospectus supplement; (c) a special offering, an exchange distribution or a secondary distribution in accordance with applicable New York Stock Exchange or other stock exchange rules; (d) ordinary brokerage transactions and transactions in which a broker-dealer solicits purchasers; (e) "at the market" offerings or sales "at the market," within the meaning of Rule 415(a)(4) of the Securities Act, to or through a market maker or into an existing trading market on an exchange or otherwise; (f) sales in other ways not involving market makers or established trading markets, including direct sales to purchasers; or (g) through a combination of any of these methods. Broker-dealers may also receive compensation from purchasers of these securities which is not expected to exceed those customary in the types of transactions involved.

Underwriters or agents may offer and sell the securities at a fixed price or prices, which may be changed in relation to the prevailing market prices at the time of sale or at negotiated prices. We also may, from time to time, authorize underwriters acting as our agents to offer and sell the securities upon the terms and conditions as are set forth in the applicable prospectus supplement. In connection with the sale of securities, underwriters or agents may be deemed to have received compensation from us in the form of underwriting discounts or commissions and may also receive commissions from purchasers of securities for whom they may act as agent. Underwriters or agents may sell securities to or through dealers, and the dealers may receive compensation in the form of discounts, concessions or commissions from the underwriters or the agents and/or commissions from the purchasers for whom they may act as agent.

Any underwriting compensation paid by us to underwriters or agents in connection with the offering of securities, and any discounts, concessions or commissions allowed by underwriters or agents to participating dealers, will be set forth in the applicable prospectus supplement. Underwriters, dealers and agents participating in the distribution of the securities may be deemed to be underwriters, and any discounts and commissions received by them and any profit realized by them on resale of the securities may be deemed to be underwriting discounts and commissions, under the Securities Act. Underwriters, dealers and agents may be entitled, under agreements entered into with us or our Manager, to indemnification against and contribution toward civil liabilities, including liabilities under the Securities Act.

We may have agreements with the underwriters, dealers, agents and remarketing firms to indemnify them against certain civil liabilities, including liabilities under the Securities Act, or to contribute with respect to payments that the underwriters, dealers, agents or remarketing firms may be required to make. Underwriters, dealers, agents and remarketing firms may be customers of, engage in transactions with or perform services for us in the ordinary course of their businesses.

In compliance with the guidelines of the Financial Industry Regulatory Authority, or "FINRA," the aggregate maximum discount, commission or agency fees or other items constituting underwriting compensation to be received by any FINRA member or independent broker-dealer will not exceed 8% of any offering pursuant to this prospectus and any applicable prospectus supplement or pricing

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supplement, as the case may be; and it is anticipated that the maximum commission or discount to be received in any particular offering of securities will be less than this amount.

Any securities issued hereunder (other than common stock) will be new issues of securities with no established trading market. Any underwriters or agents to or through whom such securities are sold by us for public offering and sale may make a market in such securities, but such underwriters or agents will not be obligated to do so and may discontinue any market making at any time without notice. We cannot assure you as to the liquidity of the trading market for any such securities.

The underwriters and the agents and their respective affiliates may be customers of, engage in transactions with and perform services for us, Ares or our Manager in the ordinary course of business.

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LEGAL MATTERS

The legality of the securities offered hereby and certain federal income tax matters will be passed upon for the Company by Proskauer Rose LLP, Los Angeles, California and Venable LLP, Baltimore, Maryland. Certain legal matters in connection with the offering will be passed upon for the underwriters, if any, by the counsel named in the prospectus supplement.

EXPERTS

The consolidated financial statements appearing in our Annual Report (Form 10-K) for the year ended December 31, 2012, have been audited by Ernst & Young LLP, an independent registered public accounting firm, as set forth in their report thereon included therein, and incorporated herein by reference. Such financial statements are, and audited financial statements to be included in subsequently filed documents will be, incorporated herein in reliance upon the reports of Ernst & Young LLP pertaining to such financial statements (to the extent covered by consents filed with the SEC) given on the authority of such firm as experts in accounting and auditing.

WHERE YOU CAN FIND MORE INFORMATION

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

This prospectus is a part of a registration statement on Form S-3 that we have filed with the SEC under the Securities Act covering securities that may be offered under this prospectus. This prospectus does not contain all of the information set forth in the registration statement, certain parts of which are omitted in accordance with the rules and regulations of the SEC.

The SEC allows us to "incorporate by reference" information into this prospectus. This means that we can disclose important information to you by referring you to another document. Any information referred to in this way is considered part of this prospectus from the date we file that document. Any reports filed by us with the SEC after the date of this prospectus and before the date that the offering of securities by means of this prospectus is terminated will automatically update and, where applicable, supersede any information contained in this prospectus or incorporated by reference into this prospectus. We incorporate by reference into this prospectus the following documents or information filed with the SEC (other than, in each case, documents or information deemed to have been furnished and not filed in accordance with SEC rules):

Annual Report on Form 10-K for the fiscal year ended December 31, 2012 (filed April 1, 2013), as amended by Form 10-K/A (filed April 30, 2013);

Current Report on Form 8-K dated April 25, 2013 (filed April 26, 2013); and

the description of our common stock included in our registration statement on Form 8-A (filed April 18, 2012).

All documents that we file (but not those that we furnish) pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act after the date of the initial registration statement of which this prospectus is a part and prior to the effectiveness of the registration statement shall be deemed to be incorporated by reference into this prospectus and will automatically update and supersede the information in this

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prospectus, and any previously filed documents. In addition, all documents that we file (but not those that we furnish) pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act on or after the date of this prospectus and prior to the termination of the offering of any of the securities covered under this prospectus shall be deemed to be incorporated by reference into this prospectus and will automatically update and supersede the information in this prospectus, the applicable prospectus supplement and any previously filed documents.

If you request, either orally or in writing, we will provide you with a copy of any or all documents that are incorporated by reference. Such documents will be provided to you free of charge, but will not contain any exhibits, unless those exhibits are incorporated by reference into the document. Requests should be addressed to us at Two North LaSalle Street, Suite 925, Chicago, IL 60602, Attention: General Counsel, or contact our offices at (312) 324-5900. The documents may also be accessed on our website at *www.arescre.com*.

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Part II
INFORMATION NOT REQUIRED IN PROSPECTUS

Item 14. Other Expenses of Issuance and Distribution.

The following table itemizes the expenses incurred by us in connection with the issuance and registration of the securities being registered hereunder. All amounts shown are estimates except the SEC registration fee. The following table does not include expenses of preparing prospectus supplements and other expenses relating to offerings of particular securities.

SEC registration fee	$ 204,600
FINRA Filing fee	$ 225,500
Accounting fees and expenses*	$
Legal fees and expenses*	$
Printing expenses*	$
Miscellaneous*	$
Total*	$

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* To be provided by amendment.

Gross profit from total operations

$23,433 $9,923 $1,838

We measure gross profit from operations before any allocation of corporate overhead or interest charges to the respective segments. Gross profit is dependent upon the prices received for each of our products, less harvesting, marketing and delivery costs and the direct costs of producing the products, including depreciation expense.

Gross profit from agricultural operations for the year ended September 30, 2011, increased by $12.5 million or 124.3% as compared with the year ended September 30, 2010. Gross profit from total operations increased by $13.5 million or 136.1% year-over-year. The increase in gross profit is primarily due to favorable market prices received for our agricultural products, increases in citrus and cattle production and, to a lesser extent, the increase in crop yield from the additional 4,000 acres of sugarcane planted and the discontinuation of our unprofitable vegetable operations in June 2010.

Gross profits from agricultural operations increased $6.1 million or 155.8% for year ended September 30, 2010, as compared with the fiscal year ended September 30, 2009. Gross profit from total operations increased $8.1 million or 439.9% year-over-year due to our cost-reduction initiatives which began in fiscal 2009. The increase in gross profit from total operations was primarily due to decreases in operating expenses primarily from cattle and sugarcane and, to a lesser extent, vegetables and citrus, in addition to favorable market pricing of our citrus products. During fiscal 2009 and 2010, we implemented cost-reduction initiatives and scaled back certain operations resulting in reductions in certain operating costs and improvements in our gross profit.

Agricultural Operations

Agricultural operations provided approximately 97.3% of total operating revenues for the year ended September 30, 2011, as compared with 96.7% for the year ended September 30, 2010. Agriculture revenues increased by $18.7 million or 24.3% for the year ended September 30, 2011, as compared with the year ended September 30, 2010, due to favorable market prices for citrus, sugarcane and cattle and the increase in production of citrus, sugarcane and cattle.

Bowen

Bowen s operations include the purchase and resale of citrus fruit and providing supply chain management services to Alico, as well as other citrus growers and processors in the State of Florida. Bowen s operations produced revenues of $36.1 million and $28.9 million for the years ended September 30, 2011, and 2010, respectively. Gross profits were $1.0 million and $0.7 million for the years ended September 30, 2011, and 2010, respectively. Due to favorable market pricing of citrus

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and an increase in number of boxes purchased for the year ended September 30, 2011, revenues increased by $7.2 million or 25.0% year-over-year. The number of boxes purchased for the years ended September 30, 2011, and 2010, were 3.0 million and 2.8 million, respectively, an increase of 7.1% year-over-year. Gross profit increased by $0.3 million or 38.4% for the year ended September 30, 2011, as compared with the same period in 2010 due to the same factors as noted above. However, gross profit in fiscal 2011 was negatively impacted by increases in operating expenses resulting from higher fruit costs and harvesting costs.

Bowen s operations produced revenues of $28.9 million and $28.0 million, for the years ended September 30, 2010 and 2009, respectively, an increase of $0.9 million or 3.2%. Gross profits were $0.7 million and $1.3 million, for the years ended September 30, 2010, and 2009, respectively, a decrease of $0.6 million or 45.7%. Gross profits were negatively impacted by increases in citrus prices for purchased fruit during 2010, resulting from a freeze during January of 2010. The number of boxes purchased for the years ended September 30, 2010, and 2009, were 2.8 million for each.

Citrus Groves

The Citrus Groves segment primarily produces citrus fruit for delivery to citrus processors in the State of Florida. Revenues increased in the Citrus Groves segment by $10.6 million or 29.1% for the year ended September 30, 2011, as compared with the same period in 2010. Gross profits increased by $8.6 million or 79.9% for the year ended September 30, 2011, as compared with the year ended September 30, 2010. The increase in revenue and gross profits year-over-year was due to an increase in citrus prices as a result of market supply conditions and increases in our crop yield resulting in lower costs on a per box basis. Citrus prices increased by 17.2% for the year ended September 30, 2011, as compared with the same period of 2010. The number of boxes harvested during the year ended September 30, 2011, was 4.1 million as compared with 3.6 million for the year ended September 30, 2010, an increase of 13.9% year-over-year.

Revenues were $36.5 million and $36.0 million for the fiscal years ended September 30, 2010, and 2009, respectively, an increase of $0.5 million or 1.2% year-over-year and gross profits were $10.7 million and $8.7 million, respectively, an increase of $2.0 million or 23.0%, for the same periods. Citrus prices increased by 9% for the year ended September 30, 2010, as compared with the year ended September 30, 2009, resulting in an increase in revenue and gross profit although the number of boxes harvested decreased year-over by 7.7%. The number of boxes harvested was 3.6 million and 3.9 million for the years ended September 30, 2010, and 2009, respectively. The decrease in the number of boxes harvested resulted from less favorable growing conditions partially due to weather experienced in fiscal 2010. The decrease of $1.6 million in operating expenses for fiscal year 2010, as compared with fiscal year 2009 was primarily due to lower harvesting and marketing costs due to less boxes being harvested.

We use contracts with citrus processors that include pricing structures based on a minimum (floor) price and with a price increase (rise) if market conditions exceed the floor price. Therefore, if pricing in the market is favorable we benefit from the incremental difference between the floor and the final market price.

Sugarcane

Sugarcane operations consist of cultivating sugarcane for sale to a sugar processor. Sugarcane revenue increased by $3.7 million or 90.3% for the year ended September 30, 2011, as compared with the same period in 2010. The gross profit for the year ended September 30, 2011, was $1.0 million as compared with $0.4 million for year ended September 30, 2010, an increase of $0.6 million or 146.7%. The increase in revenues and gross profit was attributable to favorable market prices received for sugarcane and the increase in sugarcane production from the additional 4,000 acres planted as a result of the replanting efforts which began in fiscal 2010. Sugarcane prices increased by 12% for the year ended September 30, 2011, as compared with same period of 2010. Net standard tons of sugarcane harvested were approximately 0.2 million and 0.1 million for the year ended September 30, 2011, and 2010, respectively, an increase of 73%.

To maintain maximum production, sugarcane grown on sandy soil such as Alico s must be replanted every three years. Sugarcane plantings tend to produce less tonnage per acre with each successive crop. Due to dwindling profit margins, uncertainty surrounding the facility where we deliver our sugarcane, and an unfavorable price determinant, we chose to reduce our sugarcane planting activities during the fiscal years beginning in fiscal 2007. As a result, production of sugarcane tonnage steadily declined from fiscal 2007 through fiscal 2010. Improving market conditions, removal of uncertainties concerning the future of the sugar processing facility and a more favorable pricing arrangement with the sugarcane processor

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led us to begin a program in fiscal 2010 to replant our sugarcane fields in order to achieve prior production levels. As a result of this replanting, we have begun to realize an increase in crop yields during fiscal 2011.

Sugarcane revenues were $4.1 million and $7.6 million for the fiscal years ended September 30, 2010, and 2009, respectively. Gross profit (losses) were $0.4 million and $(2.2) million for the years ended September 30, 2010 and 2009, respectively, an increase of $2.6 million or 117.8%. During the fiscal years 2010 and 2009, 0.1 million and 0.2 million standard tons of sugarcane were harvested, respectively, a decrease of 0.1 million or 50.0%. The decrease in standard tons was due to the decision to reduce sugarcane plantings.

During fiscal 2009, we wrote down our sugarcane inventory related to the crop to be harvested during the 2009-2010 season by $1.3 million. The write down of sugarcane inventory was primarily due to a cold front which swept through Florida causing temperatures to drop into the mid twenties during the last week of January and first week of February 2009, resulting in damage to our sugarcane crop and low market prices projected for fiscal year 2010.

Cattle

Revenues from Cattle operations were $4.6 million and $4.0 million for the years ended September 30, 2011, and 2010, respectively, an increase of $0.6 million or 14.3%. Gross profit from our Cattle operations increased by $1.2 million or 445.6% year-over-year. The increase was due to favorable pricing of calves and the reductions in operating expenses of $0.6 million. The total pounds of beef sold were 3.9 million and 4.2 million and the average price received per pound sold was $1.16 and $0.95 for the year ended September 30, 2011, and 2010, respectively.

Revenues from Cattle operations were $4.0 million and $8.2 million, a decrease of $4.2 million or 50.8% for the years ended September 30, 2010, and 2009, respectively. Gross profit (loss) from cattle operations were $0.3 million and $(2.0) million, an increase of $2.3 million or 113.4% for the years ended September 30, 2010, and 2009, respectively. The decrease in revenue year-over-year was due to the decreased number of calves, resulting in a reduction of the total pounds of beef sold, which was partially offset by an increase in the average price per pound sold. During the year ended September 30, 2010, calves were sold directly to third parties from the ranch, rather than retaining ownership through the feedlots.

The total pounds of beef sold were 4.2 million and 9.3 million, a decrease of 5.1 million or 54.8% and the average price received per pound sold was $0.95 and $0.89, an increase of $0.06 or 6.7% for the years ended September 30, 2010, and 2009, respectively. The expense per pound decreased during the year ended September 30, 2010 when compared with same period of 2009, primarily as a result of staff reductions and reductions in nonessential maintenance activities.

In an effort to minimize risk related to its feeding efforts, during the fiscal year ended September 30, 2009, we purchased corn used for cattle feed at the feedyards. Subsequent declines in the price of corn after the purchase resulted in substantial losses. During the fourth quarter of fiscal year ended September 30, 2009, we determined our breeding herd was impaired after independent experts and willing third party buyers valued the breeding herd. The impairment adjustment of $0.8 million was included in the cattle operating expenses for the year ended September 30, 2009.

Based on industry data concerning beef cattle inventory levels and demand projections, Alico currently believes that the outlook for cattle profitability will continue to be positive for the foreseeable future.

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Other Agricultural Operations

Vegetables

Revenues from the sale of vegetables were $3.5 million and $4.8 million for the years ended September 30, 2010, and 2009, respectively; however, due to certain unfavorable weather events, we incurred gross losses of $1.8 million and $1.9 million for the years ended September 30, 2010, and 2009, respectively. As a result of these losses, we terminated our vegetable operations during the third quarter of fiscal 2010 and redeployed the acreage and equipment to our other operating divisions as appropriate. The termination of vegetable farming and redeployment of assets resulted favorably on our results of operations and cash flows in fiscal year 2011.

Other

Other agricultural operations included sod production and the sale of native plants to local landscaping companies. The sale of sod and native plants are not significant to our financial position, results of operations and cash flows.

Non Agricultural Operations

Land leasing

We lease land to others on a tenant-at-will basis for grazing, farming, oil exploration and recreational uses. Revenues from land rentals were $2.4 million, $2.4 million and $2.7 million for the years ended September 30, 2011, 2010 and 2009, respectively, resulting in gross profits of $1.2 million, $1.3 million and $1.6 million. Gross profits decreased by 7.7% for the year ended September 30, 2011 as compared to the same period in 2010. We are currently pursuing additional leases for our farm land.

Liquidity and Capital Resources

(dollars in thousands)	September 30,		
	2011	2010	2009
Cash & cash equivalents	$ 1,336	$ 10,926	$ 18,794
Investments	$ 989	$ 1,439	$ 3,410
Total current assets	$ 29,181	$ 37,441	$ 51,335
Current liabilities	$ 11,827	$ 7,912	$ 12,644
Working capital	$ 17,354	$ 29,529	$ 38,691
Total assets	$ 180,035	$ 188,817	$ 200,235
Notes payable	$ 57,158	$ 73,460	$ 78,928
Current ratio	2.47:1	4.73:1	4.06:1

We believe that our current cash position, revolving credit facility and the cash we expect to generate from operating activities will provide us with sufficient liquidity to satisfy our working capital and capital expenditure requirements for the foreseeable future. We have a $60.0 million revolving line of credit (RLOC). Of the $60.0 million credit facility, approximately $46.0 million was available for our general use at September 30, 2011. See Note 10. Long-Term Debt in the Notes to the Consolidated Financial Statements.

As of September 30, 2011, we had cash and cash equivalents of $1.3 million, as compared with, $10.9 million as of September 30, 2010, a decrease of $9.6 million year-over-year. The decrease in cash and cash equivalents is primarily due to the pay down of our outstanding debt of $16.3 million during fiscal 2011.

In fiscal year 2011, we transferred our operating bank accounts to Rabobank, N.A. (Rabobank), an affiliate of our primary lender, Rabo. We also entered into a cash management agreement with Rabobank designed to minimize the outstanding balance on our RLOC. Our various Rabobank bank accounts are swept daily into a concentration account. A balance of $250,000 must be maintained in the concentration account on a daily basis. Any balances in excess of $250,000 are automatically applied to pay down the line of credit. If the balance in the concentration account falls below the $250,000, minimum draws are made on the revolving line of credit to maintain this target balance. The cash management program minimizes cash balances and outstanding debt on the line of credit.

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In September 2010, we refinanced a term loan and RLOC with Rabo. Under the terms of the refinance, we settled our previous term loan and RLOC with Farm Credit. The refinancing provided for a 10 year $40.0 million term note bearing interest at one month LIBOR plus 250 basis points, payable quarterly. Quarterly principal payments of $0.5 million are due from October 2011 through July 2020 with a balloon payment equal to the remaining unpaid principal and interest due in October 2020. The refinancing also provided us with a $60.0 million RLOC with a 10 year term. The interest rate on the line of credit was initially established at monthly, LIBOR plus 250 basis points. Beginning on February 1, 2011 and each subsequent February 1 until 2020, the interest rate spread over LIBOR is adjusted pursuant to a pricing grid based on our debt service coverage ratio for the immediately preceding fiscal year. The spreads may range from 225 to 275 basis points over monthly LIBOR. On October 1, 2015, the lender may adjust the interest rate spread to any percentage. Rabo must provide a 30 day notice of the new spreads, and we have the right to prepay the outstanding balance without penalty. Closing costs of $1.2 million related to the refinance were paid in September 2010, consisting of document stamps, loan origination fees, and legal and appraisal fees. The closing costs fees were capitalized and are being amortized over the term of the loans.

The IRS examined our tax returns for the 2005 through 2007 tax years. The IRS principally challenged (i) Agri-Insurance s ability to elect to be treated as a United States taxpayer during the years under examination; and (ii) Alico-Agri s ability to recognize income from two real estate sales under the installment method by asserting that Alico-Agri was a dealer in real estate during the years under examination. The IRS claimed additional taxes and penalties due of $31.1 million consisting of $14.5 million in taxes and $16.6 million in penalties but did not quantify the interest on the taxes.

We contested the positions taken by the IRS and pursued resolution through the IRS Appeals process. On November 22, 2011, we reached an agreement in principle to settle the issues. The settlement provides that Agri-Insurance was eligible to elect to be treated as a United States taxpayer. No determination was made as to whether Alico or Alico-Agri was a dealer in real estate; however, for the two sales transactions at issue, we agreed to treat one-third of the taxable gain as ordinary income taxable in the year of sale with the remaining two-thirds treated as capital gain eligible for installment sale treatment. Federal and state taxes and interest due as a result of the settlement are estimated at approximately $0.9 million and $0.7 million, respectively, and have been accrued at September 30, 2011. Federal penalties of $15.3 million were considered by IRS Appeals and have been waived. The remaining $1.3 million in penalties have not yet been considered by IRS Appeals to date but waiver of these penalties would be consistent with the issues resolved in the settlement. The settlement does not preclude us from using the installment sale method with respect to future transactions. See Note 12. Income Taxes and Note 18. Subsequent Events in the Notes to Consolidated Financial Statements.

Cash flows from Operations

Net cash flows provided by operating activities were $16.7 million for the year ended September 30, 2011 which compared favorably to cash provided by operating activities of $7.1 million for year ended September 30, 2010. The change in cash provided by operating activities was due to changes in our working capital accounts: (i) an increase in inventories of $3.8 million due to additional sugarcane acres and, to a lesser extent, additional citrus acres being planted for the 2010-2011 crop year; (ii) a decrease in accounts receivable of $1.2 million due the timing of collections in 2011; (iii) an increase in accounts payable and accrued expenses of $1.8 million due to costs related to the additional plantings of sugarcane and citrus; and (iv) an increase in net income of $7.7 million year-over-year.

During fiscal year 2010, we impaired one parcel of real estate in Polk County, Florida totaling $1.0 million; however, during fiscal year 2009 we recorded several non-cash adjustments to net loss for certain impairments. The impairments related to our breeding herd, two parcels of real estate and auction rate securities totaled approximately $5.9 million during the fiscal year ended September 30, 2009. Additionally, during fiscal year ended September 30, 2009, we adjusted our deferred tax rate and created an allowance account for our charitable contribution carry forward which resulted in net income decreasing by approximately $0.8 million.

During fiscal year 2010, we received an income tax refund of $4.8 million from a net operating loss carryback which resulted from a prior IRS examination settlement.

A settlement agreement with a vendor resulted in a $7.0 million collection in March 2009. Under the terms of the agreement, the vendor admitted no wrongdoing and stipulated that we not divulge the vendor s name or the agreement s circumstances. The payment was recognized in other income during fiscal year 2009.

In fiscal year 2009, we offered an option to former and retired employees to terminate future benefits under a non-qualified defined benefit deferred compensation plan (the Benefit Plan) in exchange for cash equal to the net present value

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of vested future benefits. Payments of $1.4 million were made to participants who elected the option in January 2009. Life insurance policies were liquidated to fund the payments.

During fiscal year 2009, our subsidiary, Alico-Agri, received payment of $2.5 million in escrow for the restructure of a real estate contract (East) with Ginn; however, in April 2009, Ginn defaulted on the East contract. Under the terms of the contract, a quarterly interest payment of $0.3 million was due on March 30, 2009, but the payment was not received. Alico-Agri foreclosed on the property in September 2010.

Cash flows from Investing

Cash used in investing activities for the years ended September 30, 2011 and 2010 was $8.1 million and $6.7 million, respectively. The increase in cash used in investing activities year-over-year is primarily due to capital expenditures in fiscal 2011 of $12.3 million, which included the purchase of our new office building on March 8, 2011, and related improvements totaling $2.9 million. Other capital expenditures during fiscal year 2011 included $4.3 million for sugarcane expansion, $1.6 million for citrus plantings, $1.2 million for cattle and $2.3 million for certain other capital expenditures. During fiscal year 2010 capital expenditures were $8.2 million which included $3.4 million for the development of an additional 4,000 acres of sugarcane plantings. We anticipate our capital expenditures, which include sugarcane plantings, citrus trees replantings, real estate entitlement work and purchasing cattle for breeding purposes to be approximately $9.5 million for fiscal year 2012.

In fiscal year 2011 we received approximately $2.5 million as a return on our investment in Magnolia which we purchased a 39% equity interest for $12.2 million during fiscal year 2010. Also during fiscal year 2010 we received proceeds from the sale of certain other investments totaling $6.7 million and also received proceeds from the surrender of insurance policies of $5.7 million. See Note 6. Investment in Magnolia Fund in the Notes to the Consolidated Financial Statements.

We restructured the funding program for the Benefit Plan in September 2010. As a result of the restructuring, we surrendered certain life insurance policies and received $5.7 million in cash surrender value payments. The Plan does not require Alico to specify a funding source for the Benefit Plan obligations. The remaining life insurance policies or the proceeds from these policies are not required to pay the Benefit Plan obligations.

Cash (used in) provided by investing activities for year ended September 30, 2010 and 2009 was $(6.7) million and $13.8 million, respectively. The decrease in cash from investing activities year-over-year was primarily due to the $12.2 million investment in Magnolia during fiscal year 2010. During fiscal year 2009, Agri-Insurance Company, Ltd. (Agri-Insurance), our wholly owned subsidiary of Alico, was in the process of winding-down its operations. Agri-Insurance had been required to comply with certain liquidity provisions mandated by the Bermuda Monetary Authority. The sale of marketable securities, which had been held to comply with the liquidity provisions of the Bermuda Monetary Authority during fiscal year 2009, provided net investment proceeds of $18.1 million. Cash used for expenditures for land, equipment, buildings and other improvements totaled $8.2 million for fiscal year 2010 and $6.7 million for fiscal year 2009, an increase of $1.5 million.

Cash flows from Financing

Cash used in financing activities was $18.2 million, $8.3 million and $65.8 million for the years ended September 30, 2011, 2010 and 2009, respectively. The cash used in financing activities during 2011 was from net repayments on borrowings of $16.3 million as compared to net repayments on borrowings of $5.5 million during the year ended September 30, 2010. The change in financing activities for fiscal year 2010 as compared with fiscal year 2009 was primarily due to the pre-liquidation proceeds received from the distribution of cash and investments held by Agri-Insurance which was used to pay $53.4 million on the Farm Credit RLOC in January 2009 and $5.4 million on the Farm Credit term loan.

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In September 2010, we refinanced our term loan and revolving line of credit. As a result of the refinancing, approximately $3.4 million of additional interest expense was recognized during the fourth quarter of 2010, consisting of previously unamortized loan origination fees of $0.3 million and prepayment penalties of $3.1 million. Loan origination fees of $1.2 million were paid to Rabo as a result of the refinancing, and are being amortized over the 10 year term of the agreement.

On February 20, 2009, our Board of Directors authorized and our shareholders approved the repurchase of up to 350,000 shares of our common stock through November 1, 2013. In accordance with the 2008 Plan the Board of Directors may grant common stock to certain members of the board for their service and restricted stock grants to executives. Alico may purchase an additional 272,754 shares in accordance with the 2008 Plan. We purchased 48,280 shares in the open market at an average price of $24.96, 23,466 shares in the open market at an average price of $26.74 per share and 25,500 shares at an average price of $27.21 per share during the years ended September 30, 2011, 2010 and 2009, respectively. The cost of the treasury shares purchased was $1.2 million, $0.6 million and $0.9 million for the years ended September 30, 2011, 2010 and 2009, respectively. See Item 5 Issuer Repurchase of Equity Securities and Note 11. Treasury Shares in the Notes to the Consolidated Financial Statements.

We declared dividends of $ 0.12 per share, $0.10 per share and $0.69 per share during the years ended September 30, 2011, 2010 and 2009, respectively. The cash payment of dividends was $0.7 million, $1.0 million and $6.1 million for the years ended September 30, 2011, 2010, and 2009, respectively.

Contractual Obligations and Off Balance Sheet Arrangements

We have various contractual obligations which are recorded as liabilities in our consolidated financial statements.

The following table presents our significant contractual obligations and commercial commitments on an undiscounted basis at September 30, 2011 and the future periods in which such obligations are expected to be settled in cash.

		Payments due by Period *(dollars in thousands)*			
Contractual obligations	**Total**	**< 1 year**	**1 - 3 years**	**3 5 (2) years**	**5 + years**
Long-term debt	$ 57,158	$ 3,279	$ 5,900	$ 4,000	$ 43,979
Interest on long-term debt(1)	11,793	1,632	2,865	2,538	4,758
Citrus purchase contracts	18,207	16,846	1,361		
Retirement benefits	3,970	303	645	697	2,325
Leases	2,663	672	1,517	474	
Total	$ 93,791	$ 22,732	$ 12,288	$ 7,709	$ 51,062

(1) Interest is estimated on our long-term debt at the following rates: 2.76% for the Rabo term loan and revolving line of credit and 6.68% for the Farm Credit Mortgage. See Note 10. Long Term Debt in the Notes to Consolidated Financial Statements.
(2) Includes years 4 and 5 only.

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Purchase Commitments

Alico, through its wholly owned subsidiary Bowen, enters into contracts for the purchase of citrus fruit during the normal course of its business. The obligations under these purchase agreements totaled $18.2 million at September 30, 2011 for delivery in fiscal years 2012 and 2013. Bowen s management currently believes that all committed purchase quantities can be sold at a profit.

Recent Accounting Pronouncements

In June 2011, the Financial Accounting Standards Board (FASB) issued Accounting Standards Update (ASU) No. 2011-05, *Comprehensive Income* (Topic 220): *Presentation of Comprehensive Income*. The ASU amends the FASB Accounting Standards Codification (ASC) to allow an entity the option to present the total of comprehensive income, the components of net income and the components of other comprehensive income either in a single continuous statement of comprehensive income or in two separate but consecutive statements. The ASU eliminates the option to present the components of other comprehensive income as part of the statement of changes in stockholders equity. The amendments to the ASC do not change the items that must be reported in other comprehensive income or when an item of other comprehensive income must be reclassified to net income. ASU 2011-05 should be applied retrospectively. ASU 2011-05 is effective for fiscal years, and interim periods within those years, beginning after December 15, 2011.

The adoption of ASU 2011-05 will not have a material impact on our financial position or results of operations as it only affects financial statement presentation.

On May 12, 2011, the FASB issued ASU No. 2011-04, Fair Value Measurement (Topic 820): *Amendments to Achieve Common Fair Value Measurement and Disclosure Requirements in U.S. GAAP and IFRSs* (ASU 2011-04), which provides guidance on how (not when) to measure fair value and on what disclosures to provide about fair value measurements. ASU 2011-04 expands previously existing disclosure requirements for fair value measurements, including disclosures regarding transfers between Level 1 and Level 2 in the fair value hierarchy currently disclosed. ASU 2011-04 is effective for interim and annual periods beginning after December 15, 2011. We are currently assessing the impact, if any, on our consolidated financial statements.

We do not believe that any other recently issued but not effective accounting standards, if currently adopted, will have a material effect on our financial position, result of operations or cash flows.

Item 7A. Quantitative and Qualitative Disclosure About Market Risk

The principal market risk (i.e., the risk of loss arising from adverse changes in market rates and prices) to which we are exposed is interest rates. The objective of our asset management activities is to provide an adequate level of liquidity to fund operations and capital expansion, while minimizing market risk. We do not actively invest or trade in equity securities. We do not believe that our interest rate risk related to cash equivalents and short-term investments is material due to the nature of the investments.

Our results of operations and cash flows are subject to fluctuations due to changes in interest rates primarily from our variable interest rate long-term debt. Under our current positions, we do not use interest rate derivative instruments to manage exposure to interest rate changes. A change in our interest rate of 100 basis points on our long-term debt would have resulted in additional interest expense of approximately $0.6 million and a decrease in our net income of $0.4 million for the year ended September 30, 2011.

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Item 8. Financial Statements and Supplementary Data.

Index to Consolidated Financial Statements

All schedules are omitted for the reason that they are not applicable or the required information is included in the financial statements or notes.

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Report of Independent Registered Public Accounting Firm

To the Board of Directors and Stockholders

Alico, Inc.

We have audited the accompanying consolidated balance sheets of Alico, Inc. and Subsidiaries as of September 30, 2011 and 2010, and the related consolidated statements of operations, stockholders equity and comprehensive income (loss), and cash flows for each of the three years in the period ended September 30, 2011. These financial statements are the responsibility of the Company s management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of Alico, Inc. and Subsidiaries as of September 30, 2011 and 2010, and the results of their operations and their cash flows for each of the three years in the period ended September 30, 2011, in conformity with U.S. generally accepted accounting principles.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), Alico, Inc. and Subsidiaries internal control over financial reporting as of September 30, 2011, based on criteria established in *Internal Control Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission, and our report dated December 14, 2011, expressed an unqualified opinion on the effectiveness of Alico, Inc. and Subsidiaries internal control over financial reporting.

/s/ McGladrey & Pullen, LLP
Fort Lauderdale, Florida
December 14, 2011

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Report of Independent Registered Public Accounting Firm

To the Board of Directors and Stockholders

Alico, Inc.

We have audited Alico, Inc. and Subsidiaries internal control over financial reporting as of September 30, 2011, based on criteria established in *Internal Control Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission. Alico, Inc. and Subsidiaries management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting included in the accompanying Management s Report on Internal Control Over Financial Reporting. Our responsibility is to express an opinion on the company s internal control over financial reporting based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, and testing and evaluating the design and operating effectiveness of internal control based on the assessed risk. Our audit also included performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

A company s internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company s internal control over financial reporting includes those policies and procedures that *(a)* pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; *(b)* provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and *(c)* provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company s assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

In our opinion, Alico, Inc. and Subsidiaries maintained, in all material respects, effective internal control over financial reporting as of September 30, 2011, based on criteria established in *Internal Control Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the consolidated balance sheets of Alico, Inc. and Subsidiaries as of September 30, 2011 and 2010, and the related consolidated statements of operations, stockholders equity and comprehensive income (loss), and cash flows for each of the three years in the period ended September 30, 2011, and our report dated December 14, 2011 expressed an unqualified opinion.

/s/ McGladrey & Pullen, LLP
Fort Lauderdale, Florida
December 14, 2011

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ALICO INC. AND SUBSIDIARIES

CONSOLIDATED BALANCE SHEETS

	September 30	
	2011	**2010**
	(Dollars in thousands)	
ASSETS		
Current assets:		
Cash and cash equivalents	$ 1,336	$ 10,926
Investments	989	1,439
Accounts receivable, net of an allowance for doubtful accounts $103 in 2011 and $159 in 2010, respectively	2,928	4,389
Income tax receivable	699	1,072
Inventories	22,373	18,601
Other current assets	856	1,014
Total current assets	**29,181**	**37,441**
Mortgages and notes receivable, net of current portion	75	93
Investment in Magnolia Fund	10,283	12,699
Investments, deposits and other non-current assets	2,220	3,666
Deferred tax asset	8,672	9,159
Cash surrender value of life insurance	824	786
Property, buildings and equipment, net	128,780	124,973
Total assets	**$ 180,035**	**$ 188,817**
LIABILITIES & STOCKHOLDERS EQUITY		
Current liabilities:		
Accounts payable	$ 2,946	$ 1,988
Long-term debt, current portion	3,279	1,281
Accrued expenses	1,719	1,025
Dividend payable	882	738
Accrued ad valorem taxes	1,938	1,818
Other current liabilities	1,063	1,062
Total current liabilities	**11,827**	**7,912**
Long-term debt, net of current portion	53,879	72,179
Deferred retirement benefits, net of current portion	3,667	3,489
Total liabilities	**69,373**	**83,580**
Commitments and contingencies		
Stockholders equity:		
Preferred stock, no par value. Authorized 1,000,000 shares; issued and outstanding, none.		
Common stock, $1 par value. Authorized 15,000,000 shares; 7,377,106 and 7,379,229 shares issued and 7,342,513 and 7,371,763 shares outstanding at September 30, 2011 and 2010, respectively	7,377	7,379
Additional paid in capital	9,212	9,310
Treasury stock at cost, 34,593 and 7,466 shares held at September 30, 2011 and 2010, respectively	(862)	(172)
Retained earnings	94,935	88,720
Total stockholders equity	**110,662**	**105,237**
Total liabilities and stockholders equity	**$ 180,035**	**$ 188,817**

See accompanying Notes to Consolidated Financial Statements.

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ALICO, INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF OPERATIONS

	Fiscal Year Ended September 30		
	2011	2010	2009
	(Dollars in thousands, except per share amounts)		
Operating revenues:			
Agricultural operations	$ 95,918	$ 77,192	$ 85,141
Non-agricultural operations	2,674	2,600	3,015
Real estate operations			1,372
Total operating revenues	98,592	79,792	89,528
Operating expenses:			
Agricultural operations	73,293	66,988	81,197
Non-agricultural operations	1,281	1,271	1,228
Real estate operations	585	1,610	5,265
Total operating expenses	75,159	69,869	87,690
Gross profit	23,433	9,923	1,838
Corporate general and administrative	8,196	6,458	9,096
Income (loss) from operations	15,237	3,465	(7,258)
Other (expenses) income:			
Interest and investment (loss) income, net	(1,375)	919	594
Interest expense	(2,020)	(6,879)	(5,430)
Other income, net	685	671	6,961
Profit on sales of bulk real estate			1,646
Total other (expenses) income, net	(2,710)	(5,289)	3,771
Income (loss) before income tax expense (benefit)	12,527	(1,824)	(3,487)
Income tax expense (benefit)	5,430	(1,201)	162
Net income (loss)	$ 7,097	$ (623)	$ (3,649)
Weighted-average number of shares outstanding			
Basic	7,363	7,374	7,377
Diluted	7,363	7,374	7,377
Earnings (loss) per common share			
Basic	$ 0.96	$ (0.08)	$ (0.49)
Diluted	$ 0.96	$ (0.08)	$ (0.49)
Dividends	$ 0.12	$ 0.10	$ 0.69

See accompanying Notes to Consolidated Financial Statements.

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ALICO, INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF STOCKHOLDERS EQUITY

AND COMPREHENSIVE INCOME (LOSS)

(Dollars in thousands)

	Common Stock Shares Issued	Common Stock Amount	Additional Paid in Capital	Treasury Stock at cost	Accumulated Other Comprehensive Income (loss)	Retained Earnings	Total
Balance at September 30, 2008	7,376	$ 7,376	$ 9,474	$ (64)	$ (92)	$ 98,799	$ 115,493
Comprehensive loss:							
Net loss						(3,649)	(3,649)
Unrealized holding gain on securities					2		2
Reclassification of amounts realized in net income					92		92
Deferred taxes on stock option exercises					1		1
Total comprehensive loss:							(3,554)
Stock issuances	1	1	55				56
Dividends						(5,082)	(5,082)
Treasury stock purchases				(934)			(934)
Stock based compensation							
- Directors			(118)	651			533
- Employee			186	91			277
Stock options exercised			(117)	204			87
Balance at September 30, 2009	7,377	7,377	9,480	(52)	3	90,068	106,876
Comprehensive loss:							
Net loss						(623)	(623)
Reclassification of amounts realized in net income					(3)		(3)
Total comprehensive loss:							(626)
Stock issuances	2	2	48				50
Dividends						(725)	(725)
Treasury stock purchases				(628)			(628)
Stock based compensation							
- Directors			(20)	444			424
- Employee			(198)	64			(134)
Balance at September 30, 2010	7,379	7,379	9,310	(172)		88,720	105,237
Comprehensive income:							
Net income						7,097	7,097
Total comprehensive income:							7,097

Stock retirements	(2)	(2)	(48)	50			
Dividends						(882)	(882)
Treasury stock purchases				(1,205)			(1,205)
Stock based compensation							
- Directors			(7)	441			434
- Employee			(43)	24			(19)
Balance at September 30, 2011	7,377	$ 7,377	$ 9,212	$ (862)	$	$ 94,935	$ 110,662

See accompanying Notes to Consolidated Financial Statements.

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ALICO, INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF CASH FLOWS

	Fiscal Year Ended September 30		
	2011	2010	2009
	(Dollars in thousands)		
Cash flows from operating activities:			
Net income (loss)	$ 7,097	$ (623)	$ (3,649)
Adjustments to reconcile net income (loss) to cash provided by operating activities:			
Depreciation and amortization	7,327	7,221	7,544
Allowance for cooperative allocated surplus	1,685		
Non-cash gains and losses	(60)	(663)	(1,358)
Magnolia fund undistributed earnings	(68)	(549)	
Deferred income tax expense, net	563	(259)	(1,288)
Deferred retirement benefits	178	269	458
Asset impairments		980	5,955
Stock based compensation	415	353	865
Changes in operating assets and liabilities:			
Accounts receivable	1,230	(2,627)	3,101
Inventories	(3,772)	136	8,714
Accounts payable and accrued expenses	1,772	(1,087)	(3,644)
Income taxes payable/receivable	373	4,922	113
Other	7	(960)	(404)
Net cash provided by operating activities	16,747	7,113	16,407
Cash flows from investing activities:			
Purchases of property and equipment	(12,265)	(8,203)	(6,705)
Proceeds from surrender of insurance policies		5,704	1,207
Proceeds from disposals of property and equipment	1,221	1,171	543
Purchases of investments	(32)	(12,149)	(9,017)
Proceeds from the sales of investments	450	6,723	27,142
Return on investment in the Magnolia Fund	2,484		
Collection of mortgages and notes receivable	49	85	1,926
Real estate deposits and accrued commissions			(1,324)
Net cash (used for) provided by investing activities	(8,093)	(6,669)	13,772
Cash flows from financing activities:			
Treasury stock purchases	(1,205)	(628)	(934)
Proceeds from notes payable		40,000	3,276
Principal payment of notes payable	(1,281)	(47,127)	(8,706)
Borrowings on revolving line of credit	15,083	90,862	37,600
Repayments on revolving line of credit	(30,104)	(89,203)	(91,000)
Loan origination fees		(1,202)	
Dividends paid	(737)	(1,014)	(6,095)
Proceeds from share-based exchanges			104
Net cash used for financing activities	(18,244)	(8,312)	(65,755)
Net decrease in cash and cash equivalents	(9,590)	(7,868)	(35,576)
Cash and cash equivalents at beginning of year	10,926	18,794	54,370

Cash and cash equivalents at end of year	$ 1,336	$ 10,926	$ 18,794

Continued

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ALICO, INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF CASH FLOWS

	Fiscal Year Ended September 30		
	2011	**2010**	**2009**
	(Dollars in thousands)		
Supplemental disclosures of cash flow information:			
Cash paid for interest, net of amount capitalized	$ 1,925	$ 4,641	$ 5,963
Cash paid for income taxes, including related interest	$ 4,495	$	$ 1,216
Non-cash investing activities:			
Reclassification of breeding herd to property and equipment	$	$ 557	$ 552
Reclassification of foreclosed mortgage to property and equipment	$	$ 5,950	$

See accompanying Notes to Consolidated Financial Statements.

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ALICO, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

September 30, 2011, 2010 and 2009

(Dollars in thousands)

Note 1. Nature of Operations

Alico Inc. (Alico) and its wholly owned subsidiaries, (together with Alico, collectively, the Company) is a land management company primarily engaged in a variety of agribusiness pursuits in addition to land leasing, rock and sand mining and real estate operating in Central and Southwest Florida.

Note 2. Basis of Presentation and Significant Accounting Policies

Principles of Consolidations

The consolidated financial statements include the accounts of Alico, Inc., and its wholly owned subsidiaries, (the Company), Alico Land Development, Inc. (ALDI), Agri-Insurance Company, Ltd. (Agri-Insurance), Alico-Agri, Ltd., Alico Plant World, LLC and Bowen Brothers Fruit, LLC (Bowen). Agri-Insurance was liquidated in September 2010. All significant intercompany accounts and transactions have been eliminated in consolidation.

Reclassifications

Certain reclassifications have been made to the prior years consolidated financial statements to conform to the 2011 presentation. These reclassifications had no impact on working capital, net income, stockholders equity or cash flows as previously reported.

Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States (GAAP) requires management to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenues and expenses and disclosure of contingent assets and liabilities at the date of the financial statements, and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates based upon future events. The Company periodically evaluates the estimates. The estimates are based on current and expected economic conditions, historical experience and various other specific assumptions that the Company believes to be reasonable.

Revenue Recognition

Revenue from agricultural crops is recognized at the time the crop is harvested and delivered to the customer. Management reviews the reasonableness of the revenue accruals quarterly based on buyers and processors advances to growers, cash and futures markets and experience in the industry. Adjustments are made throughout the year to these estimates as more current relevant information regarding the specific markets become available. Differences between the estimates and the final realization of revenue can be significant and can be either positive or negative. During the periods presented in this report, no material adjustments were noted to the reported revenues of Alico s crops.

Alico recognizes revenue from cattle sales at the time the cattle are sold.

Bowen s operations primarily consist of providing supply chain management services to Alico, as well as to other citrus growers and processors in the State of Florida. Bowen also purchases and resells citrus fruit; in these transactions, Bowen (i) acts as a principal; (ii) takes title to the products; and (iii) has the risks and rewards of ownership, including the risk of loss for collection, delivery or returns. Therefore, Bowen recognizes revenue based on the gross amounts due from customers for its marketing activities. Supply chain management services revenues are recognized when the services are performed.

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Cash and Cash Equivalents

Cash includes cash on hand, bank demand accounts and money market accounts having original maturities at acquisition date of 90 days or less. At various times throughout the year and at September 30, 2011, some deposits held at financial institutions were in excess of federally insured limits. The Company has not experienced any losses related to these balances, and believes credit risk to be minimal.

Accounts receivable

Accounts receivable are generated from the sale of citrus, sugarcane, cattle, leasing and other transactions. The Company provides an allowance for doubtful trade receivables equal to the estimated uncollectible amounts. That estimate is based on historical collection experience, current economic and market conditions, and a review of the current status of each customer s account.

Fair Value of Financial Instruments

The carrying amounts of the Company s financial instruments, including cash and cash equivalents, certificates of deposit, accounts receivable, mortgages and notes receivable, accounts payable and accrued expenses approximate their fair value because of the immediate or short term nature of these assets and liabilities. Where stated interest rates are below market, Alico has discounted mortgage notes receivable to reflect their estimated fair value. The carrying amounts of long-term debt approximates fair value because the transactions are with commercial lenders at interest rates that vary with market conditions and fixed rates that approximate market rates for similar obligations. See Note 3, Fair Value Measurements.

Major Customers

For the fiscal year ended September 30, 2011, our largest customer, United States Sugar Corporation, (USSC) and its wholly owned subsidiary Southern Gardens, accounted for 28% of operating revenue. Since the inception of its sugarcane program in 1988, the Company has sold 100% of its product to USSC, a local Florida sugar mill. Additionally, Alico sells citrus products to Southern Gardens. While the Company believes that it can replace the citrus processing portion of the contracts with other customers, it may not be able to do so quickly and the results may not be as favorable as the current contracts. Due to the location of the Company s sugarcane fields relative to the location of alternative processing plants, the loss of USSC as a customer would have an adverse material impact on the Company s sugarcane operations.

Sales to and receivables from USSC and other major customers are as follows for the years ended September 30, 2011, 2010 and 2009:

	Accounts receivable		Revenue			% of Total Revenue		
	2011	2010	2011	2010	2009	2011	2010	2009
USSC	$ 1,180	$ 697	$ 7,796	$ 4,097	$ 7,624	8%	5%	9%
Southern Gardens	$	$ 1,795	$ 19,950	$ 14,471	$ 14,031	20%	18%	16%
Florida Orange Marketers, Inc.	$	$	$ 17,743	$ 14,362	$ 13,490	18%	18%	15%
Citrosuco North America, Inc.	$	$	$ 17,416	$ 4,468	$ 9,973	18%	6%	11%
Louis Dreyfus	$	$	$ 12,069	$ 3,844	$ 4,124	12%	5%	5%

Real Estate

In recognizing revenue from land sales, Alico applies specific sales recognition criteria to determine when land sales revenue can be recorded. For example, in order to fully recognize gain resulting from a real estate transaction, the sale must be consummated with a sufficient down payment of at least 20% to 25% of the sales price depending upon the type and timeframe for development of the property sold, and any receivable from the sale cannot be subject to future subordination. In addition, the seller cannot retain any material continuing involvement in the property sold. When these criteria are not met the Company recognizes gain proportionate to collections utilizing either the installment method or deposit method as appropriate.

Real estate costs incurred for the acquisition, development and construction of real estate projects are capitalized. Properties are tested for impairment whenever events or changes in circumstances indicate that the carrying amount may not

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be recoverable.

Investments

Investments are carried at their fair value. Net unrealized investment gains and losses that are considered to be temporary are recorded net of related deferred taxes in accumulated other comprehensive income in stockholders equity until realized. Unrealized losses determined to be other than temporary are recognized in the statement of operations in the period the determination is made. The cost of all investments is determined on the specific identification method. See Note 6. Investment in Magnolia.

Inventories

The costs of growing crops are capitalized into inventory until the time of harvest. Such costs are expensed when the crops are harvested and are recorded in agricultural operations operating expenses in the Statement of Operations. Inventories are stated at the lower of cost or net realizable value. The cost for unharvested citrus and sugarcane crops is based on accumulated production costs incurred during the period from January 1 through the balance sheet date. The cost of the beef cattle inventory is based on the accumulated cost of developing such animals for sale.

Mortgages and notes receivable

Mortgages and notes receivable arise from real estate sales. Mortgages and notes receivable are carried at their estimated net realizable value. In circumstances where the stated interest rate is below the prevailing market rate, the note is discounted to yield the market rate of interest. The discount offsets the carrying amount of the mortgages and notes receivable.

Under the installment method of accounting, gains from commercial or bulk land sales are not recognized until payments received for property equal or exceed 20% of the contract sales price for property to be developed within two years after the sale or 25% of the contract sales price for property to be developed after two years. Such gains are recorded as deferred revenue and offset the carrying amount of the mortgages and notes receivable.

Property, Buildings and Equipment

Property, buildings and equipment are stated at cost, net of accumulated depreciation or amortization. Major improvements are capitalized while maintenance and repairs are expensed in the period the cost is incurred. Costs related to the development of citrus groves through planting of trees are capitalized. Such costs include land clearing, excavation and construction of ditches, dikes, roads, and reservoirs, among other costs. After the planting, caretaking costs or pre-productive maintenance costs are capitalized for four years. After four years, a grove is considered to have reached maturity and the accumulated costs, except for land excavation, are depreciated over 25 years.

Costs related to the development of sugarcane are capitalized in a similar manner as citrus groves. However, sugarcane matures in one year and typically the Company will harvest an average of three crops (one per year) from one planting. As a result, cultivation and caretaking costs are expensed as the crop is harvested, while the development and planting costs are depreciated over three years.

The breeding herd consists of purchased animals and animals raised on the Company s ranch. Purchased animals are stated at the cost of acquisition. The cost of animals raised on the ranch is based on the accumulated cost of developing such animals for productive use.

Depreciation is computed using the straight-line method over the estimated useful lives of the various classes of depreciable assets.

The estimated useful life for property, buildings and equipment is as follows:

Breeding herd	6-7 years
Buildings	10-40 years
Citrus trees	25 years
Sugarcane	3 years
Equipment and other facilities	3-20 years

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Impairment of Long-Lived Assets

The Company reviews its long-lived assets for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. The Company records impairment losses on long-lived assets used in operations, other than goodwill, when events and circumstances indicate that the assets might be impaired and the estimated cash flows (discounted and without interest charges) to be generated by those assets over the remaining lives of the assets are less than the carrying amount of those items. Our cash flow estimates are based on historical results adjusted to reflect our best estimates of future market conditions and operating conditions. The net carrying value of assets not recoverable is reduced to fair value. See Note 7. Property, Building and Equipment for further discussion.

Investments, Deposits and Other Non-Current Assets

Investments, deposits and other non-current assets primarily include stock owned in agricultural cooperatives and loan origination fees. Investments in stock related to agricultural co-ops and deposits are carried at cost. The Company uses a cooperative to harvest sugarcane. The cooperatives require members to acquire stock ownership as a condition for the use of its services.

Income Taxes

The Company follows the asset and liability method of accounting for deferred taxes. The provision for income taxes includes income taxes currently payable and those deferred as a result of temporary differences between the financial statements and tax bases of assets and liabilities. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect of a change in tax rates on deferred tax assets and liabilities is recognized in income or loss in the period that includes the enactment date. A valuation allowance is provided to reduce deferred tax assets to the amount of future tax benefit when it is more likely than not that some portion of the deferred tax assets will not be realized. Projected future taxable income and ongoing tax planning strategies are considered and evaluated when assessing the need for a valuation allowance. Any increase or decrease in a valuation allowance could have a material adverse or beneficial impact on the Company s income tax provision and net income or loss in the period the determination is made. The Company recognizes interest and/or penalties related to income tax matters in income tax expense.

Earnings per Share

Basic earnings (loss) per share is calculated by dividing net income (loss) by the weighted average number of common shares outstanding for the period. Diluted earnings (loss) per share is calculated by dividing net income (loss) by the weighted average number of common shares outstanding for the period, including all potentially dilutive shares issuable under outstanding stock options and restricted stock unless the effect is anti-dilutive. There were no stock options outstanding at September 30, 2011, 2010 and 2009. The non-vested restricted shares entitle the holder to receive non-forfeitable dividends upon issuance and are included in the calculation of basic earnings per share.

The following table presents a reconciliation of weighted average shares outstanding:

	2011	2010	2009
Basic weighted average shares outstanding	7,363	7,374	7,377
Incremental weighted average effect of stock options			
Incremental weighted average effect of non-vested restricted stock			
Diluted weighted average shares outstanding	7,363	7,374	7,377

Accumulated Other Comprehensive Income

Comprehensive income is defined as the change in equity of a business enterprise during a period from transactions and other events and circumstances from non-owner sources. It includes both net income or loss and other comprehensive income or loss. Items included in other comprehensive income or losses are classified based on their nature. The total of other comprehensive income or loss for a period has been transferred to an equity account and displayed as accumulated other comprehensive income in the accompanying Consolidated Balance Sheets.

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Stock-Based Compensation

Stock-based compensation cost is measured at the grant date based on the fair value of the award and is typically recognized as expense on a straight-line basis over the vesting period. Upon the vesting of restricted stock, the Company issues common stock from shares held in treasury.

Effective November 1, 2008, the Company adopted the 2008 Alico, Inc. Incentive Equity Plan (the 2008 Plan) approved by the shareholders on February 20, 2009. In accordance with the 2008 Plan, the Board of Directors may grant stock options, stock appreciation rights, and/or restricted stock to certain directors and employees of the Company. The 2008 Plan authorized the purchase of 350,000 shares of previously issued shares of the Company s common stock. The 2008 Plan replaced the 1998 Plan which expired in November of 2008.

Alico measures the cost of employee services on the grant-date fair value of the award. The cost is recognized over the period during which an employee is required to provide service in exchange for the award (usually the vesting period). The grant date fair value of employee share options and similar instruments are estimated using option-pricing models adjusted for the unique characteristics of those instruments (unless observable market prices for the same or similar instruments are available).

The Company maintains a stock incentive plan whereby awards may be granted to executives in various forms including restricted shares of Company s common stock. Awards are discretionary and are determined by the Compensation Committee of the Board of Directors. Awards vest based upon service conditions. Non-vested restricted shares generally vest over requisite service periods of one to six years from the date of grant.

Total stock-based compensation expense recognized on the Consolidated Statements of Operations for the three years ended September 30, 2011 in real estate operations and general and administrative expense was as follows:

Restricted stock expense	**2011**	**2010**	**2009**
Executives	$	$ (83)	$ 328
Board Of Directors	415	436	537
Total restricted stock expense	$ 415	$ 353	$ 865

The Company is recognizing compensation cost equal to the fair value of the stock at the grant dates prorated over the vesting period of each award. The fair value of the unvested restricted stock awards at September 30, 2011, was $148 thousand and will be recognized over the remaining service period.

No stock options were granted in fiscal 2011, 2010 or 2009.

Variable Interest and Equity Method Investments

The Company evaluates investments in which it does not hold an equity interest of at least 50% based on the amount of control it exercises over the operations of the investee, exposure to losses in excess of its investment, the ability to significantly influence the investee and whether Alico is the primary beneficiary of the investee. Investments held not meeting the above criteria are accounted for under the equity method whereby the ongoing investment in the entity, consisting of its initial investment adjusted for distributions, gains and losses of the entity are classified as a single line in the balance sheet and as a non-operating item in the income statement. The Company accounts for its investment in Magnolia, TC2, LLC, (Magnolia) under the equity method. See Note 6. Investment in Magnolia for further discussion.

Recent Accounting Pronouncements

In June 2011, the FASB issued ASU No. 2011-05, *Comprehensive Income* (Topic 220): *Presentation of Comprehensive Income*. The ASU amends the FASB Accounting Standards Codification (ASC) to allow an entity the option to present the total of comprehensive income, the components of net income and the components of other comprehensive income either in a single continuous statement of comprehensive income or in two separate but consecutive statements. The ASU eliminates the option to present the components of other comprehensive income as part of the statement of changes in stockholders equity. The amendments to the ASC do not change the items that must be reported in other comprehensive income or when an item

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of other comprehensive income must be reclassified to net income. ASU 2011-05 should be applied retrospectively. ASU 2011-05 is effective for fiscal years and interim periods within those years, beginning December 15, 2011.

The adoption of ASU 2011-05 will not have a material impact on the Company s financial position, results of operations and cash flows as it only affects financial statement presentation.

On May 12, 2011, the FASB issued ASU No. 2011-04, Fair Value Measurement (Topic 820): *Amendments to Achieve Common Fair Value Measurement and Disclosure Requirements in U.S. GAAP and IFRSs* (ASU 2011-04), which provides guidance on how (not when) to measure fair value and on what disclosures to provide about fair value measurements. ASU 2011-04 expands previously existing disclosure requirements for fair value measurements, including disclosures regarding transfers between Level 1 and Level 2 in the fair value hierarchy currently disclosed. ASU 2011-04 is effective for the interim and annual periods beginning after December 15, 2011. The Company is currently assessing the impact, if any, on its consolidated financial statements.

The Company does not believe that any other recently issued but not effective accounting standards, if currently adopted, will have a material effect on its financial position, result of operations or cash flows.

Note 3. Fair Value Measurements

The Company follows the provisions of ASC 820 Fair Value Measurements and Disclosure Topic for its financial and non-financial assets and liabilities. ASC 820, among other things, defines fair value, establishes a framework for measuring fair value and expands disclosure for each major asset and liability category measured at fair value on either a recurring or nonrecurring basis. The majority of the carrying amounts of the Company s assets and liabilities including cash, accounts receivable, accounts payable and accrued expenses at September 30, 2011 and 2010, approximate fair value because of the immediate or short term maturity of these items. Our certificates of deposit are valued by discounting the related cash flows based on current yields of similar instruments with comparable durations considering the credit-worthiness of the issuer. Certificates of deposit are valued using Level 1 inputs. In the event that stated interest rates are below market, Alico discounts mortgage notes receivable to reflect their estimated fair value. The carrying amounts reported for long-term debt approximates fair value as the Company s borrowings with commercial lenders are at interest rates that vary with market conditions and fixed rates that approximate market rates for comparable loans.

ASC 820 clarifies that fair value is an exit price representing the amount that would be received upon the sale of an asset or paid to transfer a liability in an orderly transaction between market participants. As such, fair value is a market-based measurement that should be determined based on assumptions that market participants would use in pricing an asset or liability. As a basis for considering such assumptions, ASC 820 establishes a three-tier fair value hierarchy which prioritizes the inputs used in measuring fair value as follows:

Level 1- Observable inputs such as quoted prices in active markets;

Level 2- Inputs, other than the quoted prices in active markets, that are observable either directly or indirectly; and

Level 3- Unobservable inputs in which there is little or no market data, such as internally-developed valuation models which require the reporting entity to develop its own assumptions.

There were no gains or losses included in earnings attributable to changes in non-realized gains or losses relating to assets held at 2011 and 2010. In fiscal year 2009, we recorded unrealized holding gains of $2 thousand as other comprehensive income in consolidated statement of stockholders equity and comprehensive income.

Alico uses third party service providers to evaluate its investments. For investment valuations, current market interest rates, quality estimates by rating agencies and valuation estimates by active market participants were used to determine values. Deferred retirement benefits were valued based on actuarial data, contracted payment schedules and an estimated discount rate of 4.5% and 4.8% at September 30, 2011 and 2010, respectively.

The Company evaluated its properties for impairment using Level 3 inputs during the year ended September 30, 2010, which resulted in an impairment charge of $980 thousand to a Polk County property; the remaining carrying value of the property was $2.0 million. See Note 7. Property, Buildings and Equipment.

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Note 4. Investments, deposits and other assets

Investments, deposits and other assets consist of the following:

(dollars in thousands)	September 30, 2011			September 30, 2010		
	Current	Non-current	Total	Current	Non-current	Total
Certificates of deposit	$ 989	$ 120	$ 1,109	$ 1,439	$ 119	$ 1,558
Loan origination fees		1,075	1,075		1,231	1,231
Stock in agricultural cooperatives		560	560		374	374
Deposits		263	263		102	102
Water Permits		162	162		72	72
Tax certificates		2	2		164	164
Cooperative retains receivable, net (a)					1,454	1,454
Escrowed funds					150	150
Other		38	38			
Total	$ 989	$ 2,220	$ 3,209	$ 1,439	$ 3,666	$ 5,105

(a) During the second quarter of 2011, the Company fully reserved $1.7 million in cooperative allocated surplus it had recorded based on its patronage allocation with Farm Credit.

As an agricultural credit cooperative, Farm Credit is owned by the member-borrowers who purchase stock and earn participation certificates which represent each members-borrowers respective share of the allocated surplus in the cooperative. Allocations of the surplus are made to members on an annual basis according to the proportionate amount of interest paid by each member. Allocations are made in cash and non-cash participation certificates.

Farm Credit did not make any distributions of allocated surplus during 2010 and subsequently announced in 2011 the indefinite suspension of any future distributions of members allocated surplus; therefore, the Company determined that the entire amount was uncollectible as no future revolvement plan has been established. The full reserve of the $1.7 million is included in interest and investment income, net, in the accompanying consolidated statements of operations.

Realized gains and losses on the disposition of securities and recognition of the full reserve of the patronage allocation with Farm Credit were charged to interest and investment income and include the following:

(dollars in thousands)	Fiscal year ended September 30		
	2011	2010	2009
Realized gains	$ 139	$ 281	$ 16
Realized losses	(1,685)	(40)	(930)
Net (loss) gain	$ (1,546)	$ 241	$ (914)

Note 5. Inventories

Inventories consist of the following at September 30, 2011 and 2010:

(dollars in thousands)	2011	2010
Unharvested fruit crop on trees	$ 14,050	$ 13,164
Unharvested sugarcane	7,320	4,641

Beef cattle	791	650
Sod		84
Other	212	62
Total inventories	$ 22,373	$ 18,601

The Company records its inventory at the lower of cost or net realizable value. For the years ended September 30, 2011 and 2010, the Company did not record any adjustments to inventory. During the year ended September 30, 2009, the Company recorded the following net realizable value adjustments to inventory; (i) Unharvested sugarcane totaling $1,286 thousand, (ii) Beef cattle totaling $1,011 thousand; and (iii) Plants and vegetables totaling $658 thousand. All adjustments to

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inventory resulted from changing market conditions for the respective crops and cattle and were recognized as operating expenses.

Note 6. Investment in Magnolia Fund

In May 2010, Alico invested $12.2 million to obtain a 39% limited partner equity interest in Magnolia TC 2, LLC (Magnolia) a Florida limited liability company whose primary business activity is acquiring tax certificates issued by various counties in the State of Florida on properties which have property tax delinquencies. In Florida, such certificates are sold at general auction based on a bid interest rate. If the property owner does not redeem such certificate within two years, which requires the payment of delinquent taxes plus the bid interest, a tax deed can be obtained by the winning bidder who can then force an auctioned sale of the property. Tax certificates hold a first priority lien position.

Revenue is recognized by Magnolia when the interest obligation under the tax certificates it holds becomes a fixed amount. In order to redeem a tax certificate in Florida, a minimum of 5% of the face amount of the certificate (delinquent taxes) must be paid to the certificate holder regardless of the amount of time the certificate has been outstanding. Magnolia recognized the minimum 5% earnings on its tax certificate portfolio in fiscal 2010. Expenses of Magnolia include an acquisition fee of 1%, interest expense, a monthly management fee and other administrative costs.

The investment in Magnolia is accounted for in accordance with the equity method of accounting, whereby the Company records its 39% interest in the reported income or loss of the fund each quarter. Based on the September 30, 2011, unaudited internal financial statements of Magnolia, Alico recorded net investment income of $68 thousand for the year ended September 30, 2011, as compared with investment income of $549 thousand for the year ended September 30, 2010. Magnolia made certain distributions during the year ended September 30, 2011; the Company s share of those distributions was approximately $ 2.5 million.

Note 7. Property, Buildings and Equipment, Net

Property, buildings and equipment consist of the following at September 30, 2011 and 2010:

	2011	2010
Breeding herd	$ 10,799	$ 10,924
Buildings	10,925	9,697
Citrus trees	35,939	34,359
Sugarcane	10,462	7,539
Equipment and other facilities	40,708	40,490
Total depreciable properties	108,833	103,009
Less accumulated depreciation and depletion	65,104	61,562
Net depreciable properties	43,729	41,447
Land and land improvements	85,051	83,526
Net property, buildings and equipment	$ 128,780	$ 124,973

Depreciation expense for property, buildings and equipment was $7.3 million, $7.2 million and $7.5 million for the year ended September 30, 2011, 2010 and 2009, respectively.

Due to the continuing depressed market prices of real estate in Florida, the Company evaluated several of its properties for impairment at September 30, 2011, 2010 and 2009. In conducting its evaluation, the Company reviewed the estimated non-discounted cash flows from each of the properties or obtained independent third party appraisals from a qualified real estate appraiser. Impairment charges of $1.0 million and $4.3 million were recorded in 2010 and 2009, respectively.

During fiscal 2009, due to the losses in the cattle division and increasing costs to raise cattle for breeding purposes, the Company evaluated its breeding herd for impairment using market observations and quotes for similar herds based on ages, condition and pregnancies. The Company recorded $813 thousand in impairment charges for its breeding herd in 2009. No impairment charges were recorded for the breeding herd during

2011 or 2010.

Alico-Agri foreclosed on a parcel of property in Lee County, Florida and took possession of the property in September

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2010. Pursuant to the foreclosure, the net balance of the mortgage note, deferred revenue, accrued interest, tax certificates and the associated accrued commission payable totaling $6.6 million were reclassified as basis in the property.

The table below summarizes impairments recorded to fixed assets during the past three fiscal years:

	Polk County Property	Plant World Property	Breeding Herd
Acreage	290	50	N/A
Remaining adjusted carrying value at September 30, 2008	$ 5,820	$ 3,610	$ 12,108
Less: Depreciation		(477)	(371)
Adjusted basis before impairments	5,820	3,133	11,737
Other (1)			(145)
Impairments recognized during fiscal years ended:			
September 30, 2009	(2,790)	(1,460)	(813)
September 30, 2010	(980)		
September 30, 2011			
Remaining adjusted carrying value at September 30, 2011	$ 2,050	$ 1,673	$ 10,779

(1) Includes additions, sales and deaths of the breeding herd from September 30, 2009 through September 30, 2011.

Note 8. Accrued Expenses

Accrued expenses consist of the following at September 30, 2011 and 2010:

	2011	2010
Accrued employee wages and benefits	$ 802	$ 451
Accrued interest	433	20
Current portion of retirement benefits payable	303	303
Other	181	251
Total accrued expenses	$ 1,719	$ 1,025

Note 9. Other Current Liabilities

Other current liabilities consist of the following at September 30, 2011 and 2010:

	2011	2010
Deposits Farm land leases	$ 230	$ 326
Deposits Recreation land leases	622	598
Deposits Other	22	25
Deferred tax liability	189	113

Total other current liabilities	$ 1,063	$ 1,062

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Note 10. Long-Term Debt

Outstanding debt under the Company s various loan agreements is presented in the table below:

	Revolving line of Credit	Term note	Mortgage note payable	All other	Total
September 30, 2011					
Principal balance outstanding	$ 13,979	$ 40,000	$ 3,167	$ 12	$ 57,158
Remaining available credit	$ 46,021				$ 46,021
Effective interest rate	2.72%	2.72%	6.68%	Various	
Scheduled maturity date	Oct. 2020	Oct. 2020	March 2014	Various	
Collateral	Real Estate	Real Estate	Real Estate	Various	
September 30, 2010					
Principal balance outstanding	$ 29,000	40,000	$ 4,433	$ 27	$ 73,460
Remaining available credit	$ 31,000				$ 31,000
Effective interest rate	2.76%	2.76%	6.68%	Various	
Scheduled maturity date	Oct. 2020	Oct. 2020	March 2014	Various	
Collateral	Real Estate	Real Estate	Real Estate	Various	

The Company has a revolving line of credit and term loan with Rabo AgriFinance, Inc. (Rabo) totaling $100.0 million and a mortgage of approximately $3.2 million with Farm Credit. The revolving line of credit is collateralized by 44,277 acres of farmland, and the term note is collateralized by 12,280 acres of property containing approximately 8,600 acres of producing citrus groves. The mortgage is collateralized by 7,680 acres of real estate in Hendry County used for farm leases, sugarcane and citrus production.

The term loan requires quarterly payments of interest at a floating rate of one month LIBOR plus 250 basis points beginning October 1, 2010. Quarterly principal payments of $0.5 million, together with accrued interest, began on October 1, 2011 and continue until October 1, 2020, when the remaining principal balance and accrued interest will be due and payable.

The Rabo credit facility also provides a ten year $60.0 million revolving line of credit which bears interest at a floating rate equal to one month LIBOR plus 250 basis points on the outstanding balance payable quarterly beginning October 1, 2010. Thereafter, quarterly interest will be payable on the first day of January, April, July and October until the revolving line of credit matures on October 1, 2020 and the remaining principal balance and accrued interest shall be due and payable. Proceeds from the revolving line of credit may be used for general corporate purposes including: (i) the normal operating needs of Alico and its operating divisions, (ii) the purchase of capital assets; and (iii) the payment of dividends.

The interest rate on the revolving line of credit was initially established at one month LIBOR plus 250 basis points. Beginning on February 1, 2011 and each subsequent February 1 through 2020, the interest rate spread over LIBOR is adjusted pursuant to a pricing grid based on our debt service coverage ratio for the immediately preceding fiscal year. The spreads may range from 225 to 275 basis points over one month LIBOR. The rate was not adjusted at February 1, 2011, and remains at LIBOR plus 750 basis points at September 30, 2011. On October 1, 2015, the lender may adjust the interest rate spread to any percentage. Rabo must provide a 30 day notice of the new spreads, and the Company has the right to prepay the outstanding balance.

Loan origination fees incurred as a result of entry into the Rabo credit facility loan agreement, including appraisal fees, document stamps, legal fees and lender fees of approximately $1.2 million were capitalized in fiscal year 2010 and are being amortized over the term of the loan agreement

The Rabo credit facility contains the following significant covenants: (i) minimum current ratio of 2.0:1, (ii) debt ratio no greater than 60%, (iii) tangible net worth of at least $80 million, and (iv) minimum debt coverage of 1.15:1. At September 30, 2011, and 2010, the Company was in compliance with the debt covenants and terms in accordance with the Rabo loan agreements.

The Company also transferred its operating bank accounts to Rabobank, an affiliate of Rabo, and entered into a cash management agreement with Rabo designed to minimize the outstanding balance on our revolving line of credit. The Rabobank bank accounts are swept daily into a concentration account. A balance of $250 thousand must be maintained in the

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concentration account on a daily basis. Any balances in excess of $250 thousand are automatically applied to pay down the revolving line of credit. If the balance in the concentration account falls below $250 thousand, draws are made on the revolving line of credit to maintain this target balance. The Company s cash and cash equivalents balance decreased by $9.6 at September 30, 2011 as compared with September 30, 2010 due to the cash management agreement as described above.

The Farm Credit mortgage note requires monthly principal payments of $106 thousand plus accrued interest until maturity.

In September 2010, the Company entered into an agreement with Rabo for $100 million to refinance the term loan and revolving line of credit with Farm Credit. Proceeds from the refinancing agreement were used to extinguish the term loan and revolving line of credit with Farm Credit. The prepayment of the term loan with Farm Credit resulted in the Company incurring a one-time charge of $3.1 million and the recognition of approximately $305 thousand of unamortized loan origination fees, which were charged to interest expense during the Company s fourth quarter ended September 30, 2010. Farm Credit released collateral of approximately 43,847 acres of property used by Alico s cattle and leasing operations as a result of the refinance.

Maturities of the Company s debt were as follows at September 30, 2011:

Due within 1 year	$ 3,279
Due between 1 and 2 years	3,267
Due between 2 and 3 years	2,633
Due between 3 and 4 years	2,000
Due between 4 and 5 years	2,000
Due beyond five years	43,979
Total	$ 57,158

Interest costs expensed and capitalized were as follows:

	Fiscal year ended September 30		
	2011	2010	2009
Interest expense (a)	$ 2,020	$ 6,879	$ 5,430
Interest capitalized	127	98	51
Total interest cost	$ 2,147	$ 6,977	$ 5,481

(a) Interest expense for the year ended September 30, 2010 includes a prepayment penalty of $3.1 million and $0.3 million of loan fees.

Note 11. Treasury Stock

Effective November 1, 2008, the Company s Board of Directors authorized the repurchase of up to 350,000 shares of the Company s common stock through November 1, 2013 for the purpose of funding restricted stock grants under its 2008 Plan, which was approved by shareholders on February 20, 2009. Prior to November 2008, Alico provided incentives under its 1998 Plan, and was authorized to purchase up to 650,000 shares. The stock repurchases began in November 2005 and can be made on a quarterly basis until November 1, 2013, through open market transactions at times and in such amounts as the Company s broker determines subject to the provisions of SEC Rule 10b-18.

The following table provides information relating to purchases of the Company s common shares on the open market pursuant to the 2008 Plan for the following fiscal years:

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Fiscal period ended	Total number of shares purchased	Average price paid per share	Total shares purchased as part of publicly announced plan or program	Total dollar value of shares purchased
		(Dollars in thousands, except share data)		
September 30, 2011	48,280	$ 24.96	168,984	$ 1,205
September 30, 2010	23,466	$ 26.74	120,704	$ 628
September 30, 2009	25,500	$ 36.63	97,238	$ 934

The following table outlines the Company s treasury stock transactions during the past two fiscal years:

	Shares	Cost
	(Dollars in thousands, except share data)	
Balance September 30, 2009	1,905	$ 52
Purchases	23,466	628
Issuances	(17,905)	(508)
Balance September 30, 2010	7,466	172
Purchases	48,280	1,205
Issuances	(19,030)	(465)
Retired	(2,123)	(50)
Balance September 30, 2011	34,593	$ 862

Note 12. Income Taxes

The provision for income taxes (benefit) for the years ended September 30, 2011, 2010, and 2009 consists of the following:

	Fiscal year ended September 30		
	2011	2010	2009
Current:			
Federal income tax	$ 4,141	$ (74)	$ 268
State income tax	726	(869)	439
Total	4,867	(943)	707
Deferred:			
Federal income tax	608	(901)	(408)
State income tax	(45)	643	(137)
Total	563	(258)	(545)
Total provision (benefit) for income taxes	$ 5,430	$ (1,201)	$ 162

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Income tax provision (benefit) attributable to income from continuing operations differed from the amount computed by applying the statutory federal income tax rate of 35% to pre-tax income as a result of the following:

	Fiscal year ended September 30		
	2011	2010	2009
Tax at the statutory federal rate	$ 4,259	$ (620)	$ (1,185)
Increase (decrease) resulting from:			
State income taxes, net of federal benefit	460	(66)	(54)
Nontaxable interest and dividends		(37)	(39)
Federal impacts from IRS exam and tax return amendments	713	404	
Deferred rate adjustment			185
Tax liability adjustments			194
Change in valuation allowance		(569)	651
Permanent and other reconciling items, net	(2)	(313)	410
Total (benefit from) provision for income taxes	$ 5,430	$ (1,201)	$ 162

The tax effects of temporary differences that give rise to significant portions of the deferred tax assets and deferred tax liabilities as of September 30, 2011 and 2010 are presented below:

	2011	2010
Deferred tax assets:		
Contribution carry forward	$ 112	$ 523
Deferred retirement benefits	1,471	1,408
Inventories	159	167
Restricted stock compensation	44	44
Investment in Alico-Agri Limited Partnership	23,677	23,677
Net operating losses		1,991
Other	211	336
Total gross deferred tax assets	25,674	28,146
Less: Contribution carry forward allowance		(82)
Total net deferred tax assets	25,674	28,064
Deferred tax liabilities:		
Revenue recognized from citrus and sugarcane	72	235
Property and Equipment	16,753	17,957
Patronage Dividends		619
Investment in Magnolia	366	207
Total gross deferred tax liabilities	17,191	19,018
Net deferred income tax asset	$ 8,483	$ 9,046

The Company applies a more likely than not threshold to the recognition and non-recognition of tax positions. A change in judgment related to prior years tax positions is recognized in the quarter of such change. The Company had no reserve for uncertain tax positions at September 30, 2011. The Company recognizes interest and penalties related to uncertain tax positions in income tax expense and in the liability for uncertain tax positions.

In the fiscal years ended September 30, 2011 and 2010, the Internal Revenue Service (IRS) issued five Revenue Agent Reports (RARs) pursuant to its examinations of Alico, Agri-Insurance and Alico-Agri for the tax years 2005 through 2007 (the Dispute Period). These RARs principally challenge (i) Agri-Insurance s ability to elect to be treated as a United States taxpayer during the years under examination; and (ii) Alico-Agri s ability to recognize income from two real estate sales under the installment method by asserting that Alico-Agri was a dealer in real estate during the years under examination. Based on the positions taken in the RARs, the IRS claimed additional taxes and penalties due of $31.1 million consisting of $14.5 million in taxes and $16.6 million in penalties. The RARs did not quantify the interest on the taxes.

We contested the positions taken in the RARs and pursued resolution through the IRS Appeals process. On November 22, 2011, we reached an agreement in principle to settle the issues. The settlement provides that Agri-Insurance was eligible

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to elect to be treated as a United States taxpayer. No determination was made as to whether Alico or Alico-Agri was a dealer in real estate; however, for the two sales transactions at issue, we agreed to treat one-third of the taxable gain as ordinary income taxable in the year of sale with the remaining two-thirds treated as capital gain eligible for installment sale treatment. Federal and state taxes and interest due as a result of the settlement are estimated at approximately $0.9 million and $0.7 million, respectively, and have been accrued at September 30, 2011. However, the estimated effect on income tax expense for the year ended September 30, 2011, is only $0.6 million due to the reversal of temporary differences. Federal penalties of $15.3 million were considered by IRS Appeals and have been waived. The remaining $1.3 million in penalties have not yet been considered by IRS Appeals to date but waiver of these penalties would be consistent with the issues resolved in the settlement. The estimated taxes and interest due are subject to final computation and confirmation by the IRS. The settlement does not preclude Alico from using the installment sale method with respect to future transactions.

The purchasers of the installment sale properties ultimately defaulted on the deferred payment obligations, and Alico-Agri recovered one of the properties through foreclosure and the other by deed in lieu of foreclosure. The Company will eventually recover any taxes due on the deferred portion of the sales as a result of the loss on the purchasers default. The timing difference that would result from the payment of claimed taxes and the subsequent receipt of refunds or credits against future taxes would be presented in the Company s deferred tax accounts.

The state income tax returns for the years under audit by the IRS have not been audited by the Florida Department of Revenue and other State jurisdictions and are subject to audit for the same tax periods open for federal tax purposes. Additionally, the Company has executed statute extensions with the IRS for the years currently under audit until June 2012.

Note 13. Related Party Transactions

Atlantic Blue Group, Inc.

Atlantic Blue Group, Inc. (formerly Atlantic Blue Trust, Inc.) (Atlanticblue), owns approximately 51% of Alico s common stock. By virtue of its ownership percentage, Atlanticblue is able to elect all of the directors and, consequently, control Alico. Directors which also serve on Atlanticblue s board are referred to as affiliated directors . Atlanticblue issued a letter dated December 3, 2009 reaffirming its commitment to maintain a majority of independent directors, (which may include affiliated directors) on Alico s board. A director is considered independent if the Board makes an affirmative determination that (i) the director has no relationship which would interfere with the exercise of independent judgment in carrying out the responsibilities as a director and (ii) the director has no prohibited relationships with the registered company or its Executive Officers during the preceding thirty-six months from the determination.

John R. Alexander, a major shareholder in Atlanticblue, serves as Chairman on the Company s Board of Directors. Mr. Alexander s son, JD Alexander, serves as President and Chief Executive Officer of Atlanticblue and in February 2010 was appointed President and Chief Executive Officer and serves on the Board of Directors of Alico. Robert E. Lee Caswell, Mr. John R. Alexander s son-in-law, serves on the Alico Board of Directors, as does Robert J. Viguet, Jr., who is also an affiliated director.

The transactions listed below have been approved by the Board of Directors and a majority of the unaffiliated Directors.

As Directors of the Company, the affiliated directors receive compensation for their services and reimbursement of travel expenses in accordance with the policies of the Company as disclosed in the Company s annual proxy statement.

Effective June 30, 2008, the Company s Board of Directors approved an unaccountable expense allowance of $5 thousand per month to Scenic Highlands Enterprises LLC. The Company s former Chief Executive Officer and current Chairman of the Board, John R. Alexander, is the owner and Chief Executive Officer of Scenic Highlands Enterprises, LLC. Per the Board s Action by Written Consent, payments are to be used for office space, an administrative assistant s salary and utilities. Alico paid Scenic Highlands Enterprises, LLC $45 thousand for the year ended September 30, 2011 and $60 thousand for each of the years ended September 30, 2010 and 2009, respectively, in accordance with the agreement. The agreement ended June 30, 2011.

Effective June 30, 2008, the Board approved a transition, consulting, severance and non-compete agreement with John R. Alexander providing for total payments of $600 thousand over a three year period. Alico paid $113 thousand, $188 thousand and $238 thousand to Mr. Alexander during the years ended September 30, 2011, 2010 and 2009, respectively, pursuant to this agreement. The agreement ended June 30, 2011.

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During the year ended September 30, 2010, Alico sold equipment to Trevino Equipment, LLC, a company, in which John R. Alexander held a financial interest. Trevino Equipment, LLC was chosen to purchase the equipment after they submitted the highest bid in a closed bidding process. The transaction totaled $28 thousand.

Former director Baxter Troutman has filed suit against John R. Alexander and JD Alexander. The Company is reimbursing Messrs. Alexander for legal fees to defend themselves against the suit in accordance with the Board s indemnification agreement. All reimbursements are being approved by the Special Committee of the Board comprised of four independent directors. Reimbursements pursuant to the litigation were $68 thousand, $85 thousand and $38 thousand on behalf of John R. Alexander and, $60 thousand, $65 thousand and $121 thousand on behalf of JD Alexander during the years ended September 30, 2011, 2010 and 2009, respectively.

During the years ended September 30, 2011, 2010 and 2009, Bowen marketed 2,196, 2,670 and 2,928 boxes of fruit from Alexander Properties, Inc. for approximately $30 thousand, $20 thousand and $19 thousand, respectively. Alexander Properties, Inc. is a company owned by Mr. John R. Alexander and his family.

Bowen is currently marketing and/or purchasing citrus fruit from Tri County Groves, LLC, a wholly owned subsidiary of Atlanticblue. During the years ended September 30, 2011, 2010 and 2009 Bowen marketed 222,856, 265,586 and 236,971 boxes of fruit for approximately $2.1 million, $2.5 million and $2.0 million, respectively.

Ben Hill Griffin, Inc.

Citrus revenues of approximately $0.9 million, $0.8 million and $0.4 million were recognized for a portion of citrus crops sold under a marketing agreement with Ben Hill Griffin, Inc. (Griffin) for the years ended September 30, 2011, 2010 and 2009, respectively. Griffin and its subsidiaries are controlled by Ben Hill Griffin, III, the brother-in-law of John R. Alexander, Alico s Chairman and former Chief Executive Officer. Accounts receivable include amounts due from Griffin of $152 thousand and $90 thousand at September 30, 2011 and 2010, respectively. These amounts represent revenues to be received periodically under pooling agreements as the sale of pooled products is completed.

Harvesting, marketing and processing costs for fruit sold to Griffin totaled $300 thousand, $266 thousand and $153 million for the years ended September 30, 2011, 2010 and 2009. During the fiscal year ended September 30, 2010, Bowen marketed 5,127 boxes of fruit for Ben Hill Griffin, Inc. for $62 thousand. Bowen did not market any fruit for Ben Hill Griffin during the fiscal year ended September 30, 2011.

Alico purchases fertilizer and other miscellaneous supplies, and services, and operating equipment from Griffin, on a competitive bid basis, for use in its cattle, sugarcane, sod and citrus operations. Such purchases totaled $2.4 million, $1.6 million and $1.8 million for the years ended September 30, 2011, 2010 and 2009, respectively. The Consolidated Balance Sheets include accounts payable to Griffin for fertilizer and other crop supplies totaling $41 thousand and $44 thousand at September 30, 2011 and 2010, respectively.

Other

Mr. Charles Palmer, an independent Board Member, held a recreational lease with the Company during the fiscal year ended September 30, 2011 and 2010, for which he paid approximately $33,000 annually at the customary terms and rates the Company extends to third parties.

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Note 14. Employee Benefits Plans

Management Security Plan

The management security plan (MSP) is a nonqualified noncontributory defined supplemental deferred retirement benefits plan for a select group of management personnel. The MSP plan provides a fixed supplemental retirement benefit for 180 months certain. The MSP is frozen; no new participants are being added and no benefit increases are being granted. The MSP benefit expense and the projected management security plan benefit obligation are determined using assumptions as of the end of the year. The weighted-average discount rate used was 4.5% in 2011 and 4.8% in 2010. Actuarial gains or losses are recognized when incurred, and therefore, the end of year benefit obligation is the same as the accrued benefit costs recognized in the consolidated balance sheet.

The amount of MSP benefit expense charged to costs and expenses was as follows:

In thousands	2011	2010	2009
Service cost	$ 233	$ 265	$ 277
Interest cost	181	186	256
Recognized actuarial loss (gain)			
Recognized actuarial loss adjustment	66	102	69
Total	$ 480	$ 553	$ 602

The following provides a reconciliation of the MSP benefit obligation.

In thousands	2011	2010
Change in projected benefit obligation		
Benefit obligation at beginning of year	$ 3,792	$ 3,532
Service cost	233	265
Interest cost	181	186
Recognized actuarial loss (gain)		
Recognized actuarial loss adjustment	66	102
Benefits paid	(302)	(293)
Benefit obligation at end of year	$ 3,970	$ 3,792
Funded status at end of year	$ (3,970)	$ (3,792)

The MSP is unfunded and benefits are paid as they become due. The estimated future benefit payments under the plans for each of the five succeeding years are approximately $303,000, $303,000 $342,000, $346,000 and $351,000 and for the five-year period thereafter an aggregate of $2.3 million.

Profit Sharing and 401(k)

The Company maintains a 401(k) employee savings plan for eligible employees, which provides for a 2% matching contribution on employee payroll deferrals. Vesting of the Company s matching contributions begins after two (2) years of service with the Company at which time an employee becomes 20% vested. Employees become fully vested after six years of employment. The Company s contribution to the plan was approximately $59 thousand, $61 thousand and $100 thousand, for the fiscal years 2011, 2010 and 2009, respectively.

The Profit Sharing Plan (Plan) is fully funded by contributions from the Company. Contributions to the Plan are discretionary and determined annually by the Company s Board of Directors. Contributions to employee accounts are based on the participant s compensation. The Company s contribution to the Profit Sharing Plan was $162 thousand for the year ended September 30, 2011. No contributions to the Profit Sharing Plan were made in fiscal 2010 or 2009.

Note 15. Segment Information

The Company has six reportable segments: Bowen Brothers Fruit, LLC, Citrus Groves, Sugarcane, Cattle, Real Estate and Leasing. All of the Company s operations are located in the State of Florida. Intersegment sales and transfers are accounted by the Company as if the sales or transfers were to third parties at current market prices.

Agricultural Segments:

Bowen operations include supply chain management services citrus for both Alico and other growers citrus fruit. Bowen s operations also include the purchase and resale of citrus fruit.

Citrus Grove operations consist of cultivating citrus trees in order to produce citrus fruit for delivery to fresh and processed citrus markets.

Sugarcane operations consist of cultivating sugarcane for sale to a sugar processor.

Cattle operations primarily include the production of beef cattle and the raising of replacement heifers.

Goods and services produced by these segments are sold to wholesalers and processors in the United States who prepare the products for consumption.

Nonagricultural Segments

The Real Estate segment, operated on behalf of Alico by ALDI, is engaged in the planning and strategic positioning of all Company owned land, which includes seeking entitlement of the land assets in order to preserve rights to develop the property in the future and negotiating and/or renegotiating sales contracts.

The Leasing segment leases land to others on a tenant-at-will basis for grazing, farming, oil and mineral exploration and recreational uses.

The accounting policies of the segments are the same as those described in Note 2, Basis of Presentation and Summary of Significant Accounting Policies. Total revenues represent sales to unaffiliated customers, as reported in the Company s Consolidated Statements of Operations. All intercompany transactions have been eliminated.

The Company s reportable segments are strategic business units that offer different products and services. They are managed separately and decisions about allocations of resources are determined by management based on these strategic business units. The Company evaluates the segments performance based on direct margins from operations before general and administrative costs, interest expense and income taxes not including nonrecurring gains and losses.

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Information by business segment is as follows:

	Year ended September 30		
	2011	2010	2009
Revenues (from external customers except as noted):			
Bowen	$ 36,115	$ 28,896	$ 27,998
Intersegment sales through Bowen	9,679	7,900	8,374
Citrus Groves	47,088	36,469	36,030
Sugarcane	7,796	4,097	7,624
Cattle	4,613	4,035	8,201
Real Estate			1,372
Land leasing and rentals	2,432	2,357	2,691
Revenue from segments	107,723	83,754	92,290
Other operations (c)	548	3,938	5,612
Less: intersegment revenue eliminated	(9,679)	(7,900)	(8,374)
Total operating revenue	$ 98,592	$ 79,792	$ 89,528
Operating expenses:			
Bowen	$ 35,109	$ 28,169	$ 26,660
Intersegment sales through Bowen	9,679	7,900	8,374
Citrus Groves	27,764	25,730	27,299
Sugarcane	6,834	3,707	9,809
Cattle (a)	3,178	3,772	10,161
Real Estate (b)	585	1,610	5,265
Land leasing and rentals	1,220	1,103	1,117
Segment operating expenses	84,369	71,991	88,685
Other operations (c)	469	5,778	7,379
Less: intersegment expenses eliminated	(9,679)	(7,900)	(8,374)
Total operating expenses	$ 75,159	$ 69,869	$ 87,690
Gross profit:			
Bowen	$ 1,006	$ 727	$ 1,338
Citrus Groves	19,324	10,739	8,731
Sugarcane	962	390	(2,185)
Cattle	1,435	263	(1,960)
Real Estate	(585)	(1,610)	(3,893)
Land leasing and rentals	1,212	1,254	1,574
Gross Profit from segments	23,354	11,763	3,605
Other operations	79	(1,840)	(1,767)
Gross profit	$ 23,433	$ 9,923	$ 1,838

(a) Includes an impairment charge of $0.8 million in 2009.
(b) Includes impairments charges of $1.0 million and $4.3 million in 2010 and 2009, respectively.
(c) Includes sod, plants and trees, rock and sand royalties and vegetables (2010 and 2009).

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	Year ended September 30		
	2011	2010	2009
Capital expenditures:			
Bowen	$ 65	$ 373	$ 73
Citrus Groves	2,102	1,273	1,551
Sugarcane	4,633	3,586	2,186
Cattle	1,214	1,260	1,154
Real Estate	583	1,096	708
Land leasing and rentals	16	62	65
Segment capital expenditures	8,613	7,650	5,737
Other capital expenditures	3,652	553	968
Total capital expenditures	$ 12,265	$ 8,203	$ 6,705
Depreciation, depletion and amortization:			
Bowen	$ 213	$ 315	$ 358
Citrus Groves	1,977	2,021	2,127
Sugarcane	2,873	1,713	1,498
Cattle	937	1,292	1,643
Real Estate		1	
Land leasing and rentals	481	546	621
Total segment depreciation, depletion and amortization	6,481	5,888	6,247
Other depreciation, depletion and amortization	846	1,333	1,297
Total depreciation, depletion and amortization	$ 7,327	$ 7,221	$ 7,544

	September 30	
	2011	2010
Total assets:		
Bowen	$ 2,888	$ 3,032
Citrus Groves	45,554	46,244
Sugarcane	53,213	47,529
Cattle	6,241	12,314
Real Estate (d)	12,932	6,706
Land leasing and rentals	5,524	4,019
Segment assets	126,352	119,844
Other assets	53,683	68,973
Total assets	$ 180,035	$ 188,817

(d) Includes $6.6 million for a foreclosed parcel of property See Note 7, Property, Building and Equipment.

Note 16. Commitments and Contingencies

Operating Leases

The Company has obligations under various noncancelable long-term operating leases for equipment. In addition, the Company has various obligations under other equipment leases of less than one year.

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Total rent expense was approximately $407,000, $558,000 and $760,000 for the years ended September 30, 2011, 2010 and 2009.

The future minimum rental payments under non-cancelable operating leases are as follows:

(in thousands)	
2012	$ 668
2013	$ 544
2014	$ 486
2015	$ 474
2016	$ 474
Total	$ 2,646

Letters of Credit

The Company has retained certain self-insurance risks with respect to losses for workers compensation and has standby letters of credit in the amounts of $200 thousand for each of the years ended September 30, 2011 and 2010, which may potentially result in a liability to the Company if certain obligations of the Company are not met.

Shareholder Derivative Actions

On October 29, 2008, Alico was served with a shareholder derivative action complaint filed by Baxter Troutman against JD Alexander and John R. Alexander which names Alico as a nominal defendant. Mr. Troutman is the cousin and nephew of the two defendants, respectively, and is a shareholder in Atlanticblue, a 51% shareholder of Alico. From February 26, 2004 until January 18, 2008 Mr. Troutman was a director of Alico. The complaint alleges that JD Alexander and John R. Alexander committed breaches of fiduciary duty in connection with a proposed merger of Atlanticblue into Alico which was proposed in 2004 and withdrawn by Atlanticblue in 2005. The suit also alleges, among other things, that the merger proposal was wrongly requested by defendants JD Alexander and John R. Alexander and improperly included a proposed special dividend; that the Alexanders sought to circumvent the Board s nominating process to ensure that they constituted a substantial part of Alico s senior management team and that these actions were contrary to the position of Alico s independent directors at the time causing a waste of Alico s funds and the resignations of the independent directors in 2005. As a result, the complaint is seeking damages to be paid to Alico by the Alexanders in excess of $1.0 million. The complaint concedes that Mr. Troutman has not previously made demand upon Alico to take action for the alleged wrongdoing as required by Florida law alleging that he believed such a demand would be futile. A copy of the Complaint may be obtained from the Clerk of the Circuit Court in Polk County, Florida.

On June 3, 2009, a Special Committee of Independent Directors from Alico s Board of Directors, the (Committee) was created to investigate the shareholder derivative action filed by Mr. Troutman. The Committee completed its investigation with the assistance of independent legal counsel and determined that it would not be in the Company s best interest to pursue such litigation. Alico filed a motion to dismiss the litigation based upon the findings of the Special Committee; a hearing on this motion was held on December 7, 2010. The Court issued an order denying the motion to dismiss the shareholder derivative suit on May 24, 2011. A copy of the report, the order of denial and other pleadings in the case are available from the Clerk of Circuit Court in Polk County, Florida by reference to the matter of Baxter G. Troutman, Plaintiff vs. John R. Alexander and John D. Alexander, Defendants and Alico, Inc., Nominal Defendant, Case No. 08-CA-10178 Circuit Court, 10th Judicial Circuit, Polk County, Florida. See Note 18. Subsequent Events.

The Company is also involved from time to time in routine legal matters incidental to its business. When appropriate, the Company establishes estimated accruals for litigation matters which meet the requirements of ASC 450 *Contingencies*. Based upon available information, the Company believes that the resolution of such matters will not have a material adverse effect on its financial position or results of operations.

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Note 17. Selected Quarterly Financial Data (unaudited)

Summarized quarterly financial data (in thousands except for per share amounts) for the fiscal years ended September 30, 2011 and 2010 were as follows:

	Fiscal quarter ended							
	December 31		March 31		June 30		September 30	
	2010	2009	2011(a)	2010	2011	2010	2011	2010(b,c)
Total operating revenue	$ 16,555	$ 14,118	$ 36,490	$ 31,654	$ 39,341	28,440	$ 6,206	$ 5,580
Total operating expenses	14,062	13,767	28,422	27,532	27,502	23,057	5,173	5,513
Gross profit	2,493	351	8,068	4,122	11,839	5,383	1,033	67
Corporate general & administrative	2,011	1,428	1,597	1,797	1,766	1,604	2,822	1,629
Other (expense) income	(632)	(864)	(2,095)	(412)	(331)	15	348	(4,028)
(Loss) income before income taxes	(150)	(1,941)	4,376	1,913	9,742	3,794	(1,441)	(5,590)
Income tax (benefit) expense	(57)	(571)	1,664	563	3,771	1,506	52	(2,699)
Net (loss) income	$ (93)	$ (1,370)	$ 2,712	1,350	5,971	2,288	$ (1,493)	$ (2,891)
Basic (loss) earnings per share	$ (0.01)	$ (0.19)	$ 0.37	0.18	0.81	0.31	$ (0.20)	$ (0.39)

(a) During the quarter ended March 30, 2011, the Company fully reserved $1.7 million in allocated surplus that had been recorded based on patronage allocation with Farm Credit which is included in other (expense) income in the table above. See Note 4. Investment, deposits and other assets.

(b) During the quarter ended September 30, 2010, the Company recognized $3.4 million of charges related to a refinancing transaction as other (expense) income.

(c) During the quarter ended September 30, 2010 the Company recorded a real estate impairment charge of $980 thousand included in the total operating expense line in the table above.

Note 18. Subsequent Events

On November 22, 2011, the Company reached an agreement in principle with the IRS to settle its outstanding tax issues from tax years 2005 through 2007 which included the following: (i) Agri-Insurance s ability to elect to be treated as a United States taxpayer during the years under examination; and (ii) Alico-Agri s ability to recognize income from real estate sales under the installment method for two specific transactions by asserting that Alico-Agri was a dealer in real estate during the years under examination. The settlement provides that Agri-Insurance was eligible to elect to be treated as a United States taxpayer. No determination was made as to whether Alico or Alico-Agri was a dealer in real estate; however, for the two sales transactions at issue, the Company agreed to treat one-third of the taxable gain as ordinary income taxable in the year of sale with the remaining two-thirds treated as capital gain eligible for installment sale treatment. Federal and state taxes and interest due as a result of the settlement have been accrued as of September 30, 2011, in the amounts of $0.9 million and $0.7 million, respectively. Federal penalties of $15.3 million were considered by IRS Appeals and have been waived. The remaining $1.3 million in penalties have not yet been considered by IRS Appeals to date but waiver of these penalties would be consistent with the issues resolved in the settlement. Taxes and interest due are subject to final computation and confirmation by the IRS. The settlement does not preclude Alico from using the installment sale method with respect to future transactions.

JD Alexander and John R. Alexander filed a motion to dismiss the shareholder derivative action complaint filed by Baxter Troutman. On November 21, 2011, the Circuit Court in Polk County, Florida issued an order dismissing the shareholder derivative action. The court dismissed the complaint for failing to state a cause of action. The complaint was dismissed without prejudice and can be amended no later than December 16, 2011.

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Item 9. Changes In and Disagreements With Accountants on Accounting and Financial Disclosure.
None.

Item 9A. Controls and Procedures.
Disclosure Controls and Procedures

Disclosure controls and procedures, as defined in Rules 13a-15(e) and 15d-15(e) promulgated under the Securities Exchange Act of 1934, as amended, (the Exchange Act) are controls and other procedures that are designed to ensure that information required to be disclosed by us in the reports that we file or submit under the Exchange Act is recorded, processed, summarized, and reported, within the time periods specified in the rules and forms of the SEC. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information we are required to disclose in the reports that we file or submit under the Exchange Act is accumulated and communicated to our management, including the Chief Executive Officer (CEO) and Chief Financial Officer (CFO), as appropriate, to allow timely decisions regarding required disclosures.

As of September 30, 2011, our management, with the participation of our CEO and CFO, carried out an evaluation of the effectiveness of our disclosure control and procedures pursuant to Rule 3a-15 promulgated under the Exchange Act. Based upon this evaluation, our CEO and CFO concluded that, as of September 30, 2011, our disclosure controls and procedures were effective.

Management Report on Internal Control Over Financial Reporting

Our management is responsible for establishing and maintaining adequate internal control over financial reporting as such term is defined in Exchange Act Rules 13a-15(f) and 15d-15(f). With the participation of the CEO and CFO, our management conducted an evaluation of the effectiveness of our internal control over financial reporting based on the framework and criteria established in Internal Control Integrated Framework, issued by the Committee of Sponsoring Organizations of the Treadway Commission. Based on this evaluation, our management has concluded that our internal control over financial reporting was effective as of September 30, 2011.

McGladrey & Pullen, LLP, an independent registered public accounting firm, issued an attestation report on our internal control over financial reporting as of September 30, 2011, which is included herein.

Changes in Internal Control Over Financial Reporting

There has been no change in our internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) promulgated under the Exchange Act) during our fourth quarter ended September 30, 2011, that has materially affected or is reasonably likely to materially affect, our internal control over financial reporting

Item 9B. Other Information.
None.

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PART III

Certain information required by Part III is omitted from this Annual Report because we will file a definitive Proxy Statement for the Annual Meeting of Stockholders pursuant to Regulation 14A of the Securities Exchange Act of 1934, (Proxy Statement), not later than 120 days after the end of the fiscal year covered by this Annual Report, and the applicable information included in the Proxy Statement is incorporated herein by reference.

Item 10. Directors, Executive Officers and Corporate Governance.

Information concerning our directors and nominees and other information as required by this item are hereby incorporated by reference from our Proxy Statement to be filed with the SEC pursuant to Regulation 14A.

Item 11. Executive Compensation.

The information required by Item 11 regarding executive compensation is included under the headings Compensation Discussion and Analysis , Compensation Committee Report and Compensation Committee Interlocks and Insider Participation in our Proxy Statement to be filed with the SEC pursuant to Regulation 14A.

Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters.

Information concerning the ownership of certain beneficial owners and management and related stockholder matters is hereby incorporated by reference to our Proxy Statement to be filed with the SEC pursuant to Regulation 14A.

Item 13. Certain Relationships, Related Transactions and Director Independence.

The information concerning relationships and related transactions is hereby incorporated by reference to our Proxy Statement to be filed with the SEC pursuant to Regulation 14A.

Item 14. Principal Accounting Fees and Services.

Information concerning principal accounting fees and services is hereby incorporated by reference to our Proxy Statement to be filed with the SEC pursuant to Regulation 14A.

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PART IV

Item 15. Exhibits and Financial Statement Schedules

(a)(1). **Financial Statements**

The following financial statements are filed as part of this report:

(b) 2. **Financial Statement Schedules**

Other schedules are omitted as they are not applicable or not required or because the required information is included in the financial statements or notes thereto.

(c) 3. Exhibits

See Index to Exhibits on page 69 of this Annual Report on Form 10-K

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SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

ALICO, INC. (Registrant)

December 14, 2011 By: /s/ JD Alexander
JD Alexander
President and Chief Executive Officer

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the date indicated:

		/s/ JD Alexander
December 14, 2011	Director, President and Chief Executive Officer	**JD Alexander**
		/s/ W. Mark Humphrey
December 14, 2011	Chief Financial Officer and Senior Vice-President	**W. Mark Humphrey**
		/s/ Jerald Koesters
December 14, 2011	Chief Accounting Officer and Controller	**Jerald Koesters**
		/s/ John R. Alexander
December 14, 2011	Chairman of the Board, Director	**John R. Alexander**
		/s/ Robert E Lee Caswell
December 14, 2011	Director	**Robert E. Lee Caswell**
		/s/ Charles L. Palmer
December 14, 2011	Director	**Charles L. Palmer**
		/s/ John Darrell Rood
December 14, 2011	Director	**John Darrell Rood**
		/s/ Thomas A. Mcauley
December 14, 2011	Director	**Thomas A. McAuley**
		/s/ Ramon A. Rodriguez
December 14, 2011	Director	**Ramon A. Rodriguez**
December 14, 2011	Director	/s/ Robert J. Viguet, Jr.

Robert J. Viguet, Jr.

/s/ Gordon Walker

December 14, 2011 Director **Gordon Walker**

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Exhibit Index

3.1	Restated Certificate of Incorporation, Dated February 17, 1972 (incorporated by reference to Alico s Registration Statement on Form S-1 dated February 24, 1972, Registration No. 2-43156).
3.2	Certificate of Amendment to Certificate of Incorporation, Dated January 14, 1974 (incorporated by reference to Alico s Registration Statement on Form S-8, dated December 21, 2005, Registration No. 333-130575)
3.3	Amendment to Articles of Incorporation, Dated January 14, 1987 (incorporated by reference to Alico s Registration Statement on Form S-8, dated December 21, 2005, Registration No. 333-130575)
3.4	Amendment to Articles of Incorporation, Dated December 27, 1988 (incorporated by reference to Alico s Registration Statement on Form S-8, dated December 21, 2005, Registration No. 333-130575)
3.5	Bylaws of Alico, Inc., amended and restated (incorporated by reference to Alico s filing on Form 10-K, dated December 14, 2010)
3.6	By-Laws of Alico, Inc., amended and restated (incorporated by reference to Alico s filing on Form 8-K dated October 4, 2007)
3.7	By-Laws of Alico, Inc. amended and restated (incorporated by reference to Alico s filing on Form 8-K dated November 21, 2008)
3.8	By-Laws of Alico, Inc. amended and restated (incorporated by reference to Alico s filing on Form 8-K dated October 5, 2010)

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10	Material Contracts
10.1	Credit agreement with Rabobank Agri-Finance (incorporated by reference to Alico s filing on Form 8-K dated September 8, 2010)
14.1	Code of Ethics (incorporated by reference to Alico s filing on Form 8-K dated February 24, 2009)
14.2	Whistleblower Policy (incorporated by reference to Alico s filing on Form 8-K dated February 24, 2009)
21	Subsidiaries of the Registrant Alico Land Development Company, Inc. [(formerly Saddlebag Lake Resorts, Inc. (a Florida corporation incorporated in 1971)]; Alico-Agri, Ltd (a Florida limited partnership formed in 2003), Alico Plant World, LLC (a Florida limited liability company organized in 2004), Bowen Brothers Fruit, LLC (a Florida limited liability company organized in 2005) incorporated by reference to Alico s filing on Form 10-K dated November 28, 2006
31.1	Rule 13a-14(a) certification
31.2	Rule 13a-14(a) certification
32.1	Section 1350 certifications
32.2	Section 1350 certifications
101	Interactive Data Files