

Education Realty Trust, Inc.
Form 424B5
August 01, 2016

CALCULATION OF REGISTRATION FEE

Title of Securities to be Registered	Maximum Aggregate Offering Price	Amount of Registration Fee
Shares of Common Stock, \$0.01 par value per share	\$ 300,000,000	\$ 30,210 ⁽¹⁾

Calculated pursuant to Rule 457(r) under the Securities Act of 1933, as amended, or the Securities Act. The fee (1) payable in connection with the offering pursuant to this prospectus supplement has been paid in accordance with Rule 456(b) under the Securities Act.

TABLE OF CONTENTS

**Filed Pursuant to Rule 424(b)(5)
File No. 333-199988**

PROSPECTUS SUPPLEMENT
(To prospectus dated November 7, 2014)

Up to \$300,000,000 Common Stock

This prospectus supplement and the accompanying prospectus relate to the issuance and sale, from time to time, of our common stock, par value \$0.01 per share, pursuant to an at-the-market equity program having an aggregate gross sales price of up to \$300,000,000 through our sales agents, KeyBanc Capital Markets Inc. (KeyBanc) and Merrill Lynch, Pierce, Fenner & Smith Incorporated (Merrill Lynch). We refer to each of these entities when acting in this capacity, individually as a Manager and, collectively, as Managers. Any sales will be made pursuant to the terms of separate equity distribution agreements that were entered into among us, Education Realty Operating Partnership, LP, or our Operating Partnership, and each Manager on August 1, 2016.

The equity distribution agreements provide that, in addition to the issuance and sale of our common stock through the Managers, we also may enter into separate forward sale agreements between us and KeyBanc and an affiliate of Merrill Lynch. We refer to each of these entities when acting in this capacity, individually as a forward purchaser and, collectively, as forward purchasers. In connection with any particular forward sale agreement, the relevant forward purchaser will, at our request, borrow from third parties and, through the relevant Manager, sell a number of shares of our common stock equal to the number of shares of our common stock underlying the particular forward sale agreement. We refer to the Managers, when acting as agents for the forward purchasers, as forward sellers. In no event will the aggregate gross sales price of our common stock sold through the Managers, whether as an agent for us or as a forward seller, under the equity distribution agreements and under any forward sale agreements, exceed \$300,000,000.

We will not initially receive any proceeds from any sale of borrowed shares of our common stock by a forward seller. We currently expect to fully physically settle each forward sale agreement with the relevant forward purchaser on one or more dates specified by us on or prior to the maturity date of that particular forward sale agreement, in which case we will expect to receive aggregate net cash proceeds at settlement equal to the number of shares underlying the particular forward sale agreement multiplied by the relevant forward sale price. However, subject to certain exceptions, we may also elect, in our discretion, to cash settle or net share settle a particular forward sale agreement, in which case we may not receive any proceeds (in the case of cash settlement) or will not receive any proceeds (in the case of net share settlement), and we may owe cash (in the case of cash settlement) or shares of our common stock (in the case of net share settlement) to the relevant forward purchaser. See Plan of Distribution Conflicts of Interest in this prospectus supplement.

Each Manager will be entitled to compensation that will not exceed, but may be lower than, 2.0% of the gross sales price per share of any common stock sold through it from time to time under its respective equity distribution agreement. In connection with each forward sale agreement, we will pay the relevant forward seller, in the form of a reduced initial forward sale price under the related forward sale agreement with the related forward purchaser,

commissions at a mutually agreed rate that will not exceed, but may be lower than, 2.0% of the gross sales prices of all borrowed shares of common stock sold during the applicable forward selling period by it as a forward seller. If any Manager and/or forward seller, as applicable, engages in special selling efforts, as that term is used in Regulation M under the Securities Exchange Act of 1934, as amended, or the Exchange Act, such Manager and/or forward seller, as applicable, will receive from us a commission to be agreed upon at the time of sale.

We also may sell shares of our common stock to a Manager as principal for its own account at a price agreed upon at the time of sale. If we sell shares of our common stock to a Manager as principal, we will enter into a separate terms agreement setting forth the terms of such transaction, and we will describe any such agreement in a separate prospectus supplement or pricing supplement.

Our common stock is listed on the NYSE under the symbol EDR. The last reported sale price of our common stock on the NYSE on July 29, 2016 was \$48.14 per share.

To assist us in continuing to qualify as a real estate investment trust for federal income tax purposes, among other purposes, our charter imposes certain restrictions on the ownership of our capital stock. See Description of Capital Stock in the accompanying prospectus.

Investing in shares of our common stock involves substantial risks that are described in the Risk Factors sections beginning on page S-3 of this prospectus supplement and in our most recent Annual Report on Form 10-K, as well as additional risks that may be described in future reports or information that we file with the Securities and Exchange Commission, or the SEC, including our Quarterly Reports on Form 10-Q, which are incorporated by reference in this prospectus supplement and the accompanying prospectus.

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

KeyBanc Capital Markets

BofA Merrill Lynch

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

TABLE OF CONTENTS

TABLE OF CONTENTS

Prospectus Supplement

	Page
<u>ABOUT THIS PROSPECTUS SUPPLEMENT</u>	<u>S-iii</u>
<u>FORWARD-LOOKING STATEMENTS</u>	<u>S-iii</u>
<u>SUMMARY</u>	<u>S-1</u>
<u>THE OFFERING</u>	<u>S-2</u>
<u>RISK FACTORS</u>	<u>S-3</u>
<u>USE OF PROCEEDS</u>	<u>S-7</u>
<u>PLAN OF DISTRIBUTION</u> <u>CONFLICTS OF INTEREST</u>	<u>S-8</u>
<u>LEGAL MATTERS</u>	<u>S-12</u>
<u>EXPERTS</u>	<u>S-12</u>
<u>WHERE YOU CAN FIND MORE INFORMATION</u>	<u>S-12</u>

Prospectus

	Page
<u>ABOUT THIS PROSPECTUS</u>	<u>1</u>
<u>FORWARD-LOOKING STATEMENTS</u>	<u>2</u>
<u>THE COMPANY</u>	<u>4</u>
<u>RISK FACTORS</u>	<u>5</u>
<u>USE OF PROCEEDS</u>	<u>5</u>
<u>CONSOLIDATED RATIO OF EARNINGS TO FIXED CHARGES</u>	<u>6</u>
<u>DESCRIPTION OF CAPITAL STOCK</u>	<u>7</u>
<u>DESCRIPTION OF DEPOSITARY SHARES</u>	<u>16</u>
<u>DESCRIPTION OF WARRANTS</u>	<u>18</u>
<u>DESCRIPTION OF SUBSCRIPTION RIGHTS</u>	<u>19</u>
<u>DESCRIPTION OF DEBT SECURITIES AND GUARANTEES</u>	<u>20</u>
<u>BOOK ENTRY PROCEDURES AND SETTLEMENT</u>	<u>30</u>
<u>DESCRIPTION OF THE PARTNERSHIP AGREEMENT OF EDUCATION REALTY OPERATING PARTNERSHIP, LP</u>	<u>32</u>
<u>MATERIAL U.S. FEDERAL INCOME TAX CONSIDERATIONS</u>	<u>36</u>
<u>SELLING SECURITYHOLDERS</u>	<u>55</u>
<u>PLAN OF DISTRIBUTION</u>	<u>56</u>
<u>LEGAL MATTERS</u>	<u>58</u>
<u>EXPERTS</u>	<u>58</u>
<u>WHERE YOU CAN FIND MORE INFORMATION</u>	<u>58</u>
<u>INCORPORATION OF CERTAIN DOCUMENTS BY REFERENCE</u>	<u>58</u>

TABLE OF CONTENTS

You should rely only upon the information contained or incorporated by reference in this prospectus supplement, the accompanying prospectus and any related free writing prospectus required to be filed with the SEC. We have not, and the Managers, the forward sellers and the forward purchasers have not, authorized any person to provide you with different or additional information. If anyone provides you with different or additional information, you should not rely upon it. We are not, and the Managers, the forward sellers and the forward purchasers are not, making an offer to sell these securities in any jurisdiction where such offer or sale is not permitted. You should assume that the information appearing in this prospectus supplement, the accompanying prospectus, the documents incorporated by reference herein and therein and any such free writing prospectus is accurate only as of the respective dates of these documents or such other dates as may be specified therein. Our business, financial condition, liquidity, results of operations, funds from operations, or FFO, Core FFO, adjusted earnings before interest, taxes, depreciation and amortization, and prospects may have changed since those dates.

S-ii

TABLE OF CONTENTS

ABOUT THIS PROSPECTUS SUPPLEMENT

This document is presented in two parts. The first part is comprised of this prospectus supplement, which describes the specific terms of this offering and certain other matters relating to us. The second part, the accompanying prospectus, contains a description of our common stock and provides more general information regarding securities that we may offer from time to time, some of which does not apply to this offering. To the extent that the information contained in this prospectus supplement differs or varies from the information contained in the accompanying prospectus or documents that we previously filed with the SEC, the information in this prospectus supplement will supersede such information.

This prospectus supplement is part of a registration statement that we have filed with the SEC relating to, among other things, the securities offered hereby. This prospectus supplement does not contain all of the information that we have included in the registration statement and the accompanying exhibits and schedules thereto in accordance with the rules and regulations of the SEC, and we refer you to such omitted information. It is important for you to read and consider all information contained in this prospectus supplement and the accompanying prospectus in making your investment decision. You should also read and consider the additional information incorporated and deemed to be incorporated by reference in this prospectus supplement and the accompanying prospectus. See [Where You Can Find More Information](#) in this prospectus supplement.

All references to we, our, us, EdR and the Company in this prospectus supplement and the accompanying prospectus refer to Education Realty Trust, Inc. and its consolidated subsidiaries, except where it is made clear that any such reference means only Education Realty Trust, Inc.

FORWARD-LOOKING STATEMENTS

Certain statements in this prospectus supplement, the accompanying prospectus and the documents that are incorporated and deemed to be incorporated by reference herein and therein contain forward-looking statements within the meaning of Section 27A of the Securities Act and Section 21E of the Exchange Act. Forward-looking statements provide our current expectations or forecasts of future events and are not statements of historical fact.

These forward-looking statements include information about possible or assumed future events, including, among other things, discussion and analysis of our future financial condition, results of operations and FFO, our strategic plans and objectives, cost management, occupancy and leasing rates and trends, liquidity and ability to refinance our indebtedness as it matures, anticipated capital expenditures (and access to capital) required to complete projects, amounts of anticipated cash distributions to our stockholders in the future and other matters. Words such as anticipates, expects, intends, plans, believes, seeks, estimates and variations of these words and similar expressions are intended to identify forward-looking statements.

These statements are not guarantees of future performance and are subject to risks, uncertainties and other factors, some of which are beyond our control, are difficult to predict and/or could cause actual results to differ materially from those expressed or forecasted in the forward-looking statements.

Forward-looking statements involve inherent uncertainty and may ultimately prove to be incorrect or false. You are cautioned not to place undue reliance on forward-looking statements. Except as otherwise required by law, we undertake no obligation to update or revise forward-looking statements to reflect changed assumptions, the occurrence of unanticipated events or actual operating results. Our actual results could differ materially from those anticipated in

these forward-looking statements as a result of various factors, including, but not limited to:

risks and uncertainties related to the national and local economies and the real estate industry in general and in our specific markets (including university enrollment conditions and admission policies, and our relationship with these universities);

volatility in the capital markets;
rising interest and insurance rates;

S-iii

TABLE OF CONTENTS

competition from university-owned or other private collegiate housing and our inability to obtain new residents on favorable terms, or at all, upon the expiration of existing leases;
availability and terms of capital and financing, both to fund our operations and to refinance our indebtedness as it matures;
legislative or regulatory changes, including changes to laws governing collegiate housing, construction and real estate investment trusts, or REITs;
our possible failure to qualify as a REIT for federal income tax purposes and the risk of changes in laws affecting REITs;

- our dependence upon key personnel whose continued service is not guaranteed;
- our ability to identify, hire and retain highly-qualified executives in the future;
- availability of appropriate acquisition and development targets;
- failure to integrate acquisitions successfully;

the financial condition and liquidity of, or disputes with, our joint venture and development partners;

- impact of ad valorem, property and income taxes;
- changes in U.S. generally accepted accounting principles;

construction delays, increasing construction costs or construction costs that exceed estimates;

- changes in our credit ratings;
- potential liability for uninsured losses and environmental liabilities;
- lease-up risks; and

the potential need to fund improvements or other capital expenditures out of operating cash flow.

This list of risks and uncertainties, however, is only a summary of some of the most important factors and is not intended to be exhaustive. You should carefully review the risks described below under **Risk Factors** in this prospectus supplement and in our most recent Annual Report on Form 10-K, as well as additional risks that may be described in future reports or information that we file with the SEC, including our Quarterly Reports on Form 10-Q, which are incorporated by reference in this prospectus supplement and the accompanying prospectus. New factors that are not currently known to us or of which we are currently unaware may also emerge from time to time that could materially and adversely affect us.

S-iv

TABLE OF CONTENTS

SUMMARY

*This summary is not complete and does not contain all of the information that you should consider before deciding whether to invest in shares of our common stock. To understand this offering fully prior to making an investment decision, you should carefully read this prospectus supplement, the accompanying prospectus and the documents incorporated by reference herein and therein. See *Where You Can Find More Information* in this prospectus supplement. You should also carefully consider the *Risk Factors* sections in this prospectus supplement and in our most recent Annual Report on Form 10-K, which we have filed with the SEC and which is incorporated by reference in this prospectus supplement and the accompanying prospectus, as well as additional risks that may be described in future reports and information that we file with the SEC, including our Quarterly Reports on Form 10-Q.*

The Company

We are a self-managed and self-advised REIT, organized in July 2004 to develop, acquire, own and manage collegiate housing communities located on or near university campuses. As of June 30, 2016, we owned 58 collegiate housing communities located in 22 states with 29,902 beds within 11,279 units on or near 37 university campuses, and we provide third-party management services for 21 collegiate housing communities located in 11 states with 11,539 beds within 4,093 units on or near 17 university campuses. We also selectively develop collegiate housing communities for our own account and provide third-party development consulting services on collegiate housing development projects for universities and other third parties.

All of our assets are held by, and we conduct substantially all of our activities through, our Operating Partnership, and its wholly owned subsidiaries, including EdR Management Inc., the company through which we conduct management activities, and EdR Development LLC, the company through which we conduct development activities.

We are the sole owner of the general partner of our Operating Partnership. As a result, our board of directors effectively directs all of the Operating Partnership's affairs. As of June 30, 2016, we owned [99.7]% of the outstanding partnership units of the Operating Partnership. The remaining Operating Partnership units are held by former owners of certain of our collegiate housing communities, including current and former members of our management team and a former member of our board of directors.

University Towers Operating Partnership, LP, which is our affiliate, owns and operates our University Towers collegiate housing community located in Raleigh, North Carolina. As of June 30, 2016 we owned 72.7% of the outstanding partnership units of the University Towers Partnership, and the remaining 27.3% was owned by former owners of University Towers collegiate housing community, including a former member of our board of directors.

Our executive offices are located at 999 South Shady Grove Road, Suite 600, Memphis, Tennessee 38120, and our telephone number is (901) 259-2500. Our website address is <http://www.edrtrust.com>. However, the information located on, or accessible from, our website is not, and shall not be deemed to be, a part of this prospectus supplement or the accompanying prospectus or incorporated into any other filings that we make with the SEC.

S-1

TABLE OF CONTENTS

THE OFFERING

Securities Offered

Shares of common stock having an aggregate gross sales price of up to \$300,000,000.

Use of Proceeds

We intend to contribute the net proceeds (1) from any issuances and sales of our common stock to or through the Managers and (2) if any, from the settlement of any forward sale agreements, to our Operating Partnership in exchange for a number of partnership units to be issued by the Operating Partnership equal to the number of shares of common stock sold in this offering. The Operating Partnership intends to use any net proceeds from this offering to fund or partially fund the acquisition, development or improvement of collegiate housing communities, repay indebtedness or for general corporate purposes. See **Use of Proceeds** in this prospectus supplement.

Restriction on Ownership

In order to assist us in maintaining our qualification as a REIT for federal income tax purposes, among other purposes, ownership, actual or constructive, by any person of more than (i) 9.8% in value, number or voting power (whichever is more restrictive) of our capital stock or (ii) 9.8% in value, number or voting power (whichever is more restrictive) of our common stock is restricted by our charter. This restriction may be waived prospectively or retroactively by our board of directors, in its sole and absolute discretion, upon satisfaction of certain conditions. See **Description of Capital Stock** in the accompanying prospectus.

Risk Factors

An investment in shares of our common stock involves substantial risks. Prospective investors should carefully consider the matters discussed in the **Risk Factors** sections of this prospectus supplement and in our most recent Annual Report on Form 10-K, as well as additional risks that may be described in future reports or information that we have filed with the SEC, including our Quarterly Reports on Form 10-Q, which are incorporated by reference in this prospectus supplement and the accompanying prospectus, for a discussion of risks you should consider carefully before making an investment decision.

Conflicts of Interest

All of the proceeds from this offering from any sales made pursuant to a forward sale agreement will be paid to the applicable forward purchaser, which will be either a Manager or an affiliate of a Manager. As a result, a Manager or its affiliate will receive the net proceeds from any sales made in this offering in connection with forward sales. Additionally, affiliates of the Managers and the forward purchasers are lenders under our \$500 million unsecured revolving credit facility. Accordingly, each such affiliate will receive its pro rata share of any net proceeds from this offering used to reduce amounts that may be outstanding from time to time under our unsecured revolving credit facility.

See **Plan of Distribution** **Conflicts of Interest**.

New York Stock Exchange Symbol

EDR

TABLE OF CONTENTS

RISK FACTORS

An investment in shares of our common stock involves substantial risks. In consultation with your own financial and legal advisers, you should carefully consider, among other matters, the factors set forth below as well as under the caption Item 1A. Risk Factors in our most recent Annual Report on Form 10-K, as may be revised or supplemented by our subsequent quarterly reports on Form 10-Q, which are incorporated by reference in this prospectus supplement. You should also carefully consider the rest of this prospectus supplement, the accompanying prospectus and the documents incorporated by reference herein and therein before deciding whether an investment in shares of our common stock is suitable for you. If any of the risks disclosed in or incorporated by reference in this prospectus supplement or the accompanying prospectus develop into actual events, our business, financial condition, liquidity, results of operations, FFO and prospects could be materially and adversely affected, the market price of our common stock could decline and you may lose all or part of your investment.

We may be unable to invest a significant portion of the net proceeds from this offering on acceptable terms.

Delays in investing the net proceeds from this offering may impair our performance. We cannot assure you that we will be able to identify any collegiate housing communities, development opportunities or other investments that meet our investment objectives or that any investment that we make will produce a positive return. We may be unable to invest the net proceeds from this offering on acceptable terms within the time period that we anticipate or at all, which could harm our financial condition and operating results.

Moreover, we will have significant flexibility in investing the net proceeds from this offering and may use the net proceeds from this offering in ways with which investors may not agree.

Volatility and disruption in capital markets could materially and adversely impact us.

The capital markets may experience extreme volatility and disruption, which could make it more difficult for us to raise capital. If we cannot access capital or we cannot access capital upon acceptable terms, we may be required to liquidate one or more investments in properties at times that may not permit us to realize the maximum return on those investments, which could also result in adverse tax consequences to us. Moreover, market turmoil could lead to an increased lack of consumer confidence and widespread reduction of business activity generally, which may materially and adversely impact us, including our ability to acquire and dispose of assets and continue our development pipeline.

The market price of our common stock may be volatile in the future. As with other public companies, the availability of debt and equity capital depends, in part, upon the market price of our common stock and investor demand, which, in turn, depends upon various market conditions that change from time to time. Among the market conditions and other factors that may affect the market price of our common stock is the market's perception of our current and future financial condition, liquidity, growth potential, earnings, FFO, Core FFO and cash distributions. Our failure to meet the market's expectation with regard to any of these or other items would likely adversely affect the market price of our common stock, possibly materially. We cannot assure you that we will be able to raise the necessary capital to meet our debt service obligations, make distributions to our stockholders or make future investments necessary to implement our business plan, and the failure to do so could have a material adverse effect on us.

It is likely that any shares of common stock sold in this offering will be dilutive, and there may be future dilution related to our common stock.

It is likely that the issuance of any shares in this offering, after giving effect to the application of the net proceeds therefrom, will have a dilutive effect on our expected earnings per share, our FFO per share and our Core FFO per share. The actual amount of dilution cannot be determined at this time and will be based upon numerous factors that are currently not known to us. Additionally, we are not restricted from issuing additional securities, including common stock, securities that are convertible into or exchangeable or exercisable for common stock or preferred stock or any substantially similar securities, in the future. Future issuances or sales of substantial amounts of our common stock may be at prices below the offering price of the common stock offered by this prospectus supplement and may result in further dilution in our earnings per share, FFO per share, Core FFO per share and/or adversely impact the market price of our common stock.

S-3

TABLE OF CONTENTS

Future sales or issuances of our common stock may cause the market price of our common stock to decline.

The sale of substantial amounts of our common stock, whether directly by us or in the secondary market, the perception that such sales or other issuances of common stock could occur or the availability for future sale or issuance of shares of our common stock or securities convertible into or exchangeable or exercisable for our common stock could materially and adversely affect the market price of our common stock and our ability to raise capital through future offerings of equity or equity-related securities. In addition, we may issue capital stock or other equity securities senior to our common stock in the future for a number of reasons, including to finance our operations and business plan, to adjust our ratio of debt to equity, to satisfy obligations upon the redemption of partnership units in the Operating Partnership and the University Towers Partnership or for other reasons.

The market price of our common stock may fluctuate significantly.

The market price of our common stock may fluctuate significantly in response to many factors, including:

- actual or anticipated variations in our operating results, FFO, Core FFO, cash flows or liquidity;
- change in our earnings, FFO or Core FFO estimates or those of analysts and any failure to meet such estimates;
- changes in our dividend policy;
- publication of research reports about us, the collegiate housing industry or the real estate industry generally;
- increases in market interest rates that lead purchasers of our common stock to demand a higher dividend yield;
- changes in market valuations of similar companies;
- adverse market reaction to the amount of our outstanding debt at any time, the amount of our maturing debt in the near and medium term and our ability to refinance such debt and the terms thereof or our plans to incur additional debt in the future;
- additions or departures of key management personnel, including our ability to find desired replacements;
- actions by institutional stockholders;
- speculation in the press or investment community;
- the realization of any of the other risk factors included in, or incorporated by reference in, this prospectus supplement and the accompanying prospectus; and
- general market and economic conditions.

Many of the factors listed above are beyond our control. Those factors may cause the market price of our common stock to decline, regardless of our financial performance, condition and prospects. It is impossible to provide any assurance that the market price of our common stock will not decline in the future, and it may be difficult for our stockholders to resell their shares of our common stock in the amount or at prices or times that they find attractive, or at all.

Settlement provisions contained in any forward sale agreement subject us to certain risks.

Each forward purchaser will have the right to accelerate a forward sale agreement that it enters into with us and require us to physically settle such forward sale agreement in the form of shares of our common stock on a date specified by such forward purchaser if: (1) in such forward purchaser's commercially reasonable judgment, it or its affiliate is unable to hedge (or maintain a hedge of) its exposure under such forward sale agreement because (x) insufficient shares of our common stock have been made available for borrowing by securities lenders or (y) the forward purchaser or its affiliate would incur a stock loan cost in excess of a specified threshold; (2) we declare any

Edgar Filing: Education Realty Trust, Inc. - Form 424B5
dividend or distribution on shares of our common stock (a) payable in

S-4

TABLE OF CONTENTS

cash in excess of specified amounts, (b) that constitutes an extraordinary dividend under the forward sale agreement, (c) payable in securities of another company as a result of a spin-off or similar transaction, or (d) payable in any other type of securities (other than our common stock), rights, warrants or other assets for payment at less than the prevailing market price; (3) certain ownership thresholds applicable to such forward purchaser and its affiliates are exceeded; (4) an event is announced that if consummated would result in a specified extraordinary event (including certain mergers or tender offers, as well as certain events involving our nationalization, a delisting of our common stock or change in law); or (5) certain other events of default or termination events occur, including, among others, any material misrepresentation made in connection with such forward sale agreement or our insolvency (each as more fully described in the relevant forward sale agreement).

A forward purchaser's decision to exercise its right to accelerate a forward sale agreement and to require us to physically settle such forward sale agreement will be made irrespective of our interests, including our need for capital. In such cases, we could be required to issue and deliver shares of our common stock under the terms of the physical settlement provisions of the applicable forward sale agreement irrespective of our capital needs, which would result in dilution to our earnings per share, FFO per share, Core FFO per share and return on equity. In addition, upon certain events of bankruptcy, insolvency or reorganization relating to us, the forward sale agreement will terminate without further liability of the parties thereto. Following any such termination, we would not issue any shares and we would not receive any proceeds pursuant to the forward sale agreements.

Except under the circumstances described above, we will generally have the right to elect physical, cash or net share settlement under a forward sale agreement. Subject to the provisions of such forward sale agreement, delivery of our shares in connection with any physical settlement of such forward sale agreement will result in dilution to our earnings per share, FFO per share, Core FFO per share and return on equity. If we elect to cash or net share settle all or a portion of any shares of our common stock underlying any forward sale agreement, we would expect the relevant forward purchaser or one of its affiliates to purchase shares of our common stock in secondary market transactions over an unwind period to:

return shares of our common stock to securities lenders in order to unwind such forward purchaser's hedge (after taking into consideration any shares of our common stock to be delivered by us to such forward purchaser, in the case of net share settlement); and, if applicable, in the case of net share settlement, deliver shares of our common stock to us to the extent required upon settlement of such forward sale agreement.

If the price of our common stock at which these purchases are made is below the relevant forward sale price, the applicable forward purchaser will pay us such difference in cash (if we cash settle) or deliver to us shares of our common stock having a market value equal to such difference (if we net share settle). If the price of our common stock at which these purchases are made exceeds the applicable forward sale price, we will pay the applicable forward purchaser an amount in cash equal to such difference (if we elect to cash settle) or we will deliver to such forward purchaser a number of shares of our common stock having a market value equal to such difference (if we elect to net share settle). Any such difference could be significant. See Plan of Distribution Sales Through Forward Sellers.

In addition, the purchase of our common stock by a forward purchaser or its affiliate to unwind the forward purchaser's hedge position could cause the price of our common stock to increase over time, thereby increasing the amount of cash (in the case of cash settlement) or the number of shares (in the case of net share settlement) that we would owe such forward purchaser upon settlement of the applicable forward sale agreement or decrease the amount of cash (in the case of cash settlement) or the number of shares (in the case of net share settlement) that such forward purchaser would owe us upon settlement of the applicable forward sale agreement.

TABLE OF CONTENTS

In case of our bankruptcy or insolvency, any forward sale agreements will automatically terminate, and we would not receive th