

Digital Realty Trust, Inc.
Form 424B5
December 31, 2009
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Filed Pursuant to Rule 424(b)(5)
Registration No. 333-158958

CALCULATION OF REGISTRATION FEE

Title Of Securities Being Registered	Proposed Maximum Aggregate Offering Price	Amount Of Registration Fee⁽¹⁾
Common Stock, par value \$0.01 per share	\$400,000,000	\$28,520

(1) Calculated in accordance with Rule 457(o), based on the proposed maximum aggregate offering price, and Rule 457(r) under the Securities Act of 1933, as amended, or the Securities Act.

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PROSPECTUS SUPPLEMENT

(To Prospectus dated May 1, 2009)

\$400,000,000

Digital Realty Trust, Inc.

Common Stock

We have entered into equity distribution agreements with Citigroup Global Markets Inc., Merrill Lynch, Pierce, Fenner & Smith Incorporated, and Credit Suisse Securities (USA) LLC, or collectively, the Agents, relating to the shares of common stock offered by this prospectus supplement. In accordance with the terms of the equity distribution agreements, we may offer and sell shares of our common stock having an aggregate offering price of up to \$400,000,000 from time to time through the Agents as our sales agents. Sales of the shares, if any, will be made by means of ordinary brokers' transactions at market prices.

We will pay each of the Agents a commission that will not exceed, but may be lower than, 2% of the gross sales price per share of shares sold through it as agent under the applicable equity distribution agreement.

None of the Agents is required to sell any specific number or dollar amount of shares of our common stock but each will use its reasonable efforts, as our agent and subject to the terms of the applicable equity distribution agreement, to sell the shares offered, as instructed by us. The offering of common stock pursuant to the equity distribution agreements will terminate upon the earlier of (1) the sale of shares of our common stock having an aggregate offering price of \$400,000,000 and (2) the termination of each equity distribution agreement by us or by each of the Agents, as applicable.

Our common stock is listed on the New York Stock Exchange under the symbol **DLR**. The last reported sale price of our common stock on the New York Stock Exchange on December 30, 2009 was \$49.80 per share.

Investing in our common stock involves risks. See Risk Factors beginning on page S-4.

Neither the Securities and Exchange Commission nor any state 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.

Citi

BofA Merrill Lynch

Credit Suisse

The date of this prospectus supplement is December 31, 2009.

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You should rely only on the information contained in or incorporated by reference in this prospectus supplement and the accompanying prospectus. We have not, and the underwriters have not, authorized anyone to provide you with different information. If anyone provides you with different or inconsistent information, you should not rely on it. You should assume that the information contained in this prospectus supplement and the accompanying prospectus, as well as information that we have previously filed with the United States Securities and Exchange Commission and incorporated by reference, is accurate only as of the date of the applicable document. Our business, financial condition, results of operations and prospects may have changed since those dates. The descriptions set forth in this prospectus supplement replace and supplement, where inconsistent, the description of the general terms and provisions set forth in the accompanying prospectus.

The distribution of this prospectus supplement and the accompanying prospectus and the offering of the common stock in certain jurisdictions may be restricted by law. If you possess this prospectus supplement and the accompanying prospectus, you should find out about and observe these restrictions. This prospectus supplement and the accompanying prospectus are not an offer to sell the common stock and are not soliciting an offer to buy the common stock in any jurisdiction where the offer or sale is not permitted or where the person making the offer or sale is not qualified to do so or to any person to whom it is not permitted to make such offer or sale.

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ABOUT THIS PROSPECTUS SUPPLEMENT

This document is in two parts. The first part is this prospectus supplement, which describes the terms of the offer and sale from time to time of shares of our common stock pursuant to the equity distribution agreements and also adds to and updates information contained in the accompanying prospectus as well as the documents incorporated by reference into this prospectus supplement and the accompanying prospectus. The second part, the accompanying prospectus, gives more general information about securities we may offer from time to time, some of which does not apply to the common stock we are offering. To the extent any inconsistency or conflict exists between the information included in this prospectus supplement and the information included in the accompanying prospectus, the information included or incorporated by reference in this prospectus supplement updates and supersedes the information in the accompanying prospectus. This prospectus supplement incorporates by reference important business and financial information about us that is not included in or delivered with this prospectus supplement.

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 information contained in the documents identified under the heading **Where You Can Find More Information**.

Unless otherwise indicated or unless the context requires otherwise, all references in this prospectus supplement to **we**, **us**, **our** or **our company** refer to Digital Realty Trust, Inc. together with our consolidated subsidiaries, including Digital Realty Trust, L.P., a Maryland limited partnership, of which we are the sole general partner and which we refer to in this prospectus supplement as our operating partnership.

FORWARD-LOOKING STATEMENTS

We make statements in this prospectus supplement and accompanying prospectus and the documents incorporated by reference that are forward-looking statements within the meaning of the federal securities laws. In particular, statements pertaining to our capital resources, portfolio performance, acquisition and capital expenditure plans and results of operations contain forward-looking statements. Likewise, all of our statements regarding anticipated market conditions, demographics and results of operations are forward-looking statements. You can identify forward-looking statements by the use of forward-looking terminology such as **believes**, **expects**, **may**, **will**, **should**, **seeks**, **approximately**, **intends**, **plans**, **pro forma**, **estimates** or **anticipates** or the negative of these words and phrases or similar words or phrases which are predictions or indicate future events or trends and discussions which do not relate solely to historical matters. You can also identify forward-looking statements by discussions of strategy, plans or intentions. Forward-looking statements involve numerous risks and uncertainties and you should not rely on them as predictions of future events. Forward-looking statements depend on assumptions, data or methods which may be incorrect or imprecise and we may not be able to realize them. We do not guarantee that the transactions and events described will happen as described or that they will happen at all.

The following factors, among others, could cause actual results and future events to differ materially from those set forth or contemplated in the forward-looking statements:

- the impact of the current deterioration in global economic and market conditions;
- decreases in information technology spending;

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adverse economic or real estate developments in our markets or the industry sectors that we sell to;

our dependence upon significant tenants;

bankruptcy or insolvency of a major tenant or a significant number of smaller tenants;

downturn of local economic conditions in our geographic markets;

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our inability to comply with the rules and regulations applicable to public companies or to manage our growth effectively;

difficulty acquiring or operating properties in foreign jurisdictions;

defaults on or non-renewal of leases by tenants;

increased interest rates and operating costs;

our failure to obtain necessary outside financing;

restrictions on our ability to engage in certain business activities;

risks related to joint venture investments;

decreased rental rates or increased vacancy rates;

inability to successfully develop and lease new properties and space held for redevelopment;

difficulties in identifying properties to acquire and completing acquisitions;

increased competition or available supply of data center space;

our failure to successfully operate acquired properties;

our inability to acquire off-market properties;

delays or unexpected costs in development or redevelopment of properties;

our failure to maintain our status as a REIT;

possible adverse changes to tax laws;

environmental uncertainties and risks related to natural disasters;

financial market fluctuations;

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changes in foreign currency exchange rates;

changes in foreign laws and regulations, including those related to taxation and real estate ownership and operation; and

changes in real estate and zoning laws and increases in real property tax rates.

While forward-looking statements reflect our good faith beliefs, they are not guaranties of future performance. We disclaim any obligation to publicly update or revise any forward-looking statement to reflect changes in underlying assumptions or factors, new information, data or methods, future events or other changes.

The risks included here are not exhaustive, and additional factors could adversely affect our business and financial performance, including factors and risks included in other sections of this prospectus supplement. In addition, we discussed a number of material risks in our annual report on Form 10-K for the year ended December 31, 2008. Those risks continue to be relevant to our performance and financial condition. Moreover, we operate in a very competitive and rapidly changing environment. New risk factors emerge from time to time and it is not possible for management to predict all such risk factors, nor can we assess the impact of all such risk factors on the business or the extent to which any factor, or combination of factors, may cause actual results to differ materially from those contained in any forward-looking statements. Given these risks and uncertainties, investors should not place undue reliance on forward-looking statements as a prediction of actual results. For a further discussion of these and other factors that could impact our future results, performance or transactions, see the section entitled "Risk Factors" in this prospectus supplement.

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PROSPECTUS SUPPLEMENT SUMMARY

Digital Realty Trust, Inc.

We own, acquire, develop, redevelop and manage technology-related real estate. As of September 30, 2009, our portfolio consisted of 78 properties, excluding one property held as an investment in an unconsolidated joint venture, of which 65 are located throughout North America and 13 are located in Europe. Our properties are diversified in major markets where corporate datacenter and technology tenants are concentrated, including the Chicago, Dallas, Los Angeles, New York/New Jersey, Northern Virginia, Phoenix, San Francisco and Silicon Valley metropolitan areas in the U.S. and the London, Dublin, Paris and Amsterdam markets in Europe. The portfolio consists of Internet gateway and corporate datacenter properties, technology manufacturing properties and regional or national headquarters of technology companies. We operate as a real estate investment trust, or REIT, for federal income tax purposes.

As of September 30, 2009, our properties contained a total of approximately 13.8 million net rentable square feet, including approximately 1.9 million square feet held for redevelopment. As of September 30, 2009, our portfolio, excluding space held for redevelopment, was approximately 95.2% leased at an average annualized rent per occupied square foot of \$40.80.

Our principal executive offices are located at 560 Mission Street, Suite 2900, San Francisco, California 94105. Our telephone number is (415) 738-6500. Our website is located at www.digitalrealtytrust.com. The information found on, or accessible through, our website is not incorporated into, and does not form a part of, this prospectus supplement or any other report or document we file with or furnish to the United States Securities and Exchange Commission, or the SEC.

Recent Developments Acquisitions

On October 30, 2009, we acquired two fully leased datacenter facilities, 1350 Duane Avenue and 3080 Raymond Street; the adjacent buildings are located in Santa Clara, California. The buildings total approximately 185,000 square feet. The purchase price of approximately \$90.5 million includes the assumption of a \$52.8 million loan. The acquisition was financed with borrowings under our revolving credit facility.

On December 17, 2009, we acquired a two-property datacenter portfolio consisting of four buildings located at 21561 and 21571 Beaumeade Circle in Ashburn, Virginia and 45901 and 45905 Nokes Boulevard in Sterling, Virginia, as well as certain vacant real property located at 21551 Beaumeade Circle in Ashburn, Virginia, which we refer to collectively as the Beaumeade/Nokes Property, for a purchase price of approximately \$63.3 million. The Beaumeade/Nokes Property totals approximately 332,000 square feet with the vacant property capable of supporting up to 140,000 square feet of new datacenter development. The acquisition was financed with borrowings under our revolving credit facility.

On December 24, 2009, we entered into definitive purchase and sale agreements with unrelated third parties to acquire a three-property data center portfolio located in Massachusetts and Connecticut, which we refer to as the New England Portfolio. The New England Portfolio comprises a total of approximately 550,290 square feet. The New England Portfolio consists of 55 Middlesex Turnpike, Bedford, Massachusetts and a 100% condominium interest that represents 87.5% of the square footage of 128 First Avenue, Needham, Massachusetts, both located in the Boston metropolitan statistical area, as well as 60-80 Merritt Boulevard, Trumbull, Connecticut. The New England Portfolio has been renovated to modern data center standards in the last four years.

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The purchase price, which was determined through negotiations between our operating partnership and the sellers, will be approximately \$375.0 million (subject to adjustment in limited circumstances), to be paid in cash at

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closing. We expect that the purchase price, if payable, will initially be funded with borrowings under our revolving credit facility. The purchase of the New England Portfolio is subject to various closing conditions, including receipt of requisite consents. If the conditions are not satisfied by January 15, 2010, subject to adjournment and extension options, we or the sellers may terminate the purchase and sale agreements without liability, except for damages to property and for willful and material breach and provided the terminating party is not then in default. If we fail to close the purchase as required after the satisfaction or waiver of all closing conditions, we will be liable for actual damages resulting from our failure to pay any portion of the purchase price for the properties. There are no material relationships between us and the sellers.

Consistent with our growth strategy, we actively pursue opportunities for potential acquisitions, with due diligence and negotiations often at different stages of advancement at any particular time.

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THE OFFERING

Issuer	Digital Realty Trust, Inc., a Maryland corporation
Common Stock Offered	Shares with an aggregate offering price of up to \$400,000,000.
Use of Proceeds	We intend to contribute the net proceeds from this offering to our operating partnership, which will subsequently use the net proceeds from the offering to temporarily repay all or a portion of our borrowings under our revolving credit facility, to acquire additional properties, to fund development and redevelopment opportunities and for general corporate purposes. We intend to reborrow amounts under our revolving credit facility from time to time to acquire additional properties, to fund development and redevelopment opportunities and for general corporate purposes. See Use of Proceeds.
Risk Factors	An investment in our common stock involves various risks, and prospective investors should carefully consider the matters discussed under the caption entitled Risk Factors beginning on page S-4 of this prospectus supplement and in the documents incorporated by reference in this prospectus supplement before making a decision to invest in our common stock.
New York Stock Exchange Symbol	DLR
Transfer Agent and Registrar	American Stock Transfer & Trust Company

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RISK FACTORS

*In addition to other information contained in this prospectus supplement and the accompanying prospectus, you should carefully consider the risks described below and incorporated by reference to our Annual Report on Form 10-K for the year ended December 31, 2008, as updated by our subsequent filings under the Securities Exchange Act of 1934, as amended, or the Exchange Act, in evaluating our company, our properties and our business before making a decision to invest in our common stock. These risks are not the only ones faced by us. Additional risks not presently known or that are currently deemed immaterial could also materially and adversely affect our financial condition, results of operations, business and prospects. The trading price of our common stock could decline due to any of these risks, and you may lose all or part of your investment. This prospectus supplement and the accompanying prospectus and the documents incorporated herein and therein by reference also contain forward-looking statements that involve risks and uncertainties. Actual results could differ materially from those anticipated in these forward-looking statements as a result of certain factors, including the risks faced by us described below and elsewhere in this prospectus supplement and the accompanying prospectus, and the documents incorporated herein and therein by reference. Please refer to the section entitled *Forward-Looking Statements* in the prospectus supplement.*

Risks Related to this Offering

Market interest rates and other factors may affect the value of our common stock.

One of the factors that will influence the price of our common stock will be the dividend yield on our common stock relative to market interest rates. Increases in market interest rates could cause the market price of our common stock to go down. The trading price of the shares of our common stock will also depend on many other factors, which may change from time to time, including:

the market for similar securities;

the attractiveness of REIT securities in comparison to the securities of other companies, taking into account, among other things, the higher tax rates imposed on dividends paid by REITs;

government action or regulation;

general economic conditions or conditions in the financial or real estate markets; and

our financial condition, performance and prospects.

Our revolving credit facility may limit our ability to pay distributions to our common stockholders.

Our revolving credit facility prohibits us from distributing to our stockholders more than 95% of our funds from operations (as defined in our revolving credit facility) during any four consecutive fiscal quarters, except as necessary to enable us to qualify as a REIT for federal income tax purposes. Consequently, if we do not generate sufficient funds from operations (as defined in our revolving credit facility) during the twelve

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months preceding any dividend payment date for our common stock or preferred stock, we will not be able to pay all or a portion of the accumulated dividends payable to our stockholders on that payment date without causing a default under our revolving credit facility. In the event of a default under our revolving credit facility, we would be unable to borrow under our revolving credit facility and any amounts we have borrowed thereunder could become due and payable.

The number of shares available for future sale could adversely affect the market price of our common stock.

We cannot predict whether future issuances of shares of our common stock or the availability of shares for resale in the open market will decrease the market price per share of our common stock. Sales of a substantial number of shares of our common stock in the public market, or upon exchange of units or our outstanding exchangeable senior debentures or conversion of outstanding convertible preferred stock, or the perception that such sales, exchanges or conversions might occur could materially adversely affect the market price of the shares of our common stock.

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We have granted those persons who received units in the formation transactions related to our initial public offering certain registration rights with respect to the shares of our common stock for which their units may be redeemed or exchanged pursuant to the partnership agreement of our operating partnership. These registration rights required us to file a shelf registration statement covering all such shares of common stock. A shelf registration statement and a related prospectus supplement covering these shares has been filed and is currently effective.

The exchange of units for common stock, the exercise of any options granted to directors, executive officers and other employees under our incentive award plan, the issuance of our common stock in exchange for our outstanding exchangeable senior debentures or upon conversion of our outstanding convertible preferred stock, the issuance of our common stock or units in connection with property, portfolio or business acquisitions and other issuances of our common stock or units could have an adverse effect on the market price of the shares of our common stock, and the existence of units, options, convertible preferred stock and shares of our common stock reserved for issuance as restricted shares of our common stock or upon exchange of units or our outstanding exchangeable senior debentures may materially adversely affect the terms upon which we may be able to obtain additional capital through the sale of equity securities. In addition, future issuances of shares of our common stock may be dilutive to existing stockholders.

The market price and trading volume of our common stock may be volatile.

The market price of our common stock may be volatile. In addition, the trading volume in our common stock may fluctuate and cause significant price variations to occur. If the market price of our common stock declines significantly, you may be unable to resell your shares at or above the public offering price. We cannot assure you that the market price of our common stock will not fluctuate or decline significantly in the future.

Some of the factors that could negatively affect our share price or result in fluctuations in the price or trading volume of our common stock include:

- actual or anticipated variations in our quarterly operating results or dividends;
- changes in our funds from operations or earnings estimates;
- publication of research reports about us, the real estate industry or the technology industry;
- increases in market interest rates that lead purchasers of our shares to demand a higher yield;
- changes in market valuations of similar companies;
- adverse market reaction to any additional debt we incur in the future;
- additions or departures of key management personnel;

actions by institutional stockholders;

speculation in the press or investment community;

general market and economic conditions;

any determination in the future to pay a dividend partially in shares of our own common stock; and

the realization of any of the other risk factors presented or incorporated by reference in this prospectus supplement.

Future offerings of debt, which would be senior to our common stock upon liquidation, and/or preferred equity securities which may be senior to our common stock for purposes of dividend distributions or upon liquidation, may adversely affect the market price of our common stock.

In the future, we may increase our capital resources by making additional offerings of debt or preferred equity securities, including medium-term notes, trust preferred securities, senior or subordinated notes and preferred stock. Upon liquidation, holders of our debt securities and shares of preferred stock and lenders with

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respect to other borrowings will receive distributions of our available assets prior to the holders of our common stock. Holders of our common stock are not entitled to preemptive rights or other protections against dilution. Our series A preferred stock, series B preferred stock, series C convertible preferred stock and series D convertible preferred stock have a preference on liquidating distributions and a preference on dividend payments that could limit our ability to pay a dividend or make another distribution to the holders of our common stock. Because our decision to issue securities in any future offering will depend on market conditions and other factors beyond our control, we cannot predict or estimate the amount, timing or nature of our future offerings. Thus, our stockholders bear the risk of our future offerings reducing the market price of our common stock and diluting their stock holdings in us.

We may in the future choose to pay dividends in our own stock, in which case you may be required to pay tax in excess of the cash you receive.

We may in the future elect to distribute taxable dividends that are partially payable in cash and partially payable in our stock. Under recent IRS guidance, up to 90% of any such taxable dividend for 2008 through 2011 could be payable in our stock. Taxable stockholders receiving such dividends will be required to include the full amount of the dividend as ordinary income to the extent of our current and accumulated earnings and profits for United States federal income tax purposes. As a result, a U.S. stockholder may be required to pay tax with respect to such dividends in excess of the cash received. If a U.S. stockholder sells the stock it receives as a dividend in order to pay this tax, the sales proceeds may be less than the amount included in income with respect to the dividend, depending on the market price of our stock at the time of the sale. For more information on the tax consequences of distributions with respect to our common stock, see Supplemental United States Federal Income Tax Considerations. Furthermore, with respect to non-U.S. stockholders, we may be required to withhold U.S. tax with respect to such dividends, including in respect of all or a portion of such dividend that is payable in stock. In addition, if a significant number of our stockholders determine to sell shares of our stock in order to pay taxes owed on dividends, it may put downward pressure on the trading price of our stock.

USE OF PROCEEDS

We intend to contribute the net proceeds from this offering to our operating partnership, which will subsequently use the net proceeds from the offering to temporarily repay all or a portion of our borrowings under our revolving credit facility to acquire additional properties, to fund development and redevelopment opportunities and for general corporate purposes. We intend to reborrow amounts under our revolving credit facility from time to time to acquire additional properties, to fund development and redevelopment opportunities and for general corporate purposes. At December 28, 2009, our revolving credit facility had total outstanding borrowings, excluding committed letters of credit, of \$195.5 million bearing interest at LIBOR plus 1.1% per annum, which equaled a rate of 1.34%, and 7.0 million bearing interest at EURIBOR plus 1.1% per annum, which equaled a rate of 1.55%. Our revolving credit facility matures in August 2010, subject to two extension options of one year each. The bank group is obligated to grant extension options provided we give proper notice, we make certain representations and warranties and no default exists under the revolving credit facility. We have used the proceeds of borrowings under our revolving credit facility to fund acquisitions, to fund development and redevelopment activities and for general corporate purposes.

SUPPLEMENTAL UNITED STATES FEDERAL INCOME TAX CONSIDERATIONS

This discussion is a supplement to, and is intended to be read together with, the discussion in the accompanying prospectus under the heading United States Federal Income Tax Considerations. This summary of material federal income tax considerations is for general information only and is not tax advice. The information in this summary is based on current law, including:

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the Internal Revenue Code of 1986, as amended, or the Code;

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current, temporary and proposed Treasury regulations promulgated under the Code;

the legislative history of the Code;

current administrative interpretations and practices of the Internal Revenue Service, or the IRS; and

court decisions;

in each case, as of the date of this prospectus supplement. In addition, the administrative interpretations and practices of the IRS include its practices and policies as expressed in private letter rulings which are not binding on the IRS except with respect to the particular taxpayers that requested and received those rulings. Future legislation, Treasury regulations, administrative interpretations and practices and/or court decisions may adversely affect the tax considerations described in this prospectus supplement. Any such change could apply retroactively.

We have not requested, and do not plan to request, any rulings from the IRS with respect to matters contained in this discussion, and the statements in this prospectus supplement are not binding on the IRS or any court. We can provide no assurance that the tax considerations described in this discussion will not be challenged by the IRS or, if so challenged, would be sustained by a court.

In addition, this summary does not consider the effect of any non-United States, state, local or other tax laws that may be applicable, and does not deal with all aspects of federal income taxation that may affect particular holders of common stock in light of their individual circumstances, or with holders subject to special treatment under the federal income tax laws, including:

financial institutions, banks and thrifts;

insurance companies;

tax-exempt organizations;

S corporations;

traders in securities that elect to mark to market;

partnerships, pass-through entities and persons holding our stock through a partnership or other pass-through entity;

stockholders subject to the alternative minimum tax;

regulated investment companies and REITs;

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foreign corporations or partnerships, and persons who are not residents or citizens of the United States;

broker-dealers or dealers in securities or currencies;

United States expatriates;

persons holding our stock as part of a hedge, straddle, conversion, integrated or other risk reduction or constructive sale transaction; or

U.S. stockholders (as defined in accompanying prospectus) whose functional currency is not the United States dollar.

You are urged to consult your tax advisor regarding the specific tax consequences to you of:

The acquisition, ownership and sale or other disposition of our common stock, including the federal, state, local, non-United States and other tax consequences;

Our election to be taxed as a REIT for federal income tax purposes; and

Potential changes in applicable tax laws.

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Certain Dividends Paid in Stock

Recent guidance issued by the IRS extends and clarifies the application of the safe harbor set forth in Revenue Procedure 2009-15, described in the accompanying prospectus under the heading *Taxation of Our Company Annual Distribution Requirements* and *Taxation of Taxable U.S. Stockholders Distributions Generally*. This IRS guidance provides that certain part-stock and part-cash dividends distributed by publicly-traded REITs for calendar years 2008 through 2011 will satisfy the REIT distribution requirements. Under the terms of this guidance, up to 90% of our distributions could be paid in shares of our common stock. If we make such a distribution, taxable stockholders would be required to include the full amount of the dividend (*i.e.*, the cash and the stock portions) as ordinary income (subject to limited exceptions), to the extent of our current and accumulated earnings and profits for United States federal income tax purposes, as described in the accompanying prospectus under the headings *Taxation of Taxable U.S. Stockholders Distributions Generally* and *Taxation of Non-U.S. Stockholders Distributions Generally*. As a result, our stockholders generally would recognize taxable income in excess of the cash received and may be required to pay tax with respect to such dividends in excess of the cash received. If a taxable shareholder sells the stock it receives as a dividend, the sales proceeds may be less than the amount included in income with respect to the dividend, depending on the market price of the stock at the time of the sale. Furthermore, with respect to non-U.S. stockholders (as defined in the accompanying prospectus), we may be required to withhold U.S. tax with respect to such dividends, including in respect of all or a portion of such dividend that is payable in stock.

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PLAN OF DISTRIBUTION

We have entered into equity distribution agreements with each of Citigroup Global Markets Inc., Merrill Lynch, Pierce, Fenner & Smith Incorporated and Credit Suisse Securities (USA) LLC, or the Agents, under which we may issue and sell shares of common stock having an aggregate offering price of up to \$400,000,000 from time to time through, at our discretion, any of the Agents, as our sales agents. We refer to such agent selected by us for a sale as the Designated Agent. The equity distribution agreements will be filed as exhibits to a current report on Form 8-K and incorporated by reference in this prospectus supplement. The sales, if any, of common stock made under the equity distribution agreements will be made in at the market offerings as defined in Rule 415 of the Securities Act, including sales made directly on the New York Stock Exchange, the principal trading market for our common stock, or sales made to or through a market maker or through an electronic communications network. As agents, none of the Agents will engage in any transactions that stabilize the price of our common stock.

We will designate the maximum amount of common stock to be sold through the Designated Agent on a daily basis or otherwise as we and such Designated Agent agree and the minimum price per share at which such shares may be sold. Subject to the terms and conditions of the equity distribution agreements, the Designated Agent will use its reasonable efforts to sell on our behalf all of the designated shares of our common stock. We may instruct the Designated Agent not to sell our common stock if the sales cannot be effected at or above the price designated by us in any such instruction. We may suspend the offering of our common stock under any equity distribution agreement by notifying the applicable Agent. Each of the Agents may suspend the offering of our common stock under its respective equity distribution agreement by notifying us of such suspension.

The Designated Agent will provide written confirmation to us following the close of trading on the New York Stock Exchange each day on which shares of our common stock are sold under the equity distribution agreement to which it is a party. Each confirmation will include the number of shares of common stock sold on that day, the gross sales price per share and the compensation payable by us to the Designated Agent in connection with the sales. We will report at least quarterly the number of shares of common stock sold through the Designated Agents under the applicable equity distribution agreements, the proceeds to us (before expenses) and the compensation paid by us to the applicable Designated Agent in connection with the sales of the common stock.

We will pay the Designated Agent a commission that will not exceed, but may be lower than, 2% of the gross sales price per share of our common stock sold through it as our agent under the equity distribution agreement to which it is a party. If shares having an aggregate offering price of at least \$40,000,000 have not been offered or sold under the equity distribution agreements by December 31, 2010 (or such earlier date on which the Company terminates all equity distribution agreements), we have agreed to reimburse the Agents for their reasonable out of pocket expenses, including legal expenses, in connection with the equity distribution agreements, the registration statement and ongoing services in connection with the transactions contemplated thereunder, in an amount not to exceed \$250,000 in the aggregate. We estimate that the total expenses of the offering payable by us, excluding commissions and expense reimbursement obligations under the equity distribution agreements, will be approximately \$800,000. The remaining sales proceeds, after deducting any transaction fees imposed by any governmental or self-regulatory organization in connection with the sales, will equal our net proceeds for the sale of the common stock.

Settlement for sales of our common stock will occur on the third business day following the date on which any sales were made in return for payment of the net proceeds to us. There is no arrangement for funds to be received in an escrow, trust or similar arrangement.

The offering of shares of our common stock pursuant to the equity distribution agreements will terminate upon the earlier of (1) the sale of shares of our common stock having an aggregate offering price of \$400,000,000 pursuant to this offering and (2) the termination of each equity distribution agreement by us or by each of the Agents.

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The Agents will act as sales agents on a reasonable efforts basis. In connection with the sale of common stock on our behalf, any of the Agents may be deemed to be an underwriter within the meaning of the Securities Act, and the compensation paid to the Agents may be deemed to be underwriting commissions. We have agreed to provide indemnification and contribution to the Agents against certain civil liabilities, including liabilities under the Securities Act.

In the ordinary course of their business, the Agents or their respective affiliates have in the past performed, and may continue to perform, investment banking, broker dealer, financial advisory or other services for us, for which they have received, or may receive, customary fees and expenses. In addition, affiliates of the Agents are lenders under our revolving credit facility and, accordingly, may receive their proportionate share of any proceeds of this offering that are used to repay indebtedness under our revolving credit facility.

The Agents have determined that our common stock is an actively-traded security excepted from the requirements of Rule 101 of Regulation M under the Exchange Act by Rule 101(c)(1) under that Act. If the Agents or we have reason to believe that the exemptive provisions set forth in Rule 101(c)(1) of Regulation M under the Exchange Act are not satisfied, that party will promptly notify the others and sales of common stock under the equity distribution agreements will be suspended until that or other exemptive provisions have been satisfied in the judgment of the Agents and us.

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LEGAL MATTERS

Certain legal matters will be passed upon for us by Latham & Watkins LLP, San Francisco and Los Angeles, California, and for the underwriters by Goodwin Procter LLP, Boston, Massachusetts. Venable LLP, Baltimore, Maryland, will issue an opinion to us regarding certain matters of Maryland law, including the validity of the common stock offered hereby.

EXPERTS

The consolidated balance sheets of Digital Realty Trust, Inc. and subsidiaries as of December 31, 2008 and 2007, and the related consolidated statements of operations, equity and comprehensive income (loss), and cash flows of Digital Realty Trust, Inc. and subsidiaries for each of the years in the three-year period ended December 31, 2008, and related financial statement schedule and management's assessment of the effectiveness of internal control over financial reporting as of December 31, 2008 have been incorporated by reference in this prospectus supplement, the accompanying prospectus and elsewhere in the registration statement of which the accompanying prospectus is a part in reliance upon the report of KPMG LLP, independent registered public accounting firm, incorporated by reference in this prospectus and in the registration statement, and upon the authority of said firm as experts in accounting and auditing.

The audit report covering the December 31, 2008, 2007 and 2006 consolidated financial statements refers to the retrospective application of Financial Accounting Standards Board (FASB) Staff Position No. APB 14-1, *Accounting for Convertible Debt Instruments That May Be Settled in Cash upon Conversion (Including Partial Cash Settlement)* and FASB No. 160, *Noncontrolling Interests in Consolidated Financial Statements, an amendment of ARB No. 51*, which all became effective on January 1, 2009.

WHERE YOU CAN FIND MORE INFORMATION

We file annual, quarterly and special reports, proxy statements and other information with the SEC. You may read and copy any document we file with the SEC at the SEC's public reference room at 100 F Street, N.E. Room 1580, Washington, D.C. 20549. Please call the SEC at 1-800-SEC-0330 for further information about the public reference room. The SEC also maintains a web site that contains reports, proxy and information statements and other information regarding registrants that file electronically with the SEC at <http://www.sec.gov>. You can inspect reports and other information we file at the offices of the NYSE, 20 Broad Street, New York, New York 10005. In addition, we maintain a website that contains information about us at <http://www.digitalrealtytrust.com>. The information found on, or otherwise accessible through, our website is not incorporated into, and does not form a part of, this prospectus supplement or any other report or document we file with or furnish to the SEC.

We have filed with the SEC a registration statement on Form S-3, of which this prospectus supplement and the accompanying prospectus is a part, including exhibits, schedules and amendments filed with, or incorporated by reference in, this registration statement, under the Securities Act, with respect to the securities registered hereby. This prospectus supplement and the accompanying prospectus do not contain all of the information set forth in the registration statement and exhibits and schedules to the registration statement. For further information with respect to our company and the securities registered hereby, reference is made to the registration statement, including the exhibits to the registration statement. Statements contained in this prospectus supplement and the accompanying prospectus as to the contents of any contract or other document referred to in, or incorporated by reference in, this prospectus supplement and the accompanying prospectus are not necessarily complete and, where that contract is an exhibit to the registration statement, each statement is qualified in all respects by the exhibit to which the reference relates. Copies of the registration statement, including the exhibits and schedules to the registration statement, may be examined at the SEC's public reference room. Copies of all or a portion of the registration statement can be obtained from the SEC's public reference room upon

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payment of prescribed fees. This registration statement is also available to you on the SEC's website.

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INCORPORATION OF CERTAIN INFORMATION BY REFERENCE

The SEC allows us to incorporate by reference the information we file with the SEC, which means that we can disclose important information to you by referring to those documents. The information incorporated by reference is an important part of this prospectus supplement. The incorporated documents contain significant information about us, our business and our finances. Any statement contained in a document which is incorporated by reference in this prospectus supplement is automatically updated and superseded if information contained in this prospectus supplement, or information that we later file with the SEC, modifies or replaces this information. We incorporate by reference the following documents we filed with the SEC:

our Annual Report on Form 10-K for the year ended December 31, 2008;

our Definitive Proxy Statement on Schedule 14A filed with the SEC on April 6, 2009 (solely to the extent specifically incorporated by reference into our Annual Report on Form 10-K for the year ended December 31, 2008);

our Quarterly Reports on Form 10-Q filed with the SEC on May 8, 2009, August 6, 2009 and November 9, 2009;

our Current Reports on Form 8-K filed with the SEC on February 13, 2009, March 19, 2009, April 13, 2009, April 22, 2009, November 2, 2009, November 19, 2009 and December 31, 2009;

the description of our common stock, par value \$0.01 per share, contained in our Registration Statement on Form 8-A filed on October 28, 2004 (file number 001-32336), including any amendment or reports filed for the purpose of updating this description; and

all documents filed by us with the SEC pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act after the date of this prospectus and prior to the termination of the offering of the underlying securities (excluding any portions of such documents that are deemed furnished to the SEC pursuant to applicable rules and regulations).

We will provide to each person to whom this prospectus supplement is delivered a copy of any or all of the information that we have incorporated by reference into this prospectus supplement but not delivered with this prospectus supplement. To receive a free copy of any of the documents incorporated by reference in this prospectus supplement, other than exhibits, unless they are specifically incorporated by reference in those documents, call or write to General Counsel, Digital Realty Trust, Inc., 560 Mission Street, Suite 2900, San Francisco, California 94105, telephone: (415) 738-6500.

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PROSPECTUS

Digital Realty Trust, Inc.

Common Stock, Preferred Stock, Depositary Shares and Warrants

We may from time to time offer, in one or more series or classes, separately or together, and in amounts, at prices and on terms to be set forth in one or more supplements to this prospectus, the following securities:

shares of our common stock, par value \$0.01 per share;

shares of our preferred stock, par value \$0.01 per share;

depositary shares representing entitlement to all rights and preferences of fractions of shares of preferred stock of a specified series and represented by depositary receipts; or

warrants to purchase shares of our common stock or preferred stock or depositary shares.

This prospectus also covers delayed delivery contracts that may be issued by the registrant under which the counterparty may be required to purchase common stock, preferred stock, depositary shares or warrants to purchase common stock or preferred stock. Delayed delivery contracts may be issued together with the specific securities to which they relate. In addition, securities registered hereunder may be sold separately, together or as units with other securities registered hereunder.

We refer to the common stock, preferred stock, depositary shares and warrants registered hereunder collectively as the securities in this prospectus. We will offer our securities in amounts, at prices and on terms determined at the time of the offering of any such security.

The specific terms of each series or class of the securities will be set forth in the applicable prospectus supplement and will include, as applicable: (i) in the case of our common stock, any public offering price; (ii) in the case of our preferred stock, the specific title and any dividend, liquidation, redemption, conversion, voting and other rights and any public offering price; (iii) in the case of depositary shares, the fractional share of preferred stock represented by each such depositary share; and (iv) in the case of warrants, the duration, offering price, exercise price and detachability. In addition, because we are organized and conduct our operations so as to qualify as a real estate investment trust, or REIT, for federal income tax purposes, the specific terms of any securities may include limitations on actual or constructive ownership and restrictions on transfer of the securities, in each case as may be appropriate to preserve the status of our company as a REIT.

The applicable prospectus supplement will also contain information, where applicable, about certain United States federal income tax consequences relating to, and any listing on a securities exchange of, the securities covered by such prospectus supplement.

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The securities may be offered directly by us, through agents designated from time to time by us or to or through underwriters or dealers. These securities also may be resold by securityholders, if so provided in a prospectus supplement hereto. We will provide specific information about any selling securityholders in one or more supplements to this prospectus. If any agents, dealers or underwriters are involved in the sale of any of the securities, their names, and any applicable purchase price, fee, commission or discount arrangement between or among them will be set forth, or will be calculable from the information set forth, in the applicable prospectus supplement. See the sections entitled "Plan of Distribution and About this Prospectus" for more information. No securities may be sold without delivery of this prospectus and the applicable prospectus supplement describing the method and terms of the offering of such series of securities.

Our common stock currently trades on the New York Stock Exchange, or NYSE, under the symbol "DLR".

See **Risk Factors** beginning on page 2 for certain risk factors relevant to an investment in our securities.

Neither the United States 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 May 1, 2009.

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You should rely only on the information contained in this prospectus, in an accompanying prospectus supplement or incorporated by reference herein or therein. We have not authorized anyone to provide you with information or make any representation that is different. If anyone provides you with different or inconsistent information, you should not rely on it. This prospectus and any accompanying prospectus supplement do not constitute an offer to sell or a solicitation of an offer to buy any securities other than the registered securities to which they relate, and this prospectus and any accompanying prospectus supplement do not constitute an offer to sell or the solicitation of an offer to buy securities in any jurisdiction where, or to any person to whom, it is unlawful to make such an offer or solicitation. You should not assume that the information contained in this prospectus and any accompanying prospectus supplement is correct on any date after the respective dates of the prospectus and such prospectus supplement or supplements, as applicable, even though this prospectus and such prospectus supplement or supplements are delivered or shares are sold pursuant to the prospectus and such prospectus supplement or supplements at a later date. Since the respective dates of the prospectus contained in this registration statement and any accompanying prospectus supplement, our business, financial condition, results of operations and prospects may have changed. We may only use this prospectus to sell the securities if it is accompanied by a prospectus supplement.

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OUR COMPANY

We own, acquire, develop, redevelop and manage technology-related real estate. Our properties are diversified in major markets where corporate datacenter and technology tenants are concentrated, including the Chicago, Dallas, Los Angeles, New York, Northern Virginia, Phoenix, San Francisco and Silicon Valley metropolitan areas in the U.S. and the London, Dublin, Paris and Amsterdam markets in Europe. Our portfolio consists of Internet gateway and corporate datacenter properties, technology manufacturing properties and regional or national headquarters of technology companies. We operate as a real estate investment trust, or REIT, for U.S. federal income tax purposes.

Our principal executive offices are located at 560 Mission Street, Suite 2900, San Francisco, California 94105. Our telephone number is (415) 738-6500. Our website is located at www.digitalrealtytrust.com. The information found on, or accessible through, our website is not incorporated into, and does not form a part of, this prospectus or any other report or document we file with or furnish to the United States Securities and Exchange Commission, or the SEC.

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RISK FACTORS

Investment in any securities offered pursuant to this prospectus involves risks. You should carefully consider the risk factors incorporated by reference to our most recent Annual Report on Form 10-K and subsequent Quarterly Reports on Form 10-Q and the other information contained or incorporated by reference in this prospectus, as updated by our subsequent filings under the Securities Exchange Act of 1934, as amended, or the Exchange Act, and the risk factors and other information contained in the applicable prospectus supplement before acquiring any of such securities.

ABOUT THIS PROSPECTUS

This prospectus is part of a registration statement that we filed with the United States Securities and Exchange Commission, or SEC, using a shelf registration process. Under this process, we may sell common stock, preferred stock, depositary shares and warrants in one or more offerings. This prospectus provides you with a general description of the securities we may offer. Each time we sell securities, we will provide a prospectus supplement containing specific information about the terms of the applicable offering. Such prospectus supplement may add, update or change information contained in this prospectus. To the extent that this prospectus is used by any securityholder to resell any securities, information with respect to the securityholder and the terms of the securities being offered will be contained in a prospectus supplement. You should read this prospectus and the applicable prospectus supplement together with additional information described under the heading *Where You Can Find More Information*.

We or any selling securityholders may offer the securities directly, through agents, or to or through underwriters. The applicable prospectus supplement will describe the terms of the plan of distribution and set forth the names of any underwriters involved in the sale of the securities. See *Plan of Distribution* for more information on this topic. No securities may be sold without delivery of a prospectus supplement describing the method and terms of the offering of those securities.

Unless otherwise indicated or unless the context requires otherwise, all references in this prospectus to *we*, *us*, *our* or *our company* refer to Digital Realty Trust, Inc. together with our consolidated subsidiaries, including Digital Realty Trust, L.P., a Maryland limited partnership of which we are the sole general partner and which we refer to in this prospectus as our operating partnership.

WHERE YOU CAN FIND MORE INFORMATION

We file annual, quarterly and special reports, proxy statements and other information with the SEC. You may read and copy any document we file with the SEC at the SEC's public reference room at 100 F Street, N.E. Room 1580, Washington, D.C. 20549. Please call the SEC at 1-800-SEC-0330 for further information about the public reference room. The SEC also maintains a web site that contains reports, proxy and information statements and other information regarding registrants that file electronically with the SEC at <http://www.sec.gov>. You can inspect reports and other information we file at the offices of the NYSE, 20 Broad Street, New York, New York 10005. In addition, we maintain a website that contains information about us at <http://www.digitalrealtytrust.com>. The information found on, or otherwise accessible through, our website is not incorporated into, and does not form a part of, this prospectus or any other report or document we file with or furnish to the SEC.

We have filed with the SEC a registration statement on Form S-3, of which this prospectus is a part, including exhibits, schedules and amendments filed with, or incorporated by reference in, this registration statement, under the Securities Act of 1933, as amended, or the

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Securities Act, with respect to the securities registered hereby. This prospectus and any accompanying prospectus supplement do not contain all of the information set forth in the registration statement and exhibits and schedules to the registration statement. For further information with respect to our company and the securities registered hereby, reference is made to the registration statement, including the exhibits to the registration statement. Statements contained in this prospectus and any accompanying prospectus supplement as to the contents of any contract or other document referred to in, or incorporated by reference in, this prospectus and any accompanying prospectus supplement are not necessarily complete and, where that contract is an exhibit to the registration statement, each statement is qualified in all respects by the exhibit to which the reference relates. Copies of the registration statement, including the exhibits and schedules to the registration statement, may be examined at the SEC's public reference room. Copies of all or a portion of the registration statement can be obtained from the public reference room of the SEC upon payment of prescribed fees. This registration statement is also available to you on the SEC's website.

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INCORPORATION OF CERTAIN DOCUMENTS BY REFERENCE

The SEC allows us to incorporate by reference the information we file with the SEC, which means that we can disclose important information to you by referring to those documents. The information incorporated by reference is an important part of this prospectus. The incorporated documents contain significant information about us, our business and our finances. Any statement contained in a document which is incorporated by reference in this prospectus is automatically updated and superseded if information contained in this prospectus, or information that we later file with the SEC, modifies or replaces this information. We incorporate by reference the following documents we filed with the SEC:

our Annual Report on Form 10-K for the year ended December 31, 2008;

our Definitive Proxy Statement on Schedule 14A filed with the SEC on April 6, 2009 (solely to the extent specifically incorporated by reference into our Annual Report on Form 10-K for the year ended December 31, 2008);

our Current Report on Form 8-K filed with the SEC on February 13, 2009;

our Current Report on Form 8-K filed with the SEC on March 19, 2009;

our Current Report on Form 8-K filed with the SEC on April 13, 2009;

our Current Report on Form 8-K filed with the SEC on April 22, 2009;

the description of our Series B Cumulative Redeemable Preferred Stock, par value \$0.01 per share, contained in our Registration Statement on Form 8-A filed on July 20, 2005 (file number 001-32336), including any amendment or reports filed for the purpose of updating this description;

the description of our Series A Cumulative Redeemable Preferred Stock, par value \$0.01 per share, contained in our Registration Statement on Form 8-A filed on February 2, 2005 (file number 001-32336), including any amendment or reports filed for the purpose of updating this description;

the description of our common stock, par value \$0.01 per share, contained in our Registration Statement on Form 8-A filed on October 28, 2004 (file number 001-32336), including any amendment or reports filed for the purpose of updating this description; and

all documents filed by us with the SEC pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934, as amended, after the date of this prospectus and prior to the termination of the offering of the underlying securities (excluding any portions of such documents that are deemed furnished to the SEC pursuant to applicable rules and regulations).

We will provide without charge to each person, including any beneficial owner, to whom a prospectus is delivered, on written or oral request of that person, a copy of any or all of the documents we are incorporating by reference into this prospectus, other than exhibits to those documents unless those exhibits are specifically incorporated by reference into those documents. A written request should be addressed to Joshua A. Mills, General Counsel and Assistant Secretary, Digital Realty Trust, Inc., 560 Mission Street, Suite 2900, San Francisco, California 94105.

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FORWARD-LOOKING STATEMENTS

This prospectus, including the documents that we incorporate by reference, contains forward-looking statements within the meaning of the safe harbor from civil liability provided for such statements by the Private Securities Litigation Reform Act of 1995 (set forth in Section 27A of the Securities Act and Section 21E of the Exchange Act). Also, documents we subsequently file with the SEC and incorporate by reference will contain forward-looking statements. In particular, statements pertaining to our capital resources, portfolio performance and results of operations contain forward-looking statements. Likewise, pro forma financial statements and other pro forma information incorporated by reference and all our statements regarding anticipated growth in our funds from operations and anticipated market conditions, demographics and results of operations are forward-looking statements. Forward-looking statements involve numerous risks and uncertainties and you should not rely on them as predictions of future events. Forward-looking statements depend on assumptions, data or methods which may be incorrect or imprecise and we may not be able to realize them. We do not guarantee that the transactions and events described will happen as described (or that they will happen at all). You can identify forward-looking statements by the use of forward-looking terminology such as believes, expects, may, will, should, seeks, approximately, intends, plans, pro forma, estimates or anticipates or the negative of these words and phrases or similar phrases. You can also identify forward-looking statements by discussions of strategies, plans or intentions. The following factors, among others, could cause actual results and future events to differ materially from those set forth or contemplated in the forward-looking statements:

the impact of the current deterioration in global economic and market conditions;

adverse economic or real estate developments in our markets or the industry sectors that we sell to;

decreases in information technology spending;

our dependence upon significant tenants;

bankruptcy or insolvency of a major tenant or a significant number of smaller tenants;

downturn of local economic conditions in our geographic markets;

our inability to comply with the rules and regulations applicable to public companies or to manage our growth effectively;

difficulty acquiring or operating properties in foreign jurisdictions;

defaults on or non-renewal of leases by tenants;

increased interest rates and operating costs;

our failure to obtain necessary outside financing;

restrictions on our ability to engage in certain business activities;

risks related to joint venture investments;

decreased rental rates or increased vacancy rates;

inability to successfully develop and lease new properties and space held for redevelopment;

difficulties in identifying properties to acquire and completing acquisitions;

increased competition or available supply of data center space;

our failure to successfully operate acquired properties;

our possible inability to acquire off-market properties;

delays or unexpected costs in development or redevelopment of properties;

our possible failure to maintain our status as a REIT;

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possible adverse changes to tax laws;

environmental uncertainties and risks related to natural disasters;

financial market fluctuations;

changes in foreign currency exchange rates;

changes in foreign laws and regulations, including those related to taxation and real estate ownership and operation; and

changes in real estate and zoning laws and increases in real property tax rates.

For a further discussion of these and other factors that could impact our future results, performance or transactions, see the section entitled "Risk Factors," including the risks incorporated therein, from our most recent Annual Report on Form 10-K, as updated by our subsequent filings, including filings we make after the date of this prospectus.

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USE OF PROCEEDS

Unless we indicate otherwise in the applicable prospectus supplement, we intend to contribute the net proceeds from any sale of the securities pursuant to this prospectus to our operating partnership. Our operating partnership will subsequently use the net proceeds received from us to potentially acquire or develop additional properties and for general corporate purposes, which may include the repayment of existing indebtedness. Pending application of cash proceeds, we may use the net proceeds to temporarily reduce borrowings under our revolving credit facility or we may invest the net proceeds in interest-bearing accounts and short-term, interest-bearing securities which are consistent with our intention to qualify as a REIT for U.S. federal income tax purposes. We will not receive any of the proceeds from sales of securities by selling securityholders, if any, pursuant to this prospectus. Further details regarding the use of the net proceeds of a specific series or class of the securities will be set forth in the applicable prospectus supplement.

Table of Contents**RATIO OF EARNINGS TO FIXED CHARGES AND PREFERRED DIVIDENDS**

Our ratios of earnings to fixed charges and earnings to fixed charges and preferred dividends for the periods indicated are as follows:

Digital Realty Trust, Inc.**Statement of Computation of Ratios**

	The Company Year ended December 31,				The Company and the Predecessor
	2008	2007	2006	2005	2004
Ratio of earnings to fixed charges	1.65	1.17	1.41	1.68	
Ratio of earnings to fixed charges and preferred stock dividends	1.12		1.12	1.31	

Our ratios of earnings to fixed charges are computed by dividing earnings by fixed charges. Our ratios of earnings to fixed charges and preferred dividends are computed by dividing earnings by the sum of fixed charges and preferred dividends. For this purpose, earnings consist of income (loss) from continuing operations before minority interests and fixed charges. Fixed charges consist of interest expense, capitalized interest and amortization of deferred financing fees, whether expensed or capitalized, and interest within rental expense. Preferred stock dividends consist of the amount of pre-tax earnings required to pay dividends on our series A preferred stock, series B preferred stock, series C preferred stock and series D preferred stock.

For the year ended December 31, 2007, earnings were insufficient to cover fixed charges and preferred dividends by \$5.7 million. For the year ended December 31, 2004, earnings were insufficient to cover fixed charges and fixed charges and preferred dividends by \$5.3 million.

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DESCRIPTION OF SECURITIES

The following summary of the material terms of our securities sets forth certain general terms and provisions of the securities to which any prospectus supplement may relate. This summary does not purport to be complete and is subject to and qualified in its entirety by reference to our charter documents and bylaws, copies of which we have previously filed with the SEC. See [Where You Can Find More Information](#).

We may from time to time offer under this prospectus one or more of the following categories of our securities:

shares of our common stock, par value \$0.01 per share;

shares of our preferred stock, par value \$0.01 per share;

depository shares representing entitlement to all rights and preferences of fractions of shares of preferred stock of a specified series and represented by depository receipts; or

warrants to purchase shares of our common stock or preferred stock or depository shares.

The terms of any specific offering of our securities, including the terms of any units of a combination of our securities, will be described in a prospectus supplement relating to such offering.

Description of Common Stock

General. Our charter provides that we may issue up to 125 million shares of our common stock, par value \$0.01 per share, or common stock. As of March 31, 2009, 76,042,511 shares of our common stock were issued and outstanding, excluding:

4,032,511 shares available for future issuance under our incentive award plan;

909,911 shares underlying options granted under our incentive award plan;

874,259 shares issuable upon redemption of outstanding vested long-term incentive units (including class C units) issued under our incentive award plan;

482,002 shares issuable upon redemption of outstanding unvested long-term incentive units issued under our incentive award plan;

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4,581,944 shares issuable upon redemption of outstanding common units;

728,202 shares potentially issuable upon redemption of outstanding unvested class C units;

22,522 restricted shares issued under our incentive award plan; and

3,614,777 shares potentially issuable upon conversion of our series C cumulative convertible preferred stock, using the current conversion rate, 8,215,221 shares potentially issuable upon conversion of our series D cumulative convertible preferred stock, using the current conversion rate and 5,353,883 shares potentially issuable upon exchange of our 4.125% exchangeable senior debentures, using the current conversion rate.

All outstanding shares of our common stock are duly authorized, fully paid and nonassessable. Subject to the preferential rights of any other class or series of stock and to the provisions of our charter regarding the restrictions on transfer of stock, holders of shares of our common stock are entitled to receive dividends on such stock if, as and when authorized by our board of directors out of assets legally available therefor and declared by us and to share ratably in the assets of our company legally available for distribution to our stockholders in the event of our liquidation, dissolution or winding up after payment or establishment of reserves for all known debts and liabilities of our company.

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Subject to the provisions of our charter regarding the restrictions on transfer of stock and except as may be otherwise specified therein with respect to any class or series of common stock, each outstanding share of our common stock entitles the holder to one vote on all matters submitted to a vote of stockholders, including the election of directors and, except as provided with respect to any other class or series of stock, the holders of such shares will possess the exclusive voting power. There is no cumulative voting in the election of our board of directors, which means that the holders of a majority of the outstanding shares of our common stock can elect all of the directors then standing for election and the holders of the remaining shares will not be able to elect any directors.

Holders of shares of our common stock have no preference, conversion, exchange, sinking fund or redemption rights, have no preemptive rights to subscribe for any securities of our company and generally 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. Subject to the provisions of our charter regarding the restrictions on transfer of stock, shares of our common stock will have equal dividend, liquidation and other rights.

Under the Maryland General Corporation Law, or MGCL, 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 the action is approved by the affirmative vote of stockholders entitled to cast at least two-thirds of the votes entitled to be cast on the matter unless a lesser percentage (but not less than a majority of all of the votes entitled to be cast on the matter) is set forth in the corporation's charter. Except for certain charter amendments relating to the removal of directors, our charter provides that these actions may be taken if declared advisable by a majority of our board of directors and approved by the vote of a majority of the votes entitled to be cast on the matter. However, Maryland law permits a corporation to transfer all or substantially all of its assets without the approval of the stockholders of the corporation to one or more persons if all of the equity interests of the person or persons are owned, directly or indirectly, by the corporation. In addition, operating assets may be held by a corporation's subsidiaries, as in our situation, and these subsidiaries may be able to transfer all or substantially all of such assets without a vote of the parent corporation's stockholders.

Our charter authorizes our board of directors to reclassify any unissued shares of our common stock into other classes or series of stock and to establish the number of shares in each class or series and to set the preferences, conversion and other rights, voting powers, restrictions, limitations as to dividends or other distributions, qualifications or terms or conditions of redemption for each such class or series.

Power to Increase Authorized Stock and Issue Additional Shares of Our Common Stock. Our board of directors has the power to amend our charter without stockholder approval to increase or decrease the number of authorized shares of common stock, to issue additional authorized but unissued shares of our common stock and to classify or reclassify unissued shares of our common stock and thereafter to cause us to issue such classified or reclassified shares of stock. We believe these powers provide us with increased flexibility in structuring possible future financings and acquisitions and in meeting other needs which might arise. Subject to the limited rights of holders of our series A preferred stock, series B preferred stock, series C preferred stock and series D preferred stock and each other parity class or series of preferred stock, voting together as a single class, to approve certain issuances of senior classes or series of stock, the additional classes or series, as well as the common stock, will be available for issuance without further action by our stockholders, unless stockholder consent is required by applicable law or the rules of any stock exchange or automated quotation system on which our securities may be listed or traded. Although our board of directors does not intend to do so, it could authorize us to issue a class or series that could, depending upon the terms of the particular class or series, delay, defer or prevent a transaction or a change of control of our company that might involve a premium price for our stockholders or otherwise be in their best interest.

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Restrictions on Ownership and Transfer. To assist us in complying with certain federal income tax requirements applicable to REITs, we have adopted certain restrictions relating to the ownership and transfer of our common stock. See [Restrictions on Ownership and Transfer](#).

Transfer Agent and Registrar. The transfer agent and registrar for our common stock is American Stock Transfer & Trust Company.

Description of Preferred Stock

General. Our charter provides that we may issue up to 30 million shares of preferred stock, \$0.01 par value per share, or preferred stock. Our charter authorizes our board of directors to amend our charter without stockholder approval to increase the number of authorized shares of preferred stock. As of March 31, 2009, 4,140,000 shares of our series A preferred stock, 2,530,000 shares of our series B preferred stock, 6,999,955 shares of our series C preferred stock and 13,795,500 shares of our series D preferred stock were issued and outstanding. No other shares of preferred stock are currently outstanding.

Our charter authorizes our board of directors to classify any unissued shares of preferred stock and to reclassify any previously classified but unissued shares of any series. Prior to issuance of shares of each series, our board of directors is required by the MGCL and our charter to set, subject to the provisions of our charter regarding the restrictions on transfers of stock, 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 such series. Thus, our board of directors could authorize the issuance of shares of preferred stock with terms and conditions which could have the effect of delaying, deferring or preventing a transaction or a change of control of our company that might involve a premium price for holders of our common stock or otherwise be in their best interest.

The specific terms of a particular class or series of preferred stock will be described in the prospectus supplement relating to that class or series, including a prospectus supplement providing that preferred stock may be issuable upon the exercise of warrants we issue. The description of preferred stock set forth below and the description of the terms of a particular class or series of preferred stock set forth in the applicable prospectus supplement do not purport to be complete and are qualified in their entirety by reference to the articles supplementary relating to that class or series.

The preferences and other terms of the preferred stock of each class or series will be fixed by the articles supplementary relating to such class or series. A prospectus supplement, relating to each class or series, will specify the terms of the preferred stock, including, where applicable, the following:

- (i) the title and stated value of such preferred stock;
- (ii) the number of shares of such preferred stock offered, the liquidation preference per share and the offering price of such preferred stock;
- (iii) the dividend rate(s), period(s), and/or payment date(s) or method(s) of calculation thereof applicable to such preferred stock;

(iv) whether such preferred stock is cumulative or not and, if cumulative, the date from which dividends on such preferred stock shall accumulate;

(v) the provision for a sinking fund, if any, for such preferred stock;

(vi) the provision for redemption, if applicable, of such preferred stock;

(vii) any listing of such preferred stock on any securities exchange;

(viii) preemptive rights, if any;

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(ix) the terms and conditions, if applicable, upon which such preferred stock will be converted into our common stock, including the conversion price (or manner of calculation thereof);

(x) a discussion of any material United States federal income tax consequences applicable to an investment in such preferred stock;

(xi) any limitations on actual and constructive ownership and restrictions on transfer, in each case as may be appropriate to preserve our status as a REIT;

(xii) the relative ranking and preferences of such preferred stock as to dividend rights and rights upon liquidation, dissolution or winding up of the affairs of our company;

(xiii) any limitations on issuance of any class or series of preferred stock ranking senior to or on a parity with such class or series of preferred stock as to dividend rights and rights upon liquidation, dissolution or winding up of the affairs of our company;

(xiv) any voting rights of such preferred stock; and

(xv) any other specific terms, preferences, rights, limitations or restrictions of such preferred stock.

Rank. Unless otherwise specified in the applicable prospectus supplement, the preferred stock will, with respect to dividend rights and rights upon liquidation, dissolution or winding up of our company, rank: (i) senior to all classes or series of our common stock, and to any other class or series of our stock expressly designated as ranking junior to the preferred stock; (ii) on parity with any class or series of our stock expressly designated as ranking on parity with the preferred stock; and (iii) junior to any other class or series of our stock expressly designated as ranking senior to the preferred stock.

Conversion Rights. The terms and conditions, if any, upon which any shares of any class or series of preferred stock are convertible into our common stock will be set forth in the applicable prospectus supplement relating thereto. Such terms will include the number of shares of our common stock into which the shares of preferred stock are convertible, the conversion price (or manner of calculation thereof), the conversion period, provisions as to whether conversion will be at the option of the holders of such class or series of preferred stock, the events requiring an adjustment of the conversion price and provisions affecting conversion in the event of the redemption of such class or series of preferred stock.

Power to Increase Authorized Stock and Issue Additional Shares of Our Preferred Stock. Our board of directors has the power to amend our charter without stockholder approval to increase the number of authorized shares of preferred stock, to issue additional authorized but unissued shares of our preferred stock and to classify or reclassify unissued shares of our preferred stock and thereafter to cause us to issue such classified or reclassified shares of stock. Subject to the limited rights of holders of our series A preferred stock, series B preferred stock, series C preferred stock and series D preferred stock and each other parity class or series of preferred stock, voting together as a single class, to approve certain issuances of senior classes or series of stock, the additional classes or series will be available for issuance without further action by our stockholders, unless stockholder consent is required by applicable law or the rules of any stock exchange or automated quotation system on

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which our securities may be listed or traded. Although our board of directors does not intend to do so, it could authorize us to issue a class or series that could, depending upon the terms of the particular class or series, delay, defer or prevent a transaction or a change of control of our company that might involve a premium price for our stockholders or otherwise be in their best interest.

Restrictions on Ownership and Transfer. To assist us in complying with certain federal income tax requirements applicable to REITs, we have adopted certain restrictions relating to the ownership and transfer of our series A preferred stock, series B preferred stock, series C preferred stock and series D preferred stock. We expect to adopt similar restrictions with respect to any class or series offered pursuant to this prospectus under the articles supplementary for each such class or series. The applicable prospectus supplement will specify any additional ownership limitation relating to such class or series. See [Restrictions on Ownership and Transfer](#).

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8.50% Series A Cumulative Redeemable Preferred Stock

General. Our board of directors and a duly authorized committee thereof approved articles supplementary, a copy of which we have previously filed with the SEC and which we incorporate by reference as an exhibit to the registration statement of which this prospectus is a part, creating the series A preferred stock as a series of our preferred stock, designated as the 8.50% Series A Cumulative Redeemable Preferred Stock. The series A preferred stock is validly issued, fully paid and nonassessable.

The series A preferred stock is currently listed on the NYSE as DLR Pr A .

Ranking. The series A preferred stock ranks, with respect to dividend rights and rights upon our liquidation, dissolution or winding-up:

senior to all classes or series of our common stock, and to any other class or series of our stock expressly designated as ranking junior to the series A preferred stock;

on parity with any class or series of our stock expressly designated as ranking on parity with the series A preferred stock, including our series B preferred stock, series C preferred stock and series D preferred stock; and

junior to any other class or series of our stock expressly designated as ranking senior to the series A preferred stock.

Dividend Rate and Payment Date. Investors are entitled to receive cumulative cash dividends on the series A preferred stock from and including the date of original issue, payable quarterly in arrears on or about the last calendar day of March, June, September and December of each year, commencing March 31, 2005, at the rate of 8.50% per annum of the \$25.00 liquidation preference per share (equivalent to an annual amount of \$2.125 per share). Dividends on the series A preferred stock will accrue whether or not we have earnings, whether or not there are funds legally available for the payment of such dividends and whether or not such dividends are authorized or declared.

Liquidation Preference. If we liquidate, dissolve or wind-up, holders of the series A preferred stock will have the right to receive \$25.00 per share, plus accrued and unpaid dividends (whether or not earned or declared) up to but excluding the date of payment, before any payment is made to holders of our common stock and any other class or series of stock ranking junior to the series A preferred stock as to liquidation rights. The rights of holders of series A preferred stock to receive their liquidation preference will be subject to the proportionate rights of any other class or series of our stock ranking on parity with the series A preferred stock as to liquidation.

Optional Redemption. We may not redeem the series A preferred stock prior to February 9, 2010, except in limited circumstances to preserve our status as a REIT. On and after February 9, 2010, the series A preferred stock will be redeemable at our option, in whole or in part at any time or from time to time, for cash at a redemption price of \$25.00 per share, plus accrued and unpaid dividends up to but excluding the redemption date. Any partial redemption will be on a pro rata basis.

No Maturity, Sinking Fund or Mandatory Redemption. The series A preferred stock has no maturity date and we are not required to redeem the series A preferred stock at any time. Accordingly, the series A preferred stock will remain outstanding indefinitely, unless we decide, at our option, to exercise our redemption right. The series A preferred stock is not subject to any sinking fund.

Voting Rights. Holders of series A preferred stock generally have no voting rights. However, if we are in arrears on dividends on the series A preferred stock for six or more quarterly periods, whether or not consecutive, holders of the series A preferred stock (voting together as a class with the holders of all other classes or series of parity preferred stock upon which like voting rights have been conferred and are exercisable) will be entitled to

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vote at our next annual meeting and each subsequent annual meeting of stockholders for the election of two additional directors to serve on our board of directors until all unpaid dividends with respect to the series A preferred stock and any other class or series of parity preferred stock have been paid or declared and a sum sufficient for the payment thereof set aside for payment. In addition, we may not make certain material and adverse changes to the terms of the series A preferred stock without the affirmative vote of the holders of at least two-thirds of the outstanding shares of series A preferred stock and the holders of all other shares of any class or series ranking on parity with the series A preferred stock that are entitled to similar voting rights (voting together as a single class).

Conversion. The series A preferred stock is not convertible into or exchangeable for any of our other property or securities.

Transfer Agent and Registrar. The transfer agent and registrar for our series A preferred stock is American Stock Transfer & Trust Company.

7.875% Series B Cumulative Redeemable Preferred Stock

General. Our board of directors and a duly authorized committee thereof approved articles supplementary, a copy of which we have previously filed with the SEC and which we incorporate by reference as an exhibit to the registration statement of which this prospectus is a part, creating the series B preferred stock as a series of our preferred stock, designated as the 7.875% Series B Cumulative Redeemable Preferred Stock. The series B preferred stock is validly issued, fully paid and nonassessable.

The series B preferred stock is currently listed on the NYSE as DLR Pr B .

Ranking. The series B preferred stock ranks, with respect to dividend rights and rights upon our liquidation, dissolution or winding-up:

senior to all classes or series of our common stock, and to any other class or series of our stock expressly designated as ranking junior to the series B preferred stock;

on parity with any class or series of our stock expressly designated as ranking on parity with the series B preferred stock, including our series A preferred stock, series C preferred stock and series D preferred stock; and

junior to any other class or series of our stock expressly designated as ranking senior to the series B preferred stock.

Dividend Rate and Payment Date. Investors are entitled to receive cumulative cash dividends on the series B preferred stock from and including the date of original issue, payable quarterly in arrears on or about the last calendar day of March, June, September and December of each year, commencing September 30, 2005, at the rate of 7.875% per annum of the \$25.00 liquidation preference per share (equivalent to an annual amount of \$1.96875 per share). Dividends on the series B preferred stock will accrue whether or not we have earnings, whether or not there are funds legally available for the payment of such dividends and whether or not such dividends are authorized or declared.

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Liquidation Preference. If we liquidate, dissolve or wind-up, holders of the series B preferred stock will have the right to receive \$25.00 per share, plus accrued and unpaid dividends (whether or not earned or declared) up to but excluding the date of payment, before any payment is made to holders of our common stock and any other class or series of stock ranking junior to the series B preferred stock as to liquidation rights. The rights of holders of series B preferred stock to receive their liquidation preference will be subject to the proportionate rights of any other class or series of our stock ranking on parity with the series B preferred stock as to liquidation.

Optional Redemption. We may not redeem the series B preferred stock prior to July 26, 2010, except in limited circumstances to preserve our status as a REIT. On and after July 26, 2010, the series B preferred stock

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will be redeemable at our option, in whole or in part at any time or from time to time, for cash at a redemption price of \$25.00 per share, plus accrued and unpaid dividends up to but excluding the redemption date. Any partial redemption will be on a pro rata basis.

No Maturity, Sinking Fund or Mandatory Redemption. The series B preferred stock has no maturity date and we are not required to redeem the series B preferred stock at any time. Accordingly, the series B preferred stock will remain outstanding indefinitely, unless we decide, at our option, to exercise our redemption right. The series B preferred stock is not subject to any sinking fund.

Voting Rights. Holders of series B preferred stock generally have no voting rights. However, if we are in arrears on dividends on the series B preferred stock for six or more quarterly periods, whether or not consecutive, holders of the series B preferred stock (voting together as a class with the holders of all other classes or series of parity preferred stock upon which like voting rights have been conferred and are exercisable) will be entitled to vote at our next annual meeting and each subsequent annual meeting of stockholders for the election of two additional directors to serve on our board of directors until all unpaid dividends with respect to the series B preferred stock and any other class or series of parity preferred stock have been paid or declared and a sum sufficient for the payment thereof set aside for payment. In addition, we may not make certain material and adverse changes to the terms of the series B preferred stock without the affirmative vote of the holders of at least two-thirds of the outstanding shares of series B preferred stock and the holders of all other shares of any class or series ranking on parity with the series B preferred stock that are entitled to similar voting rights (voting together as a single class).

Conversion. The series B preferred stock is not convertible into or exchangeable for any of our other property or securities.

Transfer Agent and Registrar. The transfer agent and registrar for our series B preferred stock is American Stock Transfer & Trust Company.

4.375% Series C Cumulative Convertible Preferred Stock

General. Our board of directors and a duly authorized committee thereof approved articles supplementary, a copy of which we have previously filed with the SEC and which we incorporate by reference as an exhibit to the registration statement of which this prospectus is a part, creating the series C preferred stock as a series of our preferred stock, designated as the 4.375% Series C Cumulative Convertible Preferred Stock. The series C preferred stock is validly issued, fully paid and nonassessable.

Ranking. The series C preferred stock ranks, with respect to dividend rights and rights upon our liquidation, dissolution or winding-up:

senior to all classes or series of our common stock, and to any other class or series of our stock expressly designated as ranking junior to the series C preferred stock;

on parity with any class or series of our stock expressly designated as ranking on parity with the series C preferred stock, including our series A preferred stock, series B preferred stock and series D preferred stock; and

junior to any other class or series of our stock expressly designated as ranking senior to the series C preferred stock.

Dividend Rate and Payment Date. Investors are entitled to receive cumulative cash dividends on the series C preferred stock from and including the date of original issue, payable quarterly in arrears on or about the last calendar day of March, June, September and December of each year, commencing June 30, 2007, at the rate of 4.375% per annum of the \$25.00 liquidation preference per share (equivalent to an annual amount of \$1.09375 per share). Dividends on the series C preferred stock will accrue whether or not we have earnings, whether or not there are funds legally available for the payment of such dividends and whether or not such dividends are authorized or declared.

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Liquidation Preference. If we liquidate, dissolve or wind-up, holders of the series C preferred stock will have the right to receive \$25.00 per share, plus accrued and unpaid dividends (whether or not earned or declared) up to but excluding the date of payment, before any payment is made to holders of our common stock and any other class or series of stock ranking junior to the series C preferred stock as to liquidation rights. The rights of holders of series C preferred stock to receive their liquidation preference will be subject to the proportionate rights of any other class or series of our stock ranking on parity with the series C preferred stock as to liquidation.

Optional Redemption. We may not redeem the series C preferred stock except in limited circumstances to preserve our status as a REIT. Any partial redemption will be on a pro rata basis.

No Maturity, Sinking Fund or Mandatory Redemption. The series C preferred stock has no maturity date and is not subject to any sinking fund and we are not required to redeem the series C preferred stock at any time.

Voting Rights. Holders of shares of the series C preferred stock will generally have no voting rights. However, if we are in arrears on dividends on the series C preferred stock for six or more quarterly periods, whether or not consecutive, holders of shares of the series C preferred stock (voting together as a class with the holders of all other classes or series of preferred stock upon which like voting rights have been conferred and are exercisable) will be entitled to vote at a special meeting called by at least 10% of such holders or at our next annual meeting and each subsequent annual meeting of stockholders, for the election of two additional directors to serve on our board of directors until all unpaid dividends with respect to the series C preferred stock and any other class or series of parity preferred stock have been paid or declared and a sum sufficient for the payment thereof set aside for payment. In addition, we may not make certain material and adverse changes to the terms of the series C preferred stock without the affirmative vote of the holders of at least two-thirds of the outstanding shares of the series C preferred stock together with the holders of all other shares of any class or series of preferred stock ranking on parity with the series C preferred stock that are entitled to similar voting rights (voting together as a single class).

Conversion. Holders may convert their shares of the series C preferred stock into shares of our common stock subject to certain conditions. The conversion rate will initially be 0.5164 shares of common stock per \$25.00 liquidation preference, which is equivalent to an initial conversion price of approximately \$48.41 per share of common stock (subject to adjustment in certain events). On or after April 10, 2012, we may, at our option, cause some or all of the series C preferred stock to be automatically converted into shares of common stock at the then-applicable conversion rate if (1) the closing sales price of our common stock equals or exceeds 130% of the then applicable conversion price of the series C preferred stock for at least 20 trading days in a period of 30 consecutive trading days and (2) on or prior to the effective date of the conversion, we have either declared and paid, or declared and set apart for payment, any unpaid dividends that are in arrears on the series C preferred stock.

If holders of shares of the series C preferred stock elect to convert their shares of the series C preferred stock in connection with a fundamental change that occurs on or prior to April 10, 2014, we will increase the conversion rate for shares of the series C preferred stock surrendered for conversion by a number of additional shares determined based on the stock price at the time of such fundamental change and the effective date of such fundamental change, as set forth in the articles supplementary.

On or prior to April 10, 2014, in the event of a fundamental change when the applicable price of our common stock described in the articles supplementary is less than \$40.34 per share, then holders of shares of the series C preferred stock will have a special right to convert some or all of their series C preferred stock on the fundamental change conversion date (as defined in the articles supplementary) into a number of shares of our common stock per \$25.00 liquidation preference equal to such liquidation preference, plus an amount equal to accrued and unpaid dividends to, but not including, the fundamental change conversion date, divided by 98% of the market price (as defined in the articles supplementary) of our common stock. In the event that holders of shares of the series C preferred stock exercise the special conversion right, we have the right to repurchase for

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cash all or any part of the series C preferred stock as to which the conversion right was exercised at a repurchase price equal to 100% of the liquidation preference of the series C preferred stock to be repurchased plus an amount equal to accrued and unpaid dividends to, but not including, the fundamental change conversion date. If we elect to exercise our repurchase right, holders of shares of the series C preferred stock will not have the special conversion right described above.

Transfer Agent and Registrar. The transfer agent and registrar for our series C preferred stock is American Stock Transfer & Trust Company.

5.500% Series D Cumulative Convertible Preferred Stock

General. Our board of directors and a duly authorized committee thereof approved articles supplementary, a copy of which we have previously filed with the SEC and which we incorporate by reference as an exhibit to the registration statement of which this prospectus is a part, creating the series D preferred stock as a series of our preferred stock, designated as the 5.500% Series D Cumulative Convertible Preferred Stock. The series D preferred stock is validly issued, fully paid and nonassessable.

Ranking. The series D preferred stock ranks, with respect to dividend rights and rights upon our liquidation, dissolution or winding-up:

senior to all classes or series of our common stock, and to any other class or series of our stock expressly designated as ranking junior to the series D preferred stock;

on parity with any class or series of our stock expressly designated as ranking on parity with the series D preferred stock, including our series A preferred stock, series B preferred stock and series C preferred stock; and

junior to any other class or series of our stock expressly designated as ranking senior to the series D preferred stock.

Dividend Rate and Payment Date. Investors are entitled to receive cumulative cash dividends on the series D preferred stock from and including the date of original issue, payable quarterly in arrears on or about the last calendar day of March, June, September and December of each year, commencing March 31, 2008, at the rate of 5.500% per annum of the \$25.00 liquidation preference per share (equivalent to an annual amount of \$1.375 per share). Dividends on the series D preferred stock will accrue whether or not we have earnings, whether or not there are funds legally available for the payment of such dividends and whether or not such dividends are authorized or declared.

Liquidation Preference. If we liquidate, dissolve or wind-up, holders of the series D preferred stock will have the right to receive \$25.00 per share, plus accrued and unpaid dividends (whether or not earned or declared) up to but excluding the date of payment, before any payment is made to holders of our common stock and any other class or series of stock ranking junior to the series D preferred stock as to liquidation rights. The rights of holders of series D preferred stock to receive their liquidation preference will be subject to the proportionate rights of any other class or series of our stock ranking on parity with the series D preferred stock as to liquidation.

Optional Redemption. We may not redeem the series D preferred stock except in limited circumstances to preserve our status as a REIT. Any partial redemption will be on a pro rata basis.

No Maturity, Sinking Fund or Mandatory Redemption. The series D preferred stock has no maturity date and is not subject to any sinking fund and we are not required to redeem the series D preferred stock at any time.

Voting Rights. Holders of shares of the series D preferred stock will generally have no voting rights. However, if we are in arrears on dividends on the series D preferred stock for six or more quarterly periods, whether or not consecutive, holders of shares of the series D preferred stock (voting together as a class with the

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holders of all other classes or series of preferred stock upon which like voting rights have been conferred and are exercisable) will be entitled to vote at a special meeting called by at least 10% of such holders or at our next annual meeting and each subsequent annual meeting of stockholders, for the election of two additional directors to serve on our board of directors until all unpaid dividends with respect to the series D preferred stock and any other class or series of parity preferred stock have been paid or declared and a sum sufficient for the payment thereof set aside for payment. In addition, we may not make certain material and adverse changes to the terms of the series D preferred stock without the affirmative vote of the holders of at least two-thirds of the outstanding shares of the series D preferred stock together with the holders of all other shares of any class or series of preferred stock ranking on parity with the series D preferred stock that are entitled to similar voting rights (voting together as a single class).

Conversion. Holders may convert their shares of the series D preferred stock into shares of our common stock subject to certain conditions. The conversion rate will initially be 0.5955 shares of common stock per \$25.00 liquidation preference, which is equivalent to an initial conversion price of approximately \$41.98 per share of common stock (subject to adjustment in certain events). On or after February 6, 2013, we may, at our option, cause some or all of the series D preferred stock to be automatically converted into shares of common stock at the then-applicable conversion rate if (1) the closing sales price of our common stock equals or exceeds 130% of the then applicable conversion price of the series D preferred stock for at least 20 trading days in a period of 30 consecutive trading days and (2) on or prior to the effective date of the conversion, we have either declared and paid, or declared and set apart for payment, any unpaid dividends that are in arrears on the series D preferred stock.

If holders of shares of the series D preferred stock elect to convert their shares of the series D preferred stock in connection with a fundamental change that occurs on or prior to February 6, 2015, we will increase the conversion rate for shares of the series D preferred stock surrendered for conversion by a number of additional shares determined based on the stock price at the time of such fundamental change and the effective date of such fundamental change, as set forth in the articles supplementary.

On or prior to February 6, 2015, in the event of a fundamental change when the applicable price of our common stock described in the articles supplementary is less than \$35.73 per share, then holders of shares of the series D preferred stock will have a special right to convert some or all of their series D preferred stock on the fundamental change conversion date (as defined in the articles supplementary) into a number of shares of our common stock per \$25.00 liquidation preference equal to such liquidation preference, plus an amount equal to accrued and unpaid dividends to, but not including, the fundamental change conversion date, divided by 98% of the market price (as defined in the articles supplementary) of our common stock. In the event that holders of shares of the series D preferred stock exercise the special conversion right, we have the right to repurchase for cash all or any part of the series D preferred stock as to which the conversion right was exercised at a repurchase price equal to 100% of the liquidation preference of the series D preferred stock to be repurchased plus an amount equal to accrued and unpaid dividends to, but not including, the fundamental change conversion date. If we elect to exercise our repurchase right, holders of shares of the series D preferred stock will not have the special conversion right described above.

Transfer Agent and Registrar. The transfer agent and registrar for our series D preferred stock is American Stock Transfer & Trust Company.

Description of Depositary Shares

We may, at our option, elect to offer depositary shares rather than full shares of preferred stock. Each depositary share will represent ownership of and entitlement to all rights and preferences of a fraction of a share of preferred stock of a specified series (including dividend, voting, redemption and liquidation rights). The applicable fraction will be specified in a prospectus supplement. The shares of preferred stock represented by the depositary shares will be deposited with a depositary named in the applicable prospectus supplement, under a

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deposit agreement, among us, the depositary and the holders of the certificates evidencing depositary shares, or depositary receipts. Depositary receipts will be delivered to those persons purchasing depositary shares in the offering. The depositary will be the transfer agent, registrar and dividend disbursing agent for the depositary shares. Holders of depositary receipts agree to be bound by the deposit agreement, which requires holders to take certain actions such as filing proof of residence and paying certain charges.

The summary of the terms of the depositary shares contained in this prospectus does not purport to be complete and is subject to, and qualified in its entirety by, the provisions of the deposit agreement, our charter and the form of articles supplementary for the applicable series of preferred stock.

Dividends. The depositary will distribute all cash dividends or other cash distributions received in respect of the series of preferred stock represented by the depositary shares to the record holders of depositary receipts in proportion to the number of depositary shares owned by such holders on the relevant record date, which will be the same date as the record date fixed by us for the applicable series of preferred stock. The depositary, however, will distribute only such amount as can be distributed without attributing to any depositary share a fraction of one cent, and any balance not so distributed will be added to and treated as part of the next sum received by the depositary for distribution to record holders of depositary receipts then outstanding.

In the event of a distribution other than in cash, the depositary will distribute property received by it to the record holders of depositary receipts entitled thereto, in proportion, as nearly as may be practicable, to the number of depositary shares owned by such holders on the relevant record date, unless the depositary determines (after consultation with us) that it is not feasible to make such distribution, in which case the depositary may (with our approval) adopt any other method for such distribution as it deems equitable and appropriate, including the sale of such property (at such place or places and upon such terms as it may deem equitable and appropriate) and distribution of the net proceeds from such sale to such holders.

No distribution will be made in respect of any depositary share to the extent that it represents any preferred stock converted into excess stock.

Liquidation Preference. In the event of the liquidation, dissolution or winding up of the affairs of our company, whether voluntary or involuntary, the holders of each depositary share will be entitled to the fraction of the liquidation preference accorded each share of the applicable series of preferred stock as set forth in the applicable prospectus supplement.

Redemption. If the series of preferred stock represented by the applicable series of depositary shares is redeemable, such depositary shares will be redeemed from the proceeds received by the depositary resulting from the redemption, in whole or in part, of preferred stock held by the depositary. Whenever we redeem any preferred stock held by the depositary, the depositary will redeem as of the same redemption date the number of depositary shares representing the preferred stock so redeemed. The depositary will mail the notice of redemption promptly upon receipt of such notice from us and not less than 30 nor more than 60 days prior to the date fixed for redemption of the preferred stock and the depositary shares to the record holders of the depositary receipts.

Voting. Promptly upon receipt of notice of any meeting at which the holders of the series of preferred stock represented by the applicable series of depositary shares are entitled to vote, the depositary will mail the information contained in such notice of meeting to the record holders of the depositary receipts as of the record date for such meeting. Each such record holder of depositary receipts will be entitled to instruct the depositary as to the exercise of the voting rights pertaining to the number of shares of preferred stock represented by such record holder's depositary shares. The depositary will endeavor, insofar as practicable, to vote such preferred stock represented by such depositary shares in accordance with such instructions, and we will agree to take all action which may be deemed necessary by the depositary in order to enable the

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depository to do so. The depository will abstain from voting any of the preferred stock to the extent that it does not receive specific instructions from the holders of depository receipts.

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Withdrawal of Preferred Stock. Upon surrender of depositary receipts at the principal office of the depositary and payment of any unpaid amount due the depositary, and subject to the terms of the deposit agreement, the owner of the depositary shares evidenced thereby is entitled to delivery of the number of whole shares of preferred stock and all money and other property, if any, represented by such depositary shares. Partial shares of preferred stock will not be issued. If the depositary receipts delivered by the holder evidence a number of depositary shares in excess of the number of depositary shares representing the number of whole shares of preferred stock to be withdrawn, the depositary will deliver to such holder at the same time a new depositary receipt evidencing such excess number of depositary shares. Holders of preferred stock thus withdrawn will not thereafter be entitled to deposit such shares under the deposit agreement or to receive depositary receipts evidencing depositary shares therefor.

Amendment and Termination of Deposit Agreement. The form of depositary receipt evidencing the depositary shares and any provision of the deposit agreement may at any time and from time to time be amended by agreement between us and the depositary. However, any amendment which materially and adversely alters the rights of the holders (other than any change in fees) of depositary shares will not be effective unless such amendment has been approved by at least a majority of the depositary shares then outstanding. No such amendment may impair the right, subject to the terms of the deposit agreement, of any owner of any depositary shares to surrender the depositary receipt evidencing such depositary shares with instructions to the depositary to deliver to the holder the preferred stock and all money and other property, if any, represented thereby, except in order to comply with mandatory provisions of applicable law.

The deposit agreement will be permitted to be terminated by us upon not less than 30 days prior written notice to the applicable depositary if (i) such termination is necessary to preserve our status as a REIT or (ii) a majority of each series of preferred stock affected by such termination consents to such termination, whereupon such depositary will be required to deliver or make available to each holder of depositary receipts, upon surrender of the depositary receipts held by such holder, such number of whole or fractional shares of preferred stock as are represented by the depositary shares evidenced by such depositary receipts together with any other property held by such depositary with respect to such depositary receipts. We will agree that if the deposit agreement is terminated to preserve our status as a REIT, then we will use our best efforts to list the preferred stock issued upon surrender of the related depositary shares on a national securities exchange. In addition, the deposit agreement will automatically terminate if (i) all outstanding depositary shares thereunder shall have been redeemed, (ii) there shall have been a final distribution in respect of the related preferred stock in connection with any liquidation, dissolution or winding-up of our company and such distribution shall have been distributed to the holders of depositary receipts evidencing the depositary shares representing such preferred stock or (iii) each share of the related preferred stock shall have been converted into stock of our company not so represented by depositary shares.

Charges of Depositary. We will pay all transfer and other taxes and governmental charges arising solely from the existence of the depositary arrangements. We will pay charges of the depositary in connection with the initial deposit of the preferred stock and initial issuance of the depositary shares, and redemption of the preferred stock and all withdrawals of preferred stock by owners of depositary shares. Holders of depositary receipts will pay transfer, income and other taxes and governmental charges and certain other charges as are provided in the deposit agreement to be for their accounts. In certain circumstances, the depositary may refuse to transfer depositary shares, may withhold dividends and distributions and sell the depositary shares evidenced by such depositary receipt if such charges are not paid. The applicable prospectus supplement will include information with respect to fees and charges, if any, in connection with the deposit or substitution of the underlying securities, the receipt and distribution of dividends, the sale or exercise of rights, the withdrawal of the underlying security, and the transferring, splitting or grouping of receipts. The applicable prospectus supplement will also include information with respect to the right to collect the fees and charges, if any, against dividends received and deposited securities.

Miscellaneous. The depositary will forward to the holders of depositary receipts all notices, reports and proxy soliciting material from us which are delivered to the depositary and which we are required to furnish to

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the holders of the preferred stock. In addition, the depositary will make available for inspection by holders of depositary receipts at the principal office of the depositary, and at such other places as it may from time to time deem advisable, any notices, reports and proxy soliciting material received from us which are received by the depositary as the holder of preferred stock. The applicable prospectus supplement will include information about the rights, if any, of holders of receipts to inspect the transfer books of the depositary and the list of holders of receipts.

Neither the depositary nor our company assumes any obligation or will be subject to any liability under the deposit agreement to holders of depositary receipts other than for its negligence or willful misconduct. Neither the depositary nor our company will be liable if it is prevented or delayed by law or any circumstance beyond its control in performing its obligations under the deposit agreement. The obligations of our company and the depositary under the deposit agreement will be limited to performance in good faith of their duties thereunder, and they will not be obligated to prosecute or defend any legal proceeding in respect of any depositary shares or preferred stock unless satisfactory indemnity is furnished. Our company and the depositary may rely on written advice of counsel or accountants, on information provided by holders of the depositary receipts or other persons believed in good faith to be competent to give such information and on documents believed to be genuine and to have been signed or presented by the proper party or parties.

In the event the depositary shall receive conflicting claims, requests or instructions from any holders of depositary receipts, on the one hand, and us, on the other hand, the depositary shall be entitled to act on such claims, requests or instructions received from us.

Resignation and Removal of Depositary. The depositary may resign at any time by delivering to us notice of its election to do so, and we may at any time remove the depositary, any such resignation or removal to take effect upon the appointment of a successor depositary and its acceptance of such appointment. Such successor depositary must be appointed within 60 days after delivery of the notice for resignation or removal and must be a bank or trust company having its principal office in the United States and having a combined capital and surplus of at least \$150,000,000.

Description of Warrants

We may issue warrants for the purchase of our common stock, preferred stock or depositary shares and may issue warrants independently or together with our common stock, preferred stock or depositary shares or attached to or separate from such securities. We will issue each series of warrants under a separate warrant agreement between us and a bank or trust company as warrant agent, as specified in the applicable prospectus supplement.

The warrant agent will act solely as our agent in connection with the warrants and will not act for or on behalf of warrant holders. The following sets forth certain general terms and provisions of the warrants that may be offered under this registration statement. Further terms of the warrants and the applicable warrant agreement will be set forth in the applicable prospectus supplement.

The applicable prospectus supplement will describe the terms of the warrants in respect of which this prospectus is being delivered, including, where applicable, the following:

the title of such warrants;

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the aggregate number of such warrants outstanding;

the price or prices at which such warrants will be issued;

the type and number of securities purchasable upon exercise of such warrants;

the designation and terms of the other securities, if any, with which such warrants are issued and the number of such warrants issued with each such offered security;

the date, if any, on and after which such warrants and the related securities will be separately transferable;

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the price at which each security purchasable upon exercise of such warrants may be purchased;

the provisions, if any, for changes to or adjustments in the exercise price;

the date on which the right to exercise such warrants shall commence and the date on which such right shall expire;

the minimum or maximum amount of such warrants that may be exercised at any one time;

information with respect to book-entry procedures, if any;

any anti-dilution protection;

a discussion of certain United States federal income tax considerations; and

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

Warrant certificates will be exchangeable for new warrant certificates of different denominations and warrants may be exercised at the corporate trust office of the warrant agent or any other office indicated in the applicable prospectus supplement. Prior to the exercise of their warrants, holders of warrants will not have any of the rights of holders of the securities purchasable upon such exercise or to any dividend payments or voting rights as to which holders of the shares of our common stock or preferred stock purchasable upon such exercise may be entitled.

Each warrant will entitle the holder to purchase for cash such number of shares of our common stock or preferred stock, at such exercise price as shall, in each case, be set forth in, or be determinable as set forth in, the applicable prospectus supplement relating to the warrants offered thereby. Unless otherwise specified in the applicable prospectus supplement, warrants may be exercised at any time up to 5:00 p.m. New York City time on the expiration date set forth in applicable prospectus supplement. After 5:00 p.m. New York City time on the expiration date, unexercised warrants will be void.

Warrants may be exercised as set forth in the applicable prospectus supplement relating to the warrants. Upon receipt of payment and the warrant certificate properly completed and duly executed at the corporate trust office of the warrant agent or any other office indicated in the applicable prospectus supplement, we will, as soon as practicable, forward the securities purchasable upon such exercise. If less than all of the warrants are presented by such warrant certificate of exercise, a new warrant certificate will be issued for the remaining amount of warrants.

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RESTRICTIONS ON OWNERSHIP AND TRANSFER

*The following summary with respect to restrictions on ownership and transfer of our stock sets forth certain general terms and provisions of our charter documents to which any prospectus supplement may relate. This summary does not purport to be complete and is subject to and qualified in its entirety by reference to our charter documents, as amended and supplemented from time to time, including any articles supplementary relating to any issuance of preferred stock pursuant to this prospectus. Copies of our existing charter documents are filed with the SEC and are incorporated by reference as exhibits to the registration statement of which this prospectus is a part. Any amendment or supplement to our charter documents relating to an issuance of securities pursuant to this prospectus shall be filed with the SEC and shall be incorporated by reference as an exhibit to the applicable prospectus supplement. See *Where You Can Find More Information*.*

In order for us to qualify as a REIT under the Internal Revenue Code of 1986, as amended, or the Code, our stock must be beneficially owned by 100 or more persons during at least 335 days of a taxable year of 12 months (other than the first year for which an election to be a REIT has been made) or during a proportionate part of a shorter taxable year. Also, not more than 50% of the value of the outstanding shares of stock may be owned, directly or indirectly, by five or fewer individuals (as defined in the Code to include certain entities such as private foundations) during the last half of a taxable year (other than the first year for which an election to be a REIT has been made).

Our charter contains restrictions on the ownership and transfer of our common stock, preferred stock and capital stock which are intended to assist us in complying with these requirements and continuing to qualify as a REIT. Our charter provides that, subject to the exceptions described below, no person or entity may beneficially own, or be deemed to own by virtue of the applicable constructive ownership provisions of the Code, more than 9.8% (by value or by number of shares, whichever is more restrictive) of the outstanding shares of our common stock or of any series of preferred stock, or more than 9.8% of the value of our outstanding capital stock. We refer to these restrictions as the common stock ownership limit, the preferred stock ownership limit and the aggregate stock ownership limit, respectively. A person or entity that becomes subject to one of the ownership limits by virtue of a violative transfer that results in a transfer to a trust, as set forth below, is referred to as a purported beneficial transferee. If, had the violative transfer been effective, the person or entity would have been a record owner and beneficial owner or solely a beneficial owner of our common stock, any series of our preferred stock, or our capital stock, as applicable, or is referred to as a purported record transferee. If, had the violative transfer been effective, the person or entity would have been solely a record owner of our common stock, any series of our preferred stock, or our capital stock, as applicable.

The constructive ownership rules under the Code are complex and may cause stock owned actually or constructively by a group of related individuals and/or entities to be owned constructively by one individual or entity. As a result, the acquisition of less than 9.8% of our common stock or any series of our preferred stock or less than 9.8% of the value of our outstanding capital stock (or the acquisition of an interest in an entity that owns, actually or constructively, our capital stock) by an individual or entity could, nevertheless, cause that individual or entity, or another individual or entity, to own constructively more than 9.8% of our outstanding common stock or a series of our preferred stock or our capital stock, as applicable, and thereby subject such stock to the applicable ownership limit.

Our board of directors may, in its sole discretion, waive one of the ownership limits with respect to a particular stockholder if it:

determines that such ownership will not cause any individual's beneficial ownership of shares of our capital stock to violate the aggregate stock ownership limit and that any exemption from the applicable ownership limit will not jeopardize our status as a REIT; and

determines that such stockholder does not and will not own, actually or constructively, an interest in a tenant of ours (or a tenant of any entity owned in whole or in part by us) that would cause us to own, actually or constructively, more than a 9.8% interest (as set

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forth in Section 856(d)(2)(B) of the Code) in such tenant or that any such ownership would not cause us to fail to qualify as a REIT under the Code.

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Our board of directors may also, in its sole discretion, waive the preferred stock ownership limit with respect to a particular stockholder if it determines that such ownership will not jeopardize our status as a REIT.

As a condition of our waiver, our board of directors may require an opinion of counsel or IRS ruling satisfactory to our board of directors, and/or representations or undertakings from the applicant with respect to preserving our REIT status.

In connection with a waiver of an ownership limit or at any other time, our board of directors may increase the applicable ownership limit for one or more persons and decrease the applicable ownership limit for all other persons and entities; provided, however, that the decreased ownership limit will not be effective for any person or entity whose percentage ownership in our common stock, any series of our preferred stock or our capital stock, as applicable, exceeds the decreased ownership limit until such time as such person or entity's percentage ownership equals or falls below the decreased ownership limit; but any further acquisition of our common, preferred or capital stock, as applicable, in excess of such percentage ownership will be in violation of the applicable ownership limit. Additionally, the new ownership limit, as applicable, may not allow five or fewer stockholders to beneficially own more than 49% in value of our outstanding capital stock.

Our charter further prohibits:

any person from beneficially or constructively owning shares of our stock that would result in our being closely held under Section 856(h) of the Code or otherwise cause us to fail to qualify as a REIT; and

any person from transferring shares of our capital stock if such transfer would result in shares of our stock being beneficially owned by fewer than 100 persons (determined without reference to any rules of attribution).

Any person who acquires or attempts or intends to acquire beneficial or constructive ownership of shares of our stock that will or may violate any of the foregoing restrictions on transferability and ownership will be required to give notice immediately to us and provide us with such other information as we may request in order to determine the effect of such transfer on our status as a REIT. The foregoing provisions on transferability and ownership will not apply if our board of directors determines that it is no longer in our best interests to attempt to qualify, or to continue to qualify, as a REIT.

Pursuant to our charter, if any purported transfer of our stock or any other event would otherwise result in any person violating the ownership limits or such other limit as established by our board of directors or would result in our being closely held under Section 856(h) of the Code or otherwise failing to qualify as a REIT, then that number of shares in excess of the applicable ownership limit or causing us to be closely held or otherwise to fail to qualify as a REIT (rounded up to the nearest whole share) will be automatically transferred to, and held by, a trust for the exclusive benefit of one or more charitable organizations selected by us. The automatic transfer will be effective as of the close of business on the business day prior to the date of the violative transfer or other event that results in a transfer to the trust. Any dividend or other distribution paid to the purported record transferee, prior to our discovery that the shares had been automatically transferred to a trust as described above, must be repaid to the trustee upon demand for distribution to the beneficiary of the trust. If the transfer to the trust as described above is not automatically effective, for any reason, to prevent a violation of the applicable ownership limit or our being closely held or otherwise failing to qualify as a REIT, then our charter provides that the transfer of the shares in excess of the ownership limit will be void. If any transfer would result in shares of our stock being beneficially owned by fewer than 100 persons, then any such purported transfer will be void and of no force or effect.

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Shares of our stock transferred to the trustee are deemed offered for sale to us, or our designee, at a price per share equal to the lesser of (1) the price paid by the purported record transferee for the shares (or, if the event which resulted in the transfer to the trust did not involve a purchase of such shares of our stock at market price, the last reported sales price reported on the NYSE on the trading day immediately preceding the day of the event

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which resulted in the transfer of such shares of our stock to the trust) and (2) the market price on the date we, or our designee, accept such offer. We have the right to accept such offer until the trustee has sold the shares of our stock held in the trust pursuant to the clauses discussed below. Upon a sale to us, the interest of the charitable beneficiary in the shares sold terminates and the trustee must distribute the net proceeds of the sale to the purported record transferee and any dividends or other distributions held by the trustee with respect to such stock will be paid to the charitable beneficiary.

If we do not buy the shares, the trustee must, within 20 days of receiving notice from us of the transfer of shares to the trust, sell the shares to a person or entity designated by the trustee who could own the shares without violating the common stock ownership limit or the preferred stock ownership limit, as applicable, and the aggregate stock ownership limit or such other limit as established by our board of directors. After that, the trustee must distribute to the purported record transferee an amount equal to the lesser of (1) the price paid by the purported record transferee or owner for the shares (or, if the event which resulted in the transfer to the trust did not involve a purchase of such shares at market price, the last reported sales price reported on the NYSE on the trading day immediately preceding the day of the event which resulted in the transfer of such shares of our stock to the trust) and (2) the sales proceeds (net of commissions and other expenses of sale) received by the trustee for the shares. Any net sales proceeds in excess of the amount payable to the purported record transferee will be immediately paid to the charitable beneficiary, together with any dividends or other distributions thereon. In addition, if prior to discovery by us that shares of our stock have been transferred to a trust, such shares of stock are sold by a purported record transferee, then such shares shall be deemed to have been sold on behalf of the trust and to the extent that the purported record transferee received an amount for or in respect of such shares that exceeds the amount that such purported record transferee was entitled to receive, such excess amount shall be paid to the trustee upon demand. The purported beneficial transferee or purported record transferee has no rights in the shares held by the trustee.

The trustee shall be designated by us and shall be unaffiliated with us and with any purported record transferee or purported beneficial transferee. Prior to the sale of any shares in excess of the common stock ownership limit, the preferred stock ownership limit or the aggregate stock ownership limit by the trust, the trustee will receive, in trust for the beneficiary, all dividends and other distributions paid by us with respect to the shares in excess of the applicable ownership limit, and may also exercise all voting rights with respect to such shares.

Subject to Maryland law, effective as of the date that the shares have been transferred to the trust, the trustee shall have the authority, at the trustee's sole discretion:

to rescind as void any vote cast by a purported record transferee prior to our discovery that the shares have been transferred to the trust; and

to recast the vote in accordance with the desires of the trustee acting for the benefit of the beneficiary of the trust.

However, if we have already taken irreversible corporate action, then the trustee may not rescind and recast the vote.

In addition, if our board of directors or other permitted designees determine in good faith that a proposed transfer would violate the restrictions on ownership and transfer of our stock set forth in our charter, our board of directors or other permitted designees will take such action as it deems or they deem advisable to refuse to give effect to or to prevent such transfer, including, but not limited to, causing the company to redeem shares of common stock or preferred stock, refusing to give effect to the transfer on our books or instituting proceedings to enjoin the transfer.

Any beneficial owner or constructive owner of shares of our stock and any person or entity (including the stockholder of record) who is holding shares of our stock for a beneficial owner must, on request, provide us with a completed questionnaire containing the information regarding the

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ownership of such shares, as set forth in the applicable treasury regulations. In addition, any person or entity that is a beneficial owner or constructive owner

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of shares of our stock and any person or entity (including the stockholder of record) who is holding shares of our stock for a beneficial owner or constructive owner shall, on request, be required to disclose to us in writing such information as we may request in order to determine the effect, if any, of such stockholder's actual and constructive ownership of shares of our stock on our status as a REIT and to ensure compliance with the common stock ownership limit, the preferred stock ownership limit and the aggregate stock ownership limit, or as otherwise permitted by our board of directors.

All certificates representing shares of our common stock and preferred stock bear a legend referring to the restrictions described above.

These ownership limits could delay, defer or prevent a transaction or a change of control of our company that might otherwise result in a premium price for our stock or otherwise be in the best interest of our stockholders.

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DESCRIPTION OF THE PARTNERSHIP AGREEMENT OF DIGITAL REALTY TRUST, L.P.

We have summarized the material terms and provisions of the Eighth Amended and Restated Agreement of Limited Partnership of Digital Realty Trust, L.P., which we refer to as the partnership agreement. This summary is not complete. For more detail, you should refer to the partnership agreement itself, a copy of which we have previously filed with the SEC and which we incorporate by reference as an exhibit to the registration statement of which this prospectus is part. For purposes of this section, references to we, our, us and our company refer to Digital Realty Trust, Inc.

Management of Our Operating Partnership

Our operating partnership, Digital Realty Trust, L.P., is a Maryland limited partnership that was formed on July 21, 2004. Our company is the sole general partner of our operating partnership and conducts substantially all of our business in or through it. As sole general partner of our operating partnership, we exercise exclusive and complete responsibility and discretion in its day-to-day management and control. We can cause our operating partnership to enter into major transactions including acquisitions, dispositions and refinancings, subject to certain limited exceptions. The limited partners of our operating partnership may not transact business for, or participate in the management activities or decisions of, our operating partnership, except as provided in the partnership agreement and as required by applicable law. We may not be removed as general partner by the limited partners. The partnership agreement restricts our ability to engage in a business combination as more fully described in Termination Transactions below.

The limited partners of our operating partnership expressly acknowledged that we, as general partner of our operating partnership, are acting for the benefit of the operating partnership, the limited partners and our stockholders collectively. Neither our company nor our board of directors is under any obligation to give priority to the separate interests of the limited partners or our stockholders in deciding whether to cause our operating partnership to take or decline to take any actions. If there is a conflict between the interests of our stockholders on one hand and the limited partners on the other, we will endeavor in good faith to resolve the conflict in a manner not adverse to either our stockholders or the limited partners; provided, however, that for so long as we own a controlling interest in our operating partnership, any conflict that cannot be resolved in a manner not adverse to either our stockholders or the limited partners will be resolved in favor of our stockholders. We are not liable under the partnership agreement to our operating partnership or to any partner for monetary damages for losses sustained, liabilities incurred, or benefits not derived by limited partners in connection with such decisions; provided, that we have acted in good faith.

The partnership agreement provides that all of our business activities, including all activities pertaining to the acquisition and operation of properties, must be conducted through our operating partnership, and that our operating partnership must be operated in a manner that will enable us to satisfy the requirements for being classified as a REIT.

Transferability of Interests

Except in connection with a transaction described in Termination Transactions below, we, as general partner, may not voluntarily withdraw from our operating partnership, or transfer or assign all or any portion of our interest in our operating partnership, without the consent of the holders of a majority of the limited partnership interests. Any transfer of units by the limited partners, except to us, as general partner, to immediate family members, to a trust for the benefit of a charitable beneficiary, to a lending institution as collateral for a bona fide loan or to an affiliate or member of such limited partner, will be subject to a right of first refusal by us. All transfers must be made only to accredited investors as defined under Rule 501 of the Securities Act.

Amendments of the Partnership Agreement

Amendments to the partnership agreement may be proposed by us, as general partner, or by limited partners owning at least 25% of the units held by limited partners.

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Generally, the partnership agreement may not be amended, modified or terminated without the approval of limited partners (other than limited partners 50% or more of whose equity is owned, directly or indirectly, by us as general partner) holding a majority of all outstanding units held by limited partners. As general partner, we have the power to unilaterally make certain amendments to the partnership agreement without obtaining the consent of the limited partners as may be required to:

add to our obligations as general partner or surrender any right or power granted to us as general partner for the benefit of the limited partners;

reflect the issuance of additional units or the admission, substitution, termination or withdrawal of partners in accordance with the terms of the partnership agreement;

reflect a change of an inconsequential nature that does not adversely affect the limited partners in any material respect, or cure any ambiguity, correct or supplement any provisions of the partnership agreement not inconsistent with law or with other provisions of the partnership agreement, or make other changes concerning matters under the partnership agreement that will not otherwise be inconsistent with the partnership agreement or law;

satisfy any requirements, conditions or guidelines of federal or state law;

reflect changes that are reasonably necessary for us, as general partner, to maintain our status as a REIT; or

modify the manner in which capital accounts are computed.

Amendments that would, among other things, convert a limited partner's interest into a general partner's interest, modify the limited liability of a limited partner, alter a partner's right to receive any distributions or allocations of profits or losses, adversely alter or modify the redemption rights or alter the protections of the limited partners in connection with termination transactions described below must be approved by each limited partner that would be adversely affected by such amendment.

In addition, without the written consent of a majority of the units held by limited partners (other than limited partners 50% or more of whose equity is owned, directly or indirectly, by us as general partner), we, as general partner, may not do any of the following:

take any action in contravention of an express prohibition or limitation contained in the partnership agreement;

perform any act that would subject a limited partner to liability as a general partner in any jurisdiction or any liability not contemplated in the limited partnership agreement;

enter into any contract, mortgage loan or other agreement that prohibits or restricts, or has the effect of prohibiting or restricting, the ability of a limited partner to exercise its redemption/exchange rights explained below;

enter into or conduct any business other than in connection with our role as general partner of the operating partnership and our operation as a REIT;

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acquire an interest in real or personal property other than through our operating partnership;

withdraw from the operating partnership or transfer any portion of our general partnership interest; or

be relieved of our obligations under the partnership agreement following any permitted transfer of our general partnership interest.

Distributions to Unitholders

The partnership agreement provides that holders of common units are entitled to receive quarterly distributions of available cash on a pro rata basis in accordance with their respective percentage interests. The

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holders of series A preferred units, series B preferred units, series C preferred units and series D preferred units have distribution rights substantially similar to the dividend rights of series A preferred stockholders, series B preferred stockholders, series C preferred stockholders and series D preferred stockholders, respectively.

Redemption/Exchange Rights

Limited partners have the right to require our operating partnership to redeem part or all of their units for cash based upon the fair market value of an equivalent number of shares of our company's common stock at the time of the redemption. Alternatively, we may elect to acquire those units in exchange for shares of our company's common stock. Our acquisition will be on a one-for-one basis, subject to adjustment in the event of stock splits, stock dividends, issuances of stock rights, specified extraordinary distributions and similar events. We presently anticipate that we will elect to issue shares of our company's common stock in exchange for units in connection with each redemption request, rather than having our operating partnership redeem the units for cash. With each redemption or exchange, we increase our company's percentage ownership interest in our operating partnership. Limited partners who hold units may exercise this redemption right from time to time, in whole or in part, except when, as a consequence of shares of our common stock being issued, any person's actual or constructive stock ownership would exceed our company's ownership limits, or any other limit as provided in our charter or as otherwise determined by our board of directors as described under the section entitled "Description of Securities Restrictions on Ownership and Transfer."

In addition, if the number of units delivered by a limited partner for redemption exceeds 9.8% of our outstanding common stock and \$50.0 million in gross value (based on a unit having a value equal to the trailing ten-day daily price of our common stock) and we are eligible to file a registration statement on Form S-3 under the Securities Act, then we may also elect to redeem the units with the proceeds from a public offering or private placement of our common stock. In the event we elect this option, we may require the other limited partners also to elect whether or not to participate. If we do so, any limited partner who does not elect to participate will not be permitted to redeem units for the subsequent 12 months, subject to limited exceptions. Participating limited partners will receive on the redemption date the lesser of the cash our operating partnership would otherwise be required to pay for such units or the net proceeds per share in the public offering, but will have a limited opportunity to withdraw their units from the redemption immediately prior to the pricing of the public offering. Except as described above, a limited partner is not entitled to have common units redeemed, either for cash or shares of common stock, if exchanging the common units for shares of common stock would violate the ownership limits set forth in our charter.

Issuance of Additional Common Units, Preferred Units, Common Stock, Preferred Stock or Convertible Securities

As sole general partner, we have the ability to cause the operating partnership to issue additional units representing general and limited partnership interests. These additional units may include preferred limited partnership units. In addition, we may issue additional shares of our common stock or convertible securities, but only if we cause our operating partnership to issue to us partnership interests or rights, options, warrants or convertible or exchangeable securities of our operating partnership having designations, preferences and other rights, so that the economic interests of our operating partnership's interests issued are substantially similar to the economic interests of the securities that we have issued.

Tax Matters

We are the tax matters partner of our operating partnership and, as such, we have authority to make tax elections under the Code on behalf of our operating partnership.

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Allocations of Net Income and Net Losses to Partners

The net income of our operating partnership will generally be allocated to us to the extent of the accrued preferred return on our preferred units, and then to us, as general partner, and the limited partners in accordance with our respective percentage interests in the common units issued by our operating partnership. Net loss will generally be allocated to us, as general partner, and the limited partners in accordance with our respective common percentage interests in our operating partnership until the limited partner's capital is reduced to zero and any remaining net loss would be allocated to us. However, in some cases losses may be disproportionately allocated to partners who have guaranteed debt of our operating partnership. The allocations described above are subject to special allocations relating to depreciation deductions and to compliance with the provisions of Sections 704(b) and 704(c) of the Code and the associated Treasury Regulations. See United States Federal Income Tax Considerations Tax Aspects of Our Operating Partnership, the Subsidiary Partnerships and the Limited Liability Companies.

In addition, we may from time to time issue long-term incentive units to persons who provide services to our operating partnership for such consideration or for no consideration as we may determine to be appropriate, and admit such persons as limited partners of our operating partnership. The long-term incentive units are similar to our common units in many respects and rank *pari passu* with our common units as to the payment of regular and special periodic or other distributions except liquidating distributions. The long-term incentive units may be subject to vesting requirements.

Initially, long-term incentive units do not have full parity with common units with respect to liquidating distributions. If such parity is reached, vested long-term incentive units may be converted into an equal number of common units of our operating partnership at any time, and thereafter enjoy all the rights of common units of our operating partnership, including redemption rights.

In order to achieve full parity with common units, long-term incentive units must be fully vested and the holder's capital account balance in respect of such long-term incentive units must be equal to the capital account balance of a holder of an equivalent number of common units. (The capital account balance attributable to each common unit is generally expected to be the same, in part because of the amount credited to a partner's capital account upon their contribution of property to the operating partnership, and in part because the partnership agreement provides, in most cases, that allocations of income, gain, loss and deduction (which will adjust the partners' capital accounts) are to be made to the common units on a proportionate basis. As a result, with respect to a number of long-term incentive units, it is possible to determine the capital account balance of an equivalent number of common units by multiplying the number of long-term incentive units by the capital account balance with respect to a common unit.)

A partner's initial capital account balance is equal to the amount the partner paid (or contributed to the operating partnership) for its units and is subject to subsequent adjustments, including with respect to the partner's share of income, gain or loss of the operating partnership. Because a holder of long-term incentive units generally will not pay for the long-term incentive units, the initial capital account balance attributable to such long-term incentive units will be zero. However, the operating partnership is required to allocate income, gain, loss and deduction to the partners' capital accounts in accordance with the terms of the partnership agreement, subject to applicable Treasury Regulations. The partnership agreement provides that holders of long-term incentive units will receive special allocations of gain in the event of a sale or hypothetical sale of assets of our operating partnership prior to the allocation of gain to our company or other limited partners with respect to their common units. The amount of such allocation will, to the extent of any such gain, be equal to the difference between the capital account balance of a holder of long-term incentive units attributable to such units and the capital account balance attributable to an equivalent number of common units. If and when such gain allocation is fully made, a holder of long-term incentive units will have achieved full parity with holders of common units. To the extent that, upon an actual sale or a hypothetical sale of the operating partnership's assets as described above, there is not sufficient gain to allocate to a holder's capital account with respect to long-term incentive units, or if such sale or hypothetical sale does not occur, such units will not achieve parity with common units.

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The term "hypothetical sale" refers to circumstances that are not actual sales of our company's assets but that require certain adjustments to the value of the operating partnership's assets and the partners' capital account balances. Specifically, the partnership agreement provides that, from time to time, in accordance with applicable Treasury Regulations, the operating partnership will adjust the value of its assets to equal their respective fair market values, and adjust the partners' capital accounts, in accordance with the terms of the partnership agreement, as if the operating partnership sold its assets for an amount equal to their value. Times for making such adjustments generally include the liquidation of the operating partnership, the acquisition of an additional interest in the operating partnership by a new or existing partner in exchange for more than a de minimis capital contribution, the distribution by the operating partnership to a partner of more than a de minimis amount of partnership property as consideration for an interest in the operating partnership, in connection with the grant of an interest in the operating partnership (other than a de minimis interest) as consideration for the performance of services to or for the benefit of the operating partnership (including the grant of a long-term incentive unit), and at such other times as may be desirable or required to comply with the Treasury Regulations.

We may also from time to time issue class C profits interest units, or class C units, to persons who provide services to our operating partnership for such consideration or for no consideration as we may determine to be appropriate. If all applicable performance and other vesting conditions are satisfied with respect to a class C unit, the class C unit will be treated in the same manner as the long-term incentive units issued by our operating partnership. Class C units are not entitled to quarterly distributions prior to the satisfaction of all applicable performance conditions. Class C units are subject to the same conditions as other long-term incentive units with respect to achieving full parity with common units.

Operations

The partnership agreement provides that we, as general partner, will determine in our discretion and distribute available cash on a quarterly basis, pro rata in accordance with the partners' percentage interests. Available cash is the partnership's net operating cash flow plus the reduction of any reserves and minus principal payment on debt and capital expenditures, investments in any entity, and increase in reserves or working capital accounts and any amounts paid in redemption of limited partner interests.

The partnership agreement provides that our operating partnership will assume and pay when due, or reimburse us for payment of, all costs and expenses relating to the operations of, or for the benefit of, our operating partnership.

Termination Transactions

The partnership agreement provides that our company may not engage in any merger, consolidation or other combination with or into another person, any sale of all or substantially all of our assets or any reclassification or any recapitalization or change in outstanding shares of our common stock (a "termination transaction"), unless in connection with a termination transaction

(i) we obtain the consent of the holders of at least 35% of our operating partnership's common units, long-term incentive units and class C units (including units held by us), and

(ii) either:

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(A) all limited partners will receive, or have the right to elect to receive, for each common unit an amount of cash, securities or other property equal to the product of:

the number of shares of our company's common stock into which each unit is then exchangeable, and

the greatest amount of cash, securities or other property paid to the holder of one share of our company's common stock in consideration of one share of our common stock in connection with the termination transaction,

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provided that, if, in connection with a termination transaction, a purchase, tender or exchange offer is made to and accepted by the holders of more than 50% of the outstanding shares of our company's common stock, each holder of common units will receive, or will have the right to elect to receive, the greatest amount of cash, securities or other property which such holder would have received had it exercised its redemption right and received shares of our common stock in exchange for its common units immediately prior to the expiration of such purchase, tender or exchange offer and accepted such purchase, tender or exchange offer; or

(B) the following conditions are met:

substantially all of the assets of the surviving entity are held directly or indirectly by our operating partnership or another limited partnership or limited liability company which is the surviving partnership of a merger, consolidation or combination of assets with our operating partnership;

the holders of common units, long-term incentive units and class C units own a percentage interest of the surviving partnership based on the relative fair market value of the net assets of our operating partnership and the other net assets of the surviving partnership immediately prior to the consummation of this transaction;

the rights, preferences and privileges of such unit holders in the surviving partnership are at least as favorable as those in effect immediately prior to the consummation of the transaction and as those applicable to any other limited partners or non-managing members of the surviving partnership; and

the limited partners may exchange their interests in the surviving partnership for either the consideration available to the limited partners pursuant to paragraph (A) in this section, or the right to redeem their common units for cash on terms equivalent to those in effect with respect to their common units immediately prior to the consummation of the transaction, or, if the ultimate controlling person of the surviving partnership has publicly traded common equity securities, shares of those common equity securities, at an exchange ratio based on the relative fair market value of those securities and our common stock.

Term

Our operating partnership will continue in full force and effect until December 31, 2104, or until sooner dissolved in accordance with its terms or as otherwise provided by law.

Indemnification and Limitation of Liability

To the extent permitted by applicable law, the partnership agreement indemnifies us, as general partner, and our officers, directors, employees and agents and any other persons we may designate from and against any and all claims arising from operations of our operating partnership in which any indemnitee may be involved, or is threatened to be involved, as a party or otherwise, unless it is established that:

the act or omission of the indemnitee was material to the matter giving rise to the proceeding and either was committed in bad faith, constituted fraud or was the result of active and deliberate dishonesty;

the indemnitee actually received an improper personal benefit in money, property or services; or

in the case of any criminal proceeding, the indemnitee had reasonable cause to believe that the act or omission was unlawful.

Similarly, we, as general partner of our operating partnership, and our officers, directors, agents or employees, are not liable or accountable to our operating partnership for losses sustained, liabilities incurred or benefits not derived as a result of errors in judgment or mistakes of fact or law or any act or omission so long as we acted in good faith.

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MATERIAL PROVISIONS OF MARYLAND LAW AND OF OUR CHARTER AND BYLAWS

The following summary of certain provisions of Maryland law and of our charter and bylaws does not purport to be complete and is subject to and qualified in its entirety by reference to Maryland law and our charter and bylaws, copies of which are exhibits to the registration statement of which this prospectus is a part. See [Where You Can Find More Information](#).

Our Board of Directors

Our bylaws provide that the number of directors of our company may be established by our board of directors but may not be fewer than the minimum number permitted under the MGCL or more than 15. Except as may be provided by our board of directors in setting the terms of any class or series of stock, any vacancy may be filled only by a vote of a majority of the remaining directors, even if the remaining directors do not constitute a quorum. Any director elected to fill a vacancy shall serve for the remainder of the full term of the directorship in which the vacancy occurred and until a successor is elected and qualifies.

Each of our directors is elected by our common stockholders to serve until the next annual meeting and until their successors are duly elected and qualify. Holders of shares of our common stock will have no right to cumulative voting in the election of directors. Consequently, at each annual meeting of stockholders, the holders of a majority of the shares of our common stock will be able to elect all of our directors. Additionally, in the event that we are in arrears on dividends on our series A preferred stock, series B preferred stock, series C preferred stock or series D preferred stock for six or more quarterly periods, whether or not consecutive, holders of our series A preferred stock, series B preferred stock, series C preferred stock or series D preferred stock, as the case may be, voting as a single class with all other series of preferred stock upon which like voting rights have been conferred and are exercisable, will have the right to elect two additional directors to our board for a limited time.

Removal of Directors

Our charter provides that a director may be removed only for cause (as defined in our charter) and only by the affirmative vote of at least two-thirds of the votes entitled to be cast generally in the election of directors. This provision, when coupled with the exclusive power of our board of directors to fill vacant directorships, precludes stockholders from (1) removing incumbent directors except upon the existence of cause for removal and a substantial affirmative vote and (2) filling the vacancies created by such removal with their own nominees. In addition, any director elected to our board by the holders of our preferred stock may only be removed by a vote of preferred stockholders.

Business Combinations

Under the MGCL, certain business combinations (including a merger, consolidation, share exchange or, in certain circumstances, an asset transfer or issuance or reclassification of equity securities) between a Maryland corporation and any interested stockholder, or an affiliate of such an interested stockholder, are prohibited for five years after the most recent date on which the interested stockholder becomes an interested stockholder. Maryland law defines an interested stockholder 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 the person otherwise would have

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become an interested stockholder. Our board of directors may provide that its approval is subject to compliance with any terms and conditions determined by it.

After such five-year period, any such business combination must be recommended by the board of directors of such corporation and approved by the affirmative vote of at least (1) 80% of the votes entitled to be cast by

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holders of outstanding shares of voting stock of the corporation and (2) 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 by an affiliate or associate of the interested stockholder, unless, among other conditions, the corporation's common stockholders receive a minimum price (as defined in the MGCL) for their shares and the consideration is received in cash or in the same form as previously paid by the interested stockholder for its shares.

These provisions of the MGCL do not apply, however, to business combinations that are approved or exempted by a board of directors prior to the time that the interested stockholder becomes an interested stockholder. Pursuant to the statute, our board of directors has by resolution opted out of the business combination provisions of the MGCL and, consequently, the five-year prohibition and the supermajority vote requirements will not apply to business combinations between us and any interested stockholder of ours. As a result, anyone who later becomes an interested stockholder may be able to enter into business combinations with us that may not be in the best interest of our stockholders without compliance by our company with the super-majority vote requirements and the other provisions of the statute. We cannot assure you that our board of directors will not opt to be subject to such business combination provisions in the future.

Control Share Acquisitions

The MGCL provides that control shares of a Maryland corporation acquired in a control share acquisition have no voting rights except to the extent approved at a special meeting by the affirmative vote of two-thirds of the votes entitled to be cast on the matter, excluding shares of stock in a corporation in respect of which any of the following persons is entitled to exercise or direct the exercise of the voting power of shares of stock of the corporation in the election of directors: (1) a person who makes or proposes to make a control share acquisition, (2) an officer of the corporation or (3) an employee of the corporation who is also a director of the corporation. Control shares are voting shares of stock which, if aggregated with all other such shares of stock previously acquired by the acquiror or in respect of which the acquiror is able to exercise or direct the exercise of voting power (except solely by virtue of a revocable proxy), would entitle the acquiror to exercise voting power in electing directors within one of the following ranges of voting power: (1) one-tenth or more but less than one-third, (2) one-third or more but less than a majority, or (3) 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 means the acquisition of control shares, subject to certain exceptions.

A person who has made or proposes to make a control share acquisition, upon satisfaction of certain conditions (including an undertaking to pay expenses), may compel our board of directors to call a special meeting of stockholders to be held within 50 days of demand to consider the voting rights of the control shares. If no request for a meeting is made, the corporation may itself present the question at any stockholders meeting.

If voting rights of control shares are not approved at the meeting or if the acquiring person does not deliver an acquiring person statement as required by the statute, then, subject to certain conditions and limitations, the corporation may redeem any or all of the control shares (except those for which voting rights have previously been approved) for fair value determined, without regard to the absence of voting rights for the control shares, as of the date of the last control share acquisition by the acquiror 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 acquiror 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 acquiror in the control share acquisition.

The control share acquisition statute does not apply (1) to shares acquired in a merger, consolidation or share exchange if the corporation is a party to the transaction or (2) to acquisitions approved or exempted by the charter or bylaws of the corporation.

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Our bylaws contain a provision exempting from the control share acquisition statute any and all acquisitions by any person of our stock. We cannot provide you any assurance that our board of directors will not amend or eliminate this provision at any time in the future.

Subtitle 8

Title 3, Subtitle 8 of the MGCL permits a Maryland corporation with a class of equity securities registered under the Securities Exchange Act of 1934 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 of (1) a classified board of directors, (2) a two-thirds vote requirement for removing a director, (3) a requirement that the number of directors be fixed only by vote of the directors, (4) a requirement that a vacancy on the board of directors be filled only by the remaining directors and for the remainder of the full term of the class of directors in which the vacancy occurred, or (5) a majority requirement for the calling of a special meeting of stockholders. Pursuant to Subtitle 8, we have elected to provide that vacancies on our board of directors may be filled only by the remaining directors and for the remainder of the full term of the directorship in which the vacancy occurred. Through provisions in our charter and bylaws unrelated to Subtitle 8, we already require a two-thirds vote for the removal of any director from the board of directors, vest in the board of directors the exclusive power to fix the number of directorships and fill vacancies and require, unless called by the executive chairman of our board of directors, our president, our chief executive officer or our board of directors, the request of stockholders entitled to cast a majority of all the votes entitled to be cast to call a special meeting.

Amendments to Our Charter and Bylaws

Our charter generally may be amended only if such amendment is declared advisable by our board of directors and approved by the affirmative vote of stockholders entitled to cast a majority of all of the votes entitled to be cast on the matter. In the case of an amendment that would materially and adversely affect our series A preferred stock, series B preferred stock, series C preferred stock, or series D preferred stock, the consent of two-thirds of the outstanding shares of our series A preferred stock, series B preferred stock, series C preferred stock or series D preferred stock, as the case may be, voting as a single class with all other classes or series of preferred stock ranking on parity with respect to the payment of dividends and distribution of assets upon our liquidation and upon which like voting rights have been conferred is also required. However, our charter's provisions regarding removal of directors may be amended only if such amendment is declared advisable by our board of directors and approved by the affirmative vote of stockholders entitled to cast not less than two-thirds of all the votes entitled to be cast on the matter. Our board of directors has the exclusive power to adopt, alter or repeal any provision of our bylaws or to make new bylaws.

Transactions Outside the Ordinary Course of Business

We may not merge with or into another company, sell all or substantially all of our assets, engage in a share exchange or engage in similar transactions outside the ordinary course of business unless the transaction is declared advisable by our board of directors and approved by the affirmative vote of stockholders entitled to cast a majority of all of the votes entitled to be cast on the matter. In the case of any such transaction that would materially and adversely affect our series A preferred stock, series B preferred stock, series C preferred stock or series D preferred stock, we will also require the consent of two-thirds of the outstanding shares of our series A preferred stock, series B preferred stock, series C preferred stock or series D preferred stock, as the case may be, voting as a single class with all other classes or series of preferred stock ranking on parity with respect to the payment of dividends and distribution of assets upon our liquidation and upon which like voting rights have been conferred, *provided*, however, that if, upon the occurrence of such a transaction, the series A preferred stock, series B preferred stock, series C preferred stock or series D preferred stock, as the case may be, remains outstanding with materially unchanged terms, taking into account that we may not be the surviving entity, then the transaction will not be deemed to materially and adversely affect our series A preferred stock, series B preferred stock, series C preferred stock or series D preferred stock. Furthermore, we will not require the consent

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of the series A, series B, se