

REGIS CORP
Form 8-K
December 04, 2013

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, DC 20549

FORM 8-K

CURRENT REPORT

PURSUANT TO SECTION 13 OR 15(d) OF THE
SECURITIES EXCHANGE ACT OF 1934

Date of report (Date of earliest event reported): **November 27, 2013**

REGIS CORPORATION

(Exact Name of Registrant as Specified in Charter)

Minnesota
(State or Other Jurisdiction
of Incorporation)

1-12725
(Commission File Number)

41-0749934
(IRS Employer
Identification No.)

7201 Metro Boulevard

Minneapolis, MN 55439

(Address of Principal Executive Offices and Zip Code)

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Registrant's telephone number, including area code: (952) 947-7777

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the Registrant under any of the following provisions (*see* General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

 - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

 - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

 - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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Regis Corporation Current Report on Form 8-K

ITEM 1.01 ENTRY INTO A MATERIAL DEFINITIVE AGREEMENT.

On November 27, 2013, Regis Corporation (the "Company") issued \$120 million in aggregate principal amount of 5.75% Senior Notes due 2017 (the "Notes") pursuant to certain purchase agreements (the "Purchase Agreements") dated as of November 27, 2013 with the initial purchasers named therein (the "Initial Purchasers"). The Notes are governed by an indenture (the "Indenture"), dated November 27, 2013, by and between the Company and Wells Fargo Bank, National Association, as trustee. The Notes were sold through a private placement that is exempt from the registration requirements of the Securities Act of 1933, as amended (the "Securities Act").

The Notes have been offered in reliance upon the exemption from registration afforded by Section 4(a)(2) of the Securities Act and Rule 506 of Regulation D as promulgated by the Securities Exchange Commission ("SEC") under the Securities Act. The Notes will not be registered under the Securities Act or any state securities laws and may not be offered or sold in the United States absent an effective registration statement or an applicable exemption from registration requirements or a transaction not subject to the registration requirements of the Securities Act or any state securities laws.

Under the terms of the Indenture, the Notes will bear interest at a rate of 5.75% per annum. The Company shall pay interest on the Notes in cash semi-annually in arrears on June 1 and December 1 of each year, beginning on June 1, 2014. The Notes will mature on December 5, 2017. All outstanding principal will be paid at maturity.

The Notes will rank equally in right of payment with the Company's existing and future unsubordinated unsecured indebtedness, and senior in right of payment to the Company's existing and future indebtedness that by its terms is expressly subordinated to the Notes. The Notes will be effectively subordinated to any of the Company's existing and future secured indebtedness. The Notes will be unsecured and will not be guaranteed by any of the Company's subsidiaries or any third party.

The Indenture contains customary covenants, including covenants that limit or restrict the Company's ability to incur liens, incur indebtedness, make certain restricted payments, merge or consolidate and make dispositions of assets. The Indenture does not contain covenants related to future financial performance. The Indenture specifies a number of events of default (some of which are subject to applicable grace or cure periods), including, among other things, non-payment defaults, covenant defaults, cross-defaults to other material indebtedness, bankruptcy and insolvency defaults and non-payment of material judgments. Upon the occurrence of an event of default under the Indenture, subject to cure periods in certain circumstances, the Trustee or the holders of the Notes, may declare all amounts outstanding to be immediately due and payable.

The Indenture provides that, beginning on December 1, 2015, the Company may redeem some or all of the Notes at a redemption price equal to, prior to December 1, 2016, 102.875% of the principal amount of the Notes to be redeemed plus accrued and unpaid interest, if any, to but not including the redemption date. Prior to December 1, 2015, the Company may redeem up to 35% of the aggregate principal amount of the Notes at a redemption price equal to 105.75% of the principal amount of the Notes to be redeemed, plus accrued and unpaid interest to the date of redemption, with the net cash proceeds of certain equity offerings. In addition, the Company may, at its option, redeem some or all of the Notes at any time prior to December 1, 2015, by paying a "make whole" premium, plus accrued and unpaid interest to the date of redemption. If the Company experiences certain change of control events, the holders of the Notes will have the right to require the Company to purchase all or a

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portion of their Notes at a purchase price in cash equal to 101% of the principal amount thereof, plus accrued and unpaid interest to the date of purchase. Upon certain asset sales, the Company may be required to offer to use the net proceeds thereof to purchase some of the Notes at 101% of the principal amount thereof, plus accrued and unpaid interest to the date of purchase.

The preceding summary of the Purchase Agreements and the Indenture is qualified in its entirety by reference to the text of the Purchase Agreements and the Indenture, which are filed as Exhibits 10.1, 10.2, 10.3 and 10.4, respectively. This report does not constitute an offer to sell, or a solicitation of an offer to buy, any security and shall not constitute an offer, solicitation or sale in any jurisdiction in which such offering, solicitation or sale would be unlawful.

ITEM 2.03 CREATION OF A DIRECT FINANCIAL OBLIGATION OR AN OBLIGATION UNDER AN OFF-BALANCE SHEET ARRANGEMENT OF A REGISTRANT.

The information set forth above under Item 1.01 is hereby incorporated by reference in its entirety in this Item 2.03.

ITEM 7.01 REGULATION FD DISCLOSURE.

The Company's press release, dated December 4, 2013 is attached hereto as Exhibit 99.1.

ITEM 8.01 OTHER EVENTS.

In the press release attached as Exhibit 99.1, as part of the Company's announcement on its capital allocation policy, the Company announced a decision by the Board of Directors to discontinue the regular quarterly dividend.

This report on Form 8-K contains forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. Forward-looking statements can be identified by words such as: anticipate, intend, plan, expect, may, will and similar references to future periods. Forward-looking statements are neither historical facts nor assurances of future performance. Instead, they are based only on information currently available to us and speak only as of today. Because forward-looking statements relate to the future, they are subject to inherent uncertainties, risks and changes in circumstances that are difficult to predict and many of which are outside of our control. Our actual results may differ materially from those indicated in the forward-looking statements. Therefore, you should not rely on any of these forward-looking statements. We undertake no obligation to update any forward-looking statement, whether written or oral, that may be made from time to time, whether as a result of new information, future developments or otherwise.

The information in this Item 7.01, including Exhibit 99.1 hereto, is being furnished and shall not be deemed filed for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, or otherwise subject to the liabilities of that Section or Sections 11 and 12(a)(2) of the Securities Act of 1933, as amended. The information contained herein and in the accompanying exhibit shall not be incorporated by reference into any filing with the Securities and Exchange Commission made by Regis Corporation, whether made before or after the date hereof, regardless of any general incorporation language in such filing.

ITEM 9.01 FINANCIAL STATEMENTS AND EXHIBITS.

(d) Exhibits.

**EXHIBIT
NUMBER**

- | | |
|------|--|
| 10.1 | Purchase Agreement dated November 27, 2013 by and between Regis Corporation and an Initial Purchaser. |
| 10.2 | Purchase Agreement dated November 27, 2013 by and between Regis Corporation and an Initial Purchaser. |
| 10.3 | Purchase Agreement dated November 27, 2013 by and between Regis Corporation and an Initial Purchaser. |
| 10.4 | Indenture dated November 27, 2013 by and between Regis Corporation and Wells Fargo Bank, National Association. |
| 99.1 | Regis Corporation News Release dated December 4, 2013. |

< the restricted stock units listed in Table II. Such withholding is mandated by an election of the Issuer made in advance and does not represent a discretionary trade by the Reporting Person.(3)This transaction was effected pursuant to a Rule 10b5-1 trading plan adopted by John Geschke on December 15, 2017.(4)This sale price represents the weighted average sale price of the shares sold ranging from \$48.30 to \$49.28 per share. Upon request by the Commission staff, the Issuer, or a security holder of the Issuer, the Reporting Person will provide full information regarding the number of shares sold at each separate price.(5)1/48th of the shares issuable pursuant to the restricted stock units shall vest monthly after the vesting commencement date of February 15, 2015, subject to the Reporting Person's continuous service to the Issuer on each such date. Unvested shares are subject to acceleration upon the occurrence of certain events.(6)1/48th of the shares issuable pursuant to the restricted stock units shall vest each month after the vesting commencement date of May 15, 2016, subject to the Reporting Person's continuous service to the Issuer on each such date. Unvested shares are subject to acceleration upon the occurrence of certain events.(7)1/48th of the shares issuable pursuant to the restricted stock units shall vest each month after the vesting commencement date of May 15, 2017, subject to the Reporting Person's continuous service to the Issuer on each such date. Unvested shares are subject to acceleration upon the occurrence of certain events.(8)1/48th of the shares issuable pursuant to the restricted stock units shall vest each month after the vesting commencement date of January 15, 2018, subject to the Reporting Person's continuous service to the Issuer on each such date. Unvested shares are subject to acceleration upon the occurrence of certain events.(9)1/12th of the shares issuable pursuant to the restricted stock units shall vest each month after the vesting commencement date of January 15, 2018, subject to the Reporting Person's continuous service to the Issuer on each such date. Unvested shares are subject to acceleration upon the occurrence of certain events.(10)The option is early exercisable. 1/48th of the shares vest monthly after the vesting commencement date of April 23, 2013, subject to cliff vesting for all months prior to July 9, 2013 and to the Reporting Person's continuous service to the Issuer on each such date. Unvested shares are subject to acceleration upon the occurrence of certain events.(11)The option is early exercisable. 1/60th of the shares vest monthly after the vesting commencement date of February 13, 2014, subject to the Reporting Person's continuous service to the Issuer on each such date. Unvested shares are subject to acceleration upon the occurrence of certain events.

Note: File three copies of this Form, one of which must be manually signed. If space is insufficient, see Instruction 6 for procedure.

Potential persons who are to respond to the collection of information contained in this form are not required to respond unless the form displays a currently valid OMB number. nt-size:10.0pt;">

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EXHIBIT INDEX

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1"> (9)to the extent not otherwise included in this definition, Hedging Obligations of such Person.

Notwithstanding the foregoing, in connection with the purchase by the Issuer or any Restricted Subsidiary of any business, the term Indebtedness will exclude post-closing payment adjustments to which the seller may

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become entitled to the extent such payment is determined by a final closing balance sheet or such payment depends on the performance of such business after the closing; *provided, however*, that, at the time of closing, the amount of any such payment is not determinable and, to the extent such payment thereafter becomes fixed and determined, the amount is paid within 60 days thereafter. Indebtedness of any Person shall include all Indebtedness of any partnership or other entity in which such Person is a general partner or other equity holder with unlimited liability other than (x) Indebtedness which is non-recourse to such Person and its assets (subject to customary environmental indemnities or completion or budget guarantees, and subject to customary exclusions from liability by lenders in non-recourse financing transactions secured by real property (including by means of separate indemnification agreements or carve-out guarantees)) and (y) if such Person is an Investment Subsidiary, the indebtedness of a related Co-investment Vehicle.

The amount of Indebtedness of any Person at any date shall be the outstanding balance at such date of all unconditional obligations as described above and the maximum liability, upon the occurrence of the contingency giving rise to the obligation, of any contingent obligations at such date; *provided, however*, that the principal amount of any noninterest bearing or other discount security at any date will be the principal amount thereof that would be shown on a balance sheet of such Person dated such date prepared in accordance with GAAP.

Independent Qualified Party means an investment banking firm, accounting firm or appraisal firm of national standing; *provided, however*, that such firm is not an Affiliate of the Issuer.

Initial Purchasers means, collectively, Banc of America Securities LLC, Credit Suisse Securities (USA) LLC, HSBC Securities (USA) Inc., Barclays Capital Inc., RBS Securities Inc., Wells Fargo Securities, LLC, Scotia Capital (USA) Inc. and Mitsubishi UFJ Securities (USA), Inc.

Interest Rate Agreement means in respect of a Person any interest rate swap agreement, interest rate cap agreement or other financial agreement or arrangement designed to protect such Person against fluctuations in interest rates.

Investment in any Person means any direct or indirect advance, loan (other than advances to customers in the ordinary course of business that are recorded as accounts receivable on the balance sheet of the lender) or other extensions of credit (including by way of Guarantee or similar arrangement) or capital contribution to (by means of any transfer of cash or other property to others or any payment for property or services for the account or use of others), or any purchase or acquisition of Capital Stock, Indebtedness or other similar instruments issued by such Person. Except as otherwise provided for herein, the amount of an Investment shall be its fair market value at the time the Investment is made and without giving effect to subsequent changes in value.

For purposes of the definition of Unrestricted Subsidiary, the definition of Restricted Payment and the covenant described under Certain Covenants Limitation on Restricted Payments :

- (1) Investment shall include the portion (proportionate to the Issuer's equity interest in such Subsidiary) of the fair market value of the net assets of any Subsidiary of the Issuer at the time that such Subsidiary is designated an Unrestricted Subsidiary; *provided, however*, that upon a redesignation of such Subsidiary as a Restricted Subsidiary, the Issuer shall be deemed to continue to have a permanent Investment in an Unrestricted Subsidiary equal to an amount (if positive) equal to (A) the Issuer's Investment in such Subsidiary at the time of such redesignation less (B) the portion (proportionate to the Issuer's equity interest in such Subsidiary) of the fair market value of the net assets of such Subsidiary at the time of such redesignation; and
- (2) any property transferred to or from an Unrestricted Subsidiary shall be valued at its fair market value at the time of such transfer, in each case as determined in good faith by the Board of Directors.

Investment Grade Rating means a rating equal to or higher than Baa3 (or the equivalent) and BBB- (or the equivalent) by Moody's Investors Service, Inc. (or any successor to the rating agency business thereof) and Standard & Poor's Ratings Group (or any successor to the rating agency business thereof), respectively.

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Investment Subsidiary shall mean (1) any Subsidiary engaged principally in the business of buying and holding real estate related assets in anticipation of selling such assets or transferring such assets, which assets may include securities of companies engaged principally in such business, (2) any Subsidiary engaged principally in the business of investment management, including investing in and/or managing Co-investment Vehicles and (3) any D&I Subsidiary.

Issue Date means October 8, 2010.

Lien means any mortgage, pledge, security interest, encumbrance, lien or charge of any kind (including any conditional sale or other title retention agreement or lease in the nature thereof). For the avoidance of doubt, the grant by any Person of a non-exclusive license to use intellectual property owned by, licensed to, or developed by such Person and such license activity shall not constitute a grant by such Person of a Lien on such intellectual property.

Mortgage Banking Activities means (1) the origination of mortgage loans in respect of commercial and multi-family residential real property, and the sale or assignment of such mortgage loans and the related mortgages to another person (other than the Issuer or any Restricted Subsidiary) within 120 days after the origination thereof (or thereafter, so long as the purchaser thereof is a quasi-federal governmental agency or enterprise or government-sponsored entity that shall have confirmed in writing its obligation to purchase such loans prior to such 120th day), *provided, however*, that in each case prior to origination of any mortgage loan, the Issuer or a Mortgage Banking Subsidiary, as the case may be, shall have entered into a legally binding and enforceable agreement with respect to such mortgage loan with a person that purchases such loans in the ordinary course of business, (2) the origination of FHA Loans, and (3) servicing activities related to the activities described in clauses (1) and (2) above.

Mortgage Banking Subsidiary means CBRE Capital Markets and its subsidiaries that are engaged in Mortgage Banking Activities.

Net Available Cash from an Asset Disposition means cash payments received therefrom (including any cash payments received by way of deferred payment of principal pursuant to a note or installment receivable or otherwise and proceeds from the sale or other disposition of any securities received as consideration, but only as and when received, but excluding any other consideration received in the form of assumption by the acquiring Person of Indebtedness or other obligations relating to such properties or assets or received in any other noncash form), in each case net of:

- (1) all legal, accounting, investment banking and brokerage fees, title and recording tax expenses, commissions and other fees and expenses incurred, and all Federal, state, provincial, foreign and local taxes required to be accrued as a liability under GAAP, as a consequence of such Asset Disposition;
- (2) all payments made on any Indebtedness which is secured by any assets subject to such Asset Disposition, in accordance with the terms of any Lien upon or other security agreement of any kind with respect to such assets, or which must by its terms, or in order to obtain a necessary consent to such Asset Disposition, or by applicable law, be repaid out of the proceeds from such Asset Disposition;
- (3) all distributions and other payments required to be made to minority interest holders in Restricted Subsidiaries as a result of such Asset Disposition; and
- (4) the deduction of appropriate amounts provided by the seller as a reserve, in accordance with GAAP, against any liabilities associated with the property or other assets disposed in such Asset Disposition and retained by the Issuer or any Restricted Subsidiary after such Asset Disposition.

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Net Cash Proceeds, with respect to any issuance or sale of Capital Stock, means the cash proceeds of such issuance or sale net of attorneys' fees, accountants' fees, underwriters' or placement agents' fees, discounts or commissions and brokerage, consultant and other fees actually incurred in connection with such issuance or sale and net of taxes paid or payable as a result thereof.

Non-Recourse Indebtedness means Indebtedness of, or Guaranteed by, an Investment Subsidiary; *provided, however*, that (1) such Indebtedness is incurred solely in relation to the permitted investment or real estate development activities of such Investment Subsidiary and (2) such Indebtedness is not Guaranteed by, or otherwise recourse to Parent, the Issuer or any Restricted Subsidiary other than an Investment Subsidiary (subject to customary environmental indemnities or completion or budget guarantees, and subject to customary exclusions from liability by lenders in non-recourse financing transactions secured by real property (including by means of separate indemnification agreements or carve-out guarantees)); *provided further* that, if any such Indebtedness is partially Guaranteed by or otherwise recourse to Parent, the Issuer or any Restricted Subsidiary other than an Investment Subsidiary, the portion of such Indebtedness not so Guaranteed or recourse shall be Non-Recourse Indebtedness hereunder.

Obligations means with respect to any Indebtedness all obligations for principal, premium, interest, penalties, fees, indemnifications, reimbursements and other amounts payable pursuant to the documentation governing such Indebtedness.

Offering Memorandum means the confidential Offering Memorandum dated October 5, 2010, pursuant to which the Notes were offered to investors.

Officer means the chairman of the board of directors, the chief executive officer, the president, the chief financial officer, any executive vice president, senior vice president or vice president, the treasurer or any assistant treasurer or the secretary or any assistant secretary of Parent or the Issuer.

Officer's Certificate means a certificate signed on behalf of Parent or the Issuer, as the case may be, by an Officer of Parent or the Issuer, respectively.

Opinion of Counsel means a written opinion signed by legal counsel, who may be an employee of or counsel to Parent or the Issuer, satisfactory to the Trustee.

Parent means CB Richard Ellis Group, Inc., a Delaware corporation, and its successors.

Parent Guaranty means the Guarantee by Parent of the Issuer's obligations with respect to the Notes contained in the Indenture.

Permitted Acquisition shall have the meaning set forth in the Credit Agreement, as in effect on the Issue Date.

Permitted Co-investment means

- (1) any Investment by the Issuer or any of its Restricted Subsidiaries in, or any Guarantee by the Issuer or any of its Restricted Subsidiaries of the Indebtedness of, a Co-investment Vehicle or separate account or investment program managed, operated or sponsored by an Investment Subsidiary; *provided, however*, that if the aggregate commitments of all investors in a Co-investment Vehicle or separate account or investment program is (A) \$50.0 million or less, (i) such Investment shall not be greater than 10% of the aggregate commitment of such Co-investment Vehicle or separate account or investment program and (ii) such Guarantee shall not be greater than 10% of the aggregate committed Indebtedness of such Co-investment Vehicle or separate account or investment program and

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(B) greater than \$50.0 million, (i) such Investment shall not be greater than 6% of the aggregate commitment of such Co-investment Vehicle or separate account or investment program and (ii) such Guarantee shall not be greater than 6% of the aggregate committed Indebtedness of such Co-investment Vehicle or separate account or investment program,

- (2) any Guarantee of Indebtedness of a Co-investment Vehicle managed, operated or sponsored by an Investment Subsidiary, *provided* that the other investors in such Co-investment Vehicle provide Approved Credit Support for their pro rata share of such Guarantee, and
- (3) any investment in which an Approved Take Out Party provides an Approved Take Out Commitment in respect of such Investment (it being understood that any particular Investment or Guarantee may be allocated to one or more categories specified in clauses (1), (2) and (3) above).

Permitted Holders means (1) the Blum Funds, (2) any member of senior management of the Issuer on the Issue Date and (3) the Parent.

Permitted Investment means an Investment by the Issuer or any Restricted Subsidiary in:

- (1) the Issuer, a Restricted Subsidiary or a Person that will, upon the making of such Investment, become a Restricted Subsidiary; *provided, however*, that (A) the primary business of such Restricted Subsidiary is a Related Business and (B) such Restricted Subsidiary is not restricted from making dividends or similar distributions by contract, operation of law or otherwise; *provided further, however*, that (1) any Investment in CBRE Capital Markets for purposes of supporting any CBRE Capital Markets Permitted Indebtedness shall be limited to \$100.0 million in the aggregate after giving effect to and repayments of such Investments and (2) any Investment in an Investment Subsidiary shall be limited to the extent such Investment is made in such Investment Subsidiary to fund a Permitted Co-investment or any other Investment that is separately permitted by this definition or in connection with funding routine start-up costs of such Investment Subsidiary;
- (2) another Person if as a result of such Investment such other Person is merged or consolidated with or into, or transfers or conveys all or substantially all its assets to, the Issuer or a Restricted Subsidiary; *provided, however*, that such Person's primary business is a Related Business;
- (3) cash and Temporary Cash Investments;
- (4) receivables owing to the Issuer or any Restricted Subsidiary if created or acquired in the ordinary course of business and payable or dischargeable in accordance with customary trade terms; *provided, however*, that such trade terms may include such concessionary trade terms as the Issuer or any such Restricted Subsidiary deems reasonable under the circumstances;
- (5) payroll, travel, moving and similar advances to cover matters that are expected at the time of such advances ultimately to be treated as expenses for accounting purposes and that are made in the ordinary course of business;
- (6) loans or advances to employees or independent contractors made in the ordinary course of business of the Issuer or such Restricted Subsidiary;
- (7) loans or advances to clients and vendors made in the ordinary course of business of the Issuer or such Restricted Subsidiary in an aggregate amount outstanding at any time not exceeding \$5.0 million;

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- (8) stock, obligations or securities received in settlement of debts created in the ordinary course of business and owing to the Issuer or any Restricted Subsidiary or in satisfaction of judgments;

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- (9) any Person to the extent such Investment represents the noncash portion of the consideration received for an Asset Disposition as permitted pursuant to the covenant described under Certain Covenants Limitation on Sales of Assets and Subsidiary Stock;
- (10) any Person where such Investment was acquired by the Issuer or any of its Restricted Subsidiaries (a) in exchange for any other Investment or accounts receivable held by the Issuer or any such Restricted Subsidiary in connection with or as a result of a bankruptcy, workout, reorganization or recapitalization of the issuer of such other Investment or accounts receivable or (b) as a result of a foreclosure by the Issuer or any of its Restricted Subsidiaries with respect to any secured Investment or other transfer of title with respect to any secured Investment in default;
- (11) Hedging Obligations entered into in the ordinary course of the Issuer's or any Restricted Subsidiary's business and not for the purpose of speculation;
- (12) any Person to the extent such Investment exists on the Issue Date or replaces or refinances an Investment in such Person existing on the Issue Date in an amount not exceeding the amount of the Investment being replaced or refinanced; *provided, however*, that the new Investment is on terms and conditions no less favorable than the Investment being renewed or replaced;
- (13) Investments in insurance on the life of any participant in any deferred compensation plan of the Issuer made in the ordinary course of business;
- (14) Permitted Co-investments;
- (15) Investments customarily arising in connection with any Permitted Receivables Securitization;
- (16) Investments made pursuant to commitments to Invest, which commitments are outstanding on the Issue Date; and
- (17) so long as no Default shall have occurred and be continuing (or result therefrom), any Person in an aggregate amount which, when added together with the amount of all the Investments made pursuant to this clause (17) which at such time have not been repaid through repayments of loans or advances or other transfers of assets, does not exceed the greater of (A) \$200.0 million and (B) 10% of Consolidated Net Tangible Assets of the Issuer and its Restricted Subsidiaries at the time of such Investments (with the fair market value of each Investment being measured at the time made and without giving effect to subsequent changes in value).

Permitted Liens means, with respect to any Person:

- (1) pledges or deposits by such Person under worker's compensation laws, unemployment insurance laws or similar legislation, or good faith deposits in connection with bids, tenders, contracts (other than for the payment of Indebtedness) or leases to which such Person is a party, or deposits to secure public or statutory obligations of such Person or deposits of cash or United States government bonds to secure surety or appeal bonds to which such Person is a party, or deposits as security for contested taxes or import duties or for the payment of rent, in each case Incurred in the ordinary course of business;
- (2) Liens imposed by law, such as carriers', warehousemen's, mechanics', materialmen's and repairmen's Liens and other similar Liens, in each case for sums not yet due and payable or being contested in good faith by appropriate proceedings or other Liens arising out of

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judgments or awards against such Person with respect to which such Person shall then be proceeding with an appeal or other proceedings for review and Liens arising solely by virtue of any statutory or common law provision relating to banker's Liens, rights of setoff or similar rights and remedies as to deposit accounts or other funds maintained

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with a creditor depository institution; *provided, however*, that (A) such deposit account is not a dedicated cash collateral account and is not subject to restrictions against access by the Issuer in excess of those set forth by regulations promulgated by the Federal Reserve Board and (B) such deposit account is not intended by the Issuer or any Restricted Subsidiary to provide collateral to the depository institution;

- (3) Liens for taxes, fees, assessments or other governmental charges not yet subject to penalties for nonpayment or which are being contested in good faith by appropriate proceedings;
- (4) Liens in favor of issuers of surety bonds or letters of credit issued pursuant to the request of and for the account of such Person in the ordinary course of its business; *provided, however*, that such letters of credit do not constitute Indebtedness;
- (5) Liens to secure the performance of bids, trade contracts (other than for Indebtedness), leases (other than Capital Lease Obligations and Attributable Debt), statutory obligations, appeal bonds, performance bonds and other obligations of a like nature, in each case in the ordinary course of business;
- (6) survey exceptions, encumbrances, easements or reservations of, or rights of others for, licenses, rights-of-way, sewers, electric lines, telegraph and telephone lines and other similar purposes, or zoning or other restrictions as to the use of real property or Liens incidental to the conduct of the business of such Person or to the ownership of its properties which were not Incurred in connection with Indebtedness and which do not in the aggregate materially adversely affect the value of said properties or materially impair their use in the operation of the business of such Person;
- (7) Liens securing Indebtedness (including Capital Lease Obligations and Attributable Debt) Incurred to finance the construction, purchase or lease of, or repairs, improvements or additions to, property (real or personal, tangible or intangible), plant or equipment of such Person; *provided, however*, that the Lien may not extend to any other property owned by such Person or any of its Restricted Subsidiaries at the time the Lien is Incurred (other than assets and property affixed or appurtenant thereto), and the Indebtedness (other than any interest thereon) secured by the Lien may not be Incurred more than 180 days after the later of the acquisition, completion of construction, repair, improvement, addition or commencement of full operation of the property subject to the Lien;
- (8) Liens arising out of judgments or awards in respect of which the Issuer or any Restricted Subsidiary shall in good faith be prosecuting an appeal or proceedings for review in respect of which there shall be secured a subsisting stay of execution pending such appeal or proceedings; *provided* that the aggregate amount of all such judgments or awards (and any cash and the fair market value of any property subject to such Liens) does not exceed \$50.0 million at any time outstanding;
- (9) Liens existing on the Issue Date (other than the Liens securing Indebtedness pursuant to any Credit Facility);
- (10) Liens on property (real or personal, tangible or intangible) or shares of Capital Stock of another Person at the time such other Person becomes a Subsidiary of such Person; *provided, however*, that the Liens may not extend to any other property owned by such Person or any of its Restricted Subsidiaries (other than assets and property affixed or appurtenant thereto);
- (11) Liens on property at the time such Person or any of its Subsidiaries acquires such property, including any acquisition by means of a merger or consolidation with or into such Person or a Subsidiary of such Person; *provided, however*, that the Liens may not extend to any other property owned by such Person or any of its Restricted Subsidiaries (other than assets and property affixed or appurtenant thereto);

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- (12) Liens securing Indebtedness or other obligations of a Subsidiary of such Person owing to such Person or a wholly owned Subsidiary of such Person;
- (13) Liens securing Hedging Obligations so long as such Hedging Obligations relate to Indebtedness that is, and is permitted to be under the Indenture, secured by a Lien on the same properly securing such Hedging Obligations;
- (14) Liens on commercial mortgage loans originated and owned by CBRE Capital Markets or any other Mortgage Banking Subsidiary pursuant to the CBRE Capital Markets Mortgage Warehousing Facility;
- (15) Liens on investments made by CBRE Capital Markets in connection with the CBRE Capital Markets Loan Arbitrage Facility, if such investments were acquired by CBRE Capital Markets with the proceeds of such Indebtedness;
- (16) (A) Liens securing Senior Indebtedness Incurred in compliance with the covenant described under Certain Covenants Limitations on Indebtedness in an aggregate amount not to exceed the amount of Indebtedness Incurred under clause (b)(1) of such covenant and then outstanding or such greater amount of Senior Indebtedness (subject to the treatment of such Senior Indebtedness in the definition of Consolidated EBITDA Coverage Ratio) that could then be Incurred under such covenant without the Consolidated Secured Debt Ratio exceeding 3.25 to 1.0, and (B) Liens on Senior Indebtedness securing any Refinancing (or successive Refinancings) as a whole, or in part, of any Indebtedness secured by Liens permitted by this clause (16);
- (17) Liens on specific items of inventory or other goods of such Person securing such Person's obligations in respect of bankers acceptances issued or created for the account of such Person solely to facilitate the purchase, shipment or storage of such inventory or other goods;
- (18) Liens on assets of Foreign Restricted Subsidiaries: *provided, however*, that such Liens (A) do not extend to or encumber Capital Stock of the Issuer or any Subsidiary of the Issuer (other than Foreign Subsidiaries of the Issuer) and (B) secure Indebtedness not in excess of the greater of (i) 10% of Consolidated Net Tangible Assets of all the Foreign Subsidiaries of the Issuer and (ii) \$125.0 million in the aggregate;
- (19) Liens arising solely by virtue of any statutory or common law provision relating to bankers' liens, rights of set-off or similar rights and remedies as to deposit accounts or other funds maintained with a creditor depository institution: *provided, however*, that (A) such deposit account is not a dedicated cash collateral account and is not subject to restrictions against access by the Issuer or any Subsidiary of the Issuer in excess of those set forth by regulations promulgated by the Board of Governors of the Federal Reserve System of the United States and (B) such deposit account is not intended by the Issuer or any Subsidiary to provide collateral to such depository institution;
- (20) Liens securing Non-Recourse Indebtedness or Exempt Construction Loans or guarantees thereof on assets or Capital Stock of Restricted Subsidiaries formed solely for the purpose of, and which engage in no business other than the business of, making Permitted Co-investments;
- (21) Liens on investments made by the Issuer or CBRE Inc. in connection with the CBRE Loan Arbitrage Facility to secure Indebtedness under the CBRE Loan Arbitrage Facility, if such investments were acquired by the Issuer or CBRE Inc., as the case may be, with the proceeds of such Indebtedness;

(22) Liens on Receivables securing any Permitted Receivables Securitization;

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(23) Liens securing Indebtedness which, taken together with all other Indebtedness secured by Liens (excluding Liens permitted by clauses (1) through (22) above or clause (24) below) at the time of determination, does not exceed \$150.0 million; and

(24) Liens to secure any Refinancing (or successive Refinancings) as a whole, or in part, of any Indebtedness secured by any Lien referred to in the foregoing clause (7), (9), (10) or (11); *provided, however*, that:

(A) such new Lien shall be limited to all or part of the same property and assets that secured or, under the written agreements pursuant to which the original Lien arose, could secure the original Lien (plus improvements and accessions to, such property or proceeds or distributions thereof); and

(B) the Indebtedness secured by such Lien at such time is not increased to any amount greater than the sum of (x) the outstanding principal amount or, if greater, committed amount of the Indebtedness described under clause (7), (9), (10) or (11) at the time the original Lien became a Permitted Lien and (y) an amount necessary to pay any fees and expenses, including premiums, related to such refinancing, refunding, extension, renewal or replacement.

Notwithstanding the foregoing, Permitted Liens will not include any Lien described in clause (7), (10) or (11) above to the extent such Lien applies to any Additional Assets acquired directly or indirectly from Net Available Cash pursuant to the covenant described under Certain Covenants Limitation on Sale of Assets and Subsidiary Stock. For purposes of this definition, the term Indebtedness shall be deemed to include interest on such Indebtedness.

Permitted Receivables Securitization means sales of Receivables pursuant to a Receivables Securitization; *provided* that the aggregate Receivables Securitization Amount outstanding at any time in respect of all Receivables Securitizations does not exceed \$200.0 million.

Person means any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organization, government or any agency or political subdivision thereof or any other entity.

Preferred Stock, as applied to the Capital Stock of any Person, means Capital Stock of any class or classes (however designated) which is preferred as to the payment of dividends or distributions, or as to the distribution of assets upon any voluntary or involuntary liquidation or dissolution of such Person, over shares of Capital Stock of any other class of such Person.

principal of a Note means the principal of the Note plus the premium, if any, payable on the Note which is due or overdue or is to become due at the relevant time.

Purchase Agreement means the Purchase Agreement dated October 5, 2010, among the Issuer, Parent, the Subsidiary Guarantors and Banc of America Securities LLC and Credit Suisse Securities (USA) LLC, as representatives of the Initial Purchasers.

Purchaser shall have the meaning set forth in the Credit Agreement, as in effect on the Issue Date.

Purchaser Agreement shall have the meaning set forth in the Credit Agreement, as in effect on the Reference Date.

Purchased Loan means each term loan under the Credit Agreement purchased pursuant to an auction referred to in the Credit Agreement.

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Rating Agencies means Standard and Poor's Ratings Group and Moody's Investors Service, Inc. or any successor to the respective rating agency business thereof.

Receivables shall mean a right to receive payment arising from a sale or lease of goods or the performance of services by a person pursuant to an arrangement with another person by which such other person is obligated to pay for goods or services under terms that permit the purchase of such goods and services on credit, and all proceeds thereof and rights (contractual or other) and collateral related thereto, and shall include, in any event, any items of property that would be classified as accounts receivable on the balance sheet of the Issuer or any of the Subsidiaries prepared in accordance with GAAP or an account, chattel paper, an instrument, a general intangible or a payment intangible under the Uniform Commercial Code as in effect in the State of New York and any supporting obligations or proceeds (as so defined) of any such items.

Receivables Securitization shall mean, with respect to the Issuer and/or any of the Subsidiaries, any transaction or series of transactions of securitizations involving Receivables pursuant to which the Issuer or any Subsidiary may sell, convey or otherwise transfer to a Securitization Subsidiary, and may grant a corresponding security interest in, any Receivables (whether now existing or arising in the future) of the Issuer or any Subsidiary, and any assets related thereto including collateral securing such Receivables, contracts and all Guarantees or other obligations in respect of such Receivables, the proceeds of such Receivables and other assets which are customarily transferred, or in respect of which security interests are customarily granted, in connection with securitizations involving Receivables.

Receivables Securitization Amount shall mean, with respect to any Receivables Securitization, the amount of obligations outstanding under the legal documents entered into as part of such Receivables Securitization on any date of determination that would be characterized as principal if such Receivables Securitization were structured as a secured lending transaction rather than as a purchase.

Reference Date means June 18, 2009.

Refinance means, in respect of any Indebtedness, to refinance, extend, renew, refund, repay, prepay, redeem, defease or retire, or to issue other Indebtedness in exchange or replacement for, such indebtedness. Refinanced and Refinancing shall have correlative meanings.

Refinancing Indebtedness means Indebtedness that Refinances any Indebtedness of the Issuer or any Restricted Subsidiary existing on the Issue Date or Incurred in compliance with the Indenture, including Indebtedness that Refinances Refinancing Indebtedness; *provided, however*, that:

- (1) such Refinancing Indebtedness has a Stated Maturity no earlier than the Stated Maturity of the Indebtedness being Refinanced;
- (2) such Refinancing Indebtedness has an Average Life at the time such Refinancing Indebtedness is Incurred that is equal to or greater than the Average Life of the Indebtedness being Refinanced;
- (3) such Refinancing Indebtedness has an aggregate principal amount (or if Incurred with original issue discount, an aggregate issue price) that is equal to or less than the aggregate principal amount (or if Incurred with original issue discount, the aggregate accreted value) then outstanding or committed (plus fees and expenses, including any premium and defeasance costs) under the Indebtedness being Refinanced; and
- (4) if the Indebtedness being Refinanced is subordinated in right of payment to the Notes, such Refinancing Indebtedness is subordinated in right of payment to the Notes at least to the same extent as the Indebtedness being Refinanced;

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provided further, however, that Refinancing Indebtedness shall not include (A) Indebtedness of a Restricted Subsidiary that Refinances Indebtedness of the Issuer or (B) Indebtedness of the Issuer or a Restricted Subsidiary that Refinances Indebtedness of an Unrestricted Subsidiary; and *provided further, however*, that to the extent any new Indebtedness to be applied to Refinance any Indebtedness of the Issuer or its Restricted Subsidiaries

(x) is incurred in compliance with clauses (1), (2), (3) and (4) above and with the covenant described under Certain Covenants Limitations on Indebtedness,

(y) the net proceeds of which are deposited into an escrow account at a bank or trust company which is organized under the laws of the United States of America, any State thereof or any foreign country recognized by the United States of America, and which bank or trust company has capital, surplus and undivided profits aggregating in excess of \$50.0 million (or the foreign currency equivalent thereof) and has outstanding debt which is rated A (or such similar equivalent rating) or higher by at least one nationally recognized statistical rating organization (as defined in Rule 436 under the Securities Act) to be held in escrow for a period of not more than 90 days from the date of receipt of such net proceeds, and

(z) are to be held in such escrow account (together with any additional necessary funds) for the satisfaction and discharge, defeasance or other extinguishment of the Indebtedness to be Refinanced in connection with its Stated Maturity or in connection with an irrevocable notice of redemption,

then such new Indebtedness shall be deemed to be Refinancing Indebtedness for the purposes of this definition, notwithstanding that such old Indebtedness remains outstanding pending release of such funds from escrow.

Registration Rights Agreement means the Registration Rights Agreement dated the Issue Date, among the Issuer, Parent, the Subsidiary Guarantors and Banc of America Securities LLC, Credit Suisse Securities (USA) LLC, HSBC Securities (USA) Inc. and Barclays Capital Inc., as representatives of the Initial Purchasers.

Related Business means any business in which the Issuer was engaged on the Issue Date and any business related, ancillary or complementary to any business of the Issuer in which the Issuer was engaged on the Issue Date.

Representative means, with respect to a Person, any trustee, agent or representative (if any) for an issue of Senior Indebtedness of such Person.

Restricted Payment with respect to any Person means:

- (1) the declaration or payment of any dividends or any other distributions of any sort in respect of its Capital Stock (including any payment in connection with any merger or consolidation involving such Person) or similar payment to the direct or indirect holders of its Capital Stock (other than dividends or distributions payable solely in its Capital Stock (other than Disqualified Stock) and dividends or distributions payable solely to the Issuer or a Restricted Subsidiary, and other than *pro rata* dividends or other distributions made by a Subsidiary that is not a Wholly Owned Subsidiary to minority stockholders (or owners of an equivalent interest in the case of a Subsidiary that is an entity other than a corporation));
- (2) the purchase, redemption or other acquisition or retirement for value of any Capital Stock of the Issuer held by any Person or of any Capital Stock of a Restricted Subsidiary held by any Affiliate of the Issuer (other than a Restricted Subsidiary), including the exercise of any option to exchange any Capital Stock (other than into Capital Stock of the Issuer that is not Disqualified Stock);
- (3) the purchase, repurchase, redemption, defeasance or other acquisition or retirement for value, prior to scheduled maturity, scheduled repayment or scheduled sinking fund payment of any Subordinated

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Obligations of such Person, if such Person is the Issuer or a Subsidiary Guarantor (other than the purchase, repurchase or other acquisition of Subordinated Obligations purchased in anticipation of satisfying a sinking fund obligation, principal installment or final maturity, in each case due within one year of the date of such purchase, repurchase or other acquisition); or

(4) the making of any Investment (other than a Permitted Investment) in any Person.

Restricted Subsidiary means any Subsidiary of the Issuer that is not an Unrestricted Subsidiary.

Sale/Leaseback Transaction means an arrangement relating to property owned by the Issuer or a Restricted Subsidiary on the Issue Date or thereafter acquired by the Issuer or a Restricted Subsidiary whereby the Issuer or a Restricted Subsidiary transfers such property to a Person and the Issuer or a Restricted Subsidiary leases it from such Person.

SEC means the Securities and Exchange Commission.

Secured Indebtedness means any Indebtedness of the Issuer or any of its Restricted Subsidiaries secured by a Lien.

Securities Act means the Securities Act of 1933, as amended.

Securitization Subsidiary shall mean any Subsidiary formed solely for the purpose of engaging, and that engages only, in one or more Permitted Receivables Securitizations.

Senior Indebtedness means with respect to any Person:

(1) Indebtedness of such Person, whether outstanding on the Issue Date or thereafter Incurred; and

(2) accrued and unpaid interest (including interest accruing on or after the filing of any petition in bankruptcy or for reorganization relating to such Person whether or not post-filing interest is allowed in such proceeding) in respect of (A) indebtedness of such Person for money borrowed and (B) indebtedness evidenced by notes, debentures, bonds or other similar instruments for the payment of which such Person is responsible or liable

unless, in the case of clauses (1) and (2), in the instrument creating or evidencing the same or pursuant to which the same is outstanding, it is provided that such obligations are subordinate in right of payment to the Notes or the Guaranty of such Person, as the case may be; *provided, however*, that Senior Indebtedness shall not include:

(1) any obligation of such Person to any Subsidiary;

(2) any liability for Federal, state, local or other taxes owed or owing by such Person;

(3) any accounts payable or other liability to trade creditors arising in the ordinary course of business (including guarantees thereof or instruments evidencing such liabilities);

(4) any Indebtedness of such Person (and any accrued and unpaid interest in respect thereof) which is subordinate or junior in any respect to any other Indebtedness or other obligation of such Person;

(5) any Capital Stock; or

- (6) that portion of any Indebtedness which at the time of Incurrence is Incurred in violation of the Indenture; *provided, however,* that such Indebtedness shall be deemed not to have been Incurred in

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violation of the Indenture for purposes of this clause (6) if (x) the holders of such Indebtedness or their representative or the Issuer shall have furnished to the Trustee an opinion of recognized independent legal counsel, unqualified in all material respects, addressed to the Trustee (which legal counsel may, as to matters of fact, rely upon an Officer's Certificate) to the effect that the Incurrence of such Indebtedness does not violate the provisions of the Indenture or (y) such Indebtedness consists of Bank Indebtedness, and the holders of such Indebtedness or their agent or representative (1) had no actual knowledge at the time of the Incurrence that the Incurrence of such Indebtedness violated the Indenture and (2) shall have received an Officer's Certificate to the effect that the Incurrence of such Indebtedness does not violate the provisions of the Indenture.

Senior Leverage Ratio shall mean, on any date, the ratio of (1) (A) Total Senior Debt *minus* (B) cash and cash equivalents (excluding restricted cash) of the Issuer and its Restricted Subsidiaries to (2) EBITDA for the most recent four consecutive fiscal quarters for which internal financial statements of the Issuer are available, with such pro forma adjustments to Indebtedness and EBITDA as are appropriate and consistent with the pro forma and other adjustment provisions set forth in the definition of Consolidated EBITDA Coverage Ratio.

Senior Subordinated Notes means the Issuer's 11.625% Senior Subordinated Notes due 2017 outstanding on the Issue Date.

Significant Subsidiary means any Restricted Subsidiary that would be a Significant Subsidiary of the Issuer within the meaning of Rule 1-02 under Regulation S-X promulgated by the SEC.

Stated Maturity means, with respect to any security, the date specified in such security as the fixed date on which the final payment of principal of such security is due and payable, including pursuant to any mandatory redemption provision (but excluding any provision providing for the repurchase of such security at the option of the holder thereof upon the happening of any contingency unless such contingency has occurred).

Subordinated Obligation means, with respect to a Person, any Indebtedness of such Person (whether outstanding on the Issue Date or thereafter Incurred) which is subordinate or junior in right of payment to the Notes or a Guaranty of such Person, as the case may be, pursuant to a written agreement to that effect.

Subsidiary means, with respect to any Person, any corporation, association, partnership or other business entity of which more than 50% of the total voting power of shares of Voting Stock is at the time owned or controlled, directly or indirectly, by:

(1) such Person;

(2) such Person and one or more Subsidiaries of such Person; or

(3) one or more Subsidiaries of such Person.

Subsidiary Guarantor means each Subsidiary of the Issuer that executes the Indenture as a guarantor on the Issue Date and each other Subsidiary of the Issuer that thereafter guarantees the Notes pursuant to the terms of the Indenture.

Subsidiary Guaranty means a Guarantee by a Subsidiary Guarantor of the Issuer's obligations with respect to the Notes.

Take Out Commitment shall mean a written obligation of a Person either (1) to purchase real property and the improvements thereon for an amount sufficient to repay the interim construction loan used to acquire and construct such real property and improvements, or (2) to provide debt and/or equity financing the proceeds of which are to be used to repay the interim construction loan used to acquire and construct real property and improvements thereon.

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TCC shall mean Trammell Crow Company.

Temporary Cash Investments means any of the following:

- (1) any investment in direct obligations of the United States of America or any agency thereof or obligations guaranteed by the United States of America or any agency thereof;
- (2) investments in time deposit accounts, bankers' acceptances, certificates of deposit and money market deposits maturing within one year of the date of acquisition thereof issued by a bank or trust company which is organized under the laws of the United States of America, any State thereof or any foreign country recognized by the United States of America, and which bank or trust company has capital, surplus and undivided profits aggregating in excess of \$50.0 million (or the foreign currency equivalent thereof) and has outstanding debt which is rated A (or such similar equivalent rating) or higher by at least one nationally recognized statistical rating organization (as defined in Rule 436 under the Securities Act) or any money-market fund sponsored by a registered broker-dealer or mutual fund distributor;
- (3) repurchase obligations with a term of not more than 30 days for underlying securities of the types described in clause (1) above and clauses (4) and (5) below entered into with a bank meeting the qualifications described in clause (2) above;
- (4) investments in commercial paper, maturing not more than one year from the date of creation thereof, issued by a corporation (other than an Affiliate of the Issuer) organized and in existence under the laws of the United States of America or any foreign country recognized by the United States of America with a rating at the time as of which any investment therein is made of P-1 (or higher) according to Moody's Investors Service, Inc. or A-1 (or higher) according to Standard and Poor's Ratings Group;
- (5) investments in securities with maturities of one year or less from the date of acquisition issued or fully guaranteed by any state, commonwealth or territory of the United States of America, or by any political subdivision or taxing authority thereof, and rated at least A by Standard & Poor's Ratings Group or A by Moody's Investors Service, Inc.; and
- (6) other short-term investments utilized by any Foreign Subsidiaries of the Issuer in accordance with normal investment practices for cash management in investments of a type analogous to the foregoing.

Total Senior Debt means, at any time, the total Senior Indebtedness of the Issuer and its Restricted Subsidiaries at such time, determined on a consolidated basis in accordance with GAAP, excluding CBRE Capital Markets Permitted Indebtedness, Indebtedness under the CBRE Loan Arbitrage Facility, Exempt Construction Loans, Indebtedness in respect of any Permitted Receivables Securitization and Non-Recourse Indebtedness.

Unrestricted Subsidiary means:

- (1) any Subsidiary of the Issuer that at the time of determination shall be designated an Unrestricted Subsidiary by the Board of Directors in the manner provided below; and
- (2) any Subsidiary of an Unrestricted Subsidiary.

The Board of Directors may designate any Subsidiary of the Issuer (including any newly acquired or newly formed Subsidiary) to be an Unrestricted Subsidiary unless such Subsidiary or any of its Subsidiaries owns any Capital Stock or Indebtedness of, or holds any Lien on any property of, the Issuer or any other Subsidiary of the Issuer that is not a Subsidiary of the Subsidiary to be so designated; *provided, however*, that either (A) the

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Subsidiary to be so designated has total assets of \$1,000 or less or (B) if such Subsidiary has assets greater than \$1,000, such designation would be permitted under the covenant described under Certain Covenants Limitation on Restricted Payments.

The Board of Directors may designate any Unrestricted Subsidiary to be a Restricted Subsidiary; *provided, however*, that immediately after giving effect to such designation (A) the Issuer could Incur \$1.00 of additional Indebtedness under paragraph (a) of the covenant described under Certain Covenants Limitation on Indebtedness (irrespective of whether that covenant remains in effect) and (B) no Default shall have occurred and be continuing. Any such designation by the Board of Directors shall be evidenced to the Trustee by promptly filing with the Trustee a copy of the resolution of the Board of Directors giving effect to such designation and an Officer's Certificate certifying that such designation complied with the foregoing provisions.

U.S. Dollar Equivalent means with respect to any monetary amount in a currency other than U.S. dollars, at any time for determination thereof, the amount of U.S. dollars obtained by converting such foreign currency involved in such computation into U.S. dollars at the spot rate for the purchase of U.S. dollars with the applicable foreign currency as published in *The Wall Street Journal* in the Exchange Rates column under the heading Currency Trading on the date two Business Days prior to such determination.

Except as described under Certain Covenants Limitation on Indebtedness, whenever it is necessary to determine whether the Issuer has complied with any covenant in the Indenture or a Default has occurred and an amount is expressed in a currency other than U.S. dollars, such amount will be treated as the U.S. Dollar Equivalent determined as of the date such amount is initially determined in such currency.

U.S. Government Obligations means direct obligations (or certificates representing an ownership interest in such obligations) of the United States of America (including any agency or instrumentality thereof) for the payment of which the full faith and credit of the United States of America is pledged and which are not callable at the issuer's option.

Voting Stock of a Person means all classes of Capital Stock or other interests (including partnership interests) of such Person then outstanding and normally entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof.

Wholly Owned Subsidiary means a Restricted Subsidiary all the Capital Stock of which (other than directors' qualifying shares) is owned by the Issuer or one or more Wholly Owned Subsidiaries.

Book-Entry, Delivery and Form

The exchange notes will be issued in registered, global form (the *Global Notes*) in minimum denominations of \$2,000 and integral multiples of \$1,000 in excess thereof.

The Global Notes will be deposited upon issuance with the Trustee as custodian for The Depository Trust Company (*DTC*), in New York, New York, and registered in the name of DTC or its nominee, in each case for credit to an account of a direct or indirect participant in DTC as described below.

Except as set forth below, the Global Notes may be transferred, in whole and not in part, only to another nominee of DTC or to a successor of DTC or its nominee. Beneficial interests in the Global Notes may not be exchanged for Notes in certificated form except in the limited circumstances described below. See Exchange of Global Notes for Certificated Notes. Except in the limited circumstances described below, owners of beneficial interests in the Global Notes will not be entitled to receive physical delivery of Notes in certificated form.

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Depository Procedures

The following description of the operations and procedures of DTC, Euroclear System (*Euroclear*) and Clearstream Banking, S.A. (*Clearstream*) are provided solely as a matter of convenience. These operations and procedures are solely within the control of the respective settlement systems and are subject to changes by them. We take no responsibility for these operations and procedures and urge investors to contact the system or their participants directly to discuss these matters.

DTC has advised us that DTC is a limited-purpose trust company created to hold securities for its participating organizations (collectively, the *Participants*) and to facilitate the clearance and settlement of transactions in those securities between Participants through electronic book-entry changes in accounts of its Participants. The Participants include securities brokers and dealers (including the initial purchasers), banks, trust companies, clearing corporations and certain other organizations. Access to DTC's system is also available to other entities such as banks, brokers, dealers and trust companies that clear through or maintain a custodial relationship with a Participant, either directly or indirectly (collectively, the *Indirect Participants*). Persons who are not Participants may beneficially own securities held by or on behalf of DTC only through the Participants or the Indirect Participants. The ownership interests in, and transfers of ownership interests in, each security held by or on behalf of DTC are recorded on the records of the Participants and Indirect Participants.

DTC has also advised us that, pursuant to procedures established by it:

- (1) upon deposit of the Global Notes, DTC will credit the accounts of Participants designated by the Initial Purchasers with portions of the principal amount of the Global Notes; and
- (2) ownership of these interests in the Global Notes will be shown on, and the transfer of ownership of these interests will be effected only through, records maintained by DTC (with respect to the Participants) or by the Participants and the Indirect Participants (with respect to other owners of beneficial interests in the Global Notes).

Investors in the Global Notes who are Participants in DTC's system may hold their interests therein directly through DTC. Investors in the Global Notes who are not Participants may hold their interests therein indirectly through organizations (including Euroclear and Clearstream) which are Participants in such system. Euroclear and Clearstream will hold interests in the Global Notes on behalf of their participants through customers securities accounts in their respective names on the books of their respective depositories, which are Euroclear Bank S.A. /N.V., as operator of Euroclear, and Citibank, N.A., as operator of Clearstream. All interests in a Global Note, including those held through Euroclear or Clearstream, may be subject to the procedures and requirements of DTC. Those interests held through Euroclear or Clearstream may also be subject to the procedures and requirements of such systems. The laws of some states require that certain Persons take physical delivery in definitive form of securities that they own. Consequently, the ability to transfer beneficial interests in a Global Note to such Persons will be limited to that extent. Because DTC can act only on behalf of Participants, which in turn act on behalf of Indirect Participants, the ability of a Person having beneficial interests in a Global Note to pledge such interests to Persons that do not participate in the DTC system, or otherwise take actions in respect of such interests, may be affected by the lack of a physical certificate evidencing such interests.

Except as described below, owners of an interest in the Global Notes will not have Notes registered in their names, will not receive physical delivery of Notes in certificated form and will not be considered the registered owners or holders thereof under the Indenture for any purpose.

Payments in respect of the principal of, and interest and premium and additional interest, if any, on a Global Note registered in the name of DTC or its nominee will be payable to DTC in its capacity as the registered holder under the Indenture. Under the terms of the Indenture, the Issuer and the Trustee will treat the Persons in whose

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names the Notes, including the Global Notes, are registered as the owners of the Notes for the purpose of receiving payments and for all other purposes. Consequently, none of the Issuer, the Trustee nor any agent of the Issuer or the Trustee has or will have any responsibility or liability for:

- (1) any aspect of DTC's records or any Participant's or Indirect Participant's records relating to or payments made on account of beneficial ownership interest in the Global Notes or for maintaining, supervising or reviewing any of DTC's records or any Participant's or Indirect Participant's records relating to the beneficial ownership interests in the Global Notes; or

- (2) any other matter relating to the actions and practices of DTC or any of its Participants or Indirect Participants.

DTC has advised us that its current practice, upon receipt of any payment in respect of securities such as the Notes (including principal and interest), is to credit the accounts of the relevant Participants with the payment on the payment date unless DTC has reason to believe it will not receive payment on such payment date. Each relevant Participant is credited with an amount proportionate to its beneficial ownership of an interest in the principal amount of the relevant security as shown on the records of DTC. Payments by the Participants and the Indirect Participants to the beneficial owners of Notes will be governed by standing instructions and customary practices and will be the responsibility of the Participants or the Indirect Participants and will not be the responsibility of DTC, the Trustee or the Issuer. Neither the Issuer nor the Trustee will be liable for any delay by DTC or any of its Participants in identifying the beneficial owners of the Notes, and the Issuer and the Trustee may conclusively rely on and will be protected in relying on instructions from DTC or its nominee for all purposes.

Transfers between Participants in DTC will be effected in accordance with DTC's procedures, and will be settled in same-day funds, and transfers between participants in Euroclear and Clearstream will be effected in accordance with their respective rules and operating procedures.

Cross-market transfers between the Participants in DTC, on the one hand, and Euroclear or Clearstream participants, on the other hand, will be effected through DTC in accordance with DTC's rules on behalf of Euroclear or Clearstream, as the case may be, by its respective depository; however, such cross-market transactions will require delivery of instructions to Euroclear or Clearstream, as the case may be, by the counterparty in such system in accordance with the rules and procedures and within the established deadlines (Brussels time) of such system. Euroclear or Clearstream, as the case may be, will, if the transaction meets its settlement requirements, deliver instructions to its respective depository to take action to effect final settlement on its behalf of delivering or receiving interests in the relevant Global Note in DTC, and making or receiving payment in accordance with normal procedures for same-day funds settlement applicable to DTC. Euroclear participants and Clearstream participants may not deliver instructions directly to the depositories for Euroclear or Clearstream.

DTC has advised the Issuer that it will take any action permitted to be taken by a holder of Notes only at the direction of one or more Participants to whose account DTC has credited the interests in the Global Notes and only in respect of such portion of the aggregate principal amount of the Notes as to which such Participant or Participants has or have given such direction. However, if there is an Event of Default under the Notes, DTC reserves the right to exchange the Global Notes for legended Notes in certificated form, and to distribute such Notes to its Participants.

Although DTC, Euroclear and Clearstream have agreed to the foregoing procedures to facilitate transfers of interests in the Global Notes among participants in DTC, Euroclear and Clearstream, they are under no obligation to perform or to continue to perform such procedures, and may discontinue such procedures at any time. None of the Issuer, the Trustee or any of their respective agents will have any responsibility for the performance by DTC, Euroclear or Clearstream or their respective participants or indirect participants of their respective obligations under the rules and procedures governing their operations.

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Exchange of Global Notes for Certificated Notes

A Global Note is exchangeable for Certificated Notes if:

- (1) DTC (a) notifies the Issuer that it is unwilling or unable to continue as depository for the Global Notes and DTC fails to appoint a successor depository or (b) has ceased to be a clearing agency registered under the Exchange Act;
- (2) the Issuer, at its option, notifies the Trustee in writing that it elects to cause the issuance of the Certificated Notes; or
- (3) there has occurred and is continuing a Default with respect to the Notes.

In addition, beneficial interests in a Global Note may be exchanged for Certificated Notes under prior written notice given to the Trustee by or on behalf of DTC in accordance with the Indenture. In all cases, Certificated Notes delivered in exchange for any Global Note or beneficial interests in Global Notes will be registered in the names, and issued in any approved denominations, requested by or on behalf of the depository (in accordance with its customary procedures).

Exchange of Certificated Notes for Global Notes

Certificated Notes may not be exchanged for beneficial interests in any Global Note unless the transferor first delivers to the Trustee a written certificate (in the form provided in the Indenture).

Same Day Settlement and Payment

The Issuer will make payments in respect of the Notes represented by the Global Notes (including principal, premium, if any, interest and additional interest, if any) by wire transfer of immediately available funds to the accounts specified by the Global Note holder. The Issuer will make all payments of principal, interest and premium and additional interest, if any, with respect to Certificated Notes by wire transfer of immediately available funds to the accounts specified by the holders of the Certificated Notes or, if no such account is specified, by mailing a check to each such holder's registered address. The Notes represented by the Global Notes are expected to trade in DTC's Same-Day Funds Settlement System, and any permitted secondary market trading activity in such Notes will, therefore, be required by DTC to be settled in immediately available funds. The Issuer expects that secondary trading in any Certificated Notes will also be settled in immediately available funds.

Because of time zone differences, the securities account of a Euroclear or Clearstream participant purchasing an interest in a Global Note from a Participant in DTC will be credited, and any such crediting will be reported to the relevant Euroclear or Clearstream participant, during the securities settlement processing day (which must be a business day for Euroclear and Clearstream) immediately following the settlement date of DTC. DTC has advised the Issuer that cash received in Euroclear or Clearstream as a result of sales of interests in a Global Note by or through a Euroclear or Clearstream participant to a Participant in DTC will be received with value on the settlement date of DTC but will be available in the relevant Euroclear or Clearstream cash account only as of the business day for Euroclear or Clearstream following DTC's settlement date.

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MATERIAL U.S. FEDERAL INCOME TAX CONSIDERATIONS

The Exchange Offer

The exchange of outstanding notes for exchange notes in the exchange offer will not constitute a taxable event to holders for U.S. federal income tax purposes. Consequently, no gain or loss will be recognized by a holder upon receipt of an exchange note, the holding period of the exchange note will include the holding period of the outstanding note exchanged therefor and the basis of the exchange note will be the same as the basis of the outstanding note immediately before the exchange.

In any event, persons considering the exchange of outstanding notes for exchange notes should consult their own tax advisors concerning the U.S. federal income tax consequences in light of their particular situations as well as any consequences arising under the laws of any other taxing jurisdiction.

Ownership of the Notes

The following is a summary of the material U.S. federal income tax considerations of the purchase, ownership and disposition of the notes as of the date hereof.

Except where noted, this summary deals only with notes that are held as capital assets, and does not represent a detailed description of the U.S. federal income tax consequences applicable to you if you are subject to special treatment under the U.S. federal income tax laws, including if you are:

a dealer in securities or currencies;

a financial institution;

a regulated investment company;

a real estate investment trust;

a tax-exempt organization;

an insurance company;

a person holding the notes as part of a hedging, integrated, conversion or constructive sale transaction or a straddle;

a trader in securities that has elected the mark-to-market method of accounting for your securities;

a person liable for alternative minimum tax;

a pass-through entity or a person who is an investor in a pass-through entity; or

a U.S. Holder (as defined below) whose functional currency is not the U.S. dollar. The discussion below is based upon the provisions of the Internal Revenue Code of 1986, as amended (the Code), and U.S. Treasury regulations, rulings and judicial decisions as of the date hereof. Those authorities may be changed, perhaps retroactively, so as to result in U.S. federal income tax consequences different from those discussed below. The discussion below assumes that the notes will be classified for U.S. federal income tax purposes as our indebtedness and you should note that in the event of an alternative characterization, the tax consequences would differ from those discussed below.

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If a partnership holds notes, the tax treatment of a partner will generally depend upon the status of the partner and the activities of the partnership. If you are a partner of a partnership holding notes, you should consult your tax advisors.

This summary does not represent a detailed description of the U.S. federal income tax consequences to you in light of your particular circumstances and does not address the effects of any state, local or non-U.S. tax laws. **If you are considering the purchase of notes, you should consult your own tax advisors concerning the particular U.S. federal income tax consequences to you of the ownership of the notes, as well as any consequences arising under the laws of any other taxing jurisdiction.**

U.S. Holders

The following is a summary of certain U.S. federal tax consequences that will apply to you if you are a U.S. Holder of the notes.

U.S. Holder means a beneficial owner of a note that is for U.S. federal income tax purposes:

an individual citizen or resident of the United States;

a corporation (or any other entity treated as a corporation for U.S. federal income tax purposes) created or organized in or under the laws of the United States, any state thereof or the District of Columbia;

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

a trust if it (1) is subject to the primary supervision of a court within the United States and one or more U.S. persons have the authority to control all substantial decisions of the trust or (2) has a valid election in effect under applicable U.S. Treasury regulations to be treated as a U.S. person.

Payments of Interest

Except as set forth below, interest on a note generally will be taxable to you as ordinary income at the time it is paid or accrued in accordance with your method of accounting for tax purposes.

Sale, Exchange and Retirement of Notes

Your tax basis in a note will, in general, be your cost for that note. Upon the sale, exchange, retirement or other disposition of a note, you will recognize gain or loss equal to the difference between the amount realized upon the sale, exchange, retirement or other disposition (less an amount equal to any accrued and unpaid qualified stated interest, which will be taxable as interest income for U.S. federal income tax purposes to the extent not previously included in income) and the adjusted tax basis of the note. Such gain or loss will be capital gain or loss. Capital gains of individuals derived in respect of capital assets held for more than one year are eligible for reduced rates of taxation. The deductibility of capital losses is subject to limitations.

The exchange of the notes for registered notes in the exchange offer described herein should not constitute a taxable event.

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Non-U.S. Holders

The following is a summary of certain U.S. federal tax consequences that will apply to you if you are a Non-U.S. Holder of notes. Non-U.S. Holder means a beneficial owner of a note, other than a partnership, that is not a U.S. Holder (as defined under U.S. Holders above).

Special rules may apply to you if you are subject to special treatment under the Code, including if you are a controlled foreign corporation, a passive foreign investment company, or a U.S. expatriate. If you are such a Non-U.S. Holder, you should consult your own tax advisors to determine the U.S. federal, state, local and other tax consequences that may be relevant to you.

U.S. Federal Withholding Tax

Subject to the discussion below concerning backup withholding, U.S. federal withholding tax will not apply to any payment of interest on a note under the portfolio interest rule, provided that:

interest paid on the note is not effectively connected with your conduct of a trade or business in the United States;

you do not actually or constructively own 10% or more of the total combined voting power of all classes of our voting stock within the meaning of the Code and applicable U.S. Treasury regulations;

you are not a controlled foreign corporation that is related to us through stock ownership;

you are not a bank whose receipt of interest on a note is described in Section 881(c)(3)(A) of the Code; and

either (a) you provide your name and address on an Internal Revenue Service (IRS) Form W-8BEN (or other applicable form), and certify, under penalties of perjury, that you are not a U.S. person or (b) you hold your notes through certain financial intermediaries and satisfy the certification requirements of applicable U.S. Treasury regulations. Special certification rules apply to Non-U.S. Holders that are pass-through entities rather than corporations or individuals.

If you cannot satisfy the requirements of the portfolio interest exception described above, payments of interest made to you will be subject to a 30% U.S. federal withholding tax unless you provide us or our paying agent, as the case may be, with a properly executed (1) IRS Form W-8BEN (or other applicable form) claiming an exemption from or reduction in withholding under the benefit of an applicable income tax treaty or (2) IRS Form W-8ECI (or other applicable form) stating that interest paid on the note is not subject to withholding tax because it is effectively connected with your conduct of a trade or business in the U.S. (as discussed below under U.S. Federal Income Tax). Alternative documentation may be applicable in certain situations. The 30% U.S. federal withholding tax generally will not apply to any payment of principal or gain that you realize on the sale, exchange, retirement or other disposition of a note.

U.S. Federal Income Tax

If you are engaged in a trade or business in the United States and interest on the notes is effectively connected with the conduct of that trade or business (and, if required by an applicable income tax treaty, is attributable to a U.S. permanent establishment), you will be subject to U.S. federal income tax on such interest on a net income basis (although you will be exempt from the 30% U.S. federal withholding tax, provided the certification requirements discussed above in U.S. Federal Withholding Tax are satisfied) in the same manner as if you were a U.S. person. In addition, if you are a foreign corporation, you may be subject to a branch profits tax equal to 30% (or lesser rate under an applicable income tax treaty) of such interest, subject to adjustments.

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Any gain realized on the disposition of a note generally will not be subject to U.S. federal income tax unless:

the gain is effectively connected to your conduct of a trade or business in the United States (and, if required by an applicable income tax treaty, is attributable to a U.S. permanent establishment), or

you are an individual who is present in the United States for 183 days or more in the taxable year of such disposition, and certain other conditions are met.

Information Reporting and Backup Withholding

U.S. Holders

In general, information reporting requirements will apply to certain payments of principal, interest and premium paid on notes and to the proceeds of sale of a note made to you (unless you are an exempt recipient). A backup withholding tax may apply to such payments if you fail to provide a taxpayer identification number or a certification of exempt status, or if you fail to report in full dividend and interest income.

Any amounts withheld under the backup withholding rules will be allowed as a refund or a credit against your U.S. federal income tax liability provided the required information is furnished to the IRS.

Non-U.S. Holders

Information reporting will also generally apply to payments of interest made to you and the amount of tax, if any, withheld with respect to such payments. Copies of the information returns reporting such interest payments and any withholding may also be made available to the tax authorities in the country in which you reside under the provisions of an applicable income tax treaty.

In general, backup withholding will not apply to payments that we make to you provided that we do not have actual knowledge or reason to know that you are a U.S. person and we have received from you the statement described above in the fifth bullet point under **Non-U.S. Holders** U.S. Federal Withholding Tax.

In addition, no information reporting or backup withholding will be required regarding the proceeds of a sale of our notes within the United States or conducted through certain U.S.-related financial intermediaries, if the payor receives the statement described above and does not have actual knowledge or reason to know that you are a U.S. person, or you otherwise establish an exemption.

Any amounts withheld under the backup withholding rules will be allowed as a refund or a credit against your U.S. federal income tax liability provided the required information is furnished to the IRS.

If you cannot satisfy the requirements of the **portfolio interest** exception described above, payments of interest (including OID) made to you will be subject to a 30% U.S. federal withholding tax unless you provide us or our paying agent, as the case may be, with a properly executed (1) IRS Form W-8BEN (or other applicable form) claiming an exemption from or reduction in withholding under the benefit of an applicable income tax treaty or (2) IRS Form W-8ECI (or other applicable form) stating that interest paid on the note is not subject to withholding tax because it is effectively connected with your conduct of a trade or business in the U.S. (as discussed below under **U.S. Federal Income Tax**). Alternative documentation may be applicable in certain situations. The 30% U.S. federal withholding tax generally will not apply to any payment of principal or gain that you realize on the sale, exchange, retirement or other disposition of a note.

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U.S. Federal Income Tax

If you are engaged in a trade or business in the United States and interest (including OID) on the notes is effectively connected with the conduct of that trade or business (and, if required by an applicable income tax treaty, is attributable to a U.S. permanent establishment), you will be subject to U.S. federal income tax on such interest (including OID) on a net income basis (although you will be exempt from the 30% U.S. federal withholding tax, provided the certification requirements discussed above in **U.S. Federal Withholding Tax** are satisfied) in the same manner as if you were a U.S. person. In addition, if you are a foreign corporation, you may be subject to a branch profits tax equal to 30% (or lesser rate under an applicable income tax treaty) of such interest (including OID), subject to adjustments.

Any gain realized on the disposition of a note generally will not be subject to U.S. federal income tax unless:

the gain is effectively connected to your conduct of a trade or business in the United States (and, if required by an applicable income tax treaty, is attributable to a U.S. permanent establishment), or

you are an individual who is present in the United States for 183 days or more in the taxable year of such disposition, and certain other conditions are met.

If a non-U.S. holder of notes is described in the first bullet point above, any gain realized upon a sale, exchange, retirement, or other taxable disposition of the notes will be subject to U.S. federal income tax in the same manner as effectively connected interest as described above. If a non-U.S. holder of notes is described in the second bullet point above, any gain realized upon a sale, exchange, retirement, or other taxable disposition of the notes will be subject to U.S. federal income tax at a statutory rate of 30%, which gain may be offset by certain losses.

Information Reporting and Backup Withholding

U.S. Holders

In general, information reporting requirements will apply to certain payments of principal, interest (including OID) and premium paid on notes and to the proceeds of sale of a note made to you (unless you are an exempt recipient such as a corporation). A backup withholding tax may apply to such payments if you fail to provide a taxpayer identification number or a certification of exempt status, or if you fail to report in full dividend and interest income.

Any amounts withheld under the backup withholding rules will be allowed as a refund or a credit against your U.S. federal income tax liability provided the required information is furnished to the IRS.

Non-U.S. Holders

Information reporting will also generally apply to payments of interest (including OID) made to you and the amount of tax, if any, withheld with respect to such payments. Copies of the information returns reporting such interest payments and any withholding may also be made available to the tax authorities in the country in which you reside under the provisions of an applicable income tax treaty.

In general, backup withholding will not apply to payments that we make to you provided that we do not have actual knowledge or reason to know that you are a U.S. person and we have received from you the statement described above in the fifth bullet point under **Non-U.S. Holders U.S. Federal Withholding Tax**.

In addition, no information reporting or backup withholding will be required regarding the proceeds of a sale of our notes within the United States or conducted through certain U.S.-related financial intermediaries, if the payor receives the statement described above and does not have actual knowledge or reason to know that you are a U.S. person, or you otherwise establish an exemption.

Any amounts withheld under the backup withholding rules will be allowed as a refund or a credit against your U.S. federal income tax liability provided the required information is furnished to the IRS.

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PLAN OF DISTRIBUTION

Each broker-dealer that receives exchange notes for its own account pursuant to the exchange offer must acknowledge that it will deliver a prospectus in connection with any resale of the exchange notes. This prospectus, as it may be amended or supplemented from time to time, may be used by a broker-dealer in connection with resales of exchange notes received in exchange for outstanding notes where the outstanding notes were acquired as a result of market-making activities or other trading activities. In addition, all dealers effecting transactions in the exchange notes may be required to deliver a prospectus. To the extent any such broker-dealer participates in the exchange offer, we have agreed that for a period of up to 180 days after the day the registered exchange offer expires, we will make this prospectus, as amended or supplemented, available to such broker-dealer for use in connection with any such resale, and will deliver as many additional copies of this prospectus and each amendment or supplement to this prospectus and any documents incorporated by reference in this prospectus as such broker-dealer may request in the letter of transmittal.

We will not receive any proceeds from any sale of exchange notes by broker-dealers. Exchange notes received by broker-dealers for their own accounts pursuant to the exchange offer may be sold from time to time in one or more transactions in the over-the-counter market, in negotiated transactions, through the writing of options on the exchange notes or a combination of these methods of resale, at market prices prevailing at the time of resale, at prices related to the prevailing market prices or negotiated prices. Any resale may be made directly to purchasers or to or through brokers or dealers who may receive compensation in the form of commissions or concessions from any broker-dealer or the purchasers of any exchange notes. Any broker-dealer that resells exchange notes that were received by it for its own account pursuant to the exchange offer and any broker or dealer that participates in a distribution of the exchange notes may be deemed to be an underwriter within the meaning of the Securities Act and any profit on any resale of exchange notes and any commissions or concessions received by these persons may be deemed to be underwriting compensation under the Securities Act. The letter of transmittal states that by acknowledging that it will deliver and by delivering a prospectus, a broker-dealer will not be deemed to admit that it is an underwriter within the meaning of the Securities Act.

We have agreed to pay all expenses incident to the exchange offer, including the expenses of one counsel for the holders of the outstanding notes, other than commissions or concessions of any brokers or dealers, and will indemnify the holders of outstanding notes, including any broker-dealers, against certain liabilities, including liabilities under the Securities Act.

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LEGAL MATTERS

The validity of the exchange notes and the related guarantees offered hereby will be passed upon for us by Simpson Thacher & Bartlett LLP, Palo Alto, California. In rendering its opinion, Simpson Thacher & Bartlett LLP relied upon opinions of Holland & Hart LLP, Reno, Nevada, as to all matters governed by the laws of the state of Nevada, Winstead PC, Houston, Texas, as to all matters governed by the laws of the state of Texas, and Quarles & Brady LLP, Milwaukee, Wisconsin, as to all matters governed by the laws of the state of Wisconsin. Certain legal matters in connection with the exchange offer will be passed upon for us by Wragge & Co LLP, London, United Kingdom.

EXPERTS

The consolidated financial statements, and the related 2009 and 2008 financial statement schedules, of CB Richard Ellis Group, Inc. and subsidiaries as of December 31, 2009 and 2008 and for each of the years in the two-year period ended December 31, 2009, and management's assessment of the effectiveness of internal control over financial reporting as of December 31, 2009 have been incorporated by reference herein and in the registration statement in reliance upon the report of KPMG LLP, independent registered public accounting firm, incorporated by reference herein, and upon the authority of said firm as experts in accounting and auditing.

The consolidated statements of operations, cash flows, equity, and comprehensive income (loss) for the year ended December 31, 2007 and related financial statement schedule, Schedule II Valuation and Qualifying Accounts, as of December 31, 2007 incorporated in this prospectus by reference from our Annual Report on Form 10-K for the year ended December 31, 2009 have been audited by Deloitte & Touche LLP (Deloitte), an independent registered public accounting firm, as stated in their report, which is incorporated herein by reference. Such financial statements and financial statement schedule have been so incorporated in reliance upon the report of such firm given upon their authority as experts in accounting and auditing.

CHANGE IN ACCOUNTANTS

As reported in our Current Report on Form 8-K filed with the SEC on March 18, 2008, on March 12, 2008, Deloitte was notified on behalf of the Audit Committee of our board of directors that Deloitte was dismissed as our independent registered public accounting firm.

Deloitte's report on our financial statements for the two years ended December 31, 2007 and 2006 did not contain an adverse opinion or a disclaimer of opinion, and was not qualified or modified as to uncertainty, audit scope, or accounting principles. The termination, which was effective as of March 12, 2008, was approved by our Audit Committee.

During our two years ended December 31, 2007 and 2006 and through March 11, 2008, we did not have any disagreements with Deloitte on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure, which disagreements, if not resolved to the satisfaction of Deloitte, would have caused it to make reference to the subject matter of the disagreements in connection with its report. Also during this period, there were no reportable events as that term is described in Item 304(a)(1)(v) of Regulation S-K, as confirmed by the letter delivered by Deloitte to us and filed as an exhibit to our March 18, 2008 Form 8-K.

In late 2007, the Audit Committee determined to undertake a competitive request for proposal process to determine our auditor for the year ended December 31, 2008. As a result of this process, the Audit Committee decided to engage KPMG as our independent registered public accounting firm for the year ended December 31, 2008. We did not engage KPMG in any prior consultations during our years ended December 31, 2006 or December 31, 2007, or the subsequent period through March 12, 2008 regarding either: (a) the application of accounting principles to a specified transaction, either completed or proposed, or the type of audit opinion that might be rendered on our consolidated financial statements; or (b) any matter that was the subject of either a disagreement or a reportable event (as defined in Item 304(a)(1)(v), respectively, of Regulation S-K).

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\$350,000,000

CB Richard Ellis Services, Inc.

Exchange Offer for

6.625% Senior Notes due 2020

PROSPECTUS

January 14, 2011

Until the date that is 90 days from the date of this prospectus, all dealers that effect transactions in these securities, whether or not participating in this offering, may be required to deliver a prospectus. This is in addition to the dealers' obligation to deliver a prospectus when acting as underwriters and with respect to their unsold allotments or subscriptions.