FIRST INDUSTRIAL REALTY TRUST INC
Form 424B2
January 11, 2006

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Filed Pursuant to Rule 424(b)(2)
Registration No. 333-117842

6,000,000 Shares
First Industrial Realty Trust, Inc.
Depositary Shares Each Representing 1/10,000 of a Share of
7.25% Series J Cumulative Redeemable Preferred Stock
Liquidation Preference Equivalent to $25.00 Per Depositary Share

Each of the 6,000,000 depositary shares offered hereby represents ownership of 1/10,000 of a share of our 7.25% Series J Cumulative Redeemable Preferred Stock (sometimes referred to in this prospectus supplement as the Series J Preferred Shares or the preferred shares) deposited with Computershare Trust Company, N.A., as depositary, and entitles the holder to all proportional rights, preferences and privileges of the preferred shares represented thereby (including dividend, voting, redemption and liquidation rights and preferences). The proportionate liquidation preference of each depositary share is $25.00.

Dividends on the preferred shares represented by the depositary shares will be cumulative from (and including) the date of original issuance and will be payable quarterly in arrears, commencing on March 31, 2006, at the rate of 7.25% of the liquidation preference per year (equivalent to $1.8125 per depositary share per year). However, during any period that both (i) the depositary shares are not listed on the New York Stock Exchange, or NYSE, or the American Stock Exchange, or AMEX, or quoted on the National Association of Securities Dealers Automatic Quotation System, or NASDAQ, and (ii) we are not subject to the reporting requirements of the Securities and Exchange Act of 1934, or the Exchange Act, but the preferred shares are outstanding, we will increase the cash dividend payable on the preferred shares to a rate of 8.25% of the liquidation preference per year (equivalent to $2.0625 per depositary share per year).

If at any time both (i) the depositary shares cease to be listed on the NYSE or the AMEX, or quoted on NASDAQ, and (ii) we cease to be subject to the reporting requirements of the Exchange Act, but the preferred shares are outstanding, then the preferred shares will be redeemable in whole but not in part at our option, within 90 days of the date upon which the depositary shares cease to be listed and we cease to be subject to such reporting requirements, at a cash redemption price of $250,000 per preferred share (equivalent to $25.00 per depositary share), plus all accrued and unpaid dividends (whether or not declared) to the date of redemption.

Except as set forth above and in limited circumstances relating to our qualification as a real estate investment trust, or REIT, the preferred shares will not be redeemable prior to January 15, 2011. On and after January 15, 2011, at any time and from time to time the preferred shares (and, therefore the depositary shares) will be redeemable in whole or in part at our option, at a cash redemption price of $250,000 per preferred share (equivalent to $25.00 per depositary share), plus all accrued and unpaid dividends (whether or not declared) to the date of redemption.

In order to maintain our qualification as a REIT for federal income tax purposes, ownership by any person of our depositary shares, the preferred shares and other classes of our capital stock is limited, with certain exceptions, to an aggregate of 9.9% in value of our outstanding capital stock.

**Investing in the depositary shares involves risks that are described in the Risk Factors sections beginning on page S-6 of this prospectus supplement and page 3 of the accompanying prospectus.**

| | Price to Public(1) | Underwriting Discounts and Commissions | Proceeds to First Industrial |
|---|---|---|---|
| Per Depositary Share | $ 25.0000 | $ 0.7875 | $ 24.2125 |
| Total | $ 150,000,000 | $ 4,725,000 | $ 145,275,000 |

(1) Plus accrued dividends, if any, from the date of original issuance.

We expect that delivery of the depositary shares offered hereby in book-entry form only will be made against payment therefor in New York, New York on or about January 13, 2006. We intend to list the depositary shares on the NYSE. Trading of the depositary shares on the NYSE is expected to commence within the 30-day period after the initial delivery of the depositary shares. We have been advised by some of the underwriters that they intend to make a market in our depositary shares prior to the commencement of trading on the NYSE. However, they are not obligated to do so and may discontinue market-making at any time without notice. Therefore, no assurance can be given that a market for the depositary shares will exist prior to commencement of trading on the NYSE.

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

| | | |
|---|---|---|
| **Wachovia Securities**<br>*Joint Bookrunning Manager* | **Merrill Lynch & Co.**<br>*Joint Bookrunning Manager* | **Credit Suisse First Boston**<br>*Joint Lead Manager* |
| **JPMorgan** | **BB&T Capital Markets** | **Raymond James** |

The date of this prospectus supplement is January 10, 2006.

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**You should rely only on the information contained or incorporated by reference in this prospectus supplement and the accompanying prospectus. We and the underwriters have not authorized anyone to provide you with information that is different. This prospectus supplement and the accompanying prospectus may only be used where it is legal to sell these securities. The information in this prospectus supplement and the accompanying prospectus may only be accurate as of the date of this prospectus supplement, the accompanying prospectus or the information incorporated by reference herein and therein.**

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## FORWARD-LOOKING STATEMENTS

This prospectus supplement and the accompanying prospectus, including the documents incorporated by reference herein and therein, contain certain forward-looking statements within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. We intend such forward-looking statements to be covered by the safe harbor provisions for forward-looking statements contained in the Private Securities Litigation Reform Act of 1995 and are including this statement for purposes of complying with those safe harbor provisions. Forward-looking statements, which are based on certain assumptions and describe our future plans, strategies and expectations, are generally identifiable by use of the words believe, expect, intend, anticipate, estimate, project similar expressions. Our ability to predict results or the actual effect of future plans or strategies is inherently uncertain. Factors which could have a material adverse effect on our operations and future prospects on a consolidated basis include, but are not limited to:

economic conditions generally and the real estate market specifically;

legislative/regulatory changes (including changes to laws governing the taxation of REITs);

availability of financing;

interest rate levels;

competition;

supply and demand for industrial properties in our current and proposed market areas;

potential environmental liabilities;

slippage in development or lease-up schedules;

tenant credit risks;

higher-than-expected costs and changes in general accounting principles; and

policies and guidelines applicable to REITs.

These risks and uncertainties should be considered in evaluating forward-looking statements, and undue reliance should not be placed on such statements. Further information concerning us and our business, including additional factors that could materially affect our financial results, is included or incorporated by reference herein and in the accompanying prospectus.

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## PROSPECTUS SUPPLEMENT SUMMARY

### The Company

We are a real estate investment trust, subject to Sections 856 through 860 of the Internal Revenue Code of 1986, as amended. We and our consolidated partnerships, corporations and limited liability companies are a self-administered and fully integrated real estate company which owns, manages, acquires, sells and develops industrial real estate. As of September 30, 2005, our portfolio consisted of 908 properties (inclusive of developments in process) containing approximately 75.9 million square feet of gross leasable area located in 27 states. Our interests in our properties and land parcels are held through partnerships, corporations and limited liability companies controlled by us, including First Industrial, L.P., our operating partnership, of which we are the sole general partner.

We utilize an operating approach that combines the effectiveness of decentralized, locally based property management, acquisition, sales and development functions with the cost efficiencies of centralized acquisition, sales and development support, capital markets expertise, asset management and fiscal control systems.

We have grown and will seek to continue to grow through the acquisition and development of industrial properties.

We are a Maryland corporation organized on August 10, 1993 and completed our initial public offering in June 1994. Our principal executive offices are located at 311 S. Wacker Drive, Suite 4000, Chicago, Illinois 60606, telephone number (312)344-4300. Our web site is www.firstindustrial.com. The information on or linked to from our web site is not a part of, and is not incorporated by reference into, this prospectus supplement or the accompanying prospectus.

### Recent Developments

On December 5, 2005 we offered 1,250,000 shares of our common stock, which offering was consummated on December 9, 2005 with net proceeds of approximately $48.9 million, and on January 5, 2006 our operating partnership offered $200,000,000 aggregate principal amount of its 5$^{3}$/4% senior notes due 2016, which offering was consummated on January 10, 2006 with net proceeds of approximately $197.8 million. The net proceeds from the offering of our common shares and our operating partnership s notes have been, and the net proceeds from the offering of the preferred shares are expected to be, used for the repayment of borrowings under our credit facilities, the acquisition and development of additional properties, the redemption of shares of our Series I Flexible Cumulative Redeemable Preferred Stock, or Series I Preferred Stock, and/or general corporate purposes.

On December 22, 2005, our operating partnership filed an amended annual report on Form 10-K/A for the year ended December 31, 2004 and amended quarterly reports on Form 10-Q/A for the quarters ended March 31, 2005, June 30, 2005 and September 30, 2005 restating certain of the consolidated financial statements contained in the originally filed annual report on Form 10-K for the year ended December 31, 2004 and quarterly reports on Form 10-Qs for the quarters ended March 31, 2005, June 30, 2005, September 30, 2005 (collectively referred to as the original filings ). Our operating partnership s management and audit committee had determined on December 19, 2005 that such financial statements contained in the original filings should no longer be relied upon and should be restated because of errors contained therein. As a result of the restatement, our operating partnership s management and independent registered public accounting firm also concluded that, as of the dates of the balance sheets included in such reports, our operating partnership did not maintain effective controls over the accuracy, presentation, monitoring and review of its General Partner Unit and General Partner Preferred Unit account dollar

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balances in such financial statements and that this control deficiency constituted at such times a material weakness in our operating partnership s internal control over financial reporting based on criteria established in *Internal Control Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission. The errors had no impact on our consolidated financial statements and did not constitute a material weakness in our internal control over financial reporting. For further information concerning these matters, reference is made to the amendments to such Form 10-K and Form 10-Qs, as well as to the Form 8-Ks filed by our operating partnership and us on December 22, 2005, all of which reports are incorporated by reference in this prospectus supplement and the accompanying prospectus.

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## The Offering

*The offering terms are summarized below solely for your convenience. This summary is not a complete description of the preferred shares or the depositary shares. You should read the full text and more specific details contained elsewhere in this prospectus supplement and the accompanying prospectus. For a more detailed description of the preferred shares and the depositary shares, see the discussion under the caption Description of Series J Preferred Shares and Depositary Shares beginning on page S-10 of this prospectus supplement.*

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| Issuer | First Industrial Realty Trust, Inc., a Maryland corporation. |
| Securities Offered | 6,000,000 depositary shares, each representing 1/10,000 of a share of our 7.25% Series J Cumulative Redeemable Preferred Stock. |
| Price per Depositary Share | $25.00. |
| Ranking | The preferred shares will rank with respect to dividends and upon liquidation, dissolution or winding up:<br><br>senior to our common shares and to any other class or series of our capital stock that by its terms ranks junior to the preferred shares;<br><br>equally with all other classes or series of our capital stock that by their terms rank equally with the preferred shares;<br><br>junior to all other classes or series of our capital stock that by their terms rank senior to the preferred shares; and<br><br>junior to all of our indebtedness. |
| Dividend Rate and Payment Dates | Dividends on the preferred shares will be cumulative from (and including) the date of original issuance and will be payable quarterly in arrears on March 31, June 30, September 30 and December 31 of each year, commencing on March 31, 2006, at the rate of 7.25% of the liquidation preference per year (equivalent to $1.8125 per depositary share per year). However, during any period that both (i) the depositary shares are not listed on the NYSE or AMEX, or quoted on NASDAQ, and (ii) we are not subject to the reporting requirements of the Exchange Act, but the preferred shares are outstanding, we will increase the cash dividend payable on the preferred shares to a rate of 8.25% of the liquidation preference per year (equivalent to $2.0625 per depositary share per year). Any dividend payable on the preferred shares for any partial dividend period will be pro-rated, computed on the basis of a 360-day year consisting of twelve 30-day months.<br><br>Dividends on the preferred shares will accumulate even if:<br><br>any of our agreements prohibit the current payment of dividends;<br><br>we do not have earnings or funds legally available to pay such dividends; or<br><br>we do not declare such dividends. |

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| Liquidation Preference | If we liquidate, dissolve or wind up, holders of the depositary shares will have the right to receive $25.00 per depositary share, plus all accrued and unpaid dividends (whether or not declared) through and including the date of payment, before any payments are made to the holders of our shares of common stock or other junior securities. |
| Special Optional Redemption | If at any time both (i) the depositary shares cease to be listed on the NYSE or the AMEX, or quoted on NASDAQ, and (ii) we cease to be subject to the reporting requirements of the Exchange Act, but the preferred shares are outstanding, then the preferred shares will be redeemable, in whole but not in part at our option, within 90 days of the date upon which the depositary shares cease to be listed and we cease to be subject to such reporting requirements, at a cash redemption price of $250,000 per preferred share (equivalent to $25.00 per depositary share), plus all accrued and unpaid dividends (whether or not declared) to the date of redemption. |
| Optional Redemption | Except with respect to our special option to redeem the depositary shares and except in limited circumstances relating to the maintenance of our ability to qualify as a REIT, the preferred shares will not be redeemable prior to January 15, 2011. On and after such date, at any time and from time to time the preferred shares (and, therefore, the depositary shares) will be redeemable in whole or in part at our option, at a cash redemption price of $250,000 per preferred share (equivalent to $25.00 per depositary share), plus all accrued and unpaid dividends (whether or not declared) to the date of redemption. |
| Voting Rights | Holders of the preferred shares generally have no voting rights, except as required by law. However, if we do not pay dividends on the preferred shares for six or more quarterly periods (whether or not consecutive), the holders of the preferred shares, voting as a class with any other class or series of our capital stock ranking equal with the preferred shares as to dividends or upon liquidation, will be entitled to vote for the election of two additional directors to serve on our board of directors until we pay or have authorized and set aside for payment in full all dividends that we owe on the preferred shares. In addition, the affirmative vote of the holders of at least two-thirds of all of our outstanding preferred shares and any series of capital stock with similar voting rights is required for us to authorize another class of capital stock ranking senior to the preferred shares as to dividends or upon liquidation or to amend, alter or repeal our articles of amendment and restatement if such action would materially and adversely alter or change the rights, preferences or privileges of the preferred shares. Among other things, we may, without any vote of the holders of the preferred shares, issue additional preferred shares. |
| Conversion | The preferred shares are not convertible into or exchangeable for any other of our property or securities. |
| Information Rights | During any period that both (i) the depositary shares are not listed on the NYSE or the AMEX, or quoted on NASDAQ, |

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| | and (ii) we are not subject to the reporting requirements of the Exchange Act, but the preferred shares are outstanding, we will transmit by mail to all holders of depositary shares copies of the annual reports and quarterly reports that we would have been required to file with the Securities and Exchange Commission, or SEC, pursuant to Rules 13 or 15(d) of the Exchange Act if we were subject to such rules and promptly upon written request supply copies of such reports to any prospective holder of depositary shares. We will mail the reports to the holders of depositary shares within 15 days after the respective dates by which we would have been required to file the reports with the SEC if we were subject to Section 13 or 15(d) of the Exchange Act. |
| Restrictions on Ownership and Transfer | In order to assist us in maintaining our qualification as a REIT for U.S. federal income tax purposes, subject to limited exceptions our charter prohibits ownership, actually or constructively, by any person of more than 9.9% of the aggregate value of all shares of our capital stock of all classes or series, including preferred shares. |
| No Maturity | The preferred shares have no stated maturity and are not subject to mandatory redemption or any sinking fund. We are not required to set aside funds to redeem the preferred shares. Accordingly, the preferred shares will remain outstanding indefinitely unless we decide to redeem the shares at our option. |
| Listing | We intend to file an application with the NYSE to list the depositary shares under the symbol FRPrJ subject to official notice of issuance. We will use commercially reasonable efforts to have our listing application for the preferred shares approved. If approved, trading of the preferred shares on the NYSE is expected to commence within 30 days after the initial delivery of the preferred shares. |
| Use of Proceeds | We intend to use the net proceeds from the sale of the preferred shares, together with the net proceeds from the recent sales of our common shares and our operating partnership s notes, for repayment of borrowings under our credit facilities, the acquisition and development of additional properties, redemption of shares of our Series I Preferred Stock and/or general corporate purposes. |
| Settlement Date | Delivery of the depositary shares will be made against payment therefor on or about January 13, 2006. |
| Form | The depositary shares will be issued and maintained in book-entry form registered in the name of the nominee of The Depository Trust Company. |
| Risk Factors | See Risk Factors beginning on page S-6 of this prospectus supplement for other information you should consider before buying the depositary shares. |

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## RISK FACTORS

*An investment in the depositary shares involves various material risks. Prior to making a decision about investing in our securities, and in consultation with your own financial and legal advisors, you should carefully consider, among other matters, the following risk factors, as well as those incorporated by reference in this prospectus supplement and included in the accompanying prospectus or incorporated therein from our most recent annual report on Form 10-K under the heading Management s Discussion and Analysis of Financial Condition and Results of Operations Risk Factors and other filings we may make from time to time with the SEC.*

**The market value of the depositary shares could be substantially affected by various factors.**

The depositary shares are a new issue of securities with no established trading market. We intend to apply to list the depositary shares on the NYSE. However, an active trading market on the NYSE for the depositary shares may not develop or last, in which case the trading price of the depositary shares could be adversely affected. If an active trading market does develop on the NYSE, the depositary shares may trade at prices higher or lower than their initial offering price. The trading price of our depositary shares would depend on many factors, including:

prevailing interest rates;

the market for similar securities;

general economic conditions; and

our financial condition, results of operations and prospects.

We have been advised by some of the underwriters that they intend to make a market in our depositary shares, but they are not obligated to do so and may discontinue market-making at any time without notice.

**Our ability to pay dividends on the preferred shares may be limited.**

Because we conduct substantially all of our operations through our operating partnership, our ability to pay dividends on the preferred shares will depend almost entirely on payments and dividends received on our interests in our operating partnership. Additionally, the terms of some of the debt to which our operating partnership is a party limit its ability to make some types of payments and other dividends to us. This in turn limits our ability to make some types of payments, including payment of dividends on the preferred shares, unless we meet certain financial tests or such payments or dividends are required to maintain our qualification as a REIT. As a result, if we are unable to meet the applicable financial tests, we may not be able to pay dividends on the preferred shares in one or more periods.

**Our ability to pay dividends is further limited by the requirements of Maryland law.**

Our ability to pay dividends on the preferred shares is further limited by the laws of Maryland. Under Maryland General Corporation Law, a Maryland corporation may not make a distribution if, after giving effect to the distribution, the corporation would not be able to pay its debts as the debts become due in the usual course of business, or the corporation s total assets would be less than the sum of its total liabilities plus the amount that would be needed, if the corporation were dissolved at the time of the distribution, to satisfy the preferential rights upon dissolution of shareholders whose preferential rights are superior to those receiving the distribution. Accordingly, we may not make a distribution on the preferred shares if, after giving effect to the distribution, we would not be able to pay our debts as they become due in the usual course of business or our total assets would be less than the sum of our total liabilities plus the amount that would be needed to satisfy the preferential rights upon dissolution of the holders of any shares of the preferred shares then outstanding, if any, with preferences senior to those of the preferred shares.

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**We may incur additional indebtedness, which may harm our financial position and cash flow and potentially impact our ability to pay dividends on the preferred shares.**

Our governing documents do not limit us from incurring additional indebtedness and other liabilities. As of September 30, 2005, we had approximately $1,787 million of consolidated indebtedness outstanding. We may incur additional indebtedness and become more highly leveraged, which could harm our financial position and potentially limit our cash available to pay dividends. As a result, we may not have sufficient funds remaining to satisfy our dividend obligations relating to our preferred shares if we incur additional indebtedness.

**We cannot assure you that we will be able to pay dividends regularly.**

Our ability to pay dividends in the future is dependent on our ability to operate profitably and to generate cash from our operations. We cannot guarantee that we will be able to pay dividends on a regular quarterly basis in the future. Furthermore, any new shares of common stock issued will substantially increase the cash required to continue to pay cash dividends at current levels. Any common stock or preferred shares that may in the future be issued to finance acquisitions, upon exercise of stock options or otherwise, would have a similar effect.

**Our ability to issue preferred stock in the future could adversely affect the rights of holders of our preferred shares.**

Our articles of amendment and restatement authorize us to issue up to 10,000,000 shares of preferred stock in one or more series on terms determined by our board of directors. As of November 30, 2005, we had 21,500 shares of preferred stock outstanding. Our future issuance of any series of preferred stock under our articles of amendment and restatement could therefore effectively diminish our ability to pay dividends on, and the liquidation preference of, our preferred shares.

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

Our ratios of earnings to combined fixed charges and preferred dividend requirements for the nine months ended September 30, 2005 and for the years ended December 31, 2004, 2003, 2002, 2001 and 2000 were 0.81x, 1.10x, 1.07x, 1.02x, 1.36x and 1.41x, respectively. For the nine months ended September 30, 2005, the sum of fixed charges and preferred dividend requirements exceeded our earnings from continuing operations by approximately $17.5 million. For purposes of computing the ratios of earnings to combined fixed charges and preferred dividend requirements, earnings have been calculated by adding fixed charges (excluding capitalized interest) to income from continuing operations before minority interest allocable to continuing operations as reported in the consolidated statements of operations in our financial statements included in the documents incorporated by reference in this prospectus supplement. Fixed charges consist of interest cost, whether expensed or capitalized, and amortization of deferred financing costs.

The financial statements for the nine months ended September 30, 2005 contained in our quarterly report on Form 10-Q for the quarter then ended reflect discontinued operations relating to property sales occurring between January 1, 2005 and September 30, 2005 and properties classified as held for sale as of September 30, 2005 in accordance with the Financial Accounting Standards Board s Statement of Financial Accounting Standards No. 144, Accounting for the Impairment or Disposal of Long-Lived Assets, as described in Note 7 to the financial statements contained in such quarterly report, and our ratios of earnings to combined fixed charges and preferred dividend requirements for such period are computed based on such financial statements. The financial statements for each of the five years in the period ended December 31, 2004 contained in our annual report on Form 10-K for the year ended December 31, 2004 have not yet been adjusted to reflect discontinued operations relating to property sales occurring between January 1, 2005 and September 30, 2005 and properties classified as held for sale as of September 30, 2005, and our ratios of earnings to combined fixed charges and preferred dividend requirements for the five years in such period have been computed based on such unadjusted financial statements. The financial statements for each of the five years in the period ending December 31, 2005 to be contained in our annual report on Form 10-K for the year then ended will be adjusted to reflect all discontinued operations relating to property sales occurring during 2005 and properties classified as held for sale as of December 31, 2005, and our ratios of earnings to combined fixed charges and preferred dividend requirements for the five years in such period will be computed based on such adjusted financial statements. We believe that, if the financial statements contained in our annual report on Form 10-K for the year ended December 31, 2004 were adjusted to reflect discontinued operations relating to property sales occurring between January 1, 2005 and September 30, 2005 and properties classified as held for sale as of September 30, 2005, then the ratio of earnings to combined fixed charges and preferred dividend requirements for the years ended December 31, 2003 and 2002 would be less than 1.0x but greater than zero.

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## USE OF PROCEEDS

The net proceeds to us from the sale of the depositary shares offered hereby will be approximately $145.1 million. We intend to contribute the net proceeds of the offering to our operating partnership in exchange for 7.25% Series J Preferred Units, or units, in our operating partnership, the economic terms of which will be substantially identical to the Series J Preferred Shares. Our operating partnership will be required to make all required distributions on the units (which will mirror the payments of distributions, including accrued and unpaid distributions upon redemption, and of the liquidation preference amount on the Series J Preferred Shares represented by the depositary shares) prior to any distribution of cash or assets to the holders of units or to the holders of any other equity interests in our operating partnership, except for any other series of preferred units ranking equally with or senior to the Series J Preferred Units as to distributions and/or liquidation rights and except for distributions required to enable us to maintain our qualification as a REIT.

The net proceeds from the offering of our common shares and our operating partnership s notes have been, and the net proceeds from the offering of the preferred shares are expected to be, used for the repayment of borrowings under our credit facilities (which primarily were incurred to finance acquisition and development activities), the acquisition and development of additional properties, the redemption of shares of our Series I Preferred Stock and/or general corporate purposes. As of December 31, 2005, our $500 million credit facility bore interest at a rate of 4.845%. Outstanding borrowings under our $500 million credit facility mature on September 28, 2008. Affiliates of two of the underwriters, Wachovia Capital Markets, LLC and J.P. Morgan Securities Inc., are lenders under our credit facilities. An affiliate of Wachovia Capital Markets, LLC was the sole purchaser of our Series I Preferred Stock in November 2005.

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## DESCRIPTION OF SERIES J PREFERRED SHARES AND DEPOSITARY SHARES

### General

Under our articles of amendment and restatement, as amended, up to 10,000,000 preferred shares, par value $.01 per share, may be issued from time to time in one or more series, as authorized by our board of directors. Prior to issuance of shares of each series, our board of directors is required by the Maryland General Corporation Law and our articles of amendment and restatement to fix for each series such terms, preferences, conversion or other rights, voting powers, restrictions, limitations as to dividends or other distributions, qualifications and terms or conditions of redemption as are permitted by Maryland law. As of the date hereof, 20,000 shares of our 8.625% Series C Cumulative Preferred Stock, 500 shares of our 6.236% Series F Flexible Cumulative Redeemable Preferred Stock, 250 shares of our 7.236% Series G Flexible Cumulative Redeemable Preferred Stock and 750 shares of our Series I Flexible Cumulative Redeemable Preferred Stock are outstanding.

When issued, the preferred shares will have a liquidation preference of $250,000 per share, will be fully paid and nonassessable, will not be subject to any sinking fund or other obligation by us to redeem or retire the preferred shares, and will have no preemptive rights. Each of our other outstanding series of preferred stock will rank equally as to payment by us of dividends and amounts upon liquidation with the Series J Preferred Shares. See Description of Preferred Stock in the accompanying prospectus.

Computershare Trust Company, N.A. will act as the transfer agent and dividend disbursing agent for the preferred shares.

Each depositary share represents 1/10,000 of a preferred share. The preferred shares will be deposited with Computershare Trust Company, N.A., as depositary, under a deposit agreement among us, the depositary and the holders from time to time of the depositary receipts issued by the depositary thereunder. The depositary receipts will evidence the depositary shares. Subject to the terms of the deposit agreement, each holder of a depositary receipt evidencing a depositary share will be entitled, proportionately, to all the rights and preferences of, and subject to all of the limitations of, the interest in the preferred shares represented thereby (including dividend, voting, redemption and liquidation rights and preferences). See Description of Depositary Shares in the accompanying prospectus.

Immediately following the issuance of the preferred shares, we will deposit the preferred shares with the depositary, which will then issue and deliver the depositary receipts to us. We will, in turn, deliver the depositary receipts to the underwriters. Depositary receipts will be issued evidencing only whole depositary shares.

We intend to file an application to list the depositary shares on the NYSE under the symbol FRPrJ. If the application is approved, trading of the depositary shares on the NYSE is expected to begin within 30 days after the date of initial delivery of our depositary shares.

The preferred shares initially will be issued and maintained in book-entry form registered in the name of the nominee of The Depository Trust Company, except under limited circumstances.

The following is a brief description of the terms of the preferred shares, which does not purport to be complete and is subject to and qualified in its entirety by reference to the articles supplementary to our articles of amendment and restatement with respect to the preferred shares, the form of which is available from us.

See Restrictions on Transfers of Capital Stock in the accompanying prospectus for a discussion of certain powers given to the board of directors to prohibit the transfer, or effect redemptions, of our capital stock. Such restrictions are designed to implement ownership limitations which apply to beneficial ownership of such capital stock, including through ownership of depositary shares, in order to aid us in maintaining our qualification as a REIT.

### Dividends

Holders of preferred shares, in preference to the holders of our common stock, and of any of our other capital stock ranking junior to the preferred shares as to payment of dividends, will be entitled to

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receive, when and as declared by the board of directors, out of our assets legally available for payment, cash dividends payable quarterly at the rate of 7.25% of the liquidation preference per year (equivalent to $1.8125 per depositary share per year). However, during any period that both (i) the depositary shares are not listed on the NYSE or the AMEX, or quoted on NASDAQ, and (ii) we are not subject to the reporting requirements of the Exchange Act, but the preferred shares are outstanding, we will increase the cash dividend payable on the preferred shares to a rate of 8.25% of the liquidation preference per year (equivalent to $2.0625 per depositary share per year). Dividends on the preferred shares will be cumulative from (and including) the date of original issuance and will be payable quarterly in arrears on March 31, June 30, September 30 and December 31 of each year, commencing on March 31, 2006, to holders of record as they appear on our stock register on such record dates, not less than 15 nor more than 45 days preceding the payment dates thereof, as shall be fixed by the board of directors. Dividends payable on the preferred shares for any partial period will be pro-rated, computed on the basis of a 360-day year consisting of twelve 30-day months. After full dividends on the preferred shares have been paid or declared and funds set aside for payment for all past dividend periods and for the then current quarter, the holders of preferred shares will not be entitled to any further dividends with respect to that quarter. Accrued and unpaid dividends on our preferred shares will not bear interest, and holders of our preferred shares are not entitled to any dividends in excess of full cumulative dividends as described above.

When dividends are not paid in full upon the preferred shares and any other shares of our capital stock ranking equally as to dividends with the preferred shares, dividends declared upon the preferred shares and any other shares of our capital stock ranking equally as to dividends with the preferred shares shall be declared pro rata so that the amount of dividends declared per share on such preferred shares and such other capital stock shall in all cases bear to each other the same ratio that the accrued dividends per share on the preferred shares and such other shares of our capital stock bear to each other.

Except as set forth in the preceding sentence, unless full dividends on the preferred shares have been paid for all past dividend periods and except in certain circumstances relating to the maintenance of our ability to qualify as a REIT as described under Restrictions on Transfer of Capital Stock in the accompanying prospectus, no dividends (other than in common stock or other shares of our capital stock ranking junior to the preferred shares as to dividends and upon liquidation) shall be declared or paid or set aside for payment, nor shall any other distribution be made on the common stock or on any other shares of our capital stock ranking junior to or equally with the preferred shares as to dividends or upon liquidation. Unless full dividends on the preferred shares have been paid for all past dividend periods, no common stock or any of our other shares of capital stock ranking junior to or equally with the preferred shares as to dividends or upon liquidation shall be redeemed, purchased or otherwise acquired for any consideration (or any moneys be paid or made available for a sinking fund for the redemption of any such stock) by us or any of our subsidiaries except by conversion into or exchange for shares of our capital stock ranking junior to the preferred shares as to dividends and upon liquidation.

Our credit facility restricts us from paying distributions on account of any fiscal year, on an aggregate basis, in excess of 95% of our Funds From Operations (as defined in our credit facility) for such fiscal year, except in the case where such distributions are necessary to maintain our tax status as a REIT.

**Conversion Rights**

The preferred shares will not be convertible into shares of any other class or series of our capital stock.

**Liquidation Rights**

In the event of our voluntary or involuntary liquidation, dissolution or winding up, the holders of preferred shares will be entitled to receive out of our assets legally available for distribution to stockholders, before any distribution of assets is made to holders of shares of our common stock or of any other shares of our capital stock ranking as to such distribution junior to the preferred shares, liquidating distributions in the amount of $250,000 per share (equivalent to $25.00 per depositary share), plus all accrued and unpaid dividends (whether or not declared) for the then current dividend period and all prior dividend periods. If, upon our voluntary or involuntary liquidation, dissolution or winding up, the amounts

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payable with respect to the preferred shares and any other shares of our capital stock ranking as to any such distribution equally with the preferred shares are not paid in full, the holders of preferred shares and of such other capital stock will share ratably in any such distribution of our assets in proportion to the full respective preferential amounts to which they are entitled, and the holders of the preferred shares will not be entitled to any further participation in any distribution of assets by us.

For purposes of liquidation rights, our consolidation or merger with or into any other corporation or corporations or a sale of all or substantially all of our assets is not a liquidation, dissolution or winding up of us.

**Redemption**

*Special Optional Redemption*

If at any time both (i) the depositary shares cease to be listed on the NYSE or the AMEX, or quoted on NASDAQ, and (ii) we cease to be subject to the reporting requirements of the Exchange Act, but the preferred shares are outstanding, then the preferred shares (and, therefore, the depositary shares) will be redeemable, in whole but not in part at our option, within 90 days of the date upon which the depositary shares cease to be listed and we cease to be subject to such reporting requirements, at a cash redemption price of $250,000 per preferred share (equivalent to $25.00 per depositary share), plus all accrued and unpaid dividends (whether or not declared) to the date of redemption.

*Optional Redemption*

Except with respect to our special option to redeem the depositary shares described above and except in limited circumstances relating to the maintenance of our ability to qualify as a REIT as described under Restrictions on Transfers of Capital Stock in the accompanying prospectus, the preferred shares will not be redeemable prior to January 15, 2011. On and after January 15, 2011, at any time and from time to time, the preferred shares (and, therefore, the depositary shares) will be redeemable in whole or in part at our option at a cash redemption price of $250,000 per share (equivalent to $25.00 per depositary share), plus all accrued and unpaid dividends (whether or not declared) to the date of redemption.

*General*

The preferred shares are not redeemable at any time at the option of the holders thereof. If fewer than all of the outstanding preferred shares are to be redeemed, the number of shares to be redeemed will be determined by our board of directors, and such shares shall be redeemed pro rata from the holders of record thereof in proportion to the number of such shares held by such holders (with adjustments to avoid redemption of fractional shares) or by lot in a manner determined by our board of directors.

Notwithstanding the foregoing, except in certain circumstances relating to the maintenance of our ability to qualify as a REIT as described under Restrictions on Transfer of Capital Stock in the accompanying prospectus, if any dividends on the preferred shares for any dividend period have not been paid, no preferred shares or other shares of our capital stock ranking equal with or junior to the preferred shares shall be redeemed unless all outstanding preferred shares are simultaneously redeemed, and we shall not otherwise purchase or acquire, directly or indirectly, any preferred shares or other shares of our capital stock ranking equal with or junior to the preferred shares; *provided, however*, that this shall not prevent the purchase or acquisition of the preferred shares pursuant to a purchase or exchange offer if such offer is made on the same terms to all holders of the preferred shares.

*Redemption Procedures*

Notice of redemption will be given by publication in a newspaper of general circulation in the City of New York, such publication to be made once a week for two successive weeks commencing not less than 30 or more than 60 days prior to the redemption date. A similar notice will be mailed by us, postage prepaid, not more than 60 days prior to the redemption date, addressed to the respective holders of record

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of preferred shares to be redeemed at their respective addresses as they appear on our stock transfer records. Each notice shall state:

the redemption date;

the number of preferred shares to be redeemed;

the redemption price;

the place or places where certificates for the preferred shares are to be surrendered for payment of the redemption price; and

that dividends on the shares to be redeemed will cease to accrue on such redemption date.

If fewer than all the preferred shares held by any holder are to be redeemed, the notice mailed to such holder shall also specify the number of preferred shares to be redeemed from such holder. In order to facilitate the redemption of preferred shares, the board of directors may fix a record date for the determination of preferred shares to be redeemed, such record date to be not less than 30 or more than 60 days prior to the date fixed for such redemption.

Notice having been given as provided above, from and after the date specified therein as the date of redemption, unless we default in providing funds for the payment of the redemption price on such date, all dividends on the preferred shares called for redemption will cease to accrue. From and after the redemption date, unless we so default, all rights of the holders of the preferred shares as our stockholders, except the right to receive the redemption price (but without interest), will cease. Upon surrender in accordance with such notice of the certificates representing any such shares (properly endorsed or assigned for transfer, if our board of directors shall so require and the notice shall so state), the redemption price set forth above shall be paid out of the funds provided by us. If fewer than all the shares represented by any such certificate are redeemed, a new certificate shall be issued representing the unredeemed shares without cost to the holder thereof.

Subject to applicable law and the limitation on purchases when dividends on the preferred shares are in arrears, we may, at any time and from time to time, purchase preferred shares in the open market, by tender or by private agreement.

**Voting Rights**

Except as indicated below, and except as expressly required by applicable law, the holders of preferred shares will not be entitled to vote.

If the equivalent of six quarterly dividends (whether or not consecutive) payable on the Series J Preferred Shares or any other series of our preferred stock ranking equally with the Series J Preferred Shares as to dividends or upon liquidation (any such series referred to as parity preferred shares) is in arrears, the holders of all outstanding preferred shares and shares of any series of parity preferred shares, voting as a single class without regard to series, will be entitled to elect two additional directors until all dividends in arrears have been paid or declared and funds therefor set apart for payment.

At any time when such right to elect directors separately shall have so vested, we may, and upon the written request of the holders of record of not less than 20% of the total number of preferred shares and shares of any series of parity preferred shares then outstanding shall, call a special meeting of stockholders for the election of such directors. Such special meeting shall be held, in the case of such a written request, within 90 days after the delivery of such request and, in either case, at the place and upon the notice provided by law and in our bylaws, *provided* that we shall not be required to call such a special meeting if such request is received less than 120 days before the date fixed for our next annual meeting of stockholders and the holders of all classes of outstanding preferred stock are offered the opportunity to elect such directors (or fill any vacancy) at such annual meeting of stockholders. Directors so elected shall serve until our next annual meeting of stockholders or until their respective successors are elected and qualify, or, if sooner, until all dividends in arrears have been paid or declared and funds therefor set apart for payment. If, prior to the end of the term of any director so elected, a vacancy in the office of such director shall occur, during the

continuance of a default in dividends on our preferred stock, by reason of

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death, resignation or disability, such vacancy shall be filled for the unexpired term of such former director by the appointment of a new director by the remaining director or directors so elected.

The affirmative vote or consent of the holders of at least 66$^2$/3% of the outstanding preferred shares and of any series of parity preferred shares, voting as a single class, will be required to authorize another class of capital stock senior to the preferred shares with respect to the payment of dividends or the distribution of assets on liquidation. The affirmative vote or consent of the holders of at least 66$^2$/3% of the outstanding preferred shares will be required to amend or repeal any provision of, or add any provision to, the articles of amendment and restatement, including the articles supplementary that will define the terms of the preferred shares, if such action would materially and adversely alter or change the rights, preferences or privileges of the outstanding preferred shares.

No consent or approval of the holders of preferred shares will be required for the issuance from our authorized but unissued preferred stock of other shares of any series of preferred stock ranking equally with or junior to the preferred shares as to payment of dividends and distribution of assets.

**Information Rights**

During any period that both (i) the depositary shares are not listed on the NYSE or the AMEX, or quoted on NASDAQ, and (ii) we are not subject to the reporting requirements of Exchange Act, but the preferred shares are outstanding, we will transmit by mail to all holders of depositary shares, as their names and addresses appear in our record books and without cost to such holders, copies of the annual reports and quarterly reports that we would have been required to file with the SEC pursuant to Rules 13 or 15(d) of the Exchange Act if we were subject to such rules (other than any exhibits that would have been required) and promptly upon written request supply copies of such reports to any prospective holder of depositary shares. We will mail the reports to the holders of depositary shares within 15 days after the respective dates by which we would have been required to file the reports with the SEC if we were subject to Section 13 or 15(d) of the Exchange Act.

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## CERTAIN U.S. FEDERAL INCOME TAX CONSIDERATIONS

### Considerations Relating to REITs

A summary of the material U.S. federal income tax matters of general application pertaining to REITs under the U.S. Internal Revenue Code of 1986, as amended, referred to as the Code, is provided in the accompanying prospectus under the heading Certain U.S. Federal Income Tax Considerations. To reflect changes in the REIT tax rules that were enacted in October 2004 and December 2005, the following paragraph hereby replaces the final paragraph of the discussion contained in that section:

In the event that we fail to meet certain gross income tests applicable to REITs, we may retain our qualification as a REIT if we pay a penalty tax equal to the amount by which 95% (or 90% for taxable years prior to 2005) or 75% of our gross income exceeds our gross income qualifying under the 95% or 75% gross income test, respectively (whichever amount is greater), multiplied by a fraction intended to reflect our profitability, so long as such failure was considered to be due to reasonable cause and not willful neglect and certain other conditions are satisfied. For taxable years after 2004, if we fail to meet the 5% or 10% asset tests applicable to REITs at the end of any quarter and did not cure such failure within 30 days thereafter, we may nonetheless retain our qualification as a REIT provided that the failure was due to assets the value of which did not exceed a specific statutory *de minimis* amount and certain other conditions are satisfied. For violations of any of the REIT asset tests not described in the preceding sentences, we may nonetheless retain our qualification as a REIT if we pay a tax equal to the greater of $50,000 or 35% of the net income generated by the non-qualifying assets, so long as any such failure was considered to be due to reasonable cause and not willful neglect and certain other conditions are satisfied. In addition, if we fail to satisfy certain requirements of the REIT provisions (other than the failures described above in the preceding sentences), we may nonetheless retain our qualification as a REIT if we pay a penalty of $50,000 for each such failure, so long as each such failure was considered to be due to reasonable cause and not willful neglect. Any such taxes or penalty amounts would adversely affect our ability to pay dividends and distributions to our stockholders and interest and principal to the holders of our debt securities.

### Considerations Relating to Our Depositary Shares

The following is a general discussion of certain material U.S. federal income tax consequences of the ownership and disposition of depositary shares by a beneficial owner that is a U.S. stockholder (as defined below). This discussion is based on the Code, Treasury Regulations and administrative and judicial interpretations thereof, all as in effect as of the date of this prospectus supplement, and all of which are subject to change, possibly with retroactive effect. This discussion does not purport to deal with all aspects of U.S. federal income taxation that may be relevant to investors subject to special treatment under the U.S. federal income tax laws, such as dealers in securities, insurance companies, tax-exempt entities (except as described herein), expatriates, financial institutions, non-U.S. stockholders (except as described herein) and partnerships or other pass-through entities. This section applies only to purchasers of depositary shares who purchase such shares pursuant to this offering and hold such U.S shares as capital assets within the meaning of Section 1221 of the Code.

Prospective holders should consult their tax advisors with respect to the federal income tax consequences of holding and disposing of the depositary shares in light of their particular situations and any consequences to them arising under other federal tax laws and the laws of any state, local or non-U.S. jurisdiction.

As used herein, the term U.S. stockholder means a holder of depositary shares that for U.S. federal income tax purposes is:

an individual citizen or resident of the United States,

a corporation (or 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 or any political subdivision thereof,

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

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a trust if

a U.S. court is able to exercise primary supervision over the administration of that trust and one or more U.S. persons have the authority to control all substantial decisions of the trust, or

it has a valid election in place to be treated as a U.S. person.

As used herein, the term non-U.S. stockholder means a holder of our depositary shares that for U.S. federal income tax purposes is either a nonresident individual alien or a corporation, estate or trust that is not a U.S. stockholder.

The U.S. federal income tax treatment of a partner in a partnership holding depositary shares will depend on the activities of the partnership and the status of the partner. A partner in such partnership should consult its own tax advisor regarding the U.S. federal income tax treatment to the partner of such partnership holding the depositary shares.

Owners of depositary shares will be treated for U.S. federal income tax purposes as if they were direct owners of the preferred shares represented by those depositary shares and, accordingly, the following discussion of tax consequences pertaining to the depositary shares pertains equally to the preferred shares. Exchanges of preferred shares for depositary shares and depositary shares for preferred shares generally will not be subject to U.S. federal income tax.

Except as set forth above, this prospectus supplement does not address our taxation or the impact on us of our election to be taxed as a REIT. Prospective investors are urged to consult the information above under the heading Considerations Relating to REITs and our accompanying prospectus under the heading Certain U.S. Federal Income Tax Considerations for information relating to our taxation as a REIT. The discussion set forth below assumes that we qualify and remain qualified as a REIT under the Code.

***Taxable U.S. Stockholders***

*Distributions.* Except as discussed below, distributions with respect to our depositary shares made out of current or accumulated earnings and profits (and not designated as capital gain dividends) will be includible by a U.S. stockholder as ordinary income for U.S. federal income tax purposes. None of these distributions will be eligible for the dividends received deduction for a corporate stockholder. For purposes of determining whether distributions on our depositary shares are made out of current or accumulated earnings or profits, our earnings and profits will be allocated first to distributions on our preferred stock, including depositary shares, based on distribution priority, and then to distributions on our common stock. Distributions in excess of current and accumulated earnings and profits will not be taxable to a U.S. stockholder to the extent that they do not exceed the adjusted tax basis of the holder s depositary shares, but rather will be treated as a return of capital and reduce the adjusted basis of such depositary shares. To the extent that such distributions exceed the adjusted basis of a U.S. stockholder s depositary shares, they will be included in income as long-term capital gain if the stockholder has held its shares for more than one year and otherwise as short-term capital gain. Any dividend declared by us in October, November or December of any year payable to a stockholder of record on a specified date in any such month shall be treated as both paid by us and received by the stockholder on December 31 of such year, *provided* that the dividend is actually paid by us during January of the following calendar year.

Dividends paid to a noncorporate U.S. stockholder generally will not qualify for the 15% tax rate applicable to qualified dividend income. The Jobs and Growth Tax Relief Reconciliation Act of 2003 reduced the maximum tax rate for qualified dividend income to 15% for tax years through 2008. Qualified dividend income generally includes dividends paid by domestic C corporations and certain qualified foreign corporations to most noncorporate U.S. stockholders. Because we are not generally subject to federal income tax on the portion of our REIT taxable income that we distribute to our stockholders, our dividends generally will not be eligible for the 15% tax rate on qualified dividend income. As a result, our ordinary REIT dividends will continue to be taxed at the higher tax rate applicable to ordinary income. Currently, the highest marginal individual income tax rate on ordinary income is 35%. However, the 15% tax rate for qualified dividend income will apply to our ordinary REIT dividends, if any, that are (i) attributable to dividends received by us from non-REIT corporations, such as our taxable REIT subsidiaries, or (ii) attributable to income upon which we have paid corporate income tax (*e.g.*, to the

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extent that we distribute less than 100% of our taxable income). In general, to qualify for the reduced tax rate on qualified dividend income, a U.S. stockholder must hold our stock (with risk of loss) for more than 60 days during the 121-day period beginning on the date that is 60 days before the date on which our stock becomes ex-dividend and must satisfy certain other conditions.

Distributions that are designated as capital gain dividends will generally be taxed as long-term capital gains (to the extent they do not exceed our actual net capital gain for the taxable year) without regard to the period for which the holder has held our preferred stock. However, corporate holders may be required to treat up to 20% of certain capital gain dividends as ordinary income.

We may elect to retain and pay income tax on our net capital gain received during the taxable year. If we so elect for a taxable year, our U.S. stockholders would include in income as long-term capital gains their proportionate share of such portion of our undistributed net capital gains for the taxable year as we may designate. A U.S. stockholder would be deemed to have paid its share of the tax paid by us on such undistributed net capital gain, which would be credited or refunded to the stockholder. The U.S. stockholder s basis in the depositary shares would be increased by the amount of undistributed net capital gain included in such U.S. stockholder s income, less the capital gains tax paid by us.

A taxpayer generally must hold a capital asset for more than one year for gain or loss derived from its sale or exchange to be treated as long-term capital gain or loss. The maximum tax rate on long-term capital gain applicable to noncorporate taxpayers is 15% for sales and exchanges of assets held for more than one year occurring through December 31, 2008. The maximum tax rate on long-term capital gain from the sale or exchange of section 1250 property, or depreciable real property, is 25% to the extent that such gain would have been treated as ordinary income if the property were section 1245 property (*i.e.*, to the extent of depreciation recapture). With respect to distributions that we designate as capital gain dividends and any retained capital gain that we are deemed to distribute, we generally may designate whether such a distribution is taxable to our noncorporate U.S. stockholders at a 15% or 25% tax rate. Thus, the tax rate differential between capital gain and ordinary income for noncorporate taxpayers may be significant. In addition, the characterization of income as capital gain or ordinary income may affect the deductibility of capital losses. A noncorporate taxpayer may deduct capital losses not offset by capital gains against its ordinary income only up to a maximum annual amount of $3,000. A noncorporate taxpayer may carry forward unused capital losses indefinitely. A corporate taxpayer must pay tax on its net capital gain at ordinary corporate rates. A corporate taxpayer may deduct capital losses only to the extent of capital gains, with unused losses being carried back three years and forward five years.

Stockholders may not include in their individual income tax returns any of our net operating losses or capital losses. Instead, such losses would be carried over by us for potential offset against our future income (subject to certain limitations). Taxable distributions from us and gain from the disposition of depositary shares will not be treated as passive activity income and, therefore, stockholders generally will not be able to apply any passive activity losses (such as losses from certain types of limited partnerships in which the stockholder is a limited partner) against such income. In addition, taxable distributions from us generally will be treated as investment income for purposes of the investment interest limitations. Capital gains from the disposition of depositary shares (or distributions treated as such) will be treated as investment income only if the stockholder so elects, in which case such capital gains will be taxed at ordinary income rates. We will notify stockholders after the close of our taxable year as to the portions of the distributions attributable to that year that constitute each of (i) distributions taxable at ordinary income tax rates, (ii) capital gains dividends, (iii) qualified dividend income, if any, and (iv) returns of capital.

*Sale or Exchange of Depositary Shares.* Upon the sale or exchange of depositary shares to a person other than us, a U.S. stockholder generally will recognize gain or loss equal to the difference between (i) the amount of cash and the fair market value of any property received (less any portion thereof attributable to accumulated and declared but unpaid dividends, which will be taxable as a dividend to the extent of our current and accumulated earnings and profits) and (ii) the U.S. stockholder s adjusted tax basis in such shares. Such gain or loss will be capital gain or loss and will be long-term capital gain or loss if such shares have been held for more than one year. In general, any loss upon a sale or exchange of

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depositary shares by a holder who has held such shares for six months or less (after applying certain holding period rules) will be treated by such holder as long-term capital loss to the extent of distributions from us required to be treated by such U.S. stockholder as long-term capital gain. All or a portion of any loss realized upon a taxable disposition of depositary shares may be disallowed if substantially identical stock or securities are purchased within 30 days before or after the disposition. In addition, the ability to otherwise deduct capital losses may be limited under the Code.

***Redemption of Depositary Shares***

A redemption of depositary shares will be treated under Section 302 of the Code as a distribution taxable as a dividend (to the extent of our current and accumulated earnings and profits) at ordinary income rates unless the redemption satisfies one of the tests set forth in Section 302(b) of the Code and is therefore treated as a sale or exchange of redeemed shares, except that the portion of the redemption proceeds attributable to accrued and declared but unpaid dividends will be taxable in any event as a dividend to the extent of our current and accumulated earnings and profits. The redemption will be treated as a sale or exchange if it (i) results in a complete termination of the U.S. stockholder s share interest in us or (ii) is not essentially equivalent to a dividend with respect to the stockholder, all within the meaning of Section 302(b) of the Code. In determining whether any of these tests have been met, depositary shares considered to be owned by a U.S. stockholder by reason of certain constructive ownership rules set forth in the Code, as well as depositary shares actually owned by such U.S. stockholder, must generally be taken into account. Because the determination as to whether any of the alternative tests of Section 302(b) of the Code will be satisfied with respect to any particular U.S. stockholder depends upon the facts and circumstances at the time that the determination must be made, prospective U.S. stockholders are advised to consult their own tax advisors to determine such tax treatment.

If a redemption of depositary shares is not treated as a distribution taxable as a dividend to a particular U.S. stockholder, it will be treated as a taxable sale or exchange. See Sale or Exchange of Depositary Shares above.

If a redemption of depositary shares is treated as a distribution taxable as a dividend, the amount of the distribution will be measured by the amount of cash and the fair market value of any property received by such U.S. stockholder. The U.S. stockholder s adjusted basis in the redeemed depositary shares for tax purposes will be transferred to such stockholder s remaining depositary shares or other shares of our stock. If the stockholder owns no other shares of our stock, such basis may, under certain circumstances, be transferred to a related person or it may be lost entirely.

Proposed Treasury Regulations would, if adopted, alter the method for recovering the adjusted tax basis in any depositary shares redeemed in a dividend equivalent redemption. Under the Proposed Treasury Regulations, a U.S. stockholder would be treated as realizing a capital loss on the date of the dividend equivalent redemption equal to the adjusted tax basis of the depositary shares redeemed, subject to adjustments. The recognition of such loss would generally be deferred until the occurrence of specified events, such as, for example, the time the U.S. stockholder ceases to actually or constructively own any shares of our stock. There can be no assurance that the Proposed Treasury Regulations will be adopted, or that they will be adopted in their current form.

***Tax-Exempt U.S. Stockholders***

Distributions by us to a tax-exempt U.S. stockholder generally should not constitute unrelated business taxable income ( UBTI ), *provided* that (i) the U.S. stockholder has not financed the acquisition of its depositary shares with acquisition indebtedness within the meaning of the Code and (ii) our depositary shares are not otherwise used in an unrelated trade or business of such tax-exempt U.S. stockholder.

Notwithstanding the preceding paragraph, under certain circumstances, qualified trusts that hold more than 10% (by value) of our shares of stock may be required to treat a certain percentage of dividends as UBTI. This requirement will only apply if we are treated as a pension-held REIT. The restrictions on

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ownership of shares of stock in our articles of amendment and restatement should prevent us from being treated as a pension-held REIT, although there can be no assurance that this will be the case.

***Non-U.S. Stockholders***

The rules governing United States income taxation of non-U.S. stockholders are quite complex. Certain distributions paid by us to non-U.S. stockholders will be subject to U.S. withholding tax. Prospective non-U.S. stockholders should consult with their own tax advisors to determine the impact of federal, state, local and foreign tax laws on an investment in us, and to determine their reporting requirements, if any.

***Backup Withholding***

We will report to our U.S. stockholders and the Internal Revenue Service the amount of dividends paid during each calendar year, and the amount of tax withheld, if any. Under the backup withholding rules, a U.S. stockholder may be subject to backup withholding tax at a current rate of 28% (subject to increase to 31% after 2010) with respect to dividends paid and with respect to any proceeds from the sale or redemption of depositary shares unless such U.S. stockholder (a) is a corporation or comes within certain other exempt categories and, when required, demonstrates this fact or (b) provides a taxpayer identification number and otherwise complies with applicable requirements of the backup withholding rules. A U.S. stockholder that does not provide us with its correct taxpayer identification number may also be subject to penalties imposed by the Internal Revenue Service. Any amount paid as backup withholding will be creditable against such U.S. stockholder s income tax liability, and may entitle such stockholder to a refund, *provided* the U.S. stockholder timely furnishes the required information to the Internal Revenue Service.

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## UNDERWRITING

Subject to the terms and conditions contained in an underwriting agreement dated the date of this prospectus supplement, the underwriters named below, for whom Wachovia Capital Markets, LLC, Merrill Lynch, Pierce, Fenner & Smith Incorporated and Credit Suisse First Boston LLC are acting as representatives, have agreed to purchase, and we have agreed to sell to the underwriters, 6,000,000 depositary shares. Additional underwriters and co-managers may be added with respect to this offering after the date hereof.

| Underwriter | Number of Shares |
|---|---|
| Wachovia Capital Markets, LLC | 1,500,000 |
| Merrill Lynch, Pierce, Fenner & Smith Incorporated | 1,500,000 |
| Credit Suisse First Boston LLC | 1,500,000 |
| J.P. Morgan Securities Inc. | 900,000 |
| BB&T Capital Markets, a division of Scott & Stringfellow Inc. | 300,000 |
| Raymond James & Associates, Inc. | 300,000 |
| Total | 6,000,000 |

The underwriting agreement provides that the obligations of the underwriters to purchase depositary shares in this offering are subject to approval of legal matters by their counsel and to other conditions. The underwriters are obligated to purchase all of the depositary shares if they purchase any of the depositary shares.

We intend to file an application to list the depositary shares on the NYSE. If approved, trading of the depositary shares on the NYSE is expected to commence within the 30-day period after initial delivery of the depositary shares. Some of the underwriters have advised us that they intend to make a market in the depositary shares prior to the commencement of trading on the NYSE. The underwriters will have no obligation to make a market in the depositary shares, however, and may cease market-making activities, if commenced, at any time.

Before this offering, there has been no public market for our depositary shares. An active trading market for our depositary shares may not develop. Even if an active market does develop, the public price at which the depositary shares trade in the future may be below the offering price.

The underwriters initially propose to offer some of the depositary shares directly to the public at the public offering price set forth on the cover page of this prospectus supplement and some of the depositary shares to dealers at the public offering price less a concession not to exceed $0.50 per depositary share. The underwriters may allow, and dealers may reallow, a concession not to exceed $0.45 per depositary share on sales to other dealers. After the initial public offering of the depositary shares, the public offering price and other selling terms may from time to time be varied by the underwriters.

The following table shows the underwriting discounts and commissions that we are to pay the underwriters in connection with this offering.

| | Per Share |
|---|---|
| Public offering price | $ 25.0000 |
| Underwriting discount and commissions | $ 0.7875 |
| Proceeds, before expenses, to us | $ 24.2125 |

We estimate that the portion of the total expenses of this offering payable by us, other than the underwriting discounts and commissions referred to above, will be approximately $200,000.

In connection with the offering, the underwriters may purchase and sell depositary shares in the open market. These transactions may include short sales, syndicate covering transactions and stabilizing transactions. Short sales involve syndicate sales of depositary shares in excess of the number of depositary shares to be purchased by the underwriters in this offering, which creates a syndicate short position. The underwriters must close out any short position by purchasing depositary shares in the open market. A short

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position is more likely to be created if the underwriters are concerned that there may be downward pressure on the price of the depositary shares in the open market after pricing that could adversely affect investors who purchase in the offering. Stabilizing transactions consist of bids for, or purchases of, depositary shares in the open market while the offering is in progress. The underwriters also may impose a penalty bid. Penalty bids permit the underwriters to reclaim a selling concession from a syndicate member when the underwriters repurchase depositary shares originally sold by that syndicate member in order to cover syndicate short positions or make stabilizing purchases. Any of these activities may have the effect of preventing or retarding a decline in the market price of the depositary shares. They may also cause the price of the depositary shares to be higher than the price that would otherwise exist in the open market in the absence of these transactions. The underwriters may conduct these transactions on the NYSE or in the over-the-counter market or otherwise. If the underwriters commence any of these transactions, they may discontinue them at any time.

We have agreed that, subject to some exceptions, we will not offer, sell, contract to sell, pledge or otherwise dispose of, directly or indirectly, or file with the SEC a registration statement under the Securities Act of 1933 relating to, any depositary shares or securities convertible into or exchangeable or exercisable for any depositary shares, or publicly disclose the intention to make any such offer, sale, pledge, disposition or filing, without the prior written consent of the underwriters for a period of 45 days after the date of this prospectus supplement. However, in the event that either (1) during the last 17 days of the lock-up period, we release earnings results or material news or a material event relating to us occurs or (2) prior to the expiration of the lock-up period, we announce that we will release earnings results during the 16-day period beginning on the last day of the lock-up period, then in either case the expiration of the lock-up will be extended until the expiration of the 18-day period beginning on the date of the release of the earnings results or material news or the occurrence of the material event, as applicable, unless the underwriters waive, in writing, such an extension.

The underwriters or their affiliates have performed certain investment banking and advisory services for us from time to time for which they have received customary fees and expenses. Affiliates of Wachovia Capital Markets, LLC and J.P. Morgan Securities Inc., two of the underwriters in this offering, are or were lenders under our credit facilities. An affiliate of Wachovia Capital Markets, LLC was the sole purchaser of our Series I Preferred Stock in November 2005. Proceeds of this offering may be used to repay borrowings under our $500 million credit facility and/or to redeem shares of our Series I Preferred Stock, and in each case affiliates of certain of the underwriters as described above would receive proceeds of this offering. The underwriters or their affiliates may, from time to time, engage in transactions with and perform services for us in the ordinary course of their businesses for which they would expect to receive customary fees and expenses.

We have agreed to indemnify the underwriters against certain liabilities, including liabilities under the Securities Act, or to contribute to payments the underwriters may be required to make because of any of those liabilities.

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## NOTICE TO CANADIAN RESIDENTS

**Resale Restrictions**

The distribution of the depositary shares in Canada is being made on a private placement basis exempt from the requirement that we prepare and file a prospectus with the securities regulatory authorities in each province where trades of depositary shares are made. Any resale of the depositary shares in Canada must be made under applicable securities laws, which will vary depending on the relevant jurisdiction and which may require resales to be made under available statutory exemptions or under a discretionary exemption granted by the applicable Canadian securities regulatory authority. Purchasers are advised to seek legal advice prior to any resale of the depositary shares.

**Representations of Purchasers**

By purchasing depositary shares in Canada and accepting a purchase confirmation, a purchaser is representing to us and the dealer from whom the purchase confirmation is received that:

the purchaser is entitled under applicable provincial securities laws to purchase the depositary shares without the benefit of a prospectus qualified under those securities laws,

where required by law, the purchaser is purchasing as principal and not as agent,

the purchaser has reviewed the text above under Resale Restrictions, and

the purchaser acknowledges and consents to the provision of specified information concerning its purchase of the depositary shares to the regulatory authority that by law is entitled to collect the information.

Further details concerning the legal authority for this information are available on request.

**Right of Action Ontario Purchasers Only**

Under Ontario securities legislation, certain purchasers who purchase depositary shares offered by this prospectus supplement and the accompanying prospectus during the period of distribution will have a statutory right of action for damages or, while still the owner of the depositary shares, for rescission against us in the event that this prospectus supplement and the accompanying prospectus contain a misrepresentation without regard to whether the purchaser relied on the misrepresentation. The right of action for damages is exercisable not later than the earlier of 180 days from the date the purchaser first had knowledge of the facts giving rise to the cause of action and three years from the date on which payment is made for the depositary shares. The right of action for rescission is exercisable not later than 180 days from the date on which payment is made for the depositary shares. If a purchaser elects to exercise the right of action for rescission, the purchaser will have no right of action for damages against us. In no case will the amount recoverable in any action exceed the price at which the depositary shares were offered to the purchaser and, if the purchaser is shown to have purchased the securities with knowledge of the misrepresentation, we will have no liability. In the case of an action for damages, we will not be liable for all or any portion of the damages that are proven to not represent the depreciation in value of the depositary shares as a result of the misrepresentation relied upon. These rights are in addition to, and without derogation from, any other rights or remedies available at law to an Ontario purchaser. The foregoing is a summary of the rights available to an Ontario purchaser. Ontario purchasers should refer to the complete text of the relevant statutory provisions.

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**Enforcement of Legal Rights**

All of our directors and officers as well as the experts named in the accompanying prospectus may be located outside of Canada and, as a result, it may not be possible for Canadian purchasers to effect service of process within Canada upon us or those persons. All or a substantial portion of our assets and the assets of those persons may be located outside of Canada and, as a result, it may not be possible to satisfy a judgment against us or those persons in Canada or to enforce a judgment obtained in Canadian courts against us or those persons outside of Canada.

**Taxation and Eligibility for Investment**

Canadian purchasers of the depositary shares should consult their own legal and tax advisors with respect to the tax consequences of an investment in the depositary shares in their particular circumstances and about the eligibility of the depositary shares for investment by the purchaser under relevant Canadian legislation.

## LEGAL MATTERS

Certain legal matters relating to the offering will be passed upon for us by Cahill Gordon & Reindel llp, New York, New York. Certain legal matters relating to the offering will be passed upon for the underwriters by Clifford Chance US LLP, New York, New York. Cahill Gordon & Reindel llp and Clifford Chance US LLP will each rely as to all matters of Maryland law on the opinion of McGuireWoods LLP, Baltimore, Maryland, and Cahill Gordon & Reindel llp will rely as to all matters of Illinois law on the opinion of Barack Ferrazzano Kirschbaum Perlman & Nagelberg LLP, Chicago, Illinois.

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**PROSPECTUS**

**$1,014,165,320**
**FIRST INDUSTRIAL REALTY TRUST, INC.**
**and**
**FIRST INDUSTRIAL, L.P.**

First Industrial Realty Trust, Inc. may offer the following securities for sale through this prospectus from time to time:

shares of common stock;

shares of preferred stock; and

shares of preferred stock represented by depositary shares.

First Industrial, L.P., the operating partnership of First Industrial Realty Trust, Inc., may offer up to $500,000,000 of unsecured non-convertible investment grade debt securities for sale through this prospectus from time to time.

We will provide the specific terms of the securities that we are offering in one or more supplements to this prospectus. Any supplement may also add, update or change information contained in this prospectus. You should read both this prospectus and any prospectus supplement together with the additional information described under Where You Can Find More Information before investing in our securities. The aggregate of the offering prices of securities covered by this prospectus will not exceed $1,014,165,320.

The common stock of First Industrial Realty Trust, Inc. is listed on the New York Stock Exchange under the symbol FR.

We may sell offered securities through agents, to or through underwriters or through dealers, directly to purchasers or through a combination of these methods of sale. See Plan of Distribution for more information.

This prospectus may not be used to consummate sales of offered securities unless accompanied by a prospectus supplement.

**Investing in the securities of First Industrial Realty Trust, Inc. or the Operating Partnership involves risks that are described in the Risk Factors section beginning on page 3 of this prospectus.**

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

The date of this prospectus is August 30, 2004.

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We have not authorized any dealer, salesperson or other person to give you written information other than this prospectus or any prospectus supplement or to make representations as to matters not stated in this prospectus or any prospectus supplement. You must not rely on unauthorized information. This prospectus and any prospectus supplement are not an offer to sell these securities or our solicitation of your offer to buy the securities in any jurisdiction where that would not be permitted or legal. The delivery of this prospectus or any prospectus supplement at any time does not create an implication that the information contained herein or therein is correct as of any time subsequent to their respective dates.

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## ABOUT THIS PROSPECTUS

This prospectus is part of a registration statement First Industrial Realty Trust, Inc. (the Company ) and First Industrial, L.P. (the Operating Partnership ) filed with the Securities and Exchange Commission, or SEC, utilizing the shelf registration process, relating to the common stock, preferred stock, depositary shares and debt securities described in this prospectus. Under this shelf registration process, the Company and the Operating Partnership may sell any combination of the securities described in this prospectus in one or more offerings up to a total amount of $1,014,165,320.

This prospectus provides you with a general description of the securities the Company and the Operating Partnership may offer. Each time the Company or the Operating Partnership sells securities, it will provide a prospectus supplement that will contain specific information about the terms of that offering. The prospectus supplement may also add, update or change information contained in this prospectus. You should read both this prospectus and any prospectus supplement together with the additional information described under the heading Where You Can Find More Information.

As used in this prospectus, we, us and our refer to the Company and its subsidiaries, including the Operating Partnership, unless the context otherwise requires.

## THE COMPANY AND THE OPERATING PARTNERSHIP

The Company is a real estate investment trust, or REIT, subject to Sections 856 through 860 of the Internal Revenue Code of 1986. The Company and its consolidated partnerships, corporations and limited liability companies are a self-administered and fully integrated real estate company which owns, manages, acquires, sells and develops industrial real estate.

As of March 31, 2004, our portfolio consisted of the following types of properties:

416 light industrial properties *Light industrial properties generally are of less than 100,000 square feet, have a ceiling height of 16 to 21 feet, are comprised of 5% to 50% office space, contain less than 50% of manufacturing space and have a land use ratio of 4:1. The land use ratio is the ratio of the total property area to that not occupied by the building.*

130 bulk warehouse properties *Bulk warehouse buildings generally are of more than 100,000 square feet, have a ceiling height of at least 22 feet, are comprised of 5% to 15% office space, contain less than 25% of manufacturing space and have a land use ratio of 2:1.*

160 R&D/flex properties *Research and development/flex buildings generally are of less than 100,000 square feet, have a ceiling height of less than 16 feet, are comprised of 50% or more of office space, contain less than 25% of manufacturing space and have a land use ratio of 4:1.*

87 regional warehouse properties *Regional warehouses generally are of less than 100,000 square feet, have a ceiling height of at least 22 feet, are comprised of 5% to 15% of office space, contain less than 25% of manufacturing space and have a land use ratio of 2:1.*

32 manufacturing properties *Manufacturing properties are a diverse category of buildings that generally have a ceiling height of 10 to 18 feet, are comprised of 5% to 15% of office space, contain more than 50% of manufacturing space and have a land use ratio of 4:1.*

These properties contain approximately 58.5 million square feet of gross leaseable area located in 22 states.

Our interests in our properties and land parcels are held through partnerships, corporations and limited liability companies controlled by the Company, including the Operating Partnership, of which the Company is the sole general partner. As of March 31, 2004, the Company held approximately 86.1% of the outstanding limited partnership units of the Operating Partnership. At that date, approximately 13.9% of the outstanding limited partnership units were held by outside investors, including certain members of the management of the Company. Each limited partnership unit, other than those held by the Company, may be exchanged for one share of the Company common stock, subject to adjustments. Upon each exchange, the number of limited

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partnership units held by the Company, and its ownership percentage of the Operating Partnership, increases. As of March 31, 2004, the Company also owned preferred general partnership interests in the Operating Partnership with an aggregate liquidation priority of $250.0 million.

We utilize an operating approach that combines the effectiveness of decentralized, locally based property management, acquisition, sales and development functions with the cost efficiencies of centralized acquisition, sales and development support, capital markets expertise, asset management and fiscal control systems. At March 31, 2004, we had 331 employees.

We have grown and will seek to continue to grow through the development of industrial properties and acquisition of additional industrial properties.

The Company is a Maryland corporation organized on August 10, 1993, and which completed its initial public offering in June 1994. The Operating Partnership is a Delaware limited partnership organized in November 1993. Our principal executive offices are located at 311 S. Wacker Drive, Suite 4000, Chicago, Illinois 60606, telephone number (312) 344-4300. Our website is http://www.firstindustrial.com. The information on our website is not a part of, and is not incorporated by reference into, this prospectus.

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## RISK FACTORS

*Your investment in any of our securities involves certain risks. Prior to making a decision about investing in our securities, and in consultation with your own financial and legal advisers, you should carefully consider, among other matters, the following risk factor, as well as those incorporated by reference in this prospectus, including our most recent Annual Report on Form 10-K, and those included in the applicable prospectus supplement regarding risks particular to each type or series of securities that we are offering under that prospectus supplement.*

***The Company might fail to qualify or remain qualified as a REIT.***

We intend to operate so as to qualify as a REIT under the Internal Revenue Code of 1986 (the Code ) Although we believe that we are organized and will operate in a manner so as to qualify as a REIT, qualification as a REIT involves the satisfaction of numerous requirements, some of which must be met on a recurring basis. These requirements are established under highly technical and complex Code provisions of which there are only limited judicial or administrative interpretations, and involve the determination of various factual matters and circumstances not entirely within our control.

We (through one of our subsidiary partnerships) entered into certain development agreements in 2000 through 2003, the performance of which has been completed. Under these agreements, we provided services to unrelated third parties and certain payments were made by the unrelated third parties for services provided by certain contractors hired by us. We believe that these payments were properly characterized by us as reimbursements for costs incurred by us on behalf of the third parties and do not constitute gross income and did not prevent us from satisfying the gross income requirements of the REIT provisions (the gross income tests ). We have brought this matter to the attention of the Internal Revenue Service, or IRS. The IRS has not challenged or expressed any interest in challenging our view on this matter. If the IRS were to challenge such position and were successful, we might be found not to have satisfied the gross income tests in one or more of our taxable years. If we were found not to have satisfied the gross income tests, we could be subject to a penalty tax as further discussed under Certain U.S. Federal Income Tax Considerations below. However, such noncompliance should not adversely affect our status as a REIT as long as such noncompliance was due to reasonable cause and not to willful neglect, and certain other requirements are met. Although this cannot be assured, we believe that the risk of losing our REIT status as a result of these development agreements is remote.

If we were to fail to qualify as a REIT in any taxable year, we would be subject to federal income tax, including any applicable alternative minimum tax, on our taxable income at corporate rates. This could result in a discontinuation or substantial reduction in dividends to stockholders and in cash to pay interest and principal on debt securities that we issue. Unless entitled to relief under certain statutory provisions, we also would be disqualified from electing treatment as a REIT for the four taxable years following the year during which we failed to qualify as a REIT. See Certain U.S. Federal Income Tax Considerations below.

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## RATIOS OF EARNINGS TO FIXED CHARGES

The Company s ratios of earnings to fixed charges and preferred dividend requirements for the three months ended March 31, 2004 and for the years ended December 31, 2003, 2002, 2001, 2000 and 1999 were 1.02x, 1.13x, 1.11x, 1.42x, 1.47x and 1.61x, respectively. For purposes of computing the ratios of earnings to fixed charges and preferred stock dividends, earnings have been calculated by adding fixed charges (excluding capitalized interest) to income from continuing operations before minority interest allocable to continuing operations. Fixed charges consist of interest cost, whether expensed or capitalized and amortization of deferred financing costs.

The Operating Partnership s ratios of earnings to fixed charges for the three months ended March 31, 2004 and for the years ended December 31, 2003, 2002, 2001, 2000 and 1999 were 1.35x, 1.42x, 1.69x, 2.06x, 2.08x and 2.30x, respectively. For purposes of computing the ratios of earnings to fixed charges, earnings have been calculated by adding fixed charges (excluding capitalized interest) to income from continuing operations. Fixed charges consist of interest cost, whether expensed or capitalized and amortization of deferred financing costs.

The ratios set forth above for the five years ended December 31, 2003 are subject to adjustment as a result of the adoption of the Financial Accounting Standards Board s Statement of Financial Accounting Standards No. 144, Accounting for the Impairment or Disposal of Long Lived Assets ( FAS 144 ), as described in Note 3 to the consolidated financial statements in 2003 Annual Report on Form 10-K of the Operating Partnership and of the Company for the year ended December 31, 2003 and in Note 2 to the consolidated financial statements in Quarterly Report on Form 10-Q of the Operating Partnership and of the Company for the quarter ended March 31, 2004. As a result, the adjustment required by FAS 144 will reduce income from continuing operations and the ratios of earnings to fixed charges reported above will not agree to the ratios reported in 2003 Annual Report on Form 10-K of the Operating Partnership and of the Company.

## USE OF PROCEEDS

Unless otherwise described in the applicable prospectus supplement, the Company and the Operating Partnership intend to use the net proceeds from the sale of securities offered by this prospectus and the applicable prospectus supplement for general corporate purposes, which may include the acquisition and development of additional properties, the repayment of outstanding debt, the redemption of the Company s preferred stock or the improvement of certain properties already in the Company s portfolio. Any proceeds from the sale of common stock, preferred stock or depositary shares by the Company will be invested in the Operating Partnership, which will use the proceeds for the same purposes.

## PLAN OF DISTRIBUTION

The Company and/or the Operating Partnership may sell offered securities in any one or more of the following ways from time to time:

through agents;

to or through underwriters;

through dealers;

directly to purchasers; or

through a combination of these methods of sale.

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The prospectus supplement relating to the offered securities will set forth the terms of the offering and of the offered securities, including:

- the name or names of any underwriters, dealers or agents;
- the purchase price of the offered securities and the proceeds to the Company and/ or the Operating Partnership from such sale;
- any underwriting discounts and commission or agency fees and other items constituting underwriters or agents compensation;
- any initial public offering price; and
- any discounts or concessions allowed or reallowed or paid to dealers and any securities exchange on which such offered securities may be listed.

Any initial public offering price, discounts or concessions allowed or reallowed or paid to dealers may be changed from time to time.

The distribution of the offered securities may be effected from time to time in one or more transactions:

- at a fixed price or prices, which may be changed;
- at market prices prevailing at the time of sale;
- at prices related to prevailing market prices; or
- at negotiated prices.

Offers to purchase offered securities may be solicited by agents designated by the Company and/or the Operating Partnership from time to time. Any agent involved in the offer or sale of the offered securities in respect of which this prospectus is delivered will be named, and any commissions payable by the Company and/or the Operating Partnership to the agent will be set forth, in the applicable prospectus supplement. Underwriters and agents in any distribution contemplated hereby, including but not limited to at-the-market equity offerings, may from time to time include Banc One Capital Markets, Inc., Brinson Patrick Securities Corporation and/or Cantor Fitzgerald & Co. Underwriters or agents could make sales in sales deemed to be an at-the-market offering as defined in Rule 415 promulgated under the Securities Act of 1933, as amended (the Securities Act ), including sales made directly on the New York Stock Exchange, or NYSE, the existing trading market for our common stock, or sales made to or through a market maker other than on an exchange. At-the-market offerings made pursuant to this prospectus and any accompanying prospectus supplement may not exceed 10% of the aggregate market value of our outstanding voting securities held by non-affiliates on a date within 60 days prior to the filing of the registration statement of which this prospectus is a part. Unless otherwise indicated in the prospectus supplement, any agent will be acting on a reasonable best efforts basis for the period of its appointment. Any agent may, and if acting as agent in an at-the market equity offering will, be deemed to be an underwriter, as that term is defined in the Securities Act, of the offered securities.

If offered securities are sold by means of an underwritten offering, the Company and/ or the Operating Partnership will execute an underwriting agreement with an underwriter or underwriters, and the names of the specific managing underwriter or underwriters, as well as any other underwriters, and the terms of the transaction, including commissions, discounts and any other compensation of the underwriters and dealers, if any, will be set forth in the prospectus supplement which will be used by the underwriters to make resales of the offered securities. If underwriters are utilized in the sale of the offered securities, the offered securities may be acquired by the underwriters for their own account and may be resold from time to time in one or more transactions, including negotiated transactions, at fixed public offering prices or at varying prices determined by the underwriters at the time of sale. Offered securities may be offered to the public either through underwriting syndicates represented by managing underwriters or directly

by the managing underwriters. If any underwriter or underwriters are utilized in the sale of the offered securities, unless otherwise indicated in the prospectus supplement, the underwriting agreement will provide that the obligations of the underwriters are subject to certain

conditions precedent and that the underwriters with respect to a sale of offered securities will be obligated to purchase all such offered securities of a series if any are purchased.

The Company and/ or the Operating Partnership may grant to the underwriters options to purchase additional offered securities to cover over-allotments, if any, at the public offering price, with additional underwriting discounts or commissions, as may be set forth in the prospectus supplement relating thereto. If the Company and/ or the Operating Partnership grant any over-allotment option, the terms of the over-allotment option will be set forth in the prospectus supplement relating to the offered securities.

If a dealer is utilized in the sales of offered securities in respect of which this prospectus is delivered, the Company and/or the Operating Partnership will sell the offered securities to the dealer as principal. The dealer may then resell the offered securities to the public at varying prices to be determined by the dealer at the time of resale. Any dealer may be deemed to be an underwriter, as that term is defined in the Securities Act, of the offered securities so offered and sold. The name of the dealer and the terms of the transaction will be set forth in the related prospectus supplement.

Offers to purchase offered securities may be solicited directly by the Company and/or the Operating Partnership and the sale may be made by the Company and/or the Operating Partnership directly to institutional investors or others, who may be deemed to be underwriters within the meaning of the Securities Act with respect to any resale thereof. The terms of any such sales will be described in the related prospectus supplement.

Offered securities may also be offered and sold, if so indicated in the applicable prospectus supplement, in connection with a remarketing upon their purchase, in accordance with a redemption or repayment pursuant to their terms, or otherwise, by one or more remarketing firms, acting as principals for their own accounts or as agents for the Company and/ or the Operating Partnership. Any remarketing firm will be identified and the terms of its agreements, if any, with the Company and/ or the Operating Partnership and its compensation will be described in the applicable prospectus supplement. Remarketing firms may be deemed to be underwriters, as that term is defined in the Securities Act, in connection with the offered securities remarketed thereby.

Agents, underwriters, dealers and remarketing firms may be entitled under relevant agreements entered into with the Company and/or the Operating Partnership to indemnification by the Company and/or the Operating Partnership against certain civil liabilities, including liabilities under the Securities Act, that may arise from any untrue statement or alleged untrue statement of a material fact or any omission or alleged omission to state a material fact in this prospectus, any supplement or amendment hereto, or in the registration statement of which this prospectus forms a part, or to contribution with respect to payments which the agents, underwriters, dealers or remarketing firms may be required to make. The terms of any such indemnification or contribution will be described in the related prospectus supplement.

If so indicated in the prospectus supplement, the Company and/or the Operating Partnership will authorize underwriters or other persons acting as agents to solicit offers by certain institutions to purchase offered securities from the Company and/or the Operating Partnership, pursuant to contracts providing for payments and delivery on a future date. Institutions with which these contracts may be made include commercial and savings banks, insurance companies, pension funds, investment companies, educational and charitable institutions and others, but in all cases these institutions must be approved by the Company and/ or the Operating Partnership. The obligations of any purchaser under any contract will be subject to the condition that the purchase of the offered securities shall not at the time of delivery be prohibited under the laws of the jurisdiction to which the purchaser is subject. The underwriters and other agents will not have any responsibility in respect of the validity or performance of these contracts.

Each series of offered securities will be a new issue and, other than the common stock of the Company, which is listed on the NYSE, will have no established trading market. The Company and/or the Operating Partnership may elect to list any series of offered securities on an exchange or automated quotation system, and in the case of the common stock of the Company, on any additional exchange, but, unless otherwise specified in the applicable prospectus supplement, the Company and/or the Operating Partnership will not be obligated to do so. No assurance can be given as to the liquidity of the trading market for any of the offered securities.

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Underwriters, dealers, agents and remarketing firms may engage in transactions with, or perform services for, the Company and/or the Operating Partnership and their subsidiaries in the ordinary course of business.

## DESCRIPTION OF DEBT SECURITIES

The debt securities will be issued under an indenture, dated as of May 13, 1997, between the Operating Partnership and U.S. Bank National Association (formerly known as First Trust National Association), as trustee, which has been incorporated by reference as an exhibit to the registration statement of which this prospectus is a part, subject to such amendments or supplements as may be adopted from time to time. The indenture is subject to and governed by the Trust Indenture Act of 1939, as amended. The statements made under this heading relating to the debt securities and the indenture are summaries only, do not purport to be complete and are qualified in their entirety by reference to the debt securities and the indenture. All material terms of the debt securities and the indenture, other than those disclosed in the applicable prospectus supplement, are described in this prospectus.

The debt securities to be offered under this prospectus and in any applicable prospectus supplement will be investment grade securities, meaning that at the time of the offering of the debt securities, at least one nationally recognized statistical rating organization, as defined in the Securities Exchange Act of 1934, as amended (the Exchange Act ), will have rated the debt securities in one of its generic rating categories that signifies investment grade. Typically the four highest rating categories, within which there may be sub-categories or gradations indicating relative standing, signify investment grades. An investment grade rating is not a recommendation to buy, sell or hold securities, is subject to revision or withdrawal at any time by the assigning entity and should be evaluated independently of any other rating.

### Terms

*General.* The debt securities will be direct unsecured obligations of the Operating Partnership. The indebtedness represented by the debt securities will rank equally with all other unsecured and unsubordinated indebtedness of the Operating Partnership. No partner, whether limited or general, including the Company, of the Operating Partnership has any obligation for the payment of principal of, or premium, if any, or interest, if any, on, or any other amount with respect to, the debt securities. The particular terms of the debt securities offered by a prospectus supplement, including any applicable federal income tax considerations, will be described in the applicable prospectus supplement, along with any applicable modifications of or additions to the general terms of the debt securities as described in this prospectus and in the indenture. For a description of the terms of any series of debt securities, you should read both the prospectus supplement relating to the debt securities and the description of the debt securities in this prospectus.

Except as set forth in any prospectus supplement, the debt securities may be issued without limit as to aggregate principal amount, in one or more series, in each case as established from time to time by the Operating Partnership or as set forth in the indenture or in one or more supplemental indentures to the indenture. All debt securities of one series need not be issued at the same time and, unless otherwise provided, a series may be reopened, without the consent of the holders of the debt securities of such series, for issuance of additional debt securities of such series.

The indenture provides that the Operating Partnership may, but need not, designate more than one trustee, each with respect to one or more series of debt securities. Any trustee under the indenture may resign or be removed with respect to one or more series of debt securities, and a successor trustee may be appointed to act with respect to the series. In the event that two or more persons are acting as trustee with respect to different series of debt securities, each trustee shall be a trustee of a trust under the indenture separate and apart from the trust administered by any other trustee. In that event and except as otherwise indicated in this prospectus, any action described in this prospectus to be taken by each trustee may be taken by each such trustee with respect to, and only with respect to, the one or more series of debt securities for which it is trustee under the indenture.

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The following summaries set forth general terms and provisions of the indenture and the debt securities. The prospectus supplement relating to the applicable series of debt securities will contain further terms of the debt securities, including the following specific terms:

The title of the debt securities;

The aggregate principal amount of the debt securities and any limit on the aggregate principal amount;

The price, expressed as a percentage of the principal amount thereof, at which the debt securities will be issued and, if other than the principal amount thereof, the portion of the principal amount thereof payable upon declaration of acceleration of maturity;

The date or dates, or the method for determining the date or dates, on which the principal of the debt securities will be payable;

The rate or rates, which may be fixed or variable, or the method by which the rate or rates shall be determined, at which the debt securities will bear interest, if any;

The date or dates, or the method for determining the date or dates, from which any interest will accrue, the dates on which any interest will be payable, the record dates for interest payment dates, or the method by which the dates shall be determined, the persons to whom the interest will be payable, and the basis upon which interest shall be calculated if other than that of a 360-day year of twelve 30-day months;

The place or places where the principal of and premium or make-whole amount, if any, and interest, if any, on the debt securities will be payable, where the debt securities may be surrendered for registration of transfer or exchange and where notices or demands to or upon the Operating Partnership in respect of the debt securities and the indenture may be served;

The period or periods, if any, within which, the price or prices at which, and the other terms and conditions upon which, the debt securities may, under any optional or mandatory redemption provisions, be redeemed, as a whole or in part, at the option of the Operating Partnership;

The obligation, if any, of the Operating Partnership to redeem, repay or purchase the debt securities under any sinking fund or analogous provision or at the option of a holder thereof, and the period or periods within which, the price or prices at which, and the other terms and conditions upon which, the debt securities will be redeemed, repaid or purchased, as a whole or in part, pursuant to such obligation;

If other than U.S. dollars, the currency or currencies in which the debt securities are denominated and payable, which may be a foreign currency or units of two or more foreign currencies or a composite currency or currencies, and the terms and conditions relating thereto;

Whether the amount of payments of principal of and premium or make-whole amount, if any, including any amount due upon redemption, if any, or interest, if any, on the debt securities may be determined with reference to an index, formula or other method, which index, formula or method may, but need not, be based on the yield on or trading price of other securities, including United States Treasury securities, or on a currency, currencies, currency unit or units, or composite currency or currencies, and the manner in which such amounts shall be determined;

Whether the principal of and premium or make-whole amount, if any, or interest on the debt securities of the series are to be payable, at the election of the Operating Partnership or a holder of debt securities, in a currency or currencies, currency unit or units or composite currency or currencies other than that in which the debt securities are denominated or stated to be payable, the period or periods within which, and the terms and conditions upon which, that election may be made, and the time and manner of, and identity of the exchange rate agent with responsibility for, determining the exchange rate between the currency or currencies, currency unit or units or composite currency or currencies in which the debt securities are denominated or stated to be

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payable and the currency or currencies, currency unit or units or composite currency or currencies in which the debt securities are to be so payable;

Provisions, if any, granting special rights to the holders of debt securities of the series upon the occurrence of such events as may be specified;

Any deletions from, modifications of or additions to the events of default or covenants of the Operating Partnership with respect to debt securities of the series, whether or not such events of default or covenants are consistent with the events of default or covenants described herein;

Whether and under what circumstances the Operating Partnership will pay any additional amounts on the debt securities in respect of any tax, assessment or governmental charge and, if so, whether the Operating Partnership will have the option to redeem the debt securities in lieu of making such payment;

Whether debt securities of the series are to be issuable as registered securities, bearer securities (with or without coupons) or both, any restrictions applicable to the offer, sale or delivery of bearer securities and the terms upon which bearer securities of the series may be exchanged for registered securities of the series and vice versa, if permitted by applicable laws and regulations, whether any debt securities of the series are to be issuable initially in temporary global form and whether any debt securities of the series are to be issuable in permanent global form with or without coupons and, if so, whether beneficial owners of interests in any such permanent global security may exchange such interests for debt securities of such series and of like tenor of any authorized form and denomination and the circumstances under which any such exchanges may occur, if other than in the manner provided in the indenture, and, if registered securities of the series are to be issuable as a global security, the identity of the depository for such series;

The date as of which any bearer securities of the series and any temporary global security representing outstanding debt securities of the series shall be dated if other than the date of original issuance of the first security of the series to be issued;

The person to whom any interest on any registered security of the series shall be payable, if other than the person in whose name that security, or one or more predecessor securities, is registered at the close of business on the regular record date for such interest, the manner in which, or the person to whom, any interest on any bearer security of the series shall be payable, if otherwise than upon presentation and surrender of the coupons appertaining thereto as they severally mature, and the extent to which, or the manner in which, any interest payable on a temporary global security on an interest payment date will be paid if other than in the manner provided in the indenture;

Whether the debt securities will be issued in certificated or book-entry form;

The applicability, if any, of the defeasance and covenant defeasance provisions of the indenture to the debt securities of the series;

If the debt securities of the series are to be issuable in definitive form, whether upon original issue or upon exchange of a temporary security of the series, only upon receipt of certain certificates or other documents or satisfaction of other conditions, then the form and/or terms of the certificates, documents or conditions; and

Any other terms of the series, not inconsistent with the Trust Indenture Act of 1939, as amended.

If so provided in the applicable prospectus supplement, the debt securities may be issued at a discount below their principal amount and provide for less than the entire principal amount thereof to be payable upon declaration of

acceleration of the maturity thereof. In such cases, all material U.S. federal income tax, accounting and other considerations applicable to such original issue discount securities will be described in the applicable prospectus supplement.

Except as may be set forth in any prospectus supplement, the indenture does not contain any provisions that would limit the ability of the Operating Partnership to incur indebtedness or that would afford holders of

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debt securities protection in the event of a highly leveraged or similar transaction involving the Operating Partnership or in the event of a change of control. Restrictions on ownership and transfers of the common stock and preferred stock of the Company under its Articles of Incorporation are designed to preserve the Company s status as a REIT and, therefore, may act to prevent or hinder a change of control. See Restrictions on Transfers of Capital Stock. Reference is made to the applicable prospectus supplement for information with respect to any deletions from, modifications of, or additions to, the events of default or covenants of the Operating Partnership that are described below, including any addition of a covenant or other provision providing event risk or similar protection.

**Denomination, Interest, Registration and Transfer**

Unless otherwise provided in the applicable prospectus supplement, the debt securities of any series will be issuable in denominations of $1,000 and integral multiples thereof. Where debt securities of any series are issued in bearer form, the special restrictions and considerations, including special offering restrictions and special federal income tax considerations, applicable to those debt securities and to payment on and transfer and exchange of those debt securities will be described in the applicable prospectus supplement. Bearer debt securities will be transferable by delivery.

Unless otherwise provided in the applicable prospectus supplement, any interest not punctually paid or duly provided for on any interest payment date with respect to a debt security in registered form, or defaulted interest, will immediately cease to be payable to the holder on the applicable regular record date and may either be paid to the person in whose name the debt security is registered at the close of business on a special record date for the payment of the defaulted interest to be fixed by the trustee, in which case notice thereof shall be given to the holder of the debt security not less than 10 days prior to the special record date, or may be paid at any time in any other lawful manner not inconsistent with the requirements of any securities exchange on which such debt securities are listed, all as more completely described in the indenture.

Subject to certain limitations imposed upon debt securities issued in book-entry form, the debt securities of any series will be exchangeable for any authorized denomination of other debt securities of the same series and of a like aggregate principal amount and tenor upon surrender of the debt securities at the corporate trust office of the applicable trustee or at the office of any transfer agent designated by the Operating Partnership for such purpose. In addition, subject to certain limitations imposed upon debt securities issued in book-entry form, the debt securities of any series may be surrendered for registration of transfer or exchange thereof at the corporate trust office of the applicable trustee or at the office of any transfer agent designated by the Operating Partnership for that purpose. Every debt security in registered form surrendered for registration of transfer or exchange must be duly endorsed or accompanied by a written instrument of transfer, and the person requesting that action must provide evidence of title and identity satisfactory to the applicable trustee or transfer agent. No service charge will be made for any registration of transfer or exchange of any debt securities, but the Operating Partnership may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith. If the applicable prospectus supplement refers to any transfer agent, in addition to the applicable trustee, initially designated by the Operating Partnership with respect to any series of debt securities, the Operating Partnership may at any time rescind the designation of any such transfer agent or approve a change in the location through which any such transfer agent acts, except that the Operating Partnership will be required to maintain a transfer agent in each place of payment for that series. The Operating Partnership may at any time designate additional transfer agents with respect to any series of debt securities.

Neither the Operating Partnership nor any trustee shall be required to

issue, register the transfer of or exchange debt securities of any series during a period beginning at the opening of business 15 days before the selection of any debt securities for redemption and ending at the close of business on

if the debt securities are issuable only as registered securities, the day of the mailing of the relevant notice of redemption, and

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if the debt securities are issuable as bearer securities, the day of the first publication of the relevant notice of redemption or, if the debt securities are also issuable as registered securities and there is no publication, the mailing of the relevant notice of redemption;

register the transfer of or exchange any debt security, or portion thereof, so selected for redemption, in whole or in part, except the unredeemed portion of any debt security being redeemed in part;

exchange any bearer security selected for redemption except that, to the extent provided with respect to the bearer security, the bearer security may be exchanged for a registered security of that series and of like tenor, *provided* that the registered security shall be simultaneously surrendered for redemption; or

issue, register the transfer of or exchange any debt security that has been surrendered for repayment at the option of the holder, except the portion, if any, of the debt security not to be so repaid.

Payment in respect of debt securities in bearer form will be made in the currency and in the manner designated in the applicable prospectus supplement, subject to any applicable laws and regulations, at such paying agencies outside the United States as the Operating Partnership may appoint from time to time. The paying agents outside the United States, if any, initially appointed by the Operating Partnership for a series of debt securities will be named in the applicable prospectus supplement. Unless otherwise provided in the applicable prospectus supplement, the Operating Partnership may at any time designate additional paying agents or rescind the designation of any paying agents, except that

if debt securities of a series are issuable in registered form, the Operating Partnership will be required to maintain at least one paying agent in each place of payment for such series, and

if debt securities of a series are issuable in bearer form, the Operating Partnership will be required to maintain at least one paying agent in a place of payment outside the United States where debt securities of such series and any coupons appertaining thereto may be presented and surrendered for payment.

**Merger, Consolidation or Sale of Assets**

The indenture provides that the Operating Partnership may, without the consent of the holders of any outstanding debt securities, consolidate with, or sell, lease or convey all or substantially all of its assets to, or merge with or into, any other entity, *provided* that

either the Operating Partnership shall be the continuing entity, or the successor entity, if other than the Operating Partnership, formed by or resulting from any such consolidation or merger or which shall have received the transfer of such assets shall be organized under the laws of any domestic jurisdiction and expressly assume the Operating Partnership s obligations to pay principal of and premium or make-whole amount, if any, and interest on all of the debt securities and the due and punctual performance and observance of all of the covenants and conditions contained in the indenture;

immediately after giving effect to such transaction and treating any indebtedness that becomes an obligation of the Operating Partnership or any subsidiary as a result thereof as having been incurred by the Operating Partnership or such subsidiary at the time of such transaction, no event of default under the indenture, and no event which, after notice or the lapse of time, or both, would become an event of default, shall have occurred and be continuing; and

an officers certificate and legal opinion covering those conditions shall be delivered to each trustee.

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**Certain Covenants**

The applicable prospectus supplement will describe any material covenants in respect of a series of debt securities that are not described in this prospectus. Unless otherwise indicated in the applicable prospectus supplement, the debt securities will include the following covenants of the Operating Partnership:

*Existence.* Except as permitted under Merger, Consolidation or Sale of Assets, the indenture requires the Operating Partnership to do or cause to be done all things necessary to preserve and keep in full force and effect its existence, rights and franchises; *provided, however,* that the Operating Partnership shall not be required to preserve any right or franchise if it determines that its preservation is no longer desirable in the conduct of its business.

*Maintenance of properties.* The indenture requires the Operating Partnership to cause all of its material properties used or useful in the conduct of its business or the business of any subsidiary to be maintained and kept in good condition, repair and working order and supplied with all necessary equipment and to cause to be made all necessary repairs, renewals, replacements, betterments and improvements thereof, all as in the judgment of the Operating Partnership may be necessary so that the business carried on may be properly and advantageously conducted at all times; *provided, however,* that the Operating Partnership and its subsidiaries shall not be prevented from selling or otherwise disposing of their properties for value in the ordinary course of business.

*Insurance.* The indenture requires the Operating Partnership to cause each of its and its subsidiaries insurable properties to be insured against loss or damage in an amount at least equal to their then full insurable value with insurers of recognized responsibility. If described in the applicable prospectus supplement, such insurer will be required to have a specified rating from a recognized insurance rating service.

*Payment of taxes and other claims.* The indenture requires the Operating Partnership to pay or discharge or cause to be paid or discharged, before the same shall become delinquent,

all taxes, assessments and governmental charges levied or imposed upon it or any subsidiary or upon the income, profits or property of the Operating Partnership or any subsidiary; and

all lawful claims for labor, materials and supplies which, if unpaid, might by law become a lien upon the property of the Operating Partnership or any subsidiary;

*provided, however,* that the Operating Partnership shall not be required to pay or discharge or cause to be paid or discharged any such tax, assessment, charge or claim whose amount, applicability or validity is being contested in good faith.

**Events of Default, Notice and Waiver**

Unless otherwise provided in the applicable prospectus supplement, the indenture provides that the following events are events of default with respect to any series of debt securities issued thereunder:

(1) default in the payment of any interest on any debt security of such series, when such interest becomes due and payable that continues for a period of 30 days;

(2) default in the payment of the principal of, or premium or make-whole amount, if any, on, any debt security of such series when due and payable;

(3) default in making any sinking fund payment as required for any debt security of such series;

(4) default in the performance, or breach, of any other covenant or warranty of the Operating Partnership in the indenture with respect to the debt securities of such series and continuance of such default or breach for a period of 60 days after written notice as provided in the indenture;

(5) default under any bond, debenture, note, mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any indebtedness for money borrowed by the Operating Partnership, or by any subsidiary the repayment of which the Operating Partnership has guaranteed or for which the Operating Partnership is directly responsible or liable as obligor or

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guarantor, having an aggregate principal amount outstanding of at least $10,000,000, whether such indebtedness now exists or shall hereafter be created, which default shall have resulted in such indebtedness becoming or being declared due and payable prior to the date on which it would otherwise have become due and payable, without such indebtedness having been discharged, or such acceleration having been rescinded or annulled, within a period of 10 days after written notice to the Operating Partnership as provided in the indenture;

(6) certain events of bankruptcy, insolvency or reorganization, or court appointment of a receiver, liquidator or trustee of the Operating Partnership or any significant subsidiary; and

(7) any other event of default provided with respect to a particular series of debt securities.

The term significant subsidiary has the meaning ascribed to that term in Regulation S-X pro