

TANGER FACTORY OUTLET CENTERS INC
Form S-3ASR
June 02, 2015
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As filed with the Securities and Exchange Commission on June 2, 2015

Registration No. 333-

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM S-3
REGISTRATION STATEMENT

UNDER

THE SECURITIES ACT OF 1933

Tanger Factory Outlet Centers, Inc.
Tanger Properties Limited Partnership

(Exact Name of Registrant as Specified in Its Charter)

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**Tanger Properties Limited Partnership, a North Carolina limited
partnership**

Tanger Properties Limited Partnership - 56-1822494

(State or Other Jurisdiction of Incorporation or Organization)

(I.R.S. Employer Identification No.)

3200 Northline Avenue, Suite 360

Greensboro, North Carolina 27408

(336) 292-1108

Steven B. Tanger, President and Chief Executive Officer

Tanger Factory Outlet Centers, Inc.

3200 Northline Avenue, Suite 360

Greensboro, North Carolina 27408

(336) 292-3010

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

Copies to

Raymond Y. Lin, Esq.

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885 Third Avenue, Suite 1000

New York, New York 10022

(212) 906-1200

Approximate date of commencement of proposed sale to the public: From time to time after the effective date of this registration statement.

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

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

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

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

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

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

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

Tanger Factory Outlet Centers, Inc.:

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

Tanger Properties Limited Partnership:

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

CALCULATION OF REGISTRATION FEE

Title of each class of securities to be registered	Amount to be registered/Proposed maximum offering price per unit/Proposed maximum offering price	Amount of registration fee
Common Shares	(1)	\$(0)
Preferred Shares	(1)	\$(0)
Depositary Shares representing Preferred Shares	(1)	\$(0)
Common Share Warrants	(1)	\$(0)
Senior Debt Securities	(1)	\$(0)
Subordinated Debt Securities	(1)	\$(0)
Guarantees of the Debt Securities ⁽²⁾	(1)	\$(0)

- (1) An unspecified and indeterminate aggregate initial offering price and number or amount of the securities of each identified class is being registered as may from time to time be sold at indeterminate prices. No separate consideration will be received for common shares or preferred shares that are issued upon conversion or exchange of debt securities, preferred shares or depositary shares registered hereunder or upon exercise of the common share warrants registered hereunder, as the case may be. In accordance with Rule 456(b) and Rule 457(r), the registrant is deferring payment of all of the registration fee.
- (2) Debt Securities issued by Tanger Properties Limited Partnership may be accompanied by Guarantees to be issued by Tanger Factory Outlet Centers, Inc. Pursuant to Rule 457(n), no separate registration fee is payable in respect of the registration of the guarantees.

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Tanger Factory Outlet Centers, Inc.

Preferred Shares, Depositary Shares, Common Shares and Common Share Warrants

Tanger Properties Limited Partnership

Debt Securities

Tanger Factory Outlet Centers, Inc. may from time to time offer:

- (1) preferred shares;
- (2) preferred shares represented by depositary shares;
- (3) common shares; or
- (4) warrants to purchase our common shares; and

Tanger Properties Limited Partnership may from time to time offer in one of more series its debt securities, which may either be senior or subordinated.

Tanger Factory Outlet Centers, Inc. and its subsidiaries is referred to in this prospectus as the Company, and Tanger Properties Limited Partnership and its subsidiaries is referred to in this prospectus as the Operating Partnership. The terms we, our and us refer to the Company and the Operating Partnership together, as the context requires.

The preferred shares, depositary shares, common shares, warrants to purchase our common shares and debt securities (collectively, the Offered Securities) may be offered, separately or together, in separate series, in amounts, at prices and on terms that will be set forth in one or more prospectus supplements to this prospectus. Under this Registration Statement, the Company can issue equity securities and debt guarantees, but not debt securities, and the Operating Partnership can issue only debt securities. Except as provided in the following sentence, the Company will unconditionally guarantee the payment of principal and a premium, if any, and interest on debt securities offered by the Operating Partnership, to the extent and on the terms described herein and in any accompanying prospectus supplement to this prospectus. If the Operating Partnership issues non-convertible investment grade debt securities, the applicable prospectus supplement will provide whether the securities are guaranteed by the Company.

This prospectus describes some of the general terms that may apply to these securities. The specific terms of any securities to be offered will be described in a supplement to this prospectus. The specific terms may include limitations on direct or beneficial ownership and restrictions on transfer, in each case as may be appropriate to preserve our status as a real estate investment trust (REIT) for federal income tax purposes.

See Risk Factors beginning on page 3 of this Prospectus for a description of certain factors that should be considered by purchasers of our securities.

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Our common shares are traded on the New York Stock Exchange under the symbol SKT. On June 1, 2015, the last reported sale price of our common shares was \$34.06 per share.

Our securities may be offered directly, through agents designated from time to time by us, or to or through underwriters or dealers. If any agents or underwriters are involved in the sale of any of our securities, their names, and any applicable purchase price, fee, commission or discount arrangement between or among them, will be set forth, or will be calculable from the information set forth, in the applicable prospectus supplement. None of our securities may be sold without delivery of the applicable prospectus supplement describing the method and terms of the offering of those securities.

This prospectus describes some of the general terms that may apply to these securities. The specific terms of any securities to be offered will be described in a supplement to this prospectus.

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

Prospectus dated June 2, 2015

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Tanger Factory Outlet Centers, Inc. and its subsidiaries is referred to in this prospectus as the Company, and Tanger Properties Limited Partnership and its subsidiaries is referred to in this prospectus as the Operating Partnership. The terms we, our and us refer to the Company and the Operating Partnership together, as the context requires. All references to common shares refer to the Company's common shares, par value \$.01 per share. All references to units refer to the units of limited partnership in Tanger Properties Limited Partnership.

ABOUT THIS PROSPECTUS

This prospectus is part of an automatic shelf registration statement on Form S-3 that we filed with the Securities and Exchange Commission (the SEC) as a well-known seasoned issuer as defined in Rule 405 under the Securities Act of 1933, as amended. Under the automatic shelf registration process, we may, over time, sell any combination of the securities described in this prospectus or in any applicable prospectus supplement in one or more offerings. This prospectus provides you with a general description of the securities we may offer. As allowed by the SEC rules, this prospectus does not contain all of the information included in the registration statement or the exhibits to the registration statement. Each time we sell securities, we will provide a prospectus supplement that will contain specific information about the terms of that offering. A 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 additional information described under the next heading **Where You Can Find More Information** before considering an investment in the securities offered by that prospectus supplement.

You should rely only on the information contained in or incorporated by reference in this prospectus and any prospectus supplement. If anyone provides you with additional or different information, you should not rely on it. You should assume that the information appearing in this prospectus, any prospectus supplement and the documents incorporated by reference herein and therein is accurate only as of their respective dates. Our business, financial condition, results of operations and prospects may have changed since those dates.

WHERE YOU CAN FIND MORE INFORMATION

The Company and the Operating Partnership file annual, quarterly and current reports, proxy statements and other information with the SEC. You may read and copy any document the Company or the Operating Partnership files with the SEC at its Public Reference Room at 100 F Street, N.E., Washington, D.C. 20549. Please call the SEC at 1-800-SEC-0330 for further information on the Public Reference Room.

You may also obtain these materials from us at no cost by directing a written or oral request to us at Tanger Factory Outlet Centers, Inc., 3200 Northline Avenue, Suite 360, Greensboro, North Carolina 27408, Attn: Corporate Secretary, or by calling our Investor Relations Department at (336) 834-6892, or at our website at www.tangeroutlet.com. The information contained on or accessible through our website is not incorporated by reference into this prospectus or any prospectus supplement. In addition, the SEC maintains a web site, <http://www.sec.gov>, which contains reports, proxy and information statements and other information regarding registrants, including the Company and the Operating Partnership, that file electronically with the SEC.

Any statements made in this prospectus concerning the provisions of legal documents are not necessarily complete, and you should read the documents that are filed as exhibits to the registration statement or otherwise filed with the SEC for a more complete understanding of the document or matter. For further information, we refer you to the registration statement, including its exhibits.

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INCORPORATION OF CERTAIN INFORMATION BY REFERENCE

The SEC allows the incorporation by reference of the information filed by us with the SEC into this prospectus, which means that important information can be disclosed to you by referring you to those documents and those documents will be considered part of this prospectus. Information that we file later with the SEC will automatically update and supersede the previously filed information. The documents listed below have been filed by us under the Securities Exchange Act of 1934, as amended (the Exchange Act), with the SEC and are incorporated by reference in this prospectus:

Tanger Factory Outlet Centers, Inc.:

The description of the common shares on Form 8-A, filed with the SEC on May 13, 1993, including any subsequently filed amendments and reports filed for the purpose of updating the description;

The description of the depositary shares contained on Form 8-A, filed with the SEC on December 7, 1993, including any subsequently filed amendments and reports filed for the purpose of updating the description;

Annual Report on Form 10-K for the year ended December 31, 2014;

Quarterly Report on Form 10-Q for the quarter ended March 31, 2015;

Current Report on Form 8-K filed on May 15, 2015; and

Definitive proxy statement filed on April 2, 2015.

Tanger Properties Limited Partnership:

Annual Report on Form 10-K for the year ended December 31, 2014; and

Quarterly Report on Form 10-Q for the quarter ended March 31, 2015.

We are also incorporating by reference into this prospectus all additional documents that we have filed or will file with the SEC under Section 13(a), 13(c), 14 or 15(d) of the Exchange Act after the date of this prospectus and prior to the termination of the sale of the securities offered by this prospectus and any accompanying prospectus supplement. These documents include periodic reports, such as Annual Reports on Form 10-K, Quarterly Reports on Form 10-Q and Current Reports on Form 8-K, as well as Proxy Statements. Any statement contained in this prospectus or any prospectus supplement or in a document incorporated or deemed to be incorporated by reference herein or therein shall be deemed to be modified or superseded to the extent that a statement contained in this prospectus or in any other subsequently filed document which also is or is deemed to be incorporated by reference in this prospectus and any prospectus supplement modifies or supersedes such statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this prospectus or any prospectus supplement.

Notwithstanding the foregoing, unless specifically stated to the contrary, none of the information that we disclose under Items 2.02, 7.01 or 9.01 of any Current Report on Form 8-K that we may from time to time furnish to the SEC will be incorporated by reference into, or otherwise included in, this prospectus.

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You may request any of the documents incorporated by reference herein (excluding exhibits) as described above under [Where You Can Find More Information](#).

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DISCLOSURE REGARDING FORWARD-LOOKING STATEMENTS

This prospectus, any accompanying prospectus supplement and the documents incorporated by reference herein and therein may contain 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. Such forward-looking statements are subject to certain risks, uncertainties, and typically can be identified by the use of words such as may, believe, expect, intend, anticipate, estimate, project, plan, forecast, or similar terms. Although we believe that our expectations are reasonable, we can give no assurance that these expectations will prove to have been correct, and actual results may vary materially. Important factors that could cause actual results to differ materially from those contemplated above include, among others:

national and local general economic and market conditions;

demographic changes; our ability to sustain, manage or forecast our growth; existing governmental regulations and changes in, or the failure to comply with, government and environmental regulations;

adverse publicity; liability and other claims asserted against us;

competition;

competition for the acquisition and development of outlet centers, and our inability to complete outlet centers we have identified;

the inability to develop new outlet centers or expand existing outlet centers successfully;

impairment charges affecting our properties;

the risk that we may not be able to finance our planned development activities or refinance existing indebtedness on favorable terms or at all, and other risks related to debt financing;

the risk that ownership interests in certain of our properties are held by third parties whose interests may conflict with ours and thereby constrain us from taking actions concerning these properties which we would otherwise take;

risks related to the retail real estate industry in which we compete, including the potential adverse impact of external factors such as inflation, tenant demand for space, consumer confidence, unemployment rates and consumer tastes and preferences;

the risk that consumer, travel, shopping and spending habits may change, including as a result of high fuel prices;

risks associated with our development activities, such as the potential for cost overruns, delays and lack of predictability with respect to the financial returns associated with these development activities;

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the relative illiquidity of real property investments;

risks associated with real estate ownership, such as the potential adverse impact of changes in the local economic climate on the revenues and the value of our properties, and our dependence on rental income from real property;

risks that we incur a material, uninsurable losses including loss of our capital investment and anticipated profits from one of our properties, such as those that result from wars, earthquakes, tornados or hurricanes and other business disruptions;

risks that a significant number of tenants or a tenant or tenants that lease a significant amount of gross leasable area from us may become unable to meet their lease obligations, including as a result of tenant bankruptcies, or that we may be unable to renew or re-lease a significant amount of available space on economically favorable terms;

our potential failure to qualify as a REIT;

our legal obligation to make distributions to our shareholders;

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our dependence on distributions from the Operating Partnership to meet our financial obligations, including dividends;

our dependence on the results of operations of our retailers;

fluctuations and difficulty in forecasting operating results; changes in business strategy or development plans;

changes in the outlet industry or in consumer demand for factory outlet stores;

interest rate fluctuations;

risks related to cyber-attacks or cyber-terrorism that could disrupt our business operations;

the ability to realize planned costs savings in acquisitions;

retention of earnings; and

risks related to having an ownership interest in outlet centers in Canada, including risks associated with adverse changes in exchange rates between the US and Canadian dollar, changes in the political and economic environment, challenges of complying with a variety of foreign laws, changes in applicable laws and regulations in the United States that affect foreign operations and obstacles to the repatriation of earnings and cash.

Additional important factors which may cause actual results to differ materially from current expectations include, but are not limited to, those set forth in the section entitled "Business" in the Annual Reports, including the subheadings entitled "The Company and the Operating Partnership," "Recent Developments," "The Outlet Concept," "Our Outlet Centers," "Business History," "Business Strategy," "Growth Strategy," "Operating Strategy," "Capital Strategy," "Competition," the section entitled "Management's Discussion and Analysis of Financial Condition and Results of Operations" in the Annual Reports and the section titled "Risk Factors" in this prospectus and the Annual Reports. Please consider our forward-looking statements in light of those risks as you read this prospectus.

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THE COMPANY AND THE OPERATING PARTNERSHIP

Tanger Factory Outlet Centers, Inc. and subsidiaries is one of the largest owners and operators of outlet centers in the United States and Canada. The Company is a fully-integrated, self-administered and self-managed real estate investment trust, (REIT), which, through its controlling interest in the Operating Partnership, focuses exclusively on developing, acquiring, owning, operating and managing outlet shopping centers. The outlet centers and other assets are held by, and all of the operations are conducted by, the Operating Partnership and its subsidiaries. Accordingly, the descriptions of the business, employees and properties of the Company are also descriptions of the business, employees and properties of the Operating Partnership.

The Company owns the majority of the units of partnership interest issued by the Operating Partnership through its two wholly-owned subsidiaries, Tanger GP Trust and Tanger LP Trust. Tanger GP Trust controls the Operating Partnership as its sole general partner. Tanger LP Trust holds a limited partnership interest. As of March 31, 2015, the Company, through its ownership of Tanger GP Trust and Tanger LP Trust, owned 95,836,347 units of the Operating Partnership and other limited partners (the Non-Company LPs) collectively owned 5,078,406 Class A common limited partnership units. Each Class A common limited partnership unit held by the Non-Company LPs is exchangeable for one of the Company s common shares, subject to certain limitations to preserve the Company s status as a REIT. Class B common limited partnership units, which are held by Tanger LP Trust, are not exchangeable for common shares of the Company.

Management operates the Company and the Operating Partnership as one enterprise. The management of the Company consists of the same members as the management of the Operating Partnership. These individuals are officers of the Company and employees of the Operating Partnership. The individuals that comprise the Company s Board of Directors are also the same individuals that make up Tanger GP Trust s Board of Trustees.

Organizational Chart

Ownership of the Company s common shares is restricted to preserve the Company s status as a REIT for federal income tax purposes. Subject to certain exceptions, a person may not actually or constructively own more than 4% of our common shares. We also operate in a manner intended to enable us to preserve our status as a REIT, including, among other things, making distributions with respect to our then outstanding common and preferred shares equal to at least 90% of our taxable income each year.

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The Company is a North Carolina corporation and the Operating Partnership is a North Carolina partnership, and both were formed in 1993. Our executive offices are currently located at 3200 Northline Avenue, Suite 360, Greensboro, North Carolina, 27408 and our telephone number is (336) 292-3010. Our website can be accessed at www.tangeroutlet.com. The information found on, or otherwise accessible through, our website is not incorporated into, and does not form a part of, this prospectus or any other report or document we file with or furnish to the SEC.

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RISK FACTORS

Investment in any securities offered pursuant to this prospectus and the applicable prospectus supplement involves risks. You should carefully consider the following risk factors, the risk factors incorporated by reference to our most recent Annual Report on Form 10-K and any subsequent Quarterly Reports on Form 10-Q or Current Reports on Form 8-K we file after the date of this prospectus, and all other information contained or incorporated by reference into this prospectus, as updated by our subsequent filings under the Exchange Act, and the risk factors and other information contained in the applicable prospectus supplement before acquiring any of such securities. The occurrence of any of these risks might cause you to lose all or part of your investment in the offered securities.

Risks Related to Real Estate Investments

We may be unable to develop new outlet centers or expand existing outlet centers successfully.

We continue to develop new outlet centers and expand existing outlet centers as opportunities arise. However, there are significant risks associated with our development activities in addition to those generally associated with the ownership and operation of established retail properties. While we have policies in place designed to limit the risks associated with development, these policies do not mitigate all development risks associated with a project. These risks include the following:

significant expenditure of money and time on projects that may be delayed or never be completed;

higher than projected construction costs;

shortage of construction materials and supplies;

failure to obtain zoning, occupancy or other governmental approvals or to the extent required, tenant approvals; and

late completion because of construction delays, delays in the receipt of zoning, occupancy and other approvals or other factors outside of our control.

Any or all of these factors may impede our development strategy and adversely affect our overall business.

The economic performance and the market value of our outlet centers are dependent on risks associated with real property investments.

Real property investments are subject to varying degrees of risk. The economic performance and values of real estate may be affected by many factors, including changes in the national, regional and local economic climate, inflation, unemployment rates, consumer confidence, local conditions such as an oversupply of space or a reduction in demand for real estate in the area, the attractiveness of the properties to tenants, competition from other available space, our ability to provide adequate maintenance and insurance and increased operating costs.

Real property investments are relatively illiquid.

Our outlet centers represent a substantial portion of our total consolidated assets. These assets are relatively illiquid. As a result, our ability to sell one or more of our outlet centers in response to any changes in economic or other conditions is limited. If we want to sell an outlet center, there can be no assurance that we will be able to dispose of it in the desired time period or that the sales price will exceed the cost of our investment.

Properties may be subject to impairment charges which can adversely affect our financial results.

We periodically evaluate long-lived assets to determine if there has been any impairment in their carrying values and record impairment losses if the undiscounted cash flows estimated to be generated by those assets are less than their carrying amounts or if there are other indicators of

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impairment. If it is determined that an impairment has occurred, we would be required to record an impairment charge equal to the excess of the asset's carrying value over its estimated fair value, which could have a material adverse effect on our financial results in

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the accounting period in which the adjustment is made. Our estimates of undiscounted cash flows expected to be generated by each property are based on a number of assumptions that are subject to economic and market uncertainties including, but not limited to, demand for space, competition for tenants, changes in market rental rates and costs to operate each property. As these factors are difficult to predict and are subject to future events that may alter our assumptions, the future cash flows estimated in our impairment analysis may not be achieved.

We face competition for the acquisition and development of outlet centers, and we may not be able to complete acquisitions or developments that we have identified.

We intend to grow our business in part through acquisitions and new developments. We compete with institutional pension funds, private equity investors, other REITs, small owners of outlet centers, specialty stores and others who are engaged in the acquisition, development or ownership of outlet centers and stores. These competitors may succeed in acquiring or developing outlet centers themselves. Also, our potential acquisition targets may find our competitors to be more attractive acquirers because they may have greater marketing and financial resources, may be willing to pay more, or may have a more compatible operating philosophy. In addition, the number of entities competing to acquire or develop outlet centers has increased and may continue to increase in the future, which could increase demand for these outlet centers and the prices we must pay to acquire or develop them. If we pay higher prices for outlet centers, our profitability may be reduced. Also, once we have identified potential acquisitions, such acquisitions are subject to the successful completion of due diligence, the negotiation of definitive agreements and the satisfaction of customary closing conditions. We cannot assure you that we will be able to reach acceptable terms with the sellers or that these conditions will be satisfied.

We may be subject to environmental regulation.

Under various federal, state and local laws, ordinances and regulations, we may be considered an owner or operator of real property and may be responsible for paying for the disposal or treatment of hazardous or toxic substances released on or in our property or disposed of by us, as well as certain other potential costs which could relate to hazardous or toxic substances (including governmental fines and injuries to persons and property). This liability may be imposed whether or not we knew about, or were responsible for, the presence of hazardous or toxic substances.

Risks Related to our Business

Our earnings and therefore our profitability are entirely dependent on rental income from real property.

Substantially all of our income is derived from rental income from real property. Our income and funds for distribution would be adversely affected if a significant number of our tenants were unable to meet their obligations to us or if we were unable to lease a significant amount of space in our outlet centers on economically favorable lease terms. In addition, the terms of outlet store tenant leases traditionally have been significantly shorter than in other retail segments. There can be no assurance that any tenant whose lease expires in the future will renew such lease or that we will be able to re-lease space on economically favorable terms.

We are substantially dependent on the results of operations of our retailers.

Our operations are subject to the results of operations of our retail tenants. A portion of our rental revenues are derived from percentage rents that directly depend on the sales volume of certain tenants. Accordingly, declines in these tenants' results of operations would reduce the income produced by our properties. If the sales of our retail tenants decline sufficiently, such tenants may be unable to pay their existing rents as such rents would represent a higher percentage of their sales. Any resulting leasing delays, failures to make payments or tenant bankruptcies could result in the termination of such tenants' leases.

A number of companies in the retail industry, including some of our tenants, have declared bankruptcy or have voluntarily closed certain of their stores in recent years. The bankruptcy of a major tenant or number of

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tenants may result in the closing of certain affected stores, and we may not be able to re-lease the resulting vacant space for some time or for equal or greater rent. Such bankruptcy, or the voluntary closings of a significant amount of stores, could have a material adverse effect on our results of operations and could result in a lower level of funds for distribution.

Certain of our properties are subject to ownership interests held by third parties, whose interests may conflict with ours and thereby constrain us from taking actions concerning these properties which otherwise would be in our best interests and our shareholders interests.

We own partial interests in outlet centers with various joint venture partners. The approval or consent of the other members of these joint ventures is required before we may sell, finance, expand or make other significant changes in the operations of these properties. We also may not have control over certain major decisions, including approval of the annual operating budgets, selection or termination of the property management company, leasing and the timing and amount of distributions, which could result in decisions that do not fully reflect our interests. To the extent such approvals or consents are required, we may experience difficulty in, or may be prevented from, implementing our plans and strategies with respect to expansion, development, property management, on-going operations, financing (for example, decisions as to whether to refinance or obtain financing, when and whether to pay down principal of any loan and whether and how to cure any defaults under loan documents) or other similar transactions with respect to such properties.

An uninsured loss or a loss that exceeds our insurance policies on our outlet centers or the insurance policies of our tenants could subject us to lost capital and revenue on those centers.

Some of the risks to which our outlet centers are subject, including risks of terrorist attacks, war, earthquakes, hurricanes and other natural disasters, are not insurable or may not be insurable in the future. Should a loss occur that is uninsured or in an amount exceeding the combined aggregate limits for the insurance policies noted above or in the event of a loss that is subject to a substantial deductible under an insurance policy, we could lose all or part of our capital invested in and anticipated revenue from one or more of our outlet centers, which could adversely affect our results of operations and financial condition, as well as our ability to make distributions to our shareholders.

Under the terms and conditions of our leases, tenants generally are required to indemnify and hold us harmless from liabilities resulting from injury to persons and contamination of air, water, land or property, on or off the premises, due to activities conducted in the leased space, except for claims arising from negligence or intentional misconduct by us or our agents. Additionally, tenants generally are required, at the tenant's expense, to obtain and keep in full force during the term of the lease, liability and property damage insurance policies issued by companies acceptable to us. These policies include liability coverage for bodily injury and property damage arising out of the ownership, use, occupancy or maintenance of the leased space. All of these policies may involve substantial deductibles and certain exclusions. Therefore, an uninsured loss or loss that exceeds the insurance policies of our tenants could also subject us to lost capital and revenue.

Consumer travel, shopping and spending habits may change.

Most shoppers use private automobile transportation to travel to our outlet centers and many of our outlet centers are not easily accessible by public transportation. Should fuel costs increase significantly, it may reduce the number of trips to our outlet centers thus reducing the amount spent at our outlet centers. Such reductions in traffic could adversely impact our percentage rents and ability to renew and release space at favorable rental rates.

Shoppers may also choose to spend a greater percentage of their disposable income to purchase goods through e-commerce channels, which could also reduce the number of trips to our outlet centers and the average amount spent per visit. Such a change in consumer spending habits could adversely affect the results of operations of our retail tenants and adversely impact our percentage rents and ability to renew and release space at favorable rental rates.

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Our Canadian expansion may subject us to different or greater risk from those associated with our domestic operations.

As of March 31, 2015, through a co-ownership arrangement with a Canadian REIT, we have an ownership interest in four properties in Canada. Our operating results and the value of our Canadian operations may be impacted by any unhedged movements in the Canadian dollar. Canadian ownership activities carry risks that are different from those we face with our domestic properties. These risks include:

adverse effects of changes in the exchange rates between the US and Canadian dollar;

changes in Canadian political and economic environments, regionally, nationally, and locally;

challenges of complying with a wide variety of foreign laws;

changes in applicable laws and regulations in the United States that affect foreign operations;

property management services being provided directly by our 50/50 co-owner, not by us; and

obstacles to the repatriation of earnings and cash.

Risks Related to our Indebtedness and Financial Markets

We are subject to the risks associated with debt financing.

We are subject to the risks associated with debt financing, including the risk that the cash provided by our operating activities will be insufficient to meet required payments of principal and interest. Disruptions in the capital and credit markets may adversely affect our operations, including the ability to fund the planned capital expenditures and potential new developments or acquisitions. Further, there is the risk that we will not be able to repay or refinance existing indebtedness or that the terms of any refinancing will not be as favorable as the terms of existing indebtedness. If we are unable to access capital markets to refinance our indebtedness on acceptable terms, we might be forced to dispose of properties on disadvantageous terms, which might result in losses.

Risks Related to Federal Income Tax Laws

The Company's failure to qualify as a REIT could subject our earnings to corporate level taxation.

We believe that we have operated and intend to operate in a manner that permits the Company to qualify as a REIT under the Internal Revenue Code of 1986, as amended (the "Code"). However, we cannot assure you that the Company has qualified or will remain qualified as a REIT. If in any taxable year the Company were to fail to qualify as a REIT and certain statutory relief provisions were not applicable, the Company would not be allowed a deduction for distributions to shareholders in computing taxable income and would be subject to U.S. federal income tax (including any applicable alternative minimum tax) on our taxable income at regular corporate rates. The Company's failure to qualify for taxation as a REIT would have a material adverse effect on the market price and marketability of our securities.

The Company is required by law to make distributions to our shareholders.

To obtain the favorable tax treatment associated with the Company's qualification as a REIT, generally, the Company is required to distribute to its shareholders at least 90% of its net taxable income (excluding capital gains) each year. The Company depends upon distributions or other payments from the Operating Partnership to make distributions to the Company's shareholders.

Risks Related to our Organizational Structure

The Company depends on distributions from the Operating Partnership to meet its financial obligations, including dividends.

The Company's operations are conducted by the Operating Partnership, and the Company's only significant asset is its interest in the Operating Partnership. As a result, the Company depends upon distributions or other payments from the Operating Partnership in order to meet its financial obligations, including its obligations under

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any guarantees or to pay dividends or liquidation payments to its common shareholders. As a result, these obligations are effectively subordinated to existing and future liabilities of the Operating Partnership. The Operating Partnership is a party to loan agreements with various bank lenders that require the Operating Partnership to comply with various financial and other covenants before it may make distributions to the Company. Although the Operating Partnership presently is in compliance with these covenants, there is no assurance that the Operating Partnership will continue to be in compliance and that it will be able to make distributions to the Company.

Risks Related to Cyber Security

Cyber-attacks or acts of cyber-terrorism could disrupt our business operations and information technology systems or result in the loss or exposure of confidential or sensitive customer, employee or Company information.

Our business operations and information technology systems may be attacked by individuals or organizations intending to disrupt our business operations and information technology systems, whether through cyber-attacks or cyber-intrusions over the Internet, malware, computer viruses, attachments to e-mails, persons inside our organization, or persons with access to systems inside our organization. The risk of a security breach or disruption, particularly through cyber-attacks or cyber-intrusion, including by computer hackers, foreign governments, and cyber terrorists, has generally increased as the number, intensity and sophistication attempted attacks and intrusions from around the world have increased. We use information technology systems to manage our outlet centers and other business processes. Disruption of those systems could adversely impact our ability to operate our business to provide timely service to our customers and maintain our relationships with our tenants. Accordingly, if such an attack or act of terrorism were to occur, our operations and financial results could be adversely affected. In addition, we use our information technology systems to protect confidential or sensitive customer, employee and Company information developed and maintained in the normal course of our business. Any attack on such systems that would result in the unauthorized release or loss of customer, employee or other confidential or sensitive data could have a material adverse effect on our business reputation, increase our costs and expose us to additional material legal claims and liability. As a result, if such an attack or act of terrorism were to occur, our operations and financial results and our share price could be adversely affected.

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RATIO OF EARNINGS TO FIXED CHARGES AND RATIO OF EARNINGS TO COMBINED FIXED CHARGES AND PREFERRED SHARE DIVIDENDS OF THE COMPANY

The following tables set forth ratios of earnings to fixed charges and earnings to combined fixed charges and preferred share dividends for the periods shown for the Company. The ratios of earnings to fixed charges were computed by dividing earnings by fixed charges. The ratios of earnings to combined fixed charges and preferred share dividends were computed by dividing earnings by the combined fixed charges and preferred share dividends. For these purposes, earnings have been calculated by adding interest costs, whether expensed or capitalized, interest factor of rental expense, amortization of capitalized interest and distributed income of unconsolidated joint ventures to income from continuing operations before adjustment for equity in earnings of unconsolidated joint ventures and discontinued operations. Fixed charges consist of interest costs, whether expensed or capitalized, the amortization of debt issue costs, whether expensed or capitalized, capitalized interest and the interest factor of rental expense.

Ratio of Earnings to Fixed Charges

		Three Months Ended March 31,			
2015				2014	
3.4				1.9	

		Year Ended December 31,					
2014		2013	2012	2011		2010	
2.1		2.9	2.1	2.1		1.9	

Ratio of Earnings to Combined Fixed Charges and Preferred Share Dividends

		Three Months Ended March 31,			
2015				2014	
3.4				1.9	

		Year Ended December 31,					
2015		2014	2013	2012		2011	
2.1		2.9	2.1	2.1		1.7	

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RATIO OF EARNINGS TO FIXED CHARGES AND RATIO OF EARNINGS TO COMBINED FIXED CHARGES AND PREFERRED UNIT DISTRIBUTIONS OF THE OPERATING PARTNERSHIP

The following tables set forth ratios of earnings to fixed charges and earnings to combined fixed charges and preferred unit distributions for the periods shown for the Operating Partnership. The ratios of earnings to fixed charges were computed by dividing earnings by fixed charges. The ratios of earnings to combined fixed charges and preferred unit distributions were computed by dividing earnings by the combined fixed charges and preferred unit distributions. For these purposes, earnings have been calculated by adding interest costs, whether expensed or capitalized, interest factor of rental expense, amortization of capitalized interest and distributed income of unconsolidated joint ventures to income from continuing operations before adjustment for equity in earnings of unconsolidated joint ventures and discontinued operations. Fixed charges consist of interest costs, whether expensed or capitalized, the amortization of debt issue costs, whether expensed or capitalized, capitalized interest and the interest factor of rental expense.

Ratio of Earnings to Fixed Charges

		Three Months Ended March 31,			
2015					2014
3.4					1.9

		Year Ended December 31,					
2015	2014	2013	2012			2011	
2.1	2.9	2.1	2.1			1.9	

Ratio of Earnings to Combined Fixed Charges and Preferred Unit Distributions

		Three Months Ended March 31,			
2015					2014
3.4					1.9

		Year Ended December 31,					
2015	2014	2013	2012			2011	
2.1	2.9	2.1	2.1			1.7	

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USE OF PROCEEDS

We intend to contribute all of the proceeds from the sale of securities of the Company to the Operating Partnership. Unless otherwise described in the applicable prospectus supplement, the Operating Partnership intends to use the net proceeds from the sale of securities offered by this prospectus for general corporate purposes, which may include the development or the acquisition of additional portfolio properties as suitable opportunities arise, the expansion and improvement of certain centers in the Operating Partnership's portfolio, and the repayment of certain secured or unsecured indebtedness outstanding at such time.

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DESCRIPTION OF DEBT SECURITIES AND GUARANTEES

General

The following description of the terms of the debt securities sets forth certain general terms and provisions of our debt securities to which any prospectus supplement may relate. The particular terms of the debt securities being offered, the extent, if any, to which such general provisions may apply to our debt securities and any modifications of or additions to the general terms of the debt securities will be described in the prospectus supplement relating to such debt securities.

The debt securities will be issued by the Operating Partnership and, except as noted in the following sentence, will be guaranteed by the Company. If the Operating Partnership issues non-convertible investment grade debt securities, the applicable prospectus supplement will provide whether the securities are guaranteed by the Company. The Company will not issue debt securities. The senior debt securities will be issued under an indenture, dated as of March 1, 1996 between the Operating Partnership, the Company and U.S. Bank, National Association (as successor in interest to State Street Bank and Trust Company), as trustee, and the subordinated debt securities are to be issued under an indenture to be dated as of a date on or prior to the first issuance of subordinated debt securities, as supplemented from time to time, between the Operating Partnership, the Company and U.S. Bank, National Association, as trustee. The original senior indenture, dated as of March 1, 1996, was filed on the Company's Registration Statement on Form S-3, dated April 12, 1996. The senior indenture was subsequently supplemented by a First Supplemental Indenture, which was filed on the Company's Current Report on Form 8-K dated March 11, 1996, Second Supplemental Indenture, which was filed on the Company and the Operating Partnership's Current Reports on Form 8-K dated October 29, 1997, Third Supplemental Indenture, which was filed on the Company and the Operating Partnership's Current Reports on Form 8-K dated February 16, 2001, Fourth Supplemental Indenture, which was filed on the Company and the Operating Partnership's Annual Reports on Form 10-K for the year ended December 31, 2006, Fifth Supplemental Indenture, which was filed on the Company and the Operating Partnership's Annual Reports on Form 10-K for the year ended December 31, 2006, Sixth Supplemental Indenture, which was filed as Exhibit 4.13 to the Company's Registration Statement on Form S-3 dated July 2, 2009, Seventh Supplemental Indenture, which was filed on the Company and the Operating Partnership's Current Report on Form 8-K dated June 7, 2010, Eighth Supplemental Indenture, which was filed on the Company and the Operating Partnership's Current Report on Form 8-K dated November 25, 2013, and Ninth Supplemental Indenture, which was filed on the Company and the Operating Partnership's Current Report on Form 8-K dated November 21, 2014. The form of the subordinated indenture was filed as an exhibit to the Amendment No. 1 to the Registration Statement on Form S-3 dated January 23, 1996.

The indentures are subject to, and governed by, the Trust Indenture Act of 1939, as amended, or the TIA. The statements made hereunder relating to the indentures and the debt securities to be issued thereunder are summaries of certain provisions of those agreements and are not complete and are subject to, and are qualified in their entirety by reference to, all provisions of the indentures and such debt securities.

The debt securities will be direct, unsecured obligations of the Operating Partnership. The indebtedness represented by the senior debt securities will rank equally with all other unsecured and unsubordinated indebtedness of the Operating Partnership. The indebtedness represented by the subordinated debt securities will be subordinated in right of payment to the prior payment in full of all senior indebtedness of the Operating Partnership (including the senior debt securities) as described under "Subordination" below. The indentures provide or will provide that 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 in or pursuant to authority granted by a resolution of the general partner of the Operating Partnership or as established in one or more indentures supplemental to the indenture. All debt securities of one series need not be issued at the same time and may vary as to interest rate or formula, maturity and other provisions and, unless otherwise provided, a series may be reopened, without the consent of the holders of the debt securities of such series, for issuances of additional debt securities of such series.

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

This summary sets forth certain general terms and provisions of the indentures, the debt securities and the related guarantees. For a detailed description of a specific series of debt securities and the related guarantees, you should consult the prospectus supplement for that series. The prospectus supplement may contain any of the following information where applicable:

- (1) the title of those debt securities;
- (2) the aggregate principal amount of those debt securities and any limit on the aggregate principal amount;
- (3) the percentage of the principal amount at which those debt securities will be issued and, if other than 100% of the principal amount thereof, the portion of the principal amount payable upon acceleration of the maturity;
- (4) the date or dates, or the method for determining the date or dates, on which the principal of (and premium, if any, on) those debt securities will be payable;
- (5) the rate or rates (which may be fixed or variable), or the method by which the rate or rates shall be determined, at which those debt securities will bear interest, if any;
- (6) the date or dates, or the method for determining the date or dates, from which any interest will accrue, the dates upon which that interest will be payable, the record dates for payment of that interest, or the method by which any of those dates shall be determined, the persons to whom that interest shall be payable, and the basis upon which that interest shall be calculated if other than that of a 360-day year of twelve 30-day months;
- (7) the place or places where the principal of (and premium, if any) and interest, if any, on debt securities will be payable, where debt securities may be surrendered for registration of transfer or exchange and where notices or demands to or upon the Operating Partnership or the Company, as applicable, relating to the debt securities, the applicable guarantees, if any, and the applicable indenture may be served;
- (8) the date or dates on which, the period or periods within which, the price or prices at which and the terms and conditions upon which those debt securities may be redeemed, as a whole or in part, at the option of the Operating Partnership, if the Operating Partnership is to have such an option;
- (9) the obligation, if any, of the Operating Partnership to redeem, repay or purchase those debt securities pursuant to any sinking fund or analogous provision or at the option of a holder of those debt securities of the Operating Partnership to offer to redeem, repay or purchase those debt securities, and the date or dates on which, the period or periods within which, the price or prices at which and the terms and conditions upon which such those debt securities will be redeemed, repaid or purchased, as a whole or in part, pursuant to this obligation;

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- (10) if other than U.S. dollars, the currency or currencies in which those 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;

- (11) whether the amount of payments of principal of (and premium, if any) or interest, if any, on those 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 one or more currencies, currency units or composite currencies) and the manner in which those amounts shall be determined;

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- (12) any additions to, modifications of or deletions from the terms of the events of default or covenants with respect to those debt securities;
- (13) whether those debt securities will be issued in certificated or book-entry form or both, and, if so, the identity of the depository and the terms of the depository arrangement for those debt securities;
- (14) whether those debt securities will be in registered or bearer form and, if in registered form, the denominations thereof if other than \$1,000 and any integral multiple thereof and, if in bearer form, the denominations thereof if other than \$5,000 and terms and conditions relating thereto;
- (15) the specific terms of the related guarantees, if any;
- (16) if the defeasance and covenant defeasance provisions of the applicable indenture for those debt securities are to be inapplicable, or any modifications to such provisions;
- (17) whether and under what circumstances the Operating Partnership will pay additional amounts as contemplated in the applicable indenture on those debt securities in respect of any tax, assessment or governmental charge and, if so, whether the Operating Partnership will have the option to redeem such debt securities in lieu of making such payment;
- (18) if other than the trustee, the identity of each security registrar and/or paying agent; and
- (19) any other terms of those debt securities not inconsistent with the provisions of the applicable indenture.

The debt securities may provide for less than the entire principal amount thereof to be payable upon declaration of acceleration of the maturity thereof. Any material, special U.S. federal income tax, accounting and other considerations applicable to securities issued with original issue discount will be described in the applicable prospectus supplement.

Except as described in Merger, Consolidation or Sale or as may be set forth in the applicable prospectus supplement, the indentures do not contain any provisions that would limit the ability of the Operating Partnership or the Company to incur indebtedness or that would afford holders of debt securities protection in the event of:

- (1) a highly leveraged or similar transaction involving the Operating Partnership, the management of the Operating Partnership or the Company, or any affiliate of any such party,
- (2) a change of control, or
- (3) a reorganization, restructuring, merger or similar transaction involving the Operating Partnership or the Company that may adversely affect the holders of the debt securities.

However, our organizational documents contain certain restrictions on ownership and transfers of our common shares and preferred shares that are designed to preserve our status as a REIT and may act to prevent or hinder a change of control. See Description of Common Shares and Description of Preferred Shares. In addition, subject to the limitations set forth under Merger, Consolidation or Sale, the Operating Partnership or the Company may, in the future, enter into certain transactions, such as the sale of all or substantially all of its assets or the merger or consolidation of the Operating Partnership or the Company, that would increase the amount of the Operating Partnership's indebtedness or substantially reduce or eliminate the Operating Partnership's assets, which may have an adverse effect on the Operating Partnership's ability to

service its indebtedness, including the debt securities.

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 Company and the Operating Partnership that are described below, including any addition of a covenant or other provision providing event risk or similar protection. Reference is made to Certain Covenants below and to the description of any additional covenants with respect to a series of Debt Securities in the applicable prospectus supplement. Except as

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otherwise described in the applicable prospectus supplement, compliance with such covenants generally may not be waived with respect to a series of debt securities by the Board of Directors of the Company as sole shareholder of the general partner of the Operating Partnership or by the trustee unless the holders of at least a majority in principal amount of all outstanding debt securities of such series consent to such waiver, except to the extent that the defeasance and covenant defeasance provisions of the indenture described under Discharge, Defeasance and Covenant Defeasance below apply to such series of debt securities. See Modification of the Indenture.

Denominations, Interest, Registration and Transfer

Unless otherwise described in the applicable prospectus supplement, the debt securities of any series which are registered securities, other than registered securities issued in book-entry form (which may be in any denomination) will be issuable in denominations of \$1,000 and integral multiples thereof, and the debt securities which are bearer securities, other than bearer securities issued in global form (which may be of any denomination), shall be issuable in denominations of \$5,000.

Unless otherwise specified in the applicable prospectus supplement, the principal of (and premium, if any) and interest on any series of debt securities will be payable at the corporate trust office of the applicable trustee *provided* that, at the option of the Operating Partnership, payment of interest may be made by check mailed to the address of the person entitled thereto as it appears in the security register or by wire transfer of funds to such person at an account maintained within the United States.

Any interest not punctually paid or duly provided for on any interest payment date with respect to a debt security will forthwith cease to be payable to the holder on the applicable record date and may either be paid to the person in whose name such debt security is registered at the close of business on a special record date for the payment of such defaulted interest to be fixed by the applicable trustee, notice whereof shall be given to the holder of such debt security not less than 10 days prior to such special record date, or may be paid at any time in any other lawful manner, 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 other debt securities of the same series and rank and of a like aggregate principal amount and tenor of different authorized denominations upon surrender of such debt securities at the corporate trust office of the applicable trustee referred to above. 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 thereof at the corporate trust office of the applicable trustee. Every debt security surrendered for registration of transfer or exchange shall be duly endorsed or accompanied by a written instrument of transfer. 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 such 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 the applicable trustee shall be required to:

- (1) issue, register the transfer of or exchange any debt securities if such debt security may be among those selected for redemption during a period beginning at the opening of business 15 days before selection of the debt securities to be redeemed and ending at the close of business on the day of such selection;
- (2) register the transfer of or exchange any registered security, or portion thereof, called for redemption, except the unredeemed portion of any registered security being redeemed in part; or

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

Merger, Consolidation or Sale

Each indenture provides that the Operating Partnership or the Company may 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*:

- (1) either the Operating Partnership or the Company, as the case may be, shall be the continuing entity, or the successor entity (if other than the Operating Partnership or the Company, as the case may be) formed by or resulting from any such consolidation or merger or which shall have received the transfer of such assets shall expressly assume payment of the principal of (and premium, if any) and interest on all of the debt securities issued under such indenture, in the case of any successor to the Operating Partnership, or the applicable guarantee, in the case of any successor to the Company and the due and punctual performance and observance of all of the covenants and conditions contained in such indenture and, as applicable, such debt securities or guarantees;
- (2) immediately after giving effect to such transaction no event of default, and no event which, after notice or the lapse of time, or both, would become such an event of default, under such indenture shall have occurred and be continuing; and
- (3) an officer's certificate and legal opinion covering such conditions shall be delivered to the applicable trustee.

Certain Covenants

Limitations on Incurrence of Indebtedness. The Operating Partnership will not, and will not permit any Subsidiary (as defined below) to, incur any Indebtedness (as defined below), other than Permitted Indebtedness (as defined below), if, immediately after giving effect to the incurrence of such additional Indebtedness, the aggregate principal amount of all outstanding Indebtedness of the Operating Partnership and its Subsidiaries on a consolidated basis determined in accordance with accounting principles generally accepted in the United States of America, or GAAP, is greater than 60% of the sum of:

- (1) the Operating Partnership's Total Assets (as defined below) as of the end of the calendar quarter covered in the Operating Partnership's Annual Report on Form 10-K or Quarterly Report on Form 10-Q, as the case may be, most recently filed with the Commission (or, if such filing is not permitted under the Exchange Act, with the Trustee) prior to the incurrence of such additional Indebtedness; and
- (2) any increase in the Total Assets since the end of such quarter including, without limitation, any increase in Total Assets resulting from the incurrence of such additional Indebtedness (such increase together with the Total Assets being referred to as the Adjusted Total Assets).

In addition to the other limitations on the incurrence of Indebtedness, the Operating Partnership will not, and will not permit any Subsidiary to, incur any Indebtedness if, for the period consisting of the four consecutive fiscal quarters most recently ended prior to the date on which such additional Indebtedness is to be incurred, the ratio of Consolidated Income Available for Debt Service (as defined below) to the Annual Service Charge (as defined below) shall have been less than 1.5 to 1, on a pro forma basis after giving effect to the incurrence of such Indebtedness and to the application of the proceeds therefrom, and calculated on the assumption that:

- (1) such Indebtedness and any other Indebtedness incurred by the Operating Partnership or its Subsidiaries since the first day of such four-quarter period and the application of the proceeds therefrom, including to refinance other Indebtedness, had occurred at the beginning of such period;

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- (2) the repayment or retirement of any other Indebtedness by the Operating Partnership or its Subsidiaries since the first day of such four-quarter period had been incurred, repaid or retired at the beginning of such period (except that, in making such computation, the amount of Indebtedness under any revolving credit facility shall be computed based upon the average daily balance of such Indebtedness during such period);

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- (3) any income earned as a result of any increase in Adjusted Total Assets since the end of such four-quarter period had been earned, on an annualized basis, during such period, and
- (4) in the case of an acquisition or disposition by the Operating Partnership or any Subsidiary or any asset or group of assets since the first day of such four-quarter period, including, without limitation, by merger, stock purchase or sale, or asset purchase or sale, such acquisition or disposition or any related repayment of Indebtedness had incurred as of the first day of such period with the appropriate adjustments with respect to such acquisition or disposition being included in such pro forma calculation.

In addition to the other limitations on the incurrence of Indebtedness, the Operating Partnership will not, and will not permit any Subsidiary to, incur any Secured Indebtedness (as defined below), whether owned at the date of the indenture or thereafter acquired, if, immediately after giving effect to the incurrence of such additional Secured Indebtedness, the aggregate principal amount of all outstanding Secured Indebtedness of the Operating Partnership and its Subsidiaries on a consolidated basis is greater than 40% of the Operating Partnership's Adjusted Total Assets.

For purposes of this covenant, Indebtedness is deemed to be incurred by the Operating Partnership or its Subsidiaries on a consolidated basis whenever the Operating Partnership and its Subsidiaries on a consolidated basis shall create, assume, guarantee or otherwise become liable in respect thereof.

Restrictions on Dividends and Other Distributions. The Operating Partnership will not make any distribution, by reduction of capital or otherwise (other than distributions payable in securities evidencing interests in the Operating Partnership's capital for the purpose of acquiring interests in real property or otherwise) unless, immediately after giving pro forma effect to such distribution:

- (a) no default under the indenture shall have occurred or be continuing; and
- (b) the aggregate sum of all distributions made after the date of the indenture shall not exceed the sum of:
 - (i) 95% of the aggregate cumulative Funds From Operations (as defined below) of the Operating Partnership accrued on a cumulative basis from the date of the indenture until the end of the last fiscal quarter prior to the contemplated payment, and
 - (ii) the aggregate Net Cash Proceeds (as defined below) received by the Operating Partnership after the date of the indenture from the issuance and sale of Capital Stock (as defined below) of the Operating Partnership or the Company to the extent such proceeds are contributed to the Operating Partnership;

provided, however, that the foregoing limitation in clauses (a) and (b) shall not apply to any distribution or other action which is necessary to maintain the Company's status as a REIT under the Code, if the aggregate principal amount of all outstanding Indebtedness of the Company and the Operating Partnership on a consolidated basis at such time is less than 60% of Adjusted Total Assets.

Notwithstanding the foregoing, the Operating Partnership will not be prohibited from making the payment of any distribution within 30 days of the declaration thereof if at such date of declaration such payment would have complied with the provisions of the immediately preceding paragraph.

Existence. Except as permitted under Merger, Consolidation or Sale, each of the Company and the Operating Partnership will be required 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 neither the Company nor the Operating Partnership shall be required to preserve any right or franchise if it determines that the preservation thereof is no longer desirable in the conduct of its business and that the loss thereof is not disadvantageous in any material respect to the holders of the Debt Securities.

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Maintenance of Centers. Each of the Company and the Operating Partnership will be required 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 will cause to be made all necessary repairs, renewals, replacements, betterments and improvements thereof, all as in the judgment of the Company and the Operating Partnership may be necessary so that the business carried on in connection therewith may be properly and advantageously conducted at all times; *provided, however*, that the Operating Partnership, the Company and its Subsidiaries shall not be prevented from closing, selling or otherwise disposing for value their respective properties except as otherwise provided in Merger, Consolidation or Sale.

Insurance. The Company and the Operating Partnership will be required to, and will be required to cause each of its respective Subsidiaries to, keep all of its insurable properties insured against loss or damage at least equal to their then full insurable value with insurers of recognized responsibility.

Payment of Taxes and Other Claims. Each of the Company and the Operating Partnership will be required to pay or discharge or cause to be paid or discharged, before the same shall become delinquent,

- (1) all taxes, assessments and governmental charges levied or imposed upon it or any Subsidiary or upon the income, profits or property of it or any Subsidiary; and
- (2) all lawful claims for labor, materials and supplies which, if unpaid, might by law become a lien upon the property of the Operating Partnership, the Company or any Subsidiary; provided, however, that neither the Company nor the Operating Partnership shall 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 by appropriate proceedings.

Provision of Financial Information. Whether or not the Operating Partnership or the Company is subject to Section 13 or 15(d) of the Exchange Act and for so long as any debt securities are outstanding, the Company and the Operating Partnership will, to the extent permitted under the Exchange Act, be required to file with the Commission the annual reports, quarterly reports and other documents which the Company and the Operating Partnership would have been required to file with the Commission pursuant to such Section 13 or 15(d) of the Exchange Act (the Financial Statements) if the Company and the Operating Partnership were so subject, such documents to be filed with the Commission on or prior to the respective dates (the Required Filing Dates) by which the Company and the Operating Partnership would have been required so to file such documents if the Company and the Operating Partnership were so subject.

The Company and the Operating Partnership will also in any event,

- (x) within 15 days of each Required Filing Date,
 - (1) transmit by mail to all holders of debt securities, as their names and addresses appear in the Security Register, without cost to such holders copies of the annual reports and quarterly reports which the Company and the Operating Partnership would have been required to file with the Commission pursuant to Sections 13 or 15(d) of the Exchange Act if the Company and the Operating Partnership were subject to such Sections, and
 - (2) file with the applicable trustee, copies of the annual reports, quarterly reports and other documents which the Company and the Operating Partnership would have been required to file with the Commission pursuant to Section 13 or 15(d) of the Exchange Act if the Company and the Operating Partnership were subject to such Sections, and
- (y) if filing such documents by the Company and the Operating Partnership with the Commission is not permitted under the Exchange Act, promptly upon written request and payment of the reasonable cost of duplication and delivery, supply copies of such documents to any prospective holder.

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Definitions Used For the Debt Securities

As used herein,

Annual Service Charge as of any date means the amount which is expensed or capitalized in the immediately preceding four fiscal quarter periods for interest on Indebtedness, excluding amounts relating to the amortization of deferred financing costs.

Capital Stock of any person means any and all shares, interests, rights to purchase warrants, options, participations, rights in or other equivalents (however designated) of such person's capital stock or other equity participations, including partnership interests, whether general or limited, in such person, including any preferred stock, and any rights (other than debt securities convertible into capital stock), warrants or options exchangeable for or convertible into such capital stock, whether now outstanding or hereafter issued.

Consolidated Income Available for Debt Service for any period means Consolidated Net Income of the Operating Partnership and its Subsidiaries,

- (1) plus amounts which have been deducted for
 - (a) interest on Indebtedness of the Operating Partnership and its Subsidiaries,
 - (b) provision for taxes of the Operating Partnership and its Subsidiaries based on income,
 - (c) amortization of debt discount,
 - (d) depreciation and amortization,
 - (e) the effect of any noncash charge resulting from a change in accounting principles in determining Consolidated Net Income for such period,
 - (f) amortization of deferred charges, and
 - (g) provisions for or realized losses on properties,

- (2) less amounts which have been included for gains on properties.

Consolidated Net Income for any period means the amount of consolidated net income (or loss) of the Operating Partnership and its Subsidiaries for such period determined on a consolidated basis in accordance with GAAP.

Funds from Operations, or FFO, means for any period the Consolidated Net Income of the Operating Partnership and its Subsidiaries for such period without giving effect to depreciation and amortization uniquely significant to real estate, gains or losses from extraordinary items, gains or losses on sales of real estate, gains or losses with respect to the disposition of investments in marketable securities and any provision/benefit for income taxes for such period, plus the allocable portion, based on the Operating Partnership's ownership interest, of funds from operations of unconsolidated joint ventures, all determined on a consistent basis.

Indebtedness means any indebtedness, whether or not contingent, in respect of

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- (1) borrowed money evidenced by bonds, notes, debentures or similar instruments,
- (2) indebtedness secured by any mortgage, pledge, lien, charge, encumbrance or any security interest existing on property,
- (3) the reimbursement obligations, contingent or otherwise, in connection with any letters of credit actually issued or amounts representing the balance deferred and unpaid of the purchase price of any property except any such balance that constitutes an accrued expense or trade payable, or

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- (4) any lease of property as lessee which would be reflected on a consolidated balance sheet as a capitalized lease in accordance with GAAP, in the case of items of indebtedness under (1) through (3) above to the extent that any such items (other than letters of credit) would appear as a liability on a consolidated balance sheet in accordance with GAAP, and also includes, to the extent not otherwise included, any obligation to be liable for, or to pay, as obligor, guarantor or otherwise (other than for purposes of collection in the ordinary course of business), indebtedness of another person.

Net Cash Proceeds means the proceeds of any issuance or sale of Capital Stock or options, warrants or rights to purchase Capital Stock, in the form of cash or cash equivalents, including payments in respect of deferred payment obligations when received in the form of, or stock or other assets when disposed for, cash or cash equivalents (except to the extent that such obligations are financed or sold with recourse to the Operating Partnership or any Subsidiary), net of attorney's fees, accountant's fees and brokerage, consultation, underwriting and other fees and expenses actually incurred in connection with such issuance or sale and net of taxes paid or payable as a result thereof.

Permitted Indebtedness means Indebtedness of the Operating Partnership, the Company or any Subsidiary owing to any Subsidiary, the Company or the Operating Partnership pursuant to an intercompany note, *provided* that such Indebtedness is expressly subordinated in right of payment to the Securities; *provided further* that any disposition, pledge or transfer of such Indebtedness to a Person (other than the Operating Partnership or another Subsidiary) shall be deemed to be an incurrence of such Indebtedness by the Operating Partnership, the Company or a Subsidiary, as the case may be, and not Permitted Indebtedness as defined herein.

Secured Indebtedness means any Indebtedness secured by any mortgage, pledge, lien, charge, encumbrance or security interest of any kind upon any property of the Operating Partnership or any Subsidiary.

Subsidiary means any entity of which at the time of determination the Operating Partnership or one or more other Subsidiaries owns or controls, directly or indirectly, more than 50% of the shares of Voting Stock.

Total Assets as of any date means the sum of (1) Undepreciated Real Estate Assets and (2) all other assets of the Operating Partnership and its Subsidiaries on a consolidated basis determined in accordance with GAAP (but excluding intangibles and accounts receivables).

Undepreciated Real Estate Assets as of any date means the cost (original cost plus capital improvements) of real estate assets of the Operating Partnership and its Subsidiaries on such date, before depreciation and amortization, determined on a consolidated basis in accordance with GAAP.

Voting Stock means stock having general voting power under ordinary circumstances to elect at least a majority of the board of directors, managers or trustees (or persons performing similar functions), *provided* that stock that carries only the right to vote conditionally on the happening of an event shall not be considered Voting Stock.

Additional Covenants

Any additional or different covenants of the Company and the Operating Partnership with respect to any series of debt securities will be set forth in the prospectus supplement relating thereto.

Events of Default, Notice and Waiver

Under each indenture, an event of default with respect to any series of debt securities issuable thereunder means any one of the following events:

- (1) default for 30 days in the payment of any installment of interest on any debt security of any series when due and payable;
- (2) default in the payment of the principal of (or premium, if any, on) any debt security of such series at its maturity;

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- (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 covenant or warranty contained in the applicable indenture (other than a covenant added to the applicable indenture solely for the benefit of a series of debt securities issued thereunder other than that series), continued for 60 days after written notice as provided in the applicable indenture;
- (5) default in the payment of an aggregate principal amount exceeding \$5,000,000 of any evidence of recourse indebtedness of the Operating Partnership or the Company or any mortgage, indenture or other instrument under which such indebtedness is issued or by which such indebtedness is secured, such default having occurred after the expiration of any applicable grace period and having resulted in the acceleration of the maturity of such indebtedness, but only if such indebtedness is not discharged or such acceleration is not rescinded or annulled;
- (6) failure of the Operating Partnership or the Company within 60 days to pay, bond or otherwise discharge any uninsured judgment or court order in excess of \$5,000,000 which is not stayed on appeal or contested in good faith;
- (7) certain events of bankruptcy, insolvency or reorganization, or court appointment of a receiver, liquidator or trustee of the Company, the Operating Partnership or any Significant Subsidiary (as defined in Regulation S-X promulgated under the Securities Act) or either of its property; and
- (8) any other event of default provided with respect to a particular series of debt securities of the Operating Partnership.

If an event of default with respect to debt securities of any series at the time outstanding (other than one for certain events of bankruptcy, insolvency or reorganization, or court appointment of a receiver, liquidator or trustee as described above, which event of default shall result in an automatic acceleration) occurs and is continuing, then the applicable trustee or the holders of not less than 25% in principal amount of the outstanding debt securities of that series may declare the principal amount (or, if the debt securities of that series are Original Issue Discount Securities or indexed securities, such portion of the principal amount as may be specified in the terms thereof) of all of the debt securities of that series to be due and payable immediately by written notice thereof to the Operating Partnership and the guarantor (and to the applicable trustee if given by the holders).

However, at any time after the declaration of acceleration with respect to debt securities of a series (or of all debt securities then outstanding under the applicable indenture, as the case may be) has been made, but before a judgment or decree for payment of the money due has been obtained by the applicable trustee, the holders of not less than a majority in principal amount of outstanding debt securities of that series (or of all debt securities then outstanding under such indenture, as the case may be) may rescind and annul such acceleration and its consequences if:

- (1) the Operating Partnership or the guarantor had paid or deposited with the applicable trustee all required payments of the principal of (and premium, if any) and interest on the debt securities of such series (or of all debt securities then outstanding under such indenture, as the case may be), plus certain fees, expenses, disbursements and advances of the applicable trustee; and
- (2) all events of default, other than the non-payment of accelerated principal of (and premium, if any) and interest on the debt securities of such series (or of all debt securities then outstanding under such indenture, as the case may be) have been cured or waived as provided in such indenture.

The indentures also provide or will provide that the holders of not less than a majority in principal amount of the outstanding debt securities of any series (or of all debt securities then outstanding under the applicable indenture, as the case may be) may waive any past default with respect to such series and its consequences, except a default:

(1) in the payment of the principal of (or premium, if any) or interest on any debt security of such series, or

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- (2) in respect of a covenant or provision contained in such indenture that cannot be modified or amended without the consent of the holder of each outstanding debt security affected thereby.

Each indenture requires or will require each trustee to give notice of a default under the indenture to all holders of debt securities within 90 days, unless the default shall have been cured or waived, subject to certain exceptions; *provided, however*, that the trustee shall be protected in withholding notice to the holders of any series of debt securities of any default with respect to that series (except a default in the payment of the principal of (or premium, if any) or interest on any debt security of that series or in the payment of any sinking fund installment in respect of any debt security of that series) if specified responsible officers of the trustee consider withholding the notice to be in that holders' interest.

Each indenture provides or will provide that no holders of debt securities of any series may institute any proceedings, judicial or otherwise, with respect to the indenture or for any remedy thereunder, except in the case of failure of the trustee, for 60 days, to act after it has received a written request to institute proceedings in respect of an event of default from the holders of not less than 25% in principal amount of the outstanding debt securities of that series, as well as an offer of indemnity inconsistent with the written request has been given to the trustee during the 60-day period by holders of a majority in principal amount of the outstanding debt securities of that series. This provision will not prevent, however, any holder of debt securities from instituting suit for the enforcement of payment of the principal of (and premium, if any) and interest on those debt securities at the respective due dates thereof.

Each indenture provides or will provide that, subject to provisions in the Trust Indenture Act of 1939 relating to its duties in case of default, the trustee is under no obligation to exercise any of its rights or powers under the indenture at the request or direction of any holders of any series of the debt securities then outstanding under the indenture, unless those holders shall have offered to the trustee reasonable security or indemnity. The holders of not less than a majority in principal amount of the outstanding debt securities of any series shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the trustee, or of exercising any trust or power conferred upon the trustee; *provided* that the direction shall not conflict with any rule of law or the indenture, and *provided further* that the trustee may refuse to follow any direction that may involve the trustee in personal liability or that may be unduly prejudicial to the holders of debt securities of that series not joining in the direction to the trustee.

Within 120 days after the close of each fiscal year, the Operating Partnership and the guarantor must deliver to each trustee a certificate, signed by one of several specified officers, stating whether or not such officer has knowledge of any default under the applicable indenture and, if so, specifying each such default and the nature and status thereof.

Modification of the Indenture

Modifications and amendments of any indenture may be made only with the consent of the holders of not less than a majority in principal amount of all outstanding debt securities of each series issued under the indenture affected by such modification or amendment; *provided, however*, that no such modification or amendment may, without the consent of the holder of each debt security affected thereby:

- (1) change the stated maturity of the principal of, or any installment of interest (or premium, if any) on, any debt security;
- (2) reduce the principal amount of, or the rate (or manner of calculation of the rate) or amount of interest on, or any premium payable on redemption of, any debt security, or reduce the amount of principal of an Original Issue Discount Security that would be due and payable upon acceleration of the maturity thereof or would be provable in bankruptcy;
- (3) change the place of payment, or the coin or currency, for payment of principal of, or premium, if any, or interest on, any debt security;

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- (4) impair the right to institute suit for the enforcement of any payment right with respect to any debt security;
- (5) change any redemption or repayment provisions applicable to any debt security;
- (6) reduce the above-stated percentage of outstanding debt securities of any series necessary to modify or amend the applicable indenture, to waive compliance with certain provisions thereof or certain defaults and consequences thereunder or to reduce the quorum or voting requirements set forth in such indenture;
- (7) modify or affect in any manner adverse to the holders the terms and conditions of the obligations of the guarantor under the related guarantees in respect of the payment of principal (and premium, if any) and interest on any guaranteed securities;
- (8) make any change that adversely affects any right to exchange any debt security;
- (9) in the case of subordinated debt securities, modify any of the subordination provisions in a manner adverse to the holders thereof; or
- (10) modify any of the foregoing provisions or any of the provisions relating to the waiver of certain past defaults or certain covenants, except to increase the required percentage to effect the action or to provide that certain other provisions may not be modified or waived without the consent of the holder of each outstanding debt security.

The holders of not less than a majority in principal amount of a series of outstanding debt securities have the right insofar as that series is concerned, to waive compliance by the Operating Partnership and the guarantor with certain covenants relating to that series of debt securities in the applicable indenture.

Modifications and amendments of each indenture may be made by the Operating Partnership, the Company and the applicable trustee without the consent of any holder of debt securities for any of the following purposes:

- (1) to evidence the succession of another person to the Operating Partnership as obligor under the debt securities issuable under the applicable indenture or the Company as guarantor under the applicable guarantees;
- (2) to add to the covenants of the Operating Partnership or the Company for the benefit of the holders of all or any series of debt securities or to surrender any right or power conferred upon the Operating Partnership or the Company;
- (3) to add events of default for the benefit of the holders of all or any series of debt securities issuable under each indenture;
- (4) to add or change certain provisions of the applicable indenture relating to certain debt securities in bearer form, or to permit or facilitate the issuance of debt securities in uncertificated form, provided that such action shall not adversely affect the interests of the holders of the debt securities of any series issuable under such indenture in any material respect;
- (5) to secure the debt securities;

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- (6) to establish the form or terms of debt securities of any series;
- (7) to provide for the acceptance of appointment by a successor trustee or facilitate the administration of the trusts under the applicable indenture by more than one trustee;
- (8) to cure any ambiguity, defect or inconsistency in the applicable indenture, provided that such action shall not adversely affect the interests of holders of debt securities of any series issuable under any indenture in any material respect;
- (9) to supplement any of the provisions of the applicable indenture to the extent necessary to permit or facilitate defeasance and discharge of any series of debt securities, provided that this action shall not adversely affect the interests of the holders of the debt securities of any series issuable under such indenture in any material respect;

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(10) to effect the assumption by the guarantor or a subsidiary thereof to the debt securities then outstanding under the applicable indenture; or

(11) to amend or supplement any provisions of the applicable indenture, provided that no such amendment or supplement shall materially adversely affect the interests of the holders of any debt securities then outstanding under any indenture.

Each indenture provides or will provide that in determining whether the holders of the requisite principal amount of outstanding debt securities of a series have given any request, demand, authorization, direction, notice, consent or waiver thereunder or whether a quorum is present at a meeting of holders of debt securities:

- (1) the principal amount of an Original Issue Discount Security that shall be deemed to be outstanding shall be the amount of the principal thereof that would be due and payable as of the date of such determination upon declaration of acceleration of the maturity thereof;
- (2) the principal amount of a debt security denominated in a foreign currency that shall be deemed outstanding shall be the U.S. dollar equivalent, determined on the issue date for such debt security, of the principal amount (or, in the case of an Original Issue Discount Security, the U.S. dollar equivalent on the issue date of such debt security of the amount determined as provided above);
- (3) the principal amount of an indexed security that shall be deemed outstanding shall be the principal face amount of the indexed security at original issuance, unless otherwise provided with respect to the indexed security in the applicable indenture; and
- (4) debt securities owned by the Operating Partnership, the Company or any other obligor upon the debt securities or any affiliate of the Operating Partnership, the Company or of such other obligor shall be disregarded.

Each indenture contains or will contain provisions for convening meetings of the holders of debt securities of a series. A meeting may be called at any time by the applicable trustee, and also, upon request, by the Operating Partnership, the Company (in respect of a series of guaranteed securities) or request of the holders of at least 10% in principal amount of the outstanding debt securities of such series, in any such case upon notice given as provided in the indenture. Except for any consent or waiver that must be given by the holder of each debt security affected by the indenture, any resolution presented at a meeting or adjourned meeting duly reconvened at which a quorum is present may be adopted by the affirmative vote of the holders of a majority in principal amount of the outstanding debt securities of that series; *provided, however*, that, except as referred to above, any resolution with respect to any request, demand, authorization, direction, notice, consent, waiver or other action that may be made, given or taken by the holders of a specified percentage, which is less than a majority, in principal amount of the outstanding debt securities of a series may be adopted at a meeting or adjourned meeting duly reconvened at which a quorum is present by the affirmative vote of the holders of such specified percentage in principal amount of the outstanding debt securities of that series. Any resolution passed or decision taken at any meeting of holders of debt securities of any series duly held in accordance with the applicable indenture will be binding on all holders of debt securities of that series. The quorum at any meeting called to adopt a resolution, and at any reconvened meeting, will be persons holding or representing a majority in principal amount of the outstanding debt securities of a series; *provided, however*, that if any action is to be taken at a meeting with respect to a consent or waiver which may be given by the holders of not less than a specified percentage in principal amount of the outstanding debt securities of a series, the persons holding or representing the specified percentage in principal amount of the outstanding debt securities of that series will constitute a quorum.

Subordination

Upon any distribution of assets of the Operating Partnership upon any dissolution, winding up, liquidation or reorganization, the payment of the principal of (and premium, if any) and interest on subordinated debt securities is to be subordinated to the extent provided in the subordinated indenture in right of payment to the

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prior payment in full of all senior indebtedness, but the obligation of the Operating Partnership to make payment of the principal (and premium, if any) and interest on the subordinated debt securities will not otherwise be affected. In addition, no payment on account of principal (or premium, if any), or interest, may be made on the subordinated debt securities at any time unless full payment of all amounts due in respect of the senior indebtedness has been made or duly provided for in money or money's worth.

In the event that, notwithstanding the foregoing, any such payment by the Operating Partnership is received by the trustee or the holders of any of the subordinated debt securities before all senior indebtedness is paid in full, such payment or distribution shall be paid over to the holders of the senior indebtedness or any representative on their behalf for application to the payment of all of the senior indebtedness remaining unpaid until all of the senior indebtedness has been paid in full, after giving effect to any concurrent payment or distribution to the holders of the senior indebtedness.

Subject to the payment in full of all senior indebtedness upon the payment or distribution of the Operating Partnership, the holders of the subordinated debt securities will be subrogated to the rights of the holders of the senior indebtedness to the extent of payments made to the holders of the senior indebtedness out of the distributive share of the subordinated debt securities. By reason of subordination, in the event of a distribution of assets upon insolvency, certain general creditors of the Operating Partnership may recover more, ratably, than holders of the subordinated debt securities.

Senior indebtedness is defined in the subordinated indenture as the principal of (and premium, if any) and unpaid interest on indebtedness of the Operating Partnership (including indebtedness of others guaranteed by the Operating Partnership), whether outstanding on the date of the subordinated indenture or thereafter created, incurred, assumed or guaranteed, for money borrowed (other than the subordinated debt securities issued under the subordinated indenture), unless in the instrument creating or evidencing the same or pursuant to which the same is outstanding it is *provided* that such indebtedness is not senior or prior in right of payment to the subordinated debt securities, and renewals, extensions, modifications and refundings of any such indebtedness.

Discharge, Defeasance and Covenant Defeasance

The Operating Partnership may discharge certain obligations to holders of any series of debt securities that have not already been delivered to the applicable trustee for cancellation and that either have become due and payable or will become due and payable within one year (or scheduled for redemption within one year) by irrevocably depositing with the trustee, in trust, funds in such currency or currencies, currency unit or units or composite currency or currencies in which the debt securities are payable in an amount sufficient to pay the entire indebtedness on the debt securities in respect of principal (and premium, if any) and interest to the date of such deposit (if the debt securities have become due and payable) or to the stated maturity or redemption date, as the case may be.

Each indenture provides or will provide that, unless the provisions of Section 402 thereto are made inapplicable to the debt securities of or within any series pursuant to Section 301 of the applicable indenture, the Operating Partnership may elect either to:

- (1) defease and discharge itself and, if applicable, to discharge the guarantor from any and all obligations with respect to debt securities (except for the obligation to pay additional amounts, if any, upon the occurrence of certain events of tax, assessment or governmental charges with respect to payments on the debt securities and the obligations to register the transfer or exchange of such debt securities, to replace temporary or mutilated, destroyed, lost or stolen debt securities, to maintain an office or agency in respect of the debt securities and to hold moneys for payment in trust) (*defeasance*); or
- (2) release the Operating Partnership and the guarantor from certain obligations of the applicable indenture (including the restrictions described under *Certain Covenants*) and if provided pursuant to

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Section 301 or Section 901 of the applicable indenture, their obligations with respect to any other covenant, and any omission to comply with such obligations shall not constitute a default or an Event or Default with respect to such debt securities of any series (covenant defeasance),

in either case upon the irrevocable deposit by the Operating Partnership or the guarantor with the trustee, in trust, of an amount, in such currency or currencies, currency unit or units or composite currency or currencies in which those debt securities are payable at stated maturity, or Government Obligations (as defined below), or both, applicable to those debt securities through the scheduled payment of principal and interest in accordance with their terms will provide money in an amount sufficient to pay the principal of (and premium, if any) and interest on those debt securities, and any mandatory sinking fund or analogous payments on those debt securities, on the scheduled due dates.

A trust may only be established if, among other things, the Operating Partnership or, if applicable, the guarantor has delivered to the applicable trustee an opinion of counsel (as specified in the applicable indenture) to the effect that the holders of those debt securities will not recognize income, gain or loss for U.S. federal income tax purposes as a result of the defeasance or covenant defeasance and will be subject to U.S. federal income tax on the same amounts, in the same manner and at the same times as would have been the case if the defeasance or covenant defeasance had not occurred, and such opinion of counsel, in the case of defeasance, must refer to and be based upon a ruling of the Internal Revenue Service or a change in applicable United States federal income tax law occurring after the date of the applicable indenture.

Government Obligations means securities that are (1) direct obligations of the United States of America or the government or governments in the confederation which issued the foreign currency in which the principal of or any premium or interest on the debt securities of a particular series are payable, for the payment of which its full faith and credit is pledged or (2) obligations of a person controlled or supervised by and acting as an agency or instrumentality of the United States of America or other government which issued the foreign currency in which the debt securities of that series are payable, the payment of which is unconditionally guaranteed as a full faith and credit obligation by the United States of America or the other government, which, in either case, are not callable or redeemable at the option of the issuer thereof, and shall also include a depository receipt issued by a bank or trust company as custodian with respect to any Government Obligation or a specific payment of interest on or principal of any such Government Obligation held by a custodian for the account of the holder of a depository receipt, *provided* that (except as required by law) the custodian is not authorized to make any deduction from the amount payable to the holder of such depository receipt from any amount received by the custodian in respect of the Government Obligation or the specific payment of interest on or principal of the Government Obligation evidenced by such depository receipt.

Unless otherwise provided in the applicable prospectus supplement, if after the Operating Partnership or the guarantor has deposited funds and/or Government Obligations to effect defeasance or covenant defeasance with respect to debt securities of any series:

- (1) the holder of a debt security of that series is entitled to, and does, elect pursuant to the applicable indenture or the terms of that debt security to receive payment in a currency, currency unit or composite currency other than that in which the deposit has been made in respect of that debt security; or
- (2) a Conversion Event (as defined below) occurs in respect of the currency, currency unit or composite currency in which the deposit has been made.

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Then the indebtedness represented by that debt security shall be deemed to have been, and will be, fully discharged and satisfied through the payment of the principal of (and premium, if any) and interest on that debt security as they become due out of the proceeds yielded by converting the amount so deposited in respect of that debt security into the currency, currency unit or composite currency in which the debt security becomes payable as a result of such election or such Conversion Event based on the applicable market exchange rate. Conversion Event means the cessation of use of:

- (1) a currency, currency unit or composite currency both by the government of the country which issued such currency and for the settlement of transactions by a central bank or other public institutions of or within the international banking community;
- (2) the ECU, both within the European Monetary System and for the settlement of transactions by public institutions of or within the European Community; or
- (3) any currency unit or composite currency other than the ECU for the purposes for which it was established. Unless otherwise provided in the applicable prospectus supplement, after the deposit of funds and/or Government Obligations referred to above, all payments of principal of (and premium, if any) and interest on any debt security that is payable in a foreign currency that ceases to be used by its government of issuance shall be made in U.S. dollars.

In the event the Operating Partnership effects a covenant defeasance with respect to any debt securities and those debt securities are declared due and payable because of the occurrence of certain events of default other than the event of default described in clause 4 under Events of Default, Notice and Waiver with respect to sections no longer applicable to the debt securities or described in clause 8 thereunder with respect to any other covenant as to which there has been covenant defeasance, the amount in such currency, currency unit or composite currency in which the debt securities are payable, and Government Obligations on deposit with the trustee, will be sufficient to pay amounts due on the debt securities at the time of their stated maturity but may not be sufficient to pay amounts due on the debt securities at the time of the acceleration resulting from the event of default. However, the Operating Partnership and the guarantor would remain liable to make payment of the amounts due at the time of acceleration.

The applicable prospectus supplement may further describe the provisions, if any, permitting the defeasance or covenant defeasance, including any modifications to the provisions described above, with respect to the debt securities of or within a particular series.

No Conversion or Exchange Rights

The debt securities will not be convertible into or exchangeable for any capital stock of the Company or equity interest in the Operating Partnership.

Global Securities

The debt securities of a series may be issued in whole or in part in book-entry form consisting of one or more global securities (the Global Securities) that will be deposited with, or on behalf of, a depository identified in the applicable prospectus supplement relating to that series. Global Securities may be issued in either registered or bearer form and in either temporary or permanent form. The specific terms of the depository arrangement with respect to a series of debt securities will be described in the applicable prospectus supplement relating to that series.

Guarantees of Debt Securities

The debt securities will be issued by the Operating Partnership and if the Operating Partnership issues non-convertible investment grade debt securities, the applicable prospectus supplement will provide whether the securities are guaranteed by the Company. If so indicated in the applicable prospectus supplement (and except as provided in the next sentence) the Company, as guarantor, will unconditionally and irrevocably guarantee, on a

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senior or subordinated basis, the due and punctual payment of principal of, and premium, if any, and interest on, the debt securities, and the due and punctual payment of any sinking fund payments thereon, when and as the same shall become due and payable, whether at stated maturity, upon redemption or otherwise. The additional terms of any guarantee relating to a series of debt securities and whether the Company will guarantee non-convertible investment grade securities will be set forth in the applicable prospectus supplement. Guarantees will be unsecured obligations of the guarantor. Any right of payment of the holders of senior debt securities under the related guarantee will be prior to the right of payment of the holders of subordinated debt securities under the related guarantee, upon the terms set forth in the applicable prospectus supplement. The guarantees may be subordinated to other indebtedness and obligations of the guarantor to the extent set forth in the applicable prospectus supplement.

For any guarantee, reference is made to the applicable indenture and the applicable prospectus supplement for a description of the specific terms of that guarantee, including any additional covenants of the guarantor, the outstanding principal amount of indebtedness and other obligations, if any that will rank senior to such guarantee and, where applicable, subordination provisions of such guarantee.

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DESCRIPTION OF COMMON SHARES

The Company has authority to issue 300,000,000 common shares, \$0.01 par value per share. In this section, the terms *we*, *our* and *us* refer to the Company and not the Operating Partnership. As of June 1, 2015 we had outstanding 95,842,047 common shares.

General

The following description of our common shares sets forth certain general terms and provisions of our common shares to which any prospectus supplement may relate, including a prospectus supplement providing that our common shares will be issuable upon conversion of our preferred shares or upon the exercise of our common shares warrants. The statements below describing our common shares are in all respects subject to and qualified in their entirety by reference to the applicable provisions of our charter and bylaws.

Terms

Each of our outstanding common shares will be entitled to one vote on all matters presented to shareholders for a vote. Holders of our common shares will not have, or be subject to, any pre-emptive or similar rights.

Except for the election of a director to fill a vacancy on the board of directors, the election of directors by holders of one or more class or series of our preferred shares, or in the event of a contested election, directors will be elected by the holders of our common shares at each annual meeting of shareholders by a majority of the votes cast. In the event of a contested election, directors will be elected by a plurality of the votes cast by the shares entitled to vote in the election. Holders of our common shares will not have cumulative voting rights for the election of directors. A director may be removed by a majority of votes cast. If a director is elected by a voting group of shareholders, only the shareholders of that voting group may participate in a vote to remove him.

Our common shares will, when issued, be fully paid and non-assessable. Dividends and other distributions may be paid to the holders of our common shares if and when declared by the board of directors of the Company out of funds legally available therefor.

Under North Carolina law, shareholders are generally not liable for our debts or obligations. Payment and declaration of dividends on our common shares and purchases of our shares are subject to certain limitations under North Carolina law and will be subject to certain restrictions if we fail to pay dividends on one or more series of our preferred shares. See *Description of Preferred Shares*. If we were to experience a liquidation, dissolution or winding up, each of our common shares would, subject to the rights of any holders of our preferred shares to receive preferential distributions, be entitled to participate equally in the assets available for distribution to them after payment of, or adequate provision for, all our known debts and liabilities.

Restrictions on Ownership and Transfer

For us to qualify as a REIT under the Code, not more than 50% in value of our outstanding capital stock may be owned, actually or constructively, by five or fewer individuals during the last half of our taxable year. This requirement is referred to as the *five or fewer* requirement. For purposes of this *five or fewer* requirement, individuals include the entities that are set forth in Section 542(a)(2) of the Code. Attribution rules in the Code determine if any individual or entity constructively owns our stock under the *five or fewer* requirement. Our capital stock also must be beneficially owned by 100 or more persons during at least 335 days of a taxable year of 12 months, or during a proportionate part of a shorter taxable year. In addition, rent from a related party tenant is not qualifying income for purposes of the gross income tests under the Code. A related party tenant is generally a tenant in which the REIT or an owner of 10% or more of the REIT owns, actually or constructively, 10% or more of the equity interests, by vote or value. To assist us in meeting these requirements, we may take certain actions to limit the actual, beneficial or constructive ownership by a single person or entity of our outstanding equity securities.

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Subject to certain exceptions specified in our charter, no shareholder (other than Stanley K. Tanger, Steven B. Tanger, members of their families, affiliated entities and their transferees) may own, or be deemed to own by virtue of the constructive ownership provisions of the Code, more than 4% of our outstanding common shares. Our charter provides that Stanley K. Tanger, Steven B. Tanger, members of their families, affiliated entities and their transferees may acquire additional common shares, but may not acquire additional shares, such that the five largest beneficial owners of our common shares, taking into account the 4% limit and certain exemptions from such limit that the board of directors has granted to other shareholders, could hold more than 49% of our outstanding common shares. The constructive ownership rules are complex and may cause common shares owned actually or constructively by a group of related individuals and/or entities to be constructively owned by one individual or entity. As a result, the acquisition of less than 4% of our outstanding common shares (or the acquisition of an interest in an entity which owns our common shares) by an individual or entity could cause that individual or entity (or another individual or entity) to constructively own in excess of 4% of our outstanding common shares, and thus subject those common shares to the ownership limit in our charter.

If the board of directors shall at any time determine in good faith that a person intends to acquire or own, has attempted to acquire or own or may acquire or own common shares in the Company in violation of the above limit, the board of directors shall take such action as it deems advisable to refuse to give effect to, or to prevent such ownership or acquisition, including, but not limited to, the redemption of our common shares, refusal to give effect to the ownership or acquisition on our books or instituting proceedings to enjoin such ownership or acquisition.

The board of directors may waive the limit with respect to a particular shareholder if evidence satisfactory to the board of directors and our tax counsel is presented that such ownership will not then or in the future jeopardize our status as a REIT. As a condition of such waiver, the board of directors may require opinions of counsel satisfactory to it and/or an undertaking from the applicant with respect to preserving our REIT status. If our common shares are issued in excess of the ownership limit in our charter, or if our stock is transferred in a way that would cause our stock to be beneficially owned by fewer than 100 persons, then the issuance or transfer shall be void, and the intended transferee will acquire no rights to our stock.

The ownership limits described above will be automatically removed if our board of directors determines that it is no longer in our best interest to attempt to qualify, or to continue to qualify, as a REIT. Except as otherwise described above, any change in our ownership limits would require an amendment to our charter. Except for an amendment that would create dissenters' rights, an amendment to our charter requiring shareholder approval will be adopted if the number of votes cast for it exceeds the number of votes cast against it at a shareholder meeting at which a quorum exists. In addition to preserving our status as a REIT, the ownership limit may have the effect of precluding an acquisition of control of the REIT without the approval of the board of directors.

All certificates representing our common shares will bear a legend referring to the restrictions described above.

All persons who own a specified percentage (or more) of our outstanding capital shares must annually file an affidavit with us containing information regarding their ownership of our capital shares, as set forth in the applicable Treasury Regulations promulgated under the Code. Under current Treasury Regulations, the percentage is set between 0.5% and 5%, depending on the number of record holders of our capital shares. In addition, each shareholder shall upon demand be required to disclose to us in writing the information with respect to the direct, indirect and constructive ownership of our capital shares as the board of directors deems necessary to comply with the provisions of the Code applicable to a REIT or to comply with the requirements of any taxing authority or governmental agency.

Transfer Agent

The registrar and transfer agent for our common shares is Computershare Trust Company, NA.

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Anti-Takeover Considerations

In addition to the above, our charter and bylaws contain provisions that could delay, defer, or prevent a change in control of the Company or management. These provisions could also discourage a proxy contest and make it more difficult for shareholders to elect directors and take other corporate actions. As a result, these provisions could limit the price that investors are willing to pay in the future for our common shares. Such provisions include, but are not limited to, the following:

Authorizing the board of directors to issue preferred shares;

Prohibiting cumulative voting in the election of directors;

Limiting the persons who may call special meetings of shareholders; and

Establishing advance notice requirements for nominations for election to the board of directors for proposing matters that can be acted on by shareholders at shareholder meetings.

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DESCRIPTION OF COMMON SHARE WARRANTS

The Company may issue warrants to purchase its common shares. In this section, the terms we, our and us refer to the Company and not the Operating Partnership. These warrants may be issued independently or together with any other securities offered pursuant to any prospectus supplement and may be attached to or separate from these securities. Each series of warrants will be issued under a separate warrant agreement to be entered into between us and a warrant agent specified in the applicable prospectus supplement. The warrant agent will act solely as our agent in connection with the warrants and will not assume any obligation or relationship of agency or trust for or with any holders or beneficial owners of the warrants.

The applicable prospectus supplement will describe the specific terms of the warrants offered thereby, including, where applicable, the following:

- (1) the title of the warrants;
- (2) the aggregate number of the warrants;
- (3) the price or prices at which the warrants will be issued;
- (4) the designation, number and terms of the common shares purchasable upon exercise of the warrants;
- (5) the designation and terms of the other securities with which the warrants are issued and the number of the warrants issued with each security;
- (6) the date, if any, on and after which the warrants and the related common shares will be separately transferable;
- (7) the price at which each common shares purchasable upon exercise of the warrants may be purchased;
- (8) the date on which the right to exercise the warrants shall commence and the date on which that right shall expire;
- (9) the minimum or maximum number of warrants which may be exercised at any one time;
- (10) information with respect to book-entry procedures, if any;
- (11) a discussion of certain material federal income tax considerations; and
- (12) any other material terms of the warrants, including terms, procedures and limitations relating to the exchange and exercise of the warrants.

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DESCRIPTION OF PREFERRED SHARES

The Company is authorized to issue 1,000,000 Class A Preferred Shares, 8,000,000 Class B Preferred Shares, 8,000,000 Class C Preferred Shares, 8,000,000 Class D Preferred Shares, 4,000,000 Class E Preferred Shares, 4,000,000 Class F Preferred Shares, 4,000,000 Class G Preferred Shares and 4,000,000 Class H Preferred Shares. As of June 1, 2015, no preferred shares were outstanding. In this section, the terms we, our and us refer to the Company and not the Operating Partnership.

The following description of our preferred shares sets forth certain general terms and provisions of the preferred shares to which any prospectus supplement may relate. The statements below describing the preferred shares are in all respects subject to and qualified in their entirety by reference to the applicable provisions of our charter.

Subject to limitations prescribed by North Carolina law and our charter, the board of directors shall determine, in whole or in part, the preferences, limitations and relative rights of any class or series of our preferred shares, including such provisions as may be desired concerning voting, redemption, dividends, dissolution or the distribution of assets, conversion, and such other subjects or matters as may be determined by the board of directors. Such determination by the board of directors is subject to the following limitations: (1) the shares of any such other class of preferred shares may rank on parity with or junior to Class C Preferred shares but may not have rights or preferences with respect to distributions or to dissolution that are prior or superior to the Class C Preferred Shares and (2) the preferences, limitations and relative rights of such other class of preferred shares shall not otherwise alter or abolish a preferential right of the Class B Preferred Shares or of the Class C Preferred Shares.

The prospectus supplement relating to the preferred shares offered thereby will include specific terms of any preferred shares offered, including, if applicable:

- (1) the title of the preferred shares;
- (2) the number of preferred shares offered, the liquidation preference per share and the offering price of the preferred shares;
- (3) the dividend rate(s), period(s) and/or payment date(s) or method(s) of calculation thereof applicable to the preferred shares;
- (4) whether the preferred shares are cumulative or not and, if cumulative, the date from which dividends on the preferred shares shall accumulate;
- (5) the procedures for any auction and remarketing, if any, for the preferred shares;
- (6) the provision for a sinking fund, if any, for the preferred shares;
- (7) the provision for redemption, if applicable, of the preferred shares;
- (8) any listing of the preferred shares on any securities exchange;
- (9) the terms and conditions, if applicable, upon which the preferred shares will be convertible into common shares, including the conversion price (or manner of calculation thereof);

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- (10) a discussion of federal income tax considerations applicable to the preferred shares;
- (11) any limitations on actual, beneficial or constructive ownership and restrictions on transfer, in each case as may be appropriate to preserve our REIT status;
- (12) the relative ranking and preferences of the preferred shares as to dividend rights and rights upon liquidation, dissolution or winding up of our affairs;

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- (13) any limitations on issuance of any series or class of preferred shares ranking senior to or on a parity with such series or class of preferred shares as to dividend rights and rights upon liquidation, dissolution or winding up of our affairs; and
- (14) any other specific terms, preferences, rights, limitations or restrictions of the preferred shares.

Rank

Unless otherwise specified in the applicable prospectus supplement, the preferred shares will rank, with respect to rights to the payment of dividends and distribution of our assets and rights upon our on, dissolution or winding up:

- (1) senior to all classes or series of common shares and to all equity securities ranking junior to the preferred shares stock rights to the payment of dividends and distribution of our assets and rights upon our liquidation, dissolution or winding up;
- (2) on a parity with all equity securities issued by us with terms specifically providing that those equity securities rank on a parity with the preferred shares with respect to rights to the payment of dividends and distribution of our assets and rights upon our liquidation, dissolution or winding up; and
- (3) junior to all equity securities issued by us with terms specifically providing that those equity securities rank senior to the preferred shares with respect to rights to the payment of dividends and distribution of our assets and rights upon our liquidation, dissolution or winding up.

For these purposes, the term "equity securities" does not include convertible debt securities.

Dividends

Holders of our preferred shares of each series or class shall be entitled to receive, when, as and if authorized and declared by our board of directors, out of our assets legally available for payment, dividends at rates and on dates and terms as will be set forth in the applicable prospectus supplement. Each dividend shall be payable to holders of record as they appear on our stock transfer books on the record dates as shall be fixed by our board of directors.

Dividends on any series or class of our preferred shares may be cumulative or noncumulative, as provided in the applicable prospectus supplement. Dividends, if cumulative, will be cumulative from and after the date set forth in the applicable prospectus supplement. If our board of directors fails to authorize a dividend payable on a dividend payment date on any series or class of preferred shares for which dividends are noncumulative, then the holders of such series or class of preferred shares will have no right to receive a dividend in respect of the dividend period ending on that dividend payment date, and we will have no obligation to pay the dividend accrued for such period, whether or not dividends on such series or class are declared or paid for any future period.

If any preferred shares of any series or class are outstanding, no full dividends shall be authorized or paid or set apart for payment on the preferred shares of any other series or class ranking, as to dividends, on a parity with or junior to the preferred shares of that series or class for any period unless:

- (1) the series or class of preferred shares has a cumulative dividend, then full cumulative dividends have been or contemporaneously are authorized and paid or authorized and a sum sufficient for the payment thereof is set apart for such payment on the preferred shares of such series or class for all past dividend periods and the then current dividend period; or
- (2) the series or class of preferred shares does not have a cumulative dividend, then full dividends for the then current dividend period have been or contemporaneously are authorized and paid or authorized and a sum sufficient for the payment thereof is set apart for the payment on the preferred shares of such series or class.

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When dividends are not paid in full (or a sum sufficient for the full payment thereof is not set apart) upon the preferred shares of any series or class and the shares of any other series or class of preferred shares ranking on a parity as to dividends with the preferred shares of that series or class, then all dividends authorized on preferred shares of that series or class and any other series or class of preferred shares ranking on a parity as to dividends with that preferred shares shall be authorized pro rata so that the amount of dividends authorized per share on the preferred shares of that series or class and such other series or class of preferred shares shall in all cases bear to each other the same ratio that accrued and unpaid dividends per share on the preferred shares of such series or class (which shall not include any accumulation in respect of unpaid dividends for prior dividend periods if the preferred shares do not have a cumulative dividend) and such other series or class of preferred shares bear to each other. No interest, or sum of money in lieu of interest, shall be payable in respect of any dividend payment or payments on preferred shares of such series or class that may be in arrears.

Except as provided in the immediately preceding paragraph, unless:

- (1) in the case of a series or class of preferred shares that has a cumulative dividend, full cumulative dividends on the preferred shares of such series or class have been or contemporaneously are authorized and paid or authorized and a sum sufficient for the payment thereof is set apart for payment for all past dividend periods and the then current dividend period; and
- (2) in the case of a series or class of preferred shares that does not have a cumulative dividend, full dividends on the preferred shares of such series or class have been or contemporaneously are authorized and paid or authorized and a sum sufficient for the payment thereof is set apart for payment for the then current dividend period,

then no dividends (other than in the common shares or other shares of ours ranking junior to the preferred shares of that series or class as to dividends and as to the distribution of assets upon liquidation, dissolution or winding up of the Company) shall be authorized or paid or set aside for payment nor shall any other distribution be authorized or made on the common shares or any other class or series of shares of ours ranking junior to or on a parity with the preferred shares of that series or class as to dividends or as to the distribution of assets upon liquidation, dissolution or winding up of the Company, nor shall any common shares or any other shares of ours ranking junior to or on a parity with the preferred shares of that series or class as to dividends or as to the distribution of assets upon liquidation, dissolution or winding up of the Company be redeemed, purchased or otherwise acquired for any consideration (or any amounts be paid to or made available for a sinking fund for the redemption of any shares of any such stock) by us (except by conversion into or exchange for other shares of ours ranking junior to the preferred shares of that series or class as to dividends and as to the distribution of assets upon liquidation, dissolution or winding up of the Company); *provided, however*, that the foregoing shall not prevent the purchase or acquisition of our shares to preserve our status as a REIT for federal and/or state income tax purposes.

Any dividend payment made on shares of a series or class of preferred shares shall first be credited against the earliest accrued but unpaid dividend due with respect to shares of that series or class that remains payable.

If we properly designate any portion of a dividend as a capital gain dividend, a holder's share of such capital gain dividend will be an amount which bears the same ratio to the total amount of dividends (as determined for federal income tax purposes) paid to such holder for the year as the aggregate amount designated as a capital gain dividend bears to the aggregate amount of all dividends (as determined for federal income tax purposes) paid on all classes of our shares for the year.

Redemption

If the applicable prospectus supplement so states, the preferred shares will be subject to mandatory redemption or redemption at our option, in whole or in part, in each case on the terms, at the times and at the redemption prices set forth in that prospectus supplement.

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The prospectus supplement relating to a series or class of preferred shares that is subject to mandatory redemption will specify the number of preferred shares that shall be redeemed by us in each year commencing after a date to be specified, at a redemption price per share to be specified, together with an amount equal to all accumulated and unpaid dividends thereon (which shall not, if such preferred shares does not have a cumulative dividend, include any accumulation in respect of unpaid dividends for prior dividend periods) to the date of redemption. The redemption price may be payable in cash or other property, as specified in the applicable prospectus supplement. If the redemption price for preferred shares of any series or class is payable only from the net proceeds of the issuance of our shares, the terms of that preferred shares may provide that, if no such shares shall have been issued or to the extent the net proceeds from any issuance are insufficient to pay in full the aggregate redemption price then due, that preferred shares shall automatically and mandatorily be converted into shares of our applicable stock pursuant to conversion provisions specified in the applicable prospectus supplement. Notwithstanding the foregoing, unless:

- (1) in the case of a the series or class of preferred shares that has a cumulative dividend, full cumulative dividends on all outstanding shares of such series or class of preferred shares have been or contemporaneously are authorized and paid or authorized and a sum sufficient for the payment thereof is set apart for payment for all past dividend periods and the then current dividend period; and
- (2) in the case of a series or class of preferred shares that does not have a cumulative dividend, full dividends on the preferred shares of that series or class have been or contemporaneously are authorized and paid or authorized and a sum sufficient for the payment thereof is set apart for payment for the then current dividend period, then no shares of that series or class of preferred shares shall be redeemed unless all outstanding preferred shares of that series or class are simultaneously redeemed; provided, however, that the foregoing shall not prevent the purchase or acquisition of preferred shares of that series or class to preserve our REIT status or pursuant to a purchase or exchange offer made on the same terms to holders of all outstanding preferred shares of that series or class; or
- (3) in the case of a series or class of preferred shares that has a cumulative dividend, full cumulative dividends on all outstanding shares of that series or class of preferred shares have been or contemporaneously are authorized and paid or authorized and a sum sufficient for the payment thereof is set apart for payment for all past dividend periods and the then current dividend period; and
- (4) in the case of a series or class of preferred shares that does not have a cumulative dividend, full dividends on the preferred shares of that series or class have been or contemporaneously are authorized and paid or authorized and a sum sufficient for the payment thereof is set apart for payment for the then current dividend period,

we shall not purchase or otherwise acquire directly or indirectly any shares of preferred shares of such series or class (except by conversion into or exchange for stock of ours ranking junior to the preferred shares of that series or class as to dividends and upon liquidation, dissolution and winding up of the Company); *provided, however*, that the foregoing shall not prevent the purchase or acquisition of preferred shares of such series or class to preserve our REIT status or pursuant to a purchase or exchange offer made on the same terms to holders of all outstanding preferred shares of that series or class.

If fewer than all the outstanding preferred shares of any series or class are to be redeemed, the number of shares to be redeemed will be determined by us and those shares may be redeemed pro rata from the holders of record of those shares in proportion to the number of those shares held by such holders (with adjustments to avoid redemption of fractional shares) or any other equitable method determined by us.

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Notice of redemption will be mailed at least 30, but not more than 60, days before the redemption date to each holder of record of a preferred share of any series or class to be redeemed at the address shown on our stock transfer books, and notice of redemption will also be given by publication in The Wall Street Journal or, if such newspaper is not then being published, another newspaper of general circulation in The City of New York, such publication to be made at least once a week for two successive weeks commencing not less than 30 nor more than 60 days prior to the redemption date. Each notice shall state:

- (1) The redemption date;
- (2) The number of shares and series or class of the preferred shares to be redeemed;
- (3) The redemption price;
- (4) The place or places (which shall include a place in the Borough of Manhattan, The City of New York) where certificates for the preferred shares are to be surrendered for payment of the redemption price;
- (5) That dividends on the shares to be redeemed will cease to accumulate on the redemption date; and
- (6) The date on which the holder's conversion rights, if any, as to those shares shall terminate.

If fewer than all the preferred shares of any series or class are to be redeemed, the notice mailed to each holder thereof shall also specify the number of preferred shares to be redeemed from each holder and, upon redemption, a new certificate shall be issued representing the unredeemed shares without cost to the holder thereof. If notice of redemption of any preferred shares has been given and if the funds necessary for the redemption have been irrevocably set aside by us in trust for the benefit of the holders of any preferred shares so called for redemption, then from and after the redemption date dividends will cease to accrue on the preferred shares, the preferred shares shall no longer be deemed outstanding and all rights of the holders of the shares will terminate, except the right to receive the redemption price. In order to facilitate the redemption of preferred shares of any series or class, the board of directors may fix a record date for the determination of shares of the series or class of preferred shares to be redeemed.

Notwithstanding the foregoing, the persons who were holders of record of shares of any class or series of preferred shares at the close of business on a record date for the payment of dividends will be entitled to receive the dividend payable on the corresponding dividend payment date notwithstanding the redemption of those shares after the record date and on or prior to the dividend payment date or our default in the payment of the dividend due on that dividend payment date. In that case, the amount payable on the redemption of those preferred shares would not include that dividend. Except as provided in the preceding sentence and except to the extent that accrued and unpaid dividends are payable as part of the redemption price, we will make no payment or allowance for unpaid dividends, whether or not in arrears, on shares of preferred stock called for redemption.

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

Liquidation Preference

Upon any voluntary or involuntary liquidation, dissolution or winding up of the Company's affairs, then, before any distribution or payment will be made to the holders of common shares or any other series or class of shares ranking junior to any series or class of the preferred shares in the distribution of assets upon any liquidation, dissolution or winding up, the holders of that series or class of preferred shares shall be entitled to receive, out of our assets but subject to the preferential rights of the holders of shares of any class or series of our shares ranking senior to such series or class of preferred shares with respect to our distribution of assets of liquidation, dissolution or winding up legally available for distribution to shareholders, liquidating distributions in the amount of the liquidation preference per share (set forth in the applicable prospectus supplement), plus an amount equal to all dividends accrued and unpaid thereon (which shall not include any accumulation in respect of

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unpaid dividends for prior dividend periods if the preferred shares do not have a cumulative dividend). After payment of the full amount of the liquidating distributions to which they are entitled, the holders of preferred shares will have no right or claim to any of our remaining assets. If, upon any such voluntary or involuntary liquidation, dissolution or winding up, the legally available assets are insufficient to pay the amount of the liquidating distributions on all outstanding shares of any series or class of preferred shares and the corresponding amounts payable on all shares of other classes or series of shares of the Company ranking on a parity with that series or class of preferred shares in the distribution of assets upon liquidation, dissolution or winding up, then the holders of that series or class of preferred shares and all other such classes or series of capital shares shall share ratably in any such distribution of assets in proportion to the full liquidating distributions to which they would otherwise be respectively entitled.

If liquidating distributions shall have been made in full to all holders of any series or class of preferred shares, our remaining assets will be distributed among the holders of any other classes or series of shares ranking junior to that series or class of preferred shares upon liquidation, dissolution or winding up, according to their respective rights and preferences and in each case according to their respective number of shares. For those purposes, the consolidation or merger of us with or into any other entity, or the sale, lease, transfer or conveyance of all or substantially all of our property or business, shall not be deemed to constitute a liquidation, dissolution or winding up of our affairs.

Voting Rights

Except as set forth below or as otherwise from time to time required by law or as indicated in the applicable prospectus supplement, holders of preferred shares will not have any voting rights.

Unless provided otherwise for any class or series of preferred shares, so long as any preferred shares remains outstanding, whenever dividends on any preferred shares shall be in arrears for six or more quarterly periods, regardless of whether such quarterly periods are consecutive, the holders of preferred shares (voting separately as a class with all other class or series of cumulative preferred shares upon which like voting rights have been conferred and are exercisable) will be entitled to vote for the election of two additional directors at a special meeting called by an officer of the company at the request of a holder of the class or series of preferred shares or, if the special meeting is not called by an officer of the company within 30 days, at a special meeting called by a holder of the class or series of preferred shares designated by the holders of record of at least 10% of any class or series of preferred shares so in arrears (unless the request is received less than 90 days before the date fixed for the next annual or special meeting of the shareholders) or at the next annual meeting of shareholders, and at each subsequent meeting until:

- (1) if such class or series of Preferred Shares has a cumulative dividend, all dividends accumulated on such Preferred Shares for the past dividend periods and the then current dividend period shall have been fully paid or declared and irrevocably set apart for payment or
- (2) if such class or series of Preferred Shares does not have a cumulative dividend, four consecutive quarterly dividends are paid or declared and irrevocably set apart for payment. In such case, the entire Board of Directors of the Company will be increased by two directors.

Unless provided otherwise in the applicable prospectus supplement, for any class or series of preferred shares, so long as any preferred shares remains outstanding, the company shall not, without the affirmative vote or consent of the holders of at least 66 ²/₃% of the shares of each class or series of preferred stock outstanding at the time, given in person or by proxy, either in writing or at a meeting (with each class or series of preferred shares that is affected by the following voting separately as a class):

- (1) authorize or create, or increase the authorized or issued amount of, any class or series of equity securities ranking senior to such class or series of preferred shares with respect to payment of dividends or the distribution of assets upon liquidation, dissolution or winding up of the Company or reclassify

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any authorized securities of the Company into any such equity securities, or create, authorize or issue any obligation or security convertible into or evidencing the right to purchase any such equity securities; or

- (2) amend, alter or repeal the provisions of the charter including the articles supplementary for such class or series of preferred shares, whether by merger, consolidation or otherwise, so as to materially and adversely affect any right, preference, privilege or voting power of such class or series of preferred shares or the holders thereof; provided, however, that any increase in the amount of the authorized preferred shares or the creation or issuance of any other class or series of preferred shares, or any increase in the amount of authorized shares of such class or series or any other class or series of preferred shares, in each case ranking on a parity with or junior to the preferred shares of such class or series with respect to payment of dividends and the distribution of assets upon liquidation, dissolution or winding up of the company, shall not be deemed to materially and adversely affect such rights, preferences, privileges or voting powers.

The foregoing voting provisions will not apply if, at or prior to the time when the act with respect to which such vote would otherwise be required shall be effected, all outstanding shares of such class or series of preferred shares shall have been redeemed or called for redemption and sufficient funds shall have been irrevocably deposited in trust to effect such redemption.

Under the North Carolina Business Corporation Act, the holders of outstanding Series A Preferred Shares are entitled to vote as a separate voting group (if shareholder voting is otherwise required by that Act and even though the charter provides that such shares are nonvoting shares) on a proposed amendment to our charter if the amendment would affect the Series A Preferred Shares in ways specified in that Act, including an increase or decrease in the number of authorized Series A Preferred Shares, a change in the designation, rights, preferences or limitations of all or part of the Series A Preferred Shares or the creation of a new class of stock having rights or preferences with respect to the payment of dividends or the distribution of assets upon liquidation, dissolution or winding up of the company that are prior, superior or substantially equal to the rights of the Series A Preferred Shares.

Conversion Rights

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

Restrictions on Ownership and Transfer

As discussed above under *Description of Common Shares Restrictions on Ownership and Transfer*, for us to qualify as a REIT under the Code, not more than 50% in value of our outstanding capital stock may be owned, actually or constructively, by five or fewer individuals during the last half of a taxable year. This requirement is referred to as the *five or fewer* requirement. For purposes of this *five or fewer* requirement, individuals include the entities that are set forth in Section 542(a)(2) of the Code. Attribution rules in the Code determine if any individual or entity constructively owns our stock under the *five or fewer* requirement. Our capital stock must also be beneficially owned by 100 or more persons during at least 335 days of a taxable year of 12 months, or during a proportionate part of a shorter taxable year. In addition, rent from related party tenants is not qualifying income for purposes of the gross income tests under the Code. A related party tenant is generally a tenant in which the REIT or an owner of 10% or more of the REIT owns, actually or constructively, 10% or more of the equity interests, by vote or value. Therefore, with regards to our charter each class or series

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of preferred shares will contain provisions restricting the ownership and transfer of the preferred shares. Except as otherwise described in the applicable prospectus supplement relating thereto, the provisions of our charter relating to the ownership limit for any class or series of preferred shares will provide as follows:

Our preferred share ownership limit provision will provide that, subject to certain exceptions, no holder of preferred shares may own, or be deemed to own by virtue of the constructive ownership provisions of the Code, preferred shares in excess of the lesser of:

- (1) 9.8% of the outstanding preferred shares of any class or series;
- (2) if the preferred shares are convertible into common shares, an amount of preferred shares which, if so converted at a time when all outstanding convertible shares were converted into common shares, would cause any person to own, actually or constructively, common shares in violation of the ownership limit or the existing holder limit;
- (3) an amount of preferred shares which would result in us being closely held under Section 856(h) of the Code (without regard to whether the preferred shares are held during the last half of a taxable year) or would otherwise result in our failing to qualify as a REIT; or
- (4) an amount of preferred shares which would cause any person (other than Stanley K. Tanger, Steven B. Tanger and certain members of their families and affiliates) to own, actually or constructively, more than 9.8% of the value of our outstanding capital shares (in the aggregate).

The constructive ownership rules are complex and may cause preferred shares owned actually or constructively by a group of related individuals and/or entities to be deemed to be actually or constructively owned by one individual or entity. As a result, the acquisition of preferred shares (or the acquisition of an interest in any entity which owns our preferred shares or common shares) by an individual or entity could cause that individual or entity (or another individual or entity) to constructively own preferred shares in excess of the preferred share ownership limit.

The board of directors will be entitled to waive the preferred share ownership limit with respect to a particular shareholder if evidence satisfactory to the board of directors and our tax counsel is presented that such ownership will not then or in the future jeopardize our status as a REIT. As a condition of such waiver, the board of directors may require opinions of counsel satisfactory to it and/or an undertaking from the applicant with respect to preserving our REIT status.

All certificates representing preferred shares will bear a legend referring to the restrictions described above.

All persons who own a specified percentage (or more) of our outstanding capital shares must annually file an affidavit with us containing information regarding their ownership of shares as set forth in the applicable Treasury Regulations. Under current Treasury Regulations, the percentage is set between 0.5% and 5%, depending on the number of record holders of capital shares. In addition, each shareholder shall upon demand be required to disclose to us in writing the information with respect to the direct, indirect, and constructive ownership of our capital shares as the board of directors deems necessary to comply with the provisions of the Code applicable to a REIT or to comply with the requirements of any taxing authority or governmental agency.

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DESCRIPTION OF DEPOSITARY SHARES

General

The Company may issue depositary receipts for depositary shares, each of which will represent a fractional interest of a share of a particular class or series of our preferred shares, as specified in the applicable prospectus supplement. In this section, the terms we, our and us refer to the Company and not the Operating Partnership. Preferred shares of each class or series represented by depositary shares will be deposited under a separate deposit agreement among the Company, the depositary named therein and the holders from time to time of the depositary receipts. Subject to the terms of the deposit agreement, each owner of a depositary receipt will be entitled, in proportion to the fractional interest of a share of a particular class or series of preferred shares represented by the depositary shares evidenced by the depositary receipt, to all the rights and preferences of the preferred shares represented by the depositary shares (including dividend, voting, conversion, redemption and liquidation rights).

The depositary shares will be evidenced by depositary receipts issued pursuant to the applicable deposit agreement. Immediately following the issuance and delivery of the preferred shares to the preferred shares depositary, we will cause the preferred share depositary to issue, on our behalf, the depositary receipts. Copies of the applicable form of deposit agreement and depositary receipt may be obtained from us upon request, and the following summary is qualified in its entirety by reference thereto.

Dividends and Other Distributions

The preferred share depositary will distribute all cash dividends or other cash distributions received in respect of the preferred shares to the record holders of depositary receipts evidencing the related depositary shares in proportion to the number of the depositary receipts owned by such holders, subject to certain obligations of holders to file proofs, certificates and other information and to pay certain charges and expenses to the preferred share depositary.

In the event of a distribution other than in cash, the preferred share depositary will distribute property received by it to the record holders of depositary receipts entitled thereto, subject to certain obligations of holders to file proofs, certificates and other information and to pay certain charges and expenses to the preferred share depositary, unless the preferred share depositary determines that it is not feasible to make such distribution, in which case the preferred share depositary may, with our approval sell such property and distribute the net proceeds from such sale to such holders.

Withdrawal

Upon surrender of the depositary receipts at the corporate trust office of the preferred share depositary (unless the related depositary shares have previously been called for redemption or converted), the holders thereof will be entitled to delivery at such office, to or upon such holder's order, of the number of whole or fractional preferred shares and any money or other property represented by the depositary shares evidenced by the depositary receipts. Holders of depositary receipts will be entitled to receive whole or fractional shares of the related preferred shares on the basis of the proportion of preferred shares represented by each depositary share as specified in the applicable prospectus supplement, but holders of such preferred shares will not thereafter be entitled to receive depositary shares therefor. If the depositary receipts delivered by the holder evidence a number of depositary shares in excess of the number of depositary shares representing the number of preferred shares to be withdrawn, the preferred share depositary will deliver to such holder at the same time a new depositary receipt evidencing such excess number of depositary shares.

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Redemption

Whenever we redeem preferred shares held by the preferred share depositary, the preferred share depositary will redeem as of the same redemption date the number of depositary shares representing the preferred shares so redeemed, provided we shall have paid in full to the preferred share depositary the redemption price of the preferred shares to be redeemed plus an amount equal to any accrued and unpaid dividends thereon to the date fixed for redemption. The redemption price per depositary share will be equal to the related fractional interest of the redemption price and any other amounts per share payable with respect to the preferred shares. If fewer than all the depositary shares are to be redeemed, the depositary shares to be redeemed will be selected pro rata (as nearly as may be practicable without creating fractional depositary shares) or by any other equitable method determined by us that will not result in the automatic redemption of the preferred shares or the automatic conversion of preferred shares into excess preferred shares which are transferred to a charitable trust.

After the date fixed for redemption, the depositary shares so called for redemption will no longer be deemed to be outstanding and all rights of the holders of the depositary receipts evidencing the depositary shares so called for redemption will cease, except the right to receive any moneys payable upon such redemption and any money or other property to which the holders of such depositary receipts are entitled upon such redemption upon surrender thereof to the preferred share depositary.

Voting

Upon receipt of notice of any meeting at which the holders of the preferred shares are entitled to vote, the preferred share depositary will mail the information contained in such notice of meeting to the record holders of the depositary receipts evidencing the depositary shares which represent such preferred shares. Each record holder of depositary receipts evidencing depositary shares on the record date (which will be the same date as the record date for the preferred shares) will be entitled to instruct the preferred share depositary as to the exercise of the voting rights pertaining to the amount of preferred stock represented by such holder's depositary shares. The preferred share depositary will vote the number of preferred shares represented by such depositary shares in accordance with such instructions, and we have agreed to take all reasonable action which may be deemed necessary by the preferred share depositary in order to enable the preferred share depositary to do so. The preferred share depositary will abstain from voting the number of preferred shares represented by the depositary shares to the extent that it does not receive specific instructions from the holders of depositary receipts evidencing such depositary shares. The preferred share depositary shall not be responsible for any failure to carry out any instruction to vote, or for the manner or effect of any such vote made, as long as any such action or non-action is in good faith and does not result from negligence or willful misconduct of the preferred share depositary.

Liquidation Preference

In the event of the liquidation, dissolution or winding up of the Company, whether voluntary or involuntary, the holders of each depositary share will be entitled to the fractional interest of the liquidation preference accorded each preferred share represented by the depositary share evidenced by the depositary receipt, as set forth in the applicable prospectus supplement.

Conversion

The depositary shares, as such, are not convertible or exchangeable into our common shares or any other securities or property, except in connection with certain conversions in connection with the preservation of our status as a REIT. Nevertheless, if the preferred shares represented by the depositary shares are specified in the applicable prospectus supplement to be convertible into common shares or other preferred shares, the depositary receipts evidencing such depositary shares may be surrendered by holders thereof to the preferred share depositary with written instructions to the preferred share depositary to instruct us to cause conversion of the preferred shares into whole common shares or other preferred shares (including excess preferred shares), and we have agreed that upon receipt of such instructions and any amounts payable in respect thereof, we will cause the

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conversion thereof utilizing the same procedures as those provided for delivery of preferred shares to effect such conversion. If the depositary shares evidenced by a depositary receipt are to be converted in part only, a new depositary receipt or receipts will be issued for any depositary shares not to be converted. No fractional common shares will be issued upon conversion, and if such conversion will result in a fractional share being issued, an amount will be paid in cash by us equal to the value of the fractional interest based upon the closing price of our common shares on the last business day prior to the conversion.

Amendment and Termination of the Deposit Agreement

The depositary receipt evidencing the depositary shares which represent the preferred shares and any provision of the deposit agreement may at any time be amended by agreement between the Company and the preferred share depositary. However, any amendment that materially and adversely alters the rights of the holders of depositary receipts or that would be materially and adversely inconsistent with the rights granted to the holders of the related preferred shares will not be effective unless such amendment has been approved by the existing holders of at least two-thirds of the depositary shares evidenced by the depositary receipts then outstanding. No amendment shall impair the right, subject to certain exceptions in the depositary agreement, of any holder of depositary receipts to surrender any depositary receipt with instructions to deliver to the holder the related preferred shares and all money and other property, if any, represented thereby, except in order to comply with law. Every holder of an outstanding depositary receipt at the time any such amendment becomes effective shall be deemed, by continuing to hold such Receipt, to consent and agree to such amendment and to be bound by the depositary receipt or deposit agreement, as the case may be, as amended thereby.

We may terminate the deposit agreement upon not less than 30 days prior written notice to the preferred share depositary if:

- (1) the termination is necessary to preserve our status as a REIT; or
- (2) a majority of each series of preferred shares affected by termination consents to such termination, whereupon the preferred share depositary shall deliver or make available to each holder of depositary receipts, upon surrender of the depositary receipts held by such holder, such number of whole or fractional preferred shares as are represented by the depositary shares evidenced by the depositary receipts, together with any other property held by the preferred share depositary with respect to each depositary receipt.

We have agreed that if the deposit agreement is terminated to preserve our status as a REIT, then we will use our best efforts to list the preferred shares issued upon surrender of the related depositary shares on a national securities exchange. In addition, the deposit agreement will automatically terminate if:

- (1) all outstanding depositary shares shall have been redeemed;
- (2) there shall have been a final distribution in respect of the related preferred shares in connection with any liquidation, dissolution or winding up of the Company and such distribution shall have been distributed to the holders of depositary receipts evidencing the depositary shares representing the preferred shares; or
- (3) all outstanding preferred shares shall have been converted into common shares or other preferred shares.

Charges of Preferred Share Depositary

We will pay all transfer and other taxes and governmental charges arising solely from the existence of the deposit agreement. In addition, we will pay the fees and expenses of the preferred share depositary in connection with the performance of its duties under the deposit agreement. However, holders of depositary receipts will pay certain other transfer and other taxes and governmental charges, as well as the fees and expenses of the preferred share depositary for any duties requested by such holder to be performed which are outside of those expressly provided for in the deposit agreement.

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Resignation and Removal of Depositary

The preferred share depositary may resign at any time by delivering to us notice of its election to do so, and we may at any time remove the preferred share depositary, any resignation or removal to take effect upon the appointment of a successor preferred share depositary. A successor preferred share depositary must be appointed within 60 days after delivery of the notice of resignation or removal and must be a bank or trust company having its principal office in the United States and having a combined capital and surplus of at least \$50,000,000.

Miscellaneous

The preferred share depositary will forward to holders of depositary receipts any reports and communications from us which are received by it with respect to the related preferred shares.

Neither we nor the preferred share depositary will be liable if prevented or delayed, by law or any circumstances beyond its control, from performing its obligations under the deposit agreement. Our obligations, and the preferred share depositary under the deposit agreement will be limited to performing the duties thereunder in good faith and without negligence (in the case of any action or inaction in the voting of preferred shares represented by the depositary shares), gross negligence or willful misconduct, and we and the preferred share depositary will not be obligated to prosecute or defend any legal proceeding in respect of any depositary receipts, depositary shares or any preferred shares represented thereby unless satisfactory indemnity is furnished. We and the Preferred Share Depositary may rely on written advice of counsel or accountants, or information provided by persons presenting preferred shares represented thereby for deposit, holders of depositary receipts or other persons believed in good faith to be competent to give such information, and on documents believed in good faith to be genuine and signed by a proper party.

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

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**MATERIAL FEDERAL INCOME TAX CONSIDERATIONS TO TANGER FACTORY OUTLET
CENTERS, INC. OF ITS REIT ELECTION**

The following is a general summary of certain material United States federal income tax considerations relating to our election to be taxed as a REIT. For the purposes of this discussion, references to we, our and us mean only Tanger Factory Outlet Centers, Inc., and do not include any of its subsidiaries, except as otherwise indicated. This summary is for general information only and is not tax advice. This discussion does not attempt to address any aspects of federal income taxation relating to holders of our securities or the Operating Partnership's debt securities. Federal income tax consideration relevant to holders of the securities may be provided in the applicable prospectus supplement relating thereto. You are urged to review the applicable prospectus supplement in connection with the purchase of any of our securities or the Operating Partnership's debt securities. The information in this summary is based on:

the Code;

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

the legislative history of the Code;

current administrative interpretations and practices of the Internal Revenue Service (the IRS); and

court decisions;

in each case, as of the date of this prospectus. In addition, the administrative interpretations and practices of the IRS include its practices and policies as expressed in private letter rulings that are not binding on the IRS except with respect to the particular taxpayers who requested and received those rulings. Future legislation, Treasury Regulations, administrative interpretations and practices and/or court decisions may adversely affect the tax considerations contained in this discussion. Any such change could apply retroactively to transactions preceding the date of the change. The statements in this prospectus are not binding on the IRS or any court. Thus, we can provide no assurance that the tax considerations contained in this discussion will not be challenged by the IRS or will be sustained by a court if challenged by the IRS. This summary does not discuss any state, local or non-United States tax consequences, or any tax consequences arising under any federal tax other than the federal income tax, associated with the purchase, ownership, or disposition of our securities or the Operating Partnership's debt securities, or our election to be taxed as a REIT.

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

the purchase, ownership or disposition of our securities or the Operating Partnership's debt securities, including the federal, state, local, non-United States and other tax consequences;

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

potential changes in applicable tax laws.

Taxation of Tanger Factory Outlet Centers, Inc.

General. We have elected to be taxed as a REIT under Sections 856 through 860 of the Code, commencing with our taxable year ended December 31, 1993. We believe that we have been organized and have operated in a manner which has allowed us to qualify for taxation as a REIT under the Code commencing with our taxable year ended December 31, 1993, and we intend to continue to be organized and operate in

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this manner. However, qualification and taxation as a REIT depend upon our ability to meet the various qualification tests imposed under the Code, including through actual annual operating results, asset composition, distribution levels and diversity of stock ownership. Accordingly, no assurance can be given that we have been organized and have operated, or will continue to be organized and operate, in a manner so as to qualify or remain qualified as a REIT. See Failure to Qualify.

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The sections of the Code and the corresponding Treasury Regulations that relate to qualification and taxation as a REIT are highly technical and complex. The following sets forth certain material aspects of the sections of the Code that govern the federal income tax treatment of a REIT and the holders of certain of its securities. This summary is qualified in its entirety by the applicable Code provisions, relevant rules and regulations promulgated under the Code, and administrative and judicial interpretations of the Code and these rules and regulations.

Our qualification and taxation as a REIT depend upon our ability to meet the various qualification tests imposed under the Code, which are discussed below, including through actual annual operating results, asset composition, distribution levels and diversity of stock ownership. Accordingly, no assurance can be given that our actual results of operation for any particular taxable year have satisfied or will satisfy those requirements. Further, the anticipated federal income tax treatment described in this prospectus may be changed, perhaps retroactively, by legislative, administrative or judicial action at any time.

Provided we qualify for taxation as a REIT, we generally will not be required to pay federal corporate income taxes on our net income that is currently distributed to our stockholders. This treatment substantially eliminates the double taxation that ordinarily results from investment in a C corporation. A C corporation is a corporation that generally is required to pay tax at the corporate level. Double taxation means taxation once at the corporate-level when income is earned and once again at the stockholder level when the income is distributed. We will, however, be required to pay federal income tax as follows:

First, we will be required to pay tax at regular corporate rates on any undistributed taxable income, including undistributed net capital gains.

Second, we may be required to pay the alternative minimum tax on our items of tax preference under some circumstances.

Third, if we have (1) net income from the sale or other disposition of foreclosure property held primarily for sale to customers in the ordinary course of business or (2) other nonqualifying income from foreclosure property, we will be required to pay tax at the highest corporate rate on this income. To the extent that income from foreclosure property is otherwise qualifying income for purposes of the 75% gross income test, this tax is not applicable. Subject to certain other requirements, foreclosure property generally is defined as property we acquired through foreclosure or after a default on a loan secured by the property or a lease of the property.

Fourth, we will be required to pay a 100% tax on any net income from prohibited transactions. Prohibited transactions are, in general, sales or other taxable dispositions of property, other than foreclosure property, held as inventory or primarily for sale to customers in the ordinary course of business.

Fifth, if we fail to satisfy the 75% gross income test or the 95% gross income test, as described below, but have otherwise maintained our qualification as a REIT because certain other requirements are met, we will be required to pay a tax equal to (1) the greater of (A) the amount by which we fail to satisfy the 75% gross income test and (B) the amount by which we fail to satisfy the 95% gross income test, multiplied by (2) a fraction intended to reflect our profitability.

Sixth, if we fail to satisfy any of the asset tests (other than a de minimis failure of the 5% or 10% asset test), as described below, due to reasonable cause and not due to willful neglect, and we nonetheless maintain our REIT qualification because of specified cure provisions, we will be required to pay a tax equal to the greater of \$50,000 or the highest corporate tax rate multiplied by the net income generated by the nonqualifying assets that caused us to fail such test.

Seventh, if we fail to satisfy any provision of the Code that would result in our failure to qualify as a REIT (other than a violation of the gross income tests or certain violations of the asset tests, as described below) and the violation is due to reasonable cause and not due to willful neglect, we may retain our REIT qualification but we will be required to pay a penalty of \$50,000 for each such failure.

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Eighth, we will be required to pay a 4% excise tax to the extent we fail to distribute during each calendar year at least the sum of (1) 85% of our ordinary income for the year, (2) 95% of our capital gain net income for the year, and (3) any undistributed taxable income from prior periods.

Ninth, if we acquire any asset from a corporation that is or has been a C corporation in a transaction in which our basis in the asset is less than the fair market value of the asset determined at the time we acquired the asset, and we subsequently recognize gain on the disposition of the asset during the ten-year period beginning on the date on which we acquired the asset, then we will be required to pay tax at the highest regular corporate tax rate on this gain to the extent of the excess of (1) the fair market value of the asset over (2) our adjusted basis in the asset, in each case determined as of the date on which we acquired the asset. The results described in this paragraph with respect to the recognition of gain assume that the C corporation will refrain from making an election to receive different treatment under applicable Treasury Regulations on its tax return for the year in which we acquire the asset from the C corporation.

Tenth, entities we own that are C corporations, including our taxable REIT subsidiaries, generally will be required to pay federal corporate income tax on their earnings.

Eleventh, we will be required to pay a 100% tax on any redetermined rents, redetermined deductions or excess interest. See Penalty Tax. In general, redetermined rents are rents from real property that are overstated as a result of services furnished to any of our tenants by a taxable REIT subsidiary of ours. Redetermined deductions and excess interest generally represent amounts that are deducted by a taxable REIT subsidiary of ours for amounts paid to us that are in excess of the amounts that would have been deducted based on arm's length negotiations.

Twelfth, we may elect to retain and pay income tax on our net capital gain. In that case, a shareholder would include its applicable share of our undistributed net capital gain (to the extent we make a timely designation of such gain to the shareholder) in its income, would be deemed to have paid the tax that we paid on such gain, and would be allowed a credit for its proportionate share of the tax deemed to have been paid, and an adjustment would be made to increase the basis of the shareholder in our capital stock.

Other countries may impose taxes on our operations within their jurisdictions. To the extent possible, we will structure our activities to minimize our non-United States tax liability. However, there can be no complete assurance that we will be able to eliminate our non-United States tax liability or reduce it to a specified level. Furthermore, as a REIT, both we and our stockholders will derive little or no benefit from foreign tax credits arising from those taxes.

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

- (1) that is managed by one or more trustees or directors;
- (2) that issues transferable shares or transferable certificates to evidence its beneficial ownership;
- (3) that would be taxable as a domestic corporation, but for Sections 856 through 860 of the Code;
- (4) that is not a financial institution or an insurance company within the meaning of certain provisions of the Code;
- (5) that is beneficially owned by 100 or more persons;

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- (6) not more than 50% in value of the outstanding stock of which is owned, actually or constructively, by five or fewer individuals, including certain specified entities, during the last half of each taxable year; and

- (7) that meets other tests, described below, regarding the nature of its income and assets and the amount of its distributions.

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The Code provides that conditions (1) to (4), inclusive, must be met during the entire taxable year and that condition (5) must be met during at least 335 days of a taxable year of 12 months, or during a proportionate part of a taxable year of less than 12 months. Conditions (5) and (6) do not apply until after the first taxable year for which an election is made to be taxed as a REIT. For purposes of condition (6), the term individual includes a supplemental unemployment compensation benefit plan, a private foundation or a portion of a trust permanently set aside or used exclusively for charitable purposes, but generally does not include a qualified pension plan or profit sharing trust.

We believe that we have been organized, have operated and have issued sufficient shares of capital stock with sufficient diversity of ownership to allow us to satisfy conditions (1) through (7) inclusive, during the relevant time periods. In addition, our charter provides for restrictions regarding ownership and transfer of our shares which are intended to assist us in continuing to satisfy the share ownership requirements described in (5) and (6) above. These share ownership and transfer restrictions are generally described in Restrictions on Ownership and Transfer in this prospectus, and a description of the share ownership and transfer restrictions may also be contained in or incorporated by reference in the relevant prospectuses pursuant to which we offer such securities from time to time. These restrictions, however, do not ensure that we have previously satisfied, and may not ensure that we will, in all cases, be able to continue to satisfy, the share ownership requirements described in (5) and (6) above. If we fail to satisfy these share ownership requirements, except as provided in the next sentence, our status as a REIT will terminate. If, however, we comply with the rules contained in applicable Treasury Regulations that require us to ascertain the actual ownership of our shares and we do not know, or would not have known through the exercise of reasonable diligence, that we failed to meet the requirement described in condition (6) above, we will be treated as having met this requirement. See Failure to Qualify.

In addition, we may not maintain our status as a REIT unless our taxable year is the calendar year. We have and will continue to have a calendar taxable year.

Ownership of Interests in Partnerships, Limited Liability Companies and Qualified REIT Subsidiaries. In the case of a REIT which is a partner in a partnership or a member in a limited liability company treated as a partnership for federal income tax purposes, Treasury Regulations provide that the REIT will be deemed to own its proportionate share of the assets of such partnership or limited liability company, as the case may be, based on its interest in partnership capital, subject to special rules relating to the 10% asset test described below. Also, the REIT will be deemed to be entitled to its proportionate share of the income of that entity. The assets and gross income of such partnership or limited liability company retain the same character in the hands of the REIT for purposes of Section 856 of the Code, including satisfying the gross income tests and the asset tests. Thus, our pro rata shares of the assets and items of income of the Operating Partnership, including the Operating Partnership's share of these items of any partnership or limited liability company treated as a partnership or disregarded entity for federal income tax purposes in which it owns an interest, are treated as our assets and items of income for purposes of applying the requirements described in this discussion, including the gross income and asset tests described below. A brief summary of the rules governing the federal income taxation of partnerships and limited liability companies treated as partnerships for federal income tax purposes is set forth below in Tax Aspects of the Operating Partnership.

We have control of the Operating Partnership and intend to operate it in a manner consistent with the requirements for our qualification as a REIT. We may from time to time be a limited partner or non-managing member in some of our partnerships and limited liability companies. If a partnership or limited liability company in which we own an interest takes or expects to take actions that could jeopardize our status as a REIT or require us to pay tax, we may be forced to dispose of our interest in such entity. In addition, it is possible that a partnership or limited liability company could take an action which could cause us to fail a gross income or asset test, and that we would not become aware of such action in time to dispose of our interest in the partnership or limited liability company or take other corrective action on a timely basis. In that case, we could fail to qualify as a REIT unless we were entitled to relief, as described below.

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We may from time to time own and operate certain properties through wholly-owned subsidiaries that we intend to be treated as qualified REIT subsidiaries under the Code. A corporation will qualify as our qualified REIT subsidiary if we own 100% of the corporation's outstanding stock and do not elect with the subsidiary to treat it as a taxable REIT subsidiary, as described below. A qualified REIT subsidiary is not treated as a separate corporation, and all assets, liabilities and items of income, gain, loss, deduction and credit of a qualified REIT subsidiary are treated as assets, liabilities and items of income, gain, loss, deduction and credit of the parent REIT for all purposes under the Code, including all REIT qualification tests. Thus, in applying the federal tax requirements described in this discussion, any qualified REIT subsidiaries we own are ignored, and all assets, liabilities and items of income, gain, loss, deduction and credit of such corporations are treated as our assets, liabilities and items of income, gain, loss, deduction and credit. A qualified REIT subsidiary is not subject to federal income tax, and our ownership of the stock of a qualified REIT subsidiary does not violate the restrictions on ownership of securities, as described below under Asset Tests.

Ownership of Interests in Taxable REIT Subsidiaries. We own interests in three taxable REIT subsidiaries and may acquire securities in additional taxable REIT subsidiaries in the future. A taxable REIT subsidiary is a corporation other than a REIT in which a REIT directly or indirectly holds stock, and that has made a joint election with such REIT to be treated as a taxable REIT subsidiary. If a taxable REIT subsidiary owns more than 35% of the total voting power or value of the outstanding securities of another corporation, such other corporation will also be treated as a taxable REIT subsidiary. Other than some activities relating to lodging and health care facilities, a taxable REIT subsidiary may generally engage in any business, including the provision of customary or non-customary services to tenants of its parent REIT. A taxable REIT subsidiary is subject to federal income tax as a regular C corporation. In addition, a taxable REIT subsidiary may be prevented from deducting interest on debt funded directly or indirectly by its parent REIT if certain tests regarding the taxable REIT subsidiary's debt to equity ratio and interest expense are not satisfied. A REIT's ownership of securities of a taxable REIT subsidiary is not subject to the 5% or 10% asset test described below, and their operations will be subject to the provisions described above. See Asset Tests.

Income Tests. We must satisfy two gross income requirements annually to maintain our qualification as a REIT. First, in each taxable year we must derive directly or indirectly at least 75% of our gross income (excluding gross income from prohibited transactions, certain hedging transactions and certain foreign currency gains) from investments relating to real property or mortgages on real property, including rents from real property, interest on obligations adequately secured by mortgages on real property, and certain types of temporary investments. Second, in each taxable year we must derive at least 95% of our gross income (excluding gross income from prohibited transactions, certain hedging transactions and certain foreign currency gains) from the real property investments described above or dividends, interest and gain from the sale or disposition of stock or securities, or from any combination of the foregoing.

Rents we receive from a tenant will qualify as rents from real property for the purpose of satisfying the gross income requirements for a REIT described above only if all of the following conditions are met:

The amount of rent is not based in whole or in part on the income or profits of any person. However, an amount we receive or accrue generally will not be excluded from the term rents from real property solely because it is based on a fixed percentage or percentages of receipts or sales;

Neither we nor an actual or constructive owner of 10% or more of our stock actually or constructively owns 10% or more of the interests in the assets or net profits of a non-corporate tenant, or, if the tenant is a corporation, 10% or more of the total combined voting power of all classes of stock entitled to vote or 10% or more of the total value of all classes of stock of the tenant. Rents we receive from such a tenant that is a taxable REIT subsidiary of ours, however, will not be excluded from the definition of rents from real property as a result of this condition if at least 90% of the space at the property to which the rents relate is leased to third parties, and the rents paid by the taxable REIT subsidiary are substantially comparable to rents paid by our other tenants for comparable space. Whether rents paid by a taxable REIT subsidiary are substantially comparable to rents paid by other tenants is determined

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at the time the lease with the taxable REIT subsidiary is entered into, extended, and modified, if such modification increases the rents due under such lease. Notwithstanding the foregoing, however, if a lease with a controlled taxable REIT subsidiary is modified and such modification results in an increase in the rents payable by such taxable REIT subsidiary, any such increase will not qualify as rents from real property. For purposes of this rule, a controlled taxable REIT subsidiary is a taxable REIT subsidiary in which the parent REIT owns stock possessing more than 50% of the voting power or more than 50% of the total value of the outstanding stock of such taxable REIT subsidiary;

Rent attributable to personal property, leased in connection with a lease of real property, is not greater than 15% of the total rent received under the lease. If this condition is not met, then the portion of the rent attributable to personal property will not qualify as rents from real property ; and

We generally do not operate or manage the property or furnish or render services to our tenants, subject to a 1% de minimis exception and except as provided below. We are permitted, however, to perform directly certain services that are usually or customarily rendered in connection with the rental of space for occupancy only and are not otherwise considered rendered to the occupant of the property. Examples of these permitted services include the provision of light, heat, or other utilities, trash removal and general maintenance of common areas. In addition, we are permitted to employ an independent contractor from whom we derive no revenue to provide customary services to our tenants, or a taxable REIT subsidiary, which may be wholly or partially owned by us, to provide both customary and non-customary services to our tenants without causing the rent we receive from those tenants to fail to qualify as rents from real property. Any amounts we receive from a taxable REIT subsidiary with respect to the taxable REIT subsidiary's provision of non-customary services will, however, be nonqualifying income under the 75% gross income test and, except to the extent received through the payment of dividends, the 95% gross income test.

We generally do not intend, and as a general partner of the Operating Partnership, do not intend to permit the Operating Partnership, to take actions we believe will cause us to fail to satisfy the rental conditions described above. However, we may intentionally fail to satisfy some of these conditions to the extent the failure will not, based on the advice of our tax counsel, jeopardize our tax status as a REIT. In addition, with respect to the limitation on the rental of personal property, we have not obtained appraisals of the real property and personal property leased to tenants. Accordingly, there can be no assurance that the IRS will not disagree with our determinations of the value of such property.

For purposes of the gross income tests, the term interest generally does not include any amount received or accrued, directly or indirectly, if the determination of all or some of the amount depends in any way on the income or profits of any person. However, an amount received or accrued generally will not be excluded from the term interest solely by reason of being based on a fixed percentage or percentages of receipts or sales. Interest income constitutes qualifying mortgage interest for purposes of the 75% gross income test to the extent that the underlying obligation is secured by a mortgage on real property. If we receive interest income with respect to a mortgage loan that is secured by both real property and other property and the loan is not fully secured by real property, the interest income must be apportioned between the real property and the other property, and our income from the arrangement will qualify for purposes of the 75% gross income test only to the extent that the interest is allocable to the real property security. In this case, we would be required to apportion our annual interest income to the real property security based on a fraction, the numerator of which is the value of the real property securing the loan, determined when we commit to acquire the loan, and the denominator of which is the highest principal amount of the loan during the year. Even if a loan is not secured by real property or is undersecured, the income that it generates may nonetheless qualify for purposes of the 95% gross income test.

From time to time, we enter into hedging transactions with respect to one or more of our assets or liabilities. Our hedging activities may include entering into interest rate swaps, caps, and floors, options to purchase these items, and futures and forward contracts. Income from a hedging transaction, including gain from the sale or

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disposition of such a transaction, that is clearly identified as a hedging transaction as specified in the Code will not constitute gross income and thus will be exempt from the 75% and 95% gross income tests. The term hedging transaction, as used above, generally means any transaction we enter into in the normal course of our business primarily to manage risk of (1) interest rate changes or fluctuations with respect to borrowings made or to be made by us to acquire or carry real estate assets, or (2) currency fluctuations with respect to an item of qualifying income under the 75% or 95% gross income test. To the extent that we do not properly identify such transactions as hedges or we hedge with other types of financial instruments, the income from those transactions is not likely to be treated as qualifying income for purposes of the gross income tests. We intend to structure any hedging transactions in a manner that does not jeopardize our status as a REIT.

We have various investments in entities located outside the United States, and in the future we may invest in additional entities or properties located outside the United States. In addition, from time to time we may acquire additional properties outside of the United States, through a taxable REIT subsidiary or otherwise. These acquisitions could cause us to incur foreign currency gains or losses. Any foreign currency gains attributable to specified assets or items of qualifying income or gain for purposes of the 75% or 95% gross income test, however, generally will not constitute gross income for purposes of the applicable test, and therefore will be exempt from such test, provided we do not deal in or engage in substantial and regular trading in securities, which we have not done and do not intend to do.

To the extent our taxable REIT subsidiaries pay dividends, we generally will derive our allocable share of such dividend income through our interest in the Operating Partnership. Such dividend income will qualify under the 95%, but not the 75%, gross income test. We will monitor the amount of the dividend and other income from our taxable REIT subsidiaries and will take actions intended to keep this income, and any other nonqualifying income, within the limitations of the gross income tests. Although we expect these actions will be sufficient to prevent a violation of the gross income tests, we cannot guarantee that such actions will in all cases prevent such a violation.

If we fail to satisfy one or both of the 75% or 95% gross income tests for any taxable year, we may nevertheless qualify as a REIT for the year if we are entitled to relief under certain provisions of the Code. We generally may make use of the relief provisions if:

following our identification of the failure to meet the 75% or 95% gross income tests for any taxable year, we file a schedule with the IRS setting forth each item of our gross income for purposes of the 75% or 95% gross income tests for such taxable year in accordance with Treasury Regulations to be issued; and

our failure to meet these tests was due to reasonable cause and not due to willful neglect.

It is not possible, however, to state whether in all circumstances we would be entitled to the benefit of these relief provisions. For example, if we fail to satisfy the gross income tests because nonqualifying income that we intentionally accrue or receive exceeds the limits on nonqualifying income, the IRS could conclude that our failure to satisfy the tests was not due to reasonable cause. If these relief provisions do not apply to a particular set of circumstances, we will not qualify as a REIT. As discussed above in Taxation of Tanger Factory Outlet Centers, Inc. General, even if these relief provisions apply, and we retain our status as a REIT, a tax would be imposed with respect to our nonqualifying income. We may not always be able to comply with the gross income tests for REIT qualification despite periodic monitoring of our income.

Prohibited Transaction Income. Any gain that we realize on the sale of property held as inventory or otherwise held primarily for sale to customers in the ordinary course of business, including our share of any such gain realized by the Operating Partnership, either directly or through its subsidiary partnerships and limited liability companies, will be treated as income from a prohibited transaction that is subject to a 100% penalty tax, unless certain safe harbor exceptions apply. This prohibited transaction income may also adversely affect our ability to satisfy the gross income tests for qualification as a REIT. Under existing law, whether property is held

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as inventory or primarily for sale to customers in the ordinary course of a trade or business is a question of fact that depends on all the facts and circumstances surrounding the particular transaction. The Operating Partnership intends to hold its properties for investment with a view to long-term appreciation, to engage in the business of acquiring, developing and owning its properties and to make occasional sales of the properties as are consistent with the Operating Partnership's investment objectives. We do not intend to enter into any sales that are prohibited transactions. However, the IRS may successfully contend that some or all of the sales made by the Operating Partnership or its subsidiary partnerships or limited liability companies are prohibited transactions. We would be required to pay the 100% penalty tax on our allocable share of the gains resulting from any such sales.

Penalty Tax. Any redetermined rents, redetermined deductions or excess interest we generate will be subject to a 100% penalty tax. In general, redetermined rents are rents from real property that are overstated as a result of any services furnished to any of our tenants by a taxable REIT subsidiary of ours, and redetermined deductions and excess interest represent any amounts that are deducted by a taxable REIT subsidiary of ours for amounts paid to us that are in excess of the amounts that would have been deducted based on arm's length negotiations. Rents we receive will not constitute redetermined rents if they qualify for certain safe harbor provisions contained in the Code.

From time to time, our taxable REIT subsidiaries may provide services to our tenants. We intend to set the fees paid to our taxable REIT subsidiaries for such services at arm's length rates, although the fees paid may not satisfy the safe-harbor provisions described above. These determinations are inherently factual, and the IRS has broad discretion to assert that amounts paid between related parties should be reallocated to clearly reflect their respective incomes. If the IRS successfully made such an assertion, we would be required to pay a 100% penalty tax on the excess of an arm's length fee for tenant services over the amount actually paid.

Asset Tests. At the close of each calendar quarter of our taxable year, we must also satisfy four tests relating to the nature and diversification of our assets. First, at least 75% of the value of our total assets must be represented by real estate assets, cash, cash items and government securities. For purposes of this test, the term "real estate assets" generally means real property (including interests in real property and interests in mortgages on real property) and shares (or transferable certificates of beneficial interest) in other REITs, as well as any stock or debt instrument attributable to the investment of the proceeds of a stock offering or a public offering of debt with a term of at least five years, but only for the one-year period beginning on the date the REIT receives such proceeds.

Second, not more than 25% of the value of our total assets may be represented by securities (including securities of one or more taxable REIT subsidiaries), other than those securities includable in the 75% asset test.

Third, of the investments included in the 25% asset class, and except for investments in other REITs, our qualified REIT subsidiaries and taxable REIT subsidiaries, the value of any one issuer's securities may not exceed 5% of the value of our total assets, and we may not own more than 10% of the total vote or value of the outstanding securities of any one issuer except, in the case of the 10% value test, securities satisfying the "straight debt" safe-harbor or securities issued by a partnership that itself would satisfy the 75% income test if it were a REIT. Certain types of securities we may own are disregarded as securities solely for purposes of the 10% value test, including, but not limited to, any loan to an individual or an estate, any obligation to pay rents from real property and any security issued by a REIT. In addition, solely for purposes of the 10% value test, the determination of our interest in the assets of a partnership or limited liability company in which we own an interest will be based on our proportionate interest in any securities issued by the partnership or limited liability company, excluding for this purpose certain securities described in the Code.

Fourth, not more than 25% of the value of our total assets may be represented by the securities of one or more taxable REIT subsidiaries.

The Operating Partnership owns 100% of the stock of certain corporations that have elected, together with us, to be treated as our taxable REIT subsidiaries. So long as each of these companies qualifies as a taxable REIT

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subsidiary, we will not be subject to the 5% asset test, the 10% voting securities limitation or the 10% value limitation with respect to our ownership of their stock. We may acquire securities in other taxable REIT subsidiaries in the future. We believe that the aggregate value of our taxable REIT subsidiaries will not exceed 25% of the aggregate value of our gross assets. No independent appraisals have been obtained to support these conclusions. In addition, there can be no assurance that the IRS will not disagree with our determinations of value of such assets.

The asset tests must be satisfied at the close of each calendar quarter of our taxable year in which we (directly or through the Operating Partnership) acquire securities in the applicable issuer, and also at the close of each calendar quarter in which we increase our ownership of securities of such issuer (including as a result of increasing our interest in the Operating Partnership). For example, our indirect ownership of securities of each issuer will increase as a result of our capital contributions to the Operating Partnership or as other partners in the Operating Partnership exercise their rights to exchange their limited partnership units in the Operating Partnership. After initially meeting the asset tests at the close of any quarter, we will not lose our status as a REIT for failure to satisfy the asset tests at the end of a later quarter solely by reason of changes in asset values (including a change caused by changes in the foreign currency exchange rate used to value foreign assets). If we fail to satisfy an asset test because we acquire securities or other property during a quarter (including as a result of an increase in our interest in the Operating Partnership), we may cure this failure by disposing of sufficient nonqualifying assets within 30 days after the close of that quarter. We believe that we have maintained, and we intend to maintain, adequate records of the value of our assets to ensure compliance with the asset tests. If we fail to cure any noncompliance with the asset tests within the 30 day cure period, we would cease to qualify as a REIT unless we are eligible for certain relief provisions discussed below.

Certain relief provisions may be available to us if we discover a failure to satisfy the asset tests described above after the 30 day cure period. Under these provisions, we will be deemed to have met the 5% and 10% asset tests if the value of our nonqualifying assets (i) does not exceed the lesser of (a) 1% of the total value of our assets at the end of the applicable quarter or (b) \$10,000,000, and (ii) we dispose of the nonqualifying assets or otherwise satisfy such tests within (a) six months after the last day of the quarter in which the failure to satisfy the asset tests is discovered or (b) the period of time prescribed by Treasury Regulations to be issued. For violations of any of the asset tests due to reasonable cause and not due to willful neglect and that are, in the case of the 5% and 10% asset tests, in excess of the *de minimis* exception described above, we may avoid disqualification as a REIT after the 30 day cure period by taking steps including (i) the disposition of sufficient nonqualifying assets, or the taking of other actions, which allow us to meet the asset tests within (a) six months after the last day of the quarter in which the failure to satisfy the asset tests is discovered or (b) the period of time prescribed by Treasury Regulations to be issued, (ii) paying a tax equal to the greater of (a) \$50,000 or (b) the highest corporate tax rate multiplied by the net income generated by the nonqualifying assets, and (iii) disclosing certain information to the IRS.

Although we believe we have satisfied the asset tests described above and plan to take steps to ensure that we satisfy such tests for any quarter with respect to which retesting is to occur, there can be no assurance we will always be successful, or will not require a reduction in the Operating Partnership's overall interest in an issuer (including in a taxable REIT subsidiary). If we fail to cure any noncompliance with the asset tests in a timely manner, and the relief provisions described above are not available, we would cease to qualify as a REIT.

Annual Distribution Requirements. To maintain our qualification as a REIT, we are required to distribute dividends, other than capital gain dividends, to our stockholders in an amount at least equal to the sum of:

90% of our REIT taxable income ; and

90% of our after tax net income, if any, from foreclosure property; minus

the excess of the sum of certain items of non-cash income over 5% of our REIT taxable income.

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For these purposes, our REIT taxable income is computed without regard to the dividends paid deduction and our net capital gain. In addition, for purposes of this test, non-cash income means income attributable to leveled stepped rents, original issue discount on purchase money debt, cancellation of indebtedness, or a like-kind exchange that is later determined to be taxable.

Also, our REIT taxable income will be reduced by any taxes we are required to pay on any gain we recognize from the disposition of any asset, within a specified recognition period following our acquisition of such asset, that we acquired from a corporation which is or has been a C corporation in a transaction in which our basis in the asset is less than the fair market value of the asset, determined at the time we acquired the asset.

We generally must pay, or be treated as paying, the distributions described above in the taxable year to which they relate. At our election, a distribution will be treated as paid in a taxable year if it is declared before we timely file our tax return for such year and paid on or before the first regular dividend payment after such declaration, provided such payment is made during the 12-month period following the close of such year. These distributions are treated as received by our stockholders in the year in which paid. This is so even though these distributions relate to the prior year for purposes of the 90% distribution requirement. In order to be taken into account for purposes of our distribution requirement, the amount distributed must not be preferential i.e., every stockholder of the class of stock to which a distribution is made must be treated the same as every other stockholder of that class, and no class of stock may be treated other than according to its dividend rights as a class. To the extent that we do not distribute all of our net capital gain, or distribute at least 90%, but less than 100%, of our REIT taxable income, as adjusted, we will be required to pay tax on the undistributed amount at regular corporate tax rates. We believe we have made, and we intend to continue to make, timely distributions sufficient to satisfy these annual distribution requirements and to minimize our corporate tax obligations. In this regard, the partnership agreement of the Operating Partnership authorizes us, as general partner of the Operating Partnership, to take such steps as may be necessary to cause the Operating Partnership to distribute to its partners an amount sufficient to permit us to meet these distribution requirements and to minimize our corporate tax obligation.

We expect that our REIT taxable income will be less than our cash flow because of depreciation and other non-cash charges included in computing REIT taxable income. Accordingly, we anticipate that we generally will have sufficient cash or liquid assets to enable us to satisfy the distribution requirements described above. However, from time to time, we may not have sufficient cash or other liquid assets to meet these distribution requirements due to timing differences between the actual receipt of income and actual payment of deductible expenses, and the inclusion of income and deduction of expenses in determining our taxable income. In addition, we may decide to retain our cash, rather than distribute it, in order to repay debt or for other reasons. If these timing differences occur, we may borrow funds to pay dividends or pay dividends through the distribution of other property in order to meet the distribution requirements, while preserving our cash.

Under certain circumstances, we may be able to rectify an inadvertent failure to meet the 90% distribution requirement for a year by paying deficiency dividends to our stockholders in a later year, which may be included in our deduction for dividends paid for the earlier year. Thus, we may be able to avoid being taxed on amounts distributed as deficiency dividends, subject to the 4% excise tax described below. However, we will be required to pay interest to the IRS based upon the amount of any deduction claimed for deficiency dividends. While the payment of a deficiency dividend will apply to a prior year for purposes of our REIT distribution requirements, it will be treated as an additional distribution to our shareholders in the year such dividend is paid.

Furthermore, we will be required to pay a 4% excise tax to the extent we fail to distribute during each calendar year at least the sum of 85% of our ordinary income for such year, 95% of our capital gain net income for the year and any undistributed taxable income from prior periods. Any ordinary income and net capital gain on which this excise tax is imposed for any year is treated as an amount distributed during that year for purposes of calculating such tax.

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For purposes of the 90% distribution requirement and excise tax described above, dividends declared during the last three months of the taxable year, payable to stockholders of record on a specified date during such period and paid during January of the following year, will be treated as paid by us and received by our stockholders on December 31 of the year in which they are declared.

Record Keeping Requirements. We are required to comply with applicable record keeping requirements. Failure to comply could result in monetary fines. For example, we must request on an annual basis information from our shareholders designed to disclose the actual ownership of our outstanding common shares.

Failure To Qualify. If we discover a violation of a provision of the Code that would result in our failure to qualify as a REIT, specified cure provisions may be available to us. Except with respect to violations of the gross income tests and asset tests (for which the cure provisions are described above), and provided the violation is due to reasonable cause and not due to willful neglect, these cure provisions generally impose a \$50,000 penalty for each violation in lieu of a loss of REIT status. If we fail to satisfy the requirements for taxation as a REIT in any taxable year, and the relief provisions do not apply, we will be required to pay tax, including any applicable alternative minimum tax, on our taxable income at regular corporate rates. Distributions to stockholders in any year in which we fail to qualify as a REIT will not be deductible by us, and we will not be required to distribute any amounts to our stockholders. As a result, we anticipate that our failure to qualify as a REIT would reduce the cash available for distribution by us to our stockholders. In addition, if we fail to qualify as a REIT, all distributions to stockholders will be taxable as regular corporate dividends to the extent of our current and accumulated earnings and profits. In this event, corporate distributees may be eligible for the dividends-received deduction. In addition, non-corporate stockholders, including individuals, may be eligible for the preferential tax rates on qualified dividend income. Unless entitled to relief under specific statutory provisions, we will also be ineligible to elect to be treated as a REIT for the four taxable years following the year for which we lost our qualification. It is not possible to state whether in all circumstances we would be entitled to this statutory relief.

Tax Aspects of the Operating Partnership

General. Substantially all of our investments are held indirectly through the Operating Partnership. In addition, the Operating Partnership holds certain of its investments indirectly through subsidiary partnerships and limited liability companies which we expect will be treated as partnerships or disregarded entities for federal income tax purposes. In general, entities that are treated as partnerships or disregarded entities for federal income tax purposes are pass-through entities which are not required to pay federal income tax. Rather, partners or members of such entities are allocated their shares of the items of income, gain, loss, deduction and credit of the partnership or limited liability company, and are potentially required to pay tax on this income, without regard to whether they receive a distribution from the partnership or limited liability company. We will include in our income our share of these partnership and limited liability company items for purposes of the various gross income tests, the computation of our REIT taxable income, and the REIT distribution requirements. Moreover, for purposes of the asset tests, we will include our pro rata share of assets held by the Operating Partnership, including its share of its subsidiary partnerships and limited liability companies, based on our capital interests in each such entity. See *Taxation of Tanger Factory Outlet Centers, Inc.*

Entity Classification. Our interests in the Operating Partnership and the subsidiary partnerships and limited liability companies involve special tax considerations, including the possibility that the IRS might challenge the status of these entities as partnerships (or disregarded entities), as opposed to associations taxable as corporations for federal income tax purposes. If the Operating Partnership or a subsidiary partnership or limited liability company were treated as an association, it would be taxable as a corporation and would be required to pay an entity-level tax on its income. In this situation, the character of our assets and items of gross income would change and could prevent us from satisfying the REIT asset tests and possibly the REIT income tests. See *Taxation of Tanger Factory Outlet Centers, Inc. Asset Tests and Income Tests*. This, in turn, could prevent us from qualifying as a REIT. See *Failure to Qualify* for a discussion of the effect of our failure to meet these tests. In addition, a change in the tax status of the Operating Partnership, a subsidiary partnership or

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limited liability company might be treated as a taxable event. If so, we might incur a tax liability without any related cash distributions. We believe the Operating Partnership and each of our other partnerships and limited liability companies will be classified as partnerships or disregarded entities for federal income tax purposes.

Tax Allocations With Respect to the Centers. Under Section 704(c) of the Code, income, gain, loss and deduction attributable to appreciated or depreciated property that is contributed to a partnership or limited liability company treated as a partnership, in exchange for an interest in the partnership or limited liability company, must be allocated in a manner so that the contributing partner or member is charged with the unrealized gain or benefits from the unrealized loss associated with the property at the time of the contribution, as adjusted from time to time. The amount of the unrealized gain or unrealized loss generally is equal to the difference between the fair market value or book value and the adjusted tax basis of the contributed property at the time of contribution (a Book-Tax Difference), as adjusted from time to time. In addition, income, gain, loss and deductions must be allocated in a manner that takes into account Book-Tax Differences arising from the revaluation of property (which must occur in certain circumstances) held by a partnership or limited liability company treated as a partnership. These allocations are solely for federal income tax purposes and do not affect the book capital accounts or other economic or legal arrangements among the partners.

In general, the Non-Company LPs will be allocated lower amounts of depreciation deductions for tax purposes than such deductions would be if determined on a pro rata basis. In addition, in the event of the disposition of any of the contributed assets which have a Book-Tax Difference, all income attributable to such Book-Tax Difference will generally be allocated to the Non-Company LPs, and the Company will generally be allocated only its share of capital gains attributable to appreciation, if any, occurring after the contribution of such assets to the Operating Partnership. This will tend to eliminate the Book-Tax Difference over the life of the Operating Partnership. However, the special allocation rules of Section 704(c) do not always entirely eliminate the Book-Tax Difference on an annual basis or with respect to a specific taxable transaction such as a sale. Thus, the carryover basis of the contributed assets in the hands of the Operating Partnership will cause the Company to be allocated lower depreciation and other deductions, and possibly amounts of taxable income in the event of a sale of such contributed assets in excess of the economic or book income allocated to it as a result of such sale. This may cause the Company to recognize taxable income in excess of cash proceeds, which might adversely affect the Company's ability to comply with the REIT distribution requirements. See Annual Distribution Requirements.

Treasury Regulations issued under Section 704(c) of the Code provide partnerships with a choice of several methods of accounting for Book-Tax Differences. We and the Operating Partnership have agreed to use the traditional method for accounting for Book-Tax Differences for the factory outlet centers that were initially contributed to the Operating Partnership. Under the traditional method, which is the least favorable method from our perspective, the carryover basis of contributed interests in the properties in the hands of the Operating Partnership (i) will or could cause us to be allocated lower amounts of depreciation deductions for tax purposes than would be allocated to us if all contributed properties were to have a tax basis equal to their fair market value at the time of the contribution and (ii) could cause us to be allocated taxable gain in the event of a sale of such contributed interests or properties in excess of the economic or book income allocated to us as a result of such sale, with a corresponding benefit to the other partners in the Operating Partnership. An allocation described in (ii) above might cause us or the other partners to recognize taxable income in excess of cash proceeds in the event of a sale or other disposition of property, which might adversely affect our ability to comply with the REIT distribution requirements. See Taxation of Tanger Factory Outlet Centers, Inc. Requirements for Qualification as a REIT and Annual Distribution Requirements. With respect to property contributed to the Operating Partnership subsequent to the contribution of the initially contributed factory outlet centers or with respect to property revalued as referred to above, we and the Operating Partnership have agreed to account for Book-Tax Differences under any method approved under Section 704(c) of the Code and the applicable regulations as chosen by the Operating Partnership's general partner under the Operating Partnership's partnership agreement.

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The factory outlet centers initially contributed to the Operating Partnership by the Company, as well as any properties acquired by the Operating Partnership in a taxable transaction, will initially have a tax basis equal to their fair market value, and Section 704(c) of the Code will not apply to them.

Other Tax Consequences

State, local and non-United States income tax laws may differ substantially from the corresponding federal income tax laws, and this discussion does not purport to describe any aspect of the tax laws of any state, local or non-United States jurisdiction, or any federal tax other than the income tax. Prospective investors should consult their tax advisor regarding the effect of state, local and non-United States tax laws with respect to our tax treatment as a REIT.

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PLAN OF DISTRIBUTION

We may sell the securities offered by this prospectus to one or more underwriters for public offering and sale by them or may sell the securities offered by this prospectus to investors directly or through agents. Any underwriter or agent involved in the offer and sale of the securities offered by this prospectus will be named in the applicable prospectus supplement. We have reserved the right to sell or exchange securities directly to investors on our or their own behalf in those jurisdictions where we are authorized to do so.

We may distribute the securities 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 such prevailing market prices; or

at negotiated prices.

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

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

If so indicated in the applicable prospectus supplement, we will authorize dealers acting as our agents to solicit offers by certain institutions to purchase the securities offered by this prospectus from us at the public offering price set forth in that prospectus supplement pursuant to delayed delivery contracts providing for payment and delivery on the date or dates stated in that prospectus supplement.

Each delayed delivery contract will be for an amount not less than, and the aggregate principal amount of the securities offered by this prospectus sold pursuant to delayed delivery contracts shall be not less nor more than, the respective amounts stated in the applicable prospectus supplement. Institutions with whom delayed delivery contracts, when authorized, may be made include commercial and savings banks, insurance companies, pension funds, investment companies, educational and charitable institutions, and other institutions but will in all cases be subject to our approval. Delayed delivery contracts will not be subject to any conditions except:

- (1) the purchase by an institution of the securities offered by this prospectus covered by its delayed delivery contracts shall not at the time of delivery be prohibited under the laws of any jurisdiction in the United States to which that institution is subject, and

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- (2) if the securities offered by this prospectus are being sold to underwriters, we shall have sold to those underwriters the total principal amount of the securities offered by this prospectus less the principal amount thereof covered by delayed delivery contracts.

To facilitate the offering of securities, certain persons participating in the offering may engage in transactions that stabilize, maintain, or otherwise affect the price of the securities. This may include over-allotments or short sales of the securities, which involve the sale by persons participating in the offering of more securities than we sold to them. In these circumstances, these persons would cover such over-allotments or short positions by making purchases in the open market or by exercising their over-allotment option, if any. In addition, these persons may stabilize or maintain the price of the securities by bidding for or purchasing securities in the open market or by imposing penalty bids, whereby selling concessions allowed to dealers participating in the offering may be reclaimed if securities sold by them are repurchased in connection with stabilization transactions. The effect of these transactions may be to stabilize or maintain the market price of the securities at a level above that which might otherwise prevail in the open market. These transactions may be discontinued at any time.

The underwriters and their respective affiliates are full service financial institutions engaged in various activities, which may include securities trading, commercial and investment banking, financial advisory, investment management, investment research, principal investment, hedging, financing and brokerage activities. In the ordinary course of their business activities, the underwriters and their affiliates may make or hold a broad array of investments and actively trade debt and equity securities (or related derivative securities) and financial instruments (including bank loans) for their own account and for the accounts of their customers. Such investments and securities activities may involve securities and/or instruments of ours or our subsidiaries. The underwriters and their affiliates may also make investment recommendations and/or publish or express independent research views in respect of such securities or financial instruments and may hold, or recommend to clients that they acquire, long and/or short positions in such securities and instruments.

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EXPERTS

The consolidated financial statements and management's assessment of the effectiveness of internal control over financial reporting (which is included in Management's Report on Internal Control over Financial Reporting) incorporated in this prospectus by reference to the Annual Report on Form 10-K of Tanger Factory Outlet Centers, Inc. for the year ended December 31, 2014 have been so incorporated in reliance on the report of PricewaterhouseCoopers LLP, an independent registered public accounting firm, given on the authority of said firm as experts in auditing and accounting.

The consolidated financial statements and management's assessment of the effectiveness of internal control over financial reporting (which is included in Management's Report on Internal Control over Financial Reporting) incorporated in this prospectus by reference to the Annual Report on Form 10-K of Tanger Properties Limited Partnership for the year ended December 31, 2014 have been so incorporated in reliance on the report of PricewaterhouseCoopers LLP, an independent registered public accounting firm, given on the authority of said firm as experts in auditing and accounting.

VALIDITY OF SECURITIES

The validity of the securities offered by this prospectus will be passed upon for us by Latham & Watkins LLP, New York, New York. Any underwriters, dealers or agents will be advised about the other issues relating to any offering by their own legal counsel. Latham & Watkins LLP and any counsel for any underwriters, dealers or agents will rely on Womble Carlyle Sandridge & Rice, LLP as to certain matters of North Carolina law.

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Tanger Factory Outlet Centers, Inc.

Preferred Shares, Depositary Shares, Common Shares and Common Share Warrants

Tanger Properties Limited Partnership

Debt Securities

Prospectus

June 2, 2015

Table of Contents**PART II****Information Not Required in Prospectus****Item 14. Other Expenses of Issuance and Distribution**

The following is a statement of the expenses (all of which are estimated) to be incurred by us in connection with a distribution of securities registered under this registration statement:

	Amount to be paid
SEC registration fee	(1)
Printing and Engraving Expenses	(2)
Legal Fees and Expenses	(2)
Accounting Fees and Expenses	(2)
Fees of Rating Agencies	(2)
Fees of Trustee (Including counsel fees)	(2)
Miscellaneous	(2)
 Total	 \$ (2)

- (1) Deferred in accordance with Rule 456(b) and 457(r) of the Securities Act of 1933, as amended.
- (2) These fees are calculated based on the securities offered and the number of issuances and accordingly cannot be estimated at this time.

Item 15. Indemnification of Directors and Officers

The Company is a North Carolina corporation. The Company's Amended and Restated Articles of Incorporation contain a provision authorized by Section 55-2-02(b)(3) of the North Carolina Business Corporation Act (the "NC BCA") eliminating the personal liability of a director arising out of an action whether by or in the right of the corporation or otherwise for monetary damages for breach of any duty of a director, except for liability with respect to (i) acts or omissions that the director at the time of such breach knew or believed were clearly in conflict with the best interests of the corporation, (ii) any transaction from which the director derived an improper personal benefit as that term is defined in the NC BCA, (iii) acts or omissions occurring prior to the effective date of the Articles or (iv) acts or omissions with respect to which the NC BCA does not permit the limitation of liability.

The Company has also adopted indemnification provisions authorized by NC BCA Section 55-8-57 which obligate the corporation:

- (1) to indemnify any person who serves or has served as a director or officer against (i) any liability for or obligation to pay reasonable expenses, including attorneys' fees, incurred by such officer or director in connection with any proceeding arising out of such director's or officer's status as such or any activities of such director or officer in such capacity and (ii) any liability for or obligation to pay any judgment, settlement, penalty or fine (including an excise tax assessed with respect to an employee benefit plan) in any such proceeding; and
- (2) to indemnify any person who serves or has served as a director or officer and who, at the request of the corporation, serves or has served as a director, officer, partner, trustee, employee or agent of another corporation, partnership, joint venture, trust or other

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enterprise or as a trustee or administrator under an employee benefit plan against (i) any liability for or obligation to pay reasonable expenses, including attorneys' fees, incurred by such officer or director in connection with any proceeding arising out of such person's status as a director or officer of the corporation or as a director, officer, partner, trustee, employee or agent of such other corporation, partnership, joint venture, trust or other enterprise or as a trustee or administrator under an employee benefit plan or any activities of such director or officer in

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any of such capacities and (ii) any liability for or obligation to pay any judgment, settlement, penalty or fine (including an excise tax assessed with respect to any employee benefit plan) in any such proceeding.

Provided however, such indemnification does not extend to any liability or expense the director or officer may incur on account of his or her activities which, at the time taken, were known or believed by such director or officer to be clearly in conflict with the best interests of the corporation.

Pursuant to Section 55-8-51 of the NC BCA, a North Carolina corporation may indemnify a director against liability in any proceeding to which the director is made a party because of his status as such if the director (i) conducted himself in good faith, (ii) reasonably believed that his conduct in his official capacity was in the corporation's best interests and, in all other cases, that his conduct was at least not opposed to the corporation's best interests and (iii) in the case of a criminal proceeding, had no reasonable cause to believe his conduct was unlawful.

Pursuant to Section 55-8-52 of the NC BCA, a North Carolina corporation is required to indemnify a director who was wholly successful, on the merits or otherwise, in the defense of any proceeding to which he was a party because he is or was a director against reasonable expenses incurred by him in connection with the proceeding.

Pursuant to Section 55-8-54 of the NC BCA, the court may order indemnification of a director of a North Carolina corporation in any proceeding to which the director is a party if the director is fairly and reasonably entitled to indemnification in view of all the relevant circumstances.

The term proceeding as used herein includes any threatened, pending or completed civil, criminal, administrative or investigative action, suit or proceeding (and any appeal therein), whether formal or informal and whether or not brought by or on behalf of the corporation.

Item 16. Exhibits

Exhibit No.	Description
1.1	Form of Underwriting Agreement for Debt Securities (incorporated by reference to Exhibit 1(a) to Amendment No. 1, filed May 24, 1996, to the Company and the Operating Partnership's Registration Statement on Form S-3, as amended, Registration Nos. 333-3526/333-3526-01)
1.2	Form of Underwriting Agreement for Equity Securities (incorporated by reference to Exhibit 1(b) to Amendment No. 1, filed May 24, 1996, to the Company and the Operating Partnership's Registration Statement on Form S-3, as amended, Registration Nos. 333-3526/333-3526-01)
3.1	Amended and Restated Articles of Incorporation of the Company (incorporated by reference to the exhibits to the Company's Annual Report on Form 10-K for the year ended December 31, 1996)
3.1A	Amendment to Amended and Restated Articles of Incorporation dated May 29, 1996 (incorporated by reference to the exhibits to the Company's Annual Report on Form 10-K for the year ended December 31, 1996)
3.1B	Amendment to Amended and Restated Articles of Incorporation dated August 20, 1998 (incorporated by reference to the exhibits to the Company's Annual Report on Form 10-K for the year ended December 31, 1998)
3.1C	Amendment to Amended and Restated Articles of Incorporation dated September 30, 1999 (incorporated by reference to the exhibits to the Company's Annual Report on Form 10-K for the year ended December 31, 1999)

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Exhibit No.	Description
3.1D	Amendment to Amended and Restated Articles of Incorporation dated November 10, 2005 (incorporated by reference to the exhibits to the Company's Current Report on Form 8-K dated November 11, 2005)
3.1E	Amendment to Amended and Restated Articles of Incorporation dated June 13, 2007 (incorporated by reference to the exhibits of the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2007)
3.1F	Articles of Amendment to Amended and Restated Articles of Incorporation dated August 27, 2008 (incorporated by reference to the exhibits of the Company's Current Report on Form 8-K dated August 27, 2008)
3.1G	Articles of Amendment to Amended and Restated Articles of Incorporation of Tanger Factory Outlet Centers, Inc. dated May 18, 2011 (incorporated by reference to the exhibits of the Company's and Operating Partnership's Quarterly Report on Form 10-Q for the quarter ended June 30, 2011)
3.1H	Articles of Amendment to Amended and Restated Articles of Incorporation of Tanger Factory Outlet Centers, Inc. dated May 24, 2012 (incorporated by reference to the exhibits to the Company's and Operating Partnership's Form S-3 dated June 7, 2012)
3.2	By-Laws of Tanger Factory Outlet Centers, Inc., restated to reflect all amendments through May 18, 2012 (incorporated by reference to the exhibits to the Company's and Operating Partnership's Form S-3 dated June 7, 2012)
3.3	Amended and Restated Agreement of Limited Partnership for Tanger Properties Limited Partnership dated November 11, 2005 (incorporated by reference to the exhibits to the Company's Current Report on Form 8-K dated November 21, 2005)
3.4	Amended and Restated Agreement of Limited Partnership for Tanger Properties Limited Partnership dated August 30, 2013 (incorporated by reference to the exhibits to the Company's and Operating Partnership's Annual Report on Form 10-K for the year ended December 31, 2013)
4.1	Specimen Common Share certificate (incorporated by reference to Exhibit 4.1 to the Company and the Operating Partnership's Registration Statement on Form S-4, filed April 9, 2009, as amended, Registration Nos. 333-158503/333-158503-01)
4.2	Form of Deposit Agreement, by and between the Company and the Depository, including Form of Depository Receipt (incorporated by reference to the exhibits to the Company's Registration Statement on Form S-11 filed October 6, 1993, as amended)
4.3	Form of Preferred Share Certificate (incorporated by reference to the exhibits to the Company's Registration Statement on Form S-11, filed October 6, 1993, as amended)
4.4	Senior Indenture (filed as Exhibit 4(a) to Company's Registration Statement on Form S-3, dated April 12, 1996, Registration Nos. 333-3526/333-3526-01)
4.5	Form of Subordinated Indenture (filed as Exhibit 4(b) to Amendment No. 1, filed May 24, 1996, to the Company and the Operating Partnership's Registration Statement on Form S-3, Registration Nos. 333-3526/333-3526-01)
4.6	Form of Debt Securities (filed as Exhibit 4(c) to Amendment No. 1, filed May 24, 1996, to the Company and the Operating Partnership's Registration Statement on Form S-3, Registration Nos. 333-3526/333-3526-01)
4.7	Form of Common Share Warrant Agreement**
4.8	Form of Form of Articles of Restatement for the Preferred Shares**
4.9	Form of Preferred Share Depository Receipt Certificate**

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Exhibit No.	Description
4.10	Form of Deposit Agreement**
4.11	Form of First Supplemental Indenture (to Senior Indenture), dated March 11, 1996 (incorporated by reference to Exhibit 4(h) to the Company's Current Report on Form 8-K, filed on March 11, 1996)
4.12	Form of Second Supplemental Indenture (to Senior Indenture), dated October 24, 1997 (incorporated by reference to Exhibit 4(i) to the Company's Current Report on Form 8-K, filed on October 29, 1997)
4.13	Form of Third Supplemental Indenture (to Senior Indenture), dated February 15, 2001 (incorporated by reference to Exhibit 4.1 to the Company's Current Report on Form 8-K, filed on February 16, 2001)
4.14	Form of Fourth Supplemental Indenture (to Senior Indenture), dated November 4, 2005 (incorporated by reference to Exhibit 4.2D to the Company's Annual Report on Form 10-K for the year ended December 31, 2006)
4.15	Form of Fifth Supplemental Indenture (to Senior Indenture), dated August 16, 2006 (incorporated by reference to Exhibit 4.2E to the Company's Annual Report on Form 10-K for the year ended December 31, 2006)
4.16	Form of Sixth Supplemental Indenture (to Senior Indenture), dated July 2, 2009 (incorporated by reference to Exhibit 4.13 to the Company and the Operating Partnership's Registration Statement on Form S-3 filed on July 2, 2009, Registration No. 333-160433)
4.17	Form of Seventh Supplemental Indenture (to Senior Indenture), dated June 7, 2010 (incorporated by reference to Exhibit 4.1 to the Company and the Operating Partnership's Current Report on Form 8-K, filed on June 7, 2010)
4.18	Form of Eighth Supplemental Indenture (to Senior Indenture), dated November 25, 2013 (incorporated by reference to Exhibit 4.1 to the Company and the Operating Partnership's Current Report on Form 8-K, filed on November 25, 2013)
4.19	Form of Ninth Supplemental Indenture (to Senior Indenture), dated November 21, 2014 (incorporated by reference to Exhibit 4.1 to the Company and the Operating Partnership's Current Report on Form 8-K, filed on November 21, 2014)
5.1	Opinion of Latham & Watkins LLP*
5.2	Opinion of Womble Carlyle Sandridge & Rice, LLP*
8.1	Opinion of Latham & Watkins LLP re: tax matters*
12.1	Statement re: Computation of Ratios of Earnings to Fixed Charges and to Combined Fixed Charges and Preferred Share Dividends of the Company (incorporated by reference to Exhibit 12.1 to the Company and Operating Partnership's Quarterly Report on Form 10-Q for the quarter ended March 31, 2015 and to Exhibit 12.1 to the Company and Operating Partnership's Annual Report on Form 10-K for the year ended December 31, 2014)
12.2	Statement re: Computation of Ratios of Earnings to Fixed Charges and to Combined Fixed Charges and Preferred Unit Distributions of the Operating Partnership (incorporated by reference to Exhibit 12.2 to the Company and Operating Partnership's Quarterly Report on Form 10-Q for the quarter ended March 31, 2015 and to Exhibit 12.2 to the Company and Operating Partnership's Annual Report on Form 10-K for the year ended December 31, 2014)
23.1	Consent of PricewaterhouseCoopers LLP*
23.2	Consent of Latham & Watkins LLP (included in Exhibit 5.1)
23.3	Consent of Womble Carlyle Sandridge & Rice, LLP (included in Exhibit 5.2)

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Exhibit No.	Description
24	Power of Attorney (included on signature page in Part II of the Registration Statement)
25	Statement of Eligibility of Trustee on Form T-1*

* Filed herewith.

** To be filed by amendment or incorporated by reference in connection with an offering of warrants or depository shares.

Item 17. Undertakings

The undersigned Registrants hereby undertake:

- (1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:
 - (i) to include any prospectus required by Section 10(a)(3) of the Securities Act of 1933, as amended;
 - (ii) to reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than 20 percent change in the maximum aggregate offering price set forth in the Calculation of Registration Fee table in the effective registration statement; and
 - (iii) to include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;
- Provided, however,* that paragraphs (i), (ii), and (iii) do not apply if the registration statement is on Form S-3 or Form F-3 and the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Commission by the registrants pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the registration statement, or is contained in a form of prospectus filed pursuant to Rule 424(b) that is part of the registration statement.
- (2) That, for the purpose of determining any liability under the Securities Act of 1933, as amended, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.
 - (3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.
 - (4) That, for the purpose of determining liability under the Securities Act of 1933, as amended, to any purchaser:

- (i) Each prospectus filed by a Registrant pursuant to Rule 424(b)(3) shall be deemed to be part of the registration statement as of the date the filed prospectus was deemed part of and included in the registration statement; and

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- (ii) Each prospectus required to be filed pursuant to Rule 424(b)(2), (b)(5) or (b)(7) as part of a registration statement in reliance on Rule 430B relating to an offering made pursuant to Rule 415(a)(1)(i), (vii) or (x) for the purpose of providing the information required by Section 10(a) of the Securities Act of 1933 shall be deemed to be part of and included in the registration statement as of the earlier of the date such form of prospectus is first used after effectiveness or the date of the first contract of sale of securities in the offering described in the prospectus. As provided in Rule 430B, for liability purposes of the issuer and any person that is at that date an underwriter, such date shall be deemed to be a new effective date of the registration statement relating to the securities in the registration statement to which the prospectus relates, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof. Provided, however, that no statement made in a registration statement or prospectus that is part of the registration statement or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such effective date, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such effective date.

- (5) That, for the purpose of determining liability of a Registrant under the Securities Act of 1933, as amended, to any purchaser in the initial distribution of the securities, the undersigned Registrants undertake that in a primary offering of securities of the undersigned Registrants pursuant to this registration statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, the undersigned Registrants will be a seller to the purchaser and will be considered to offer or sell such securities to such purchaser:
 - (i) Any preliminary prospectus or prospectus of an undersigned Registrant relating to the offering required to be filed pursuant to Rule 424;
 - (ii) Any free writing prospectus relating to the offering prepared by or on behalf of an undersigned Registrant or used or referred to by an undersigned Registrant;
 - (iii) The portion of any other free writing prospectus relating to the offering containing material information about an undersigned Registrant or its securities provided by or on behalf of an undersigned Registrant; and
 - (iv) Any other communication that is an offer in the offering made by an undersigned Registrant to the purchaser.

- (6) That, for purposes of determining any liability under the Securities Act of 1933, as amended, each filing of our annual report pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended, (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Securities Exchange Act of 1934, as amended) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

- (7) To file an application for the purpose of determining the eligibility of the trustee to act under subsection (a) of Section 310 of the Trust Indenture Act in accordance with the rules and regulations prescribed by the Commission under Section 305(b)(2) of the Trust Indenture Act.

- (8) The undersigned registrant hereby undertakes that:
 - (i) For purposes of determining any liability under the Securities Act of 1933, the information omitted from the form of prospectus filed as part of this registration statement in reliance upon Rule 430A and contained in a form of prospectus filed

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by a registrant pursuant to Rule 424(b) (1) or (4) or 497(h) under the Securities Act shall be deemed to be part of this registration statement as of the time it was declared effective.

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- (ii) For the purpose of determining any liability under the Securities Act of 1933, each post-effective amendment that contains a form of prospectus shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of each Registrant pursuant to the foregoing provisions, or otherwise, each Registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act of 1933 and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by a Registrant of expenses incurred or paid by a director, officer or controlling person of a Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, that Registrant will, unless in the opinion of its counsel the has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act of 1933 and will be governed by the final adjudication of such issue.

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SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, each Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-3 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the city of Greensboro, state of North Carolina, on the 2nd day of June, 2015.

TANGER FACTORY OUTLET CENTERS, INC.

By: /s/ Steven B. Tanger
Steven B. Tanger
President and Chief Executive Officer

TANGER PROPERTIES LIMITED PARTNERSHIP

By: Tanger GP Trust, its sole general partner

By: /s/ Steven B. Tanger
Steven B. Tanger
President and Chief Executive Officer

Table of Contents**POWER OF ATTORNEY**

The individuals whose signatures appear below constitute and appoint Steven B. Tanger, Frank C. Marchisello, Jr. and Chad D. Perry, and each of them, his or her true and lawful attorneys-in-fact and agents with full and several power of substitution, for him or her and his or her name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to this Registration Statement, and to file the same, with all exhibits thereto, and all documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or any of them, or their substitutes, may lawfully do or cause to be done.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated:

TANGER FACTORY OUTLET CENTERS, INC.:

Signature	Title	Date
/s/ William G. Benton William G. Benton	Non-Executive Chairman of the Board of Directors	June 2, 2015
/s/ Steven B. Tanger Steven B. Tanger	Director, President and Chief Executive Officer (Principal Executive Officer)	June 2, 2015
/s/ Frank C. Marchisello, Jr. Frank C. Marchisello, Jr.	Executive Vice President, Chief Financial Officer (Principal Financial Officer)	June 2, 2015
/s/ James F. Williams James F. Williams	Senior Vice President, Chief Accounting Officer (Principal Accounting Officer)	June 2, 2015
/s/ Jeffrey B. Citrin Jeffrey B. Citrin	Director	June 2, 2015
/s/ Donald G. Drapkin Donald G. Drapkin	Director	June 2, 2015
/s/ Thomas J. Reddin Thomas J. Reddin	Director	June 2, 2015
/s/ Bridget M. Ryan-Berman Bridget M. Ryan-Berman	Director	June 2, 2015
/s/ Thomas E. Robinson Thomas E. Robinson	Director	June 2, 2015

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/s/ Allan L. Schuman

Director

June 2, 2015

Allan L. Schuman

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TANGER PROPERTIES LIMITED PARTNERSHIP:

Signature	Title	Date
/s/ Steven B. Tanger Steven B. Tanger	Chairman of the Board of Trustees, President and Chief Executive Officer (Principal Executive Officer)	June 2, 2015
/s/ Frank C. Marchisello, Jr. Frank C. Marchisello, Jr.	Vice President and Treasurer (Principal Financial Officer)	June 2, 2015
/s/ James F. Williams James F. Williams	Vice President and Assistant Treasurer (Principal Accounting Officer)	June 2, 2015
/s/ William G. Benton William G. Benton	Trustee	June 2, 2015
/s/ Jeffrey B. Citrin Jeffrey B. Citrin	Trustee	June 2, 2015
/s/ Donald G. Drapkin Donald G. Drapkin	Trustee	June 2, 2015
/s/ Thomas J. Reddin Thomas J. Reddin	Trustee	June 2, 2015
/s/ Bridget M. Ryan-Berman Bridget M. Ryan-Berman	Trustee	June 2, 2015
/s/ Thomas E. Robinson Thomas E. Robinson	Trustee	June 2, 2015
/s/ Allan L. Schuman Allan L. Schuman	Trustee	June 2, 2015

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Board Member

Other Executives:

George Cardoza

49

Chief Financial Officer

Mark W. Smits

52

Vice President of Sales and Marketing

Grant Carlson

43

Vice President of Business Development

Matthew William Moore

37

Vice President of Research and Development

Marydawn Miller

49

Vice President of Information Technology

Jerome J. Dvonch

42

Director of Finance and Principal Accounting Officer

Members of the Company's Board of Directors are elected at the annual meeting of stockholders and hold office until their successors are elected. The Company's officers are appointed by the Board of Directors and serve at the pleasure of the Board and are subject to employment agreements, if any, approved and ratified by the Board.

The Company, Michael Dent, Aspen Select Healthcare L.P. ("Aspen"), John Elliot, Steven Jones and Larry Kuhnert are parties to the Amended and Restated Shareholders' Agreement dated March 21, 2005, as amended, that, among other provisions, gives Aspen, our largest stockholder, the right to elect three out of the eight directors authorized for our Board of Directors, and to nominate one mutually acceptable independent director. In addition, Michael Dent and the executive management of the Company has the right to elect one director for our Board of Directors until the earlier of (i) Dr. Dent's resignation as an officer or director of the Company or (ii) the sale by Dr. Dent of 50% or more of the number of shares of our common stock that he held on March 21, 2005.

Douglas M. VanOort, – Chairman of the Board of Directors and Chief Executive Officer

Mr. VanOort has served as the Chairman of the Board of Directors and Chief Executive Officer of NeoGenomics since October 28, 2009. Prior to that he served as Chairman of the Board of Directors, Executive Chairman and

Interim Chief Executive Officer from March 2009 to October 2009. He has been an Operating Partner with Summer Street Capital Partners since 2004 and a Founding Partner of Conundrum Capital Partners since 2000. From 1995 to 1999, he served as the Senior Vice President Operations for Quest Diagnostics, Incorporated. During this period Quest Diagnostics grew to approximately \$1.5 billion in annual revenue through both organic growth and mergers and acquisitions. From 1982 to 1995, Mr. VanOort served in various positions at Corning Incorporated and ultimately held the position of Executive Vice President and CFO of Corning Life Sciences, Inc. In 1995, Corning spun off Corning Life Sciences, Inc. into two companies, Quest Diagnostics and Covance, Inc. Mr. VanOort serves as a member of the Board of Directors of several privately held companies. In addition, since 2000, Mr. VanOort is the Co-Owner of Vision Ace Hardware, LLC, a retail hardware chain. Mr. VanOort is a graduate of Bentley University.

Robert P. Gasparini, M.S. – President and Chief Scientific Officer, Board Member

Mr. Gasparini has served as the President and Chief Scientific Officer of NeoGenomics since January 2005. Prior to assuming the role of President and Chief Scientific Officer, Mr. Gasparini was a consultant to the Company beginning in May 2004. Prior to NeoGenomics, Mr. Gasparini was the Director of the Genetics Division for US Pathology Labs, Inc. (“US Labs”) from January 2001 to December 2004. During this period, Mr. Gasparini started the Genetics Division for US Labs and grew annual revenues of this division to \$30 million over a 30 month period. Prior to US Labs, Mr. Gasparini was the Molecular Marketing Manager for Ventana Medical Systems from 1999 to 2001. Prior to Ventana, Mr. Gasparini was the Assistant Director of the Cytogenetics Laboratory for the Prenatal Diagnostic Center from 1993 to 1998 an affiliate of Massachusetts General Hospital and part of Harvard University. While at the Prenatal Diagnostic Center, Mr. Gasparini was also an Adjunct Professor at Harvard University. Mr. Gasparini is a licensed Clinical Laboratory Director and an accomplished author in the field of Cytogenetics. He received his BS degree from The University of Connecticut in Biological Sciences and his Master of Health Science degree from Quinnipiac University in Laboratory Administration.

Steven C. Jones – Executive Vice President Finance, Board Member

Mr. Jones has served as a director since October 2003 and as Executive Vice President of Finance since November 30, 2009. Mr. Jones served as Chief Financial Officer for the Company from October 2003 until November 30, 2009. He is a Managing Director in Medical Venture Partners, LLC, a venture capital firm established in 2003 for the purpose of making investments in the healthcare industry. Mr. Jones is also the co-founder and Chairman of the Aspen Capital Group and has been President and Managing Director of Aspen Capital Advisors since January 2001. Prior to that Mr. Jones was a chief financial officer at various public and private companies and was a Vice President in the Investment Banking Group at Merrill Lynch & Co. Mr. Jones received his B.S. degree in Computer Engineering from the University of Michigan in 1985 and his MBA degree from the Wharton School of the University of Pennsylvania in 1991. He is also Chairman of the Board of T3 Communications, Inc. and serves on the Board of Directors of Disc Motion Technologies, Inc.

Michael T. Dent M.D. – Board Member

Dr. Dent is our founder and a director. Dr. Dent was our President and Chief Executive Officer from June 2001, when he founded NeoGenomics, to April 2004. From April 2004 until April 2005, Dr. Dent served as our President and Chief Medical Officer. Dr. Dent founded the Naples Women's Center in 1996 and continues his practice to this day. He received his training in Obstetrics and Gynecology at the University of Texas in Galveston. He received his M.D. degree from the University of South Carolina in Charleston, South Carolina in 1992 and a B.S. degree from Davidson College in Davidson, North Carolina in 1986. He is a member of the American Association of Cancer Researchers and a Diplomat and Fellow of the American College of Obstetricians and Gynecologists. He sits on the Board of the Florida Life Science Biotech Initiative.

Kevin C. Johnson – Board Member

Mr. Johnson is Chairman of the Board of Aureon Biosciences, Inc. a medical technology company focused on determining likely paths for patients' cancers. He also serves on the Board of Precision Therapeutics, a diagnostics services company using a proprietary tumor cell-based platform to measure patient's tumor sensitivity and resistance to a range of therapeutic alternatives under consideration. From May 1996 until January 2003, Mr. Johnson was Chairman, Chief Executive Officer and President of DIANON Systems, Inc., a publicly-traded cancer diagnostic services company providing anatomic pathology and molecular genetic testing services to physicians nationwide. During that time, DIANON grew annual revenues from approximately \$56 million in 1996 to approximately \$200 million in 2002, and DIANON's market capitalization grew from \$45 million to approximately \$600 million when it was sold to Laboratory Corporation of America (NYSE: LH) in January of 2003. Prior to joining DIANON in 1996, Mr. Johnson was employed by Quest Diagnostics and Quest's predecessor, the Life Sciences Division of Corning, Incorporated, for 18 years, and held numerous management and executive level positions.

Peter M. Peterson – Board Member

Mr. Peterson is a director of NeoGenomics and is the founder of Aspen Capital Partners, LLC which specializes in capital formation, mergers & acquisitions, divestitures, and new business start-ups. Prior to forming Aspen Capital Partners, Mr. Peterson was Managing Director of Investment Banking with H. C. Wainwright & Co. Prior to Wainwright, Mr. Peterson was president of First American Holdings and Managing Director of Investment Banking. Prior to First American, he served in various investment banking roles and was the co-founder of ARM Financial Corporation. Mr. Peterson was one of the key individuals responsible for taking ARM Financial public on the OTC market and the American Stock Exchange. Under Mr. Peterson's financial leadership, ARM Financial Corporation was transformed from a diversified holding company into a national clinical laboratory company with 14

clinical laboratories and ancillary services with over \$100 million in assets. He has also served as an officer or director for a variety of other companies, both public and private. Mr. Peterson earned a Bachelor of Science degree in Business Administration from the University of Florida.

Raymond R. Hipp – Board Member

Mr. Hipp is a retired senior executive that has been involved in consulting work over the last few years involving mergers and acquisitions as well as being a member of a number of public company boards of directors. From July 1998 until his retirement in June 2002, Mr. Hipp served as Chairman, President and CEO of Alternative Resources Corporation, a provider of information technology outsourcing services. From August 1996 until May 1998, Mr. Hipp was the Chief Executive Officer of ITI Marketing Services, a provider of marketing services. Prior to that, Mr. Hipp held senior executive positions with several other firms. Mr. Hipp has a B.S. from Southeast Missouri State University. Mr. Hipp is a director and serves on the audit committee for Gardner Denver, Inc. (NYSE: GDI), an industrial manufacturing company.

William J. Robison – Board Member

Mr. Robison, who is retired, spent his entire 41 year career with Pfizer, Inc. At Pfizer, he rose through the ranks of the sales organization and became Senior Vice President of Pfizer Labs in 1986. In 1990, he became General Manager of Pratt Pharmaceuticals, a then new division of the U.S. Pharmaceuticals Group, and in 1992 he became the President of the Consumer Health Care Group. In 1996 he became a member of Pfizer's Corporate Management Committee and was promoted to the position of Executive Vice President and head of Worldwide Corporate Employee Resources. Mr. Robison retired from Pfizer in 2001 and currently serves as a consultant and board member to various companies. Mr. Robison is a board member and an executive committee member of the USO of Metropolitan New York, Inc. He is also on the board of directors of the Northeast Louisiana University foundation, a member of the Human Resources Roundtable Group, the Pharmaceutical Human Resource Council, the Personnel Round Table, and on the Employee Relations Steering Committee for The Business Round Table.

George Cardoza – Chief Financial Officer

Mr. Cardoza has served as Chief Financial Officer since November 2009. Prior to that from March 2008 to November 2009, Mr. Cardoza served as the Chief Financial Officer of Protocol Global Solutions, Inc., a privately held international marketing company. Mr. Cardoza also served as the Controller of Protocol Global Solutions from March 2006 to March 2008. From April 1991 to March 2006, Mr. Cardoza was employed by Quest Diagnostics Inc., a diagnostic testing, information and services company, in a number of positions, including the position of Controller—Central Region from 2001 to March 2006. At Quest Mr. Cardoza was responsible for overseeing all the financial operations of the Central Region, which had revenue of over \$1.2 billion in 2006. Prior to his time with Quest, he worked for Sony Music Entertainment Inc. and the Continental Grain Company in various financial roles. Mr. Cardoza received his B.S. from Syracuse University in finance and accounting and has received his M.B.A. from Michigan State University.

Mark W. Smits – Vice President of Sales and Marketing

Mr. Smits has served as Vice President of Sales and Marketing since August 2010. From October 2008 to August 2010, Mr. Smits was Vice President of Marketing and Business Development for Fisher HealthCare, Inc., a division of Thermo Fisher Scientific, Inc. which is a supplier of analytical instruments, laboratory equipment, software, services, consumables and reagents. Mr. Smits led the sourcing and business development efforts for Fisher HealthCare. Prior to Fisher HealthCare, Mr. Smits spent 25 years with Abbott Diagnostics, which offers instrument systems and tests for hospitals, reference labs, blood banks, physician offices, and clinics, serving in several different roles including, from October 2002 until September 2008, Divisional Vice President, Western United States Commercial Operations, where he led an organization of 250 people to provide sales, service and support to customers. Mr. Smits received his B.S. from Texas A&M.

Grant Carlson – Vice President of Business Development

Mr. Carlson has served as Vice President of Business Development since August of 2010. Mr. Carlson had previously served as Vice President of Sales and Marketing since July 2009. Mr. Carlson had previously served as a consultant to the Company since December 2009. Prior to that Mr. Carlson served as the President and Chief Executive Officer of Calgenex Corporation, a nutraceutical company which he co-founded, from March 2006 to June 2008. From April 2004 to February 2006, Mr. Carlson served as President and Chief Operating Officer of Nanobac Pharmaceuticals Incorporated, a pharmaceutical and diagnostic company. Mr. Carlson served as Vice President, Marketing and Business Development of Agilix Corporation, a functional genomics company, from April 2001 to April 2004. From January 1989 to April 2001, Mr. Carlson was employed by Dianon Systems, Inc., an anatomic pathology laboratory, lastly in the position of Vice President, Marketing & Business Development. Mr. Carlson received a B.S. degree in

Kinesiology from the University of California, Los Angeles.

Mathew William Moore, Ph.D. – Vice President of Research and Development

Mr. Moore has served as Vice President of Research and Development since July 2006. Prior to that he served as Vice President of Research and Development for Combimatrix Molecular Diagnostics, a subsidiary of Combimatrix Corporation, a biotechnology company, developing novel microarray, Q-PCR and Comparative Genomic Hybridization based diagnostics. Prior to Combimatrix Molecular Diagnostics, he served as a senior scientist with US Labs, a division of Laboratory Corporation of America (LabCorp) where he was responsible for the initial implementation of the Molecular in Situ Hybridization and Molecular Genetics programs. Mr. Moore received his Bachelors of Science degree in Biotechnology, where he graduated with honors and his doctoral degree from the University of New South Wales, Australia.

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Marydawn Miller – VP of Information Technology

Ms. Miller has served as VP of Information Technology since August 2010. Ms. Miller served from September 2009 until March 2010 as Director of Information Technology for Exiqon Diagnostics, a life science and diagnostics company, where she was responsible for information technology, infrastructure, telecommunications and capital project delivery. Ms. Miller provided contract project management for Boston Scientific Corporation, a developer, manufacturer and marketer of medical devices, from April 2009 to September 2009. From January 2005 to March 2009, she was the Regional IT Director for Hospital Services, a business unit of Quest Diagnostics Incorporated, a provider of diagnostic testing, information and services. Ms. Miller served as the Senior Director, Information Technology for Genzyme Genetics, a biotechnology company providing genetic testing products and services, from January 2002 to January 2005. Ms. Miller received a M.S. degree in Software Engineering from Penn State University, an M.B.A. in Finance from Villanova University and a B.S. degree in Mechanical Engineering from Clarkson University.

Jerome J. Dvnoch – Director of Finance, Principal Accounting Officer

Mr. Dvnoch has served as Director of Finance since August 2005 and as Principal Accounting Officer since August 2006. From June 2004 through July 2005, Mr. Dvnoch was Associate Director of Financial Planning and Analysis with Protein Design Labs, a bio-pharmaceutical company. From September 2000 through June 2004, Mr. Dvnoch held positions of increasing responsibility including Associate Director of Financial Analysis and Reporting with Exelixis, Inc., a biotechnology company. Mr. Dvnoch is a Certified Public Accountant and received his M.B.A. from the Simon School of Business at the University of Rochester. He received his B.B.A. in accounting from Niagara University.

Nomination Criteria

The following is a summary of some of the experience, qualifications, attributes and skills that led the Company's Board of Directors to conclude that such person should serve as a director at the time that this filing is made with the Securities and Exchange Commission, in light of the Company's business and structure. This information supplements the biographical information provided above.

- Douglas M. VanOort, Chairman of the Board of Directors and Chief Executive Officer. Mr. VanOort has significant experience in the laboratory industry including experience obtained as Chairman of the Board of Directors and Chief Executive Officer of the Company and as Senior Vice President Operations for Quest Diagnostics, Incorporated. Mr. VanOort also has significant financial experience having served as Executive Vice President and CFO of Corning Life Sciences, Inc. and as an Operating Partner with Summer Street Capital Partners and a Founding Partner of Conundrum Capital Partners. Mr. VanOort is also an experienced executive officer and manager as illustrated by the above described positions and others included in the biographical information provided above.
- Robert P. Gasparini, President and Chief Scientific Officer, Board Member. Mr. Gasparini has a long and distinguished career in genetics in both a commercial setting and academe. His service at NeoGenomics and with U.S. Labs has given him experience in sales and marketing, business development, technology development and laboratory operations in a high complexity setting.
- Steven C. Jones, Executive Vice President of Finance, Board Member, and Chairman of the Compliance Committee. Mr. Jones has a background in investment banking and in investing in the healthcare industry. Mr. Jones provides valuable experience to NeoGenomics with respect to strategic and financial matters. He has experience as CFO of NeoGenomics and of various public and private companies.

- Michael T. Dent M.D., Board Member. Dr. Dent is the founder of the Company and his experience as a physician gives him valuable insight into the physician market. He is the only medical doctor on our Board of Directors. His experience with running a laboratory information system business also provides insight into technology that may be utilized by the Company.
- Peter M. Petersen, Board Member. Mr. Peterson has significant experience in capital management, investment banking and in financial management, including prior experience with 14 clinical laboratories. Mr. Petersen also has knowledge and experience in working with institutional investors.

- William J. Robison, Board Member and Chairman of the Compensation Committee. Mr. Robison spent his entire 41 year career with Pfizer which included positions in the sales organization and as Senior Vice President and President of various business units within Pfizer. Mr. Robison has extensive health care knowledge and offers valuable insight and recommendations with respect to managing our sales-force and our compensation plans.
- Kevin C. Johnson, Board Member. Mr. Johnson spent the majority of his career in the laboratory business and was the CEO for Dianon Systems before it was sold to Laboratory Corporation of America and with his valuable insight is able to make recommendations about running the Company.
- Raymond R. Hipp, Board Member and Chairman of the Audit Committee. Mr. Hipp has experience in mergers and acquisitions, information technology and as CEO of a Company. Mr. Hipp fills an important role with the Company as the Chairman of the Audit Committee and as our audit committee financial expert. Mr. Hipp has valuable experience with the Audit Committee of Gardner Denver, Inc.

Audit Committee

As of the date of this prospectus, the Audit Committee of the Board of Directors is comprised of Mr. Petersen and Mr. Hipp. For Audit Committee purposes, Mr. Hipp is considered to be “independent” pursuant to NASDAQ Listing Rule 5605. Mr. Petersen is not considered to be “independent” pursuant to NASDAQ Listing Rule 5605. Mr. Hipp is the chair of the Audit Committee and the Board of Directors believes that Mr. Hipp is an “audit committee financial expert” as defined by Item 407 of Regulation S-K of the Securities Act.

Compensation Committee

As of the date of this prospectus, the Compensation Committee is comprised of Mr. Robison, Mr. Petersen, and Dr. Dent. Mr. Petersen and Dr. Dent are not considered “independent” as that term is defined by NASDAQ Listing Rule 5605. Mr. Robison is the chair of the Compensation Committee.

Compliance Committee

The Compliance Committee is comprised of Mr. Jones. Mr. Jones is not considered “independent” as that term is defined by NASDAQ Listing Rule 5605. Mr. Jones is the chair of the Compliance Committee.

Independent Directors

Mr. Johnson, Mr. Hipp and Mr. Robison are considered to be “independent” as that term is defined by NASDAQ Listing Rule 5605.

Executive Compensation

Summary Compensation Table

The following Summary Compensation Table sets forth all compensation earned and accrued, in all capacities, during the fiscal years ended December 31, 2010 and 2009, by our Named Executive Officers.

Name and Principal Position	Year	Salary	Bonus	Stock Award	Option Award(1)	Non-Equity Incentive Compensation	Non-qualified Deferred Compensation Earnings	All Other Compensation	Total
Douglas VanOort (2) Chief Executive Officer and Chairman of the Board	2010	\$ 325,000	\$ 9,750	\$ -	\$ 134,467	\$ -	\$ -	\$ -	\$ 469,217
	2009	\$ 218,846	\$ 37,500	\$ -	\$ 203,479	\$ -	\$ -	\$ -	\$ 459,825
Robert P. Gasparini President and Chief Scientific Officer	2010	\$ 252,473	\$ 5,000	\$ -	\$ 35,131	\$ -	\$ -	\$ -	\$ 292,605
	2009	\$ 249,968	\$ 20,000	\$ -	\$ 72,372	\$ -	\$ -	\$ -	\$ 342,340
Steven C. Jones(3,4) Executive Vice President Finance	2010	\$ -	\$ 2,500	\$ -	\$ -	\$ -	\$ -	\$ 347,550	\$ 350,050
	2009	\$ -	\$ 6,000	\$ -	\$ -	\$ -	\$ -	\$ 193,600	223,600
George Cardoza (5) Chief Financial Officer	2010	\$ 189,357	\$ 20,475	\$ -	\$ 48,370	\$ -	\$ -	\$ -	\$ 258,202
	2009	\$ 10,531	\$ 1,000	\$ -	\$ 4,240	\$ -	\$ -	\$ -	\$ 15,771

(1) See Item 8, Note F for a description on the valuation methodology of stock option awards and warrants. Mr. VanOort was granted warrants to purchase 625,000 shares of common stock and the stock compensation expense related to these warrants has been included in option awards.

(2) Mr. VanOort began in March 2009 as Executive Chairman and Interim Chief Executive Officer and began as full time Chief Executive Officer in October 2009.

(3) See Item 8, Note F for a description on the valuation methodology of warrants. Mr. Jones as part of his consulting agreement with NeoGenomics was granted warrants to purchase 450,000 shares of common stock and the stock compensation expense of \$148,200 related to these warrants has been included in other compensation in 2010. Half of these warrants were in recognition of cumulative achievements of Mr. Jones for the Company.

(4) Mr. Jones acts as a consultant in the role of Executive Vice President Finance and prior to November 2009 as Chief Financial Officer and this compensation for such roles has been included in other compensation.

(5) Mr. Cardoza began in November 2009.

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Outstanding Equity Awards at Fiscal Year End

The following table sets forth information with respect to outstanding equity awards held by our named executive officers as of December 31, 2010.

Name and Principal Position	Number of Securities Underlying Unexercised Options Exercisable	Number of Securities Underlying Unexercised Options Un-exercisable	Option Awards Equity Incentive Plan		
			Awards-Number of Securities Underlying Unexercised & Unearned Options	Option Exercise Price	Option Expiration Date
Doug VanOort Chief Executive Officer and Chairman of the Board of Directors	662,500	337,500 (1)	-	\$ 0.80	3/15/2016
Robert P. Gasparini President and Chief Scientific Officer	575,000 100,000 438,000	- - 146,000 (2)(3)	175,000 50,000 200,000	0.25 1.47 0.80	1/1/2015 2/13/2017 3/12/2015
	100,000	50,000 (3)	50,000	0.62	2/9/2019
George Cardoza Chief Financial Officer	37,500	112,500	-	1.55	11/30/2014

- (1) Please see Note G of the consolidated financial statements for a vesting detail.
- (2) 288,000 of the options are time-based and vest monthly from January 2010 through December 2011; the remaining 300,000 options have annual performance measures that are tied to each of the next three years
- (3) Relates to a cancelation of certain performance options which resulted in a new option grant of performance options.

Director Compensation

Each of our non-employee directors is entitled to receive cash compensation. As of December 31, 2010 the reimbursement was as follows:

- \$6,250 for each calendar quarter served as director
- \$1,000 for each board meeting attended in person
- \$500 for each board meeting attended telephonically
- \$5,000 for each year for a Committee Chairman
- \$500 per Committee Meeting attended in person
- \$250 per Committee Meeting attended telephonically

We also reimburse our directors for travel expenses incurred in connection with attendance at board and committee meetings. The following table provides information concerning the compensation of our directors for the year ended December 31, 2010.

Name	Fees Earned or Paid in		Warrant/Option Awards(1)	Non-Equity Nonqualified Incentive Plan Compensation		Deferred Compensation Earnings	All Other Compensation	Total
	Cash	Stock Awards		Plan Compensation	Deferred Compensation			
Michael T. Dent (2)	\$ 25,350	\$ -	\$ 2,125	\$ -	\$ -	\$ -	\$ -	\$ 27,475
Steven Jones (2)	13,000	-	2,125	-	-	-	350,050	365,175
Kevin Johnson	5,000	-	-	-	-	-	-	5,000
Peter Peterson (2)	27,300	-	2,125	-	-	-	-	29,425
William Robison (3)	30,450	-	2,125	-	-	-	-	32,575
Raymond R. Hipp	-	-	-	-	-	-	-	-

(1) On June 6, 2007, upon the conclusion of the private placement and sale of 2.67 million shares of our stock at \$1.50/share to disinterested third parties, the board approved certain warrant compensation for each director as an additional incentive to the normal per meeting fees in place. From the inception of the Company up until this time, no stock-based compensation had ever been awarded to directors. All warrants issued to directors had a strike price equal to the private placement price per share (\$1.50/share), a five year term and a three year vesting period. For those directors who had been a director for at least two years as of the date of the award, 25% of the warrants issued were deemed to have vested upon issue. All of the remaining warrants were deemed to vest ratably over a 36 month period. All of the warrants issued were valued using the Black Scholes option/warrant valuation model with the following assumptions: expected volatility – 35%, expected life – 4 years, risk-free rate – 4.5%, and dividend yield – 0%. The Company expensed the value of these warrants over the vesting period pursuant to the methodology outlined in SFAS 123(R). Pursuant to Regulation SK, Item 402, Paragraph (r)(2)(iv), amounts indicated are the amounts expensed for such warrants under SFAS 123 (R) for the year ended December 31, 2010.

- (2) Awarded on June 6, 2007 a warrant to purchase 100,000 shares of common stock as board member compensation. Such warrants were valued at \$51,000 using the Black-Scholes option/warrant valuation model.
- (3) Awarded on June 6, 2007 a warrant to purchase 75,000 shares of common stock as board member compensation on June 6, 2007. Such warrants were valued at \$38,000 using the Black-Scholes option/warrant valuation model.
- (4) Other compensation for Mr. Jones reflects his consulting compensation for serving as our Executive Vice President of Finance and Acting Principal Financial Officer.

Employment Agreements

Please see Note G of the financial statements for disclosures with respect to the employment agreements and offer letters, if applicable, to which certain of the named executive officers described in the above Summary Compensation Table are subject.

Securities Authorized for Issuance Under Equity Compensation Plans (a)

PPlan Category	Number of securities to be issued upon exercise of outstanding options, warrants and rights	Weighted average exercise price of outstanding options, warrants and rights	Number of securities remaining available for future issuance under equity compensation plans
Equity compensation plans approved by security holders:			
Amended and Restated Equity Incentive Plan ("Equity Incentive Plan")	5,120,048	\$ 0.88	636,522 (e)
Employee Stock Purchase Plan ("ESPP")	-	N/A	159,680
Equity compensation plans not approved by security holders (b), (c), (d)	1,425,000	\$ 1.13	-
Total	6,545,048	\$ 0.93	796,202

(a) As of December 31, 2010.

- (b) Includes an outstanding option to purchase 350,000 shares of common stock granted to Robert P. Gasparini, our President and Chief Scientific Officer, outside the Company's Equity Incentive Plan on March 12, 2008. The options have an exercise price of \$0.80 per share and vests based on the achievement of certain performance milestones. In the event of a change of control of the Company, all unvested portions of the option will vest in full. Unless sooner terminated pursuant to the terms of the stock option agreement, the option will terminate on March 12, 2015.
- (c) Includes outstanding warrants to purchase 625,000 shares of common stock at an exercise price of \$1.05 per share granted to Doug M. VanOort on March 16, 2009. The warrants vest based on the achievement of certain performance milestones. In the event of a change of control of the Company with a share price in excess of \$4.00 per share, all unvested warrants will vest immediately. Unless sooner terminated pursuant to the terms of the warrant agreement, the warrants will terminate on March 15, 2014.
- (d) Includes outstanding warrants to purchase 450,000 shares of common stock at an exercise price of \$1.50 per share granted to Steven C. Jones on May 3, 2010. In the event of a change of control of the Company all unvested warrants will vest immediately. Unless sooner terminated pursuant to the terms of the warrant agreement, the warrants will terminate on May 3, 2017.
- (e) The Company's Equity Incentive Plan was amended and restated on March 3, 2009, and subsequently approved by shareholders holding a majority of the shares outstanding, to allow for the issuance of an aggregate of up to 6,500,000 shares under the plan.

Currently, the Company's Equity Incentive Plan, as amended and restated on October 31, 2006 and again amended and restated on March 3, 2009, and the Company's ESPP, dated October 31, 2006, are the only equity compensation plans in effect.

PRINCIPAL STOCKHOLDERS

The following table sets forth information as of March 10, 2011, with respect to each person known by the Company to own beneficially more than 5% of the Company's outstanding common stock, each director and officer of the Company and all directors and executive officers of the Company as a group. The Company has no other class of equity securities outstanding other than common stock.

Title of Class	Name And Address Of Beneficial Owner	Amount and Nature Of Beneficial Ownership (1)	Percent Of Class(1)	
Common	Aspen Select Healthcare, LP (2) 1740 Persimmon Drive, Suite 100 Naples, Florida 34109	10,546,067	24.6	%
Common	Steven C. Jones (3) c/o NeoGenomics, Inc. 12701 Commonwealth Blvd, Suite 5 Fort Myers, FL 33193	11,971,243	27.5	%
Common	Michael T. Dent, M.D. (4) c/o NeoGenomics, Inc. 12701 Commonwealth Blvd, Suite 5 Fort Myers, FL 33193	2,231,707	5.2	%
Common	Douglas M. VanOort (5) c/o NeoGenomics, Inc. 12701 Commonwealth Blvd, Suite 5 Fort Myers, FL 33193	1,468,890	3.4	%
Common	Robert P. Gasparini (6) c/o NeoGenomics, Inc. 12701 Commonwealth Blvd, Suite 5 Fort Myers, FL 33193	1,218,430	2.8	%
Common	Raymond R. Hipp (7) c/o NeoGenomics, Inc. 12701 Commonwealth Blvd, Suite 5 Fort Myers, FL 33193	52,143	*	
Common	Kevin C. Johnson (8) c/o NeoGenomics, Inc. 12701 Commonwealth Blvd, Suite 5 Fort Myers, FL 33193	71,667	*	
Common	Peter M. Peterson (9) c/o NeoGenomics, Inc. 12701 Commonwealth Blvd, Suite 5 Fort Myers, FL 33193	10,863,812	25.3	%
Common	William J. Robison (10) c/o NeoGenomics, Inc. 12701 Commonwealth Blvd, Suite 5 Fort Myers, FL 33193	149,713	*	
Common	George Cardoza (11) c/o NeoGenomics, Inc. 12701 Commonwealth Blvd, Suite 5 Fort Myers, FL 33193	86,249	*	

Common	Grant Carlson (12) c/o NeoGenomics, Inc. 12701 Commonwealth Blvd, Suite 5 Fort Myers, FL 33193	48,875	*	
Common	Matthew W. Moore (13) c/o NeoGenomics, Inc. 12701 Commonwealth Blvd, Suite 5 Fort Myers, FL 33193	106,875	*	
Common	Mark Smits (14) c/o NeoGenomics, Inc. 12701 Commonwealth Blvd, Suite 5 Fort Myers, FL 33193	51,667	*	
Common	Jerome J. Dvonch (15) c/o NeoGenomics, Inc. 12701 Commonwealth Blvd, Suite 5 Fort Myers, FL 33193	176,167	-	
Common	Directors and Officers as a Group (14 persons) (16)	17,738,626	38.2	%
Common	Abbott Laboratories, Inc. 100 Abbott Park Road Dept. 322, Bldg. AP6A-2 Abbott Park, Illinois 60064-6049	3,500,000	8.2	%
Common	Kinderhook Partners, LP 1 Executive Drive, Suite 160 Fort Lee, NJ 07024	3,174,656	7.4	%
Common	SKL Family Limited Partnership (17) 984 Oyster Court Sanibel, FL 33957	2,747,785	6.4	%
Common	1837 Partners, LP., 1837 Partners, QP,LP., and 1837 Partner Ltd. (1837 RMB Managers, LLC and affiliates) (18) 115 South LaSalle St., 34th Floor Chicago, IL 60603	4,177,535	9.8	%
Common	Blair R. Haarlow (19) c/o RMB Capital 115 South LaSalle St., 34th Floor Chicago, IL 60603	4,133,335	9.7	%
Common	Francis Tuite (20) c/o RMB Capital 115 South LaSalle St., 34th Floor Chicago, IL 60603	3,729,925	8.7	%

*

Less than one percent (1%)

(1)The number and percentage of shares beneficially owned are determined in accordance with Rule 13d-3 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and the information is not necessarily indicative of beneficial ownership for any other purpose. Under such rule, beneficial ownership includes any shares over which the individual or entity has voting power or investment power and any shares of common stock that the

individual has the right to acquire within 60 days of March 10, 2011, through the exercise of any stock option or other right. As of March 10, 2011, 42,817,255 shares of the Company's common stock were outstanding.

(2) Aspen Select Healthcare, LP (Aspen) has direct ownership of 8,038,123 shares. Also includes 2,507,944 shares to which Aspen has received a voting proxy. The general partner of Aspen is Medical Venture Partners, LLC, an entity controlled by Steven C. Jones and Peter M. Peterson.

- (3) Steven C. Jones, Executive Vice President - Finance and director of the Company, has direct ownership of 403,804 shares and warrants exercisable within 60 days of March 10, 2011 to purchase an additional 381,244 shares. Totals for Mr. Jones also include (i) 129,412 shares owned by Aspen Opportunity Fund, LP, an investment partnership that Mr. Jones and Mr. Peterson control, (ii) 107,143 shares owned by Jones Network, LP, a family limited partnership that Mr. Jones controls, (iii) 33,333 shares owned by the Steven & Carisa Jones Defined Benefit Pension Plan & Trust (iv) warrants exercisable within 60 days of March 10, 2011 to purchase 250,000 shares, that are owned by Aspen Capital Advisors, LLC, a company that Mr. Jones controls, (v) warrants exercisable within 60 days of March 10, 2011 to purchase 83,333 shares that are owned by Gulf Pointe Capital, LLC, a company that Mr. Jones and Mr. Peterson control, and (vi) 36,907 shares held in certain individual retirement and custodial accounts. In addition, as a managing member of the general partner of Aspen, he has the right to vote all shares controlled by Aspen, thus all Aspen shares have been added to his total (see Note 2).
- (4) Michael T. Dent, M.D. is a director of the Company. Dr. Dent's beneficial ownership includes 900,000 shares held in a trust for the benefit of Dr. Dent's children (of which Dr. Dent and his attorney are the sole trustees), warrants exercisable within sixty days of March 10, 2011 to purchase 105,000 shares and options exercisable within sixty days of March 10, 2011 to purchase 400,000 shares. Dr. Dent's beneficial ownership also includes 826,707 shares owned directly by Dr. Dent's spouse.
- (5) Douglas M. VanOort, the Chairman and CEO of the Company, has direct ownership of 785,890 shares, warrants exercisable within 60 days of March 10, 2011 to purchase 125,000 shares of stock and options exercisable within sixty days of March 10, 2011 to purchase 558,000 shares.
- (6) Robert P. Gasparini, President of the Company, has direct ownership of 73,430 shares and options exercisable within 60 days of March 10, 2011 to purchase 1,145,000 shares.
- (7) Raymond R. Hipp is a director of the Company. Mr. Hipp has direct ownership of 47,143 shares and warrants exercisable within sixty days of March 10, 2011 to purchase 5,000 shares.
- (8) Kevin C. Johnson is a director of the Company. Mr. Johnson has direct ownership 66,667 shares and warrants exercisable within sixty days of March 10, 2011 to purchase 5,000 shares.
- (9) Peter M. Peterson, a director of the Company, has direct ownership of warrants exercisable within 60 days of March 10, 2011 to purchase 105,000 shares. In addition, as a managing member of the general partner of Aspen, he has the right to vote all shares controlled by Aspen, thus all Aspen shares and currently exercisable warrants have been added to his total (see Note 2). Mr. Peterson's beneficial ownership also includes (i) warrants exercisable within 60 days of March 10, 2011 to purchase an additional 83,333 shares that are owned by Gulf Pointe Capital, LLC, a company that Mr. Jones and Mr. Peterson control, and (ii) 129,412 shares owned by Aspen Opportunity Fund, LP, an investment partnership that Mr. Jones and Mr. Peterson control.
- (10) William J. Robison, a director of the Company, has direct ownership of 69,713 shares and warrants exercisable within 60 days of March 10, 2011 to purchase 80,000 shares.
- (11) George Cardoza, Chief Financial Officer, has direct ownership of 48,749 shares and options exercisable within 60 days of March 10, 2011 to purchase 37,500 shares.
- (12) Grant Carlson, Vice President of Sales and Marketing, has direct ownership of 9,500 shares and options exercisable within 60 days of March 10, 2011 to purchase 39,375 shares.
- (13)

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Matthew W. Moore, Vice President of Research and Development, has options exercisable within 60 days of March 10, 2011 to purchase 106,875 shares.

- (14) Mark W. Smits, Vice President of Sales and Marketing, has direct ownership of 6,667 shares and options exercisable within 60 days of March 10, 2011 to purchase 45,000 shares.
- (15) Jerome J. Dvonch, Principal Accounting Officer, has options exercisable within 60 days of January 31, 2010 to purchase 176,167 shares.
- (16) The total number of shares listed does not double count the shares that may be beneficially attributable to more than one person.
- (17) SKL Family Limited Partnership has direct ownership of 2,747,785 shares. The general partners of the SKL Family Limited Partnership are the Kent Logan Irrevocable Trust u/t/d 2/6/2009 and the Lance Logan Irrevocable Trust u/t/d 2/6/2009, with Kent Logan and Lance Logan as co-trustees of each trust.
- (18) 1837 RMB Managers, LLC and its affiliates have direct ownership of 4,177,535 shares. 1837 RMB Managers, LLC acts as the general partner and makes all the investment decisions for 1837 Partners LP., 1837 Partners QP, LP and 1837 Partners LTD who own the shares listed. Shares listed also include amounts owned personally by affiliates of RMB Managers, LLC.
- (19) Blair R. Haarlow has direct ownership of 80,500 shares and controls certain trusts which own 365,910 shares. In addition, as a managing member of 1837 RMB Managers, LLC, he has the right to vote all shares controlled by 1837 RMB Managers, thus all shares owned or controlled by 1837 RMB Managers, LLC have been added to his total (see Note 16).
- (20) Frances E. Tuite has direct ownership of 43,000 shares. In addition, as a managing member of 1837 RMB Managers, LLC, she has the right to vote all shares controlled by 1837 RMB Managers, thus all shares owned or controlled by 1837 RMB Managers, LLC have been added to her total (see Note 16).

MARKET PRICE OF AND DIVIDENDS ON THE REGISTRANT'S COMMON EQUITY AND OTHER STOCKHOLDER MATTERS

Our common stock is quoted on the OTC Bulletin Board under the symbol "NGNM". Set forth below is a table summarizing the high and low bid quotations for our common stock during the last two fiscal years.

	HIGH BID	LOW BID
1st Quarter 2011	\$ 1.55	\$ 1.12
4th Quarter 2010	\$ 1.30	\$ 0.95
3rd Quarter 2010	\$ 1.29	\$ 0.95
2nd Quarter 2010	\$ 1.48	\$ 1.15
1st Quarter 2010	\$ 1.65	\$ 1.15
4th Quarter 2009	\$ 1.80	\$ 1.41
3rd Quarter 2009	\$ 2.25	\$ 1.32
2nd Quarter 2009	\$ 1.49	\$ 0.92
1st Quarter 2009	\$ 1.19	\$ 0.56

The above table is based on over-the-counter quotations. These quotations reflect inter-dealer prices, without retail mark-up, markdown or commissions, and may not necessarily represent actual transactions. All historical data was obtained from the www.NASDAQ.com web site. As of March 10, 2011, the last reported price of our common was \$1.42 per share.

As of March 10, 2011, there were 536 stockholders of record of our common stock, excluding stockholders who hold their shares in brokerage accounts in "street name". Of the 42,817,255 shares of common stock outstanding as of March 10, 2011, 33,097,757 shares are freely tradable without restriction, unless held by our "affiliates". The remaining 9,719,498 shares of our common stock which are held by existing stockholders, including the officers and directors, are "restricted securities" and may be resold in the public market only if registered or pursuant to an exemption from registration. Some of these shares may be resold under Rule 144.

Dividend Policy

We have never declared or paid cash dividends on our common stock. We intend to retain all future earnings to finance future growth and therefore, do not anticipate paying any cash dividends in the foreseeable future. In addition, certain financing agreements entered into by the Company may limit our ability to pay dividends in the future.

CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS

Consulting Agreements

During 2010, 2009 and 2008, Steven C. Jones, a director of the Company and Executive Vice President of Finance, earned \$201,850, \$199,600 and \$176,300 respectively, for various consulting work performed in connection with his duties as Executive Vice President of Finance and Acting Principal Financial Officer. Mr. Jones is a member of the Board of Directors and Chairman of the Compliance Committee and was a member of the Compensation Committee through May of 2010.

Laboratory Information System

On March 11, 2005, we entered into an agreement with HCSS, LLC and eTelenext, Inc. to enable NeoGenomics to use eTelenext, Inc.'s Accessioning Application, AP Anywhere Application and CMQ Application. HCSS, LLC is a holding company created to build a small laboratory network for the 50 small commercial genetics laboratories in the United States. HCSS, LLC was owned 66.7% by Dr. Michael T. Dent, a member of our Board of Directors. George O'Leary, a former member of our board of directors was Chief Financial Officer of HCSS, LLC.

On June 18, 2009, we entered into a Software Development, License and Support Agreement with HCSS, LLC and eTelenext, Inc. to upgrade the Company's laboratory information system to APvX. This agreement has an initial term of 5 years from the date of acceptance and calls for monthly fees of \$8,000-\$12,000 during the term. In June 2010, HCSS and eTelenext were merged into eTelenext's parent company, PathCentral, Inc. Dr. Dent currently owns approximately 3% of PathCentral, Inc.

During the years ended December 31, 2010 and 2009, we incurred licensing and software customization fees from HCSS/eTelenext/PathCentral, Inc. of approximately \$286,000 and approximately \$87,700, respectively.

Gulf Pointe Capital Lease Agreement

On September 30, 2008, we entered into a master lease agreement (the "Master Lease") with Gulf Pointe Capital, LLC ("Gulf Pointe") which provided for \$130,000 of lease financing after it was determined that the lease facility with Leasing Technologies International, Inc. would not allow for the leasing of certain used and other types of equipment. Three members of our Board of Directors at the time we entered into the Master Lease, Steven Jones, Peter Petersen and Marvin Jaffe, were affiliated with Gulf Pointe and recused themselves from both sides of all negotiations concerning this transaction. The terms under this lease are consistent with the terms of our other lease arrangements and provided for the sale/leaseback of approximately \$130,000 of used laboratory equipment. The lease has a 30 month term and a lease rate factor of 0.0397/month, which equates to monthly payments of \$5,155 during the term. In consideration for entering into the Master Lease, the Company issued 32,475 common stock warrants to Gulf Pointe with an exercise price of \$1.08 and a five year term. The warrants were valued at approximately \$11,000 using the Black-Scholes option pricing model. At the end of the lease term, the Company's options are as follows: (a) purchase not less than all of the equipment for its then fair market value, not to exceed 15% of the original equipment cost, (b) extend the lease term for a minimum of six months, or (c) return not less than all the equipment at the conclusion of the lease term.

On February 9, 2009, we amended our Master Lease with GulfPointe to increase the maximum size of the facility to \$250,000 and entered into a second schedule under the Master Lease for the sale/leaseback of approximately \$118,000 of used laboratory equipment. This second lease has a 30 month term at the same lease rate factor per month as the first lease, which equates to monthly payments of \$4,690 during the term. As part of this amendment, we terminated the original warrant agreement dated September 30, 2008 and replaced it with a new warrant to purchase 83,333

shares of our common stock. Such new warrants have a five year term, an exercise price of \$0.75 per share and the same vesting schedule as the original warrants. The replacement warrants were valued using the Black-Scholes option pricing model and the value did not materially differ from the valuation of the original warrants they replaced.

Share Purchase by the Douglas M. VanOort Living Trust

On March 16, 2009, the Company and the Douglas M. VanOort Living Trust entered into a Subscription Agreement (the "Subscription Agreement") pursuant to which the Douglas M. VanOort Living Trust purchased 625,000 shares of the Company's common stock at a purchase price of \$0.80 per share (the "Subscription Shares"). The Subscription Shares are subject to a two year lock-up that restricts the transfer of the Subscription Shares; provided, however, that such lock-up shall expire in the event that the Company terminates Mr. VanOort's employment. The Subscription Agreement also provides for certain piggyback registration rights with respect to the Subscription Shares.

On March 16, 2009, the Company and Mr. VanOort entered into a Warrant Agreement (the “Warrant Agreement”) pursuant to which Mr. VanOort, subject to the vesting schedule described below, may purchase up to 625,000 shares of the Company’s common stock at an exercise price of \$1.05 per share (the “Warrant Shares”). The Warrant Shares vest based on the following vesting schedule:

- (i) 20% of the Warrant Shares vested immediately,
- (ii) 20% of the Warrant Shares will be deemed to be vested on the first day on which the closing price per share of the Company’s common stock has reached or exceeded \$3.00 per share for 20 consecutive trading days,
- (iii) 20% of the Warrant Shares will be deemed to be vested on the first day on which the closing price per share of the Company’s common stock has reached or exceeded \$4.00 per share for 20 consecutive trading days,
- (iv) 20% of the Warrant Shares will be deemed to be vested on the first day on which the closing price per share of the Company’s common stock has reached or exceeded \$5.00 per share for 20 consecutive trading days and
- (v) 20% of the Warrant Shares will be deemed to be vested on the first day on which the closing price per share of the Company’s common stock has reached or exceeded \$6.00 per share for 20 consecutive trading days.

In the event of a change of control of the Company in which the consideration payable to each common stockholder of the Company in connection with such change of control has a deemed value of at least \$4.00 per share then the Warrant Shares shall immediately vest in full. In the event that Mr. VanOort resigns his employment with the Company or the Company terminates Mr. VanOort’s employment for “cause” at any time prior to the time when all Warrant Shares have vested, then the rights under the Warrant Agreement with respect to the unvested portion of the Warrant Shares as of the date of termination will immediately terminate.

Private Equity Raise

Between January 10, 2011 and January 12, 2011, the Company entered into subscription agreements with certain investors (the “Investors”) pursuant to which the Company sold to the Investors an aggregate of 2,001,667 shares of the Company’s common stock at a price of \$1.50 per share (the “Common Stock Financing”). In connection with the Common Stock Financing, the Company also entered into registration rights agreements with the Investors.

The Investors include, among others, (i) the Douglas M. VanOort Living Trust (of which Douglas VanOort, Chief Executive Officer and Chairman of the Company’s Board of Directors, is affiliated), (ii) the Steven and Carisa Jones Defined Benefit Pension Plan & Trust (of which Steven Jones, Executive Vice President – Finance and a director of the Company, is affiliated), (iii) The George A. Cardoza Family Trust (of which George Cardoza, the Company’s Chief Financial Officer, is affiliated), (iv) Mark W. Smits (who is the Company’s Vice President of Sales and Marketing), and (v) Kevin C. Johnson (who is a director of the Company).

DESCRIPTION OF CAPITAL STOCK

Common Stock

We are authorized to issue 100,000,000 shares of common stock, par value \$0.001 per share, of which 42,817,255 shares were issued and outstanding as of March 10, 2011.

The securities being offered hereby are common stock. The outstanding shares of our common stock are fully paid and non-assessable. The holders of common stock are entitled to one vote per share for the election of directors and with respect to all other matters submitted to a vote of stockholders. Shares of our common stock do not have cumulative voting rights, which means that the holders of more than 50% of such shares voting for the election of directors can elect 100% of the directors if they choose to do so. Our common stock does not have preemptive rights, meaning that the common stockholders' ownership interest in the Company would be diluted if additional shares of common stock are subsequently issued and the existing stockholders are not granted the right, at the discretion of the Board of Directors, to maintain their ownership interest in our Company.

Upon liquidation, dissolution or winding-up of the Company, our assets, after the payment of debts and liabilities and any liquidation preferences of, and unpaid dividends on, any class of preferred stock then outstanding, will be distributed pro-rata to the holders of our common stock. The holders of our common stock do not have preemptive or conversion rights to subscribe for any of our securities and have no right to require us to redeem or purchase their shares. The holders of common stock are entitled to share equally in dividends, if, as and when declared by our Board of Directors, out of funds legally available therefore, subject to the priorities given to any class of preferred stock which may be issued.

Preferred Stock

We are authorized to issue 10,000,000 shares of preferred stock, par value \$0.001 per share (the "Preferred Stock"). Preferred Stock may be issued from time to time in one or more series. The Board of Directors is authorized to fix or alter the dividend rights, dividend rate, conversion rights, voting rights, rights and terms of redemption (including sinking fund provisions), the redemption price or prices, the liquidation preferences of any wholly unissued series of Preferred Stock, and the number of shares constituting any such series and the designation thereof, or any of them; and to increase or decrease the number of shares of any series subsequent to the issue of shares of that series, but not below the number of shares of such series then outstanding and which the Company may be obligated to issue under options, warrants or other contractual commitments. In case the number of shares of any series shall be so decreased, the shares constituting such decrease shall resume the status which they had prior to the adoption of the resolution originally fixing the number of shares of such series. As of March 10, 2011, no such shares had been designated.

Warrants

As of March 10, 2011, warrants to purchase 2,456,750 shares of our common stock were outstanding, 2,156,750 of which were vested. The exercise prices of these warrants range from \$0.75 to \$1.50 per share.

Options

As of March 10, 2011, options to purchase 5,415,049 shares of our common stock were outstanding. The exercise prices of these options range from \$0.25 to \$1.81 per share.

Transfer Agent

The Company's transfer agent is Standard Registrar & Transfer Company located at 12528 South 1840 East Draper, Utah, 84020. The transfer agent's telephone number is (801) 571-8844.

Reports To Stockholders

We file an annual report on Form 10-K with the Securities Exchange Commission each year which describes the nature and scope of our business and operations for the prior year and contains a copy of our audited financial statements for the most recent fiscal year.

Indemnification Of Directors And Executive Officers And Limitation On Liability

The Company's Articles of Incorporation provide that no director or officer of the Company shall be personally liable to the Company or any of its stockholders for damages for breach of fiduciary duty as a director or officer of for any act or omission of any such director or officer; however such indemnification shall not eliminate or limit the liability of a director or officer for (a) acts or omissions which involve intentional misconduct, fraud or a knowing violation of law or (b) the payment of dividends in violation of Section 78.300 of the Nevada Revised Statutes. The Company's Amended and Restated Bylaws (the "Bylaws") provide that any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that such person is or was a director, officer, employee or agent of the Company (or is or was serving at the request of the Company as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise) shall be indemnified and held harmless by the Company to the fullest extent permitted by Nevada law against expenses including attorneys' fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such proceeding.

The Bylaws also provide that the Company must indemnify any person who was or is a party, or is threatened to be made a party, to any threatened, pending or completed proceeding by or in the right of the Company to procure a judgment in its favor by reason of the fact that such person is or was a director, officer, employee or agent of the Company, or is or was serving at the request of the Company as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust or other enterprise against costs incurred by such person in connection with the defense or settlement of such action or suit. Such indemnification may not be made for any claim, issue or matter as to which such person has been adjudged by a court of competent jurisdiction, after exhaustion of all appeals, to be liable to the Company or for amounts paid in settlement to the Company, unless and only to the extent that the court determines upon application that in view of all the circumstances of the case, the person is fairly and reasonably entitled to indemnity for such expenses as the court deems proper.

The Bylaws provide that the Company must pay the costs incurred by any person entitled to indemnification in defending a proceeding as such costs are incurred and in advance of the final disposition of a proceeding; provided however, that the Company must pay such costs only upon receipt of an undertaking by or on behalf of such person to repay the amount if it is ultimately determined by a court of competent jurisdiction that such person is not entitled to be indemnified by the Company.

The Bylaws provide that the Company may purchase and maintain insurance or make other financial arrangements on behalf of any person who is or was a director, officer, employee or agent of the Company, or is or was serving at the request of the Company as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise in accordance with Section 78.752 of the Nevada Revised Statutes.

Nevada Revised Statutes 78.751 and 78.7502 have similar provisions that provide for discretionary and mandatory indemnification of officers, directors, employees, and agents of a corporation. Under these provisions, such persons may be indemnified by a corporation against expenses, including attorney's fees, judgment, fines and amounts paid in settlement, actually and reasonably incurred by him in connection with the action, suit or proceeding, if he acted in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the corporation and with respect to any criminal action or proceeding had no reasonable cause to believe his conduct was unlawful.

To the extent that a director, officer, employee or agent has been successful on the merits or otherwise in defense of any action, suit or proceeding, or in defense of any claim, issue or matter, the Nevada Revised Statutes provide that he must be indemnified by the Company against expenses, including attorney's fees, actually and reasonably incurred by him in connection with the defense.

Section 78.751 of the Nevada Revised Statutes also provides that any discretionary indemnification, unless ordered by a court or advanced by the Company, must be made only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances. The determination must be made:

- By the stockholders;
- By the Company's Board of Directors by majority vote of a quorum consisting of directors who were not parties to that act, suit or proceeding;
- If a majority vote of a quorum consisting of directors who were not parties to the act, suit or proceeding cannot be obtained, by independent legal counsel in a written opinion; or

- If a quorum consisting of directors who were not parties to the act, suit or proceeding cannot be obtained, by independent legal counsel in a written opinion.

Insofar as indemnification for liabilities arising under the Securities Act, as amended, may be permitted to directors, officers, and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the SEC such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer, or controlling person in the successful defense of any action, suit, or proceeding) is asserted by such director, officer, or controlling person connected with the securities being registered, we will, unless in the opinion of our counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

LEGAL MATTERS

The validity of the shares offered hereby has been opined on for us by Burton, Bartlett & Glogovac.

EXPERTS

Our consolidated financial statements as of December 31, 2010 and 2009 and for the years then ended included or referred to in this prospectus have been audited by Kingery & Crouse, P.A., independent registered public accountants, and are included in this prospectus in reliance on this firm as experts in accounting and auditing.

AVAILABLE INFORMATION

We have filed with the SEC a registration statement on Form S-1 under the Securities Act with respect to the securities offered by this prospectus. This prospectus, which forms a part of the registration statement, does not contain all the information set forth in the registration statement, as permitted by the rules and regulations of the SEC. For further information with respect to us and the securities offered by this prospectus, reference is made to the registration statement.

Statements contained in this prospectus as to the contents of any contract or other document that we have filed as an exhibit to the registration statement are qualified in their entirety by reference to the exhibits for a complete statement of their terms and conditions.

We file annual, quarterly and current reports and other information with the SEC. Such reports, the registration statement and other information may be read and copied at the SEC's Public Reference Room at 100 F Street, N.E., Washington, D.C. 20549 on official business days during the hours of 10 a.m. to 3 p.m. The public may obtain information on the operation of the Public Reference Room by calling the SEC at 1-800-SEC-0330. The SEC maintains a web site at <http://www.sec.gov> that contains reports, proxy and information statements, and other information regarding issuers that file electronically with the SEC.

CONSOLIDATED FINANCIAL STATEMENTS OF NEOGENOMICS, INC.

CONSOLIDATED FINANCIAL STATEMENTS—DECEMBER 31, 2010 and 2009

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REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Stockholders of NeoGenomics, Inc.:

We have audited the accompanying consolidated balance sheets of NeoGenomics, Inc. (the "Company"), as of December 31, 2010 and 2009, and the related consolidated statements of operations, stockholders' equity and cash flows for the years then ended. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States of America). Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. Our audits included consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Company as of December 31, 2010 and 2009, and the results of its operations and its cash flows for the years then ended, in conformity with accounting principles generally accepted in the United States of America.

/s/ Kingery & Crouse, P.A
Certified Public Accountants
Tampa, FL
February 23, 2011

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NEOGENOMICS, INC.

CONSOLIDATED BALANCE SHEETS AS OF DECEMBER 31, 2010 and 2009

In thousands, except share amounts

	2010	2009
ASSETS		
CURRENT ASSETS		
Cash and cash equivalents	\$1,097	\$1,631
Restricted Cash	500	1,000
Accounts receivable (net of allowance for doubtful accounts of \$1,459 and \$589, respectively)	5,236	4,632
Inventories	887	602
Other current assets	1,018	655
Total current assets	8,738	8,520
PROPERTY AND EQUIPMENT (net of accumulated depreciation of \$4,568 and \$2,787 respectively)	4,839	4,340
OTHER ASSETS	74	85
TOTAL ASSETS	\$13,651	\$12,945
LIABILITIES AND STOCKHOLDERS' EQUITY		
CURRENT LIABILITIES		
Accounts payable	\$1,933	\$1,969
Accrued compensation	1,338	1,308
Accrued expenses and other liabilities	460	465
Short-term portion of equipment capital leases	1,995	1,482
Revolving credit line	3,442	552
Total current liabilities	9,168	5,776
LONG TERM LIABILITIES		
Long-term portion of equipment capital leases	1,348	1,526
TOTAL LIABILITIES	10,516	7,302
Commitments and contingencies		
STOCKHOLDERS' EQUITY		
Common stock, \$.001 par value, (100,000,000 shares authorized; 37,424,423 and 37,185,078 shares issued and outstanding at December 31, 2010 and 2009, respectively)	37	37
Additional paid-in capital	24,557	23,762
Accumulated deficit	(21,459)	(18,156)
Total stockholders' equity	3,135	5,643
TOTAL LIABILITIES AND STOCKHOLDERS' EQUITY	\$13,651	\$12,945

See notes to consolidated financial statements.

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NEOGENOMICS, INC.

CONSOLIDATED STATEMENTS OF OPERATIONS
FOR THE YEARS ENDED DECEMBER 31, 2010 AND 2009

In thousands, except share and per share amounts

	2010	2009
NET REVENUE	\$34,371	\$29,469
COST OF REVENUE	18,588	14,254
GROSS MARGIN	15,783	15,215
OPERATING EXPENSES		
General and administrative	11,267	10,057
Sales and marketing	7,479	6,886
Total selling general and administrative expenses	18,746	16,943
LOSS FROM OPERATIONS	(2,963)	(1,728)
OTHER INCOME / (EXPENSE):		
Other income	370	17
Interest expense	(710)	(532)
Other income / (expense) – net	(340)	(515)
NET LOSS	\$(3,303)	\$(2,243)
NET LOSS PER SHARE - Basic and Diluted	\$(0.09)	\$(0.06)
WEIGHTED AVERAGE NUMBER OF SHARES OUTSTANDING – Basic and Diluted	37,328,940	34,638,502

See notes to consolidated financial statements.

NEOGENOMICS, INC.

CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY
FOR THE YEARS ENDED DECEMBER 31, 2010 AND 2009

In thousands, except share amounts

	Common Stock		Additional	Accumulated	Total
	Shares	Amount	Paid-In Capital	Deficit	
Balances, December 31, 2008	32,117,008	\$32	\$17,382	\$ (15,913)	\$1,501
Common stock issuances to Abbott	3,500,000	3	4,764	-	4,767
Common stock issuance ESPP plan	68,672	-	87	-	87
Transaction fees and expenses	-	-	(237)	-	(237)
Stock compensation expense - warrants	-	-	68	-	68
Exercise of stock options	55,215	-	3	-	3
Exercise of warrants	519,183	1	637	-	638
Common stock issuance to CEO for cash	625,000	1	499	-	500
Shares issued for purchase of assets	300,000	-	186	-	186
Stock compensation expense - options	-	-	373	-	373
Net loss	-	-	-	(2,243)	(2,243)
Balances, December 31, 2009	37,185,078	37	23,762	(18,156)	5,643
Common stock issuance ESPP plan	122,179	-	150	-	150
Transaction fees and expenses	-	-	(47)	-	(47)
Stock compensation expense - warrants	-	-	204	-	204
Exercise of stock options	102,166	-	68	-	68
Exercise of warrants	15,000	-	9	-	9
Stock compensation expense - options	-	-	411	-	411
Net loss	-	-	-	(3,303)	(3,303)
Balances, December 31, 2010	37,424,423	\$37	\$24,557	\$ (21,459)	\$3,135

See notes to consolidated financial statements.

NEOGENOMICS, INC.

CONSOLIDATED STATEMENTS OF CASH FLOWS
FOR THE YEARS ENDED DECEMBER 31, 2010 AND 2009

In thousands

	2010	2009
CASH FLOWS FROM OPERATING ACTIVITIES		
Net Loss	\$(3,303)	\$(2,243)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization	1,781	1,184
Amortization of debt issue costs	49	69
Stock based compensation	411	373
Non-cash consulting expenses	204	68
Provision for bad debts	2,254	2,155
Changes in assets and liabilities, net:		
(Increase) decrease in accounts receivable, net of write-offs	(2,857)	(3,874)
(Increase) decrease in inventories	(285)	(110)
(Increase) decrease in prepaid expenses	(413)	(196)
(Increase) decrease in other current assets	12	(21)
Increase (decrease) in accounts payable and other liabilities	95	1,095
NET CASH USED IN OPERATING ACTIVITIES	(2,052)	(1,500)
CASH FLOWS FROM INVESTING ACTIVITIES		
Purchases of property and equipment	(916)	(964)
NET CASH USED IN INVESTING ACTIVITIES	(916)	(964)
CASH FLOWS FROM FINANCING ACTIVITIES		
Advances (repayments) from/to revolving credit facility	2,890	(595)
Restricted cash	500	(1,000)
Repayment of capital lease obligations	(1,373)	(810)
Proceeds from issuance of capital lease on owned assets	237	273
Issuance of common stock and warrants for cash , net of transaction expenses	180	5,759
NET CASH PROVIDED BY FINANCING ACTIVITIES	2,434	3,627
NET CHANGE IN CASH AND CASH EQUIVALENTS	(534)	1,163
CASH AND CASH EQUIVALENTS, BEGINNING OF YEAR	1,631	468
CASH AND CASH EQUIVALENTS, END OF YEAR	\$1,097	\$1,631
SUPPLEMENTAL DISCLOSURE OF CASH FLOW INFORMATION		
Interest paid	\$661	\$464
Equipment leased under capital leases	\$1,674	\$1,777
Automobiles purchased under a car loan	34	-
Common stock issued for the purchase of assets	\$-	\$186
Income taxes paid	\$15	\$-

See notes to consolidated financial statements.

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NEOGENOMICS, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2010 and 2009 (Continued)

NOTE A – NATURE OF BUSINESS AND BASIS OF PRESENTATION

NeoGenomics, Inc., a Nevada Company, was formed in 1998 under the name of American Communications Enterprises, Inc. (“ACE”, the “Parent”, or the “Parent Company”).

NeoGenomics Laboratories, Inc., a Florida company (“NEO”, “NeoGenomics” or “Subsidiary”) was formed in June 2001, and agreed to be acquired by ACE in a reverse acquisition in November 2001. On March 3, 2009, we changed the name of the Subsidiary from NeoGenomics Inc, to NeoGenomics Laboratories, Inc. NeoGenomics operates as a certified “high complexity” clinical laboratory in accordance with the federal government’s Clinical Laboratory Improvement Amendments of 1988 (“CLIA”), and is dedicated to the delivery of clinical diagnostic services to pathologists, oncologists, urologists, hospitals, and other laboratories throughout the United States.

ACE succeeded to NEO’s name in January, 2002, and NeoGenomics remains a wholly-owned subsidiary of the Parent Company. (NEO and ACE are collectively referred to as “we”, “us”, “our” or the “Company”).

The accompanying consolidated financial statements include the accounts of the Parent and the Subsidiary. All significant intercompany accounts and balances have been eliminated in consolidation.

Certain amounts in the prior year’s consolidated financial statements have been reclassified to conform to the current year presentation.

NOTE B – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Use of Estimates

The Company prepares its consolidated financial statements in conformity with accounting principles generally accepted in the United States of America. These principles require management to make estimates, judgments and assumptions that affect the reported amounts of assets, liabilities, revenues and expenses, together with amounts disclosed in the related notes to the consolidated financial statements. Actual results and outcomes may differ from management’s estimates, judgments and assumptions. Significant estimates, judgments and assumptions used in these consolidated financial statements include, but are not limited to, those related to revenues, accounts receivable and related reserves, contingencies, useful lives and recovery of long-term assets, income and other taxes, and the fair value of stock-based compensation. These estimates, judgments, and assumptions are reviewed periodically and the effects of material revisions in estimates are reflected in the consolidated financial statements prospectively from the date of the change in estimate.

Revenue Recognition

The Company recognizes revenues in accordance with the Securities and Exchange Commission’s (the “Commission”) Staff Accounting Bulletin Topic 13.A.1 and FASB ASC 605-10-S99-1, when (a) the price is fixed or determinable, (b) persuasive evidence of an arrangement exists, (c) the service is performed and (d) collectability of the resulting receivable is reasonably assured.

The Company’s specialized diagnostic services are performed based on a written test requisition form and revenues are recognized once the diagnostic services have been performed, the results have been delivered to the ordering

physician, the payor has been identified and eligibility and insurance have been verified. These diagnostic services are billed to various payors, including Medicare, commercial insurance companies, other directly billed healthcare institutions such as hospitals and clinics, and individuals. The Company reports revenues from contracted payors, including Medicare, certain insurance companies and certain healthcare institutions, based on the contractual rate, or in the case of Medicare, published fee schedules. The Company reports revenues from non-contracted payors, including certain insurance companies and individuals, based on the amount expected to be collected. The difference between the amount billed and the amount expected to be collected from non-contracted payors is recorded as a contractual allowance to arrive at the reported revenues. The expected revenues from non-contracted payors are based on the historical collection experience of each payor or payor group, as appropriate. In each reporting period, the Company reviews its historical collection experience for non-contracted payors and adjusts its expected revenues for current and subsequent periods accordingly.

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NEOGENOMICS, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2010 and 2009 (Continued)

Cost of Revenue

Cost of revenue includes payroll and payroll related costs for performing tests, depreciation of laboratory equipment, rent for laboratory facilities, laboratory reagents, probes and supplies, and delivery and courier costs relating to the transportation of specimens to be tested.

Advertising Costs

Advertising costs are expensed at the time they are incurred.

Research and Development

Research and development costs are expensed as incurred. Research and development expenses consist of compensation and benefits for research and development personnel, license fees, related supplies, inventory and payment for samples to complete validation studies. These expenses were incurred to develop our melanoma test (MelanoSITE) and to develop other new molecular and FISH tests.

Accounts Receivable and Allowance for Doubtful Accounts

Accounts receivable are reported at realizable value, net of allowance for doubtful accounts (the "Allowance"), which is estimated and recorded in the period the related revenue is recorded based on the historical collection experience for each type of payor. In addition, the Allowance is adjusted periodically, based upon an evaluation of historical collection experience with specific payors, payor types, and other relevant factors, including regularly assessing the state of our billing operations in order to identify issues which may impact the collectability of receivables or reserve estimates. Revisions to the Allowance are recorded as an adjustment to bad debt expense within general and administrative expenses. After appropriate collection efforts have been exhausted, specific receivables deemed to be uncollectible are charged against the Allowance in the period they are deemed uncollectible. Recoveries of receivables previously written-off are recorded as credits to the Allowance.

Statement of Cash Flows

For purposes of the statement of cash flows, we consider all highly liquid investments purchased with an original maturity of three months or less to be cash equivalents.

Fair Value of Financial Instruments and Concentrations of Credit Risk

The carrying value of cash and cash equivalents, restricted cash, accounts receivable, accounts payable, accrued expenses and other liabilities, amounts outstanding under our revolving credit facility, and other current assets and liabilities are considered reasonable estimates of their respective fair values due to their short-term nature. The Company maintains its cash and cash equivalents with domestic financial institutions that the Company believes to be of high credit standing. The Company believes that, as of December 31, 2010, its concentration of credit risk related to cash and cash equivalents was not significant. The carrying value of the Company's long-term capital lease obligations approximates its fair value based on the current market conditions for similar instruments.

Concentrations of credit risk with respect to revenue and accounts receivable are primarily limited to certain clients to whom the Company provides a significant volume of its services, and to specific payors of our services such as Medicare and individual insurance companies. The Company's client base consists of a large number of geographically dispersed clients diversified across various customer types. The Company continues to focus its sales efforts to decrease the dependency on any given source of revenue and decrease its credit risk from any one large client or payor type, and these efforts decrease our credit risk. For the year ended December 31, 2010 no customer accounted for more than 5% of our revenue. In 2009, one client with multiple locations accounted for 10% of total revenue.

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NEOGENOMICS, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2010 and 2009 (Continued)

The Company orders the majority of its FISH probes from one vendor and as a result of their dominance of that marketplace and the absence of any competitive alternatives, if they were to have a disruption and not have inventory available it could have a material effect on our business. This risk cannot be completely offset due to the fact that they have patent protection which limits other vendors from supplying these probes.

Inventories

Inventories, which consist principally of testing supplies, are valued at the lower of cost or market, using the first-in, first-out method (FIFO).

Other Current Assets

As of December 31, 2010 and 2009, other current assets consist of prepaid expenses of approximately \$624,000 and \$655,000, respectively, therapeutic discovery grant receivable of approximately \$374,000 and \$0, respectively and Lee County, Florida economic development tax credit of \$20,000 and \$0, respectively. We have now received \$244,000 of this grant money and we expect the remaining money in the next few months. We received the cash payment from Lee County in January 2011.

Property and Equipment

Property and equipment are recorded at cost, net of accumulated depreciation and amortization. Property and equipment generally includes purchases of items with a cost greater than \$1,000 and a useful life greater than one year. Depreciation and amortization are computed on a straight line basis over the estimated useful lives of the assets.

Leasehold improvements are amortized over the related lease terms or their estimated useful lives. Property and equipment acquired under capital leases are depreciated over the related lease terms or the useful lives of the assets. The Company periodically reviews the estimated useful lives of property and equipment. Changes to the estimated useful lives are recorded prospectively from the date of the change. Upon retirement or sale, the cost of the assets disposed of and the related accumulated depreciation are removed from the accounts and any resulting gain or loss is included in income (loss) from operations. Repairs and maintenance costs are expensed as incurred.

Income Taxes

We compute income taxes in accordance with ASC Topic 740 Income Taxes. Under ASC-740, deferred taxes are recognized for the tax consequences of temporary differences by applying enacted statutory rates applicable to future years to differences between the financial statement carrying amounts and the tax bases of existing assets and liabilities. Also, the effect on deferred taxes of a change in tax rates is recognized in income in the period that included the enactment date. Temporary differences between financial and tax reporting arise primarily from the use of different depreciation methods for property and equipment as well as impairment losses and the timing of recognition of bad debts.

We evaluate tax positions that have been taken or are expected to be taken in our tax returns, and record a liability for uncertain tax positions. We follow a two-step approach to recognizing and measuring uncertain tax positions. First, tax positions are recognized if the weight of available evidence indicates that it is more likely than not that the position will be sustained upon examination, including resolution of related appeals or litigation processes, if any.

Second, the tax position is measured as the largest amount of tax benefit that has a greater than 50% likelihood of being realized upon settlement. We recognize interest and penalties related to unrecognized tax benefits in the provision for income taxes in the accompanying consolidated financial statements. As of December 31, 2010 and 2009, we had no provision for interest or penalties related to uncertain tax positions.

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NEOGENOMICS, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2010 and 2009 (Continued)

Stock-Based Compensation

The Company accounts for stock-based compensation in accordance with FASB ASC Topic 718 Compensation – Stock Compensation. ASC 718 requires recognizing compensation costs for all share-based payment awards made to employees and directors based upon the awards' grant-date fair value. The standard covers employee stock options, restricted stock, and other equity awards.

For stock options, the Company uses a trinomial lattice option-pricing model to estimate the grant-date fair value of stock option awards, and recognizes compensation cost on a straight-line basis over the awards' vesting periods. The Company estimates an expected forfeiture rate, which is factored into the determination of the Company's periodic expense.

Tax Effects of Stock-Based Compensation

We will only recognize a tax benefit from windfall tax deductions for stock-based awards in additional paid-in capital if an incremental tax benefit is realized after all other tax attributes currently available have been utilized.

Net Loss Per Common Share

We compute loss per share in accordance with ASC Topic 260 Earnings Per Share. Under the provisions of ASC 260, basic net loss per share is computed by dividing the net loss available to common stockholders by the weighted average number of common shares outstanding during the period. Diluted net loss per share is computed by dividing the net loss for the period by the weighted average number of common and common equivalent shares outstanding during the period. During the years ended December 31, 2010 and 2009, we reported net loss per share and, accordingly, common equivalent shares outstanding as of December 31, 2010 and 2009, which consisted of employee stock options and warrants issued to consultants, providers of financing to the Company and others, were excluded from diluted net loss per common share calculations as of such dates because they were anti-dilutive. As a result, basic and diluted loss per share was equivalent.

Recent Pronouncements

The Company has determined that all recently issued accounting standards will not have a material impact on its Consolidated Financial Statements, or do not apply to its operations.

NOTE C – LIQUIDITY

Our consolidated financial statements are prepared using accounting principles generally accepted in the United States of America applicable to a going concern, which contemplates the realization of assets and liquidation of liabilities in the normal course of business. On November 5, 2008, we entered into a common stock purchase agreement with Fusion Capital Fund II, LLC. The agreement, which has a term of 30 months, provides for the future funding of up to \$8.0 million from sales of our common stock to Fusion on a when and if needed basis as determined by us in our sole discretion (see Note J). On February 1, 2008, we entered into a revolving credit facility with CapitalSource Finance, LLC, ("CapitalSource") which allows us to borrow up to \$3.0 million based on a formula which is tied to our eligible accounts receivable that are aged less than 150 days. On April 26, 2010 we entered into an amended and restated credit agreement with CapitalSource which increased our borrowing amount to \$5.0 million (see Note H). On January

12, 2011 the company completed a private equity transaction raising approximately \$3.0 million (see Note O). We believe we have adequate resources to meet our operating commitments for the next year and accordingly our consolidated financial statements do not include any adjustments relating to the recoverability and classification of recorded asset amounts or the amounts and classification of liabilities that might be necessary should we be unable to continue as a going concern.

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NEOGENOMICS, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2010 and 2009 (Continued)

NOTE D – PROPERTY AND EQUIPMENT, NET

Property and equipment consisted of the following at December 31, 2010 and 2009:

	2010	2009	Estimated Useful Lives in Years
Equipment	\$6,484,265	\$4,991,886	3-7
Leasehold improvements	703,606	618,876	3-5
Furniture & fixtures	404,636	351,832	7
Computer hardware	708,573	486,852	3
Computer software	1,106,032	541,948	3
Assets not yet placed in service	-	134,870	-
Subtotal	9,407,112	7,126,264	
Less accumulated depreciation and amortization	(4,567,668)	(2,786,704)	
Property and equipment, net	\$4,839,444	\$4,339,560	

Depreciation and amortization expense on property and equipment, including leased assets, for the years ended December 31, 2010 and 2009, was \$1,780,964 and \$1,184,109, respectively.

Property and equipment under capital leases, included above, consists of the following at December 31, 2010 and 2009:

	2010	2009
Equipment	\$4,882,700	\$3,413,595
Furniture & fixtures	178,608	159,864
Computer hardware	462,529	298,305
Computer software	370,645	225,644
Leasehold Improvements	233,386	233,386
Assets not yet placed in service	-	84,347
Subtotal	6,127,868	4,415,141
Less accumulated depreciation and amortization	(2,708,403)	(1,441,234)
Property and equipment under capital leases, net	\$3,419,465	\$2,973,907

NOTE E – INCOME TAXES

We recognized losses for financial reporting purposes for the years ended December 31, 2010 and 2009, in the accompanying consolidated statements of operations. Accordingly, no provisions for income taxes and/or deferred income taxes payable have been provided in the accompanying consolidated financial statements.

At December 31, 2010 and 2009, we had federal and state net operating loss carryforwards of approximately \$16,398,736 and \$13,679,103, respectively. The significant difference between this amount and our accumulated deficit arises primarily from certain stock based compensation that is considered to be a permanent difference. Assuming our net operating loss carryforwards are not disallowed because of certain “change in control”

provisions of the Internal Revenue Code, these net operating loss carryforwards expire in various years through the year ending December 31, 2029. However, we have established a valuation allowance to fully reserve our deferred income tax assets as such assets did not meet the required asset recognition standard established by ASC Topic 740. Our valuation allowance increased by approximately \$ 611,600 during the year ended December 31, 2010.

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NEOGENOMICS, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2010 and 2009 (Continued)

At December 31, 2010 and 2009, our current and non-current deferred income tax assets (assuming an effective income tax rate of approximately 38.7% and 40.5% at December 31, 2010 and 2009, respectively consisted of the following:

	2010	2009
Net current deferred income tax asset:		
Allowance for doubtful accounts	\$564,600	\$227,200
Accrued compensation and other expense	162,800	-
Less valuation allowance	(727,400)	(227,200)
Total	\$-	\$-
Net non-current deferred income tax asset:		
Net operating loss carryforwards	\$2,979,400	\$3,856,600
Accumulated depreciation and impairment	(777,600)	(543,000)
Subtotal	2,201,800	3,313,600
Less valuation allowance	(2,201,800)	(3,313,600)
Total	\$-	\$-

Current California tax laws include a restriction on the utilization of net operating losses for fiscal years 2011 and 2012. Accordingly, our ability to utilize NOLs for California tax purposes is restricted and this may lead to a current state tax expense in those years.

NOTE F – EMPLOYEE STOCK OPTIONS, STOCK PURCHASE PLAN AND WARRANTS

Stock Option Plan

On March 3, 2009, the Company's Board of Directors approved the Amended and Restated Equity Incentive Plan (the "Amended Plan"), which amended and restated the Equity Incentive Plan, originally effective as of October 14, 2003, and previously amended and restated effective as of October 31, 2006. The Amended Plan allows for the award of equity incentives, including stock options, stock appreciation rights, restricted stock awards, stock bonus awards, deferred stock awards, and other stock-based awards to certain employees, directors, or officers of, or key advisers or consultants to, the Company or its subsidiaries. The Amended Plan provides that the maximum aggregate number of shares of the Company's common stock reserved and available for issuance under the Amended Plan is 6,500,000 and that the Amended Plan will expire on March 3, 2019.

As of December 31, 2010, option and stock awards for 5,470,044 shares were outstanding, including 350,000 options issued outside of the Amended Plan to Robert Gasparini, the Company's President and Chief Scientific Officer, and a total of 636,522 shares were available for future option and stock awards under the Amended Plan. Options typically expire after 5 or 10 years and generally vest over 3 or 4 years, but each grant's expiration, vesting and exercise price provisions are determined at the time the awards are granted by the Compensation Committee of the Board of Directors or by the Chairman and Chief Executive Officer by virtue of authority delegated to him by the Compensation Committee.

We account for option and stock awards under the Amended Plan in accordance with ASC Topic 718 Compensation – Stock Compensation, which requires the measurement and recognition of compensation expense in the Company's

statement of operations for all share-based option and stock awards, based on estimated grant-date fair values.

ASC Topic 718 requires us to estimate the fair value of stock-based option awards on the date of grant using an option-pricing model. The grant-date fair value of the award is recognized as expense over the requisite service period using the straight-line method. In accordance with ASC Topic 718, the estimated stock-based compensation expense to be recognized is reduced by an estimate of the annualized rate of stock option forfeitures.

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NEOGENOMICS, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2010 and 2009 (Continued)

We estimate the grant-date fair value of stock-based option awards using a trinomial lattice model. This model is affected by our stock price on the date of the grant as well as assumptions regarding a number of highly complex and subjective variables. These variables include the expected term of the option, expected risk-free rates of return, the expected volatility of our common stock, and expected dividend yield, each of which is more fully described below. The assumptions for expected term and expected volatility are the two assumptions that significantly affect the grant date fair value.

Expected Term: The expected term of an option is the period of time that the option is expected to be outstanding. The average expected term is determined using a trinomial lattice simulation model.

Risk-free Interest Rate: We base the risk-free interest rate used in the trinomial lattice valuation method on the implied yield at the grant date of the U.S. Treasury zero-coupon issue with an equivalent term to the stock-based award being valued. Where the expected term of a stock-based award does not correspond with the term for which a zero coupon interest rate is quoted, we use the nearest interest rate from the available maturities.

Expected Stock Price Volatility: Effective January 1, 2006 until December 31, 2009, we evaluated the assumptions used to estimate volatility and determined that, under SAB 107, we should use a blended average of our volatility and the volatility of certain peer companies. We believe that the use of this blended average peer volatility which was more reflective of market conditions and a better indicator of our expected volatility due to the limited trading history available for our Company since its last change of control, prior to which we operated under a different business model. Effective January 1, 2009 since we had sufficient historical data since our last change of control we began to use our own historical weekly volatility because that was more reflective of market conditions.

Dividend Yield: Because we have never paid a dividend and do not expect to begin doing so in the foreseeable future, we have assumed a 0% dividend yield in valuing our stock-based awards.

The fair value of stock option awards granted during the years ended December 31, 2010 and 2009 was estimated as of the grant date using a trinomial lattice model with the following weighted average assumptions:

	2010	2009		
Expected term (in years)	3.6	4.1		
Risk-free interest rate (%)	1.3	1.9	%	%
Expected volatility (%)	58	59	%	%
Dividend yield (%)	0	0	%	%
Weighted average fair value/share at grant date	\$0.46	\$0.42		

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NEOGENOMICS, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2010 and 2009 (Continued)

The status of our stock options and stock awards are summarized as follows:

	Number Of Shares	Weighted Average Exercise Price
Outstanding at December 31, 2008	3,724,422	\$ 0.79
Granted	2,371,598	1.00
Exercised	(55,215)	0.26
Canceled	(879,153)	1.01
Outstanding at December 31, 2009	5,161,652	0.86
Granted	942,000	1.19
Exercised	(102,166)	0.66
Canceled	(531,442)	1.43
Outstanding at December 31, 2010	5,470,044	0.87
Exercisable at December 31, 2010	3,661,251	0.74

As described in Note G, on March 16, 2009, the Company entered into an employment agreement with Douglas M. VanOort (the "Employment Agreement"). The Employment Agreement provided for the grant to Mr. VanOort of an option under the Amended Plan to purchase 1,000,000 shares of the Company's common stock, at an exercise price of \$0.80 per share (the closing market price of the Company's common stock on March 13, 2009, the preceding business day). 500,000 shares of common stock subject to the option vest according to the following schedule (i) 200,000 shares vested on March 16, 2010; (ii) 12,500 shares vest each month beginning on April 16, 2010 until March 16, 2011; (iii) 8,000 shares vest each month beginning on April 16, 2011 until March 16, 2012 and (iv) 4,500 shares vest each month beginning on April 16, 2012 until March 16, 2013. 500,000 shares of common stock subject to the option vest based on the achievement of certain performance metrics by the Company. Any unvested portion of the option described above will vest in the event of a change in control of the Company.

As described in Note G, on August 30, 2010, Mark Smits joined the Company in the role of Vice President of Sales and Marketing and received the option to purchase 425,000 shares of common stock. The options vest based on the following schedule:

Time Based Vesting

- 25,000 on December 31, 2010
- 50,000 at the first year anniversary
- 50,000 at the second year anniversary
- 50,000 at the third year anniversary
- 50,000 at the fourth year anniversary
-

If a majority vote of a quorum consisting of directors who were not parties to the act, suit or proceeding cannot be obtained, by independent legal counsel in a written opinion; or

Performance Based Vesting

- 20,000 on August 30, 2010
- 20,000 if the Company achieves \$35.5 million revenue for FY 2010 or such other revenue goal established by the Board for the vesting of performance options and warrants
- 40,000 if the Company achieves the board-approved budgeted revenue for FY 2011 or such other revenue goal established by the Board for the vesting of performance options and warrants
- 40,000 if the Company achieves the board-approved budgeted revenue for FY 2012 or such other revenue goal established by the Board for the vesting of performance options and warrants

NEOGENOMICS, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2010 and 2009 (Continued)

- 40,000 if the Company achieves the board-approved budgeted revenue for FY 2013 or such other revenue goal established by the Board for the vesting of performance options and warrants
- 40,000 if the Company achieves the board-approved budgeted revenue for FY 2014 or such other revenue goal established by the Board for the vesting of performance options and warrants

The following table summarizes information about our options outstanding at December 31, 2010:

Range of Exercise Prices (\$)	Number Outstanding	Options Outstanding		Number Exercisable	Options Exercisable	
		Weighted Average Remaining Contractual Life (Years)	Weighted Average Exercise Price		Weighted Average Remaining Contractual Life (Years)	Weighted Average Exercise Price
0.00 – 0.30	980,000	3.86	\$0.25	980,000	3.86	\$0.25
0.31 – 0.46	24,500	4.32	0.35	24,500	4.32	0.35
0.47 – 0.61	113,500	4.77	0.50	113,500	4.77	0.50
0.62 – 0.83	2,112,094	4.88	0.77	1,555,176	4.88	0.76
0.84 – 1.08	935,996	3.96	1.00	436,121	3.4	0.98
1.09 – 1.47	947,455	4.37	1.37	394,455	4.8	1.40
1.48 – 1.84	356,499	4.14	1.61	157,499	4.5	1.59
	5,470,044	4.40	0.87	3,661,251	4.4	0.74

As of December 31, 2010, the aggregate intrinsic value of all stock options outstanding and expected to vest was approximately \$2,568,000 and the aggregate intrinsic value of currently exercisable stock options was approximately \$2,124,000. The intrinsic value of each option share is the difference between the fair market value of NeoGenomics common stock and the exercise price of such option share to the extent it is “in-the-money”. Aggregate intrinsic value represents the value that would have been received by the holders of in-the-money options had they exercised their options on the last trading day of the year and sold the underlying shares at the closing stock price on such day. The intrinsic value calculation is based on the \$1.30 closing stock price of NeoGenomics Common Stock on December 31, 2010, the last trading day of 2010. The total number of in-the-money options outstanding and exercisable as of December 31, 2010 was approximately 3,160,000.

The total intrinsic value of options exercised during the years ended December 31, 2010 and 2009 was approximately \$72,000 and \$80,000, respectively. Intrinsic value of exercised shares is the total value of such shares on the date of exercise less the cash received from the option holder to exercise the options. The total cash proceeds received from the exercise of stock options was approximately \$68,000 and \$3,000 for the years ended December 31, 2010 and 2009, respectively.

The total fair value of options granted during the years ended December 31, 2010 and 2009 was approximately \$408,000 and \$986,000, respectively. The total fair value of option shares vested during the years ended December 31, 2010 and 2009 was approximately \$311,000 and \$382,000.

Stock compensation cost recognized for the years ended December 31, 2010 and 2009 was approximately \$411,000 and \$373,000, respectively. We will only recognize a tax benefit from windfall tax deductions for stock-based awards in additional paid-in capital if an incremental tax benefit is realized after all other tax attributes currently available have been utilized. As of December 31, 2010, there was approximately \$491,000 of total unrecognized stock-based compensation cost, related to unvested stock options granted under the Amended Plan. This cost is expected to be recognized over a weighted-average period of 1.6 years.

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NEOGENOMICS, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2010 and 2009 (Continued)

Employee Stock Purchase Plan

Effective January 1, 2007, the Company began sponsoring an Employee Stock Purchase Plan (“ESPP”), under which eligible employees may purchase Common Stock, by means of limited payroll deductions, at a 5% discount from the fair market value of the Common Stock as of specific dates. In accordance with ASC Topic 718-50 Compensation – Stock Compensation – Employee Share Purchase Plans, the ESPP is considered non-compensatory and does not require the recognition of compensation cost because the discount offered to employees does not exceed 5%. Shares issued pursuant to this plan were 122,179 and 68,672 for the period ended December 31, 2010 and 2009, respectively.

Common Stock Warrants

From time to time, the Company issues warrants to purchase its common stock. These warrants have been issued for consulting services, in connection with the company’s credit facilities or in connection with sales of its common stock, and in connection with employment agreements or for compensation to directors. These warrants are valued using an option pricing model and using the volatility, market price, strike price, risk-free interest rate and dividend yield appropriate at the date the warrants were issued. Stock compensation cost recognized for the years ended December 31, 2010 and 2009 was approximately \$204,000 and \$68,000, respectively.

Warrant activity is summarized as follows:

	Shares	Weighted Average Exercise Price
Warrants outstanding, December 31, 2008	5,837,838	\$ 0.61
Granted	738,333	1.00
Exercised	(519,183)	1.27
Expired	(130,091)	1.35
Cancelled	(35,147)	1.08
Warrants outstanding, December 31, 2009	5,891,750	0.59
Granted	450,000	1.50
Exercised	(15,000)	0.62
Expired	-	-
Cancelled	-	-
Warrants outstanding, December 31, 2010	6,326,750	\$ 0.65

The following table summarizes information on warrants outstanding on December 31, 2010:

Number outstanding	Exercise price	Issued	Expire
2,500,000	\$ 0.31	03/23/2005	01/21/2011
1,600,000	\$ 0.26	01/21/2006	01/21/2011
35,000	\$ 0.30	02/13/2006	02/12/2011
35,000	\$ 0.68	05/16/2006	05/15/2011
100,000	\$ 1.49	03/15/2007	03/13/2012

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550,000	\$	1.50	06/06/2007	06/05/2012
348,417	\$	1.50	06/06/2007	06/05/2012
83,333	\$	0.75	02/09/2009	02/08/2014
625,000	\$	1.05	03/16/2009	03/15/2014
450,000	\$	1.50	5/3/2010	5/2/2017
6,326,750	\$	0.65		

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NEOGENOMICS, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2010 and 2009 (Continued)

On February 3, 2009, we issued warrants to purchase 30,000 shares of common stock at \$0.62 per share in connection with consulting services rendered to the Company. Warrants for 15,000 shares were exercised during 2010, and warrants for 15,000 shares were exercised during 2009.

As described in Note K, in connection with our lease facility with Gulf Pointe Capital, LLC, on February 9, 2009 we issued warrants to purchase 83,333 shares of common stock, which warrants replaced 32,475 warrants previously issued in connection with that facility.

As described in Note J, on March 16, 2009, the Company entered into an employment agreement with Douglas M. VanOort and in connection with that agreement also entered into a warrant agreement pursuant to which Mr. VanOort may purchase up to 625,000 shares of the Company's common stock at an exercise price of \$1.05 per share. The warrants become exercisable in five tranches, with 20% of the warrants being exercisable immediately and a further 20% becoming exercisable on the first day on which the closing price per share of the Company's common stock has reached or exceeded, for 20 consecutive trading days, \$3.00, \$4.00, \$5.00 and \$6.00 per share, respectively. In the event of a change in control of the Company in which the consideration payable to each common stockholder of the Company in connection with such change in control has a deemed value of at least \$4.00 per share, then the warrants will immediately become exercisable. In the event that Mr. VanOort resigns his employment with the Company or the Company terminates Mr. VanOort's employment for "cause" at any time prior to the time when all warrants are exercisable, then the rights under the warrant agreement with respect to the portion of the warrants not yet exercisable as of the date of termination will immediately terminate.

In August 2009, 419,183 of the 533,334 warrants originally issued to investors in connection with the June 2007 sale of common stock were exercised and the Company received proceeds of \$628,730. The remaining 114,151 warrants were cancelled.

During 2009, Mr. O'Leary exercised 100,000 warrants in a cash-less transaction per the terms of the agreements. The company issued 85,030 shares to settle this exercise.

As described in Note L, on May 3, 2010, the Company entered into a consulting agreement with Steven C. Jones to act as Executive Vice President of Finance. The Company also agreed that it would issue to Mr. Jones a warrant to purchase 450,000 shares of the Company's common stock. The warrant has a) a seven year term, b) an exercise price of \$1.50 per share, c) the ability to do a cashless net exercise, and d) vesting as follows:

- i) 225,000 of such warrant shares vested immediately which included recognition for cumulative achievements for the Company by Mr. Jones; and
- ii) 112,500 of such warrant shares vest according to the passage of time, with 4,687 warrant shares vesting on the last day of each calendar month for twenty-three (23) months, beginning with the month ended May 31, 2010 and continuing until the month ending March 31, 2012 and 4,699 warrant shares vest on April 30, 2012 so long as Consultant continues to provide services to the Company pursuant to this Agreement or any successor agreement.
- iii) 112,500 of such warrant shares shall vest according to whether or not the Company meets certain financial targets as specified below for FY 2010 and FY 2011:

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- 28,125 will vest if the Company's actual consolidated revenue for FY 2010, meets or exceeds the consolidated revenue goal established by the Board of Directors (the "Board") for the vesting of performance options and warrants; and
- 28,125 will vest if the Company's actual Adjusted EBITDA for FY 2010, meets or exceeds the consolidated Adjusted EBITDA goals established by the Board for the vesting of performance options and warrants; and

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NEOGENOMICS, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2010 and 2009 (Continued)

- 28,125 will vest if the Company’s actual consolidated revenue for FY 2011, meets or exceeds the consolidated revenue goal established by the Board for the vesting of performance options and warrants; and
- 28,125 will vest if the Company’s actual Adjusted EBITDA for FY 2011, meets or exceeds the consolidated Adjusted EBITDA goals established by the Board for the vesting of performance options and warrants; and
- iv) The Consulting Agreement also provides that the vesting schedule of such warrant shall also specify that any unvested warrant shares shall vest upon the occurrence of a change of control.

During January 2011, as described more fully in Note O “Subsequent Events”, 2,500,000 warrants were exercised related to the March 23, 2005 debt financing arrangement with Aspen Select Healthcare, L.P. and 1,600,000 warrants were exercised related to our January 2006 equity raise and our January 2006 Aspen Select Healthcare, L.P. debt modification.

NOTE G – COMMITMENTS AND CONTINGENCIES

Operating Leases

The Company leases its laboratory and office facilities under non-cancelable operating leases. These operating leases expire at various dates through October 2014 and generally require the payment of real estate taxes, insurance, maintenance and operating costs. The Company has approximately 26,000 square feet of office and laboratory space at our corporate headquarters in Fort Myers, Florida. In addition, we maintain laboratory and office space in Irvine, California, Nashville, Tennessee and Chatsworth, California.

The minimum aggregate future obligations under non-cancelable operating leases as of December 31, 2010 are as follows:

Years ending December 31,	
2011	\$714,446
2012	573,748
2013	67,325
2014	56,104
Total minimum lease payments	\$1,411,623

Rent expense for the years ended December 31, 2010 and 2009 was \$783,515 and \$816,838, respectively and is included in costs of revenues and in general and administrative expenses, depending on the allocation of work space in each facility. Certain of the Company’s facility leases include rent escalation clauses. The Company normalizes rent expense on a straight-line basis over the term of the lease for known changes in lease payments over the life of the lease.

Employment Contracts

Robert Gasparini

On March 12, 2008, we entered into an employment agreement with Robert Gasparini, our President and Chief Scientific Officer, to extend his employment with the Company for an additional four year term. This employment agreement was retroactive to January 1, 2008 and provides that it will automatically renew after the initial four year term for one year increments unless either party provides written notice to the other party of their intention to terminate the agreement 90 days before the end of the initial term (or any renewal term). The employment agreement specifies an initial base salary of \$225,000/year with specified salary increases tied to achieving revenue goals. Mr. Gasparini is also entitled to receive cash bonuses for any given fiscal year in an amount equal to 30% of his base salary if he meets certain targets established by the Board of Directors. Such bonus is eligible to be increased to up to 150% of the target bonus in any fiscal year in which he meets certain outsize performance thresholds established by the CEO of the Company and approved by the board of directors. In addition, Mr. Gasparini was granted 784,000 stock options at an exercise price of \$0.80 and with a seven year term so long as Mr. Gasparini remains an employee of the Company. These options are scheduled to vest according to the passage of time and the meeting of certain performance-based milestones. Mr. Gasparini's employment agreement also specifies that he is entitled to four weeks of paid vacation per year and other insurance benefits. In the event that Mr. Gasparini is terminated without cause by the Company, the Company has agreed to pay Mr. Gasparini's base salary and maintain his benefits for a period of a year.

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NEOGENOMICS, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2010 and 2009 (Continued)

Jerome Dvonch

On June 14, 2008, we entered into an employment agreement with Jerome Dvonch, our Principal Accounting Officer, to extend his employment with the Company for an additional four year term and provides that it will automatically renew after the initial four year term for one year increments unless either party provides written notice to the other party of their intention to terminate the agreement 30 days before the end of the initial term (or any renewal term). The employment agreement specifies an initial base salary of \$150,000/year and allows for increases after the first 24 months of the term. Mr. Dvonch is also entitled to receive cash bonuses for any given fiscal year if he meets certain targets established by the Board of Directors. In addition, Mr. Dvonch was granted 100,000 stock options with an exercise price of \$1.04 and with a seven year term so long as Mr. Dvonch remains an employee of the Company. These options are scheduled to vest according to the passage of time and the meeting of certain performance-based milestones. Mr. Dvonch's employment agreement also specifies that he is entitled to four weeks of paid vacation per year and other insurance benefits. In the event that Mr. Dvonch is terminated without cause by the Company, the Company has agreed to pay Mr. Dvonch's base salary and maintain his benefits for a period of six months.

Douglas VanOort

On March 16, 2009, the Company entered into an employment agreement with Douglas M. VanOort to employ Mr. VanOort in the capacity of Executive Chairman and interim Chief Executive Officer. Such employment agreement was amended on October 28, 2009 to appoint Mr. VanOort as Chairman and Chief Executive Officer (the employment agreement, as amended, hereafter, the "Employment Agreement"). The Employment Agreement had an initial term from March 16, 2009 through March 16, 2013, which initial term automatically renewed for one year periods. Pursuant to the Employment Agreement, Mr. VanOort receives a base salary of \$325,000 per year and is eligible to receive an annual cash bonus for any given fiscal year in an amount equal to 60% of his base salary if he meets certain goals established for him by the Compensation Committee of the Board. Such bonus is eligible to be increased to up to 150% of the target bonus in any fiscal year in which he meets certain outsize performance thresholds established by the CEO of the Compensation Committee. Mr. VanOort is also entitled to participate in all of the Company's employee benefit plans and any other benefit programs established for officers of the Company.

The Employment Agreement also provides that Mr. VanOort was granted an option to purchase 1,000,000 shares of the Company's common stock under the Company's Amended and Restated Equity Incentive Plan (the "Amended Plan"). The exercise price of such option is \$0.80 per share. 500,000 shares of common stock subject to the option vest according to the following schedule (i) 200,000 shares vested on March 16, 2010; (ii) 12,500 shares vest each month beginning on April 16, 2010 until March 16, 2011; (iii) 8,000 shares vest each month beginning on April 16, 2011 until March 16, 2012 and (iv) 4,500 shares vest each month beginning on April 16, 2012 until March 16, 2013. 500,000 shares of common stock subject to the option vest based on the achievement of certain performance metrics by the Company. Any unvested portion of the option described above shall vest in the event of a change of control of the Company.

In the event that Mr. VanOort is terminated without cause by the Company, the Company has agreed to pay Mr. VanOort's base salary and maintain his benefits for a period of twelve months. The Company and Mr. VanOort also entered into a Confidentiality, Non-Solicitation and Non-Compete Agreement in connection with the Employment Agreement.

NEOGENOMICS, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2010 and 2009 (Continued)

On March 16, 2009, the Company and the Douglas M. VanOort Living Trust entered into a Subscription Agreement (the "Subscription Agreement") pursuant to which the Douglas M. VanOort Living Trust purchased 625,000 shares of the Company's common stock at a purchase price of \$0.80 per share (the "Subscription Shares"). The Subscription Shares are subject to a two year lock-up that restricts the transfer of the Subscription Shares; provided, however, that such lock-up shall expire in the event that the Company terminates Mr. VanOort's employment. The Subscription Agreement also provides for certain piggyback registration rights with respect to the Subscription Shares.

Grant Carlson

On July 22, 2009, the Company entered into an employment agreement with Grant Carlson to employ Mr. Carlson in the capacity of Vice President Sales and Marketing. The Offer Letter provides for a four (4) year term, which is terminable upon written notice by either party. The Offer Letter also provides for an initial base salary of \$200,000 per year and provides that Mr. Carlson is eligible to receive an incentive bonus targeted at 30% of his base salary based on the achievement of certain goals. Such bonus is eligible to be increased to up to 150% of the target bonus in any fiscal year in which he meets certain outsize performance thresholds established by the CEO of the Company and approved by the board of directors. Mr. Carlson is entitled to participate in all medical and other benefits that the Company has established for its employees. Mr. Carlson also is entitled to an automobile allowance of \$700 per month (plus reimbursement for work-related gas expenses) and reimbursement for personal telephone and cell phone use at a rate of \$250 per month. Mr. Carlson was also eligible for four (4) weeks of paid time off per year. Mr. Carlson was also eligible for up to \$20,000 of relocation assistance. Mr. Carlson was granted 150,000 stock options at an exercise price of \$1.34 and with a five year term so long as Mr. Carlson remains an employee of the Company. If the Company terminates Mr. Carlson without cause then the Company will continue to pay Mr. Carlson's base salary and maintain his employee benefits for a period of six months. In August 2010, Mr. Carlson was re-assigned to the position of Vice President of Business Development.

George Cardoza

On November 30, 2009, we entered into an employment agreement with George Cardoza, our Chief Financial Officer. The Employment Agreement has an initial term from November 30, 2009 through November 29, 2013, which initial term automatically renews for one year periods. The employment agreement specifies an initial base salary of \$190,000 per year, which was subsequently increased to \$225,000 per year in February 2011. Mr. Cardoza is also entitled beginning with the year ended December 31, 2010 to receive cash bonuses for any given fiscal year in an amount equal to 30% of his base salary if he meets certain goals established by the CEO and approved by the Board of Directors. Such bonus is eligible to be increased to up to 150% of the target bonus in any fiscal year in which he meets certain outsize performance thresholds established by the CEO of the Company and approved by the board of directors. In addition, Mr. Cardoza was granted 150,000 stock options at an exercise price of \$1.55 and with a five year term so long as Mr. Cardoza remains an employee of the Company. These options are scheduled to vest according to the passage of time. Mr. Cardoza's employment agreement also specifies that he is entitled to four weeks of paid vacation per year and other insurance benefits. Mr. Cardoza was also eligible for up to \$20,000 of relocation assistance. In the event that Mr. Cardoza is terminated without cause, by the Company, the Company has agreed to pay Mr. Cardoza's base salary and maintain his benefits for a period of six months.

Mark W. Smits

On August 30, 2010, Mark Smits, joined the Company in the role of Vice President of Sales and Marketing. As part of his employment agreement Mr. Smits salary was set at \$275,000. Beginning with the fiscal year ending December 31, 2010, Mr. Smits is also eligible to receive an annual incentive bonus targeted at 40% of his base salary based on 100% achievement of goals agreed to by Mr. Smits and the CEO of the Company and approved by the Board of Directors for such fiscal year. Such bonus is eligible to be increased to up to 150% of the target bonus in any fiscal year in which he meets certain outsize performance thresholds established by the CEO of the Company and approved by the board of directors. Mr. Smits guaranteed bonus for FY 2010 was \$25,000. Mr. Smits is also entitled to participate in all medical and other benefits that NeoGenomics Laboratories has established for its employees. Mr. Smits is also eligible for up to four (4) weeks of paid time off per year. If Mr. Smits is terminated without cause by the Company during the term (as such term is used in the employment agreement) he is eligible to receive his base pay and benefits for a period of six (6) months.

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NEOGENOMICS, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2010 and 2009 (Continued)

Mr. Smits also received the option to purchase 425,000 shares of common stock. The options vest based on the following schedule:

Time Based Vesting

- 25,000 on December 31, 2010
- 50,000 at the first year anniversary
- 50,000 at the second year anniversary
- 50,000 at the third year anniversary
- 50,000 at the fourth year anniversary

Performance Based Vesting

- 20,000 on August 30, 2010
- 20,000 if the Company achieves \$35.5 million revenue for FY 2010 or such other revenue goal established by the Board for the vesting of performance options and warrants
- 40,000 if the Company achieves the board-approved budgeted revenue for FY 2011 or such other revenue goal established by the Board for the vesting of performance options and warrants
- 40,000 if the Company achieves the board-approved budgeted revenue for FY 2012 or such other revenue goal established by the Board for the vesting of performance options and warrants
- 40,000 if the Company achieves the board-approved budgeted revenue for FY 2013 or such other revenue goal established by the Board for the vesting of performance options and warrants
- 40,000 if the Company achieves the board-approved budgeted revenue for FY 2014 or such other revenue goal established by the Board for the vesting of performance options and warrants

These options were valued at approximately \$167,000 using a trinomial lattice model with the following weighted average assumptions:

Expected term in years	3.66	
Risk-free interest rate (%)	0.95	%
Expected volatility range (%)	54.10% to 63.07	%
Dividend yield (%)	0	%

NOTE H – REVOLVING CREDIT AND SECURITY AGREEMENT

On February 1, 2008, our subsidiary, NeoGenomics Laboratories, Inc., (“the Borrower”), entered into a Revolving Credit and Security Agreement (the “Credit Facility”, “Credit Agreement” or the “Original Credit Agreement”) with CapitalSource Finance LLC (“CapitalSource”), the terms of which provide for borrowings based on eligible accounts receivable up to a maximum borrowing of \$3,000,000, as defined in the Credit Agreement. Subject to the provisions of the Credit Agreement, CapitalSource will make advances to us from time to time during the three year term, and the Credit Facility may be drawn, repaid and redrawn from time to time as permitted under the Credit Agreement.

To secure the payment and performance in full of the Obligations (as defined in the Credit Agreement), we granted CapitalSource a continuing security interest in and lien upon, all of our rights, title and interest in and to our Accounts (as defined in the Credit Agreement), which primarily consist of accounts receivable and cash balances held in lock box accounts. Furthermore, pursuant to the Credit Agreement, the Parent guaranteed the punctual payment when due, whether at stated maturity, by acceleration or otherwise, of all of the Obligations. The Parent guaranty is a continuing guarantee and shall remain in force and effect until the indefeasible cash payment in full of the Guaranteed Obligations (as defined in the Credit Agreement) and all other amounts payable under the Credit Agreement.

NEOGENOMICS, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2010 and 2009 (Continued)

On November 3, 2008, the Company and CapitalSource signed a first amendment to the Credit Agreement. This amendment increased the amount allowable under the Credit Agreement to pay towards the settlement of the US Labs lawsuit to \$250,000 from \$100,000 and documented other administrative agreements between NeoGenomics and CapitalSource.

On April 14, 2009, the Parent Company, NeoGenomics Laboratories, Inc. (the wholly owned subsidiary of the Parent Company) (“Borrower”) and CapitalSource Finance LLC (“CapitalSource”) (as agent for CapitalSource Bank) entered into a Second Amendment to Revolving Credit and Security Agreement (the “Loan Amendment”). The Loan Amendment, among other things, amends that certain Revolving Credit and Security Agreement dated February 1, 2008 as amended by that certain First Amendment to Revolving Credit and Security Agreement dated November 3, 2008 (as amended, the “Loan Agreement”) to (i) provide that through December 31, 2010, the Borrower was required to maintain Minimum Liquidity (as defined in the Loan Agreement) of not less than \$500,000, (ii) amend the definitions of “Fixed Charge Coverage Ratio” and “Fixed Charges”, (iii) amend the definition of “Permitted Indebtedness” to increase the amount of permitted capitalized lease obligations and indebtedness incurred to purchase goods secured by certain purchase money liens and (iv) amend and update certain representations, warranties and schedules. In addition, pursuant to the Loan Amendment, CapitalSource waived the following events of default under the Loan Agreement: (i) the failure of the Borrower to comply with the fixed charge coverage ratio covenant for the test period ended December 31, 2008, (ii) the failure of the Borrower to notify CapitalSource of the change of Borrower’s name to NeoGenomics Laboratories, Inc. and to obtain CapitalSource’s prior consent to the related amendment to Borrower’s Articles of Incorporation, (iii) the failure of the Parent Company and the Borrower to obtain CapitalSource’s prior written consent to the amendment of the Parent Company’s bylaws to allow for the size of the Parent Company’s Board of Directors to be increased to eight members and (iv) the failure of the Borrower to notify CapitalSource of the filing of an immaterial complaint by the Borrower against a former employee of the Borrower. The Company paid CapitalSource a \$25,000 amendment fee in connection with the Loan Amendment.

On March 26, 2010, the Parent Company, NeoGenomics Laboratories, Inc. (the wholly owned subsidiary of the Parent Company) (“Borrower”) and CapitalSource Finance LLC (“CapitalSource”) (as agent for CapitalSource Bank) entered into a Third Amendment to Revolving Credit and Security Agreement (the “Loan Amendment”). The Loan Amendment, among other things provided a waiver for the events of default due to the failure of the borrower to comply with the Fixed Charge Coverage Ratio covenant for the test periods ended January 31, 2010 and February 28, 2010. It also amended Annex I of the Credit Agreement by deleting the definition of Fixed Charge Coverage Ratio in its entirety and replacing it with a new definition. The Fixed Charge Coverage Ratio shall mean for Borrower collectively on a consolidated basis (a) as of any date of determination occurring during the period from the Closing Date through and including the Second Amendment Date the ratio of (i) Adjusted EBITDA for the Test Period ended as of such date to (ii) Fixed charges for the Test Period ended on such date; provided, that, solely for purposes of calculating the Fixed Charge Coverage Ratio for the Test Periods ending January 31, 2010 and February 28, 2010, the amount of Adjusted EBITDA for such Test Periods shall be increased by an amount equal to the sum of (A) \$90,000 with respect to recruiting expenses, plus (B) \$309,400 with respect to write-offs of bad debt, plus (C) \$56,000 with respect to bonus accrual, (b) as of any date of determination occurring during the period after the Second Amendment Date to and including December 31, 2010 and for the Test Period ending March 31, 2010 the ratio of (i) the sum of Adjusted EBITDA for the Test Period ended as of such date plus an amount equal to the sum of unrestricted cash on hand, unrestricted Cash Equivalents and unused Availability as of the last day of the Test Period ended as of such date, to (ii) Fixed Charges for the Test Period ended as of such date; and (c) as of any date of determination occurring after December 31, 2010, except for the Test Period ending March 31, 2010 which shall be as specified above in (b), the ratio of (i) Adjusted EBITDA for the Test Period ended as of such date to (ii) Fixed Charges for the Test Period

ended as of such date. The Company paid CapitalSource Bank a \$25,000 amendment fee in connection with the Loan Amendment.

On April 26, 2010, the Parent Company, Borrower, and CapitalSource entered into an Amended and Restated Revolving Credit and Security Agreement (the "Amended and Restated Credit Agreement"). The Amended and Restated Credit Agreement amended and restated the Original Credit Agreement. The terms of the Amended and Restated Credit Agreement and the Original Credit Agreement are substantially similar except that the Amended and Restated Credit Agreement, among other things, (i) increases the maximum principal amount of the revolving credit facility from \$3,000,000 to \$5,000,000, (ii) provides that the term of the Amended and Restated Credit Agreement shall end on February 1, 2013, (iii) increases the amount of the collateral management fee and unused line fees paid by Borrower to CapitalSource, (iv) modifies the definitions of "Minimum Termination Fee" and "Permitted Indebtedness", (v) provides that the Borrower must maintain a minimum outstanding principal balance under the revolving facility of at least \$2,000,000, (vi) decreases the interest rate to LIBOR plus 4.25% (provided that LIBOR shall not be less than 2.0%) and (vii) revises certain covenants and representations and warranties. The Amended and Restated Credit Agreement also made permanent a previously enacted temporary change to the methodology for calculating the Fixed Charge Coverage Ratio covenant, which permits us to add amounts of unrestricted cash and cash equivalents and unused availability under the Credit Facility to Adjusted EBITDA for the purposes of calculating this covenant. Borrower paid CapitalSource a commitment fee of \$33,500 in connection with the execution of the Amended and Restated Credit Agreement (CapitalSource credited \$25,000 of an amendment fee previously paid by the Borrower towards the commitment fee).

NEOGENOMICS, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2010 and 2009 (Continued)

Interest on outstanding advances under the Credit Facility are payable monthly in arrears on the first day of each calendar month. At December 31, 2010, the effective rate of interest was 6.25%. On December 31, 2010, the available credit under the Credit Facility was approximately \$261,733 and the outstanding borrowing was \$3,442,000 after netting compensating cash on hand.

NOTE I – ABBOTT SUPPLY AGREEMENT

On July 24, 2009, NeoGenomics Laboratories and Abbott Molecular Inc., a Delaware corporation (“Abbott Molecular”), entered into a Strategic Supply Agreement (the “Supply Agreement”). The Supply Agreement, among other things, provided for Abbott Molecular to supply materials that NeoGenomics used to develop its own FISH (fluorescence in situ hybridization)-based laboratory developed test (“LDT”) for the diagnosis of malignant melanoma in skin biopsy specimens (the “Melanoma LDT”), which NeoGenomics commercially launched in 2010.

Pursuant to the terms of the Supply Agreement, NeoGenomics identified for inclusion in the Melanoma LDT one or more analyte specific reagents (“ASRs”) that were not currently marketed or sold commercially by Abbott Molecular as individual stand-alone products, and hence the Supply Agreement provides that Abbott Molecular will supply such ASRs to NeoGenomics on an exclusive basis in the United States and Puerto Rico (the “Exclusive ASRs”), provided that Abbott Molecular may also supply such exclusive ASRs to certain of its academic collaborators for research and limited clinical purposes. Abbott Molecular’s obligation to supply the Exclusive ASRs on an exclusive basis is subject to NeoGenomics meeting certain revenue thresholds with respect to the Melanoma LDT starting in fiscal year 2011, which thresholds are negotiated every two to three years thereafter during the term. Except for the ASRs supplied for evaluation purposes (which were supplied at no cost), the Supply Agreement provides that the price of the ASRs supplied by Abbott Molecular will include both a base and a premium component.

In the event that Abbott Molecular obtains FDA approval for its own in vitro diagnostic test for aid in diagnosis of malignant melanoma in skin biopsy specimens, the Supply Agreement contemplates a means by which NeoGenomics may offer such FDA-approved test to its customers instead of the Melanoma LDT on a co-exclusive basis with Abbott.

Pursuant to the Supply Agreement, Abbott Molecular also granted to NeoGenomics a first right to develop two additional laboratory developed tests relating to certain specified disease states using Abbott Molecular ASRs or other products.

The initial term of the Supply Agreement expires on December 31, 2019. The Supply Agreement also contemplates two year renewal terms under certain circumstances. The parties may terminate the Supply Agreement prior to the expiration of the term under certain circumstances.

The Supply Agreement provides (subject to certain limitations) that Abbott Molecular may convert the Supply Agreement into a non-exclusive agreement. In addition, Abbott Molecular may also terminate the Supply Agreement following a change of control involving NeoGenomics and certain designated companies. In such event Abbott Molecular would pay to NeoGenomics (or its successor) a termination payment based upon a pre-defined formula.

NEOGENOMICS, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2010 and 2009 (Continued)

NOTE J – EQUITY TRANSACTIONS

Warrant Exercises from the 2007 Private Placement

On August 15, 2007 our Board of Directors voted to issue warrants to purchase 533,334 shares of our Common Stock to the investors who purchased shares in the Private Placement. Such warrants have an exercise price of \$1.50 per share and are exercisable for a period of two years.

In August 2009, 419,183 warrants were exercised that were attributable to this equity raise and the Company received proceeds of \$628,700. The remaining 114,151 warrants were cancelled.

Common Stock Purchase Agreement

On November 5, 2008, we entered into a common stock purchase agreement (the “Stock Agreement”) with Fusion Capital Fund II, LLC (“Fusion”). The Stock Agreement, which has a term of 30 months, provides for the future funding of up to \$8.0 million from sales of our common stock to Fusion on a when and if needed basis as determined by us in our sole discretion. This line will expire in August of 2011. In consideration for entering into this Stock Agreement, on October 10, 2008, we issued to Fusion 17,500 shares of our common stock (valued at \$14,700 on the date of issuance) and \$17,500 as a due diligence expense reimbursement. In addition, on November 5, 2008, we issued to Fusion 400,000 shares of our common stock (valued at \$288,000 on the date of issuance) as a commitment fee. Concurrently with entering into the Stock Agreement, we entered into a registration rights agreement with Fusion. Under the registration rights agreement, we agreed to file a registration statement with the SEC covering the 417,500 shares that have already been issued to Fusion and at least 3.0 million shares that may be issued to Fusion under the Stock Agreement. Presently, we expect to sell no more than the initial 3.0 million shares to Fusion during the term of this Stock Agreement. The Company filed a registration statement on Form S-1 dated November 28, 2008, and on February 5, 2009 the filing became effective.

Under the Stock Agreement, after the SEC declared effective the registration statement related to the transaction, we have the right to sell to Fusion shares of our common stock from time to time in amounts between \$50,000 and \$1.0 million, depending on the market price of our common stock. The purchase price of the shares related to any future funding under the Stock Agreement will be based on the prevailing market prices of our stock at the time of such sales without any fixed discount, and the Company will control the timing and amount of any sales of shares to Fusion. Fusion shall not have the right or the obligation to purchase any shares of our common stock on any business day that the price of our common stock is below \$0.45 per share. The Stock Agreement may be terminated by us at any time at our discretion without any cost to us. There are no negative covenants, restrictions on future funding from other sources, penalties, further fees or liquidated damages in the agreement.

Given our current liquidity position from cash on hand and our availability under our Credit Facility with CapitalSource (see Note H), and the \$3.0 million of cash raised on January 12, 2011 in a private equity transaction we have no immediate plans to issue common stock under the Stock Agreement. If and when we do elect to sell shares to Fusion under this agreement, we expect to do so opportunistically and only under conditions deemed favorable by the Company. Any proceeds received by the Company from sales under the Stock Agreement will be used for general corporate purposes, working capital, and/or for expansion activities.

Asset Purchase Agreements

On February 2, 2009, we issued 300,000 shares of restricted stock, valued at \$186,000 based on the February 2, 2009 closing price of the Company's common stock on the OTC Bulletin Board, in connection with two agreements to purchase the assets (primarily laboratory equipment) of two laboratories, including settlement of certain amounts due to the owners.

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NEOGENOMICS, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2010 and 2009 (Continued)

Share Purchase by the Douglas VanOort Living Trust

On March 16, 2009, the Company and the Douglas M. VanOort Living Trust entered into a Subscription Agreement (the "Subscription Agreement") pursuant to which the Douglas M. VanOort Living Trust purchased 625,000 shares of the Company's common stock at a purchase price of \$0.80 per share (the "Subscription Shares"). Douglas M VanOort is Chairman of the Company's Board of Directors and Chief Executive Officer. The Subscription Shares are subject to a two year lock-up that restricts the transfer of the Subscription Shares; provided, however, that such lock-up shall expire in the event that the Company terminates Mr. VanOort's employment. The Subscription Agreement also provides for certain piggyback registration rights with respect to the Subscription Shares.

On March 16, 2009, the Company and Mr. VanOort entered into a Warrant Agreement (the "Warrant Agreement") pursuant to which Mr. VanOort, subject to the vesting schedule described below, may purchase up to 625,000 shares of the Company's common stock at an exercise price of \$1.05 per share (the "Warrant Shares"). These warrants had an aggregate fair value of \$160,267. The Warrant Shares vest based on the following vesting schedule:

- (i) 20% of the Warrant Shares vest immediately,
- (ii) 20% of the Warrant Shares will be deemed to be vested on the first day on which the closing price per share of the Company's common stock has reached or exceeded \$3.00 per share for 20 consecutive trading days,
- (iii) 20% of the Warrant Shares will be deemed to be vested on the first day on which the closing price per share of the Company's common stock has reached or exceeded \$4.00 per share for 20 consecutive trading days,
- (iv) 20% of the Warrant Shares will be deemed to be vested on the first day on which the closing price per share of the Company's common stock has reached or exceeded \$5.00 per share for 20 consecutive trading days and
- (v) 20% of the Warrant Shares will be deemed to be vested on the first day on which the closing price per share of the Company's common stock has reached or exceeded \$6.00 per share for 20 consecutive trading days.

In the event of a change of control of the Company in which the consideration payable to each common stockholder of the Company in connection with such change of control has a deemed value of at least \$4.00 per share, then the Warrant Shares shall immediately vest in full. In the event that Mr. VanOort resigns his employment with the Company or the Company terminates Mr. VanOort's employment for "cause" at any time prior to the time when all Warrant Shares have vested, then the rights under the Warrant Agreement with respect to the unvested portion of the Warrant Shares as of the date of termination will immediately terminate.

Common Stock Purchase Agreement and Registration Rights Agreement with Abbott Laboratories

On July 24, 2009, NeoGenomics, Inc. entered into a Common Stock Purchase Agreement (the "Common Stock Purchase Agreement") with Abbott Laboratories, an Illinois corporation ("Abbott"), and consummated the issuance and sale to Abbott, for an aggregate purchase price of \$4,767,000, of 3,500,000 shares of common stock, \$0.001 par value per share (the "Shares"). Pursuant to the terms of the Common Stock Purchase Agreement, Abbott was prohibited from selling or otherwise transferring the Shares until January 20, 2010.

On July 24, 2009, NeoGenomics, Inc. and Abbott also entered into a Registration Rights Agreement (the “Registration Rights Agreement”) that, among other things, grants certain demand and piggyback registration rights to Abbott with respect to the Shares.

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NEOGENOMICS, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2010 and 2009 (Continued)

NOTE K – EQUIPMENT CAPITAL LEASES

From time to time, we have entered into various capital leases, primarily to fund purchases of laboratory and other equipment, including the lease agreements described below.

Gulf Pointe Capital Lease Agreement

On September 30, 2008, we entered into a master lease agreement (the “Master Lease”) with Gulf Pointe Capital, LLC (“Gulf Pointe”) which provided for \$130,000 of lease financing after it was determined that the lease facility with LTI described below would not allow for the leasing of certain used and other types of equipment. Three members of our Board of Directors at the time we entered into the Master Lease, Steven Jones, Peter Petersen and Marvin Jaffe, were affiliated with Gulf Pointe and recused themselves from both sides of all negotiations concerning this transaction. The terms under this lease are consistent with the terms of our other lease arrangements and provided for the sale/leaseback of approximately \$130,000 of used laboratory equipment. The lease has a 30 month term and a lease rate factor of 0.0397/month, which equates to monthly payments of \$5,155 during the term. In consideration for entering into the Master Lease, the Company issued 32,475 common stock warrants to Gulf Pointe with an exercise price of \$1.08 and a five year term. The warrants were valued at approximately \$11,000 using the Black-Scholes option pricing model. At the end of the lease term, the Company’s options are as follows: (a) purchase not less than all of the equipment for its then fair market value, not to exceed 15% of the original equipment cost, (b) extend the lease term for a minimum of six months, or (c) return not less than all the equipment at the conclusion of the lease term.

On February 9, 2009, we amended our Master Lease with GulfPointe to increase the maximum size of the facility to \$250,000 and entered into a second schedule under the Master Lease for the sale/leaseback of approximately \$118,000 of used laboratory equipment. This second lease has a 30 month term at the same lease rate factor per month as the first lease, which equates to monthly payments of \$4,690 during the term. As part of this amendment, we terminated the original warrant agreement dated September 30, 2009 and replaced it with a new warrant to purchase 83,333 shares of our common stock. Such new warrants have a five year term, an exercise price of \$0.75 per share and the same vesting schedule as the original warrants. The replacement warrants were valued using the Black-Scholes option pricing model and the value did not materially differ from the valuation of the original warrants they replaced.

Leasing Technologies International Lease Agreement

On November 5, 2008, we entered into a Master Lease Agreement with Leasing Technologies International, Inc (the “LTI Lease”). The LTI Lease establishes the general terms and conditions pursuant to which we may lease up to \$1,000,000 of equipment. Advances under the lease line may be made for one year by executing equipment schedules for each advance. The lease term of any equipment schedules issued under the lease line will be for 36 months. The lease rate factor applicable for each equipment schedule is 0.0327/month. If we make use of the entire lease line, the monthly rent would be \$32,700. Monthly rent for the leased equipment is payable in advance on the first day of each month. At the end of the term of each equipment schedule, we may: (a) renew the lease with respect to such equipment for an additional 12 months at fair market value; (b) purchase the equipment at fair market value, which price will not be less than 10% of cost nor more than 14% of cost; (c) extend the term for an additional six months at 35% of the monthly rent paid during the initial term, after which the equipment may be purchased for the lesser of fair market value or 8% of cost; or (d) return the equipment subject to a remarketing charge equal to 6% of cost.

In 2008, we entered into Lease Schedule No. 1 to the LTI Lease for \$437,300 and on May 22, 2009, July 29, 2009 and September 22, 2009, entered into Lease Schedules Nos. 2, 3 and 4 for \$442,300, \$40,066, and \$29,218, respectively, which were used to fund laboratory and computer equipment.

As of December 31, 2009, we have been advanced \$948,884 under the LTI Lease. We cannot receive any further advances under the LTI Lease.

On July 28, 2010 NeoGenomics Laboratories and Leasing Technologies, Inc. (LTI) agreed on the terms and conditions of a new \$1.0 million lease line of credit. The new line has the same terms and conditions of our November 5, 2008 Master Lease Agreement with LTI. Advances under the lease line may be made for one year by executing equipment schedules for each advance. The lease term of any equipment schedules issued under the lease line will be for 36 months. The lease rate factor applicable for each equipment schedule is 0.0327/month. If the Subsidiary makes use of the entire lease line, the monthly rent would be \$32,700. Monthly rent for the leased equipment is payable in advance on the first day of each month. The obligations of the Subsidiary are guaranteed by the Parent Company. At the end of the term of each equipment schedule the Subsidiary may: (a) renew the lease with respect to such equipment for an additional 12 months at fair market value; (b) purchase the equipment at fair market value, which price will not be less than 10% of cost nor more than 14% of cost; (c) extend the term for an additional six months at 35% of the monthly rent paid by the lessee during the initial term, after which the equipment may be purchased for the lesser of fair market value or 8% of cost; or (d) return the equipment subject to a remarketing charge equal to 6% of cost.

NEOGENOMICS, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2010 and 2009 (Continued)

In September 2010 we entered into two LTI Schedules of \$90,381 and \$46,500. During December 2010 we entered into three additional schedules of \$31,390, \$165,900 and \$36,925.

On December 31, 2010 we had approximately \$630,000 of availability on the line.

Wells Fargo Lease Agreement

On October 2, 2009, we entered into a Master Lease Agreement with Wells Fargo Equipment Finance, Inc. (the "Wells Fargo Lease"). The Wells Fargo Lease establishes the general terms and conditions pursuant to which we may lease up to \$750,000 in equipment. Advances under the lease line may be made for 180 days by executing supplemental schedules for each advance, which would have a 60 month term.

On October 2, 2009, we entered into Lease Supplement No. 1 for \$265,200 which was used to acquire laboratory equipment. Supplement No. 1, which is being accounted for as a capital lease, has a term of 60 months with monthly payments of \$5,396 and a \$1 final purchase payment at termination.

On January 14, 2010, we entered into Lease Supplement No. 2 for \$424,000 which was used to acquire laboratory equipment. Supplement No. 2, which will be accounted for as a capital lease, has a term of 60 months with monthly payments of \$8,628 and a \$1 final purchase payment at termination.

Our ability to make further advances under this lease line expired on April 2, 2010.

SunTrust Lease Agreement

On October 28, 2009, we entered into an equipment lease agreement with SunTrust Equipment Finance & Leasing Corp. (the "SunTrust Lease"). The SunTrust Lease establishes the general terms and conditions pursuant to which we may lease up to \$1.5 million in equipment and other property. Advances under the lease line may be made by executing supplemental schedules for each advance, which would have a term of 60 months.

On November 12, 2009, we entered into Lease Schedule No. 1 for \$428,465 which was used to fund laboratory equipment, computer hardware and furniture and fixtures. Schedule No. 1, which is being accounted for as a capital lease, has a term of 60 months with monthly payments of \$8,434 and a \$1 final purchase payment at termination. As part of this schedule, the Subsidiary agreed to keep at least \$1,000,000 in compensating cash balances with SunTrust as long as the subsidiary owed any monies under the schedule. This balance is accounted for as current restricted cash as we have the ability to pay-off the schedule at any time and as a result of that we have shown the principal owed on the arrangement as a current liability.

On January 19, 2010, we entered into Lease Schedule No. 2 for \$289,573 which was used to fund laboratory equipment and furniture and fixtures. Schedule 2, which will be accounted for as a capital lease, has a term of 60 months with monthly payments of \$5,704 and a \$1 final purchase payment at termination.

On April 13, 2010, the Company entered into Lease Schedule No. 3 of the SunTrust lease for approximately \$249,000 which was funded to several vendors for lab equipment and computer hardware. Schedule 3 has a term of 60 months with monthly payments of approximately \$4,900 and a \$1.00 final purchase payment at termination. Schedule No. 3 is being accounted for as a capital lease.

After entering into Lease Schedule No. 3 on April 13, 2010, we had approximately \$533,000 available for further advances under the SunTrust Lease.

Our ability to make further advances under this lease line agreement expired on April 28, 2010. As a result, on June 10, 2010 SunTrust amended the lease schedules to release \$500,000 of restricted cash to us.

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NEOGENOMICS, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2010 and 2009 (Continued)

Capital Lease Obligations

The Company's capital lease obligations expire at various times through 2015 and the weighted average interest rates under such leases approximated 12.59% at December 31, 2010. Most of these leases contain bargain purchase options that allow us to purchase the leased property for a minimal amount upon the expiration of the lease term. Future minimum lease payments under capital lease obligations, including those described above, are:

Years ending December 31,	
2011	\$1,705,085
2012	1,062,285
2013	694,639
2014	406,056
2015	27,242
Total future minimum lease payments	3,895,307
Less amount representing interest	(552,690)
Present value of future minimum lease payments	3,342,617
Less current maturities	(1,994,508)
Obligations under capital leases – long term	\$1,348,109

Property and equipment acquired under capital lease agreements (see Note D) is pledged as collateral to secure the performance of the future minimum lease payments above.

NOTE L – RELATED PARTY TRANSACTIONS

Consulting Agreement

During 2010 and 2009, Steven C. Jones, a director of the Company, earned \$201,850 and \$199,600, respectively, for various consulting work performed in connection with his duties as Acting Principal Financial Officer and Executive Vice President of Finance. Mr. Jones is a member of the Board of Directors Compliance Committee and was a member of the Compensation Committee through May of 2010.

On May 3, 2010, the Company entered into a consulting agreement (the "Consulting Agreement") with Steven C. Jones (the "Consultant" or "Mr. Jones") whereby Mr. Jones would continue to provide consulting services to the Company in the capacity of Executive Vice President of Finance. The Consulting Agreement has an initial term from May 3, 2010 through April 30, 2013, which initial term automatically renews for additional one year periods unless either party provides notice of termination at least three months prior to the expiration of the initial term or any renewal term. In addition, the Company has the right to terminate the Consulting Agreement by giving written notice to the Consultant twelve months prior to the effective date of termination. The Consultant has the right to terminate the Consulting Agreement by giving written notice to the Company three months prior to the proposed termination date, provided, however, the Consultant is required to provide an additional three months of transition services to the Company upon reasonable request by the Company. The Consulting Agreement specifies an annual base retainer compensation of \$180,000 per year, which was subsequently increased to \$200,000 per year in February 2011. Mr. Jones is also eligible to receive an annual cash bonus based on the achievement of certain performance metrics with a target of 30% of his base retainer. Such bonus is eligible to be increased to up to 150% of the target bonus in any fiscal year in which he meets certain outsize performance thresholds established by the CEO of the Company and approved by the

Board of Directors.

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NEOGENOMICS, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2010 and 2009 (Continued)

The Company also agreed that it would issue to the Consultant a warrant to purchase 450,000 shares of the Company's common stock. The warrant has a) a seven year term, b) an exercise price of \$1.50 per share, c) the ability to do a cashless net exercise, and d) vesting as follows:

- i) 225,000 of such warrant shares vested immediately in recognition of cumulative achievements by Mr. Jones for the Company; and
- ii) 112,500 of such warrant shares vest according to the passage of time, with 4,687 warrant shares vesting on the last day of each calendar month for twenty-three (23) months, beginning with the month ended May 31, 2010 and continuing until the month ending March 31, 2012 and 4,699 warrant shares vest on April 30, 2012 so long as Consultant continues to provide services to the Company pursuant to this Agreement or any successor agreement.
- iii) 112,500 of such warrant shares shall vest according to whether or not the Company meets certain financial targets as specified below for FY 2010 and FY 2011:
 - 28,125 will vest if the Company's actual consolidated revenue for FY 2010, meets or exceeds the consolidated revenue goal established by the Board of Directors (the "Board") for the vesting of performance options and warrants; and
 - 28,125 will vest if the Company's actual Adjusted EBITDA for FY 2010, meets or exceeds the consolidated Adjusted EBITDA goals established by the Board for the vesting of performance options and warrants; and
 - 28,125 will vest if the Company's actual consolidated revenue for FY 2011, meets or exceeds the consolidated revenue goal established by the Board for the vesting of performance options and warrants; and
 - 28,125 will vest if the Company's actual Adjusted EBITDA for FY 2011, meets or exceeds the consolidated Adjusted EBITDA goals established by the Board for the vesting of performance options and warrants; and
- iv) The Consulting Agreement also provides that the vesting schedule of such warrant shall also specify that any unvested warrant shares shall vest upon the occurrence of a change of control.

These warrants were valued at \$191,000 using a trinomial lattice model with the following assumptions:

Expected term in years	3.78	
Risk-free interest rate (%)	2	%
Expected volatility range (%)	54.6% to 76.6	%
Dividend yield (%)	0	%

Laboratory Information System

On March 11, 2005, we entered into an agreement with HCSS, LLC and eTelenext, Inc. to enable NeoGenomics to use eTelenext, Inc's Accessioning Application, AP Anywhere Application and CMQ Application. HCSS, LLC is a holding company created to build a small laboratory network for the 50 small commercial genetics laboratories in the United States. HCSS, LLC was owned 66.7% by Dr. Michael T. Dent, a member of our Board of Directors. George O'Leary, a former member of our board of directors, was Chief Financial Officer of HCSS, LLC.

On June 18, 2009, we entered into a Software Development, License and Support Agreement with HCSS, LLC and eTelenext, Inc. to upgrade the Company's laboratory information system to APvX. This agreement has an initial term of 5 years from the date of acceptance and calls for monthly fees of \$8,000-\$12,000 during the term. In June 2010, HCSS and eTelenext were merged into eTelenext's parent company, PathCentral, Inc. Dr. Dent currently owns approximately 3% of PathCentral, Inc.

During the years ended December 31, 2010 and 2009, we incurred licensing and software customization fees from HCSS/eTelenext/PathCentral, Inc. of approximately \$286,000 and approximately \$87,700, respectively.

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NEOGENOMICS, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2010 and 2009 (Continued)

Gulf Pointe Capital Lease Agreement

See Note K for a description of our lease agreement with Gulf Pointe Capital, LLC, an entity with which three members of our Board of Directors at the time we entered into such lease agreement, Steven Jones, Peter Petersen and Marvin Jaffe, were affiliated.

Research DX, LLC

During 2009, we contracted with ResearchDX, L.L.C. (“ResearchDX”) to provide clinical trial management services on our behalf but the amount was immaterial to our financial results. For the year ended December 31, 2010, we began to receive various specimens for testing from ResearchDX and we continued to outsource our clinical trial management and cytogenetic overflow testing volume to them for processing. During the year ended December 31, 2010, we received specimen testing revenues of approximately \$33,000 and incurred expenses to Research DX of approximately \$233,000. Research DX was formed in November 2008 and Dr. Mathew Moore our Vice President of Research and Development owns 50% of ResearchDX. Dr. Moore has recused himself from all transactions between the two entities and we believe that such transactions are competitive with alternate options.

NOTE M – POWER 3 MEDICAL PRODUCTS, INC.

On April 2, 2007, we entered into an agreement with Power3 Medical Products, Inc., (“Power3”) regarding the formation of a joint venture Contract Research Organization (“CRO”) and the issuance of convertible debentures and certain options by Power3 to us (the “Letter Agreement”). Power3 is an early stage company engaged in the discovery, development, and commercialization of protein biomarkers. As part of the agreement, on April 17, 2007, we provided \$200,000 of working capital to Power3 by purchasing a 6% convertible debenture, due April 17, 2009 (the “Debenture”). We were also granted two options to increase our stake in Power3 first to 20% and then up to 60% of Power3’s fully diluted shares. The first option is exercisable for a period starting on the date of purchase of the convertible debenture by NeoGenomics and extending until the day which is the later of (y) November 16, 2007 or (z) the date that certain preconditions specified in the agreement have been achieved.

As of March 24, 2009, Power3 has failed to meet at least four of the five preconditions specified in the Letter Agreement. As a result of this failure to meet the pre-conditions specified in the Letter Agreement, we believe that all of our options to acquire interests in Power3 and license their Intellectual Property are still in full force and effect and we have notified Power3 that we are reserving all of our rights under the Letter Agreement. We have also notified Power3 that they are in default of their obligations under the Debenture by failing to pay interest due since September 2009 and principal which was due April 17, 2009, and that as a result of such default, we were demanding the accelerated payment of the full principal and any accrued interest under the Debenture. We also filed a complaint against Power3 in the New York State courts. On December 10, 2010, the Supreme Court of the State of New York issued a judgment against Power3 in favor of NeoGenomics in the amount of \$217,000. Such judgment is currently being appealed by Power3. NeoGenomics wrote off the entire receivable related to this debenture in its 2008 financials, but intends to vigorously pursue a full remedy against Power3.

NOTE N – RETIREMENT PLAN

We maintain a defined-contribution 401(k) retirement plan covering substantially all employees (as defined). Our employees may make voluntary contributions to the plan, subject to limitations based on IRS regulations and

compensation. In addition, we match any employees' contributions on a dollar to dollar basis up to 1% of the respective employee's salary. We made matching contributions of approximately \$59,000 and \$51,000 during the years ended December 31, 2010 and 2009, respectively.

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NEOGENOMICS, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 2010 and 2009 (Continued)

NOTE O – SUBSEQUENT EVENTS

Equipment Leases

On January 3, 2011, we entered into an additional schedule under our lease facility with LTI of approximately \$14,000. On January 25, 2011 we entered into another schedule with LTI under our lease facility of approximately \$39,000. On February 11, 2011 we entered into another schedule with LTI under our lease facility for approximately \$72,000.

Private Equity Raise

Between January 10, 2011 and January 12, 2011, the Parent Company entered into subscription agreements with certain investors (the “Investors”) pursuant to which the Company has sold to the Investors an aggregate of 2,001,667 shares (the “Shares”) of the Company’s common stock at a price of \$1.50 per share (the “Common Stock Financing”). In connection with the Common Stock Financing, the Company also entered into registration rights agreements with the Investors.

The Investors include, among others, (i) the Douglas M. VanOort Living Trust (of which Douglas VanOort, Chief Executive Officer and Chairman of the Company’s Board of Directors, is affiliated), (ii) the Steven and Carisa Jones Defined Benefit Pension Plan & Trust (of which Steven Jones, Executive Vice President – Finance and a director of the Company, is affiliated), (iii) The George A. Cardoza Family Trust (of which George Cardoza, the Company’s Chief Financial Officer, is affiliated), (iv) Mark W. Smits (who is the Company’s Vice President of Sales and Marketing), and (v) Kevin C. Johnson (who is a director of the Company).

Warrant Exercises

During January of 2011, Aspen Select Healthcare, LP, Steven C. Jones, Dr. Michael T. Dent, SKL Limited Family Partnership (“SKL”), Larry Kuhnert and John Elliott, who previously received warrants for participating in our Private Equity Offering in 2006, who received warrants for modifying their debt arrangement with us, or received warrants as an inducement to sign a waiver of their shareholder rights to allow SKL to participate in the equity offering, exercised 1,600,000 warrants at an exercise price of \$0.26 per share in a cashless exercise. In order to settle these exercises we issued 1,287,115 shares of unrestricted stock and 39,518 shares of restricted stock.

On January 21, 2011, Aspen Select Healthcare, LP exercised 2,500,000 warrants to purchase common stock at an exercise price of \$0.31 per share in a cashless transaction. The Company issued 1,991,391 unrestricted shares of common stock to settle this transaction. These warrants were issued as part of the March 23, 2005 loan facility with Aspen Select Healthcare, LP.

On January 31, 2011, Hawk & Associates exercised 35,000 warrants to purchase common stock at an exercise price of \$0.30 per share in a cashless transaction. Hawk and Associates also exercised 35,000 warrants to purchase common stock at an exercise price of \$0.68 per share in a cashless transaction. The Company issued 47,185 unrestricted shares of common stock to settle this transaction.

End of Financial Statements

PART II

INFORMATION NOT REQUIRED IN PROSPECTUS

ITEM 13. OTHER EXPENSES OF ISSUANCE AND DISTRIBUTION

The following table sets forth estimated expenses expected to be incurred in connection with the issuance and distribution of the securities being registered. The Company will pay all expenses in connection with this offering.

Securities and Exchange Commission Registration Fee	\$817
Printing and Engraving Expenses	\$1,500
Accounting Fees and Expenses	\$4,000
Legal Fees and Expenses	\$8,000
Miscellaneous	\$1,083
TOTAL	\$15,400

ITEM 14. INDEMNIFICATION OF DIRECTORS AND OFFICERS

The Company's Articles of Incorporation provide that no director or officer of the Company shall be personally liable to the Company or any of its stockholders for damages for breach of fiduciary duty as a director or officer of for any act or omission of any such director or officer; however such indemnification shall not eliminate or limit the liability of a director or officer for (a) acts or omissions which involve intentional misconduct, fraud or a knowing violation of law or (b) the payment of dividends in violation of Section 78.300 of the Nevada Revised Statutes. The Company's Amended and Restated Bylaws (the "Bylaws") provide that any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that such person is or was a director, officer, employee or agent of the Company (or is or was serving at the request of the Company as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise) shall be indemnified and held harmless by the Company to the fullest extent permitted by Nevada law against expenses including attorneys' fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such proceeding.

The Bylaws also provide that the Company must indemnify any person who was or is a party, or is threatened to be made a party, to any threatened, pending or completed proceeding by or in the right of the Company to procure a judgment in its favor by reason of the fact that such person is or was a director, officer, employee or agent of the Company, or is or was serving at the request of the Company as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust or other enterprise against costs incurred by such person in connection with the defense or settlement of such action or suit. Such indemnification may not be made for any claim, issue or matter as to which such person has been adjudged by a court of competent jurisdiction, after exhaustion of all appeals, to be liable to the Company or for amounts paid in settlement to the Company, unless and only to the extent that the court determines upon application that in view of all the circumstances of the case, the person is fairly and reasonably entitled to indemnity for such expenses as the court deems proper.

The Bylaws provide that the Company must pay the costs incurred by any person entitled to indemnification in defending a proceeding as such costs are incurred and in advance of the final disposition of a proceeding; provided however, that the Company must pay such costs only upon receipt of an undertaking by or on behalf of such person to repay the amount if it is ultimately determined by a court of competent jurisdiction that such person is not entitled to be indemnified by the Company.

The Bylaws provide that the Company may purchase and maintain insurance or make other financial arrangements on behalf of any person who is or was a director, officer, employee or agent of the Company, or is or was serving at the

request of the Company as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise in accordance with Section 78.752 of the Nevada Revised Statutes.

Nevada Revised Statutes 78.751 and 78.7502 have similar provisions that provide for discretionary and mandatory indemnification of officers, directors, employees, and agents of a corporation. Under these provisions, such persons may be indemnified by a corporation against expenses, including attorney's fees, judgment, fines and amounts paid in settlement, actually and reasonably incurred by him in connection with the action, suit or proceeding, if he acted in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the corporation and with respect to any criminal action or proceeding had no reasonable cause to believe his conduct was unlawful.

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To the extent that a director, officer, employee or agent has been successful on the merits or otherwise in defense of any action, suit or proceeding, or in defense of any claim, issue or matter, the Nevada Revised Statutes provide that he must be indemnified by the Company against expenses, including attorney's fees, actually and reasonably incurred by him in connection with the defense.

Section 78.751 of the Nevada Revised Statutes also provides that any discretionary indemnification, unless ordered by a court or advanced by the Company, must be made only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances. The determination must be made:

- By the stockholders;
- By the Company's Board of Directors by majority vote of a quorum consisting of directors who were not parties to that act, suit or proceeding;
- If a majority vote of a quorum consisting of directors who were not parties to the act, suit or proceeding cannot be obtained, by independent legal counsel in a written opinion; or
- If a quorum consisting of directors who were not parties to the act, suit or proceeding cannot be obtained, by independent legal counsel in a written opinion.

Insofar as indemnification for liabilities arising under the Securities Act, as amended, may be permitted to directors, officers, and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the SEC such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer, or controlling person in the successful defense of any action, suit, or proceeding) is asserted by such director, officer, or controlling person connected with the securities being registered, we will, unless in the opinion of our counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

ITEM 15. RECENT SALES OF UNREGISTERED SECURITIES

Except as otherwise noted, all of the following shares were issued and options and warrants granted pursuant to the exemption provided for under Section 4(2) of the Securities Act.

On March 12, 2008, the Company granted an option to purchase 400,000 shares of common stock to Robert P. Gasparini, our President and Chief Science Officer, pursuant to the terms of his employment agreement with the Company. The option has an exercise price of \$0.80 per share and vests based on the achievement of certain performance milestones. In the event of a change of control of the Company, all unvested portions of the option will vest in full.

On September 30, 2008, the Company issued a warrant to Gulf Pointe Capital LLC ("Gulf Pointe") to purchase up to 32,475 shares of our common stock. The warrant had an exercise price of \$1.08 per share and a five year term. On February 9, 2009, we amended our Master Lease with GulfPointe to increase the maximum size of the facility to \$250,000. As part of this amendment, we terminated the original warrant agreement, dated September 30, 2008, and replaced it with a new warrant to purchase 83,333 shares of our common stock. Such new warrants have a five year term, an exercise price of \$0.75/share and the same vesting schedule as the original warrant.

On October 10, 2008, the Company issued to Fusion Capital Fund II, LLC (“Fusion Capital”) 17,500 shares of our common stock as a due diligence expense reimbursement. In addition, pursuant to the terms of a common stock purchase agreement between the Company and Fusion Capital, on November 5, 2008, we issued to Fusion Capital 400,000 shares of our common stock as a commitment fee.

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On February 2, 2009, the Company issued 300,000 shares of its common stock to the seller in connection with two agreements to purchase the assets (primarily laboratory equipment) of two laboratories, including settlement of certain amounts due to the owner of such laboratories.

On March 16, 2009, the Company and the Douglas M. VanOort Living Trust entered into a Subscription Agreement pursuant to which the Douglas M. VanOort Living Trust purchased 625,000 shares of the Company's common stock at a purchase price of \$0.80 per share.

On March 16, 2009, the Company and Mr. VanOort entered into a Warrant Agreement pursuant to which Mr. VanOort, subject to the vesting schedule described below, may purchase up to 625,000 shares of the Company's common stock at an exercise price of \$1.05 per share. The shares subject to the warrant vest pursuant to the vesting schedule set forth in the Warrant Agreement.

On July 24, 2009, the Company entered into a Common Stock Purchase Agreement with Abbott Laboratories, an Illinois corporation ("Abbott"), and consummated the issuance and sale to Abbott, for an aggregate purchase price of \$4,767,000, of 3,500,000 shares of common stock, \$0.001 par value per share.

On May 3, 2010, the Company and Steven C. Jones entered into a Warrant Agreement pursuant to which Mr. Jones, subject to the vesting schedule set forth in such Warrant Agreement, may purchase up to 450,000 shares of the Company's common stock at an exercise price of \$1.50 per share.

Between January 10, 2011 and January 12, 2011, the Parent Company entered into subscription agreements with certain investors (the "Investors") pursuant to which the Company has sold to the Investors an aggregate of 2,001,667 shares (the "Shares") of the Company's common stock at a price of \$1.50 per share (the "Common Stock Financing"). In connection with the Common Stock Financing, the Company also entered into registration rights agreements with the Investors.

The Investors include, among others, (i) the Douglas M. VanOort Living Trust (of which Douglas VanOort, Chief Executive Officer and Chairman of the Company's Board of Directors, is affiliated), (ii) the Steven and Carisa Jones Defined Benefit Pension Plan & Trust (of which Steven Jones, Executive Vice President – Finance and a director of the Company, is affiliated), (iii) The George A. Cardoza Family Trust (of which George Cardoza, the Company's Chief Financial Officer, is affiliated), (iv) Mark W. Smits (who is the Company's Vice President of Sales and Marketing), and (v) Kevin C. Johnson (who is a director of the Company).

ITEM 16. EXHIBITS

Exhibit No.	Description of Exhibit	Location
3.1	Articles of Incorporation, as amended	Incorporated by reference to the Company's Registration Statement on Form SB-2 as filed with the SEC on February 10, 1999
3.2	Amendment to Articles of Incorporation filed with the Nevada Secretary of State on January 3, 2002	Incorporated by reference to the Company's Annual Report on Form 10-KSB as filed with the SEC on May 20, 2003
3.3	Amendment to Articles of Incorporation filed with the Nevada Secretary of State on April 11, 2003	Incorporated by reference to the Company's Annual Report on Form 10-KSB as filed with the SEC on May 20, 2003
3.4	Amended and Restated Bylaws	Incorporated by reference to the Company's Quarterly Report on Form 10-Q as filed with the SEC on May 14, 2009
4.1	Amended and Restated Equity Incentive Plan effective as of March 3, 2009	Incorporated by reference to the Company's Current Report on Form 8-K as filed with the SEC on March 20, 2009
5.1	Opinion of Counsel	Incorporated by reference to the Company's Registration Statement on Form S-1 filed with the SEC on May 5, 2010.
10.1	Loan Agreement between NeoGenomics, Inc. and Aspen Select Healthcare, L.P. dated March 23, 2005	Incorporated by reference to the Company's Current Report on Form 8-K as filed with the SEC on March 30, 2005
10.2	Amended and Restated Registration Rights Agreement between NeoGenomics, Inc. and Aspen Select Healthcare, L.P. and individuals dated March 23, 2005	Incorporated by reference to the Company's Current Report on Form 8-K as filed with the SEC on March 30, 2005
10.3	Guaranty of NeoGenomics, Inc., dated March 23, 2005	Incorporated by reference to the Company's Current Report on Form 8-K as filed with the SEC on March 30, 2005
10.4	Stock Pledge Agreement between NeoGenomics, Inc. and Aspen Select Healthcare, L.P., dated March 23, 2005	Incorporated by reference to the Company's Current Report on Form 8-K as filed with the SEC on March 30, 2005
10.5	Warrants issued to Aspen Select Healthcare, L.P., dated March 23, 2005	Incorporated by reference to the Company's Current Report on Form 8-K as filed with the SEC on March 30, 2005
10.6		

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Security Agreement between NeoGenomics, Inc. and Aspen Select Healthcare, L.P., dated March 23, 2005

Incorporated by reference to the Company's Current Report on Form 8-K as filed with the SEC on March 30, 2005

10.7

Amended and Restated Shareholders' Agreement dated March 23, 2005 among Neogenomics, Inc., a Nevada corporation, Michael Dent, Aspen Select Healthcare, LP, John Elliot, Steven Jones and Larry Kuhnert

Incorporated by reference to the Company's Registration Statement on Form S-1 as filed with the SEC on November 28, 2008

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Exhibit No.	Description of Exhibit	Location
10.8	Standby Equity Distribution Agreement with Cornell Capital Partners, L.P. dated June 6, 2005	Incorporated by reference to the Company's Current Report on Form 8-K as filed with the SEC on June 8, 2005
10.9	Registration Rights Agreement with Cornell Capital Partners, L.P. related to the Standby Equity Distribution dated June 6, 2005	Incorporated by reference to the Company's Current Report on Form 8-K as filed with the SEC on June 8, 2005
10.10	Placement Agent Agreement with Spartan Securities Group, Ltd., related to the Standby Equity Distribution dated June 6, 2005	Incorporated by reference to the Company's Current Report on Form 8-K as filed with the SEC on June 8, 2005
10.11	Amended and Restated Loan Agreement between NeoGenomics, Inc. and Aspen Select Healthcare, L.P., dated March 30, 2006	Incorporated by reference to the Company's Annual Report on Form 10-KSB as filed with the SEC on April 1, 2006
10.12	Amended and Restated Warrant Agreement between NeoGenomics, Inc. and Aspen Select Healthcare, L.P., dated January 21, 2006	Incorporated by reference to the Company's Annual Report on Form 10-KSB as filed with the SEC on April 1, 2006
10.13	Amended and Restated Security Agreement between NeoGenomics, Inc. and Aspen Select Healthcare, L.P., dated March 30, 2006	Incorporated by reference to the Company's Annual Report on Form 10-KSB as filed with the SEC on April 1, 2006
10.14	Registration Rights Agreement between NeoGenomics, Inc. and Aspen Select Healthcare, L.P., dated March 30, 2006	Incorporated by reference to the Company's Annual Report on Form 10-KSB as filed with the SEC on April 1, 2006
10.15	Warrant Agreement between NeoGenomics, Inc. and SKL Family Limited Partnership, L.P. issued January 23, 2006	Incorporated by reference to the Company's Annual Report on Form 10-KSB as filed with the SEC on April 1, 2006
10.16	Warrant Agreement between NeoGenomics, Inc. and Aspen Select Healthcare, L.P. issued March 14, 2006	Incorporated by reference to the Company's Annual Report on Form 10-KSB as filed with the SEC on April 1, 2006
10.17	Warrant Agreement between NeoGenomics, Inc. and Aspen Select Healthcare, L.P. issued March 30, 2006	Incorporated by reference to the Company's Annual Report on Form 10-KSB as filed with the SEC on April 1, 2006
10.18	Agreement with Power3 Medical Products, Inc. regarding the Formation of Joint Venture & Issuance of Convertible Debenture and Related Securities	Incorporated by reference to the Company's Annual Report on Form 10-KSB, as filed with the SEC on April 2, 2007
10.19	Securities Purchase Agreement, dated April 17, 2007, by and between NeoGenomics, Inc. and Power3 Medical Products, Inc.	Incorporated by reference to the Company's Quarterly Report on Form 10-QSB, as filed with the SEC on May 15, 2007

10.20	Convertible Debenture, dated April 17, 2007, issued by Power3 Medical Products, Inc. to NeoGenomics, Inc. in the principal amount of \$200,000	Incorporated by reference to the Company's Quarterly Report on Form 10-QSB, as filed with the SEC on May 15, 2007
10.21	Letter Agreement, by and between NeoGenomics, Inc. and Noble International Investments, Inc.	Incorporated by reference to the Company's Registration Statement on Form SB-2 as filed with the SEC on July 6, 2007

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Exhibit No.	Description of Exhibit	Location
10.22	Subscription Documents	Incorporated by reference to the Company's Registration Statement on Form SB-2 as filed with the SEC on July 6, 2007
10.23	Investor Registration Right Agreement	Incorporated by reference to the Company's Registration Statement on Form SB-2 as filed with the SEC on July 6, 2007
10.24†	Revolving Credit and Security Agreement, dated February 1, 2008, by and between NeoGenomics, Inc., a Nevada corporation, NeoGenomics, Inc., a Florida corporation, and CapitalSource Finance LLC	Incorporated by reference to the Company's Amendment No. 1 to Quarterly Report on Form 10-Q/A for the quarterly period ended June 30, 2010, as filed with the SEC on February 17, 2011
10.25	Employment Agreement, dated March 12, 2008, between Neogenomics, Inc. and Mr. Robert P. Gasparini	Incorporated by reference to the Company's Annual Report on Form 10-KSB as filed with the SEC on April 14, 2008
10.26	Employment Agreement, dated June 24, 2008, between Neogenomics, Inc. and Mr. Jerome Dvonch	Incorporated by reference to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2008, filed August 14, 2008
10.27	Common Stock Purchase Agreement, dated November 5, 2008, between Neogenomics, Inc., a Nevada corporation, and Fusion Capital Fund II, LLC	Incorporated by reference to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2008, filed November 7, 2008
10.28	Registration Rights Agreement, dated November 5, 2008, between Neogenomics, Inc., a Nevada corporation, and Fusion Capital Fund II, LLC	Incorporated by reference to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2008, filed November 7, 2008
10.29	Master Lease Agreement, dated November 5, 2008, between Neogenomics, Inc., a Florida corporation, and Leasing Technologies International Inc.	Incorporated by reference to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2008, filed November 7, 2008
10.30	Guaranty Agreement, dated November 5, 2008, between Neogenomics, Inc., a Nevada corporation, and Leasing Technologies International, Inc.	Incorporated by reference to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2008, filed November 7, 2008
10.31	First Amendment to Revolving Credit and Security Agreement, dated November 3, 2008, among Neogenomics, Inc., a Florida corporation, Neogenomics, Inc., a Nevada corporation, and CapitalSource Finance LLC	Incorporated by reference to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2008, filed November 7, 2008

10.32	Employment Agreement, dated March 16, 2009 between Mr. Douglas M. VanOort and NeoGenomics, Inc.	Incorporated by reference to the Company's Current Report on Form 8-K as filed with the SEC on March 20, 2009
10.33	Subscription Agreement dated March 16, 2009 between the Douglas M. VanOort Living Trust and NeoGenomics, Inc.	Incorporated by reference to the Company's Current Report on Form 8-K as filed with the SEC on March 20, 2009
10.34	Warrant Agreement dated March 16, 2009 between Mr. Douglas M. VanOort and NeoGenomics, Inc.	Incorporated by reference to the Company's Current Report on Form 8-K as filed with the SEC on March 20, 2009

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Exhibit No.	Description of Exhibit	Location
10.35†	Second Amendment to Revolving Credit and Security Agreement, dated April 14, 2009, among NeoGenomics Laboratories, Inc., NeoGenomics, Inc., and CapitalSource Finance LLC	Incorporated by reference to the Company's Amendment No. 1 to Quarterly Report on Form 10-Q/A for the quarterly period ended June 30, 2010, as filed with the SEC on February 17, 2011
10.36	Common Stock Purchase Agreement dated July 24, 2009 between NeoGenomics, Inc. and Abbott Laboratories	Incorporated by reference to the Company's Current Report on Form 8-K as filed with the SEC on July 30, 2009
10.37	Registration Rights Agreement dated July 24, 2009 between NeoGenomics, Inc. and Abbott Laboratories	Incorporated by reference to the Company's Current Report on Form 8-K as filed with the SEC on July 30, 2009
10.38	Offer Letter dated July 22, 2009 between NeoGenomics, Inc. and Grant Carlson	Incorporated by reference to the Company's Current Report on Form 8-K as filed with the SEC on July 30, 2009
10.39†	Strategic Supply Agreement dated July 24, 2009, between NeoGenomics Laboratories, Inc. and Abbott Molecular Inc.	Incorporated by reference to the Company's Amendment No. 1 to Quarterly Report on Form 10-Q/A for the quarterly period ended June 30, 2010, as filed with the SEC on February 17, 2011
10.40	Amended and Restated Employment Agreement dated October 28, 2009 between NeoGenomics, Inc. and Douglas M. VanOort	Incorporated by reference to the Company's Current Report on Form 8-K as filed with the SEC on November 3, 2009
10.41	Offer Letter dated November 3, 2009 between NeoGenomics Laboratories, Inc. and George Cardoza	Incorporated by reference to the Company's Annual Report on Form 10-K as filed with the SEC on March 29, 2010.
10.42	Employment Letter dated November 3, 2009 between NeoGenomics Laboratories, Inc. and Jack G. Spitz	Incorporated by reference to the Company's Annual Report on Form 10-K as filed with the SEC on March 29, 2010.
10.43	Third Amendment to Revolving Credit and Security Agreement dated March 26, 2010 between NeoGenomics Laboratories, Inc., NeoGenomics, Inc., and CapitalSource Finance LLC	Incorporated by reference to the Company's Annual Report on Form 10-K as filed with the SEC on March 29, 2010.
10.44†	Amended and Restated Revolving Credit and Security Agreement dated April 26, 2010 between NeoGenomics Laboratories, Inc., NeoGenomics, Inc., and CapitalSource Finance LLC	Incorporated by reference to the Company's Amendment No. 1 to Quarterly Report on Form 10-Q/A for the quarterly period ended June 30, 2010, as filed with the SEC on February 17, 2011

10.45

Consulting Agreement dated May 3, 2010
between NeoGenomics, Inc. and Steven C.
Jones.

Incorporated by reference to the Company's
Quarterly Report on Form 10-Q as filed with
the SEC on May 4, 2010

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Exhibit No.	Description of Exhibit	Location
10.46	Warrant Agreement dated May 3, 2010 between NeoGenomics, Inc. and Steven C. Jones.	Incorporated by reference to the Company's Quarterly Report on Form 10-Q as filed with the SEC on May 4, 2010
10.47	Offer Letter between NeoGenomics Laboratories, Inc. and Marydawn Miller dated June 16, 2010	Incorporated by reference to the Company's Quarterly Report on Form 10-Q for the quarterly period ended June 30, 2010, as filed with the SEC on August 16, 2010
10.48	Offer Letter between NeoGenomics Laboratories, Inc. and Mark Smits dated July 26, 2010	Incorporated by reference to the Company's Current Report on Form 8-K filed with the SEC on August 12, 2010
14.1	NeoGenomics, Inc. Code of Ethics for Senior Financial Officers and the Principal Executive Officer	Incorporated by reference to the Company's Current Report on Form 8-K as filed with the SEC on April 15, 2005
21.1	Subsidiaries of Neogenomics, Inc.	Incorporated by reference to the Company's Annual Report on Form 10-K filed with the SEC on April 14, 2009
23.1	Consent of Kingery & Crouse, P.A.	Provided herewith
23.2	Consent of Burton, Bartlett & Glogovac	Incorporated by reference to the Company's Registration Statement on Form S-1 filed with the SEC on May 5, 2010.

† Portions of the exhibit have been omitted pursuant to a request for confidential treatment pursuant to Rule 24b-2 promulgated under the Securities Exchange Act of 1934, as amended. The omitted information has been filed separately with the Securities and Exchange Commission.

ITEM 17. UNDERTAKINGS

The undersigned registrant hereby undertakes:

1. To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

(a) To include any prospectus required by Section 10(a)(3) of the Securities Act of 1933;

(b) To reflect in the prospectus any facts or events arising after the effective date of this registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in this registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospects filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in the volume and price represent no more than a 20% change in the maximum aggregate offering price set forth in the

“Calculation of Registration Fee” table in the effective registration statement; and

(c) To include any material information with respect to the plan of distribution not previously disclosed in this registration statement or any material change to such information in the registration statement.

2. That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered herein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

3. To remove from registration by means of a post-effective amendment any of the securities being registered hereby which remain unsold at the termination of the offering.

4. For determining liability of the undersigned registrant under the Securities Act of 1933 to any purchaser in the initial distribution of the securities, the undersigned registrant undertakes that in a primary offering of securities of the undersigned registrant pursuant to this registration statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, the undersigned registrant will be a seller to the purchaser and will be considered to offer or sell such securities to such purchaser:

(a) Any preliminary prospectus or prospectus of the undersigned registrant relating to the offering required to be filed pursuant to Rule 424 (Sec. 230.424);

- (b) Any free writing prospectus relating to the offering prepared by or on behalf of the undersigned registrant or used or referred to by the undersigned registrant;
- (c) The portion of any other free writing prospectus relating to the offering containing material information about the undersigned registrant or its securities provided by or on behalf of the undersigned registrant; and
- (d) Any other communication that is an offer in the offering made by the undersigned registrant to the purchaser.

Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Act, and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer, or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer, or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act, and will be governed by the final adjudication of such issue.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the city of Fort Myers, state of Florida, on March 30, 2011.

NEOGENOMICS, INC.

By: /s/ Douglas M. VanOort
 Name: Douglas M. VanOort
 Title: Chairman and Chief Executive Officer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated below:

Signatures	Title(s)	Date
/s/ Douglas M. VanOort Douglas M. VanOort	Chairman of the Board and Chief Executive Officer (Principal Executive Officer)	March 30, 2011
/s/ Robert P. Gasparini Robert P. Gasparini	President, Chief Scientific Officer and Director	March 30, 2011
/s/ Steven C. Jones Steven C. Jones	EVP Finance and Director	March 30, 2011
/s/ George Cardoza George Cardoza	Chief Financial Officer (Principal Financial Officer)	March 30, 2011
/s/Jerome J. Dvonch Jerome J. Dvonch	Director of Finance (Principal Accounting Officer)	March 30, 2011
/s/ Michael T. Dent Michael T. Dent, M.D.	Director	March 30, 2011
/s/ Kevin C. Johnson Kevin C. Johnson	Director	March 30, 2011
/s/ Peter M. Peterson Peter M. Peterson	Director	March 30, 2011
/s/ William J. Robison William J. Robison	Director	March 30, 2011

/s/ Raymond R. Hipp
Raymond R. Hipp

Director

March 30, 2011

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