

ONE LIBERTY PROPERTIES INC
Form S-3
June 12, 2012

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As filed with the Securities and Exchange Commission on June 12, 2012

Registration No. 333-

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM S-3

REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

ONE LIBERTY PROPERTIES, INC.

(Exact name of registrant as specified in its charter)

Maryland
(State or other jurisdiction
of incorporation or organization)

13-3147497
(I.R.S. Employer
Identification No.)

**60 Cutter Mill Road, Suite 303
Great Neck, NY 11021
(516) 466-3100**

(Address, including zip code, telephone number, including
area code, of registrant's principal executive offices)

**Mark H. Lundy
Senior Vice President and Secretary
One Liberty Properties, Inc.
60 Cutter Mill Road, Suite 303
Great Neck, NY 11021
(516) 466-3100**

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

Approximate date the registrant proposes to begin selling securities to the public: From time to time after the effective date of this registration statement.

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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 in connection with dividend or interest reinvestment plans, check the following box.

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.

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 small reporting company. See definitions of "large accelerated filer," "accelerated filer," and "small reporting company" in Rule 12b-2 of the Exchange Act.

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

CALCULATION OF REGISTRATION FEE

Title of Securities to be Registered	Amount to be Registered	Proposed Maximum Offering Price Per Share(1)	Proposed Maximum Aggregate Offering Price(1)	Amount of Registration Fee
Common Stock, par value \$1.00 per share	750,000 shares	\$18.45	\$13,837,500	\$1,585.78

(1) Estimated solely for purposes of calculating the registration fee pursuant to Rule 457(c) on the basis of the average of the high and low reported sales prices of the common stock, as reported on the New York Stock Exchange on June 7, 2012.

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PROSPECTUS

ONE LIBERTY PROPERTIES, INC.

DIVIDEND REINVESTMENT PLAN 750,000 shares of Common Stock

This prospectus relates to 750,000 shares of common stock, \$1.00 par value per share, of One Liberty Properties, Inc. registered for purchase under the One Liberty Properties, Inc. Dividend Reinvestment Plan, which we refer to as the "Plan." The Plan replaces One Liberty Property, Inc.'s Dividend Reinvestment Plan adopted by our Board of Directors in 2007 (the "2007 Plan"). The 2007 Plan terminates simultaneously with the filing of the Plan with the Securities and Exchange Commission. This prospectus describes the Plan.

The Plan provides an economical and convenient way for our stockholders to invest in our common stock. Through participation in the Plan, you will have the opportunity to reinvest cash dividends paid on your shares of common stock in additional shares of common stock, at a discount ranging from 0% to 5%, as we may determine from time to time in our sole discretion. At the time of this prospectus, we are offering a discount on the purchase of shares of common stock directly from us through the Plan of 5% for reinvested dividends. We reserve the right to change or eliminate the discount at any time.

Our shares of common stock are traded on the New York Stock Exchange under the symbol "OLP." On June 7, 2012, the closing sales price of our common stock as reported on the New York Stock Exchange was \$18.16 per share.

Investing in our common stock involves risks. See "Risk Factors" beginning on page 8 of this Prospectus for a description of certain factors you should consider before investing in our common stock.

NEITHER THE SECURITIES AND EXCHANGE COMMISSION NOR ANY STATE SECURITIES COMMISSION HAS APPROVED OR DISAPPROVED OF THESE SECURITIES OR DETERMINED IF THIS PROSPECTUS IS TRUTHFUL OR COMPLETE. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

The date of this prospectus is June 12, 2012.

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ABOUT THIS PROSPECTUS

Please read this prospectus carefully. If you own our common stock now, or if you decide to buy it in the future, then please keep this prospectus with your permanent investment records, since it contains important information about the Plan.

You should rely only on the information contained in or incorporated by reference into this prospectus. We have not authorized anyone to provide you with different information. If anyone provides you with different or inconsistent information, you should not rely on it. This prospectus may only be used where it is legal to sell these securities. You should not assume that the information contained in this prospectus is accurate as of any date later than the date hereof or such other dates as are stated herein or as of the respective dates of any documents or other information incorporated herein by reference.

In this prospectus, the words "we," "us" and "our" refer to One Liberty Properties, Inc. and its subsidiaries.

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SUMMARY OF THE PLAN

The following summary of the Plan omits certain information that may be important to you. You should carefully read the entire text of the Plan contained in this prospectus before you decide to participate in the Plan.

Enrollment

You can participate in the Plan by completing and submitting the enclosed authorization form. You may also obtain an authorization form from the Plan Administrator, American Stock Transfer & Trust Company LLC, by accessing its website at www.amstock.com. *Please see Question 9 for more detailed information.*

Reinvestment of Dividends

If you are a stockholder, you can reinvest any cash dividends paid on all or a portion of your shares of common stock. You will be able to purchase shares of common stock by reinvesting your dividends without paying any brokerage commissions or other fees on stock purchased directly from us. Except for the restrictions contained in our amended and restated articles of incorporation, as amended, on the transfer of shares and the ownership of shares (as described in Question 8), the reinvestment of any cash dividends paid on your common stock is not subject to a maximum limit. *Please see Question 10 for information on reinvesting your dividends.*

Administration

American Stock Transfer & Trust Company LLC, the transfer agent for our common stock, initially will serve as the Plan Administrator of the Plan. You should send all transaction correspondence to the Plan Administrator to: American Stock Transfer & Trust Company LLC, P.O. Box 922, Wall Street Station, New York, NY 10269-0560, and all inquiries to the Plan Administrator to: American Stock Transfer & Trust Company LLC, 6201 15th Avenue, Brooklyn, New York 11219, Attention: Shareholder Relations. You may also call the Plan Administrator at 1-877-814-9664. If you are inquiring about enrollments, termination, sale of shares or if you desire to view your account balance, you may log onto the Plan Administrator's website at www.amstock.com. *Please see Question 9 for more detailed information.*

Source of Shares of Common Stock

Initially, common stock purchased by the Plan Administrator under the Plan will come from our legally authorized but unissued shares of common stock. However, we may, in our sole discretion, direct the Plan Administrator to purchase shares of common stock in the open market or in privately negotiated transactions with third parties. If shares of common stock are purchased for you in the open market or in privately negotiated transactions, you will not receive any discount. *Please see Question 5 for more detailed information.*

Purchase Price

The purchase price for shares of common stock that the Plan Administrator purchases directly from us for dividend reinvestments under the Plan will be at a discount from the Market Price (as defined below), which discount is currently 5%; *provided, however*, that the purchase price (taking into account any applicable discount) will not be less than 95% of the market value of the common stock on the purchase date. The discount is subject to change from time to time, in our sole discretion, but will be between 0% to 5%. We will advise participants through a press release of any change in the applicable discount at least 30 days prior to the effective date of the change. *Please see Question 13 for more detailed information.* The purchase price for shares of common stock purchased in the open

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market or in privately negotiated transactions with third parties will equal the weighted average of the purchase prices paid by the Plan Administrator for the shares. *Please see Question 13 for more detailed information.*

Market Price

The market price (the "Market Price") for shares of common stock purchased directly from us will be the average of the daily high and low sales prices, computed to four decimal places, of our shares of common stock on the NYSE Composite Transactions Tape during the five days on which the NYSE is open and for which trades in shares of common stock is reported immediately preceding the relevant purchase date, or if no trading occurs in the shares of common stock on one or more of such days, for the five days immediately preceding the purchase date for which trades are reported. In the case of shares of common stock purchased on the open market, the Market Price will be the weighted average of the actual prices paid, computed to four decimal places, for all shares of common stock purchased by the Plan Administrator with all participants' dividends.

Tracking Your Investment

You will receive periodic statements of the transactions made in your Plan account. These statements will provide you with details of the transactions and will indicate the share balance in your Plan account. *Please see Question 21 for information on your transaction statements.*

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THE COMPANY

We are a self-administered and self-managed REIT. We acquire, own and manage a geographically diversified portfolio of retail (including furniture and office supply stores), industrial, office, flex, health and fitness and other properties, a substantial portion of which are under long-term leases. Substantially all of our leases are "net leases" and ground leases under which the tenant is typically responsible for real estate taxes, insurance and ordinary maintenance and repairs. As of March 31, 2012, we owned 98 properties, including joint ventures that in the aggregate owned six properties and one property which is a 50% tenancy in common interest. As of March 31, 2012, our properties and the properties owned by our joint ventures were located in 29 states and had an aggregate of approximately 5.5 million square feet of space (including approximately 106,000 square feet of space at the property in which we own a tenancy in common interest and approximately 1.3 million square feet of space at properties owned by the joint ventures in which we participate).

We were incorporated under the laws of the State of Maryland on December 20, 1982. We have elected to be treated as a REIT for federal income tax purposes. In order to maintain our status as a REIT, we must comply with a number of requirements under federal income tax law that are discussed in "Federal Income Tax Considerations" on pages 17-18 of the accompanying prospectus.

Our corporate office is located at 60 Cutter Mill Road, Great Neck, N.Y. 11021 and we can be contacted at 516-466-3100. We maintain a website at www.onelibertyproperties.com. The information contained on or connected to our website is not incorporated by reference into, and you must not consider the information to be a part of, this prospectus supplement or the accompanying prospectus.

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CAUTIONARY NOTE ABOUT FORWARD-LOOKING STATEMENTS

This prospectus, together with other statements and information publicly disseminated by One Liberty Properties, Inc., contains certain forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. We intend such forward-looking statements to be covered by the safe harbor provision for forward-looking statements contained in the Private Securities Litigation Reform Act of 1995 and include this statement for purposes of complying with these safe harbor provisions. Forward-looking statements, which are based on certain assumptions and describe our future plans, strategies and expectations, are generally identifiable by use of the words "may," "will," "believe," "expect," "intend," "anticipate," "estimate," "project" or similar expressions or variations thereof. You should not rely on forward-looking statements since they involve known and unknown risks, uncertainties and other factors which are, in some cases, beyond our control and which could materially affect actual results, performance or achievements. Factors which may cause actual results to differ materially from current expectations include, but are not limited to:

the financial condition of our tenants and the performance of their lease obligations;

general economic and business conditions, including those currently affecting our nation's economy and real estate markets;

the availability of and costs associated with sources of liquidity;

accessibility of debt and equity capital markets;

adverse changes in the real estate markets, including reduced demand for retail space;

compliance with credit facility covenants;

changes in governmental laws and regulations relating to real estate and related investments;

changes in tax laws;

the level and volatility of interest rates;

competition in our industry; and

other risks identified in this prospectus and, from time to time, in other reports we file with the Securities and Exchange Commission or in other documents that we publicly disseminate, including, in particular, the section titled "Risk Factors" in our Annual Report on Form 10-K for the fiscal year ended December 31, 2011 and in our quarterly reports on Form 10-Q.

Any or all of our forward-looking statements in this prospectus and in any other public statements we make may turn out to be wrong. They can be affected by inaccurate assumptions we might make or by known or unknown risks and uncertainties. Consequently, no forward looking statement can be guaranteed and you are cautioned not to place undue reliance on these forward-looking statements. Actual future results may vary materially.

Except as may be required under the federal securities laws, we undertake no obligation to publicly update forward-looking statements, whether as a result of new information, future events or otherwise. You are advised, however, to consult any further disclosures we make on related subjects in our reports filed with the Securities and Exchange Commission.

WHERE YOU CAN FIND MORE INFORMATION

We file annual, quarterly and current reports, proxy statements and other information with the Securities and Exchange Commission (the "SEC"). You may read and copy any document we file at the SEC's public reference room at 450 Fifth Street, N.W., Washington D.C. 20549. Please call the

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SEC at 1-800-SEC-0330 for further information on the public reference rooms. The SEC maintains an Internet site at: <http://www.sec.gov> that contains reports, proxy and information statements, and other information that we file electronically with the SEC. You can also inspect reports and other information we file at the offices of the New York Stock Exchange, 20 Broad Street, 17th Floor, New York, New York 10005. You may also secure a copy of this information (including the documents identified below under "Incorporation of Certain Information by Reference") without charge on the Investor Information page on our website: www.onelibertyproperties.com, or upon written or telephonic request to: One Liberty Properties, Inc., 60 Cutter Mill Road, Suite 303, Great Neck, New York 11021, (516) 466-3100, Attention: Secretary.

We have filed with the SEC a "shelf" registration statement on Form S-3 under the Securities Act of 1933, as amended, relating to the securities that may be offered by this prospectus. This prospectus is a part of that registration statement, but does not contain all of the information in the registration statement. We have omitted parts of the registration statement in accordance with the rules and regulations of the SEC. For more details about us and any securities that may be offered by this prospectus, you may examine the registration statement on Form S-3 and the exhibits filed with it at the locations listed in the previous paragraph.

INCORPORATION OF CERTAIN INFORMATION BY REFERENCE

We incorporate information into this prospectus by reference, which means that we disclose important information to you by referring you to another document filed separately with the SEC. The information incorporated by reference is deemed to be part of this prospectus, except to the extent superseded by information contained herein or by information contained in documents filed with or furnished to the SEC after the date of this prospectus. This prospectus incorporates by reference the documents set forth below that have been previously filed with the SEC:

our Annual Report on Form 10-K for the year ended December 31, 2011;

our definitive proxy statement on Schedule 14A filed on April 23, 2012;

our Quarterly Report on Form 10-Q for the quarter ended March 31, 2012 filed on May 9, 2012;

our Current Reports on Form 8-K filed on June 7, 2012, June 11, 2012 and June 12, 2012; and

our Registration Statement on Form 8-A filed with the SEC on January 5, 2004, and the description of our common stock set forth in the final prospectus supplement filed pursuant to Rule 424(b)(2) on October 28, 2003, which is incorporated therein by reference, including any amendment or report filed for the purpose of updating such description.

All documents and reports filed by us with the SEC (other than Current Reports on Form 8-K furnished pursuant to Item 2.02 or Item 7.01 of Form 8-K, unless otherwise indicated therein) pursuant to Section 13(a), 13(c), 14 or 15(d) of the Exchange Act, after the date that the registration statement of which this prospectus is a part is first filed with the SEC and prior to the termination of this offering shall be deemed incorporated by reference in this prospectus and shall be deemed to be a part of this prospectus from the date of filing of such documents and reports. Any statement in a document incorporated or deemed to be incorporated by reference in this prospectus shall be deemed to be modified or superseded for purposes of this prospectus to the extent that a statement in this prospectus or in any subsequently filed document or report incorporated or deemed to be incorporated by reference in this prospectus modifies or supersedes such statement. Any such statement so modified or superseded shall only be deemed to constitute a part of this prospectus as it is so modified or superseded.

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RISK FACTORS

Investing in our securities involves significant risks. Please see the risk factors under the heading "Risk Factors" in our periodic reports filed with the SEC under the Securities Exchange Act of 1934, which are incorporated by reference in this Prospectus. Before making an investment decision, you should carefully consider these risks as well as other information we include or incorporate by reference in this Prospectus and any prospectus supplement. The risks and uncertainties we have described are not the only ones facing our company. Additional risks and uncertainties not presently known to us or that we currently deem immaterial may also affect our business operations.

TERMS AND CONDITIONS OF THE PLAN

The following constitutes our Dividend Reinvestment Plan, effective as of the date the Registration Statement on Form S-3 relating to the Plan is filed with the Securities and Exchange Commission. All references in this prospectus to "common stock" refer to our shares of common stock, par value \$1.00 per share.

Purpose

1. What is the purpose of the Plan?

The purpose of the Plan is to provide our stockholders with a simple and convenient way to reinvest all or a portion of their cash dividends in additional shares of our common stock.

Participation Options

2. What are my investment options under the Plan?

Once enrolled in the Plan, you may buy shares of common stock through the following investment options:

Full Dividend Reinvestment. You may have cash dividends paid on all of your shares of common stock automatically reinvested in additional shares of common stock.

Partial Dividend Reinvestment. You may have cash dividends paid on a specified number of your shares of common stock held by you automatically reinvested in additional shares of common stock. We will continue to pay you cash dividends on your remaining shares of common stock.

As a result of the Emergency Economic Stabilization Act of 2008, the Plan Administrator will now report cost basis to both the participants in the Plan and the IRS. The common reporting method applicable to dividend reinvestment plans is the average basis method. In order to use this method, the plan requires stockholders to reinvest a minimum of 10% of their dividend each scheduled disbursement date. If your account falls under the 10% mandatory threshold, you will be sent a notification outlining your alternatives for dividend reinvestment.

Distribution Dividend Plan

3. How does this new Plan affect participants in the 2007 Plan?

Upon the filing of the Registration Statement on Form S-3 to which the Plan relates with the Securities and Exchange Commission, the 2007 Plan will terminate. If you are a participant in the 2007 Plan, then you automatically will become a participant in the Plan without any further action. If you would like to withdraw from the Plan, simply follow the instructions set forth in Question 20.

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Advantages

4. What are the advantages of the Plan?

The advantages of the Plan are as follows:

Reinvestment of Dividends. Participants may purchase additional shares of common stock automatically by reinvesting all or a portion of their cash dividends. Dividend payments not reinvested will be paid by check.

Fractional Shares. All cash dividends paid on a participant's shares of common stock are fully invested in additional shares of common stock because the Plan permits fractional share interests to be credited to Plan accounts. In addition, dividends will be paid on, and may be reinvested with respect to, such fractional share interests.

Discount. We may offer a discount of up to 5% of the market price on purchases of shares of common stock under the Plan for stock purchased directly from us. Currently, we offer a discount of 5% for reinvested dividends. We will advise participants through a press release of any change in the applicable discount at least 30 days prior to the effective date of the change.

Certificate Safekeeping. The Plan offers a "safekeeping" service, whereby record holders may deposit any share certificates they may have with the Plan Administrator and have their certificated shares credited to their Plan account. This feature prevents share certificate loss, theft or destruction. Since deposited shares become book-entry shares, they may be transferred or sold through the Plan in a convenient and economical manner. *Please see Question 16 for a description of how to deposit your stock certificates with the Plan Administrator, and Question 23 for a list of the fees.*

Reduced Fees. Fees charged to participants are usually less than if the individual investor purchased or sold shares outside of the Plan through a broker. *Please see Question 23 for a list of such fees.*

Sale or Transfer of Shares: Participants may request the sale of a portion or all of their Plan shares. Participants will be responsible for any brokerage fees and other expenses associated with the sale. *Please see Question 23 for a list of such fees and expenses.*

Simplified Recordkeeping. Participants are furnished periodic statements which show the detail of each transaction and indicate the share balance of the Plan account, providing a simplified method of recordkeeping.

Disadvantages

5. What are the disadvantages of the Plan?

The disadvantages of the Plan are as follows:

No Interest Paid on Funds Pending Investment. No interest is paid on dividends held by the Plan Administrator pending reinvestment.

Purchase/Sale Price Determination. Participants have no control over the share price or the timing of the purchase or sale of Plan shares. Participants cannot designate a specific price or a specific date at which to purchase or sell shares of common stock or the selection of a broker/dealer through or from whom purchases or sales are made. In addition, participants will not know the exact number of shares purchased until after the investment date.

Reinvested Dividends and Other Amounts may be Treated as Dividends for Tax Purposes. Participants who reinvest dividends paid on shares of common stock will be treated for federal income tax purposes as having received a dividend, but will not receive cash to pay any tax

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payment that may be owed on that dividend. In addition, in some cases the participant will be treated as having received an additional distribution attributable to any Plan discount that may be offered.

No Discount for Open Market or Privately Negotiated Transactions. If we direct the Plan Administrator to purchase shares of common stock in the open market or in privately negotiated transactions with third parties (as we may do in our sole discretion without notice to you), you will not receive any discount on the purchase. At the present time, we do not contemplate the purchase of shares of common stock in the open market or in privately negotiated transactions for dividend reinvestments.

Purchase Price may be Higher than Market Price. Shares of common stock purchased directly from us under the Plan are based on a formula described under Question 13. As a result of this formula, the purchase price under the Plan may exceed the open market price on the investment date. Additionally, without giving you prior notice, we may direct the Plan Administrator to buy shares of common stock under the Plan either in the open market or in privately negotiated transactions with third parties. The purchase price for shares of common stock purchased in the open market or in privately negotiated transactions with third parties will equal the weighted average of the purchase prices paid by the Plan Administrator for the shares and you will not receive the benefit of any discount. *Please see Question 23 for more detailed information.*

Delay of Sales. Since the Plan Administrator of the Plan may sell shares only once per week, sales of shares of common stock held in your Plan account may be delayed.

Plan Shares May Not be Pledged. You may not pledge shares of common stock deposited in your Plan account unless you withdraw those shares from the Plan.

Administration

6. Who will administer the Plan?

American Stock Transfer & Trust Company LLC has been appointed as administrator of the Plan. Enrollment, sale of share requests and other transactions or services offered under the Plan should be directed to the Plan Administrator through use of any of the following:

Telephone

Customer Service Representatives are available 8:00 a.m. to 8:00 p.m., New York City, Monday through Friday (except holidays) at 1-877-814-9664.

In Writing

You may also write to the Plan Administrator at the following addresses:

For transactions:

American Stock Transfer & Trust Company LLC
P.O. Box 922
Wall Street Station
New York, New York 10269-0560

For inquiries:

American Stock Transfer & Trust Company LLC
6201 15th Avenue
Brooklyn, New York 11219
Attention: Shareholder Relations

Be sure to include your name, address, daytime phone number, social security or tax I.D. number and a reference to One Liberty Properties, Inc. on all correspondence.

Internet

For terminations, sale of shares or to view account balances or history, you may visit the Plan Administrator's website at www.amstock.com. In order to use the website, you must be enrolled in the

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Plan and have available your social security number and ten digit account number. Once you have gained access, you should follow the instructions on the menu.

Employees of the Plan Administrator are not permitted to give any opinions on the merits of any security or class of securities. Securities held by the Plan Administrator in your Plan account are not subject to protection under the Securities Investor Protection Act of 1970. The Plan Administrator may use, and commissions may be paid to, a broker-dealer that is affiliated with the Plan Administrator. Investors must make independent investment decisions based upon their own judgment and research.

We may replace the Plan Administrator at any time upon written notice to the Plan Administrator, and the Plan Administrator may resign as the Plan Administrator. If we replace the Plan Administrator or the Plan Administrator resigns, we may designate another qualified administrator as successor to the Plan Administrator for all or a part of the Plan Administrator's functions under the Plan. All participants will be notified of any such change. If we change the Plan Administrator, references in this prospectus to the Plan Administrator shall be deemed to be references to the successor Plan Administrator, unless the context requires otherwise.

Participation

7. Who is eligible to participate in the Plan?

Record Owners. You are a record owner if you own shares of common stock that are registered in your name with our transfer agent. If you are a record owner, you may participate directly in any or all of the features of the Plan.

Beneficial Owners. You are a beneficial owner if you own shares of common stock that are registered in the name of a broker, bank or other nominee. If you are a beneficial owner, you must (a) become a record owner by having one or more shares transferred into your own name, or (b) coordinate your participation in the Plan through the broker, bank or other nominee in whose name your shares of common stock are held.

Plan Restrictions

8. What are there restrictions on participation in the Plan other than those described under Question 7?

Legality. You may not participate in the Plan if it would be unlawful for you to do so in the jurisdiction where you are a citizen or reside. If you live outside the U.S. and you are a qualified U.S. person, you should first determine if there are any laws or governmental regulations that would prohibit your participation in the Plan. We reserve the right to terminate participation of any participant if we deem it advisable under any foreign laws or regulations.

REIT Status. In order for us to maintain our qualification as a REIT, not more than 50% in value of any class or series of our outstanding capital stock may be owned, directly or indirectly, by five or fewer individuals (as defined in the Internal Revenue Code to include certain entities). We may terminate at any time, any participant's participation in the Plan if such participation would be in violation of the restrictions contained in our Articles of Amendment and Restatement, as amended (the "Charter"). These restrictions prohibit, with specified exceptions, all stockholders, directly or indirectly, from beneficially owning more than 9.9% in value or in number, whichever is more restrictive, of our outstanding capital stock. Any attempted transfer or acquisition of capital stock that would create a direct or indirect ownership of capital stock in excess of this limit or otherwise result in our disqualification as a REIT will be null and void. Our Charter provides that we have various rights to enforce this limitation, including the transfer of such shares of capital stock to a trust. This summary of the ownership limitation is qualified in its entirety by reference to our Charter. We reserve the right to

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invalidate any purchases made under the Plan that we determine, in our sole discretion, may violate the ownership limitation set forth in our Charter or any REIT provision in the Internal Revenue Code.

Our Discretion. We reserve the right to modify, suspend or terminate the Plan. Additionally, we may modify, suspend or terminate the participation in the Plan by any participant in order to eliminate practices which are, in our sole discretion, not consistent with the purpose or operation of the Plan or which adversely affect the price of our shares of common stock.

Enrollment

9. How do I enroll in the Plan?

If you are eligible to participate in the Plan, you may join the Plan at any time. Once you enroll in the Plan, you will remain enrolled until you withdraw from the Plan or we terminate the Plan or your participation in the Plan.

Authorization Form. To enroll and participate in the Plan, you must complete the enclosed Authorization Form and mail it to the Plan Administrator at American Stock Transfer & Trust Company LLC, P.O. Box 922, Wall Street Station, New York, NY 10269-0560. You may also enroll by accessing the Plan Administrator's website at www.amstock.com. If your shares of common stock are registered in more than one name (such as joint tenants or trustees), all such registered holders must sign the Authorization Form. If you are eligible to participate in the Plan, you may sign and return the Authorization Form to participate in the Plan at any time. The Plan Administrator must receive a properly executed Authorization Form by the dividend record date for the relevant dividend payment.

Record Holders. If you own shares of common stock that are registered in your name (not the name of a broker, bank or other nominee), you can enroll in the Plan by completing an Authorization Form and submitting it to the Plan Administrator. As a record holder, you may participate in any of the services of the Plan.

Beneficial Holders. If you are a beneficial holder, you may arrange to have your broker or bank participate in the Plan on your behalf. The Plan Administrator will not have a record of your transactions or your account since they will remain under the name of your broker or bank.

You can become a record holder by instructing your broker, bank or other nominee to re-register some or all of your shares of common stock in your name through the Direct Registration System. This is an electronic transfer of your shares from your broker's name into your name. This will establish a book-entry account in your name with the Plan Administrator and you can then commence using any or all of the Plan services. Or, you can instruct your broker, bank or other nominee to deliver to you a physical share certificate (for one or more shares of common stock) in your name. Once you receive your share certificate in your name, you can enroll in the Plan and you may begin to use all of the services.

Dividend Reinvestment Options

10. How do I reinvest dividends?

Choosing Your Investment Options. If you elect to reinvest your dividends, you must choose one of the following when completing the Dividend Reinvestment section of the Authorization Form:

Full Dividend Reinvestment: This option directs the Plan Administrator to reinvest the cash dividends paid on all of the shares of common stock owned by you then or in the future in additional shares.

Partial Dividend Reinvestment: This option allows you to specify a fixed number of full shares held by you on which you would like to receive a cash dividend payment and directs the Plan

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Administrator to reinvest the cash dividends paid on all remaining shares of common stock owned by you then or in the future. We will continue to pay you cash dividends, when, as and if declared by our board of directors, on the specified number of shares, unless you designate those shares for reinvestment pursuant to the Plan.

You should choose your investment option by checking the appropriate option(s) on the Authorization Form, a copy of which is enclosed. If you sign and return an Authorization Form without checking an option, the Plan Administrator will choose the "Full Dividend Reinvestment" option and will reinvest all cash dividends on all shares of common stock registered in your name. If you select both Full and Partial Dividend Reinvestment, the Plan Administrator will choose the "Full Dividend Reinvestment."

The Plan Administrator must receive a properly executed Authorization Form by the dividend record date for the relevant dividend payment

Changing Your Investment Option. You may change your investment option by contacting the Plan Administrator. The Plan Administrator must receive any change with regard to your participation in the Plan by the record date for a dividend payment in order for the change to be effective for that dividend payment. You may, of course, choose not to reinvest any of your dividends, in which case the Plan Administrator will remit any dividends to you.

Timing of Dividend Reinvestments

11. When are dividends reinvested?

The Plan Administrator will invest dividends in additional shares of common stock that are purchased directly from us on the dividend payment date, unless the dividend payment date is not a day on which the NYSE is open for trading, in which case the dividends will be invested on the next trading day. In the case of purchases on the open market or in privately negotiated transactions with third parties, the Plan Administrator will make such purchases as soon as practicable on or after the dividend payment date.

We historically have paid dividends during the first full week of each January, April, July and October. In the past, the dividend record dates have preceded the dividend payment dates by ten to twenty days. We cannot assure you that we will continue to pay dividends according to this schedule, and nothing contained in the Plan obligates us to do so. Neither we nor the Plan Administrator will be liable when conditions, including compliance with the provisions of our charter and rules and regulations of the SEC or the NYSE, prevent the Plan Administrator from buying shares of common stock or interfere with the timing of such purchases.

For purposes of the Plan, we may aggregate all dividend reinvestments for participants with more than one account using the same social security or taxpayer identification number. For participants unable to supply a social security or taxpayer identification number, we may limit their participation to only one Plan account. In addition, all Plan accounts that we believe to be under common control or management or to have common ultimate beneficial ownership may be aggregated. Unless we have determined that reinvestment of dividends for each such account would be consistent with the purposes of the Plan, we have the right to aggregate all such accounts and to return, without interest, within 30 days any amounts in excess of the investment limitations applicable to a single account received in respect of all such accounts.

We pay dividends as and when authorized and declared by our board of directors. We cannot assure you that we will declare or pay a dividend in the future, and nothing contained in the Plan obligates us to do so. The Plan does not represent a guarantee of future dividends.

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Common Stock Purchases

12. What is the source of shares to be purchased under the Plan?

All dividends reinvested through the Plan will be used to purchase either newly issued shares directly from us, or shares on the open market or in privately negotiated transactions with third parties, at our discretion. Shares purchased directly from us will consist of authorized but unissued shares of common stock.

Price of Shares Purchased

13. At what price will shares be purchased?

The purchase price for shares under the Plan depends on whether the Plan Administrator obtains shares by purchasing them directly from us, in the open market or in privately negotiated transactions with third parties:

the purchase price for shares of common stock that the Plan Administrator purchases directly from us will be equal to the average of the daily high and low sales prices of our shares of common stock on the NYSE Composite Transactions Tape for the five trading days in which are shares are traded immediately preceding the purchase date, less any applicable discount rate.

the purchase price for shares of common stock purchased in the open market or in privately negotiated transactions will be equal to the weighted average price of all the shares purchased by the Plan Administrator for all participating participants on the applicable purchase date.

However, in no event will the purchase price (taking into account any applicable discount) be less than 95% of the market value of the common stock on the purchase date.

Currently, we offer a discount of 5% on shares purchased by dividend reinvestment directly from us. We may change the discount at anytime, in our sole discretion, but the discount shall always be between 0% - 5%.

Stock Certificates and Safekeeping

14. Will I receive certificates for shares purchased through the Plan?

Unless your shares are held by a broker, bank or other nominee, you will not receive certificates for shares purchased through the Plan. The Plan Administrator will maintain shares purchased under the Plan in your Plan account. Plan account shares are held in your name in non-certificated, "book-entry" form. This service protects against the loss, theft or destruction of certificates evidencing your shares of common stock.

15. Can I get certificates if I want them?

Yes, if you should ever want a share certificate for all or a portion of the whole shares in your Plan account, the Plan Administrator will issue and deliver one to you upon your written request. The Plan Administrator will not issue certificates for fractional shares. The Plan Administrator will handle the request at no cost to you. The Plan Administrator will continue to credit any remaining whole or fractional shares of common stock to your account.

16. May I deposit stock certificates I currently hold into my Plan account?

If you own shares of common stock in certificated form, you may deposit all or a portion of the certificates in your possession with the Plan Administrator for safekeeping. To deposit your stock certificates, you should send the certificates to the Plan Administrator by registered or certified mail, return receipt requested (or some other form of traceable mail), and properly insured. The insured

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amount represents the approximate cost to you of replacing the certificates if they are lost in transit to the Plan Administrator. The Plan Administrator will promptly send you a statement confirming each stock certificate deposited. The Plan Administrator will credit the shares of common stock represented by the certificates to your account in book-entry form and will combine the shares with any whole and fractional shares then held in your Plan account.

In addition to protecting against the loss, theft or destruction of your certificates, this service also is convenient if and when you sell shares of common stock through the Plan. *See Question 17 for more information on how to sell your shares of common stock under the Plan.*

The Plan Administrator charges a \$7.50 per transaction fee for stock certificates deposited with it, which fee is waived if the shares deposited are to be sold at or about the same time as the stock certificates are deposited.

Sale and Transfer of Shares

17. How can I sell shares in my Plan account?

You can sell any number of shares held in your Plan account at any time by contacting the Plan Administrator. After receipt of your sale request, the Plan Administrator will sell such shares through a designated broker or dealer. The Plan Administrator will mail to you a check for the proceeds of such sale, less applicable brokerage commissions, service charges and any taxes. The Plan Administrator will sell shares of common stock at least once per week (or more as determined by the Plan Administrator) at then current market prices through one or more brokerage firms.

Cost of Selling Shares. The Plan requires that you pay all costs associated with the sale of your shares under the Plan. *Please see Question 23 for a description of such costs.*

Termination of Your Account Upon Sale of All Shares. If you no longer hold any shares in your Plan account, the Plan Administrator may close your Plan account. Similarly, if you hold less than one share in your Plan account, the Plan Administrator may liquidate the fractional share and remit the proceeds to you, less any applicable fees, and close your Plan account.

Timing and Control. Because the Plan Administrator will sell the shares on behalf of the Plan, neither we nor any participant in the Plan have the authority or power to control the timing or pricing of shares sold or the selection of the broker making the sales. Therefore, you will not be able to precisely time your sales through the Plan, and will bear the market risk associated with fluctuation in the price of shares of common stock. That is, if you send in a request to sell shares, it is possible that the market price of shares of common stock could go down or up before the broker sells your shares and the per share sales price you receive will be the average price of all shares sold for Plan participants with respect to that sale date. In addition, you will not earn interest on a sales transaction.

18. How can I transfer or give gifts of shares?

You may transfer or give gifts of shares of common stock to anyone you choose (subject to the restrictions set forth in our amended and restated articles of incorporation, as amended, and as may be further amended from time to time), by sending the Plan Administrator at American Stock Transfer & Trust Company LLC, P.O. Box 922, Wall Street Station, New York, NY 10269-0560, (a) an Authorization Form executed by you, (b) a stock assignment properly executed by you, (c) a letter from you setting forth a detailed description of the transfer and (d) a Form W-9 (Certificate of Taxpayer Identification Number) completed and executed by the person to whom you are transferring your shares. Absent any instructions by you, if you are enrolled in the Plan, any transferee of your shares will automatically be enrolled in the Plan too.

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19. Can I transfer my right to participate in the Plan to another person?

You may not transfer your right to participate in the Plan to another person. However, you may change ownership of all or part of your Plan shares through a gift, sale or otherwise at any time.

Termination of Participation

20. How would I terminate my participation?

You may withdraw from the Plan at any time. To do so, you must provide notice to the Plan Administrator instructing it to terminate your Plan participation. Notice may be provided by mail, telephone or through the Plan Administrator's website. To be effective for any given dividend payment, the Plan Administrator must receive notice at least three days prior to the next purchase date. If your Plan withdrawal notice is received less than three days before the next purchase date, the dividend will be applied in accordance with the Plan, but subsequent dividends will be paid to you in cash. Upon termination of your Plan account, you will receive a certificate for the whole shares you held under the Plan, and a check for any fractional shares held in your account at the time of termination based on the current market value less any applicable service fees. After the Plan Administrator terminates your account, future dividends will be sent directly to you by check. Alternatively, if you so direct, the Plan Administrator will sell all whole and fractional shares in your Plan account and send you a check for the proceeds less any applicable fees.

Rejoining the Plan After Withdrawal. After you withdraw from the Plan, you may rejoin the Plan at any time by delivering a new Authorization Form to the Plan Administrator. However, the Plan Administrator has the right to reject your Authorization Form if you repeatedly join and withdraw from the Plan, or for any other reason. The Plan Administrator's exercise of this right is intended to minimize unnecessary administrative expenses and to encourage use of the Plan as a long-term stockholder investment service.

Reports and Notices to Participants

21. How will I keep track of my investments?

The Plan Administrator will send you a transaction notice confirming the details of each transaction you make. If you continue to participate in the Plan but have no transactions, the Plan Administrator will send you an annual statement after the end of the year detailing the status of your holdings of shares of common stock in your Plan account. Participants who have elected to have their dividends reinvested will receive a quarterly Plan account statement in addition to the transaction notices.

22. Where will notices be sent?

The Plan Administrator will address all of its notices to you at your last known address. You should notify the Plan Administrator promptly, in writing, of any change of address.

Fees and Commissions

23. What are the costs of participating in the Plan?

As of the date of this prospectus, the Plan does not intend to acquire shares in the open market. However, the Plan may in the future acquire shares in the open market. As long as the Plan does not acquire shares in the open market, you will not pay any fees or brokerage commissions for shares of common stock purchased with your reinvested dividends. For all other transactions you will be responsible for the fees and commissions set forth below, which will be deducted from your account by

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the Plan Administrator. In the event that the Plan purchases shares in the open market, you will be responsible for such fees and commissions, including brokerage fees, as the Plan, imposes.

Summary of Fees and Commissions

Transaction Type	Fee
Enrollment fee for new investors	None
Reinvestment of Dividends	None
Sale of shares	
Transaction Fee	\$15.00 per transaction
Brokerage Commission	\$0.10 per share
Gift or transfer of shares	None
Safekeeping of shares	\$7.50 per transaction without sale
Certificate issuance	None
Returned checks	\$25.00 per occurrence
Duplicate statement	
Current year	None
Prior year(s)	\$20.00 per year requested

The Plan Administrator may amend or modify these fees and commissions at any time, in its sole discretion.

24. Federal Tax Consequences

What are the federal income tax consequences of participating in the Plan?

The following is a brief summary of the U.S. federal income tax consequences of participation in the Plan as of the date of this prospectus. However, this summary does not reflect every situation that could result from participation in the Plan, and we advise you to consult your own tax and other advisors for information about your specific situation. This summary does not address all of the tax implications of your ownership of shares of the common stock of a REIT, including the effect of distributions made in respect of such shares.

Our distributions to stockholders constitute dividends for federal income tax purposes up to the amount of our positive current and accumulated earnings and profits and, to that extent, will be taxable as ordinary income (except to the extent that we designate any portion of such dividend as either (i) a "capital gain" dividend or (ii) in the case of stockholders taxed at individual rates who satisfy certain holding period requirements, as "qualified dividend income" pursuant to applicable federal income tax rules). To the extent that we make a distribution in excess of our earnings and profits, the distribution will be treated first as a tax-free return of capital to the extent of your tax basis in our common stock and, to the extent in excess of your basis, will be taxable as a gain realized from the sale of your common stock. Distributions to corporate stockholders, including amounts taxable as dividends to corporate stockholders, will not be eligible for the corporate dividends-received deduction.

Although the treatment of dividend reinvestment programs is not entirely clear, if you participate in the dividend reinvestment program under the Plan, it is expected that you will be treated for federal income tax purposes as having received, on the date the shares are acquired, a distribution in an amount equal to the sum of (a) the fair market value of the shares on the date the shares were acquired with reinvested dividends and (b) any cash distributions actually received by you with respect

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to common stock not included in the Plan. The total amount of cash dividends and other distributions will be reported to you and to the IRS on the appropriate tax form shortly after the end of each year.

Your tax basis in shares of common stock acquired under the Plan with reinvested cash distributions will be equal to the fair market value of such shares as of the date the shares were acquired. Your holding period for shares of common stock acquired with reinvested cash distributions generally will commence on the day after the dividend payment date. If, however, the shares are purchased with reinvested cash distributions in the open market, the holding period will commence on the day after the date of purchase.

You will not recognize gain or loss for U.S. federal income tax purposes upon your receipt of certificates for shares previously credited to your Plan account. However, you will generally recognize gain or loss when you sell or exchange shares received from the Plan or when a fractional share interest is liquidated. Such gain or loss will equal the difference between the amount that you receive for such fractional share interest or such shares and your tax basis in such fractional share interest or shares.

We or the Plan Administrator may be required to deduct as "backup withholding" twenty-eight percent (28%) of all dividends paid to you, regardless of whether such dividends are reinvested pursuant to the Plan. Similarly, the Plan Administrator may be required to deduct backup withholding from all proceeds from sales of common stock held in your account. You are subject to backup withholding if: (a) you have failed properly to furnish us and the Plan Administrator with your correct tax identification number ("TIN"); (b) the IRS or a broker notifies us or the Plan Administrator that the TIN furnished by you is incorrect; (c) the IRS or a broker notifies us or the Plan Administrator that backup withholding should be commenced because you failed to properly report dividends paid to you; or (d) when required to do so, you fail to certify, under penalties of perjury, that you are not subject to backup withholding. Backup withholding amounts will be withheld from dividends before such dividends are reinvested under the Plan. Therefore, if you are subject to backup withholding, dividends to be reinvested under the Plan will be reduced by the backup withholding amount.

If you are a foreign stockholder you need to provide the required federal income certifications to establish your status as a foreign stockholder so that the foregoing backup withholding does not apply to you. You also need to provide the required certifications if you wish to claim the benefit of exemptions from federal income tax withholding or reduced withholding rates under a treaty or convention entered into between the United States and your country of residence. If you are a foreign stockholder whose dividends are subject to federal income tax withholding, the appropriate amount will be withheld and the balance in shares of common stock will be credited to your account.

All costs of administering the Plan, except as otherwise indicated in the Summary of Fees and Commissions provided in Question 23, will be paid by us. Consistent with the conclusion reached by the IRS in a private letter ruling issued to another REIT, we intend to take the position that these costs do not constitute a distribution which is either taxable to you or which would reduce your basis in your shares. However, since the private letter ruling was not issued to us, we have no legal right to rely on its conclusions.

The foregoing is intended only as a general discussion of the current federal income tax consequences of participation in the Plan, and may not be applicable to certain participants, such as tax-exempt entities. **You should consult your own tax and other professional advisors regarding the foreign, federal, state and local income tax consequences (including the effects of any changes in applicable law or interpretations thereof) of your individual participation in the plan or the disposal of shares acquired pursuant to the Plan.**

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Other Information

25. How can I vote my shares?

You will receive proxy material for all shares in your Plan account. You may vote your shares of common stock either by designating the vote of the shares by proxy or by voting the shares in person at the meeting of stockholders. The proxy will be voted in accordance with your direction. If you do not return the proxy card or if you return it unsigned, none of your shares will be voted.

26. Can the Plan be amended, modified, suspended or terminated?

We reserve the right to amend, modify, suspend or terminate the Plan at any time. You will receive written notice of any material amendment, modification, suspension or termination. We and the Plan Administrator also reserve the right to change any administrative procedures of the Plan.

If we terminate the Plan, you will receive a certificate for all whole shares held in your Plan account and a check representing the value of any fractional shares based on the then current market price. We also will return to you any uninvested dividends held in your account.

27. How will a stock split or a rights offering affect my Plan account?

Stock Split. We will adjust your account to reflect any stock split or dividend payable in shares of common stock. In such event, the Plan Administrator will receive and credit to your Plan account the applicable number of whole and/or fractional shares of common stock.

Rights Offering. If we have a rights offering in which we issue separately tradable and exercisable rights to registered holders of shares of common stock, we will transfer the rights attributable to whole shares of common stock held in your Plan account to you as soon as practicable after we issue such rights. The Plan Administrator will sell for your account any rights attributable to fractional shares.

The Plan Administrator, at its sole discretion, may curtail or suspend transactions pending under the Plan until completion of any stock split or dividend, rights offering or other corporate action.

28. Are there any risks associated with the Plan?

Your investment in shares of common stock purchased under the Plan is no different from any investment in shares of common stock that you hold directly. Neither we nor the Plan Administrator can assure you a profit or protect you against a loss on shares that you purchase. You bear the risk of loss and enjoy the benefits of any gain from market price changes with respect to shares purchased under the Plan. We encourage you to carefully consider the various risk factors associated with an investment in our shares of common stock set forth in the "Risk Factors" section of this prospectus.

29. What are the responsibilities of you and the Plan Administrator?

Neither we nor the Plan Administrator will be liable for any act done in good faith or for any good faith failure to act, including, without limitation, any claim of liability (a) arising from the failure to terminate your account upon your death or judgment of incompetence prior to the Plan Administrator's receipt of notice in writing of the death or incompetence, (b) relating to the prices and times at which the Plan Administrator buys or sells shares for your account, or (c) relating to any fluctuation in the market value of the shares of common stock.

We, the Plan Administrator and each of our respective agents will not have any duties, responsibilities or liabilities other than those expressly set forth in the Plan or as imposed by applicable law, including Federal securities laws. Since we have delegated all responsibility for administering the Plan to the Plan Administrator, we specifically disclaim any responsibility for any of the Plan

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Administrator's actions or inactions in connection with the administration of the Plan. None of our directors, officers or stockholders will have any personal liability under the Plan.

The payment of dividends is at the discretion of our board of directors and will depend upon future earnings, our financial condition and other factors. The board of directors may change the amount and timing of dividends at any time without notice.

30. How will you interpret and regulate the Plan?

We may interpret, regulate and take any other action in connection with the Plan that we deem reasonably necessary in our sole discretion to carry out the Plan. As a participant in the Plan, you will be bound by any actions taken by us or the Plan Administrator.

31. What law governs the Plan?

The laws of the State of Maryland govern the Plan.

Stockholder ratification of the selection of KPMG LLP as the Company's independent public auditors is not required by the Company's Bylaws or otherwise. However, the Audit Committee is submitting the selection of KPMG LLP to the stockholders for ratification as a matter of good corporate practice. In the event the stockholders fail to ratify the selection, the Audit Committee will reconsider whether or not to retain that firm.

Even if the selection is ratified, the Audit Committee in its discretion may direct the appointment of a different independent accounting firm at any time during the year if the Audit Committee feels that such a change would be in the best interests of the Company and its stockholders. The affirmative vote of the holders of a majority of the outstanding shares of Common Stock represented at the Annual Meeting will be required to ratify the selection of KPMG LLP.

Principal Accountant Fees and Services

During fiscal 2003, the aggregate fees billed by KPMG LLP for professional services were as follows:

Audit Fees

Amounts billed by KPMG LLP related to the fiscal 2003 financial statement audit, review of the quarterly financial statements, and review of SEC filings were \$183,000.

Audit Related

Amounts billed by KPMG LLP for audit-related services were \$3,500 and were for the review of the stock buy-back transaction.

Tax

Amounts billed by KPMG LLP for fiscal 2003 tax compliance, tax advice, and tax planning were \$89,500.

All Other Fees

No fees other than the proceeding were billed by KPMG LLP for fiscal 2003.

The Audit Committee has determined that KPMG LLP's provision of non-audit services is compatible with maintaining their independence.

THE BOARD OF DIRECTORS RECOMMENDS

A VOTE IN FAVOR OF THE PROPOSAL.

Stockholder Proposals

Proposals of stockholders that are intended to be presented by such stockholders at the Company's next Annual Meeting of stockholders must be received by the Company no later than July 13, 2004 in order to be included in the proxy statement and proxy relating to that meeting.

Pursuant to an amendment to the Company's Bylaws adopted in November 2003, stockholders wishing to nominate a director or present a proposal at an annual meeting stockholders, but not wishing to have such nomination or proposal included in the Company's proxy statement, must submit such nomination or proposal, including additional related information as specified in the Bylaws to the Secretary of the Company at the address of the Company's principal executive offices provided earlier in this Proxy Statement not earlier than 105 days prior to, and not later than 75 days prior to, the anniversary date of the preceding year's annual meeting. The Bylaws provide for changes in the required date of submission if the date of a given year's annual meeting is more than 30 days prior to, or more than 60 days after, the anniversary date of the prior year's meeting. Pursuant to this Bylaw provision, for the next Annual Meeting of Stockholders, notice must be provided to the Company's Secretary not later September 25, 2004 and not sooner than August 26, 2004, subject to adjustment if the date of the Annual Meeting is moved beyond the specified number of days of the anniversary of the 2003 Annual Meeting, as described in the preceding sentence.

Other Matters

The Company has not received notice as required by its Bylaws of any other matter to be brought before the Annual Meeting of Stockholders and, therefore, does not expect that any additional matters will be

brought before the meeting. In the event that any other matter is properly brought before the meeting, it is the intention of the persons named in the accompanying proxy to vote in respect thereof in accordance with their best judgment.

The Board of Directors hopes that stockholders will attend the meeting. Whether or not you plan to attend, you are urged to complete, sign and return the enclosed proxy in the accompanying envelope. A prompt response will greatly facilitate arrangements for the meeting, and your cooperation will be appreciated. Stockholders who attend the meeting may vote their shares personally even though they have sent in their proxies.

By Order of the Board of Directors

JAMES B. HAWKINS

Secretary

November 10, 2003

INVIVO CORPORATION

Proxy Solicited by the Board of Directors for Annual Meeting of Stockholders

The undersigned hereby appoints George Sarlo and James B. Hawkins, or either of them, each with power of substitution and revocation, as the proxy or proxies of the undersigned to represent the undersigned and vote all shares of the Common Stock, \$.01 par value, of INVIVO CORPORATION, which the undersigned would be entitled to vote if personally present at the Annual Meeting of Stockholders of Invivo Corporation, to be held on December 9, 2003 at 10:00 a.m. at the Company's offices located at 4900 Hopyard Drive, Suite 210, Pleasanton, California, and any adjournments thereof, upon the following matters:

1. To elect directors.

For ALL Nominees Listed Below

For All Nominees Except as Crossed Out Below

INSTRUCTION: To withhold authority for any individual nominee, cross out the nominee's name in the following list:

George Sarlo, James B. Hawkins, Ernest C. Goggio, Laureen DeBuono, Randy Lindholm

WITHHOLD AUTHORITY do not vote for any nominees

2. To amend the Company's 1994 Stock Option Plan (" Plan ") to increase by 300,000 the number of shares covered by the Plan and to make non-employee directors eligible to receive awards under the Plan in addition to the formula awards which are presently the only awards non-employee directors are allowed to receive.

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3. To ratify the selection of KPMG Peat Marwick LLP as independent public auditors of the Company.

FOR AGAINST ABSTAIN

4. With discretionary authority on such matters as may properly come before the meeting.

FOR AGAINST ABSTAIN

The shares covered by this proxy will be voted in accordance with the choices made. **When no choice is made, this proxy will be voted for all listed nominees for director and for proposals 2, 3 and 4.**

The Annual Meeting may be held as scheduled only if a majority of the shares outstanding are represented at the meeting by attendance or proxy. Accordingly, please complete this proxy and return it promptly in the enclosed envelope.

Please date and sign exactly as your name(s) appear on your shares. If signing for estates, trusts or corporations, title or capacity should be stated. If shares are held jointly, each holder should sign.

Signature of Stockholder(s)

Dated , 2003