GLATFELTER P H CO
Form S-4
July 17, 2006

As filed with the Securities and Exchange Commission on July 17, 2006
Registration No. 333-

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

Form S-4
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

P. H. Glatfelter Company
(Exact name of Registrant as specified in its charter)

Pennsylvania	**2621**	**23-0628360**
(State or other jurisdiction of incorporation or organization)	*(Primary standard Industrial Classification Code Number)*	*(I.R.S. Employer Identification No.)*

96 South George Street, Suite 500
York, Pennsylvania 17401
(717) 225-4711
(Address and telephone number of Registrant s principal executive offices)

John P. Jacunski
Senior Vice President and Chief Financial Officer
P. H. Glatfelter Company
96 South George Street, Suite 500
York, Pennsylvania 17401
(717) 225-4711
(Name, address and telephone number of agent for service)

with a copy to:
Bruce Czachor
Shearman & Sterling LLP
599 Lexington Avenue
New York, New York 10022
(212) 848-4000

Approximate date of commencement of proposed sale to the public: **As soon as practicable after the effective date of this registration statement.**

If the securities being registered on this Form are being offered in connection with the formation of a holding company and there is compliance with General Instruction G, check the following box. o

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) 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. o

If this Form is a post-effective amendment filed pursuant to Rule 462(d) 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. o

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 Aggregate Offering Price (1)	Amount of Registration Fee (2)
7 1/8 % Notes due 2016	$200,000,000	100%	$200,000,000	$21,400
Guarantees of 7 1/8 % Notes due 2016				

(1) Estimated solely for the purposes of calculating the registration fee in accordance with Rule 457(f) under the Securities Act of 1933, as amended.

(2) Calculated based upon the market value of the securities to be received by the registrants in the exchange in accordance with Rule 457(f). Pursuant to Rule 457(n), no registration fee will be paid in connection with the guarantee.

The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until this Registration Statement shall become effective on such date as the Commission, acting pursuant to Section 8(a), may determine.

TABLE OF ADDITIONAL REGISTRANTS

Name	State or other Jurisdiction of Incorporation	Primary Standard Industrial Classification Code Number	I.R.S. Employer Identification Number
PHG Tea Leaves, Inc.	DE	2612	52-2068690
Mollanvick, Inc.	DE	2612	52-2068900
The Glatfelter Pulp Wood Company	MD	2612	23-1519556
GLT International Finance, LLC	DE	2612	32-0019096
Glenn-Wolfe, Inc.	DE	2612	52-2017675

The information in this prospectus is not complete and may be changed. We may not sell securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities and we are not soliciting offers to buy these securities in any state where the offer or sale is not permitted.

SUBJECT TO COMPLETION, DATED JULY 17, 2006

PROSPECTUS

OFFER TO EXCHANGE
all outstanding unregistered 7 1/8% notes due 2016
($200,000,000 aggregate principal amount)
for
7 1/8% exchange notes due 2016
that have been registered under the Securities Act of 1933

Fully and unconditionally guaranteed
as to payment of principal and interest
by the Subsidiary Guarantors

TERMS OF THE EXCHANGE OFFER

This prospectus and accompanying letter of transmittal relate to the proposed offer by P. H. Glatfelter Company to exchange up to $200,000,000 aggregate principal amount of 7 1/8% exchange notes due 2016, which are registered under the Securities Act of 1933, as amended, for any and all of its unregistered 7 1/8 % notes due 2016 that were issued on April 28, 2006. The exchange notes are guaranteed as to payment of principal and interest by certain of P. H. Glatfelter Company s domestic subsidiaries (the Subsidiary Guarantors). The unregistered notes have certain transfer restrictions. The exchange notes will be freely transferable.

THE EXCHANGE OFFER WILL EXPIRE AT 5:00 P.M., NEW YORK CITY TIME, ON , 2006, UNLESS WE EXTEND THE OFFER.

Tenders of outstanding unregistered notes may be withdrawn at any time before 5:00 p.m. on the date the exchange offer expires.

All outstanding unregistered notes that are validly tendered and not validly withdrawn will be exchanged.

The terms of the exchange notes to be issued are substantially similar to the unregistered notes, except they are registered under the Securities Act, do not have any transfer restrictions and do not have registration rights or rights to additional interest.

The exchange of unregistered notes for exchange notes will not be a taxable event for U.S. federal income tax purposes.

P. H. Glatfelter Company will not receive any proceeds from the exchange offer.

The exchange notes will not be listed on any exchange.

Please see Risk Factors beginning on page 13 for a discussion of certain factors you should consider in connection with the exchange offer.

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 , 2006.

Each holder of an unregistered note wishing to accept the exchange offer must deliver the unregistered note to be exchanged, together with the letter of transmittal that accompanies this prospectus and any other required documentation, to the exchange agent identified in this prospectus. Alternatively, you may effect a tender of unregistered notes by book-entry transfer into the exchange agent s account at The Depository Trust Company (DTC). All deliveries are at the risk of the holder. You can find detailed instructions concerning delivery in the section called The Exchange Offer in this prospectus and in the accompanying letter of transmittal.

If you are a broker-dealer that receives exchange notes for your own account, you must acknowledge that you will deliver a prospectus in connection with any resale of the exchange notes. The letter of transmittal accompanying this prospectus states that, by so acknowledging and by delivering a prospectus, you will not be deemed to admit that you are an underwriter within the meaning of the Securities Act. You may use this prospectus, as we may amend or supplement it in the future, for your resales of exchange notes. We will make this prospectus available to any broker-dealer for use in connection with any such resale for a period of 180 days after the date of consummation of this exchange offer.

TABLE OF CONTENTS

This prospectus incorporates important business and financial information about us that is not included in or delivered with this prospectus. **Information incorporated by reference is available without charge to holders of our unregistered 7 1/8% notes due 2016 upon written or oral request to us at P. H. Glatfelter Company, 96 South George Street, Suite 500, York, Pennsylvania 17401, Attention: Investor Relations, telephone number (717) 225-4711. To obtain timely delivery, security holders must request this information no later than five (5) business days before the date they must make their investment decision which would be , 2006.**

You should rely only on the information contained or incorporated by reference in this prospectus. We have not authorized any other person to provide you with different information. If anyone provides you with different or inconsistent information, you should not rely on it. We are not making an offer to sell these securities in any jurisdiction where the offer or sale is not permitted. You should assume that the information appearing in this prospectus and the documents incorporated by reference are accurate only as of their respective dates. Our business, financial condition, results of operations and prospects may have changed since these dates.

References to we, us, our, Glatfelter and the Company are to P. H. Glatfelter Company and its consolidated subsidiaries unless otherwise specified or the context otherwise requires.

Whenever we refer in this prospectus to the 7 1/8% notes due 2016, we will refer to them as the unregistered notes. Whenever we refer in this prospectus to the registered 7 1/8 % notes due 2016, we will refer to them as the exchange notes. The unregistered notes and the exchange notes are collectively referred to as the notes.

PROSPECTUS SUMMARY

This prospectus summary highlights selected information appearing elsewhere in this prospectus and may not contain all of the information that is important to you. You should carefully read this prospectus in its entirety including the documents incorporated by reference.

Our Company

Glatfelter began operations in 1864 and today we believe we are one of the world s leading manufacturers of specialty papers and engineered products. Headquartered in York, Pennsylvania, we own and operate paper mills located in Spring Grove, Pennsylvania, Neenah, Wisconsin, Gernsbach, Germany and Scaër, France, as well as an abaca pulp mill in the Philippines. In March 2006, we acquired a J R Crompton Ltd., or Crompton, mill located in Gloucestershire, United Kingdom, which we refer to as the Lydney mill. In April 2006, we acquired the carbonless business operations of New Page Corporation, which includes a paper making facility in Chillicothe, Ohio and coating operations in Fremont, Ohio, which we refer to collectively as Chillicothe. As part of our integration plan for Chillicothe, we are transferring the production of products currently manufactured at our Neenah facility to Chillicothe and are permanently shutting down our Neenah facility. For additional information, see Recent Developments below.

We serve customers in numerous markets, including book publishing, carbonless and forms, envelope and converting, food and beverage, pressure-sensitive, digital imaging, composite laminates and other highly technical niche markets. Many of the markets in which we operate are characterized by higher-value-added products and, in some cases, by higher growth prospects and lower cyclicality than commodity paper markets. Examples of some of our key product offerings include papers for:

- tea bags and coffee filters;
- trade book publishing;
- specialized envelopes;
- playing cards;
- pressure-sensitive postage stamps;
- metallized labels for beer bottles;
- digital imaging applications; and
- carbonless products.

We market our products worldwide both through wholesale paper merchants, brokers and agents and directly to our customers. In 2005, our revenue was $589.2 million and in the first quarter of 2006, our revenue was $163.1 million.

Recent Developments

On April 3, 2006, we completed our acquisition of Chillicothe, the carbonless business operations of NewPage Corporation, for $81.8 million in cash, subject to certain post-closing working capital adjustments. The Chillicothe assets consist of a 440,000 ton-per-year paper making facility in Chillicothe, Ohio and coating operations based in Fremont, Ohio. Chillicothe had revenue of $441.5 million in 2005 and a total of approximately 1,700 employees as of March 31, 2006.

We executed the Chillicothe acquisition so that we could take advantage of Chillicothe s scale and efficient manufacturing environment. We are transferring the production of products currently manufactured at our Neenah facility to Chillicothe, and we intend to significantly expand our higher-value-added Specialty Papers business unit, in each case leveraging Chillicothe s lower-cost production platform. We are closing our Neenah facility to rationalize assets that are no longer competitive and anticipate that the facility will be permanently shut down by June 30, 2006.

In connection with the planned closure of the Neenah facility, we expect to record estimated total pre-tax charges of $54 million to $60 million, including $22.5 million of estimated pre-tax cash

charges. The charges are primarily related to asset writedowns and accelerated depreciation, employee termination and related benefits and contract termination costs.

On March 8, 2006, we entered into two separate agreements to acquire certain assets of Crompton, a global supplier of wet laid nonwoven products based in Manchester, United Kingdom. Since February 7, 2006, Crompton has been subject to insolvency proceedings before The High Court of Justice Chancery Division, Manchester District.

Under the terms of our first agreement with Crompton, on March 13, 2006, we acquired Crompton s Lydney mill, located in Gloucestershire, United Kingdom, for approximately $65 million based on currency exchange rates on that date. The facility employs approximately 240 people and had 2005 revenues of approximately $78.8 million. The Lydney mill, which is now included in our Long Fiber & Overlay Papers business unit, produces a broad portfolio of wet laid nonwoven products, including tea bags and coffee filter papers, clean room wipes, lens tissue and dye filter paper, double-sided adhesive tape substrates and battery grid pasting tissue. The acquisition of the Lydney mill further strengthened our leading position in tea bags and coffee filter papers and is part of our long-term strategy to drive growth in our Long Fiber & Overlay Papers business unit. Our acquisition of the Lydney mill is currently being reviewed by the European Commission.

Under the terms of the second agreement with Crompton, we agreed to purchase Crompton s Simpson Clough mill, located in Lancashire, United Kingdom, and other related assets for $21.7 million. The administrator in the insolvency proceedings terminated this agreement in accordance with contractual provisions due to additional time that may have been required should an in-depth regulatory review have been necessary.

On April 3, 2006, in connection with the consummation of the Chillicothe acquisition, we entered into our new credit facility, which provides for a $200.0 million revolving credit facility and a $100.0 million term loan facility. As of June 30, 2006, borrowings under our new credit facility consisted of $52.9 million of indebtedness under the revolving credit facility and $99.4 million of indebtedness under the term loan facility. Proceeds from our new credit facility were used to repay in full all amounts outstanding under our former revolving credit facility due June 2006, to finance the Chillicothe acquisition and for general corporate purposes. For more information, see Description of Other Indebtedness.

Our Business Units

We manage our business as two distinct units: the North America-based Specialty Papers business unit and the Europe-based Long Fiber & Overlay Papers business unit.

Specialty Papers

Our North America-based Specialty Papers business unit focuses on papers for the production of high-quality hardbound books and other book publishing needs, the envelope and converting markets and highly technical customized products for the digital imaging, casting and release, pressure sensitive and several niche technical specialty markets.

We believe we are the leading supplier of book publishing papers in the United States. Specialty Papers also produces paper that is converted into specialized envelopes in a wide array of colors, finishes and capabilities. The book publishing and envelope and converting papers markets are generally more mature and, therefore, have modest growth characteristics.

Specialty Papers highly technical engineered products include those designed for multiple end-uses, such as papers for pressure-sensitive postage stamps, greeting and playing cards, digital imaging applications and for release paper applications. These products comprise an array of distinct business niches that are in a continuous state of evolution. Many of these products are utilized in demanding, specialized customer and end-user applications and, therefore, command higher per ton values and generally exhibit greater pricing stability relative to commodity grade paper products. Some of our products are new and high-growth while

others are more mature and further along on the development curve. Because many of these products are technically complex and involve substantial customer-supplier development collaboration, product pricing has remained relatively stable. Effective April 1, 2006, our Specialty Papers business unit also includes the Chillicothe carbonless business operations. Carbonless papers are designed for multiple end-uses, such as credit card receipts, forms and other applications.

Long Fiber & Overlay Papers

Our Europe-based Long Fiber & Overlay Papers business unit focuses on higher-value-added products, such as paper for tea bags and coffee pods/pads and filters, decorative laminates used for furniture and flooring and metallized products used in the labeling of beer bottles. Long fiber papers, which is the generic term we use to describe products made from abaca pulp (primarily tea bag and coffee filter papers), accounted for a majority of this business unit s net sales. Our focus on long fiber papers has made us one of the world s largest producers of tea bag papers. The balance of this unit s sales is comprised of overlay and technical specialty products, which include flooring and furniture overlay papers, metallized products and papers for adhesive tapes, vacuum bags, holographic labels and gift wrap. Many long fiber and overlay papers are technically sophisticated. We believe we are well positioned to produce these extremely lightweight papers because we understand their complexities, which require the use of highly specialized fiber and specifically designed papermaking equipment. As of March 13, 2006, our Long Fiber & Overlay Papers business unit also includes the Lydney mill.

Our Competitive Strengths

Since commencing operations over 140 years ago, we believe that Glatfelter has developed into one of the world s leading manufacturers of specialty papers and engineered products. We believe that the following competitive strengths have contributed to our success:

Leading positions in higher-value, niche segments. We have focused our resources to achieve leading positions in certain higher-value, niche segments. Our products include various highly specialized paper products designed for technically demanding end uses. Consequently, many of our products achieve premium pricing relative to commodity paper grades. In 2005, we derived approximately 75% of our total sales from these higher-value, niche products. The specialized nature of these products generally provides greater pricing stability relative to commodity paper products.

Customer-centric business focus. We offer a unique and diverse product line that can be customized to serve the individual needs of our customers. Our size allows us to develop close relationships with our key customers and to be adaptable in our product development, manufacturing, sales and marketing practices. We believe that this approach has led to the development of excellent customer relationships, defensible market positions and increased pricing stability relative to commodity paper producers. Additionally, our customer-centric focus has been a key driver of our success in new product development.

Significant investment in product development. In order to keep up with our customers ever-changing needs, we continually enhance our product offerings through significant investment in product development. In each of the past three years, we invested approximately $5 million in product development activities. We derive a significant portion of our revenue from products developed, enhanced or improved as a result of these activities. Revenue generated from products developed, enhanced or improved within the five previous years as a result of these activities represented approximately 47%, 60% and 52% of our net sales in 2003, 2004 and 2005, respectively.

Integrated production. As a partially integrated producer, we are able to mitigate changes in the costs of certain raw materials and energy. Our Spring Grove and Chillicothe facilities are vertically integrated operations producing in excess of 85% of the annual pulp required for their paper production. The principal raw material used to produce this pulp is pulpwood, consisting of both hardwoods and softwoods. We own approximately 81,000 acres of timberlands and, in 2005, obtained approximately 20% of our pulpwood requirements for our Spring Grove facility from Glatfelter-owned

timberlands, which helps stabilize our fiber costs in a highly fragmented market. Our Spring Grove and Chillicothe facilities also generate 100% of the steam and substantially all of the electricity required for their operations. In addition, our Philippine mill processes abaca fiber to produce abaca pulp, which is a key raw material used by our Long Fiber & Overlay Papers business unit.

Our Business Strategy

Our vision is to become the global supplier of choice in specialty papers and engineered products. We are continuously developing and refining strategies to strengthen our business and position it for the future. Execution of these strategies is intended to capitalize on our customer relationships, technology and people, as well as our leadership positions in certain product lines. In recent years, our industry has been challenged by a supply and demand imbalance, particularly for commodity-like products. To be successful in the current market environment, our strategy is focused on aggressively reducing costs and continually repositioning our product portfolio to increase our focus on higher-value, niche products and to better align our product offerings with our customers ever-changing needs. Certain key elements of our business strategy are outlined below:

Reposition our product portfolio. By leveraging our leadership positions in several specialty niche segments, we plan to accelerate growth, improve margins and generate better financial returns through the optimization of our product portfolio. In 2005, approximately 75% of our total sales were derived from what we consider to be higher-value, niche products. Over time, we plan to increase our concentration on such products by driving growth in our sales of trade book papers, uncoated specialty products, long fiber and overlay products and other specialty products. The recently acquired Chillicothe assets provide a significant scaleable production platform to support this strategy. We believe that this strategy will realign our business more closely with our customers needs and further reduce our exposure to the higher level of cyclicality experienced in commodity paper grades.

Execute Long Fiber & Overlay Papers growth plan. A core component of our long-term strategy is to drive growth in our Long Fiber & Overlay Papers business unit. Currently, we are one of the leading producers of tea bag and coffee pod/pad papers in the world, and we expect that the Lydney mill acquisition will further strengthen our competitive position. We believe that this segment has promising growth characteristics as certain geographies move toward the use of tea bags as opposed to loose tea leaves, and we believe that we are well positioned to capitalize on this growth by leveraging our strong customer relationships and leading position in this segment.

Employ a low-cost approach to specialty product manufacturing. While we are focused on higher-value, niche products, we seek to employ a commodity-like, low-cost approach to our manufacturing activities. In 2004, we initiated the North American Restructuring Program that improved operating results by, among other factors, improving workforce efficiencies and implementing improved supply chain management processes. In the fourth quarter of 2005, we began the implementation of the European Optimization and Restructuring Program, or the EURO Program, a comprehensive series of actions designed to improve the performance of the Long Fiber & Overlay Papers business unit. The pre-tax financial benefits of the EURO Program are estimated to be $7 million to $9 million annually by 2008.

Maintain a strong balance sheet and preserve financial flexibility. We are focused on prudent financial management and the maintenance of a conservative capital structure. We are committed to maintaining a strong balance sheet and preserving our flexibility so that we may pursue strategic opportunities, including strategic acquisitions, that will benefit our company.

Timberland Strategy. We recently completed an extensive study to determine the optimal approach for managing our timberlands in a way that creates the greatest value for our company. The study considered many factors including, among others, land valuations, external and internal wood costs and future fiber requirements. We concluded that the most advantageous approach is to sell 40,000 acres of higher and better use, or HBU, properties in an orderly fashion. In some cases, low-cost, low-risk opportunities may exist to add value to some of

these acres through entitlements. It is

estimated that our pre-tax cost of fiber will increase by approximately $2.3 million to $4.6 million per year when all 40,000 HBU acres are sold, but we believe that the expected proceeds from these planned sales will outweigh this increased cost. Currently, we intend to retain the pure timberland properties to mitigate the cost of replacing internally generated wood with outside sources. Execution of our Timberland Strategy is expected to take approximately three to five years to complete and is estimated to provide pre-tax cash proceeds of approximately $150 million to $200 million, assuming, among other factors, acceptable market conditions and a carefully executed plan of disposition.

Company Information

We are incorporated under the laws of the Commonwealth of Pennsylvania. Our executive offices are located at 96 South George Street, Suite 500, York, Pennsylvania 17401. Our telephone number is (717) 225-4711. Our Web site address is www.glatfelter.com. **The information on our Web site is not part of this prospectus**.

Summary of the Exchange Offer

On April 28, 2006, we issued $200 million aggregate principal amount of unregistered 7 1/8 % notes due 2016. The unregistered notes are fully and unconditionally guaranteed as to payment of principal and interest by each of the subsidiary guarantors. On the same day, we and the initial purchasers of the unregistered notes entered into a registration rights agreement in which we agreed that you, as a holder of unregistered notes, would be entitled to exchange your unregistered notes for exchange notes registered under the Securities Act. This exchange offer is intended to satisfy these rights. After the exchange offer is completed, you will no longer be entitled to any registration rights with respect to the notes. The exchange notes will be our obligation and will be entitled to the benefits of the indenture relating to the notes. The exchange notes will also be fully and unconditionally guaranteed as to payment of principal and interest by each of the subsidiary guarantors. The form and terms of the exchange notes are identical in all material respects to the form and terms of the unregistered notes, except that:

- the exchange notes have been registered under the Securities Act and, therefore, will contain no restrictive legends;
- the exchange notes will not have registration rights; and
- the exchange notes will not have rights to additional interest.

For additional information on the terms of this exchange offer, see The Exchange Offer.

The Exchange Offer	We are offering to exchange any and all of our 7 1/8% exchange notes due 2016, which have been registered under the Securities Act, for any and all of our outstanding unregistered 7 1/8% notes due 2016 that were issued on April 28, 2006. As of the date of this prospectus, $200 million in aggregate principal amount of our 7 1/8 % unregistered notes due 2016 are outstanding.
Expiration of the Exchange Offer	The exchange offer will expire at 5:00 p.m., New York City time, on , 2006, unless we decide to extend the exchange offer.
Conditions of the Exchange Offer	We will not be required to accept for exchange any unregistered notes, and may amend or terminate the exchange offer if any of the following conditions or events occurs: the exchange offer or the making of any exchange by a holder of unregistered notes violates applicable law or any applicable interpretation of the staff of the Securities and Exchange Commission, or the SEC); any action or proceeding shall have been instituted or threatened with respect to the exchange offer which, in our reasonable judgment, would impair our ability to proceed with the exchange offer; and any laws, rules or regulations or applicable interpretations of the staff of the SEC are issued or promulgated which, in our good faith determination, do not permit us to effect the exchange offer. We will give oral or written notice of any non-acceptance of the unregistered notes or of any amendment to or termination of the exchange offer to the registered holders of the unregistered notes as promptly as practicable. We reserve the right to waive any conditions of the exchange offer.

Resales of the Exchange Notes	Based on interpretative letters of the SEC staff to third parties unrelated to us, we believe that you can resell and transfer the exchange notes you receive pursuant to this exchange offer without compliance with the registration and prospectus delivery provisions of the Securities Act, provided that: any exchange notes to be received by you will be acquired in the ordinary course of your business; you are not engaged in, do not intend to engage in and have no arrangements or understandings with any person to participate in, the distribution of the unregistered notes or exchange notes; you are not an affiliate (as defined in Rule 405 under the Securities Act) of ours, or, if you are such an affiliate, you will comply with the registration and prospectus delivery requirements of the Securities Act to the extent applicable; if you are a broker-dealer, you have not entered into any arrangement or understanding with us or any of our affiliates to distribute the exchange notes; and you are not acting on behalf of any person or entity that could not truthfully make these representations. If you wish to participate in the exchange offer, you must represent to us in writing that these conditions have been met. If you are a broker-dealer and you will receive exchange notes for your own account in exchange for unregistered notes that were acquired as a result of market-making activities or other trading activities, you will be required to acknowledge that you will deliver a prospectus in connection with any resale of the exchange notes. See Plan of Distribution for a description of the prospectus delivery obligations of broker-dealers.
Accrued Interest on the Exchange Notes and Unregistered Notes	The exchange notes will accrue interest from and including April 28, 2006. We will pay interest on the exchange notes semiannually in arrears on May 1 and November 1 of each year, commencing November 1, 2006. Holders of unregistered notes that are accepted for exchange will be deemed to have waived the right to receive any payment in respect of interest accrued from the date of the last interest payment date that was made in respect of the unregistered notes until the date of the issuance of the exchange notes. Consequently, holders of exchange notes will receive the same interest payments that they would have received had they not accepted the exchange offer.
Procedures for Tendering Unregistered notes	If you wish to participate in the exchange offer: You must transmit a properly completed and signed letter of transmittal, and all other documents required by the letter of transmittal, to the exchange agent at the address set forth in the letter of transmittal. These materials must be received by the

	exchange agent before 5:00 p.m., New York City time, on , 2006, the expiration date of the exchange offer. You must also provide physical delivery of your unregistered notes to the exchange agent s address as set forth in the letter of transmittal. The letter of transmittal must also contain the representations you must make to us as described under The Exchange Offer Procedures for Tendering ; or You may effect a tender of unregistered notes electronically by book-entry transfer into the exchange agent s account at DTC. By tendering the unregistered notes by book-entry transfer, you must agree to be bound by the terms of the letter of transmittal.
Special Procedures for Beneficial Owners	If you are a beneficial owner of unregistered notes that are held through a broker, dealer, commercial bank, trust company or other nominee and you wish to tender such unregistered notes, you should contact the registered holder promptly and instruct them to tender your unregistered notes on your behalf.
Guaranteed Delivery Procedures for Unregistered notes	If you cannot meet the expiration deadline, or you cannot deliver on time your unregistered notes, the letter of transmittal or any other required documentation, or comply on time with DTC s standard operating procedures for electronic tenders, you may tender your unregistered notes according to the guaranteed delivery procedures set forth under The Exchange Offer Guaranteed Delivery Procedures.
Withdrawal Rights	You may withdraw the tender of your unregistered notes at any time prior to 5:00 p.m., New York City time, on , the expiration date.
Consequences of Failure to Exchange	If you are eligible to participate in this exchange offer and you do not tender your unregistered notes as described in this prospectus, your unregistered notes will continue to be subject to transfer restrictions. As a result of the transfer restrictions and the availability of exchange notes, the market for the unregistered notes is likely to be much less liquid than before this exchange offer. The unregistered notes will, after this exchange offer, bear interest at the same rate as the exchange notes.
Certain U.S. Federal Income Tax Consequences	The exchange of the unregistered notes for exchange notes pursuant to the exchange offer will not be a taxable event for U.S. federal income tax purposes. See United States Federal Income Tax Considerations
Use of Proceeds	We will not receive any proceeds from the issuance of exchange notes pursuant to the exchange offer.
Exchange Agent for Unregistered Notes	SunTrust Bank

Summary Description of the Exchange Notes

The following is a brief summary of some of the terms of the exchange notes. For a more complete description of the terms of the exchange notes, see Description of Notes in this prospectus.

Issuer	P. H. Glatfelter Company
Exchange Notes	$200,000,000 aggregate principal amount of 7 1/8 % exchange notes due 2016.
Maturity Date	May 1, 2016.
Interest	7 1/8 % per annum, payable semi-annually in arrears on May 1 and November 1, beginning November 1, 2006.
Guarantees	The notes will be guaranteed fully and unconditionally, jointly and severally, by certain of our current and future domestic subsidiaries.
Ranking	The notes will be: senior unsecured obligations of the Company; equal in ranking (pari passu) with all our existing and future senior indebtedness; and senior in right of payment to our subordinated indebtedness. Secured debt that we may incur in the future and all our other secured obligations in effect from time to time will be effectively senior to the notes to the extent of the value of the assets securing such debt or other obligations. For a more detailed description, see Description of Notes Optional Redemption.
Optional redemption	Prior to May 1, 2011, we may redeem all, but not less than all, of the notes at a redemption price equal to 100% of the principal amount plus accrued and unpaid interest plus a make-whole premium set forth under Description of the Notes Optional Redemption. We may redeem some or all of the notes at any time and from time to time on or after May 1, 2011, at the redemption prices set forth under Description of the Notes Optional Redemption, plus accrued and unpaid interest to the date of redemption. In addition, at any time prior to May 1, 2009, we may redeem up to 35% of the notes with the proceeds of certain equity offerings.
Certain Covenants	The indenture governing the notes contains covenants that, among other things, limit our ability and the ability of our subsidiary guarantors to: incur or guarantee additional indebtedness or issue certain preferred stock; pay dividends on our capital stock or redeem, repurchase or retire our capital stock or subordinated indebtedness; transfer or sell assets; make investments;

incur liens and enter into sale/leaseback transactions;

	enter into transactions with our affiliates; and merge or consolidate with other companies or transfer all or substantially all of the assets. These covenants are subject to important limitations and exceptions, which are described in this prospectus. For a more detailed description, see Description of Notes Certain Covenants.
Trustee	SunTrust Bank
Listing	The exchange notes will not be listed on an exchange.
Use of proceeds	We will not receive any proceeds from the issuance of exchange notes pursuant to the exchange offer.
Risk factors	See Risk Factors and the other information in this prospectus for a discussion of risk factors related to our business.

Summary Consolidated Financial Information

You should read the following summary consolidated financial information in conjunction with Management s Discussion and Analysis of Financial Condition and Results of Operations in our Annual Report on Form 10-K for the year ended December 31, 2005 and our Quarterly Report on Form 10-Q for the three months ended March 31, 2006, each of which is incorporated by reference herein, and with Selected Consolidated Financial and Other Data and our audited consolidated financial statements and related notes included elsewhere in this prospectus. The summary consolidated financial information as of December 31, 2004 and 2005 and for each of the three years ended December 31, 2005 is derived from our audited consolidated financial statements included elsewhere in this prospectus. The summary consolidated financial information as of December 31, 2002 and 2003 and for each of the two years ended December 31, 2002 is derived from our audited consolidated financial statements not included in this prospectus. The summary consolidated financial information as of December 31, 2001 is derived from our audited consolidated financial statements not included in this prospectus and is adjusted to reflect the impact of the sale in July 2003 of our Wisches, France subsidiary and the resulting treatment of this subsidiary as a discontinued operation. The summary unaudited consolidated financial information for the three months ended, and as of, March 31, 2005 and 2006 is derived from our unaudited condensed consolidated financial statements included elsewhere in this prospectus. The historical results are not necessarily indicative of our future results of operations or financial performance.

	Year Ended December 31					Three Months Ended March 31	
	2001	2002	2003	2004	2005	2005	2006
	In thousands						
Income Statement Data:							
Net sales	$ 632,602	$ 540,347	$ 533,193	$ 543,524	$ 579,121	$ 143,896	$ 160,606
Energy sales net	9,661	9,814	10,040	9,953	10,078	2,544	2,457
Total revenues	642,263	550,161	543,233	553,477	589,199	146,440	163,063
Cost of products sold	501,142	423,880	463,687	461,063	492,023	117,846	142,798
Gross profit	141,121	126,281	79,546	92,414	97,176	28,594	20,265
Selling, general and administrative expenses	60,225	53,699	59,146	59,939	67,633	17,390	16,697
Restructuring charges		4,249	6,983	20,375	1,564		19,298
Unusual items	60,908	(2,008)	11,501				
Gains on disposition of plant, equipment and timberlands, net	(2,015)	(1,304)	(32,334)	(58,509)	(22,053)	(60)	10
Insurance recoveries				(32,785)	(20,151)		
Operating income (loss)	22,003	71,645	34,250	103,394	70,183	11,264	(15,740)
Other nonoperating income (expense)							
Interest expense	(15,628)	(15,103)	(14,269)	(13,385)	(13,083)	(3,260)	(3,393)
Interest income	3,589	1,571	1,820	2,012	2,012	498	666
Other net	1,558	1,016	(1,385)	(1,258)	1,028	261	350

Total other nonoperating expenses	(10,481)	(12,516)	(13,834)	(12,631)	(10,043)	(2,501)	(2,377)
Income (loss) from continuing operations before income taxes	11,522	59,129	20,416	90,763	60,140	8,763	(18,117)
Income tax provision (benefit)	4,693	21,492	7,430	34,661	21,531	2,473	(6,252)
Income (loss) from continuing operations	6,829	37,637	12,986	56,102	38,609	6,290	(11,865)
Discontinued operations							
Income (loss) from discontinued operations	198	(64)	(513)				
Income tax provision (benefit)	69	(22)	(188)				
Income (loss) from discontinued operations	129	(42)	(325)				
Net income (loss)	$ 6,958	$ 37,595	$ 12,661	$ 56,102	$ 38,609	$ 6,290	$ (11,865)

	Year Ended December 31					Three Months Ended March 31	
	2001	2002	2003	2004	2005	2005	2006
	In thousands						
Cash Flow Data:							
Cash provided (used) by continuing operations:							
Operating activities	$ 64,437	$ 77,706	$ 46,996	$ 39,584	$ 42,868	$ (9,115)	$ (4,712)
Investing activities	(30,536)	(49,610)	(62,367)	42,109	(8,029)	(4,610)	(73,511)
Financing activities	(48,710)	(84,605)	(2,462)	(59,753)	(15,158)	(1,892)	49,333
Balance Sheet Data (at end of period):							
Cash and cash equivalents	$ 95,407	$ 32,219	$ 15,566	$ 39,951	$ 57,442		$ 28,818
Working capital(1)	32,213	88,140	59,232	94,445	83,679		89,196
Total assets	966,604	953,202	1,027,019	1,052,270	1,044,977		1,092,777
Total debt	277,155	220,532	254,275	211,226	207,073		258,044
Shareholders equity	353,469	373,833	371,431	420,370	432,312		421,924

(1) Working capital is defined as current assets less current liabilities.

RISK FACTORS

You should carefully consider the risks described below. The risks and uncertainties described below 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 adversely affect our business and operations.

If any of the matters included in the following risks were to occur, our business, financial condition, results of operations, cash flows or prospects could be materially adversely affected. In such case, you may lose all or part of your original investment.

Risks Relating to Our Business

Our business and financial performance may be adversely affected by downturns in the target markets that we serve.

Demand for our products in the markets we serve is primarily driven by consumption of the products we produce, which is often affected by general economic conditions. Downturns in our target markets could result in decreased demand for our products. In particular, our business may be adversely affected during periods of economic weakness by the general softness in these target markets. Our results could be adversely affected if economic conditions weaken. Also, there may be periods during which demand for our products is insufficient to enable us to operate our production facilities in an economical manner. These conditions are beyond our ability to control and have had, and may have, a significant impact on our sales and results of operations.

In addition to fluctuations in demand for our products in the markets we serve, the markets for our paper products are also significantly affected by changes in industry capacity and output levels. There have been periods of supply and demand imbalance in the pulp and paper industry, which have caused pulp and paper prices to be volatile. The timing and magnitude of price increases or decreases in the pulp and paper market have generally varied by region and by product type. A sustained period of weak demand or excess supply would likely adversely affect pulp and paper prices. This could have a material adverse affect on our operating and financial results.

Our industry is highly competitive and increased competition could reduce our sales and profitability.

We offer our products throughout the United States and globally in approximately 80 countries. We compete on the basis of the quality of our products, customer service, product development activities, price and distribution. Our competition in the markets in which we participate comes from companies of various sizes, some of which have greater financial and other resources than we do. In markets for our engineered products and the products of our Long Fiber & Overlay Papers business unit, we compete with specialty divisions of large companies such as Ahlstrom Corporation, International Paper Company, MeadWestvaco Corporation, Sappi Limited and Stora Enso Oyj, as well as other companies such as Crompton. With respect to book publishing papers, we compete with companies such as Domtar Inc. and Weyerhaeuser Company. In the carbonless and forms sector, we compete with Appleton Papers Inc. Finally, in the envelope sector, we compete with companies such as Blue Ridge Paper Products, Inc., International Paper and Weyerhaeuser.

In recent years, the global paper industry in which we compete has been adversely affected by paper producing capacity exceeding the demand for products. Increased competition could force us to lower our prices or to offer additional services at a higher cost to us, which could reduce our gross margins and net income. The greater financial resources of certain of our competitors may enable them to commit larger amounts of capital in response to changing market conditions. Certain competitors may also have the ability to develop product or service innovations that could put us at a disadvantage.

Some of the factors that may adversely affect our ability to compete in the markets in which we participate include:

the entry of new competitors into the markets we serve, including foreign producers;

the willingness of commodity-based paper producers to enter our specialty markets when they are unable to compete or when demand softens in their traditional markets;

the aggressiveness of our competitors pricing strategies, which could force us to decrease prices in order to maintain market share;

our failure to anticipate and respond to changing customer preferences;

our inability to develop new, improved or enhanced products; and

our inability to maintain the cost efficiency of our facilities.

If we cannot effectively compete in the markets in which we operate, our sales and operating results would be adversely affected.

The cost of raw materials and energy used to manufacture our products could increase.

We require access to sufficient and reasonably priced quantities of pulpwood, wood and other pulps, pulp substitutes, abaca fiber and certain other raw materials. Our Spring Grove facility is a vertically integrated manufacturing facility that generates approximately 85% of its annual pulp requirements. In addition, approximately 20% of its annual pulpwood requirements in 2005 were satisfied from company-owned timberlands. However, our Neenah facility purchases all of its wood and other pulps from third parties, and Chillicothe, while it makes its own pulp, purchases wood for use in its pulp mill. Our Philippine mill purchases abaca fiber to make pulp, which we use to manufacture our long fiber products in Gernsbach, Germany and Scaër, France.

Coal is a principal source of fuel for our Spring Grove facility. In the first quarter of 2006, we negotiated a new three-year coal supply contract that will increase our annual cost of coal by approximately $6 million beginning in 2007.

Natural gas is the principal source of fuel for our Chillicothe facilities. Natural gas prices have increased significantly in the United States since 2000 and reached record highs in 2005. Prices for natural gas are expected to remain volatile for the foreseeable future.

We may not be able to pass increased raw materials or energy prices on to our customers if the market will not bear the higher price or where existing agreements with our customers do not allow us to pass along these cost increases. If price adjustments significantly trail increases in raw materials or energy prices or if we cannot effectively hedge against price increases, our operating results could be adversely affected.

We are subject to substantial costs and potential liability for environmental matters.

We are subject to various environmental laws and regulations that govern our operations, including discharges into the environment and the handling and disposal of hazardous substances and wastes. We are also subject to laws and regulations that impose liability and clean-up responsibility for releases of hazardous substances into the environment. To comply with environmental laws and regulations, we have incurred, and will continue to incur, substantial capital and operating expenditures. We anticipate that environmental regulation of our operations will continue to become more burdensome and that capital and operating expenditures necessary to comply with environmental regulations will continue, and perhaps increase, in the future. Because environmental regulations are not consistent worldwide, our ability to compete in the world marketplace may be adversely affected by capital and operating expenditures required for environmental compliance. In addition, we may incur obligations to remove or mitigate any adverse effects on the environment, such as air and water quality, resulting from mills we operate or have operated. Potential obligations include compensation for the restoration of natural resources, personal injury and property damage.

In connection with the sale of our Ecusta Division in 2001, we are incurring landfill closure costs and may incur additional costs for recognized environmental concerns at the site of our former mill related to the presence of mercury and certain other contamination on and around the site, potentially hazardous conditions

existing in the sediment and water column of the site s water treatment and aeration and sedimentation basin, or ASB, and contamination associated with two additional landfills on the site that were not used by us.

We are also liable for the costs of clean-up related to the presence of polychlorinated biphenyls, or PCBs, in the lower Fox River on which our Neenah facility is located. We have financial reserves for environmental matters but we cannot be certain that those reserves will be adequate to provide for future obligations related to these matters, that our share of costs and/or damages for these matters will not exceed our available resources or that such obligations will not have a long-term, material adverse effect on our consolidated financial position, liquidity or results of operations.

Our environmental issues are complicated and should be reviewed in full. For a more detailed discussion of these matters, see Management s Discussion and Analysis of Financial Condition and Results of Operations Liquidity and Capital Resources Environmental Matters and Business Environmental Matters.

We may not successfully integrate Chillicothe and execute the related production transition plans and may not achieve our anticipated synergies at Chillicothe.

In April 2006, we acquired Chillicothe from NewPage Corporation. Inherent risks in a business combination such as this include the inability to successfully integrate the acquired production facility and its procurement, marketing and sales requirements, as well as information systems, finance and administration functions. In addition, an integral component of this acquisition is the transfer of production from our Neenah facility to Chillicothe and the permanent shutdown of the Neenah facility. We cannot assure you that we will be able to successfully implement this transfer of production and the shutdown of the Neenah facility.

Our inability to successfully execute the plans discussed above may adversely affect our relationships with customers, suppliers and employees. Accordingly, our financial results may be adversely affected.

We may not achieve our anticipated financial benefits from our acquisition of the Lydney mill.

In March 2006, we acquired Crompton s Lydney mill. We face risks inherent with acquisitions, including the inability to successfully integrate the operations of the Lydney mill, and cannot assure you that the integration will be successful. Furthermore, this acquisition is currently being reviewed by the European Commission, and the results of that review could, if an order of remedies is issued, impair our ability to integrate the Lydney mill or have other adverse consequences, including possible dispositions.

Our inability to successfully execute our plans for the Lydney mill may adversely affect our relationships with customers, suppliers and employees. Accordingly, our financial results may be adversely affected.

We are dependent on NewPage for the provision of essential services to Chillicothe.

In connection with the Chillicothe acquisition, we entered into a transition services agreement with NewPage for the provision by NewPage of necessary human resources, information technology and other business support services for Chillicothe for up to one year. NewPage does not, however, provide us with these services directly. Rather, NewPage previously outsourced such services to Accenture LLP. The failure of Accenture, with whom we do not have a direct contractual relationship, to perform its obligations under its agreements with NewPage could negatively affect our business, financial condition and results of operations since neither we nor NewPage may be able to provide such services on a cost-effective basis or at all.

We have operations in a politically and economically unstable location.

We own and operate a pulp mill in the Philippines where the operating environment is unstable and subject to political unrest. Our Philippine pulp mill produces abaca pulp, a significant raw material used by our Gernsbach, Germany and Scaër, France facilities in the production of our long fiber-based products. Our Philippine pulp mill is a primary provider of abaca pulp for our Long Fiber & Overlay Papers business unit. There are limited suitable alternative sources of readily available abaca pulp in the world. In the event of a disruption in supply from our Philippine mill, there is no guarantee that we could obtain adequate amounts of

abaca pulp from alternative sources at a reasonable price or at all. As a consequence, any civil disturbance, unrest, political instability or other event that causes a disruption in supply could limit the availability of abaca pulp and would increase our cost of obtaining abaca pulp. Such occurrences could adversely affect our sales volumes, revenues and operating results.

We may not be able to develop new products acceptable to our customers.

Our business strategy is market focused and includes investments in developing new products to meet the changing needs of our customers and to maintain our market share. Our success will depend in large part on our ability to develop and introduce new and enhanced products that keep pace with introductions by our competitors and changing customer preferences. If we fail to anticipate or respond adequately to these factors, we may lose opportunities for business with both current and potential customers. The success of our new product offerings will depend on several factors, including our ability to:

anticipate and properly identify our customers needs and industry trends;

price our products competitively;

develop and commercialize new products and applications in a timely manner, particularly in the event that demand for our existing products declines or, as in the case of carbonless paper, continues to decline;

differentiate our products from our competitors products; and

invest in research and development activities efficiently.

Our inability to develop new products could adversely affect our business and ultimately harm our profitability.

Our international operations pose certain risks that may adversely affect sales and earnings.

We have significant operations and assets located in Germany, France and the Philippines, as well as a recently acquired mill in the United Kingdom. Our international sales and operations are subject to a number of special risks, in addition to the risks of our domestic sales and operations, including differing protections of intellectual property, trade barriers, labor unrest, exchange controls, regional economic uncertainty, differing (and possibly more stringent) labor regulation, risk of governmental expropriation, domestic and foreign customs and tariffs, differing regulatory environments, difficulty in managing widespread operations and political instability and unrest. These factors may adversely affect our future profits. Also, in some foreign jurisdictions in which we operate, we may be subject to laws limiting the right and ability of entities organized or operating therein to pay dividends or remit earnings to affiliated companies unless specified conditions are met. Any such limitations would restrict our flexibility in using funds generated in those jurisdictions and potentially limit the cash available to repay the notes.

Foreign currency exchange rate fluctuations could adversely affect our results of operations.

We own and operate paper and pulp mills in Germany, France and the Philippines, as well as a recently acquired mill in the United Kingdom. The local currency in Germany and France is the Euro, in the Philippines, it is the Peso, and in the United Kingdom, it is the Pound Sterling. During the year ended December 31, 2005, our operations in Germany, France and the Philippines generated approximately 29% of our sales and 30% of our operating expenses. The translation of the results from our international operations into U.S. dollars is subject to changes in the exchange rate of those currencies into dollars. For example, if the value of the dollar were to rise against these currencies, the dollar value of the revenues and earnings generated by these businesses would decrease.

Our ability to maintain our products price competitiveness for our operations based outside the United States is reliant, in part, on the relative strength of the currency in which the product s price is denominated compared to the currency of the market into which it is sold and the functional currency of our competitors. Changes in the rate of exchange of foreign currencies in relation to the U.S. dollar and other currencies may

adversely affect our ability to offer products in certain markets at acceptable prices and ultimately our results of operations.

We may be unable to generate sufficient cash flow to simultaneously fund our operations, finance capital expenditures and satisfy obligations.

Our business is capital intensive and requires significant expenditures for equipment maintenance and new or enhanced equipment, for environmental compliance matters and to support our business strategies and research and development efforts. We expect to meet all of our near- and longer-term cash needs from a combination of operating cash flow, cash and cash equivalents, sale of timberlands, our existing credit facility or other bank lines of credit and other long-term debt. If we are unable to generate sufficient cash flow from these sources, we could be unable to meet our near- and longer-term cash needs.

We may be unable to achieve expected proceeds from a sale of our timberlands.

One of our primary business strategies is to sell 40,000 acres of higher and better use, or HBU, properties over a three- to five-year period. Our ability to sell these timberlands for the expected price depends on market conditions, including the availability of similar properties for sale that would compete with our properties. As a result, we may be unable to achieve the approximately $150 million to $200 million in pre-tax proceeds we expect from the sale of these timberlands. It is estimated that our pre-tax cost of fiber will increase by approximately $2.3 million to $4.6 million per year when all 40,000 HBU acres are sold. These costs could be higher than estimated which could adversely affect our financial results.

We may be unable to maintain our relationships with organized labor unions.

As of December 31, 2005, approximately 68% of our global workforce was represented by various labor unions. While we believe we enjoy satisfactory relationships with all of the labor organizations that represent our employees, we cannot guarantee that labor-related disputes will not arise. Labor disputes could result in disruptions in production and could also cause increases in production costs, which could harm relationships with our customers and adversely affect our business and financial results.

If we fail to maintain satisfactory relationships with our larger customers, our business may be harmed.

With the exception of Chillicothe, we generally have not entered into long-term supply agreements with our customers. We regularly submit bids for new business or renewal of existing business. Due to competition or other factors, we may lose business from our customers, either partially or completely. The loss of one or more of our significant customers, or a substantial reduction of orders by any of our significant customers, could harm our business and results of operations. Moreover, our customers vary their order levels significantly from period to period, and customers may not continue to place orders with us in the future at the same levels as in prior periods. In the event we lose any of our larger customers, we may not be able to replace that revenue source, which could harm our financial results.

Several long-term Chillicothe customer agreements may limit the flexibility of that business.

We have several long-term agreements with customers of our Chillicothe business. These agreements do not contain any commitment by those customers to purchase Chillicothe products but require us to provide products to such customers, upon request, at market prices at any time during the term of any such agreement. Our commitment to provide Chillicothe customers with products for the full term of such agreements would limit our flexibility to exit certain aspects of the Chillicothe business if it became strategically desirable to do so.

Risks Relating to Our Indebtedness

Our indebtedness could adversely affect our financial health and prevent us from fulfilling our obligations under the notes.

We have now and will continue to have, a significant amount of indebtedness. As of June 30, 2006, we had $52.9 million of indebtedness outstanding under our new revolving credit facility, $99.4 million of indebtedness outstanding under our new term loan facility, $200 million of indebtedness outstanding under the unregistered notes and $34.0 million of indebtedness outstanding under our note payable to SunTrust. Our indebtedness could materially and adversely affect us in a number of ways. For example, it could:

make it more difficult for us to satisfy our obligations with respect to the notes;

increase our vulnerability to adverse economic and industry conditions;

require us to dedicate a substantial portion of our cash flow from operations to payments on our indebtedness, thereby reducing the availability of our cash flow to fund working capital, capital expenditures and other general corporate purposes;

limit our flexibility in planning for, or reacting to, changes in our business and the industry in which we operate;

place us at a disadvantage compared to our competitors that have less debt; and

limit our ability to borrow additional funds, including for future acquisitions, to meet our operating expenses and for other purposes.

In addition, a substantial portion of our debt, including borrowings under our new credit facility, bears interest at variable rates. If market interest rates increase, variable-rate debt will create higher debt service requirements, which could adversely affect our cash flow. While we may enter into agreements limiting our exposure to higher interest rates, any such agreements may not offer complete protection from this risk.

Despite our current level of indebtedness, we and our subsidiaries may still be able to incur substantially more debt.

We and our subsidiaries may be able to incur substantial additional indebtedness in the future. The terms of the indenture governing the notes and the credit agreement relating to our new credit facility do not fully prohibit us from doing so. If new debt is added to our current level of indebtedness, the risks associated with our indebtedness discussed above will be increased. See Description of Other Indebtedness.

To service our indebtedness, we will require a significant amount of cash. Our ability to generate cash depends on many factors beyond our control.

Our ability to make payments on, and to refinance, our indebtedness, including the notes, and to fund planned capital expenditures will depend on our ability to generate cash in the future. This is subject to general economic, financial, competitive, legislative, regulatory and other factors, many of which are beyond our control.

Our business may not generate sufficient cash flow from operations, and we may not have available to us future borrowings in an amount sufficient to enable us to pay our indebtedness, including the notes, or to fund our other liquidity needs. In these circumstances, we may need to refinance all or a portion of our indebtedness, including the notes, on or before maturity. Our ability to refinance our indebtedness or obtain additional financing will depend on, among other things:

our financial condition at the time;

restrictions in the agreements governing our indebtedness, including the indenture governing the notes; and

the condition of the financial markets and the industry in which we operate.

As a result, we may not be able to refinance any of our indebtedness, including our new credit facility and the notes, on commercially reasonable terms or at all. Without this financing, we could be forced to sell assets to make up for any shortfall in our payment obligations under unfavorable circumstances. The terms of our new credit facility and the indenture governing the notes limit our ability to sell assets and also restrict the use of proceeds from such a sale. In addition, we may not be able to sell assets quickly enough or for sufficient amounts to enable us to meet our obligations, including our obligations under the notes. Any failure to make scheduled payments of interest and principal on our outstanding indebtedness when due would permit the holders of such indebtedness to declare an event of default and accelerate the indebtedness, which in turn could lead to cross-defaults under our other indebtedness, including our new credit facility and the indenture governing the notes.

The agreements that govern our new credit facility and the notes contain various covenants that limit our discretion in the operation of our business.

The agreements and instruments that govern both our new credit facility and the notes contain various restrictive covenants that, among other things, restrict our ability to:

incur more debt;

pay dividends, purchase company stock or make other distributions;

make certain investments;

create certain liens;

enter into transactions with affiliates;

make acquisitions;

merge or consolidate; and

transfer or sell assets.

In addition, the new credit facility contains covenants that require us to achieve and maintain certain financial tests or ratios, including some that become more restrictive over time.

Our ability to comply with these covenants is subject to various risks and uncertainties. In addition, events beyond our control could affect our ability to comply with these covenants. A failure to comply with these covenants could result in an event of default under our new credit facility, which, if not cured or waived, could have a material adverse affect on our business, financial condition and results of operations. In the event of any default under our new credit facility, the lenders thereunder:

will not be required to lend any additional amounts to us;

could elect to declare all of our outstanding borrowings, together with accrued and unpaid interest and fees, to be immediately due and payable; and

could effectively require us to apply all of our available cash to repay our borrowings even if they do not accelerate the borrowings,

which actions could result in an event of default under the notes.

If we were unable to repay debt to our secured lenders, these lenders could also proceed against the collateral securing that debt. Even if we are able to comply with all applicable covenants, the restrictions on our ability to manage our business in our sole discretion could harm our business by, among other things, limiting our ability to take advantage of financings, investments, acquisitions and other corporate transactions that may be beneficial to us.

We may not have the ability to raise the funds necessary to finance, and may also be prohibited from making, the change of control offer required by the indenture governing the notes and our new credit facility.

Upon the occurrence of certain specific kinds of change of control events, we will be required under the terms of the indenture to offer to repurchase the notes and, under the terms of our new credit facility, to repay all outstanding indebtedness under that facility, plus accrued and unpaid interest, if any. We may not have sufficient funds at the time of the change of control to make the required repurchase of the notes. In the event a change of control occurs at a time when we are prohibited from purchasing the notes and we are unable to obtain consents from our lenders to repurchase the notes or are unable to refinance such obligations, we may be unable to repurchase the notes. Any failure to repurchase the notes under a change of control situation would constitute an event of default under the indenture governing the notes which may in turn lead to an event of default under our credit facilities or agreements governing our other future indebtedness.

Federal and state statutes allow courts, under specific circumstances, to void guarantees and require note holders to return payments received from our subsidiary guarantors.

If a bankruptcy case or lawsuit is initiated by unpaid creditors of any subsidiary guarantor, the debt represented by the guarantees entered into by our subsidiary guarantors may be reviewed under federal bankruptcy law and comparable provisions of state fraudulent transfer laws. Under these laws, a guarantee could be voided, or claims in respect of a guarantee could be subordinated to other obligations of a subsidiary guarantor if, among other things, the subsidiary guarantor, at the time it incurred the indebtedness evidenced by its guarantee:

received less than reasonably equivalent value or fair consideration for entering into the guarantee; and

either:

was insolvent or rendered insolvent by reason of entering into a guarantee; or

was engaged in a business or transaction for which the subsidiary guarantor s remaining assets constituted unreasonably small capital; or

intended to incur, or believed that it would incur, debts or contingent liabilities beyond its ability to pay such debts or contingent liabilities as they become due.

The measures of insolvency for purposes of these fraudulent transfer laws will vary depending upon the law applied in any proceeding to determine whether a fraudulent transfer has occurred. Generally, however, a subsidiary guarantor would be considered insolvent if:

the sum of its debts, including contingent liabilities, were greater than the fair saleable value of all of its assets; or

the present fair saleable value of its assets were less than the amount that would be required to pay its probable liability on its existing debts, including contingent liabilities, as they become absolute and mature; or

it could not pay its debts or contingent liabilities as they become due.

A court would likely find that a subsidiary guarantor did not receive reasonably equivalent value or fair consideration for its guarantee if the subsidiary guarantor did not substantially benefit directly or indirectly from the issuance of the notes.

In the event of a finding that a fraudulent conveyance or transfer has occurred, the court may void, or hold unenforceable, the subsidiary guarantees, which could mean that you may not receive any payments under the guarantees and the court may direct you to repay any amounts that you have already received from any subsidiary guarantor to such subsidiary guarantor or a fund for the benefit of such subsidiary guarantor s creditors. Furthermore, the holders of the notes would cease to have any direct claim against the applicable

subsidiary guarantor. Consequently, the applicable subsidiary guarantor s assets would be applied first to satisfy the applicable subsidiary guarantor s other liabilities, before any portion of its assets could be applied to the payment of the notes. Sufficient funds to repay the notes may not be available from other sources, including the remaining subsidiary guarantors, if any. Moreover, the voidance of a subsidiary guarantee could result in an event of default with respect to our and our subsidiary guarantors other debt that in turn could result in acceleration of such debt (if not otherwise accelerated due to our or our subsidiary guarantors insolvency or other proceeding).

On the basis of historical financial information, recent operating history and other factors, we believe that each subsidiary guarantor, after giving effect to its guarantee of these notes, will not be insolvent, will not have unreasonably small capital for the business in which it is engaged and will not have incurred debts beyond its ability to pay such debts as they mature. We cannot assure you, however, as to what standard a court would apply in making these determinations or that a court would agree with our conclusions in this regard.

Each subsidiary guarantee will contain a provision intended to limit the subsidiary guarantor s liability to the maximum amount that it could incur without causing the incurrence of obligations under its guarantee to be a fraudulent transfer. This provision may not be effective to protect the guarantees from being voided under fraudulent transfer laws or may reduce or eliminate the subsidiary guarantor s obligation to an amount that effectively makes the guarantee worthless.

We may not have access to the cash flow and other assets of our non-guarantor subsidiaries that may be needed to make payments on the notes.

Although much of our business is conducted through our subsidiaries, not all of our subsidiaries will guarantee the notes. In addition, under certain circumstances our subsidiary guarantors may be released from their guarantees. See Description of the Notes Guarantees. Accordingly, our ability to make payments on the notes may be or become dependent on the earnings and the distribution of funds from our non-guarantor subsidiaries. Our subsidiaries will be permitted under the terms of the indenture with respect to the notes to incur additional indebtedness that may severely restrict or prohibit the making of distributions, the payment of dividends or the making of loans by such subsidiaries to us. We cannot assure you that the agreements governing the current and future indebtedness of our non-guarantor subsidiaries will permit these subsidiaries to provide us with sufficient dividends, distributions or loans to fund payments on the notes when due. In addition, to the extent the guarantees of the notes by our guarantor subsidiaries may be limited or unenforceable, we may also not be able to access the earnings of those subsidiaries to help service the notes. See Federal and state statutes allow courts, under specific circumstances, to void guarantees and require note holders to return payments received from our subsidiary guarantors.

The notes are be effectively subordinated to all liabilities and claims of creditors of our current and future non-guarantor subsidiaries.

The notes will be structurally subordinated to indebtedness and other liabilities of our non-guarantor subsidiaries, along with any future subsidiaries that do not guarantee the notes. In the event of a bankruptcy, liquidation or reorganization of any of our non-guarantor subsidiaries, these non-guarantor subsidiaries will pay the holders of their debts, holders of preferred equity interests and their trade creditors before they will be able to distribute any of their assets to us.

There may be no active trading market for the notes, and, if one develops, it may not be liquid.

The notes were a new issues of securities for which there was no established trading market. We do not intend to list the notes on any national securities exchange or to seek the admission of the notes for quotation through the National Association of Securities Dealers Automated Quotation System. Although when the notes were initially issued the initial purchasers advised us that they intended to make a market in the notes, they are not obligated to do so and may discontinue such market making activity at any time without notice. In addition, market making activity will be subject to the limits imposed by the Securities Act, and may be

limited during the exchange offer and the pendency of any shelf registration statement. Although the notes are eligible for trading in The PORTAL[sm] Market, there can be no assurance as to the development or liquidity of any market for the notes, the ability of the holders to sell their notes or the price at which the holders would be able to sell their notes. Future trading prices of the notes will depend on many factors, including:

our operating performance and financial condition;

our ability to complete the offer to exchange the unregistered notes for the exchange notes;

the interest of securities dealers in making a market; and

the market for similar securities.

Historically, the market for non-investment-grade debt has been subject to disruptions that have caused substantial volatility in the prices of securities similar to the notes offered hereby. The market for the notes may be subject to similar disruptions. Any such disruptions may adversely affect the value of your notes.

If you do not exchange your unregistered notes, they may be difficult to resell. It may be difficult for you to sell unregistered notes that are not exchanged in the exchange offer since any unregistered notes not exchanged will remain subject to the restrictions on transfer provided for in Rule 144 under the Securities Act of 1933, as amended (the Securities Act). These restrictions on transfer of your unregistered notes exist because we issued the unregistered notes pursuant to an exemption from the registration requirements of the Securities Act and applicable state securities laws. Generally, the unregistered notes that are not exchanged for exchange notes pursuant to the exchange offer will remain restricted securities and may not be offered or sold, unless registered under the Securities Act, except pursuant to an exemption from, or in a transaction not subject to, the Securities Act and applicable state securities laws. Other than in connection with the exchange offer, we do not intend to register the unregistered notes under the Securities Act. To the extent any unregistered notes are tendered and accepted in the exchange offer, the trading market, if any, for the unregistered notes that remain outstanding after the exchange offer would be adversely affected due to a reduction in market liquidity.

FORWARD-LOOKING STATEMENTS

The statements contained in this prospectus, including the documents incorporated by reference, that are not purely historical are forward-looking statements within the meaning of Section 21E of the Securities Exchange Act of 1934, as amended, or the Exchange Act, and Section 27A of the Securities Act. When used in this prospectus and the documents incorporated by reference, the words or phrases expects, will continue, estimates, we believe and simila expressions are intended to identify forward-looking statements within the meaning of the Exchange Act and the Securities Act. Forward-looking statements include plans, commitments and objectives of management for future operations. These forward-looking statements involve risks and uncertainties and are based on assumptions that may not be realized. Actual results and outcomes may differ materially from those discussed or anticipated. The following important factors, among others, could cause our actual results to differ from any results that might be projected, forecasted or estimated in this prospectus and the documents incorporated by reference:

- variations in demand for, or pricing of, our products;
- changes in the cost or availability of raw materials we use, in particular pulpwood, market pulp, pulp substitutes and abaca fiber, and changes in energy-related costs;
- our ability to develop new, higher-value-added products;
- the impact of competition, changes in industry paper production capacity, including the construction of new mills, the closing of mills and incremental changes due to capital expenditures or productivity increases;
- costs and other effects of environmental compliance, cleanup, damages, remediation or restoration, or personal injury or property damages related thereto, such as the costs of natural resource restoration or damages related to the presence of polychlorinated biphenyls, or PCBs, in the lower Fox River on which our Neenah, Wisconsin facility is located, and the costs of environmental matters at our former Ecusta paper facility located in North Carolina;
- the gain or loss of significant customers and/or the ongoing viability of such customers;
- risks associated with our international operations, including local economic and political environments and fluctuations in currency exchange rates;
- geopolitical events, including war and terrorism;
- enactment of adverse state, federal or foreign tax or other legislation or changes in government policy or regulation;
- adverse results in litigation;
- disruptions in production and/or increased costs due to labor disputes;
- our ability to successfully implement the European Restructuring and Optimization Program;
- our ability to successfully execute our timberland strategy to realize the value of our timberlands;
- our ability to execute the planned shutdown of our Neenah facility in an orderly manner;
- our ability to finance, consummate and integrate acquisitions;

our ability to achieve the anticipated synergies from our acquisition of the carbonless business operations of NewPage Corporation, which is more fully described in this prospectus, and the related shutdown of our Neenah facility; and

all other risk factors described in the section entitled Risk Factors.

RATIO OF EARNINGS TO FIXED CHARGES

Set forth below is information concerning our ratio of earnings to fixed charges. This ratio shows the extent to which our business generates enough earnings after the payment of all expenses other than interest to make required interest payments on our debt.

For the purposes of calculating the ratio of earnings to fixed charges, earnings represent income from continuing operations before income taxes plus fixed charges. Fixed charges consist of interest expense (including capitalized interest) on all indebtedness plus amortization of debt issuance costs and the portion of rental expense that we believe is representative of the interest component of rental expense.

	Year Ended December 31,					
	2001	**2002**	**2003**	**2004**	**2005**	**Three Months Ended March 31, 2006**
Ratio of earnings to fixed charges	1.69x	4.63x	2.32x	7.27x	5.28x	(1)

(1) For the three months ended March 31, 2006 the deficit in earnings to fixed charges totaled $18.1 million.

USE OF PROCEEDS

We will not receive any proceeds from the exchange offer. In consideration for issuing the exchange notes contemplated by this prospectus, we will receive unregistered notes in like principal amount. The unregistered notes surrendered in exchange for the exchange notes will be retired and canceled and cannot be reissued. Accordingly, the issuance of the exchange notes will not result in any change in our indebtedness.

CAPITALIZATION

The following table sets forth our cash and cash equivalents, our long-term debt and our capitalization on an actual basis as of March 31, 2006. You should read this table in conjunction with Unaudited Pro Forma Consolidated Financial Statements, Management s Discussion and Analysis of Financial Condition and Results of Operations, our audited consolidated financial statements and related notes and the audited combined financial statements of Chillicothe and related notes, each appearing elsewhere in, or incorporated by reference into, this prospectus.

		As of March 31, 2006
Cash and cash equivalents	$	28,818
Other short-term debt	$	3,295
Long-term debt:		
Revolving credit facility(1)		70,749
New term loan facility(2)		
6 7/8 % notes due July 2007(3)		150,000
7 1/8 notes due 2016(4)		
SunTrust note payable		34,000
Shareholders equity:		
Common stock		544
Capital in excess of par value		41,186
Retained earnings		531,949
Accumulated other comprehensive income (loss)		(3,432)
Treasury stock		(148,323)
Total shareholders equity		421,924
Total capitalization	$	679,968

(1) As of June 30, 2006, we had approximately $52.9 million of borrowings outstanding under our new revolving credit facility. Our revolving credit facility provides for aggregate borrowings of $200.0 million and matures in April 2011.

(2) As of June 30, 2006, we had $99.4 million outstanding under our new term loan facility. Our new term loan facility matures in April 2011.

(3) On June 5, 2006, the $150 million 6 7/8% notes were redeemed with proceeds from the $200 million 7 1/8 % note issuance.

(4) As of June 30, 2006, we had $200 million of 7 1/8 % notes due 2016 outstanding.

DESCRIPTION OF OTHER INDEBTEDNESS

New Credit Facility

On April 3, 2006, we, along with certain of our subsidiaries as borrowers and certain of our subsidiaries as guarantors, entered into a credit agreement with certain banks named therein, PNC Bank, National Association, as agent, PNC Capital Markets LLC and Credit Suisse Securities (USA) LLC, as joint lead arrangers and bookrunners, and Credit Suisse Securities (USA) LLC, as syndication agent. This new credit facility replaced our prior credit facility maturing in June 2006. A portion of the proceeds from the new credit facility were used to repay in full all amounts outstanding under our former $125.0 million revolving credit facility which was scheduled to expire on June 24, 2006. The remaining proceeds were used to finance the Chillicothe acquisition and for general corporate purposes.

Pursuant to the credit agreement for our new credit facility, we may borrow, repay and reborrow revolving credit loans in an aggregate principal amount not to exceed $200.0 million outstanding at any time. Under the revolving credit facility, we may request (i) letters of credit in an aggregate face amount not to exceed $20.0 million and (ii) swing loans (as defined in the credit agreement) in an aggregate principal amount not to exceed $20.0 million. Under the credit agreement, we have the option to request of PNC Bank, subject to the approval of the banks, that the maximum principal amount under the revolving credit facility be increased from $200.0 million up to a maximum of $250.0 million. All borrowings under our credit facility are unsecured.

Borrowings under our revolving credit facility may be used for working capital, acquisitions, capital expenditures, investments and for other general corporate purposes. As of June 30, 2006, approximately $52.9 million of indebtedness was outstanding under our revolving credit facility. The revolving credit commitment expires on April 2, 2011.

In addition, on April 3, 2006, pursuant to the credit agreement, we received a term loan in the principal amount of $100.0 million. Quarterly repayments of principal outstanding under the term loan begin on March 31, 2007 with the final principal payment due on April 2, 2011.

Borrowings under the credit agreement bear interest, at our option, at either (a) the bank s base rate described in the credit agreement as the greater of the prime rate or the federal funds rate plus 50 basis points, or (b) the EURO rate based generally on the London Interbank Offer Rate, plus an applicable margin that varies from 67.5 basis points to 137.5 basis points according to our corporate credit rating determined by S&P and Moody s.

We have the right to prepay the term loan and revolving credit borrowings in whole or in part without premium or penalty, subject to timing conditions related to the interest rate option chosen. If certain prepayment events occur, such as a sale of assets or the incurrence of additional indebtedness in excess of $10.0 million in the aggregate, we must repay a specified portion of the term loan within five days of the prepayment event.

The credit agreement contains a number of customary events of default for financings of this type including, without limitation, (i) failure to pay principal, interest or fees when due, (ii) material breach of representations or warranties, (iii) covenant default, (iv) cross-default to other debt in excess of an agreed amount, (v) a change of control, (vi) insolvency or bankruptcy and (vii) monetary judgment default in excess of an agreed amount. If an event of default under the credit agreement occurs and is continuing, then PNC Bank may declare outstanding obligations under the credit agreement immediately due and payable.

The credit agreement contains a number of customary covenants for financings of this type that, among other things, restrict our ability to dispose of or create liens on assets, incur additional indebtedness, repay other indebtedness, create liens on assets, make acquisitions and engage in mergers or consolidations. We are also required to comply with specified financial tests and ratios, each as defined in the credit agreement, including a consolidated minimum net worth test and a maximum debt to EBITDA ratio. A breach of these requirements would give rise to certain remedies under the credit agreement, among which are the termination of the agreement and acceleration of the outstanding borrowings plus accrued and unpaid interest under our new credit facility.

Note Payable to SunTrust

On March 21, 2003, we sold approximately 25,500 acres of timberlands and received as consideration a $37.9 million 10-year interest-bearing note receivable from The Conservation Fund. We pledged the note as collateral under a $34.0 million note payable to SunTrust Financial.

The note payable bears interest at a fixed rate of 3.82% per annum for five years and matures on March 26, 2008, at which time we can choose to renew the obligation. We have the right at any time to prepay the term loan, in whole but not in part, without premium or penalty.

The note payable contains a number of restrictive covenants that, among other things, limit our ability to dispose of assets, incur additional indebtedness, repay other indebtedness, create liens on assets, make acquisitions and engage in mergers or consolidations.

SELECTED CONSOLIDATED FINANCIAL DATA

You should read the following selected consolidated financial data in conjunction with Management s Discussion and Analysis of Financial Condition and Results of Operations in our Annual Report on Form 10-K for the year ended December 31, 2005 and our Quarterly Report on Form 10-Q for the three months ended March 31, 2006, each of which is incorporated by reference herein, and our audited consolidated financial statements and related notes included elsewhere in, or incorporated by reference into, this prospectus. The following selected consolidated financial data as of December 31, 2004 and 2005 and for each of the three years ended December 31, 2005 is derived from our audited consolidated financial statements included elsewhere in this prospectus. The selected consolidated financial data as of December 31, 2002 and 2003 and for each of the two years ended December 31, 2002 is derived from our audited consolidated financial statements not included in this prospectus. The selected consolidated financial data as of December 31, 2001 is derived from our audited consolidated financial statements not included in this prospectus and is adjusted to reflect the impact of the sale in July 2003 of our Wisches, France subsidiary and the resulting treatment of this subsidiary as a discontinued operation. The selected consolidated financial information for the three months ended, and as of, March 31, 2005 and 2006 is derived from our unaudited condensed consolidated financial statements included elsewhere in this prospectus. The historical results are not necessarily indicative of our future results of operations or financial performance.

	Year Ended December 31					Three Months Ended March 31	
	2001	2002	2003	2004	2005	2005	2006
	In thousands						
Income Statement Data:							
Net sales	$ 632,602	$ 540,347	$ 533,193	$ 543,524	$ 579,121	$ 143,896	$ 160,606
Energy sales net	9,661	9,814	10,040	9,953	10,078	2,544	2,457
Total revenues	642,263	550,161	543,233	553,477	589,199	146,440	163,063
Cost of products sold	501,142	423,880	463,687	461,063	492,023	117,846	142,798
Gross profit	141,121	126,281	79,546	92,414	97,176	28,594	20,265
Selling, general and administrative expenses	60,225	53,699	59,146	59,939	67,633	17,390	16,697
Restructuring charges		4,249	6,983	20,375	1,564		19,298
Unusual items	60,908	(2,008)	11,501				
Gains on disposition of plant, equipment and timberlands, net	(2,015)	(1,304)	(32,334)	(58,509)	(22,053)	(60)	10
Insurance recoveries				(32,785)	(20,151)		
Operating income (loss)	22,003	71,645	34,250	103,394	70,183	11,264	(15,740)
Other nonoperating income (expense)							
Interest expense	(15,628)	(15,103)	(14,269)	(13,385)	(13,083)	(3,260)	(3,393)
Interest income	3,589	1,571	1,820	2,012	2,012	498	666
Other net	1,558	1,016	(1,385)	(1,258)	1,028	261	350
	(10,481)	(12,516)	(13,834)	(12,631)	(10,043)	(2,501)	(2,377)

Total other nonoperating expenses							
Income (loss) from continuing operations before income taxes	11,522	59,129	20,416	90,763	60,140	8,763	(18,117)
Income tax provision (benefit)	4,693	21,492	7,430	34,661	21,531	2,473	(6,252)
Income (loss) from continuing operations	6,829	37,637	12,986	56,102	38,609	6,290	(11,865)
Discontinued operations							
Income (loss) from discontinued operations	198	(64)	(513)				
Income tax provision (benefit)	69	(22)	(188)				
Income (loss) from discontinued operations	129	(42)	(325)				
Net income (loss)	$ 6,958	$ 37,595	$ 12,661	$ 56,102	$ 38,609	$ 6,290	$ (11,865)

	Year Ended December 31					Three Months Ended March 31	
	2001	2002	2003	2004	2005	2005	2006
	Dollars in thousands						
Cash Flow Data:							
Cash provided (used) by continuing operations:							
Operating activities	$ 64,437	$ 77,706	$ 46,996	$ 39,584	$ 42,868	$ (9,115)	$ (4,712)
Investing activities	(30,536)	(49,610)	(62,367)	42,109	(8,029)	(4,610)	(73,511)
Financing activities	(48,710)	(84,605)	(2,462)	(59,753)	(15,158)	(1,892)	49,333
Balance Sheet Data (at end of period):							
Cash and cash equivalents	$ 95,407	$ 32,219	$ 15,566	$ 39,951	$ 57,442		$ 28,818
Working capital(1)	32,213	88,140	59,232	94,445	83,679		89,196
Total assets	966,604	953,202	1,027,019	1,052,270	1,044,977		1,092,777
Total debt	277,155	220,532	254,275	211,226	207,073		258,044
Shareholders equity	353,469	373,833	371,431	420,370	432,312		421,924

(1) Working capital is defined as current assets less current liabilities.

THE EXCHANGE OFFER

Purpose and Effect of Exchange Offer; Registration Rights

We sold the unregistered notes to Credit Suisse Securities (USA) LLC, PNC Capital Markets LLC, ABN AMRO Incorporated and SunTrust Capital Markets, Inc. as the initial purchasers, pursuant to a purchase agreement dated April 25, 2005. The initial purchasers resold the unregistered notes in reliance on Rule 144A under the Securities Act. In connection with the sale of the unregistered notes, we entered into a registration rights agreement with the initial purchasers.

Under the registration rights agreement we agreed:

(1) within 120 days after the date on which the unregistered notes were issued, to file a registration statement with the SEC with respect to the exchange offer to exchange the unregistered notes for exchange notes of the Company identical in all material respects to the unregistered notes (except that the exchange notes will not contain terms with respect to transfer restrictions);

(2) to use our reasonable best efforts to cause the registration statement to be declared effective under the Securities Act within 180 days after the date on which the unregistered notes were issued; and

(3) as soon as practicable after the effectiveness of the registration statement to offer the exchange notes in exchange for surrender of the unregistered notes; and

(4) to use our reasonable best efforts to keep the exchange offer open for not less than 30 days (or longer if required by applicable law) after the date notice of the exchange offer is mailed to the holders of the notes.

For each unregistered note validly tendered to us and not withdrawn pursuant to the exchange offer, we will issue to the holder of such unregistered note an exchange note having a principal amount equal to that of the surrendered unregistered note. Interest on each exchange note will accrue from the last interest payment date on which interest was paid on the unregistered note surrendered in exchange therefor, or, if no interest has been paid on such unregistered note, from the date of its original issue.

Under existing SEC interpretations, the exchange notes will be freely transferable by holders other than our affiliates after the exchange offer without further registration under the Securities Act if the holder of the exchange notes represents to us in the exchange offer that it is acquiring the exchange notes in the ordinary course of its business, that it has no arrangement or understanding with any person to participate in the distribution of the exchange notes and that it is not an affiliate of the Company, as such terms are interpreted by the SEC; *provided, however*, that broker-dealers receiving exchange notes in the exchange offer will have a prospectus delivery requirement with respect to resales of such exchange notes. The SEC has taken the position that such participating broker-dealers may fulfill their prospectus delivery requirements with respect to exchange notes (other than a resale of an unsold allotment from the original sale of the unregistered notes) with the prospectus contained in the registration statement.

Under the registration rights agreement, the Company is required to allow participating broker-dealers and other persons, if any, with similar prospectus delivery requirements to use the prospectus contained in the registration statement in connection with the resale of the exchange notes for 180 days following the effective date of such registration statement (or such shorter period during which Participating Broker-Dealers are required by law to deliver such prospectus).

The exchange offer is not being made to, nor will we accept tenders for exchange from, holders of unregistered notes in any jurisdiction in which the exchange offer or the acceptance of the exchange offer would not be in compliance with the securities laws or blue sky laws of such jurisdiction.

If a holder is eligible to participate in this exchange offer and does not tender its unregistered notes as described in this prospectus, such holder will not have any further registration rights. In that case, the unregistered notes of such holder will continue to be subject to restrictions on transfer under the Securities Act.

Shelf Registration

In the registration rights agreement, we agreed to file a shelf registration statement in certain circumstances, including if:

(1) applicable interpretations of the staff of the SEC do not permit us to effect such an exchange offer;

(2) for any other reason we do not consummate the exchange offer within 220 days of the date on which the unregistered shares are issued;

(3) an initial purchaser shall notify us following consummation of the exchange offer that unregistered notes held by it are not eligible to be exchanged for exchange notes in the exchange offer; or

(4) certain holders are prohibited by law or SEC policy from participating in the exchange offer or may not resell the exchange notes acquired by them in the exchange offer to the public without delivering a prospectus.

If a shelf registration is required, we will:

(1) promptly file a shelf registration statement with the SEC covering resales of the unregistered notes or the exchange notes, as the case may be;

(2) (A) in the case of clause (1) immediately above, use our reasonable best efforts to cause the shelf registration statement to be declared effective under the Securities Act on or prior to the 180th day after the date on which the unregistered notes were issued and (B) in the case of clause (2), (3) or (4) above, use our reasonable best efforts to cause the shelf registration statement to be declared effective under the Securities Act on or prior to the 40th day after the date on which the shelf registration statement was required to be filed; and

(3) keep the shelf registration statement effective until the earliest of (A) the time when the unregistered notes covered by the shelf registration statement can be sold pursuant to Rule 144 without any limitations under clauses (c), (e), (f) and (h) of Rule 144, (B) two years from the date on which the unregistered notes were issued and (C) the date on which all notes registered thereunder are disposed of in accordance therewith.

We will, in the event a shelf registration statement is filed, among other things, provide to each holder for whom such shelf registration statement was filed copies of the prospectus which is a part of the shelf registration statement, notify each such holder when the shelf registration statement has become effective and take certain other actions as are required to permit unrestricted resales of the unregistered notes or the exchange notes, as the case may be. A holder selling the unregistered notes or exchange notes pursuant to the shelf registration statement generally would be required to be named as a selling security holder in the related prospectus and to deliver a prospectus to purchasers, will be subject to certain of the civil liability provisions under the Securities Act in connection with such sales and will be bound by the provisions of the registration rights agreement that are applicable to such holder (including certain indemnification obligations).

We may require each holder requesting to be named as a selling security holder to furnish to us such information regarding the holder and the distribution of the unregistered notes or exchange notes by the holder as we may from time to time reasonably require for the inclusion of the holder in the shelf registration statement, including requiring the holder to properly complete and execute such selling security holder notice and questionnaires, and any amendments or supplements thereto, as we may reasonably deem necessary or appropriate. We may refuse to name any holder as a selling security holder that fails to provide us with such information.

Additional Interest

We will pay additional cash interest on the unregistered notes and exchange notes, subject to certain exceptions,

(1) if the we fail to file an registration statement with the SEC on or prior to the 120th day after the date on which the unregistered notes were issued,

(2) if the registration statement is not declared effective by the SEC on or prior to the 180th day after the or, if obligated to file a shelf registration statement pursuant to clause (6)(A) above, a shelf registration statement is not declared effective by the SEC on or prior to the 180th day after the date on which the unregistered notes were issued,

(3) if the exchange offer is not consummated on or before the 40th day after the registration statement is declared effective,

(4) if obligated to file the shelf registration statement pursuant to clause (6)(B) above, the we fail to file the shelf registration statement with the SEC on or prior to the 40th day after the date on which the obligation to file a shelf registration statement arises,

(5) if obligated to file a shelf registration statement pursuant to clause (6)(B) above, the shelf registration statement is not declared effective on or prior to the 40th day after the registration statement is filed, or

(6) after the registration statement or the shelf registration statement, as the case may be, is declared effective, such registration statement or shelf registration statement thereafter ceases to be effective or usable (subject to certain exceptions) (each such event referred to in the preceding clauses (1) through (6), a registration default); from and including the date on which any such registration default shall occur to but excluding the date on which all registration defaults have been cured.

The rate of the additional interest will be 0.50% per annum for the first 90-day period immediately following the occurrence of a registration default, and such rate will increase by an additional 0.50% per annum with respect to each subsequent 90-day period until all registration defaults have been cured, up to a maximum additional interest rate of 1.0% per annum. We will pay such additional interest on regular interest payment dates. Such additional interest will be in addition to any other interest payable from time to time with respect to the unregistered notes and the exchange notes.

The exchange offer is intended to satisfy our exchange offer obligations under the registration rights agreement. The exchange notes will not have rights to additional interest as set forth above, upon the consummation of the exchange offer. The above summary of the registration rights agreement is not complete and is subject to, and qualified by reference to, all the provisions of the registration rights agreement. A copy of the registration rights agreement is an exhibit to the registration statement that includes this prospectus.

Terms of the Exchange Offer

Upon the terms and subject to the conditions set forth in this prospectus and in the accompanying letter of transmittal, we are offering to exchange $1,000 principal amount of exchange notes for each $1,000 principal amount of unregistered notes. You may tender some or all of your unregistered notes only in integral multiples of $1,000. As of the date of this prospectus, $200,000,000 aggregate principal amount of the unregistered notes are outstanding.

The terms of the exchange notes to be issued are substantially similar to the unregistered notes, except that the exchange notes will have been registered under the Securities Act and, therefore, the certificates for the exchange notes will not bear legends restricting their transfer. The exchange notes will not have registration rights and will not have rights to additional interest. The exchange notes will be issued under and be entitled to the benefits of the Indenture (as defined in Description of the Exchange notes).

In connection with the issuance of the unregistered notes, we arranged for the unregistered notes to be issued and transferable in book-entry form through the facilities of DTC, acting as a depositary. The exchange notes will also be issuable and transferable in book-entry form through DTC.

There will be no fixed record date for determining the eligible holders of the unregistered notes that are entitled to participate in the exchange offer. We will be deemed to have accepted for exchange validly tendered unregistered notes when and if we have given oral (promptly confirmed in writing) or written notice of acceptance to the exchange agent. The exchange agent will act as agent for the tendering holders of unregistered notes for the purpose of receiving exchange notes from us and delivering them to such holders.

32

If any tendered unregistered notes are not accepted for exchange because of an invalid tender or the occurrence of certain other events described herein, certificates for any such unaccepted unregistered notes will be returned, without expenses, to the tendering holder thereof as promptly as practicable after the expiration of the exchange offer.

Holders of unregistered notes who tender in the exchange offer will not be required to pay brokerage commissions or fees or, subject to the instructions in the letter of transmittal, transfer taxes with respect to the exchange of unregistered notes for exchange notes pursuant to the exchange offer. We will pay all charges and expenses, other than certain applicable taxes, in connection with the exchange offer. It is important that you read the section Fees and Expenses below for more details regarding fees and expenses incurred in the exchange offer.

Any unregistered notes which holders do not tender or which we do not accept in the exchange offer will remain outstanding and continue to accrue interest and will be subject to restrictions on transfer. We will not have any obligation to register such unregistered notes under the Securities Act. Holders wishing to transfer unregistered notes would have to rely on exemptions from the registration requirements of the Securities Act.

Conditions of the Exchange Offer

You must tender your unregistered notes in accordance with the requirements of this prospectus and the letter of transmittal in order to participate in the exchange offer. Notwithstanding any other provision of the exchange offer, or any extension of the exchange offer, we will not be required to accept for exchange any unregistered notes, and may amend or terminate the exchange offer if:

- the exchange offer, or the making of any exchange by a holder of unregistered notes, violates applicable law or any applicable interpretation of the staff of the SEC;
- any action or proceeding shall have been instituted or threatened with respect to the exchange offer which, in our reasonable judgment, would impair our ability to proceed with the exchange offer; and
- any laws, rules or regulations or applicable interpretations of the staff of the SEC have been issued or promulgated, which, in our good faith determination, does not permit us to effect the exchange offer.

Expiration Date; Extensions; Amendment; Termination

The exchange offer will expire 5:00 p.m., New York City time, on , 2006, unless we, in our sole discretion, extend it. In the case of any extension, we will notify the exchange agent orally (promptly confirmed in writing) or in writing of any extension. We will also notify the registered holders of unregistered notes of the extension no later than 9:00 a.m., New York City time, on the business day after the previously scheduled expiration of the exchange offer.

To the extent we are legally permitted to do so, we expressly reserve the right, in our sole discretion, to:

- delay accepting any unregistered note;
- waive any condition of the exchange offer; and
- amend the terms of the exchange offer in any manner.

We will give oral or written notice of any non-acceptance of the unregistered notes or of any amendment to the exchange offer to the registered holders of the unregistered notes as promptly as practicable. If we consider an amendment to the exchange offer to be material, we will promptly inform the registered holders of unregistered notes of such amendment in a reasonable manner.

If we determine, in our sole discretion, that any of the events or conditions described in Conditions of the Exchange Offer has occurred, we may terminate the exchange offer. We may:

- refuse to accept any unregistered notes and return any unregistered notes that have been tendered to the holders;

extend the exchange offer and retain all unregistered notes tendered prior to the expiration of the exchange offer, subject to the rights of the holders of tendered unregistered notes to withdraw their tendered unregistered notes; or

waive the termination event with respect to the exchange offer and accept all properly tendered unregistered notes that have not been withdrawn.

If any such waiver constitutes a material change in the exchange offer, we will disclose the change by means of a supplement to this prospectus which will be distributed to each registered holder of unregistered notes, and we will extend the exchange offer for a period of five to ten business days, depending upon the significance of the waiver and the manner of disclosure to the registered holders of the unregistered notes, if the exchange offer would otherwise expire during that period.

Any determination by us concerning the events described above will be final and binding upon the parties. Without limiting the manner by which we may choose to make public announcements of any extension, delay in acceptance, amendment or termination of the exchange offer, we will have no obligation to publish, advertise, or otherwise communicate any public announcement, other than by making a timely release to a financial news service.

Interest on the Exchange Notes

The exchange notes will accrue interest from and including April 28, 2006, the date the unregistered notes were issued. Interest will be paid on the exchange notes semiannually on May 1 and November 1 of each year, commencing on November 1, 2006. Holders of unregistered notes that are accepted for exchange will be deemed to have waived the right to receive any payment in respect of interest accrued from the date of the last interest payment date that was made in respect of the unregistered notes until the date of the issuance of the exchange notes. Consequently, holders of exchange notes will receive the same interest payments that they would have received had they not accepted the exchange offer.

Resale of Exchange Notes

Based upon existing interpretations of the staff of the SEC set forth in several no-action letters issued to third parties unrelated to us, we believe that the exchange notes issued pursuant to the exchange offer in exchange for the unregistered notes may be offered for resale, resold and otherwise transferred by you without complying with the registration and prospectus delivery provisions of the Securities Act, provided that:

any exchange notes to be received by you will be acquired in the ordinary course of your business;

you are not engaged in, do not intend to engage in and have no arrangements or understandings with any person to participate in, the distribution of the unregistered notes or exchange notes;

you are not an affiliate (as defined in Rule 405 under the Securities Act) of ours or, if you are such an affiliate, you will comply with the registration and prospectus delivery requirements of the Securities Act to the extent applicable;

if you are a broker-dealer, you have not entered into any arrangement or understanding with us or any of our affiliates to distribute the exchange notes; and

you are not acting on behalf of any person or entity that could not truthfully make these representations.

In addition, if you are a broker-dealer and you will receive exchange notes for your own account in exchange for unregistered notes that were acquired as a result of market-making activities or other trading activities, you will be required to acknowledge that you will deliver a prospectus in connection with any resale of the exchange notes.

If you wish to participate in the exchange offer, you will be required to make these representations to us in the letter of transmittal. If our belief is inaccurate and you transfer any exchange note without delivering a prospectus meeting the requirements of the Securities Act or without an exemption from registration under

the Securities Act, you may incur liability under the Securities Act. We do not assume or indemnify you against such liability.

If you are a broker-dealer that receives exchange notes in exchange for unregistered notes held for your own account, as a result of market-making or other trading activities, you must acknowledge that you will deliver a prospectus in connection with any resale of the exchange notes. The letter of transmittal states that by so acknowledging and by delivering a prospectus, you will not be deemed to admit that you are an underwriter within the meaning of the Securities Act. The prospectus, as it may be amended or supplemented from time to time, may be used by any broker-dealers in connection with resales of exchange notes received in exchange for unregistered notes. We have agreed that, for a period of 180 days after the consummation of the exchange offer, we will make this prospectus and any amendment or supplement to this prospectus available to any such broker-dealer for use in connection with any resale.

Clearing of the Notes

Upon consummation of the exchange offer, the exchange notes will have different CUSIP and ISIN numbers from the unregistered notes.

Procedures for Tendering

The term holder with respect to the exchange offer means any person in whose name unregistered notes are registered on our agent s books or any other person who has obtained a properly completed bond power from the registered holder, or any person whose unregistered notes are held of record by DTC who desires to deliver such unregistered notes by book-entry transfer at DTC.

Except in limited circumstances, only a DTC participant listed on a DTC notes position listing with respect to the unregistered notes may tender its unregistered notes in the exchange offer. To tender unregistered notes in the exchange offer:

holders of unregistered notes that are DTC participants may follow the procedures for book-entry transfer as provided for below under Book-Entry Transfer and in the letter of transmittal.

In addition:

the exchange agent must receive any corresponding certificate or certificates representing unregistered notes along with the letter of transmittal;

the exchange agent must receive, before expiration of the exchange offer, a timely confirmation of book-entry transfer of unregistered notes into the exchange agent s account at DTC according to standard operating procedures for electronic tenders described below and a properly transmitted agent s message described below; or

the holder must comply with the guaranteed delivery procedures described below.

The tender by a holder of unregistered notes will constitute an agreement between such holder and us in accordance with the terms and subject to the conditions set forth in this prospectus and in the letter of transmittal. If less than all the unregistered notes held by a holder of unregistered notes are tendered, a tendering holder should fill in the amount of unregistered notes being tendered in the specified box on the letter of transmittal. The entire amount of unregistered notes delivered to the exchange agent will be deemed to have been tendered unless otherwise indicated.

The method of delivery of unregistered notes, the letter of transmittal and all other required documents or transmission of an agent s message, as described under Book Entry Transfer, to the exchange agent is at the election and risk of the holder. Instead of delivery by mail, we recommend that holders use an overnight or hand delivery service. In all cases, sufficient time should be allowed to assure timely delivery prior to the expiration of the exchange offer. No letter of transmittal or unregistered notes should be sent to us but must instead be delivered to the exchange agent. Delivery of documents to DTC in accordance with their procedures will not constitute delivery to the exchange agent.

If you are a beneficial owner of unregistered notes that are registered in the name of a broker, dealer, commercial bank, trust company or other nominee and you wish to tender your unregistered notes, you

should contact the registered holder promptly and instruct the registered holder to tender on your behalf. If you wish to tender on your own behalf, you must, prior to completing and executing the letter of transmittal and delivering your unregistered notes, either:

make appropriate arrangements to register ownership of the unregistered notes in your name; or

obtain a properly completed bond power from the registered holder.

The transfer of record ownership may take considerable time and might not be completed prior to the expiration date.

Signatures on a letter of transmittal or a notice of withdrawal as described in Withdrawal of Tenders below, as the case may be, must be guaranteed by a member firm of a registered national securities exchange or the National Association of Securities Dealers, Inc., a commercial bank or trust company having an office or correspondent in the United States or an eligible guarantor institution within the meaning of Rule 17Ad-15 under the Exchange Act, unless the unregistered notes tendered pursuant thereto are tendered:

by a registered holder who has not completed the box entitled Special Registration Instructions or Special Delivery Instructions in the letter of transmittal; or

for the account of an eligible institution.

If the letter of transmittal is signed by a person other than the registered holder of any unregistered notes listed therein, the unregistered notes must be endorsed or accompanied by appropriate bond powers which authorize the person to tender the unregistered notes on behalf of the registered holder, in either case signed as the name of the registered holder or holders appears on the unregistered notes. If the letter of transmittal or any unregistered notes or bond powers are signed by trustees, executors, administrators, guardians, attorneys-in-fact, officers of corporations or others acting in a fiduciary or representative capacity, such persons should so indicate when signing and, unless waived by us, evidence satisfactory to us of their authority to so act must be submitted with the letter of transmittal.

We will determine in our sole discretion all the questions as to the validity, form, eligibility (including time of receipt), acceptance and withdrawal of the tendered unregistered notes. Our determinations will be final and binding. We reserve the absolute right to reject any and all unregistered notes not validly tendered or any unregistered notes the acceptance of which would, in the opinion of our counsel, be unlawful. We reserve the absolute right to waive any irregularities or conditions of tender as to particular unregistered notes. Our interpretation of the terms and conditions of the exchange offer (including the instructions in the letter of transmittal) will be final and binding on all parties. Unless waived, any defects or irregularities in connection with tenders of unregistered notes must be cured within such time as we will determine. Neither we, the exchange agent nor any other person shall be under any duty to give notification of defects or irregularities with respect to tenders of unregistered notes nor shall any of them incur any liability for failure to give such notification. Tenders of unregistered notes will not be deemed to have been made until such irregularities have been cured or waived. Any unregistered notes received by the exchange agent that are not properly tendered and as to which the defects or irregularities have not been cured or waived will be returned without cost by the exchange agent to the tendering holder of such unregistered notes, unless otherwise provided in the letter of transmittal, as soon as practicable following the expiration date of the exchange offer.

In addition, we reserve the right in our sole discretion to (a) purchase or make offers for any unregistered notes that remain outstanding subsequent to the expiration date, and (b) to the extent permitted by applicable law, purchase unregistered notes in the open market, in privately negotiated transactions or otherwise. The terms of any such purchases or offers may differ from the terms of the exchange offer.

Book-Entry Transfer

We understand that the exchange agent will make a request promptly after the date of this document to establish an account with respect to the unregistered notes at DTC for the purpose of facilitating the exchange offer. Any financial institution that is a participant in DTC s system may make book-entry delivery of unregistered notes by causing DTC to transfer such unregistered notes into the exchange agent s DTC account in accordance with DTC s Automated Tender Offer Program procedures for such transfer. The exchange for tendered unregistered notes will

only be made after a timely confirmation of a book-entry transfer of the

unregistered notes into the exchange agent s account at DTC, and timely receipt by the exchange agent of an agent s message.

The term agent s message means a message, transmitted by DTC and received by the exchange agent and forming part of the confirmation of a book-entry transfer, which states that DTC, has received an express acknowledgment from a participant tendering unregistered notes and that such participant has received an appropriate letter of transmittal and agrees to be bound by the terms of the letter of transmittal, and we may enforce such agreement against the participant. Delivery of an agent s message will also constitute an acknowledgment from the tendering DTC participant that the representations contained in the appropriate letter of transmittal and described above are true and correct.

Guaranteed Delivery Procedures

Holders who wish to tender their unregistered notes and (i) whose unregistered notes are not immediately available, or (ii) who cannot deliver their unregistered notes, the letter of transmittal, or any other required documents to the exchange agent prior to the expiration date, or if such holder cannot complete DTC s standard operating procedures for electronic tenders before expiration of the exchange offer, may tender their unregistered notes if:

- the tender is made through an eligible institution;
- before expiration of the exchange offer, the exchange agent receives from the eligible institution either a properly completed and duly executed notice of guaranteed delivery in the form accompanying this prospectus, by facsimile transmission, mail or hand delivery, or a properly transmitted agent s message in lieu of notice of guaranteed delivery:
  - setting forth the name and address of the holder and the registered number(s), the certificate number or numbers of the unregistered notes tendered and the principal amount of unregistered notes tendered;
  - stating that the tender offer is being made by guaranteed delivery; and
  - guaranteeing that, within three (3) business days after expiration of the exchange offer, the letter of transmittal, or facsimile of the letter of transmittal, together with the unregistered notes tendered and any other documents required by the letter of transmittal or, alternatively, a book-entry confirmation will be deposited by the eligible institution with the exchange agent; and
- the exchange agent receives the properly completed and executed letter of transmittal, or facsimile of the letter of transmittal, as well as all tendered unregistered notes in proper form for transfer and all other documents required by the letter of transmittal or, alternatively, a book-entry confirmation, within three (3) business days after expiration of the exchange offer.

Upon request to the exchange agent, a notice of guaranteed delivery will be sent to holders who wish to tender their unregistered notes according to the guaranteed delivery procedures set forth above.

Withdrawal of Tenders

Except as otherwise provided herein, tenders of unregistered notes may be withdrawn at any time prior to 5:00 p.m., New York City time, on , 2006, the expiration date of the exchange offer.

For a withdrawal to be effective:

- the exchange agent must receive a written notice, which may be by telegram, telex, facsimile transmission or letter, of withdrawal at the address set forth below under Exchange Agent ; or
- for DTC participants, holders must comply with their respective standard operating procedures for electronic tenders and the exchange agent must receive an electronic notice of withdrawal from DTC.

Any notice of withdrawal must:

- specify the name of the person who tendered the unregistered notes to be withdrawn;

identify the unregistered notes to be withdrawn, including the certificate number or numbers and principal amount of the unregistered notes to be withdrawn;

be signed by the person who tendered the unregistered notes in the same manner as the original signature on the letter of transmittal, including any required signature guarantees; and

specify the name in which the unregistered notes are to be re-registered, if different from that of the withdrawing holder.

If unregistered notes have been tendered pursuant to the procedure for book-entry transfer described above, any notice of withdrawal must specify the name and number of the account at DTC to be credited with the withdrawn unregistered notes and otherwise comply with the procedures of the facility. We will determine all questions as to the validity, form and eligibility (including time of receipt) for such withdrawal notices, and our determination shall be final and binding on all parties. Any unregistered notes so withdrawn will be deemed not to have been validly tendered for purposes of the exchange offer, and no exchange notes will be issued with respect thereto unless the unregistered notes so withdrawn are validly re-tendered. Any unregistered notes which have been tendered but which are not accepted for exchange will be returned to the holder without cost to such holder as soon as practicable after withdrawal. Properly withdrawn unregistered notes may be re-tendered by following the procedures described above under Procedures for Tendering at any time prior to the expiration date.

Consequences of Failure to Exchange

If you do not tender your unregistered notes to be exchanged in this exchange offer, they will remain restricted securities within the meaning of Rule 144(a)(3) of the Securities Act.

Accordingly, they:

may be resold only if (i) registered pursuant to the Securities Act, (ii) an exemption from registration is available or (iii) neither registration nor an exemption is required by law; and

shall continue to bear a legend restricting transfer in the absence of registration or an exemption therefrom.

As a result of the restrictions on transfer and the availability of the exchange notes, the unregistered notes are likely to be much less liquid than before the exchange offer.

Exchange Agent

SunTrust Bank has been appointed as the exchange agent for the exchange of the unregistered notes. Questions and requests for assistance relating to the exchange of the unregistered notes should be directed to the exchange agent addressed as follows:

By Facsimile:	**By Registered or Certified Mail:**	**By Hand/Overnight Delivery:**
	SunTrust Bank	SunTrust Bank
(804) 782-7855	Mail Code HDQ-5310	Mail Code HDQ-5310
	919 East Main Street	919 East Main Street
	Richmond, VA 23219	Richmond, VA 23219
Confirm by Telephone:		
(804) 782-5170	Attn: Pat Welling,	Attn: Pat Welling,
	First Vice President,	First Vice President,
	Corporate Trust Department	Corporate Trust Department

Fees and Expenses

We will bear the expenses of soliciting tenders pursuant to the exchange offer. The principal solicitation for tenders pursuant to the exchange offer is being made by mail. Additional solicitations may be made by our officers and regular employees and our affiliates in person, by telegraph or telephone.

We will not make any payments to brokers, dealers or other persons soliciting acceptances of the exchange offer. We, however, will pay the exchange agent reasonable and customary fees for its services and will reimburse the exchange agent for its related reasonable out-of-pocket expenses and accounting and legal fees. We may also pay brokerage houses and other custodians, nominees and fiduciaries the reasonable out-of-pocket expenses incurred by them in forwarding copies of this prospectus, letters of transmittal and related documents to the beneficial owners of

the unregistered notes and in handling or forwarding tenders for exchange.

We will pay all transfer taxes, if any, applicable to the exchange of unregistered notes pursuant to the exchange offer. The tendering holder, however, will be required to pay any transfer taxes, whether imposed on the registered holder or any other person, if:

certificates representing exchange notes or unregistered notes for principal amounts not tendered or accepted for exchange are to be delivered to, or are to be registered or issued in the name of, any person other than the registered holder of unregistered notes tendered;

tendered unregistered notes are registered in the name of any person other than the person signing the letter of transmittal; or

a transfer tax is imposed for any reason other than the exchange of unregistered notes under the exchange offer.

If satisfactory evidence of payment of such taxes or exemption therefrom is not submitted with the letter of transmittal, the amount of such transfer taxes will be billed directly to such tendering holder.

DESCRIPTION OF THE EXCHANGE NOTES

The unregistered notes were, and the exchange notes will be, issued under an Indenture (the Indenture), dated April 28, 2006, among P. H. Glatfelter Company, the Subsidiary Guarantors and SunTrust Bank, as Trustee. The terms of the notes include those stated in the Indenture and those made part of the Indenture by reference to the Trust Indenture Act.

Certain terms used in this description are defined under the subheading Certain Definitions. In this description, the words Company, we and our refer only to P. H. Glatfelter Company and not to any of its subsidiaries.

The following description is only a summary of the material provisions of the Indenture. We urge you to read the Indenture because it, not this description, defines your rights as holders of the notes. You may request copies of the Indenture at our address set forth under the heading Where You Can Find Additional Information.

Brief Description of the Notes

The notes:

- are unsecured senior obligations of the Company;
- are senior in right of payment to any future Subordinated Obligations of the Company; and
- are guaranteed by each Subsidiary Guarantor.

Principal, Maturity and Interest

The Company will issue the exchange notes with a maximum initial aggregate principal amount of $200.0 million. The Company will issue the exchange notes in minimum denominations of $2,000 and any greater integral multiple of $1,000. The exchange notes will mature on May 1, 2016. Subject to our compliance with the covenant described under the subheading Certain Covenants Limitation on Indebtedness, we are permitted to issue an unlimited additional aggregate principal amount of exchange notes from time to time under the Indenture (the Additional Notes). The notes and the Additional Notes, if any, are treated as a single class for all purposes of the Indenture, including waivers, amendments, redemptions and offers to purchase. Unless the context otherwise requires, for all purposes of the Indenture and this Description of the Notes, references to the notes include any Additional Notes actually issued.

Interest on the notes accrues at the rate of 7 1/8 % per annum and is payable semiannually in arrears on May 1 and November 1, commencing on November 1, 2006. We will make each interest payment to the holders of record of the notes on the immediately preceding April 15 and October 15. We will pay interest on overdue principal at 1% per annum in excess of the above rate and will pay interest on overdue installments of interest at such higher rate to the extent lawful.

Interest on the notes accrues from the date of original issuance. Interest is computed on the basis of a 360-day year comprised of twelve 30-day months.

Optional Redemption

Except as set forth below, we are not entitled to redeem the notes at our option prior to May 1, 2011.

On and after May 1, 2011, we will be entitled at our option to redeem all or a portion of the notes upon not less than 30 nor more than 60 days notice, at the redemption prices (expressed in percentages of principal amount on the redemption date), plus accrued interest to the redemption date (subject to the right of Holders of record on the relevant record date to receive interest due on the relevant interest payment date), if redeemed during the 12-month period commencing on May 1 of the years set forth below:

Period	Redemption Price
2011	103.563%
2012	102.375%
2013	101.188%
2014 and thereafter	100.000%

In addition, at any time prior to May 1, 2009, we will be entitled at our option, on one or more occasions, to redeem the notes (which includes Additional Notes, if any) in an aggregate principal amount not to exceed 35% of the aggregate principal amount of the notes (which includes Additional Notes, if any) issued prior to the redemption date at a redemption price (expressed as a percentage of principal amount) of 107.125%, plus accrued and unpaid interest to the redemption date, with the net cash proceeds from one or more Equity Offerings; *provided, however*, that

(1) at least 65% of such aggregate principal amount of notes (which includes Additional Notes, if any) remains outstanding immediately after the occurrence of each such redemption (other than notes held, directly or indirectly, by the Company or its Affiliates); and

(2) each such redemption occurs within 90 days after the date of the related Equity Offering.

Prior to May 1, 2011, we are entitled at our option to redeem all, but not less than all, of the notes at a redemption price equal to 100% of the principal amount of the notes plus the Applicable Premium as of, and accrued and unpaid interest to, the redemption date (subject to the right of Holders on the relevant record date to receive interest due on the relevant interest payment date). Notice of such redemption must be mailed by first-class mail to each Holder s registered address, not less than 30 nor more than 60 days prior to the redemption date.

Applicable Premium means with respect to a note at any redemption date, the greater of (1) 1.00% of the principal amount of such note and (2) the excess of (A) the present value at such redemption date of (i) the redemption price of such note on May 1, 2011 (such redemption price being described in the second paragraph in this Optional Redemption section exclusive of any accrued interest) plus (ii) all required remaining scheduled interest payments due on such note through May 1, 2011 (but excluding accrued and unpaid interest to the redemption date), computed using a discount rate equal to the Adjusted Treasury Rate, over (B) the principal amount of such note on such redemption date.

Adjusted Treasury Rate means, with respect to any redemption date, (1) the yield, under the heading which represents the average for the immediately preceding week, appearing in the most recently published statistical release designated H.15(519) or any successor publication which is published weekly by the Board of Governors of the Federal Reserve System and which establishes yields on actively traded United States Treasury securities adjusted to constant maturity under the caption Treasury Constant Maturities, for the maturity corresponding to the Comparable Treasury Issue (if no maturity is within three months before or after May 1, 2011, yields for the two published maturities most closely corresponding to the Comparable Treasury Issue shall be determined and the Adjusted Treasury Rate shall be interpolated or extrapolated from such yields on a straight line basis, rounding to the nearest month) or (2) if such release (or any successor release) is not published during the week preceding the calculation date or does not contain such yields, the rate per year equal to the semi-annual equivalent yield to maturity of the Comparable Treasury Issue (expressed as a percentage of its principal amount) equal to the Comparable Treasury Price for such redemption date, in each case calculated on the third Business Day immediately preceding the redemption date, plus 0.50%.

Comparable Treasury Issue means the United States Treasury security selected by the Quotation Agent as having a maturity comparable to the remaining term of the notes from the redemption date to May 1, 2011, that would be utilized, at the time of selection and in accordance with customary financial practice, in pricing new issues of corporate debt securities of a maturity most nearly equal to May 1, 2011.

Comparable Treasury Price means, with respect to any redemption date, if clause (2) of the definition of Adjusted Treasury Rate is applicable, the average of three, or such lesser number as is obtained by the Trustee, Reference Treasury Dealer Quotations for such redemption date.

Quotation Agent means the Reference Treasury Dealer selected by the Trustee after consultation with the Company.

Reference Treasury Dealer means Credit Suisse Securities (USA) LLC and its successors and assigns and two other nationally recognized investment banking firms selected by the Company that are primary U.S. Government securities dealers.

Reference Treasury Dealer Quotations means with respect to each Reference Treasury Dealer and any redemption date, the average, as determined by the Trustee, of the bid and asked prices for the Comparable Treasury Issue, expressed in each case as a percentage of its principal amount, quoted in writing to the Trustee by such Reference Treasury Dealer at 5:00 p.m., New York City time, on the third Business Day immediately preceding such redemption date.

Selection and Notice of Redemption

If we are redeeming less than all the notes at any time, the Trustee will select notes on a *pro rata* basis to the extent practicable.

We will redeem notes of $2,000 or less in whole and not in part. We will cause notices of redemption to be mailed by first-class mail at least 30 but not more than 60 days before the redemption date to each holder of notes to be redeemed at its registered address.

If any note is to be redeemed in part only, the notice of redemption that relates to that note will state the portion of the principal amount thereof to be redeemed. We will issue a new note in a principal amount equal to the unredeemed portion of the original note in the name of the holder upon cancelation of the original note. Notes called for redemption become due on the date fixed for redemption. On and after the redemption date, interest ceases to accrue on notes or portions of them called for redemption.

Mandatory Redemption; Offers to Purchase; Open Market Purchases

We are not required to make any mandatory redemption or sinking fund payments with respect to the notes. However, under certain circumstances, we may be required to offer to purchase notes as described under the captions Change of Control and Certain Covenants Limitation on Sales of Assets and Subsidiary Stock. We may at any time and from time to time purchase notes in the open market or otherwise.

Guarantees

The Subsidiary Guarantors will jointly and severally guarantee, on a senior unsecured basis, our obligations under the notes. The obligations of each Subsidiary Guarantor under its Subsidiary Guarantee will be limited as necessary to prevent that Subsidiary Guarantee from constituting a fraudulent conveyance under applicable law. See Risk Factors Risks Relating to the Notes and the Offering Federal and state statutes allow courts, under specific circumstances, to void guarantees and require note holders to return payments received from our subsidiary guarantors.

Each Subsidiary Guarantor that makes a payment under its Subsidiary Guarantee will be entitled upon payment in full of all guaranteed obligations under the Indenture to a contribution from each other Subsidiary Guarantor in an amount equal to such other Subsidiary Guarantor s *pro rata* portion of such payment based on the respective net assets of all the Subsidiary Guarantors at the time of such payment determined in accordance with GAAP.

If a Subsidiary Guarantee were rendered voidable, it could be subordinated by a court to all other indebtedness (including guarantees and other contingent liabilities) of the applicable Subsidiary Guarantor, and, depending on the amount of such indebtedness, a Subsidiary Guarantor s liability on its Subsidiary Guarantee could be reduced to zero. See Risk Factors Risks Relating to the Notes and the Offering Federal and state statutes allow courts, under specific circumstances, to void guarantees and require note holders to return payments received from our subsidiary guarantors.

Pursuant to the Indenture, (A) a Subsidiary Guarantor may consolidate with, merge with or into, or transfer all or substantially all its assets to any other Person to the extent described below under Certain Covenants Merger and Consolidation and (B) the Capital Stock of a Subsidiary Guarantor may be sold or otherwise disposed of to another Person to the extent described below under Certain Covenants Limitation on Sales of Assets and Subsidiary Stock ; *provided, however*, that in the case of the consolidation, merger or transfer of all or substantially all the assets of such Subsidiary Guarantor, if such other Person is not the Company or a Subsidiary Guarantor, such Subsidiary Guarantor s obligations under its Subsidiary

Guarantee must be expressly assumed by such other Person, except that such assumption will not be required in the case of:

(1) the sale or other disposition (including by way of consolidation or merger) of a Subsidiary Guarantor, including the sale or disposition of Capital Stock of a Subsidiary Guarantor following which such Subsidiary Guarantor is no longer a Subsidiary; or

(2) the sale or disposition of all or substantially all the assets of a Subsidiary Guarantor;

in each case other than to the Company or an Affiliate of the Company and as permitted by the Indenture, provided that the Company complies with its obligations under the covenant described under Certain Covenants Limitation on Sales of Assets and Subsidiary Stock in respect of such disposition. Upon any sale or disposition described in clause (1) or (2) immediately above, the obligor on the related Subsidiary Guarantee will be released from its obligations thereunder.

The Subsidiary Guarantee of a Subsidiary Guarantor also will be released:

(1) upon the designation of such Subsidiary Guarantor as an Unrestricted Subsidiary;

(2) at such time as such Subsidiary Guarantor does not have any Indebtedness outstanding that would have required such Subsidiary Guarantor to enter into a Guarantee Agreement pursuant to the covenant described under Certain Covenants Future Subsidiary Guarantors ;

(3) in connection with any sale or other disposition of all of the Capital Stock of a Subsidiary Guarantor to a Person that is not the Company or (either before or after giving effect to such transaction) an Affiliate of the Company, if the sale of all such Capital Stock of the Subsidiary Guarantor complies with the covenant described under Certain Covenants Limitation on Sales of Assets and Subsidiary Stock ; and

(4) if we exercise our legal defeasance option or our covenant defeasance option as described under Defeasance or if our obligations under the Indenture are discharged in accordance with the terms of the Indenture.

Ranking

Senior Indebtedness versus Notes

The indebtedness evidenced by the notes and the Subsidiary Guarantees is unsecured and ranks *pari passu* in right of payment to the Senior Indebtedness of the Company and the Subsidiary Guarantors, as the case may be. The notes are guaranteed by the Subsidiary Guarantors.

As of June 30, 2006:

(1) the Company s Senior Indebtedness was approximately $386.3 million and

(2) the Senior Indebtedness of our Domestic Restricted Subsidiaries was approximately $341.6 million, which includes Senior Indebtedness of the Company guaranteed by one or more Domestic Restricted Subsidiaries.

The notes are unsecured obligations of the Company. Secured debt that the Company might incur in the future and all other secured obligations of the Company in effect from time to time will be effectively senior to the notes to the extent of the value of the assets securing such debt or other obligations.

Liabilities of Subsidiaries versus Notes

A portion of our operations are conducted through our subsidiaries. Some of our subsidiaries are not Guaranteeing the notes, and, as described above under Guarantees, Subsidiary Guarantees may be released under certain circumstances. In addition, our future subsidiaries may not be required to Guarantee the notes. Claims of creditors of such non-guarantor subsidiaries, including trade creditors and creditors holding indebtedness or Guarantees issued by such non-guarantor subsidiaries, and claims of preferred stockholders of such non-guarantor subsidiaries, generally will have priority with respect to the assets and earnings of such non-guarantor subsidiaries over the claims of our creditors, including holders of the notes.

Accordingly, the notes will be effectively subordinated to creditors (including trade creditors) and preferred stockholders, if any, of our non-guarantor subsidiaries.

Our non-guarantor Foreign Subsidiaries had aggregate consolidated liabilities, excluding liabilities owing to the Company or any Subsidiary Guarantor, as of March 31, 2006, of $102.9 million and revenue for the year ended December 31, 2005 of $179.4 million and for the three months ended March 31, 2006 of $52.7 million. Although the Indenture limits the incurrence of Indebtedness and preferred stock by certain of our subsidiaries, such limitations are subject to a number of significant qualifications. Moreover, the Indenture does not impose any limitation on the incurrence by such subsidiaries of liabilities that are not considered Indebtedness under the Indenture. See Certain Covenants Limitation on Indebtedness.

Change of Control

Upon the occurrence of any of the following events (each a Change of Control), unless the Company has exercised its right to redeem all of the outstanding notes as described under Optional Redemption, each Holder shall have the right to require that the Company repurchase such Holder s notes at a purchase price in cash equal to 101% of the principal amount thereof on the date of purchase plus accrued and unpaid interest, if any, to the date of purchase (subject to the right of holders of record on the relevant record date to receive interest due on the relevant interest payment date):

(1) any person (as such term is used in Sections 13(d) and 14(d) of the Exchange Act) is or becomes the beneficial owner (as defined in Rules 13d-3 and 13d-5 under the Exchange Act, except that for purposes of this clause (1) such person shall be deemed to have beneficial ownership of all shares that any such person has the right to acquire, whether such right is exercisable immediately or only after the passage of time), directly or indirectly, of more than 35% of the total voting power of the Voting Stock of the Company;

(2) individuals who on the Issue Date constituted the Board of Directors (together with any new directors whose election by such Board of Directors or whose nomination for election by the shareholders of the Company was approved by a vote of a majority of the directors of the Company then still in office who were either directors on the Issue Date or whose election or nomination for election was previously so approved) cease for any reason to constitute a majority of the Board of Directors then in office;

(3) the adoption of a plan relating to the liquidation or dissolution of the Company; or

(4) the merger or consolidation of the Company with or into another Person or the merger of another Person with or into the Company, or the sale of all or substantially all the assets of the Company (determined on a consolidated basis) to another Person other than a transaction, following which (A) in the case of a merger or consolidation transaction, holders of securities that represented 100% of the Voting Stock of the Company immediately prior to such transaction (or other securities into which such securities are converted as part of such merger or consolidation transaction) own directly or indirectly at least a majority of the voting power of the Voting Stock of the surviving Person in such merger or consolidation transaction immediately after such transaction and in substantially the same proportion as before the transaction, and (B) in the case of a sale of assets transaction, each transferee becomes an obligor in respect of the notes and a Subsidiary of the transferor of such assets.

Within 30 days following any Change of Control, we will mail a notice to each Holder with a copy to the Trustee (the Change of Control Offer) stating:

(1) that a Change of Control has occurred and that such Holder has the right to require us to purchase such Holder s notes at a purchase price in cash equal to 101% of the principal amount thereof on the date of purchase, plus accrued and unpaid interest, if any, to the date of purchase (subject to the right of Holders of record on the relevant record date to receive interest on the relevant interest payment date);

(2) the circumstances and relevant facts regarding such Change of Control (including information with respect to *pro forma* historical income, cash flow and capitalization, in each case after giving effect to such Change of

Control);

(3) the purchase date (which shall be no earlier than 30 days nor later than 60 days from the date such notice is mailed); and

(4) the instructions, as determined by us, consistent with the covenant described hereunder, that a Holder must follow in order to have its notes purchased.

We will not be required to make a Change of Control Offer following a Change of Control if a third party makes the Change of Control Offer in the manner, at the times and otherwise in compliance with the requirements set forth in the Indenture applicable to a Change of Control Offer made by us and purchases all notes validly tendered and not withdrawn under such Change of Control Offer.

We will comply, to the extent applicable, with the requirements of Section 14(e) of the Exchange Act and any other securities laws or regulations in connection with the repurchase of notes as a result of a Change of Control. To the extent that the provisions of any securities laws or regulations conflict with the provisions of the covenant described hereunder, we will comply with the applicable securities laws and regulations and shall not be deemed to have breached our obligations under the covenant described hereunder by virtue of our compliance with such securities laws or regulations.

The Change of Control purchase feature of the notes may in certain circumstances make more difficult or discourage a sale or takeover of the Company and, thus, the removal of incumbent management. The Change of Control purchase feature is a result of negotiations between the Company and the Initial Purchasers. We have no present intention to engage in a transaction involving a Change of Control, although it is possible that we could decide to do so in the future. Subject to the limitations discussed below, we could, in the future, enter into certain transactions, including acquisitions, refinancings or other recapitalizations, that would not constitute a Change of Control under the Indenture, but that could increase the amount of indebtedness outstanding at such time or otherwise affect our capital structure or credit ratings. Restrictions on our ability to Incur additional Indebtedness are contained in the covenants described under Certain Covenants Limitation on Indebtedness, Limitation on Liens and Limitation on Sale/ Leaseback Transactions. Such restrictions can only be waived with the consent of the holders of a majority in principal amount of the notes then outstanding. Except for the limitations contained in such covenants, however, the Indenture will not contain any covenants or provisions that may afford holders of the notes protection in the event of a highly leveraged transaction.

Our Credit Agreement contains, and indebtedness that we may incur in the future may contain, prohibitions on the occurrence of certain events that would constitute a Change of Control or require the repurchase of such indebtedness upon a Change of Control. Moreover, the exercise by the holders of their right to require us to repurchase their notes could cause a default under such indebtedness, even if the Change of Control itself does not, due to the financial effect of such repurchase on us. Finally, our ability to pay cash to the holders of notes following the occurrence of a Change of Control may be limited by our then existing financial resources. There can be no assurance that sufficient funds will be available when necessary to make any required repurchases.

In the event a Change of Control occurs at a time when we are prohibited by our indebtedness from purchasing notes, we may seek the consent of the applicable creditors to the purchase of notes or may attempt to refinance the indebtedness that contains such prohibition. If we do not obtain such a consent or repay such indebtedness, we will remain prohibited from purchasing notes. In such case, our failure to offer to purchase notes would constitute a Default under the Indenture, which would, in turn, constitute a default under our other indebtedness.

The definition of Change of Control includes a disposition of all or substantially all of the assets of the Company to any Person. Although there is a limited body of case law interpreting the phrase substantially all, there is no precise established definition of the phrase under applicable law. Accordingly, in certain circumstances there may be a degree of uncertainty as to whether a particular transaction would involve a disposition of all or substantially all of the assets of the Company. As a result, it may be unclear as to whether a Change of Control has occurred and whether a holder of notes may require the Company to make an offer to repurchase the notes as described above.

The provisions under the Indenture relative to our obligation to make an offer to repurchase the notes as a result of a Change of Control may be waived or modified with the written consent of the holders of a majority in principal amount of the notes.

Certain Covenants

The Indenture contains covenants including, among others, those summarized below. Following the first day (the Suspension Date) that:

(1) the notes have an Investment Grade Rating from both of the Rating Agencies, and

(2) no Default has occurred and is continuing under the Indenture,

the Company and its Restricted Subsidiaries will not be subject to the provisions of the Indenture summarized below under:

(1) Limitation on Indebtedness,

(2) Limitation on Restricted Payments,

(3) Limitation on Restrictions on Distributions from Restricted Subsidiaries,

(4) Limitation on Sales of Assets and Subsidiary Stock,

(5) clause (3) under Limitation on Sale/Leaseback Transactions,

(6) clauses (a)(2) and (a)(3) of the first paragraph under Merger and Consolidation,

(7) Limitation on Affiliate Transactions and

(8) Future Subsidiary Guarantors

(collectively, the Suspended Covenants). In addition, the Subsidiary Guarantees of the Subsidiary Guarantors will also be suspended as of the Suspension Date. In the event that the Company and its Restricted Subsidiaries are not subject to the Suspended Covenants for any period of time as a result of the foregoing, and on any subsequent date (the Reversion Date) one or both of the Rating Agencies withdraws its Investment Grade Rating or downgrades the rating assigned to the notes below an Investment Grade Rating, then the Company and the Restricted Subsidiaries will thereafter again be subject to the Suspended Covenants with respect to future events and the Subsidiary Guarantees will be reinstated. The period of time between the Suspension Date and the Reversion Date is referred to in this description as the Suspension Period. Notwithstanding that the Suspended Covenants may be reinstated, no default will be deemed to have occurred as a result of a failure to comply with the Suspended Covenants during the Suspension Period.

On the Reversion Date, all Indebtedness Incurred during the Suspension Period will be classified to have been Incurred pursuant to paragraph (a) of Limitation on Indebtedness or one of the clauses set forth in paragraph (b) of Limitation on Indebtedness (to the extent such Indebtedness would be permitted to be Incurred thereunder as of the Reversion Date and after giving effect to Indebtedness Incurred prior to the Suspension Period and outstanding on the Reversion Date). To the extent such Indebtedness would not be so permitted to be Incurred pursuant to paragraph (a) or (b) of Limitation on Indebtedness, such Indebtedness will be deemed to have been outstanding on the Issue Date, so that it is classified as permitted under clause (4) of paragraph (b) of Limitation of Indebtedness. Calculations made after the Reversion Date of the amount available to be made as Restricted Payments under Limitation on Restricted Payments will be made as though the covenant described under Limitation on Restricted Payments had been in effect since the Issue Date and throughout the Suspension Period. Accordingly, Restricted Payments made during the Suspension Period will reduce the amount available to be made as Restricted Payments under paragraph (a) of Limitation on Restricted Payments and the items specified in subclauses (3)(A) through (3)(D)

of paragraph (a) of Limitation on Restricted Payments will increase the amount available to be made under paragraph (a) thereof.

Limitation on Indebtedness

(a) The Company will not, and will not permit any Restricted Subsidiary to, Incur, directly or indirectly, any Indebtedness; *provided, however*, that the Company and the Subsidiary Guarantors will be entitled to Incur Indebtedness if, on the date of such Incurrence and after giving effect thereto on a *pro forma* basis, the Consolidated Coverage Ratio exceeds 2.00 to 1.

(b) Notwithstanding the foregoing paragraph (a), the Company and the Restricted Subsidiaries will be entitled to Incur any or all of the following Indebtedness:

(1) Indebtedness Incurred by the Company or any Restricted Subsidiary pursuant to any Credit Facilities; *provided, however*, that, immediately after giving effect to any such Incurrence, the aggregate principal amount of all Indebtedness Incurred under this clause (1) and then outstanding does not exceed the greater of (i) $300 million and (ii) the sum of (x) 60% of the inventory of the Company and its Restricted Subsidiaries and (y) 85% of the book value of the accounts receivables of the Company and its Restricted Subsidiaries;

(2) Indebtedness owed to and held by the Company or a Restricted Subsidiary; *provided, however*, that (A) any subsequent issuance or transfer of any Capital Stock which results in any such Restricted Subsidiary ceasing to be a Restricted Subsidiary or any subsequent transfer of such Indebtedness (other than to the Company or a Restricted Subsidiary) shall be deemed, in each case, to constitute the Incurrence of such Indebtedness by the obligor thereon, (B) if the Company is the obligor on such Indebtedness, such Indebtedness is expressly subordinated to the prior payment in full in cash of all obligations with respect to the notes and (C) if a Subsidiary Guarantor is the obligor on such Indebtedness, such Indebtedness is expressly subordinated to the prior payment in full in cash of all obligations of such Subsidiary Guarantor with respect to its Subsidiary Guarantee;

(3) the unregistered notes and the exchange notes;

(4) Indebtedness outstanding on the Issue Date (other than Indebtedness described in clause (1), (2) or (3) of this covenant);

(5) Indebtedness of a Restricted Subsidiary Incurred and outstanding on or prior to the date on which such Subsidiary became a Restricted Subsidiary or was acquired by the Company (other than Indebtedness Incurred in connection with, or to provide all or any portion of the funds or credit support utilized to consummate, the transaction or series of related transactions pursuant to which such Subsidiary became a Restricted Subsidiary or was acquired by the Company); *provided, however*, that on the date such Subsidiary became a Restricted Subsidiary or was acquired by the Company and after giving *pro forma* effect thereto, the Company would have been entitled to Incur at least $1.00 of additional Indebtedness pursuant to paragraph (a) of this covenant;

(6) Refinancing Indebtedness in respect of Indebtedness Incurred pursuant to paragraph (a) or pursuant to clause (3), (4) or (5) or this clause (6); *provided, however*, that to the extent such Refinancing Indebtedness directly or indirectly Refinances Indebtedness of a Restricted Subsidiary Incurred pursuant to clause (5), such Refinancing Indebtedness shall be Incurred only by such Restricted Subsidiary;

(7) Hedging Obligations incurred in the ordinary course of business with a bona fide intention to limit interest rate risk, exchange rate risk or commodity price risk;

(8) Indebtedness in respect of workers compensation claims, self-insurance obligations, bankers acceptances, performance bonds, bid bonds, appeal bonds and surety bonds or other similar bonds or obligations, and any Guarantees or letters of credit functioning as or supporting any of the foregoing;

(9) Indebtedness arising from any agreement providing for indemnities, Guarantees, purchase price adjustments, holdbacks, contingency payment obligations based on the performance of the acquired or disposed assets or similar obligations (other than Guarantees of Indebtedness) Incurred by any Person in connection with the acquisition or disposition of assets;

(10) Indebtedness of Foreign Subsidiaries for purposes of financing working capital in an aggregate principal amount at any one time outstanding not to exceed $30.0 million;

(11) Indebtedness represented by Capital Lease Obligations, mortgage financings or purchase money obligations, in each case, Incurred for the purpose of financing all or any part of the purchase price, cost of construction or improvement or carrying cost of assets used in the business of the Company and its Restricted Subsidiaries and related financing costs, and Refinancing Indebtedness Incurred to Refinance any Indebtedness Incurred pursuant to this clause, in an aggregate principal amount at any one time outstanding not to exceed $30.0 million;

(12) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business; *provided, however*, that such Indebtedness is extinguished within five Business Days of its Incurrence;

(13) Indebtedness consisting of the Subsidiary Guarantee of a Subsidiary Guarantor and any Guarantee by a Subsidiary Guarantor of Indebtedness Incurred pursuant to paragraph (a) or pursuant to clause (1), (2), (3) or (4) or pursuant to clause (6) to the extent the Refinancing Indebtedness Incurred thereunder directly or indirectly Refinances Indebtedness Incurred pursuant to paragraph (a) or pursuant to clause (3) or (4); and

(14) Indebtedness of the Company or of any Subsidiary Guarantor in an aggregate principal amount which, when taken together with all other Indebtedness of the Company and its Restricted Subsidiaries outstanding on the date of such Incurrence (other than Indebtedness permitted by clauses (1) through (13) above or paragraph (a)), does not exceed the greater of (i) $50 million and (ii) 5% of Consolidated Net Tangible Assets, as determined as of the most recent practical date (as adjusted for any significant dispositions of assets since such date).

(c) Notwithstanding the foregoing, neither the Company nor any Subsidiary Guarantor will incur any Indebtedness pursuant to the foregoing paragraph (b) if the proceeds thereof are used, directly or indirectly, to Refinance any Subordinated Obligations of the Company or any Subsidiary Guarantor unless such Indebtedness shall be subordinated to the notes or the applicable Subsidiary Guarantee to at least the same extent as such Subordinated Obligations.

(d) For purposes of determining compliance with this covenant:

(1) any Indebtedness remaining outstanding under the Credit Agreement after the application of the net proceeds from the sale of the notes will be treated as Incurred on the Issue Date under clause (1) of paragraph (b) above;

(2) in the event that an item of Indebtedness (or any portion thereof) meets the criteria of more than one of the types of Indebtedness described above, the Company, in its sole discretion, will classify such item of Indebtedness (or any portion thereof) at the time of Incurrence and will only be required to include the amount and type of such Indebtedness in one of the above clauses;

(3) the Company will be entitled to divide and classify an item of Indebtedness in more than one of the types of Indebtedness described above; and

(4) the Company may, at any time, change the classification of an item of Indebtedness or any portion thereof (except for Indebtedness Incurred under clause (1) of paragraph (b) above) to any other clause of paragraph (b) above or to paragraph (a) above; *provided, however*, that the Company or the applicable Restricted Subsidiary, as the case may be, would be permitted to Incur such item of Indebtedness or portion thereof pursuant to such other clause or paragraph (a), as the case may be, at time of such reclassification.

Limitation on Restricted Payments

(a) The Company will not, and will not permit any Restricted Subsidiary, directly or indirectly, to make a Restricted Payment if at the time the Company or such Restricted Subsidiary makes such Restricted Payment:

(1) a Default shall have occurred and be continuing (or would result therefrom);

(2) the Company is not entitled to Incur an additional $1.00 of Indebtedness pursuant to paragraph (a) of the covenant described under Limitation on Indebtedness ; or

(3) the aggregate amount of such Restricted Payment and all other Restricted Payments since the Issue Date would exceed the sum of (without duplication):

(A) 50% of the Consolidated Net Income accrued during the period (treated as one accounting period) from the beginning of the fiscal quarter immediately following the fiscal quarter during which the Issue Date occurs

to the end of the most recent fiscal quarter ending at least 45 days

prior to the date of such Restricted Payment (or, in case such Consolidated Net Income shall be a deficit, minus 100% of such deficit); *plus*

(B) 100% of the aggregate Net Cash Proceeds, or the fair market value of property other than cash, received by the Company from the issuance or sale of its Capital Stock (other than Disqualified Stock) subsequent to the Issue Date (other than an issuance or sale to a Subsidiary of the Company and other than an issuance or sale to an employee stock ownership plan or to a trust established by the Company or any of its Subsidiaries for the benefit of their employees) and 100% of any cash, or the fair market value of property other than cash, received as a capital contribution by the Company from its shareholders subsequent to the Issue Date; *plus*

(C) the amount by which Indebtedness of the Company is reduced on the Company s balance sheet upon the conversion or exchange subsequent to the Issue Date of any Indebtedness of the Company convertible or exchangeable for Capital Stock (other than Disqualified Stock) of the Company (less the amount of any cash, or the fair value of any other property, distributed by the Company upon such conversion or exchange); *provided, however*, that the foregoing amount shall not exceed the Net Cash Proceeds received by the Company or any Restricted Subsidiary from the sale of such Indebtedness (excluding Net Cash Proceeds from sales to a Subsidiary of the Company or to an employee stock ownership plan or to a trust established by the Company or any of its Subsidiaries for the benefit of their employees); *plus*

(D) an amount equal to the sum of (i) the net reduction in the Investments (other than Permitted Investments) made by the Company or any Restricted Subsidiary in any Person resulting from repurchases, repayments or redemptions of such Investments by such Person, proceeds realized on the sale of such Investment and proceeds representing the return of capital (excluding dividends and distributions), in each case received by the Company or any Restricted Subsidiary, and (ii) to the extent such Person is an Unrestricted Subsidiary, the portion (proportionate to the Company s equity interest in such Subsidiary) of the fair market value of the net assets of such Unrestricted Subsidiary at the time such Unrestricted Subsidiary is designated a Restricted Subsidiary; *provided, however*, that the foregoing sum shall not exceed, in the case of any such Person or Unrestricted Subsidiary, the amount of Investments (excluding Permitted Investments) previously made (and treated as a Restricted Payment) by the Company or any Restricted Subsidiary in such Person or Unrestricted Subsidiary.

(b) The preceding provisions will not prohibit:

(1) any Restricted Payment made out of the Net Cash Proceeds of the substantially concurrent sale of, or made by exchange for, Capital Stock of the Company (other than Disqualified Stock and other than Capital Stock issued or sold to a Subsidiary of the Company or an employee stock ownership plan or to a trust established by the Company or any of its Subsidiaries for the benefit of their employees) or a substantially concurrent cash capital contribution received by the Company from its shareholders; *provided, however*, that (A) such Restricted Payment shall be excluded in the calculation of the amount of Restricted Payments and (B) the Net Cash Proceeds from such sale or such cash capital contribution (to the extent so used for such Restricted Payment) shall be excluded from the calculation of amounts under clause (3)(B) of paragraph (a) above;

(2) any purchase, repurchase, redemption, defeasance or other acquisition or retirement for value of Subordinated Obligations of the Company or a Subsidiary Guarantor made by exchange for, or out of the proceeds of the substantially concurrent Incurrence of, Indebtedness of such Person which is permitted to be Incurred pursuant to the covenant described under Limitation on Indebtedness ; *provided, however*, that such purchase, repurchase, redemption, defeasance or other acquisition or retirement for value shall be excluded in the calculation of the amount of Restricted Payments;

(3) dividends paid within 60 days after the date of declaration thereof if at such date of declaration such dividend would have complied with this covenant; *provided, however*, that at the time of payment of such dividend, no other Default shall have occurred and be continuing (or result therefrom); *provided*

further, however, that such dividend shall be included in the calculation of the amount of Restricted Payments;

(4) so long as no Default has occurred and is continuing, the purchase, redemption or other acquisition of shares of Capital Stock of the Company or any of its Subsidiaries from employees, former employees, directors or former directors of the Company or any of its Subsidiaries (or permitted transferees of such employees, former employees, directors or former directors), pursuant to the terms of the agreements (including employment agreements) or plans (or amendments thereto) approved by the Board of Directors under which such individuals purchase or sell or are granted the option to purchase or sell, shares of such Capital Stock; *provided, however*, that the aggregate amount of such Restricted Payments (excluding amounts representing cancelation of Indebtedness) shall not exceed $1.0 million in any calendar year; *provided further, however*, that such repurchases and other acquisitions shall be excluded in the calculation of the amount of Restricted Payments;

(5) the declaration and payments of dividends on Disqualified Stock issued pursuant to the covenant described under Limitation on Indebtedness ; *provided, however*, that at the time of payment of such dividend, no Default shall have occurred and be continuing (or result therefrom); *provided further, however*, that such dividends shall be excluded in the calculation of the amount of Restricted Payments;

(6) repurchases of Capital Stock deemed to occur upon exercise of stock options if such Capital Stock represents a portion of the exercise price of such options; *provided, however*, that such Restricted Payments shall be excluded in the calculation of the amount of Restricted Payments;

(7) cash payments in lieu of the issuance of fractional shares in connection with the exercise of warrants, options or other securities convertible into or exchangeable for Capital Stock of the Company; *provided, however*, that any such cash payment shall not be for the purpose of evading the limitation of the covenant described under this subheading; *provided further, however*, that such payments shall be excluded in the calculation of the amount of Restricted Payments;

(8) in the event of a Change of Control, and if no Default shall have occurred and be continuing, the payment, purchase, redemption, defeasance or other acquisition or retirement of Subordinated Obligations of the Company or any Subsidiary Guarantor, in each case, at a purchase price not greater than 101% of the principal amount of such Subordinated Obligations, plus any accrued and unpaid interest thereon; *provided, however*, that prior to such payment, purchase, redemption, defeasance or other acquisition or retirement, the Company (or a third party to the extent permitted by the Indenture) has made a Change of Control Offer with respect to the notes as a result of such Change of Control and has repurchased all notes validly tendered and not withdrawn in connection with such Change of Control Offer; *provided further, however*, that such payments, purchases, redemptions, defeasances or other acquisitions or retirements shall be included in the calculation of the amount of Restricted Payments;

(9) payments of intercompany subordinated Indebtedness, the Incurrence of which was permitted under clause (2) of paragraph (b) of the covenant described under Limitation on Indebtedness ; *provided, however*, that no Default has occurred and is continuing or would otherwise result therefrom; *provided further, however*, that such payments shall be excluded in the calculation of the amount of Restricted Payments;

(10) the payment of ordinary quarterly dividends on the common stock of the Company at a rate no greater than $0.09 per share (as adjusted for stock splits and other similar changes to such common stock); *provided, however*, the aggregate amount of such dividends in any year shall not exceed $17.5 million; *provided further, however*, that such payments shall be included in the calculation of the amount of Restricted Payments; and

(11) Restricted Payments in an amount which, when taken together with all Restricted Payments made pursuant to this clause (11), does not exceed $35.0 million; *provided, however*, that (A) at the time of each such

Restricted Payment, no Default shall have occurred and be continuing (or result therefrom) and (B) such Restricted Payments shall be excluded in the calculation of the amount of Restricted Payments.

Limitation on Restrictions on Distributions from Restricted Subsidiaries

The Company will not, and will not permit any Restricted Subsidiary to, create or otherwise cause or permit to exist or become effective any consensual encumbrance or restriction on the ability of any Restricted Subsidiary to (a) pay dividends or make any other distributions on its Capital Stock to the Company or a Restricted Subsidiary or pay any Indebtedness owed to the Company, (b) make any loans or advances to the Company or (c) transfer any of its property or assets to the Company, except:

(1) with respect to clauses (a), (b) and (c),

(A) any encumbrance or restriction pursuant to an agreement in effect at or entered into on the Issue Date;

(B) any encumbrance or restriction contained in the terms of any Indebtedness Incurred pursuant to clause (b)(1) of the covenant described under Limitation on Indebtedness or any agreement pursuant to which such Indebtedness was issued if (i) either (x) the encumbrance or restriction applies only in the event of and during the continuance of a payment default or a default with respect to a financial covenant contained in such Indebtedness or agreement or (y) the Company determines at the time any such Indebtedness is Incurred (and at the time of any modification of the terms of any such encumbrance or restriction) that any such encumbrance or restriction will not materially affect the Company s ability to make principal or interest payments on the notes and any other Indebtedness that is an obligation of the Company and (ii) the encumbrance or restriction is not materially more disadvantageous to the holders of the notes than is customary in comparable financings or agreements (as determined by the Company in good faith);

(C) any encumbrance or restriction with respect to a Restricted Subsidiary pursuant to an agreement relating to any Indebtedness Incurred by such Restricted Subsidiary on or prior to the date on which such Restricted Subsidiary was acquired by the Company (other than Indebtedness Incurred as consideration in, or to provide all or any portion of the funds or credit support utilized to consummate, the transaction or series of related transactions pursuant to which such Restricted Subsidiary became a Restricted Subsidiary or was acquired by the Company) and outstanding on such date;

(D) any encumbrance or restriction pursuant to an agreement effecting a Refinancing of Indebtedness Incurred pursuant to an agreement referred to in clause (A) or (B) of clause (1) of this covenant or this clause (D) or contained in any amendment to an agreement referred to in clause (A) or (B) of clause (1) of this covenant or this clause (D); *provided, however*, that the encumbrances and restrictions with respect to such Restricted Subsidiary contained in any such refinancing agreement or amendment are no less favorable to the Holders than encumbrances and restrictions with respect to such Restricted Subsidiary contained in such predecessor agreements;

(E) with respect to any Foreign Subsidiary, any encumbrance or restriction contained in the terms of any Indebtedness, or any agreement pursuant to which such Indebtedness was Incurred;

(F) Liens permitted to be incurred under the provisions of the covenant described under Limitation on Liens that limit the right of the debtor to dispose of the assets subject to such Liens;

(G) encumbrances or restrictions contained in agreements entered into in connection with Hedging Obligations permitted from time to time under the Indenture;

(H) restrictions on cash or other deposits or net worth requirements imposed by customers or required by insurance, surety or bonding companies, in each case, under contracts entered into in the ordinary course of business;

(I) existing under, by reason of or with respect to applicable law, rule, regulation or order;

(J) with respect to any Person or the property or assets of a Person acquired by the Company or any of its Restricted Subsidiaries existing at the time of such acquisition, which encumbrance or restriction is not applicable to any Person or the properties or assets of any Person, other than the Person, or the property or assets of the Person, so acquired and any amendments, modifications,

restatements, renewals, increases, extensions, supplements, refundings, replacements or refinancings thereof, provided that the encumbrances and restrictions in any such amendments, modifications, restatements, renewals, increases, extensions, supplements, refundings, replacements or refinancings are, in the reasonable good faith judgment of the Chief Executive Officer and the Chief Financial Officer of the Company, no more restrictive, taken as a whole, than those in effect on the date of the acquisition; and

(K) any encumbrance or restriction with respect to a Restricted Subsidiary imposed pursuant to an agreement entered into for the sale or disposition of all or substantially all the Capital Stock or assets of such Restricted Subsidiary pending the closing of such sale or disposition; and

(2) with respect to clause (c) only,

(A) any encumbrance or restriction consisting of customary nonassignment provisions in leases governing leasehold interests to the extent such provisions restrict the transfer of the lease or the property leased thereunder;

(B) any encumbrance or restriction contained in credit agreements, security agreements or mortgages securing Indebtedness of a Restricted Subsidiary to the extent such encumbrance or restriction restricts the transfer of the property subject to such credit agreements, security agreements or mortgages; and

(C) customary restrictions contained in asset sale agreements limiting the transfer of such assets pending the closing of such sale.

Limitation on Sales of Assets and Subsidiary Stock

(a) The Company will not, and will not permit any Restricted Subsidiary to, directly or indirectly, consummate any Asset Disposition unless:

(1) the Company or such Restricted Subsidiary receives consideration at the time of such Asset Disposition at least equal to the fair market value (including as to the value of all non-cash consideration), as determined in good faith by the Board of Directors (or, in the case of any sale of timberland pursuant to a Pre-Approved Timberland Sale Initiative, as determined in good faith by an executive officer of the Company), of the shares and assets subject to such Asset Disposition;

(2) at least 75% of the consideration thereof received by the Company or such Restricted Subsidiary is in the form of (A) cash or cash equivalents or (B) Additional Assets; and

(3) an amount equal to 100% of the Net Available Cash from such Asset Disposition is applied by the Company (or such Restricted Subsidiary, as the case may be)

(A) *first*, to the extent the Company elects, to acquire Additional Assets within one year from the later of the date of such Asset Disposition or the receipt of such Net Available Cash;

(B) *second*, to the extent of the balance of such Net Available Cash after application in accordance with clause (A), to the extent the Company elects (or is required by the terms of any Indebtedness), to prepay, repay, redeem or purchase Senior Indebtedness of the Company or Indebtedness (other than any Disqualified Stock) of a Restricted Subsidiary (in each case other than Indebtedness owed to the Company or an Affiliate of the Company) within one year from the later of the date of such Asset Disposition or the receipt of such Net Available Cash; and

(C) *third*, to the extent of the balance of such Net Available Cash after application in accordance with clauses (A) and (B), to make an offer to the holders of the notes (and to holders of other Senior Indebtedness of the Company designated by the Company) to purchase notes (and such other Senior Indebtedness of the Company) pursuant to and subject to the conditions contained in the Indenture;

provided, *however*, that in connection with any prepayment, repayment or purchase of Indebtedness pursuant to clause (B) or (C) above (other than with the Net Available Cash from any Asset Disposition of timberland pursuant to a Pre-Approved Timberland Sale Initiative), the Company or such Restricted Subsidiary shall permanently retire such Indebtedness and shall cause the related loan commitment (if any) to be permanently reduced in an amount equal to the principal amount so prepaid, repaid or purchased.

Notwithstanding the foregoing provisions of this covenant, the Company and the Restricted Subsidiaries will not be required to apply any Net Available Cash in accordance with this covenant except to the extent that the aggregate Net Available Cash from all Asset Dispositions which is not applied in accordance with this covenant exceeds $25.0 million.

For the purposes of this covenant, the following are deemed to be cash or cash equivalents:

(1) the assumption or discharge of Indebtedness of the Company (other than obligations in respect of Disqualified Stock of the Company) or any Restricted Subsidiary (other than obligations in respect of Disqualified Stock or Preferred Stock of a Subsidiary Guarantor) and the release of the Company or such Restricted Subsidiary from all liability on such Indebtedness in connection with such Asset Disposition; and

(2) securities received by the Company or any Restricted Subsidiary from the transferee that are promptly converted by the Company or such Restricted Subsidiary into cash (including, in the case of any installment note received by the Company or any Restricted Subsidiary in respect of any Asset Disposition of timberland pursuant to a Pre-Approved Timberland Sale Initiative, the receipt of cash in respect of any loan secured solely by a pledge of such installment note and, if applicable, the pledge or assignment of a letter of credit or similar instrument provided by such transferee), to the extent of cash received in that conversion.

(b) In the event of an Asset Disposition that requires the purchase of notes (and other Senior Indebtedness of the Company) pursuant to clause (a)(3)(C) above, the Company will purchase notes tendered pursuant to an offer by the Company for the Notes (and such other Senior Indebtedness) at a purchase price of 100% of their principal amount (or, in the event such other Senior Indebtedness of the Company was issued with significant original issue discount, 100% of the accreted value thereof) without premium, plus accrued but unpaid interest (or, in respect of such other Senior Indebtedness of the Company, such lesser price, if any, as may be provided for by the terms of such Senior Indebtedness) in accordance with the procedures (including prorating in the event of oversubscription) set forth in the Indenture. If the aggregate purchase price of the securities tendered exceeds the Net Available Cash allotted to their purchase, the Company will select the securities to be purchased on a *pro rata* basis but in round denominations, which in the case of the notes will be denominations of $1,000 principal amount or multiples thereof. The Company shall not be required to make such an offer to purchase notes (and other Senior Indebtedness of the Company) pursuant to this covenant if the Net Available Cash available therefor is less than $10.0 million (which lesser amount shall be carried forward for purposes of determining whether such an offer is required with respect to the Net Available Cash from any subsequent Asset Disposition). Upon completion of such an offer to purchase, Net Available Cash will be deemed to be reduced by the aggregate amount of such offer.

(c) The Company will comply, to the extent applicable, with the requirements of Section 14(e) of the Exchange Act and any other securities laws or regulations in connection with the repurchase of notes pursuant to this covenant. To the extent that the provisions of any securities laws or regulations conflict with provisions of this covenant, the Company will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under this covenant by virtue of its compliance with such securities laws or regulations.

Limitation on Affiliate Transactions

(a) The Company will not, and will not permit any Restricted Subsidiary to, enter into or permit to exist any transaction (including the purchase, sale, lease or exchange of any property, employee compensation arrangements or the rendering of any service) with, or for the benefit of, any Affiliate of the Company (an Affiliate Transaction) unless:

(1) the terms of the Affiliate Transaction are no less favorable to the Company or such Restricted Subsidiary than those that could be obtained at the time of the Affiliate Transaction in arm s-length dealings with a Person who is not an Affiliate;

(2) if such Affiliate Transaction involves an amount in excess of $15.0 million, the terms of the Affiliate Transaction are set forth in writing and a majority of the non-employee directors of the Company disinterested with respect to such Affiliate Transaction have determined in good faith that the

53

criteria set forth in clause (1) are satisfied and have approved the relevant Affiliate Transaction as evidenced by a resolution of the Board of Directors; and

(3) if such Affiliate Transaction involves an amount in excess of $30.0 million, the Board of Directors shall also have received a written opinion from an Independent Qualified Party to the effect that such Affiliate Transaction is fair, from a financial standpoint, to the Company and its Restricted Subsidiaries or is not less favorable to the Company and its Restricted Subsidiaries than could reasonably be expected to be obtained at the time in an arm s-length transaction with a Person who was not an Affiliate.

(b) The provisions of the preceding paragraph (a) will not prohibit:

(1) any Investment (other than a Permitted Investment) or other Restricted Payment, in each case permitted to be made pursuant to (but only to the extent included in the calculation of the amount of Restricted Payments made pursuant to paragraph (a)(3) of) the covenant described under Limitation on Restricted Payments ;

(2) any issuance of securities, or other payments, awards or grants in cash, securities or otherwise pursuant to, or the funding of, employment arrangements, stock options and stock ownership plans approved by the Board of Directors;

(3) loans or advances to employees in the ordinary course of business in accordance with the past practices of the Company or its Restricted Subsidiaries, but in any event not to exceed $5.0 million in the aggregate outstanding at any one time; **Issuance in Series**

We may issue units in such amounts and in as many distinct series as we wish. This section summarizes terms of the units that apply generally to all series. Most of the financial and other specific terms of your series will be described in the applicable prospectus supplement.

Unit Agreements

We will issue the units under one or more unit agreements to be entered into between us and a bank or other financial institution, as unit agent. We may add, replace or terminate unit agents from time to time. We will identify the unit agreement under which each series of units will be issued and the unit agent under that agreement in the applicable prospectus supplement.

The following provisions will generally apply to all unit agreements unless otherwise stated in the applicable prospectus supplement.

Enforcement of Rights

The unit agent under a unit agreement will act solely as our agent in connection with the units issued under that agreement. The unit agent will not assume any obligation or relationship of agency or trust for or with any holders of those units or of the securities comprising those units. The unit agent will not be obligated to take any action on behalf of those holders to enforce or protect their rights under the units or the included securities.

Table of Contents

Except as indicated in the next paragraph, a holder of a unit may, without the consent of the unit agent or any other holder, enforce its rights as holder under any security included in the unit, in accordance with the terms of that security and the indenture, warrant agreement, rights agreement or other instrument under which that security is issued. Those terms are described elsewhere in this prospectus under the sections relating to debt securities, warrants, stock purchase contracts, common stock and preferred stock, as relevant.

Notwithstanding the foregoing, a unit agreement may limit or otherwise affect the ability of a holder of units issued under that agreement to enforce its rights, including any right to bring a legal action, with respect to those units or any securities, other than debt securities, that are included in those units. Limitations of this kind will be described in the applicable prospectus supplement.

Unit Agreements Will Not Be Qualified Under Trust Indenture Act

No unit agreement will be qualified as an indenture, and no unit agent will be required to qualify as a trustee, under the Trust Indenture Act. Therefore, holders of units issued under unit agreements will not have the protections of the Trust Indenture Act with respect to their units.

Mergers and Similar Transactions Permitted; No Restrictive Covenants or Events of Default

The unit agreements will not restrict our ability to merge or consolidate with, or sell our assets to, another corporation or other entity or to engage in any other transactions. If at any time we merge or consolidate with, or sell our assets substantially as an entirety to, another corporation or other entity, the successor entity will succeed to and assume our obligations under the unit agreements. We will then be relieved of any further obligation under these agreements.

The unit agreements will not include any restrictions on our ability to put liens on our assets, including our interests in our subsidiaries, nor will they restrict our ability to sell our assets. The unit agreements also will not provide for any events of default or remedies upon the occurrence of any events of default.

Governing Law

The unit agreements and the units will be governed by California law.

Form, Exchange and Transfer

We will issue each unit in global *i.e.*, book-entry form only. Units in book-entry form will be represented by a global security registered in the name of a depositary, which will be the holder of all the units represented by the global security. Those who own beneficial interests in a unit will do so through participants in the depositary s system, and the rights of these indirect owners will be governed solely by the applicable procedures of the depositary and its participants.

Each unit and all securities comprising the unit will be issued in the same form.

If we issue any units in registered, non-global form, the following will apply to them.

The units will be issued in the denominations stated in the applicable prospectus supplement. Holders may exchange their units for units of smaller denominations or combined into fewer units of larger denominations, as long as the total amount is not changed.

Holders may exchange or transfer their units at the office of the unit agent. Holders may also replace lost, stolen, destroyed or mutilated units at that office. We may appoint another entity to perform these functions or perform them ourselves.

Holders will not be required to pay a service charge to transfer or exchange their units, but they may be required to pay for any tax or other governmental charge associated with the transfer or exchange. The transfer or exchange, and any replacement, will be made only if our transfer agent is satisfied with the holder s proof of legal ownership. The transfer agent may also require an indemnity before replacing any units.

Table of Contents

If we have the right to redeem, accelerate or settle any units before their maturity, and we exercise our right as to less than all those units or other securities, we may block the exchange or transfer of those units during the period beginning 15 days before the day we mail the notice of exercise and ending on the day of that mailing, in order to freeze the list of holders to prepare the mailing. We may also refuse to register transfers or exchange of any unit selected for early settlement, except that we will continue to permit transfers and exchanges of the unsettled portion of any unit being partially settled. We may also block the transfer or exchange of any unit in this manner if the unit includes securities that are or may be selected for early settlement.

Only the depositary will be entitled to transfer or exchange a unit in global form, since it will be the sole holder of the unit.

Payments and Notices

In making payments and giving notices with respect to our units, we will follow the procedures we plan to use with respect to our debt securities, where applicable. We describe those procedures below under Description of Debt Securities.

DESCRIPTION OF DEBT SECURITIES

The following sets forth the material terms and provisions of the indenture under which the Debt Securities of the Operating Partnership or of Essex are to be issued. The specific terms of the Debt Securities will be set forth in a Prospectus Supplement relating to such Debt Securities. Unless otherwise specified in the applicable Prospectus Supplement, the Debt Securities are to be issued under an indenture, as amended or supplemented from time to time among the Operating Partnership, Essex and a trustee chosen by the Operating Partnership and Essex and qualified to act as trustee under the Trust Indenture Act of 1939, as amended (the TIA) (together with any other trustee(s) appointed in a supplemental indenture with respect to a particular series, the Trustee). The Operating Partnership has an existing indenture, which has been filed as an exhibit to our current report on Form 8-K, filed November 2, 2005. Debt securities may be issued pursuant to this existing indenture or one or more additional indentures. The indenture that applies to the specific Debt Securities being issued is referred to herein as the Indenture. The Indenture is subject to, and governed by, the TIA. The statements made hereunder relating to the Indenture and the Debt Securities to be issued hereunder are summaries of all material general provisions thereof and do not purport to be complete and are subject to, and are qualified in their entirety by reference to, all provisions of the Indenture and such Debt Securities. The material terms of a specific series or class of Debt Securities will be set forth in the related Prospectus Supplement. The related Prospectus Supplement may also set forth the terms and provisions of the Indenture that supersede or modify those set forth below. Capitalized terms used but not defined herein shall have the respective meanings set forth in the Indenture.

General

The Debt Securities may be non-convertible or convertible into or exercisable or exchangeable for securities of Essex or the Operating Partnership. The Debt Securities will be direct, unsecured obligations of the Operating Partnership. Except for any series of Debt Securities which is specifically subordinated to other indebtedness of the Operating Partnership, the Debt Securities will rank pari passu with all other unsecured and unsubordinated indebtedness of the Operating Partnership. Under the Indenture, 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 Board of Directors of Essex as sole general partner of the Operating Partnership or as established in one or more indentures supplemental to the Indenture. All Debt Securities of any

one series need not be issued at the same time and, unless otherwise provided, a series may be reopened, without the consent of the holders of the Debt Securities of such series, for issuances of additional Debt Securities of such series.

The Debt Securities of the Operating Partnership may be unconditionally guaranteed by Essex as to payment of principal, premium, if any, and interest.

Table of Contents

The Indenture provides that there may be more than one Trustee thereunder, each with respect to one or more series of Debt Securities. Any Trustee under the Indenture may resign at any time by giving written notice or may be removed with respect to the Debt Securities of any series at any time by the act of the holders of a majority in aggregate principal amount of Outstanding Securities of such series, and a successor Trustee will be appointed to act with respect to such series. In the event that two or more persons are acting as Trustee with respect to different series of Debt Securities, each such Trustee shall be a trustee of a trust under the Indenture separate and apart from any trust administered by any other Trustee, and, except as otherwise indicated herein, any action described herein to be taken by the Trustee may be taken by each such Trustee with respect to, and only with respect to, the one or more series of Debt Securities for which it is Trustee under the Indenture.

Terms

Reference is made to the Prospectus Supplement relating to the series of Debt Securities being offered for the specific terms thereof, including, but not limited to:

(1) the title of such Debt Securities, whether such Debt Securities are senior securities or subordinated securities and whether such Debt Securities are guaranteed by a guarantee;

(2) the aggregate principal amount of such Debt Securities and any limit on such aggregate principal amount;

(3) the percentage of the principal amount at which such Debt Securities will be issued and, if other than the principal amount thereof, the portion of the principal amount thereof payable upon declaration of acceleration of the maturity thereof;

(4) the date or dates, or the method for determining such date or dates, on which the principal of such Debt Securities will be payable;

(5) the rate or rates (which may be fixed or variable), or the method by which such rate or rates shall be determined, at which such Debt Securities will bear interest, if any;

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

(7) the place or places where (i) the principal of (and premium, if any) and interest, if any, on such Debt Securities will be payable, (ii) such Debt Securities may be surrendered for registration of transfer or exchange, and (iii) notices or demands to or upon the Operating Partnership in respect of such Debt Securities, any applicable Guarantees and the Indenture may be served;

(8) the period or periods within which, or the date or dates on which, the price or prices at which and the other terms and conditions upon which such 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 repurchase such Debt Securities pursuant to any sinking fund or analogous provisions or at the option of a holder thereof, and the period or periods within which, or the date or dates on which, the price or prices at which and the terms and conditions upon which such Debt Securities are required to be redeemed, repaid or purchased, as a whole or in part, pursuant to such

obligation;

(10) if other than U.S. dollars, the currency or currencies in which such Debt Securities are denominated and/or 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 such Debt Securities may be determined with reference to an index, formula or other method (which index, formula

Table of Contents

or method may, but need not be, based on a currency, currencies, currency unit or units or composite currency or currencies) and the manner in which such amounts shall be determined;

(12) any additions to, modifications of or deletions from the terms of such Debt Securities with respect to the Events of Default or covenants or other provisions set forth in the Indenture;

(13) whether such Debt Securities will be issued in certificated and/or book-entry form;

(14) whether such 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 and terms and conditions relating thereto;

(15) the applicability, if any, of the defeasance and covenant defeasance provisions of the Indenture, or any modification thereof;

(16) the terms and conditions, if any, upon which such Debt Securities may be subordinated to other indebtedness of the Operating Partnership;

(17) whether such Debt Securities will be guaranteed by Essex;

(18) whether and under what circumstances the Operating Partnership will pay additional amounts as contemplated in the Indenture on such 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; and

(19) any other terms of such Debt Securities not inconsistent with the provisions of the 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 (Original Issue Discount Securities). Special U.S. federal income tax, accounting and other considerations applicable to the Original Issue Discount Securities will be described in the applicable Prospectus Supplement.

The Indenture does not contain any provisions that would limit the ability of the Operating Partnership to incur indebtedness or that would afford holders of Debt Securities protection in the event of a highly leveraged or similar transaction involving the Operating Partnership. However, such provisions may be provided with respect to a particular series of Debt Securities, and certain restrictions on ownership and transfers of Essex s Common Stock and preferred stock, designed to preserve Essex s status as a REIT, may prevent or hinder a change of control. Reference is made to the applicable Prospectus Supplement for information with respect to any deletions from, modifications of or additions to the Events of Default or covenants of the Operating Partnership that are described below, including any addition of a covenant or other provision providing event risk or similar protection.

Guarantees

If specified in the applicable Prospectus Supplement, the Debt Securities may be unconditionally and irrevocably guaranteed by Guarantees of Essex, on a senior or subordinated basis, which will guarantee the due and punctual payment of principal of, premium, if any, and interest on such 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 a maturity date, by declaration of acceleration, call for redemption or otherwise. The applicability and terms of any such Guarantee relating to a series of Debt Securities will be set forth in the Prospectus Supplement relating to such Debt Securities.

Denominations, Interest, Registration and Transfer

Unless otherwise described in the applicable Prospectus Supplement, the Debt Securities of any series will be issuable in denominations of $1,000 and integral multiples thereof.

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 Trustee, provided that, at the option of the holder, payment of interest may be made by check mailed to the address of the person entitled

Table of Contents

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.

All amounts paid by the Operating Partnership to a paying agent or a Trustee for the payment of the principal of or any premium or interest on any Debt Security which remain unclaimed at the end of two years after the principal, premium or interest has become due and payable will be repaid to the Operating Partnership, and the holder of the Debt Security thereafter may look only to the Operating Partnership for payment thereof.

Any interest not punctually paid or duly provided for on any interest payment date with respect to a Debt Security (Defaulted Interest) will forthwith cease to be payable to the holder on the applicable regular 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 (the Special Record Date) for the payment of such Defaulted Interest to be fixed by the 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, of a like aggregate principal amount and tenor, of any authorized denominations upon surrender of such Debt Securities at the corporate trust office of the Trustee. 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 conversion or registration of transfer thereof at the corporate trust office of the Trustee referred to above. Every Debt Security surrendered for conversion, redemption, 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 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 Trustee shall be required to (i) issue, register the transfer of or exchange Debt Securities of any series during a period beginning at the opening of business 15 days before any selection of Debt Securities of that series to be redeemed and ending at the close of business of the day of mailing of the relevant notice of redemption; (ii) register the transfer of or exchange any Debt Security, or portion thereof, called for redemption, except the unredeemed portion of any Debt Security being redeemed in part; or (iii) issue, register the transfer of or exchange any Debt Security which has been surrendered for repayment at the option of the holder, except that portion, if any, of such Debt Security which is not to be so repaid.

Merger, Consolidation or Sale

The Operating Partnership may consolidate with, or sell, lease or convey all or substantially all of its assets to, or merge with or into, any other person, provided that (a) either the Operating Partnership shall be the continuing person, or the successor (if other than the Operating Partnership) formed by or resulting from any such consolidation or merger or which shall have received the transfer of such assets shall expressly assume payment of the principal of (and premium, if any) and interest on all of the Debt Securities and the due and punctual performance and observance of all of the covenants and conditions contained in the Indenture; (b) immediately after giving effect to such transaction and treating any indebtedness which becomes an obligation of the Operating Partnership or any subsidiary as a result thereof as having been incurred by the Operating Partnership or such

subsidiary at the time of such transaction, no Event of Default under the Indenture, and no event which, after notice or the lapse of time, or both, would become such an Event of Default, shall have occurred and be continuing; and (c) an officers certificate of Essex as General Partner of the Operating Partnership and an opinion of counsel covering such conditions shall be delivered to the Trustee.

Table of Contents

Certain Covenants

Existence. Except as permitted under Merger, Consolidation or Sale, the Indenture requires each of the Operating Partnership and Essex (if Essex has guaranteed any Debt Securities) to do or cause to be done all things necessary to preserve and keep in full force and effect its existence, rights (partnership and statutory) and franchises; provided, however, that each of the Operating Partnership and Essex shall not be required to preserve any right or franchise if the Board of Directors of Essex determines that the preservation thereof is no longer desirable in the conduct of the business of the Operating Partnership and that the loss thereof is not disadvantageous in any material respect to the holders of the Debt Securities.

Maintenance of Properties. The Indenture requires each of the Operating Partnership and Essex (if Essex has guaranteed any Debt Securities) 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, all as in the judgment of 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 or Essex, as the case may be, and its subsidiaries shall not be prevented from selling or otherwise disposing of their properties for value in the ordinary course of business.

Insurance. The Indenture requires the Operating Partnership and each of its Subsidiaries to keep its insurable properties insured against loss or damage with commercially reasonable amounts and types of insurance provided by insurers of recognized responsibility.

Payment of Taxes and Other Claims. The Indenture requires each of the Operating Partnership and Essex (if Essex has guaranteed any Debt Securities) to pay or discharge or cause to be paid or discharged, before the same shall become delinquent, (i) all taxes, assessments and governmental charges levied or imposed upon it or any subsidiary or upon its income, profits or property or that of any Subsidiary and (ii) all lawful claims for labor, materials and supplies which, if unpaid, might by law become a lien upon the property of the Operating Partnership or any subsidiary; provided, however, that the Operating Partnership or Essex shall not be required to pay or discharge or cause to be paid or discharged any tax, assessment, charge or claim whose amount or applicability is being contested in good faith.

Provision of Financial Information. The Operating Partnership will file with the Trustee copies of annual reports, quarterly reports and other documents (the Financial Reports) which the Operating Partnership files with the Securities and Exchange Commission (the Commission) or would be required to file with the Commission pursuant to Sections 13 or 15(d) of the Exchange Act if the Operating Partnership were subject to such sections; provided, however, that if the Operating Partnership is not subject to such sections, it may, in lieu of filing Financial Reports of the Operating Partnership with the Trustee, file Financial Reports of Essex if they would be materially the same as those that would have been filed by the Operating Partnership with the Commission pursuant to Sections 13 or 15(d) of the Exchange Act.

Additional Covenants. Reference is made to the applicable Prospectus Supplement for information with respect to any additional covenants specific to a particular series of Debt Securities.

Events of Default, Notice and Waiver

Unless otherwise provided in the Prospectus Supplement, the Indenture provides that the following events are Events of Default with respect to any series of Debt Securities issued thereunder: (a) default for 30 days in the payment of any interest on any Debt Security of such series; (b) default in the payment of any principal of (or premium, if any, on) any Debt Security of such series when due; (c) default in making any sinking fund payment

as required for any Debt Security of such series; (d) default in the performance of any other covenant or warranty of the Operating Partnership or Essex contained in the Indenture with respect to any Debt Security of such series, continued for 60 days after written notice as provided in the Indenture; (e) default in the payment of an aggregate principal amount exceeding (i) $50 million with respect to indebtedness secured by real property and (ii) $25 million with respect to all other indebtedness, and, in either case, such indebtedness is not discharged or such default in payment is not cured or rescinded, prior to acceleration of such indebtedness; (f) certain events of bankruptcy, insolvency or reorganization, or court appointment of a receiver, liquidator or trustee of the Operating Partnership

Table of Contents

and Essex (if Essex has guaranteed any Debt Securities), or any Significant Subsidiary or all or substantially all of any of their respective property; and (g) any other Event of Default provided with respect to a particular series of Debt Securities.

The term Significant Subsidiary means each significant Subsidiary (as defined in Regulation S-X promulgated under the Securities Act) of the Operating Partnership or Essex, as the case may be.

If an Event of Default under the Indenture with respect to Debt Securities of any series at the time outstanding occurs and is continuing, then in every such case the Trustee or the holders of not less than a majority 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 Essex (if Essex has guaranteed any Debt Securities under such Indenture) and the Operating Partnership (and to the Trustee if given by the holders). However, any time after such a declaration of acceleration with respect to Debt Securities of such series has been made, but before a judgment or decree for payment of the money due has been obtained by the Trustee, the holders of not less then a majority in principal amount of outstanding Debt Securities of such series may rescind and annul such declaration and its consequences if (a) the Operating Partnership shall have paid or deposited with the Trustee all required payments of the principal of (and premium, if any) and interest on the Debt Securities of such series plus certain fees, expenses, disbursements and advances of the Trustee, its agents and counsel and (b) all Events of Default, other than the nonpayment of accelerated principal or interest with respect to Debt Securities of such series have been cured or waived as provided in the Indenture. The Indenture also provides that the Holders of not less than a majority in principal amount of the outstanding Debt Securities of any series may waive any past default with respect to such series and its consequences, except a default (x) in the payment of the principal of (or premium, if any) or interest on any Debt Security of such series or (y) in respect of a covenant or provision contained in the Indenture that cannot be modified or amended without the consent of the holder of each outstanding Debt Security affected thereby.

The Trustee is required to give notice to the Holders of Debt Securities within 90 days of a default under the Indenture; provided, however, that the Trustee may withhold notice to the Holders of any series of Debt Securities of any default with respect to such series (except a default in the payment of the principal of (or premium, if any) or interest on any Debt Security of such series or in the payment of any sinking fund installment in respect of any Debt Security of such series) if the responsible officers of the Trustee in good faith determines such withholding to be in the interest of such Holders.

The Indenture provides 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 a majority in principal amount of the outstanding Debt Securities of that series, as well as an offer of reasonable indemnity. This provision, however, will not prevent any holder of Debt Securities from instituting suit for the enforcement of payment of the principal of (and premium, if any) and interest on such Debt Securities at the respective due date thereof.

Subject to provisions in the Indenture 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 Debt Securities of any series then outstanding under the Indenture, unless such 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. However,

the Trustee may refuse to follow any direction which is in conflict with any law or the Indenture, which may expose the Trustee to personal liability or which may be unduly prejudicial to the holders of Debt Securities of such series not joining therein.

Within 120 days after the close of each fiscal year, the Operating Partnership and Essex (if Essex has guaranteed any Debt Securities) must deliver to the Trustee a certificate, signed by one of several specified officers of Essex, stating whether or not such officer has knowledge of any default under the Indenture and, if so, specifying each such default and the nature and status thereof.

Table of Contents

Modification of the Indenture

Modifications and amendments of provisions of the Indenture applicable to any series may be made only with consent of the holders of not less than a majority in principal amount of all outstanding Debt Securities, which are affected by such modification or amendment; provided, however, that no such modification or amendment may, without the consent of the holder of each such Debt Security affected thereby: (a) change the stated maturity of the principal of, or any installment of principal of or interest (or premium, if any) on, any such Debt Security; (b) reduce the principal amount of, or the rate or amount of interest on, or any premium payable on redemption of, any such Debt Security, or reduce the amount of principal of an Original Issue Discount Security that would be due and payable upon declaration of acceleration of the maturity thereof or would be provable in bankruptcy, or adversely affect any right of repayment of the holder of any such Debt Security; (c) change the place of payment, or the coin or currency, for payment of principal of, premium, if any, or interest on any such Debt Security; (d) impair the right to institute suit for the enforcement of any payment on or with respect to any such Debt Security on or after the stated maturity thereof; (e) reduce the stated percentage in principal amount of outstanding Debt Securities of any series necessary to modify or amend the 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 the Indenture; or (f) 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 such action or to provide that certain other provisions may not be modified or waived without the consent of the holder of such Debt Security affected thereby.

The holders of not less than a majority in principal amount of outstanding Debt Securities of a particular series have the right to waive compliance by the Operating Partnership or Essex with certain covenants in the Indenture relating to such series.

The Operating Partnership and Essex (if Essex has guaranteed any Debt Securities) and the Trustee without the consent of any holder of Debt Securities may make modifications of and amendments to the Indenture for any of the following purposes: (i) to evidence the succession of another person to the Operating Partnership as obligor under the Indenture or succession of another person as guarantor; (ii) to add to the covenants of the Operating Partnership and Essex (if Essex has guaranteed any Debt Securities) 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 Essex in the Indenture; (iii) to add Events of Default for the benefit of the holders of all or any series of Debt Securities; (iv) to add or change any provisions of the Indenture to facilitate the issuance of 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 in any material respect; (v) to change or eliminate any provisions of the Indenture, provided that any such change or elimination shall become effective only when there are not Debt Securities outstanding of any series created prior thereto which are entitled to the benefit of such provision; (vi) to secure the Debt Securities or guarantees; (vii) to establish the form or terms of Debt Securities of any series and any related Guarantees; (viii) to provide for the acceptance of appointment by a successor Trustee or facilitate the administration of the trust under the Indenture by more than one Trustee; (ix) to cure any ambiguity, defect or inconsistency in the Indenture, provided that such action shall not adversely affect the interests of holders of Debt Securities of any series in any material respect; and (x) to supplement any of the provisions of the Indenture to the extent necessary to permit or facilitate defeasance and discharge of any series of such Debt Securities, provided that such action shall not adversely affect the interests of the holders of the Debt Securities of any series in any material respect.

The Indenture provides 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, (i) 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, (ii) 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 in (i) above), (iii) the principal amount of an indexed security that shall be deemed outstanding shall be the principal face amount of such

Table of Contents

indexed security at original issuance, unless otherwise provided with respect to such indexed security pursuant to the Indenture, and (iv) Debt Securities owned by the Operating Partnership or any other obligor upon the Debt Securities or any affiliate of the Operating Partnership or of such other obligor shall be disregarded.

The Indenture contains provisions for convening meetings of the holders of Debt Securities of a series. The Trustee may call a meeting at any time. Also, upon request, the Operating Partnership or the holders of at least 25% in principal amount of the outstanding Debt Securities of such series, may call a meeting in any such case upon notice given as provided in the Indenture. Except for any consent that must be given by the holder of each Debt Security affected by certain modifications and amendments of 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 with respect to the modifications of or amendments to the Indenture, 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 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 such 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 such specified percentage in principal amount of the outstanding Debt Securities of such series will constitute a quorum.

Notwithstanding the foregoing provisions, if any action is to be taken at a meeting of holders of Debt Securities of any series with respect to any request, demand, authorization, direction, notice, consent, waiver or other action that the Indenture expressly provides may be made, given or taken by the Holders of a specified percentage in principal amount of all outstanding Debt Securities affected thereby, or of the holders of such series and one or more additional series: (i) there shall be no minimum quorum requirement for such meeting and (ii) the principal amount of the outstanding Debt Securities of such series that vote in favor of such request, demand, authorization, direction, notice, consent, waiver or other action shall be taken into account in determining whether such request, demand, authorization, direction, notice, consent, waiver or other action has been made, given or taken under the Indenture.

Discharge, Defeasance and Covenant Defeasance

Unless otherwise provided in the Prospectus Supplement, the Operating Partnership or Essex (if Essex has guaranteed any Debt Securities under such Indenture) may discharge certain obligations to holders of any series of Debt Securities that have not been delivered already to the Trustee for cancellation and that either have become due and payable or will become due and payable within one year (or are scheduled for redemption within one year). Essex and the Operating Partnership can accomplish this 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 such Debt Securities are payable in an amount sufficient to pay the entire indebtedness on such Debt Securities in respect of principal (and premium, if any) and interest to the date of such deposit (if such Debt Securities have become due and payable) or to the stated maturity or redemption date, as the case may be, and the Operating Partnership has met the other conditions specified in the Indenture.

The Indenture provides that, unless otherwise provided in the Prospectus Supplement, the Operating Partnership may under certain circumstances elect either: (a) to defease and be discharged from any and all obligations with respect to certain Debt Securities (except for the obligation to pay principal of (and premiums, if any) and interest, if any, on such Debt Securities; to pay additional amounts, if any, upon the occurrence of certain events of tax, assessment or governmental charge with respect to such 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 such Debt Securities, to compensate the Trustee and to hold moneys for payment in trust) (defeasance) or (b) to be released from its obligations with respect to such Debt

Table of Contents

Securities of the Indenture (being the restrictions described under Certain Covenants) or, if provided pursuant to of the Indenture, its obligations with respect to any other covenant, and any omission to comply with such obligations shall not constitute a default or an Event of Default with respect to such Debt Securities (covenant defeasance), in either case upon the irrevocable deposit by the Operating Partnership or Essex, as the case may be, with the Trustee, in trust, of any amount, in such currency or currencies, currency unit or units or composite currency or currencies in which such Debt Securities are payable at stated maturity, or Government Obligations (as defined below), or both applicable to such Debt Securities which 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 such Debt Securities, and any mandatory sinking fund or analogous payments thereon, on the scheduled due dates therefor.

Such a trust may be established only if, among other things, the Operating Partnership has delivered to the Trustee an opinion of counsel (as specified in the Indenture) to the effect that the holders of such Debt Securities will not recognize income, gain or loss for U.S. federal income tax purposes as a result of such 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 such 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 Indenture.

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

Unless otherwise provided in the applicable Prospectus Supplement, if after the Operating Partnership or Essex, as the case may be, has deposited funds and/or Government Obligations to effect defeasance or covenant defeasance with respect to Debt Securities of any series: (a) the holder of a Debt Security of such series is entitled to, and does, elect pursuant to the Indenture or the terms of such Debt Security to receive payment in a currency, currency unit or composite currency other than that in which such deposit has been made in respect of such Debt Security; or (b) a Conversion Event (as defined below) occurs in respect of the currency, currency unit or composite currency in which such deposit has been made, the indebtedness represented by such 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 such Debt Security as the same becomes due out of the proceeds yielded by converting the amount so deposited in respect of such Debt Security into the currency, currency unit or composite currency in which such Debt Security becomes payable as a result of such election or such cessation of usage based on the applicable market exchange rate. Conversion Event means the cessation of use of: (i) a currency, currency unit or composite currency either by the government of the country which issued such currency for the settlement of transactions by a central bank or other public institution of or within the international banking community; (ii) the Euro either within the European Community or for the settlement of transactions by public institutions of or within the European Community; or (iii) any currency unit or composite currency for the

purposes for which it was established. Unless otherwise provided in the applicable Prospectus Supplement, all payments of principal of (and premium, if any) and interest on any Debt Security that is payable in a foreign currency that cease to be used by its government of issuance shall be made in U.S. dollars.

Table of Contents

The applicable Prospectus Supplement may describe further the provisions, if any, permitting such defeasance or covenant defeasance, including any modifications to the provisions described above, with respect to the Debt Securities of a particular series.

Subordination

The terms and conditions, if any, upon which the Debt Securities are subordinated to other indebtedness of the Operating Partnership will be set forth in the applicable Prospectus Supplement relating thereto. Such terms will include a description of the indebtedness ranking senior to the Debt Securities, the restrictions on payments to the holders of such Debt Securities while a default with respect to such senior indebtedness is continuing, the restrictions, if any, on payments to the holders of such Debt Securities following an Event of Default, and provisions requiring holders of such Debt Securities to remit certain payments to holders of senior indebtedness.

CERTAIN PROVISIONS OF ESSEX S CHARTER AND BYLAWS

Certain provisions of Essex s Charter and Bylaws might discourage certain types of transactions that involve an actual or threatened change of control of Essex. The ownership limit may delay or impede a transaction or a change in control of Essex that might involve a premium price for Essex s capital stock or otherwise be in the best interest of the stockholders. See Description of Capital Stock Restrictions on Transfer. Pursuant to Essex s Charter and Bylaws, Essex s Board of Directors is divided into three classes of directors, each class serving staggered three-year terms. The staggered terms of directors may reduce the possibility of a tender offer or an attempt to change control of Essex. The issuance of Preferred Stock by the Board of Directors may also have the effect of delaying, deferring or preventing a change in control of Essex. See Description of Preferred Stock General.

CERTAIN MATERIAL FEDERAL INCOME TAX CONSIDERATIONS

The following is a summary of certain material federal income tax considerations relating to the qualification and taxation of Essex as a REIT which may be material to purchasers of its securities. This summary is based on current law, is for general information only and is not tax advice. The tax treatment of a holder of Essex s debt or equity securities will vary depending upon the terms of the specific securities acquired by such holder, as well as the holder s particular situation. Because this is a summary that is intended to address only the material federal income tax consequences generally relevant to purchasers of Essex s securities, it may not contain all of the information that may be pertinent to you. This discussion does not attempt to address all aspects of U.S. federal income taxation relating to holders of Essex s securities. Additional material federal income tax considerations relevant to holders of particular offerings of Essex s debt or equity securities will be addressed in the applicable Prospectus Supplement for those securities. This discussion does not cover state or local tax laws or any U.S. federal tax laws other than income tax laws. **You are urged to review the applicable Prospectus Supplement in connection with the purchase of any of Essex s securities, and to consult your own tax advisor regarding the specific tax consequences to you of investing in Essex s securities, of Essex s election to be taxed as a REIT and regarding potential changes in the applicable tax laws.**

General

Essex elected to be taxed as a REIT commencing with its taxable year ended December 31, 1994. Essex believes that it has operated in a manner that permits it to satisfy the requirements for taxation as a REIT under the applicable provisions of the Code. Qualification and taxation as a REIT depend upon Essex s ability to meet, through actual annual operating results, distribution levels and diversity of stock ownership, and the various qualification tests imposed under the Code discussed below. Although Essex intends to continue to operate to satisfy such requirements, no assurance can be given that the actual results of Essex s operations for any particular

taxable year will satisfy such requirements. See Certain Material Federal Income Tax Considerations Failure to Qualify.

Table of Contents

The provisions of the Code, the U.S. Treasury regulations promulgated thereunder, and other U.S. federal income tax laws relating to qualification and operation as a REIT, are highly technical and complex. The following discussion sets forth the material aspects of the laws that govern the U.S. federal income tax treatment of a REIT. This summary is qualified in its entirety by the applicable Code provisions, rules and U.S. Treasury regulations thereunder, and administrative and judicial interpretations thereof. Further, the anticipated income tax treatment described in this prospectus may be changed, perhaps retroactively, by legislative, administrative or judicial action at any time.

Baker & McKenzie LLP has acted as Essex s tax counsel in connection with the filing of this prospectus. In connection with this filing, Baker & McKenzie LLP will opine that Essex has been organized and has operated in conformity with the requirements for qualification and taxation as a REIT under the Code for each of Essex s taxable years beginning with the taxable year ended December 31, 1994 through Essex s taxable year ended December 31, 2009. If Essex continues to be organized and operated after December 31, 2009 in the same manner as it has prior to that date, Essex will continue to qualify as a REIT. The opinion of Baker & McKenzie LLP will be based on various assumptions and representations made by Essex as to factual matters, including representations made by Essex in a factual certificate provided by one of Essex s officers. Moreover, Essex s qualification and taxation as a REIT depend upon its ability to meet the various qualification tests imposed under the Code and discussed below, relating to its actual annual operating results, asset diversification, distribution levels, and diversity of stock ownership, the results of which have not been and will not be reviewed by Baker & McKenzie LLP. Accordingly, neither Baker & McKenzie LLP nor Essex can assure you that the actual results of Essex s operations for any particular taxable year will satisfy these requirements. See Certain Material Federal Income Tax Considerations Failure to Qualify.

In brief, if certain detailed conditions imposed by the REIT provisions of the Code are satisfied, entities, such as Essex, that invest primarily in real estate and that otherwise would be treated for U.S. federal income tax purposes as corporations, generally are not taxed at the corporate level on their REIT taxable income that is distributed currently to stockholders. If Essex fails to qualify as a REIT in any year, however, it will be subject to U.S. federal income tax as if it were an ordinary corporation and its stockholders will be taxed in the same manner as stockholders of ordinary corporations. In that event, Essex could be subject to potentially significant tax liabilities, the amount of cash available for distribution to its stockholders could be reduced and Essex would not be obligated to make any distributions. Moreover, Essex could be disqualified from taxation as a REIT for four taxable years. See Certain Material Federal Income Tax Considerations Failure to Qualify.

Taxation of Essex

The following is a general summary of the Code provisions that govern the federal income tax treatment of a REIT and its stockholders.

In any year in which Essex qualifies as a REIT, it generally will not be subject to U.S. federal income tax on that portion of its net income that it distributes to stockholders. This treatment substantially eliminates the double taxation (at the corporate and stockholder levels) that generally results from investment in a corporation. However, Essex will be subject to U.S. federal income tax as follows:

1. First, Essex will be taxed at regular corporate rates on any undistributed REIT taxable income, including undistributed net capital gain. (However, Essex can elect to pass through any of its taxes paid on its undistributed net capital gain income to its stockholders on a pro rata basis in which case, as explained further below, such taxes would be credited or refunded to the stockholder.).

2. Second, under certain circumstances, Essex may be subject to the alternative minimum tax on its items of tax preference.

3. Third, if Essex has (a) net income from the sale or other disposition of foreclosure property (including foreign currency gain that is attributable to otherwise permitted income from foreclosure property) which is held primarily for sale to customers in the ordinary course of business or (b) other nonqualifying income from foreclosure property, Essex will be subject to tax at the highest corporate rate on such income.

Table of Contents

Foreclosure property generally is property acquired on foreclosure or otherwise on default on a loan secured by such real property or a lease of such property.

4. Fourth, if Essex has net income from prohibited transactions, which are, in general, sales or other dispositions of property held primarily for sale to customers in the ordinary course of business, generally other than foreclosure property and property involuntarily converted, such income will be subject to a 100% penalty tax.

5. Fifth, if Essex should fail to satisfy the 75% gross income test or the 95% gross income test (as discussed below), but nonetheless maintains its qualification as a REIT because certain other requirements have been met, Essex will be subject to a 100% tax on an amount equal to (a) the gross income attributable to the greater of the amount by which Essex fails the 75% gross income test or the amount by which 95% of its gross income exceeds the amount of income qualifying under the 95% gross income test multiplied by (b) a fraction intended to reflect its profitability.

6. Sixth, if Essex should fail to satisfy the asset test (as discussed below) but nonetheless maintains its qualification as a REIT because certain other requirements have been met, Essex may be subject to a tax that would be the greater of (a) $50,000; or (b) an amount determined by multiplying the highest rate of tax for corporations by the net income generated by the assets for the period beginning on the first date of the failure and ending on the day Essex disposes of the assets (or otherwise satisfy the requirements for maintaining REIT qualification).

7. Seventh, if Essex should fail to satisfy one or more requirements for REIT qualification, other than the 95% and 75% gross income tests and other than the asset test, but nonetheless maintains its qualification as a REIT because certain other requirements have been met, Essex may be subject to a $50,000 penalty for each failure.

8. Eighth, if Essex should fail to distribute during each calendar year at least the sum of (1) 85% of its ordinary income for such year, (2) 95% of its net capital gain income for such year, and (3) any undistributed taxable income from prior periods, Essex will be subject to a nondeductible 4% excise tax on the excess of such required distribution over the amounts distributed.

9. Ninth, assuming Essex does not elect to instead be taxed at the time of the acquisition, if Essex acquires any asset from a C corporation (*i.e.*, a corporation generally subject to full corporate level tax) in a transaction in which the basis of the asset in Essex s hands is determined by reference to the basis of the asset (or any other property) in the hands of the C corporation, Essex would be subject to tax at the highest corporate rate if it disposes of such asset during the 10-year period beginning on the date that Essex acquired that asset, to the extent of such property s built-in gain (the excess of the fair market value of such property at the time of Essex s acquisition over the adjusted basis of such property at such time). This tax is referred to as the Built-in Gains Tax. The Built-in Gains Tax would not apply if the asset acquired in such manner was exchanged for a replacement property in a qualifying exchange under Code Section 1031. However, a sale of the replacement property within that same 10-year period would be subject to the Built-in Gains Tax.

10. Tenth, Essex may be subject to a 100% excise tax if Essex s dealings with its taxable REIT subsidiaries, defined below, are not at arm s length.

11. Finally, any earnings that Essex derives through a taxable REIT subsidiary will effectively be subject to a corporate-level tax.

Requirements for Qualification

The Code defines a REIT as a corporation, trust or association (1) which is managed by one or more trustees or directors; (2) the beneficial ownership of which is evidenced by transferable shares, or by transferable certificates of beneficial interest; (3) which would be taxable as a domestic corporation, but for Sections 856 through 860 of the Code; (4) which is neither a financial institution nor an insurance company subject to certain provisions of the Code; (5) the beneficial ownership of which is held by 100 or more persons; (6) not more than 50% in value of the outstanding stock of which is owned, directly or indirectly, by five or fewer individuals, as defined in the Code, at

Table of Contents

any time during the last half of each taxable year; (7) which meets certain other tests, described below, regarding the nature of its income and assets; (8) that elects to be a REIT, or has made such election for a previous year, and satisfies the applicable filing and administrative requirements to maintain qualification as a REIT; and (9) that adopts a calendar year accounting period. 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. If Essex were to fail to satisfy condition (6) during a taxable year, that failure would not result in Essex s disqualification as a REIT under the Code for such taxable year as long as (i) it satisfied the stockholder demand statement requirements described in the succeeding paragraph and (ii) it did not know, or exercising reasonable diligence would not have known, whether it had failed condition (6).

Essex believes that it has issued sufficient stock with sufficient diversity of ownership to satisfy conditions (5) and (6) above. Essex may redeem, at its option, a sufficient number of shares or restrict the transfer thereof to bring or maintain the ownership of the shares in conformity with the requirements of the Code. In order to ensure compliance with the ownership tests described above, Essex also has certain restrictions on the transfer of its stock to prevent further concentration of stock ownership. Essex s Charter restricts the transfer of its shares in order to assist in satisfying the share ownership requirements.

Moreover, to evidence compliance with these requirements, Essex must maintain records which disclose the actual ownership of its outstanding stock. In fulfilling Essex s obligations to maintain records, it must and will demand written statements each year from the record holders of designated percentages of Essex stock which disclose the actual owners of such stock. A list of those persons failing or refusing to comply with such demand must be maintained as part of Essex s records. A stockholder failing or refusing to comply with Essex s written demand must submit with his federal income tax returns a similar statement disclosing the actual ownership of Essex s stock and certain other information. Although Essex intends to satisfy the stockholder demand letter rules described in this paragraph, Essex s failure to satisfy these requirements will not result in its disqualification as a REIT, but may result in the imposition by the Internal Revenue Service of penalties.

Essex currently has several direct corporate subsidiaries and may have additional corporate subsidiaries in the future. Certain of these corporate subsidiaries will be treated as qualified REIT subsidiaries under the Code. A corporation will qualify as a qualified REIT subsidiary of Essex if Essex owns 100% of its outstanding stock and Essex and such subsidiary do not jointly elect to treat it as a taxable REIT subsidiary, as described below. A corporation that is a qualified REIT subsidiary is not treated as a separate corporation, and all assets, liabilities and items of income, deduction and credit of a qualified REIT subsidiary are treated as assets, liabilities and items of income, deduction and credit (as the case may be) of the parent REIT for all purposes under the Code (including all REIT qualification tests). Thus, in applying the requirements described in this prospectus, the subsidiaries in which Essex owns a 100% interest (other than taxable REIT subsidiaries) will be ignored, and all assets, liabilities and items of income, deduction and credit of such subsidiaries will be treated as the assets, liabilities and items of income, deduction and credit of Essex. A qualified REIT subsidiary is not subject to U.S. federal income tax and Essex s ownership of the stock of such a subsidiary will not violate the REIT asset tests, described below under Asset Tests.

A REIT may also hold any direct or indirect interest in a corporation that qualifies as a taxable REIT subsidiary, as long as the REIT s aggregate holdings of taxable REIT subsidiary securities do not exceed 20% of the value of the REIT s total assets. This 20% percentage limitation increased to 25% for a REIT s taxable years beginning after July 30, 2008. A taxable REIT subsidiary is a fully taxable corporation that generally is permitted to engage in businesses, own assets, and earn income that, if engaged in, owned, or earned by the REIT, might jeopardize REIT status or result in the imposition of penalty taxes on the REIT. To qualify as a taxable REIT subsidiary, the subsidiary and the REIT must make a joint election to treat the subsidiary as a taxable REIT subsidiary. A taxable

REIT subsidiary also includes any corporation (other than a REIT or a qualified REIT subsidiary) in which a taxable REIT subsidiary directly or indirectly owns more than 35% of the total voting power or value. See Asset Tests, below. A taxable REIT subsidiary will pay tax at regular corporate income rates on any taxable income it earns. Moreover, the Code contains rules, including rules requiring the imposition of taxes on a REIT at the rate of 100% on certain reallocated income and expenses, to ensure that contractual arrangements between a taxable REIT subsidiary and its parent REIT are at arm s length.

Table of Contents

In the case of a REIT that is a partner in a partnership, U.S. Treasury regulations provide that the REIT will be deemed to own its proportionate share, generally based on its pro rata share of capital interest in the partnership, of the assets of the partnership and will be deemed to be entitled to the gross income of the partnership attributable to such share. In addition, the character of the assets and gross income of the partnership shall retain the same character in the hands of the REIT for purposes of the gross income tests and the asset tests, described below. Thus, Essex s proportionate share of the assets, liabilities and items of income of its Operating Partnership will be treated as Essex s assets, liabilities and items of income for purposes of applying the requirements described below. See Certain Material Federal Income Tax Considerations Investments in Partnerships.

Asset Tests

At the close of each quarter of Essex s taxable year, Essex generally must satisfy three tests relating to the nature of its assets. First, at least 75% of the value of Essex s total assets must be represented by interests in real property, interests in mortgages on real property, shares in other REITs, cash, cash items and government securities (as well as certain temporary investments in stock or debt instruments purchased with the proceeds of new capital raised by Essex). Under legislation enacted in 2008, cash includes foreign currency if Essex or any qualified business unit uses such foreign currency as its functional currency, but only to the extent such foreign currency is held for use in the normal course of the activities of Essex or the qualified business unit giving rise to income in the numerator for the 75% income test or the 95% income test (discussed below), or directly related to acquiring or holding assets qualifying for the numerator in the 75% assets test, and is not held in connection with a trade or business of trading or dealing in certain securities. This change was effective beginning with Essex s 2009 tax year. Second, although the remaining 25% of Essex s assets generally may be invested without restriction, securities in this class generally may not exceed either (1) 5% of the value of its total assets as to any one issuer (the 5% asset test), (2) 10% of the outstanding voting securities of any one issuer (the 10% voting securities test), or (3) 10% of the value of the outstanding securities of any one issuer (the 10% value test ; and collectively with the 10% voting securities test, the 10% asset tests). Third, not more than 20% of the total value of Essex s assets can be represented by securities of one or more taxable REIT subsidiaries. This 20% percentage limitation increased to 25% beginning with Essex s 2009 tax year. Securities for purposes of the above 5% and 10% asset tests may include debt securities, including debt issued by a partnership.

Debt of an issuer will not count as a security for purposes of the 10% value test if the security qualifies for any of a number of applicable exceptions, for example, as straight debt, as specially defined for this purpose to include certain debt issued by partnerships, and to include certain other debt that is not considered to be abusive and that presents minimal opportunity to share in the business profits of the issuer. Solely for purposes of the 10% value test, a REIT s interest in the assets of a partnership will be based upon the REIT s proportionate interest in any securities issued by the partnership (including, for this purpose, the REIT s interest as a partner in the partnership and any debt securities issued by the partnership, but excluding any securities qualifying for the straight debt or other exceptions described above), the value of any debt instrument is the adjusted issue price.

Essex and a corporation in which it owns stock may make a joint election for such subsidiary to be treated as a taxable REIT subsidiary. A taxable REIT subsidiary also includes any corporation other than a REIT with respect to which a taxable REIT subsidiary owns securities possessing more than 35% of the total voting power or value of the outstanding securities of such corporation. 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. The securities of a taxable REIT subsidiary are not subject to the 5% asset test and the 10% asset tests (collectively, the asset tests). Instead, as discussed above, a separate asset test applies to taxable REIT subsidiaries. The rules regarding taxable REIT subsidiaries contain provisions generally intended to insure that transactions between a REIT and its taxable REIT subsidiary occur at arm s length and on commercially reasonable terms. These requirements include a provision that prevents a taxable REIT

subsidiary from deducting interest on direct or indirect indebtedness to its parent REIT if, under a specified series of tests, the taxable REIT subsidiary is considered to have an excessive interest expense level or debt-to-equity ratio. In addition, a 100% penalty tax can be imposed on the REIT if its loans, or rental, service or other agreements with its taxable REIT subsidiaries are determined not to be on arm s length terms. No assurances can be given that Essex s loans to or rental, service or other agreements, with its taxable REIT subsidiaries will be on arm s length terms. A taxable REIT subsidiary is subject to a corporate level tax on its net taxable income, as a result of which Essex s earnings derived through a taxable REIT subsidiary are effectively subject to a corporate level tax notwithstanding Essex s status as a REIT. To the extent that a taxable REIT subsidiary pays dividends to Essex in a particular calendar year, Essex may

Table of Contents

designate a corresponding portion of the dividends that it pays to its stockholders during that year as qualified dividend income eligible to be taxed at reduced rates to noncorporate recipients. See Certain Material Federal Income Tax Considerations Taxation of Taxable U.S. Holders.

Essex has made elections to treat several of its corporate subsidiaries as taxable REIT subsidiaries. Essex believes that the value of the securities that it holds in its taxable REIT subsidiaries does not, and will not, represent more than 20% of its total assets, and that all transactions between Essex and its taxable REIT subsidiaries are conducted on arm s length terms. For its 2009 tax year, Essex believes that the value of the securities that it holds in its taxable REIT subsidiaries does not, and will not, represent more than 25% of its total assets. In addition, Essex believes that the amount of Essex s assets that are not qualifying assets for purposes of the 75% asset test will continue to represent less than 25% of Essex s total assets, and will satisfy the asset tests.

Essex believes that substantially all of its assets consist of, and will continue to consist of, (1) real properties, (2) stock or debt investments that earn qualified temporary investment income, (3) other qualified real estate assets, and (4) cash, cash items and government securities. Essex may also invest in securities of other entities, provided that such investments will not prevent it from satisfying the asset and income tests for REIT qualification set forth above.

If Essex fails to satisfy the 5% asset test and/or the 10% asset tests for a particular quarter, it will not lose its REIT status if the failure is cured within 30 days of the quarter end in which the failure occured, or the failure is due to the ownership of assets the total value of which does not exceed a specified de minimis threshold, provided that Essex comes into compliance with the asset tests within six months after the last day of the quarter in which Essex identifies the failure. Other failures to satisfy the asset tests generally will not result in a loss of REIT status if (1) following Essex s identification of the failure, Essex files a schedule with the Internal Revenue Service describing each asset that caused the failure; (2) the failure was due to reasonable cause and not to willful neglect; (3) Essex comes into compliance with the asset tests within six months after the last day of the quarter in which the failure was identified; and (4) Essex pays an excise tax equal to the greater of $50,000 or an amount determined by multiplying the highest corporate tax rate by the net income generated by the prohibited assets for the period beginning on the first date of the failure and ending on the date Essex comes into compliance with the asset tests. Additionally, if Essex meets the asset tests at the close of any quarter, it will not lose its qualification as a REIT for failure to satisfy the asset tests at the end of a later quarter solely by reason of changes in the foreign currency exchange rate used by Essex to value a foreign asset.

Gross Income Tests

Essex must satisfy two separate percentage tests relating to the sources of its gross income for each taxable year. For purposes of these tests, where Essex invests in a partnership, Essex will be treated as receiving its pro rata share based on its capital interest in the partnership of the gross income and loss of the partnership, and the gross income of the partnership will retain the same character in Essex s hands as it has in the hands of the partnership. See Certain Material Federal Income Tax Considerations Investments in Partnerships.

The 75% Income Test

At least 75% of Essex s gross income for a taxable year must be qualifying income. Qualifying income generally includes (1) rents from real property (except as modified below); (2) interest on obligations secured by mortgages on, or interests in, real property; (3) gains from the sale or other disposition of interests in real property and real estate mortgages, other than gain from property held primarily for sale to customers in the ordinary course of Essex s trade or business (dealer property); (4) dividends or other distributions on shares in other REITs, as well as gain from the sale of such shares; (5) abatements and refunds of real property taxes; (6) income from the operation,

and gain from the sale, of property acquired at or in lieu of a foreclosure of the mortgage secured by such property (foreclosure property); (7) commitment fees received for agreeing to make loans secured by mortgages on real property or to purchase or lease real property; and (8) income from temporary investments in stock or debt instruments purchased with the proceeds of new capital raised by Essex. A REIT that owns foreign real estate or other foreign assets may have foreign currency exchange gain. Pursuant to legislation enacted in 2008, certain foreign currency gain is excluded from the computation of qualifying income for purposes of the 75% income test and the 95% income test (described below) for transactions occurring after July 30, 2008. The new legislation

Table of Contents

provided for two categories of foreign currency gain for purposes of the above exclusion rules: real estate foreign exchange gain and passive foreign exchange gain.

Real estate foreign exchange gain is foreign currency gain which is attributable to (1) any item of income qualifying for the numerator for the 75% income test; (2) the acquisition or ownership of obligations secured by mortgages on real property or interests in real property; or (3) becoming or being the obligor under obligations secured by mortgages on real property or interests in real property. Real estate foreign exchange gain also includes certain foreign currency gains attributable to certain qualified business units of a REIT. Real estate exchange gain is excluded from gross income for purposes of the 75% income test.

Passive foreign exchange gain includes all real estate foreign exchange gain, and in addition includes foreign currency gain which is attributable to (1) any item of income or gain included in the numerator for the 95% income test; (2) acquisition or ownership of obligations; (3) becoming the obligor under obligations; and (4) any other foreign currency gain to be determined by the Service. Passive foreign exchange gain is included in gross income and treated as non-qualifying income to the extent it is not real estate foreign exchange gain, for purposes of the 75% income test.

Notwithstanding the above, however, and except in the case of certain income excluded under the hedging rules, foreign currency exchange gain derived from engaging in dealing, or substantial and regular trading, in certain securities, constitutes gross income that does not qualify under the 75% income test.

Rents received from a tenant will not qualify as rents from real property in satisfying the 75% income test (or the 95% income test) if Essex, or an owner of 10% or more of Essex s equity securities, directly or constructively owns (1) in the case of any tenant that is a corporation, stock possessing 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 shares of all classes of stock of such tenant or (2) in the case of any tenant that is not a corporation, an interest of 10% or more in the assets or net profits of such tenant (such tenants that are described under (1) or (2) being a related party tenant), unless the related party tenant is a taxable REIT subsidiary and certain other requirements are satisfied. In addition, if rent attributable to personal property, leased in connection with a lease of real property, is greater than 15% of the total rent received under the lease, then the portion of rent attributable to such personal property will not qualify as rents from real property. Moreover, an amount received or accrued generally will not qualify as rents from real property (or as interest income) for purposes of the 75% income test and 95% income test if it is based in whole or in part on the income or profits of any person. Rent or interest will not be disqualified, however, solely by reason of being based on a fixed percentage or percentages of receipts or sales. Finally, for rents received to qualify as rents from real property, Essex generally must not operate or manage the property or furnish or render certain services to tenants, other than through an independent contractor who is adequately compensated and from whom Essex derives no revenue or through a taxable REIT subsidiary. The independent contractor and taxable REIT subsidiary requirements, however, do not apply to the extent that the services provided by Essex are usually or customarily rendered in connection with the rental of space for occupancy only, and are not otherwise considered rendered to the occupant. For both the related party tenant rules and determining whether an entity qualifies as an independent contractor of a REIT, certain attribution rules of the Code apply, pursuant to which ownership interests in certain entities held by one entity are deemed held by certain other related entities.

In general, if a REIT provides impermissible services to its tenants, all of the rent from that property will be disqualified from satisfying the 75% income test and the 95% income test. However, rents will not be disqualified if a REIT provides de minimis impermissible services. For this purpose, services provided to tenants of a property are considered de minimis where income derived from the services rendered equals 1% or less of all income derived from the property (as determined on a property-by-property basis). For purposes of the 1% threshold, the amount treated as received for any service shall not be less than 150% of the direct cost incurred by the REIT in

furnishing or rendering the service.

Essex does not receive any rent that is based on the income or profits of any person. In addition, Essex does not own, directly or indirectly, 10% or more of any tenant (other than, perhaps, a tenant that is a taxable REIT subsidiary where other requirements are satisfied). Furthermore, Essex believes that any personal property rented in connection with Essex s apartment facilities is well within the 15% restriction. Finally, Essex does not believe that it provides services, other than within the 1% de minimis exception described above, to its tenants that are not

Table of Contents

customarily furnished or rendered in connection with the rental of property, other than through an independent contractor or a taxable REIT subsidiary. Essex does not intend to rent to any related party, to base any rent on the income or profits of any person (other than rents that are based on a fixed percentage or percentages of receipts or sales), or to charge rents that would otherwise not qualify as rents from real property.

The 95% Income Test

In addition to deriving 75% of its gross income from the sources listed above, at least 95% of Essex s gross income for a taxable year must be derived from the above-described qualifying income, or from dividends, interest or gains from the sale or disposition of stock or other securities that are not dealer property. Dividends from a corporation (including a taxable REIT subsidiary) and interest on any obligation not collateralized by an interest on real property are included for purposes of the 95% income test, but not (except with respect to dividends from a REIT) for purposes of the 75% income test. For purposes of determining whether Essex complies with the 75% and 95% income tests, gross income does not include income from prohibited transactions (discussed below). For transactions occurring after July 30, 2008, both real estate foreign exchange gain and passive foreign exchange gain (described above) are excluded from the computation of qualifying income for purposes of the 95% income test. Notwithstanding the above, however, and except in the case of certain income excluded under the hedging rules, foreign currency exchange gain derived from engaging in dealing, or substantial and regular trading, in certain securities, constitutes gross income that does not qualify under the 95% income test.

From time to time, Essex may enter into hedging transactions with respect to one or more of its assets or liabilities. Essex s hedging activities may include entering into interest rate or other swaps, caps and floors, or options to purchase such items, and futures and forward contracts. Income and gain from hedging transactions (described below) is excluded from gross income for purposes of the 95% income test (and under prior law would generally constitute non-qualifying income for purposes of the 75% income test). Effective for transactions after July 30, 2008, however, the rules that exclude certain hedging income from the 95% income test have been extended to exclusion under the 75% income test as well. Moreover, certain hedging transactions entered into before January 1, 2005 qualify as income under the 75% income test and income or gain attributable to certain hedging transactions entered into after January 1, 2005 will not be treated as gross income. A hedging transaction means any transaction entered into in the normal course of Essex s trade or business primarily to manage the risk of interest rate, price changes or currency fluctuations with respect to borrowings made or to be made, or ordinary obligations incurred or to be incurred, to acquire to carry real estate assets. Essex will be required to clearly identify any such hedging transaction before the close of the day on which it was acquired, originated, or entered into and to satisfy other identification requirements. To the extent that Essex enters into other types of hedging transactions, the income from such transactions may be treated as non-qualifying income for purposes of both the 75% income test and the 95% income test. Essex intends to structure any hedging transactions in a manner that does not jeopardize its status as a REIT.

Essex s investment in apartment communities generally gives rise to rental income that is qualifying income for purposes of the 75% and 95% gross income tests. Gains on sales of apartment communities, other than from prohibited transactions, as described below, or of Essex s interest in a partnership, generally will be qualifying income for purposes of the 75% and 95% gross income tests. Essex anticipates that income on its other investments will not cause it to fail the 75% or 95% gross income test for any year.

Even if Essex fails to satisfy one or both of the 75% or 95% income tests for any taxable year, it may still qualify as a REIT for such year if it is entitled to relief under certain provisions of the Code. These relief provisions will generally be available if Essex s failure to comply was due to reasonable cause and not to willful neglect, and Essex timely complies with requirements for reporting each item of its income to the Internal Revenue Service. It is not possible, however, to state whether in all circumstances Essex would be entitled to the benefit of these relief

provisions. Even if these relief provisions applied, a 100% penalty tax would be imposed on the amount by which Essex failed the 75% gross income test or the amount by which 95% of Essex s gross income exceeds the amount of income qualifying under the 95% gross income test (whichever amount is greater), multiplied by a fraction intended to reflect Essex s profitability.

Table of Contents

Subject to certain safe harbor exceptions, any gain realized by Essex on the sale of any property held as inventory or other property held primarily for sale to customers in the ordinary course of business will be treated as income from a prohibited transaction that is subject to a 100% penalty tax. Such prohibited transaction income may also have an adverse effect upon Essex s ability to qualify as a REIT. Under existing law, whether property is held 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 with respect to the particular transaction.

Annual Distribution Requirements

To qualify as a REIT, Essex is required to distribute dividends (other than capital gain dividends) to its stockholders each year in an amount equal to at least (A) the sum of (i) 90% of Essex s REIT taxable income (computed without regard to the dividends paid deduction and Essex s net capital gain) and (ii) 90% of the net income (after tax), if any, from foreclosure property, minus (B) the sum of certain items of non-cash income over 5% of Essex s REIT taxable income. Such distributions must be paid in the taxable year to which they relate, or in the following taxable year if declared before Essex timely files its tax return for such year and if paid on or before the first regular dividend payment after such declaration, provided that such payment is made during the 12-month period following the close of such taxable year. These distributions are taxable to stockholders in the year in which paid, even though the distributions relate to Essex s prior taxable year for purposes of the 90% distribution requirement.

To the extent that Essex does not distribute all of its net capital gain, or does not distribute at least 90%, but less than 100%, of its REIT taxable income, as adjusted, Essex will be subject to tax on the undistributed amount at regular corporate tax rates, as the case may be. (However, Essex can elect to pass through any of the taxes paid on Essex s undistributed net capital gain income to its stockholders on a pro rata basis.) Furthermore, if Essex should fail to distribute during each calendar year at least the sum of (1) 85% of its ordinary income for such year, (2) 95% of its net capital gain income for such year, and (3) any undistributed taxable income from prior periods, Essex would be subject to a non-deductible 4% excise tax on the excess of such required distribution over the sum of the amounts actually distributed and the amount of any net capital gains Essex elected to retain and pay tax on. For these and other purposes, dividends declared by Essex in October, November or December of one taxable year and payable to a stockholder of record on a specific date in any such month shall be treated as both paid by Essex and received by the stockholder during such taxable year, provided that the dividend is actually paid by Essex by January 31 of the following taxable year.

If Essex fails to meet the distribution requirements as a result of an adjustment to its tax return by the Service or Essex determines that it understated its income on a filed return, Essex may retroactively cure the failure by paying a deficiency dividend (plus applicable penalties and interest) within a specified period.

Essex believes that it has made timely distributions sufficient to satisfy the annual distribution requirements. It is possible that in the future Essex may not have sufficient cash or other liquid assets to meet the distribution requirements, due to timing differences between the actual receipt of income and actual payment of expenses on the one hand, and the inclusion of such income and deduction of such expenses in computing Essex s REIT taxable income on the other hand. Further, as described below, it is possible that, from time to time, Essex may be allocated a share of net capital gain attributable to the sale of depreciated property that exceeds Essex s allocable share of cash attributable to that sale. To avoid any problem with the distribution requirements, Essex will closely monitor the relationship between its REIT taxable income and cash flow and, if necessary, will borrow funds or issue preferred or common stock to satisfy the distribution requirement. Essex may be required to borrow funds at times when market conditions are not favorable.

Prohibited Transaction Rules

A REIT will incur a 100% penalty tax on the net income derived from a sale or other disposition of property, other than foreclosure property, that the REIT holds primarily for sale to customers in the ordinary course of a trade or business (a prohibited transaction). Under a safe harbor provision in the Code, however, income from certain sales of real property held by the REIT for at least four years (or, for sales made after July 30, 2008, two years) at the time of the disposition will not be treated as income from a prohibited transaction if certain other requirements are

Table of Contents

also satisfied. Whether a REIT holds an asset primarily for sale to customers in the ordinary course of a trade or business depends, however, on the facts and circumstances in effect from time to time, including those related to a particular asset. Effective after July 30, 2008, foreign currency gain or loss that is attributable to any prohibited transaction is taken into account in determining the amount of prohibited transactions net income subject to the 100% prohibited transactions tax. Although Essex will attempt to ensure that none of its sales of property will constitute a prohibited transaction, it cannot assure you that none of such sales will be so treated.

Failure to Qualify

If Essex fails to satisfy one or more requirements for REIT qualification, other than the gross income tests and asset tests, Essex may retain its REIT qualification if the failures are due to reasonable cause and not willful neglect, and if it pays a penalty of $50,000 for each such failure.

If Essex fails to qualify for taxation as a REIT in any taxable year and the relief provisions do not apply, Essex will be subject to tax (including any applicable alternative minimum tax) on its taxable income at regular corporate rates. Distributions to stockholders in any year in which Essex fails to qualify will not be deductible by Essex, nor will they be required to be made. In such event, to the extent of Essex s current and accumulated earnings and profits, all distributions to stockholders will be taxable as ordinary income, and, subject to certain limitations in the Code, corporate distributees may be eligible for the dividends received deduction and noncorporate distributees may be eligible to treat the dividends as qualified dividend income taxable at capital gain rates. See Certain Material Federal Income Tax Considerations Taxation of Taxable U.S. Holders. Unless entitled to relief under specific statutory provisions, Essex will also be disqualified from taxation as a REIT for the four taxable years following the year during which qualification was lost. It is not possible to state whether Essex would be entitled to such statutory relief.

Investments in Partnerships

General; Classification

Essex holds a direct ownership interest in the Operating Partnership. In general, partnerships are pass-through entities which are not subject to U.S. federal income tax. Rather, partners are allocated their proportionate shares of the items of income, gain, loss, deduction and credit of a partnership, and are potentially subject to tax thereon, without regard to whether the partners receive a distribution from the partnership. The allocation of partnership income or loss must comply with rules for allocating partnership income or loss under Section 704(b) of the Code and the U.S. Treasury regulations thereunder. The Operating Partnership s allocations of taxable income and loss are intended to comply with the requirements of Section 704(b) of the Code and the U.S. Treasury regulations thereunder. Essex includes its allocable share of items of partnership income, gain, loss deduction and credit in the computation of its REIT taxable income. Moreover, Essex includes its proportionate share, based on its capital interest in a partnership, of the foregoing partnership items for purposes of the various REIT income tests. See Certain Material Federal Income Tax Considerations Taxation of Essex and Gross Income Tests, above. Any resultant increase in Essex s REIT taxable income increases its distribution requirements, but is not subject to U.S. federal income tax in Essex s hands provided that such income is distributed to its stockholders. See Certain Material Federal Income Tax Considerations Annual Distribution Requirements. In addition, for purposes of the REIT asset tests, Essex includes its proportionate share, generally based on its capital interest in the partnership, of the assets held by the partnerships. See Asset Tests, above.

An organization with at least two owners or members will be classified as a partnership, rather than a corporation, for U.S. federal income tax purposes if (i) it is treated as a partnership under the Treasury regulations relating to entity classification (the check-the-box regulations); and (ii) it is not a publicly traded partnership. Under the

check-the-box regulations, an unincorporated entity with at least two owners or members may elect to be classified either as an association taxable as a corporation or as a partnership. If such an entity does not make an election, it generally will be treated as a partnership for U.S. federal income tax purposes. A publicly traded partnership is a partnership whose interests are traded on an established securities market or are readily tradable on a secondary market (or a substantial equivalent). A publicly traded partnership is generally treated as a corporation for federal income tax purposes, but will not be so treated if at least 90% of the partnership s gross income consisted

Table of Contents

of specified passive income, including real property rents (which includes rents that would be qualifying income for purposes of the 75% income test, with certain modifications that make it easier for the rents to qualify for the 90% passive income exception), gains from the sale or other disposition of real property, interest, and dividends (the 90% passive income exception).

Additionally, the Treasury regulations provide limited safe harbors from treatment as a publicly traded partnership. Pursuant to one of those safe harbors (the private placement exclusion), interests in a partnership will not be treated as readily tradable on a secondary market or the substantial equivalent thereof if (i) all interests in the partnership were issued in a transaction or transactions that were not required to be registered under the Securities Act of 1933, as amended, and (ii) the partnership does not have more than 100 partners at any time during the partnership s taxable year. For the determination of the number of partners in a partnership, a person owning an interest in a partnership, grantor trust, or S corporation that owns an interest in the partnership is treated as a partner in the partnership only if (i) substantially all of the value of the owner s interest in the entity is attributable to the entity s direct or indirect interest in the partnership and (ii) a principal purpose of the use of the entity is to permit the partnership to satisfy the 100-partner limitation.

It is expected that the Operating Partnership will qualify for the private placement exclusion. Accordingly, it is expected that the Operating Partnership will not be treated as a publicly traded partnership and taxed as a corporation. The Operating Partnership has not requested, nor does it intend to request, however, a ruling from the Internal Revenue Service that it will be treated as a partnership for U.S. federal income tax purposes.

Tax Allocations with Respect to the Properties

Pursuant to Section 704(c) of the Code, income, gain, loss and deduction attributable to appreciated or depreciated property that is contributed to a partnership in exchange for an interest in the partnership (such as some of Essex s properties), must be allocated in a manner such that the contributing partner is charged with, or benefits from, respectively, the unrealized gain or unrealized loss associated with the property at the time of the contribution. The amount of such unrealized gain or unrealized loss generally is equal to the difference between the fair market value of contributed property at the time of contribution, and the adjusted tax basis of such property at the time of contribution (a book-tax difference). Such allocations are solely for U.S. federal income tax purposes and do not affect the book capital accounts or other economic or legal arrangements among the partners. The Operating Partnership has property subject to book-tax differences. Consequently, the partnership agreement of the Operating Partnership requires such allocations to be made in a manner consistent with Section 704(c) of the Code.

In general, the partners who contributed appreciated assets to the Operating Partnership will be allocated lower amounts of depreciation deductions for tax purposes and increased taxable income and gain on sale by the Operating Partnership of the contributed assets (including some of Essex s properties). This will tend to eliminate the book-tax difference over time. However, the special allocation rules under Section 704(c) of the Code do not always entirely rectify 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 can be expected to cause Essex to be allocated lower depreciation and other deductions, and possibly greater amounts of taxable income in the event of a sale of such contributed assets, in excess of the economic or book income allocated to Essex as a result of such sale. This may cause Essex to recognize taxable income in excess of cash proceeds, which might adversely affect its ability to comply with the REIT distribution requirements. See Certain Material Federal Income Tax Considerations Annual Distribution Requirements.

Certain Loss Limitations

The American Jobs Creation Act of 2004 (the 2004 Act) added new Section 470 to the Code, which provides certain limitations on the utilization of losses allocable to leased property owned by a partnership having both taxable and tax-exempt partners, such as the Operating Partnership. Currently, it is unclear how the transition rules and effective dates set forth in the 2004 Act will apply to entities such as the Operating Partnership. Moreover, it is uncertain how the general rules of this provision will apply. However, the Internal Revenue Service issued a notice stating that it will not apply Section 470 to partnerships for taxable years beginning before January 1, 2007 based solely on the fact that a partnership had both taxable and tax-exempt partners. It is important to note that this notice

Table of Contents

provides relief for the Operating Partnership s taxable years ending December 31, 2005 and December 31, 2006 only. Accordingly, commencing with Essex s taxable year beginning January 1, 2007, unless Congress passes corrective legislation which addresses this issue or some other form of relief, certain losses generated with respect to properties owned by the Operating Partnership may be disallowed until future years. This could increase the amount of distributions Essex is required to make in a particular year in order to meet the REIT distribution requirements, and also could increase the portion of distributions to its stockholders that are taxable as dividends.

Like-Kind Exchanges

Essex may dispose of properties in transactions intended to qualify as like-kind exchanges under the Code. Such like-kind exchanges are intended to result in the deferral of gain for federal income tax purposes. The failure of any such transaction to qualify as a like-kind exchange could subject Essex to federal income tax, possibly including the 100% prohibited transaction tax, depending on the facts and circumstances surrounding the particular transaction.

Possible Legislative or Other Actions Affecting Tax Considerations

Prospective investors should recognize that the present U.S. federal income tax treatment of an investment in Essex may be modified by legislative, judicial or administrative action at any time, and that any such action may affect investments and commitments previously made. The rules dealing with U.S. federal income taxation are constantly under review by persons involved in the legislative process and by the Service and the U.S. Treasury Department, resulting in revisions of the U.S. Treasury regulations and revised interpretations of established concepts as well as statutory changes. Revisions in U.S. federal tax laws and interpretations thereof could adversely affect the tax consequences of an investment in Essex.

Investment in Essex s Stock

The following summary describes certain U.S. federal income tax consequences relating to the purchase, ownership and disposition of Essex s stock as of the date hereof. Except where noted, this summary deals only with stock held as a capital asset and does not deal with special situations, such as those persons whose functional currency for U.S. federal income tax purposes is not the U.S. dollar, persons liable for the alternative minimum tax, dealers in securities or currencies, tax-exempt organizations, individual retirement accounts and other tax deferred accounts, financial institutions, life insurance companies, or persons holding Essex s stock as a part of a hedging or conversion transaction or a straddle. Furthermore, the discussion below is based upon the current U.S. federal income tax laws and interpretations thereof as of the date hereof. Such authorities may be repealed, revoked, or modified (possibly with retroactive effect) so as to result in U.S. federal income tax consequences different from those discussed below. In addition, except as otherwise indicated, the following summary does not consider the effect of any applicable foreign, state, local, or other tax laws or estate or gift tax considerations.

If an entity treated as a partnership for U.S. federal income tax purposes holds Essex s stock, the tax treatment of a partner in that partnership will generally depend upon the status of the partner and the activities of the partnership. If you are a partner of a partnership holding Essex s stock, you should consult your tax advisor regarding the tax consequences of the ownership and disposition of Essex s stock.

U.S. Holders

As used herein, a U.S. Holder of Essex s stock means a holder that for U.S. federal income tax purposes is (i) a citizen or resident of the United States; (ii) a corporation or other entity treated as a corporation for U.S. federal income tax purposes that is created or organized in or under the laws of the United States or any political

subdivision thereof; (iii) an estate the income of which is subject to U.S. federal income taxation regardless of its source; or (iv) a trust if (a) a U.S. court is able to exercise primary supervision over the administration of the trust and one or more U.S. persons have the authority to control all substantial decisions of the trust or (b) it has a valid election in place to be treated as a U.S. person or otherwise is treated as a U.S. person.

Table of Contents

Taxation of Taxable U.S. Holders

Distributions. As long as Essex qualifies as a REIT, distributions made to its taxable U.S. Holders out of current or accumulated earnings and profits (and not designated as capital gain dividends or qualified dividend income) will be taken into account by them as ordinary income, and U.S. Holders that are corporations will not be entitled to a dividends received deduction. Qualified dividend income generally includes dividends received from ordinary U.S. corporations and from certain qualified foreign corporations, provided that certain stock holding period requirements are met. Qualified dividend income of noncorporate taxpayers is currently taxed at the same rate (i.e., at a maximum rate of 15%) as net capital gain through 2010.

In general, dividends paid by REITs are not eligible for the 15% tax rate on qualified dividend income and, as a result, Essex s ordinary REIT dividends will continue to be taxed at the ordinary income tax rate. Dividends received by a noncorporate stockholder could be treated as qualified dividend income, however, to the extent that Essex has received dividend income from taxable corporations (such as a taxable REIT subsidiary) and to the extent such dividends are attributable to income that is subject to tax at the REIT level (for example, if Essex distributed less than 100% of its taxable income). In general, to qualify for the reduced tax rate on qualified dividend income, a stockholder must hold Essex s stock for more than 60 days during the 121-day period beginning on the date that is 60 days before the date on which Essex s stock becomes ex-dividend.

To the extent that Essex makes distributions in excess of its current and accumulated earnings and profits, these distributions are treated first as a tax-free return of capital to the U.S. Holder, reducing the tax basis of a U.S. Holder s stock by the amount of such distribution (but not below zero), with distributions in excess of the U.S. Holder s tax basis treated as proceeds from a sale of stock, the tax treatment of which is described below. Distributions will generally be taxable, if at all, in the year of the distribution. However, any dividend declared by Essex in October, November or December of any year and payable to a U.S. Holder who held Essex s stock on a specified record date in any such month shall be treated as both paid by Essex and received by the U.S. Holder on December 31 of such year, provided that the dividend is actually paid by Essex during January of the following calendar year.

In general, distributions which are designated by Essex as capital gain dividends will be taxable to U.S. Holders as gain from the sale of assets held for greater than one year, or long-term capital gain. That treatment will apply regardless of the period for which a U.S. Holder has held the stock upon which the capital gain dividend is paid. However, corporate U.S. Holders may be required to treat up to 20% of certain capital gain dividends as ordinary income. Noncorporate taxpayers are generally taxable at a current maximum tax rate of 15% for long-term capital gain attributable to sales or exchanges. A portion of any capital gain dividends received by noncorporate taxpayers might be subject to tax at a 25% rate to the extent attributable to gains realized on the sale of real property that correspond to Essex s unrecaptured Section 1250 gain.

Essex may elect to retain, rather than distribute as a capital gain dividend, its net long-term capital gains. In such event, Essex would pay tax on such retained net long-term capital gains. In addition, to the extent designated by Essex, a U.S. Holder generally would (1) include his proportionate share of such undistributed long-term capital gains in computing his long-term capital gains for his taxable year in which the last day of Essex s taxable year falls (subject to certain limitations as to the amount so includable), (2) be deemed to have paid the capital gains tax imposed on Essex on the designated amounts included in such U.S. Holder s long-term capital gains, (3) receive a credit or refund for such amount of tax deemed paid by the U.S. Holder, (4) increase the adjusted basis of his stock by the difference between the amount of such includable gains and the tax deemed to have been paid by him, and (5) in the case of a U.S. Holder that is a corporation, appropriately adjust its earnings and profits for the retained capital gains in accordance with U.S. Treasury regulations (which have not yet been issued).

Distributions made by Essex and gain arising from the sale or exchange by a U.S. Holder of stock will not be treated as passive activity income, and as a result, U.S. Holders generally will not be able to apply any passive losses against this income or gain. U.S. Holders may not include in their individual income tax returns any of Essex s net operating losses or capital losses.

Disposition of Stock. Upon any taxable sale or other disposition of Essex s stock, a U.S. Holder will recognize gain or loss for U.S. federal income tax purposes in an amount equal to the difference between (1) the amount of cash and the fair market value of any property received on the sale or other disposition except with

Table of Contents

respect to amounts attributable to accrued but unpaid dividends and (2) the U.S. Holder s adjusted basis in the stock for tax purposes.

This gain or loss will be a capital gain or loss, and will be long-term capital gain or loss, respectively, if Essex s stock has been held for more than one year at the time of the disposition. Noncorporate U.S. Holders are generally taxable at a current maximum rate of 15% on long-term capital gain. The Internal Revenue Service has the authority to prescribe, but has not yet prescribed, regulations that would apply a capital gain tax rate of 25% to a portion of capital gain realized by a noncorporate U.S. Holder on the sale of REIT stock that would correspond to the REIT s unrecaptured Section 1250 gain. U.S. Holders are urged to consult with their own tax advisors with respect to their capital gain tax liability. A corporate U.S. Holder will be subject to tax at a maximum rate of 35% on capital gain from the sale of Essex s stock regardless of its holding period for the stock.

In general, any loss upon a sale or exchange of Essex s stock by a U.S. Holder who has held such stock for six months or less (after applying certain holding period rules) will be treated as a long-term capital loss, to the extent of distributions (actually made or deemed made in accordance with the discussion above) from Essex required to be treated by such U.S. Holder as long-term capital gain.

Dividend Reinvestment Program. Stockholders participating in Essex s dividend reinvestment program are treated as having received the gross amount of any cash distributions which would have been paid by Essex to such stockholders had they not elected to participate in the program. These distributions will retain the character and tax effect applicable to distributions from Essex generally. Participants in the dividend reinvestment program are subject to U.S. federal income and withholding tax on the amount of the deemed distributions to the extent that such distributions represent dividends or gains, even though they receive no cash. Shares of Essex s stock received under the program will have a holding period beginning with the day after purchase, and a tax basis equal to their cost (which is the gross amount of the distribution).

Information Reporting and Backup Withholding. Payments of dividends on Essex s stock and proceeds received upon the sale, redemption or other disposition of Essex s stock may be subject to information reporting and backup withholding. Payments to certain U.S. Holders (including, among others, corporations and certain tax-exempt organizations) are generally not subject to information reporting or backup withholding. Payments to a non-corporate U.S. Holder generally will be subject to information reporting. Such payments also generally will be subject to backup withholding if such holder (i) fails to furnish its taxpayer identification number, which for an individual is ordinarily his or her social security number; (ii) furnishes an incorrect taxpayer identification number; (iii) is notified by the Internal Revenue Service that it has failed to properly report payments of interest or dividends; or (iv) fails to certify, under penalties of perjury, that it has furnished a correct taxpayer identification number and that the Internal Revenue Service has not notified the U.S. Holder that it is subject to backup withholding.

A U.S. Holder that does not provide Essex with its correct taxpayer identification number may also be subject to penalties imposed by the Internal Revenue Service. Any amount paid as backup withholding will be creditable against the U.S. Holder s U.S. federal income tax liability, if any, and otherwise will be refundable, provided that the requisite procedures are followed.

U.S. Holders should consult their independent tax advisors regarding the tax consequences to them of an investment in Essex in light of their particular circumstances, including qualification for an exemption from backup withholding and information reporting and the procedures for obtaining such an exemption.

Taxation of Tax-Exempt U.S. Holders

Based upon a published ruling by the Internal Revenue Service, a distribution by Essex to, and gain upon a disposition of Essex s stock by, a U.S. Holder that is a tax-exempt entity will not constitute unrelated business taxable income (UBTI) provided that the tax-exempt entity has not financed the acquisition of its stock with acquisition indebtedness within the meaning of the Code and the stock is not otherwise used in an unrelated trade or business of the tax-exempt entity.

However, for tax-exempt U.S. Holders that are social clubs, voluntary employee benefit associations, supplemental unemployment benefit trusts and qualified group legal services plans exempt from U.S. federal income taxation under Sections 501(c)(7), (c)(9), (c)(17) and (c)(20) of the Code, respectively, income from an investment in Essex will constitute UBTI unless the organization properly sets aside or reserves such amounts for

Table of Contents

purposes specified in the Code. These tax-exempt U.S. Holders should consult their own tax advisers concerning these set aside and reserve requirements.

Notwithstanding the preceding paragraph, however, a portion of the dividends paid by Essex may be treated as UBTI to certain domestic private pension trusts if Essex is treated as a pension-held REIT. Essex believes that it is not, and does not expect to become, a pension-held REIT. If Essex were to become a pension-held REIT, these rules generally would only apply to certain pension trusts that held more than 10% of Essex s stock.

Tax-exempt U.S. Holders should consult their independent tax advisors regarding the tax consequences to them of an investment in Essex in light of their particular circumstances.

Taxation of Non-U.S. Holders

The following is a discussion of certain anticipated U.S. federal income tax consequences of the ownership and disposition of Essex s stock applicable to non-U.S. Holders of such stock. A non-U.S. Holder is any person who is not a U.S. Holder. The discussion is based on current law and is for general information only. The discussion addresses only certain and not all aspects of U.S. federal income taxation. Special rules may apply to certain non-U.S. Holders such as controlled foreign corporations and passive foreign investment companies. Such entities should consult their own tax advisors to determine the U.S. federal, state, local and other tax consequences that may be relevant to them.

Distributions from Essex.

1. *Ordinary Dividends.* The portion of dividends received by non-U.S. Holders payable out of Essex s current and accumulated earnings and profits which are not attributable to capital gains and which are not effectively connected with a U.S. trade or business of the non-U.S. Holder will be subject to U.S. withholding tax at the rate of 30% (unless reduced by an applicable income tax treaty). In general, non-U.S. Holders will not be considered engaged in a U.S. trade or business solely as a result of their ownership of Essex s stock. In cases where the dividend income from a non-U.S. Holder s investment in Essex s stock is effectively connected with the non-U.S. Holder s conduct of a U.S. trade or business (or, if an income tax treaty applies, is attributable to a U.S. permanent establishment of the non-U.S. Holder), the non-U.S. Holder generally will be subject to U.S. tax at graduated rates, in the same manner as U.S. Holders are taxed with respect to such dividends (a corporate non-U.S. Holder may also be subject to a branch profits tax at a rate of 30% or lower under an applicable treaty).

Essex expects to withhold U.S. income tax at the rate of 30% on the gross amount of any distributions of ordinary income made to a non-U.S. Holder unless (1) a lower treaty rate applies and proper certification is provided on Form W-8BEN or (2) the non-U.S. Holder files a Form W-8ECI with Essex claiming that the distribution is effectively connected with the non-U.S. Holder s conduct of a U.S. trade or business (or, if an income tax treaty applies, is attributable to a U.S. permanent establishment of the non-U.S. Holder). However, the non-U.S. Holder may seek a refund of such amounts from the Internal Revenue Service if it is subsequently determined that such distribution was, in fact, in excess of Essex s current and accumulated earnings and profits.

2. *Non-Dividend Distributions.* Unless Essex s stock constitutes a USRPI (as defined below), distributions by Essex which are not paid out of Essex s current and accumulated earnings and profits will not be subject to U.S. income or withholding tax. If it cannot be determined at the time a distribution is made whether or not such distribution will be in excess of current and accumulated earnings and profits, the distribution will be subject to withholding at the rate applicable to dividends. However, the non-U.S. Holder may seek a refund of such amounts from the Internal Revenue Service if it is subsequently determined that such distribution was, in fact, in excess of Essex s current and accumulated earnings and profits. If Essex s stock constitutes a USRPI, a distribution in excess

of current and accumulated earnings and profits will be subject to 10% withholding tax and may be subject to additional taxation under FIRPTA (as defined below). However, the 10% withholding tax will not apply to distributions already subject to the 30% dividend withholding.

3. *Capital Gain Dividends.* Under the Foreign Investment in Real Property Tax Act of 1980 (FIRPTA), a distribution made by Essex to a non-U.S. Holder, to the extent attributable to gains (USRPI Capital Gains) from dispositions of United States real property interests (USRPIs), will be considered effectively connected with a U.S. trade or business of the non-U.S. Holder and therefore will be subject to U.S. income tax at the rates applicable to U.S. Holders, without regard to whether such distribution is designated as a capital gain dividend. (The properties

Table of Contents

owned by the Operating Partnership generally are USRPIs.) Distributions subject to FIRPTA may also be subject to the branch profits tax in the hands of a corporate non-U.S. Holder. Notwithstanding the preceding, distributions received on Essex s stock, to the extent attributable to USRPI Capital Gains, will not be treated as gain recognized by the non-U.S. Holder from the sale or exchange of a USRPI if (1) Essex s stock continues to be regularly traded on an established securities market located in the United States and (2) the selling non-U.S. Holder did not own more than 5% of such class of stock at any time during the one-year period ending on the date of the distribution. The distribution will instead be treated as an ordinary dividend to the non-U.S. Holder, and the tax consequences to the non-U.S. Holder will be as described above under Ordinary Dividends.

Distributions attributable to Essex s capital gains which are not USRPI Capital Gains generally will not be subject to income taxation, unless (1) investment in the stock is effectively connected with the non-U.S. Holder s U.S. trade or business (or, if an income tax treaty applies, is attributable to a U.S. permanent establishment of the non-U.S. Holder), in which case the non-U.S. Holder will be subject to the same treatment as U.S. Holders with respect to such gain (except that a corporate non-U.S. Holder may also be subject to the branch profits tax) or (2) the non-U.S. Holder is a non-resident alien individual who is present in the United States for 183 days or more during the taxable year and certain other conditions are present, in which case the nonresident alien individual will be subject to a 30% tax on the individual s capital gains.

Essex generally will be required to withhold and remit to the Internal Revenue Service 35% of any distributions to non-U.S. Holders that are designated as capital gain dividends, or, if greater, 35% of a distribution that could have been designated as a capital gain dividend. Distributions can be designated as capital gains to the extent of Essex s net capital gain for the taxable year of the distribution. The amount withheld is creditable against the non-U.S. Holder s U.S. federal income tax liability. This withholding will not apply to any amounts paid to a holder of not more than 5% of Essex s stock while such stock is regularly traded on an established securities market. Instead, those amounts will be treated as described above under Ordinary Dividends.

Disposition of Stock. Unless Essex s stock constitutes a USRPI, a sale of such stock by a non-U.S. Holder generally will not be subject to U.S. taxation unless (1) the investment in the stock is effectively connected with the non-U.S. Holder s U.S. trade or business (or, if an income tax treaty applies, is attributable to a U.S. permanent establishment of the non-U.S. Holder) or (2) the non-U.S. Holder is a non-resident alien individual who is present in the United States for 183 days or more during the taxable year and certain other conditions are present.

The stock will not constitute a USRPI if Essex is a domestically controlled REIT. A domestically controlled REIT is a REIT in which, at all times during a specified testing period, less than 50% in value of its shares is held directly or indirectly by non-U.S. Holders. Essex believes that it is, and expects to continue to be, a domestically controlled REIT, and therefore that the sale of Essex s stock will not be subject to taxation under FIRPTA. Because Essex s stock will be publicly traded, however, no assurance can be given that Essex will continue to be a domestically controlled REIT.

Even if Essex does not constitute a domestically controlled REIT, a non-U.S. Holder s sale of its stock generally will not be subject to tax under FIRPTA as a sale of a USRPI provided that (1) the stock continues to be regularly traded on an established securities market located in the United States and (2) the selling non-U.S. Holder did not own more than 5% of such class of stock at any time during the one year period ending on the date of the distribution.

If gain on the sale of Essex s stock were subject to taxation under FIRPTA, the non-U.S. Holder would be subject to the same treatment as a U.S. Holder with respect to such gain (subject to applicable alternative minimum tax and a special alternative minimum tax in the case of nonresident alien individuals). In addition, the purchaser of the stock could be required to withhold 10% of the purchase price and remit such amount to the Internal Revenue

Service. This 10% is creditable against the U.S. federal income tax liability of the non-U.S. Holder under FIRPTA in connection with its sale of Essex s stock.

Information Reporting and Backup Withholding. Backup withholding will apply to dividend payments made to a non-U.S. Holder of Essex s stock unless the holder has certified that it is not a U.S holder and the payer has no actual knowledge that the owner is not a non-U.S. Holder. Information reporting generally will apply with respect to dividend payments even if certification is provided.

Table of Contents

Payment of the proceeds from a disposition of Essex s stock by a non-U.S. Holder made to or through the U.S. office of a broker is generally subject to information reporting and backup withholding unless the holder or beneficial owner certifies that it is not a U.S. Holder or otherwise establishes an exemption. Generally, information reporting and backup withholding will not apply to a payment of disposition proceeds if the payment is made outside the United States through a foreign office of a foreign broker-dealer. If the proceeds from a disposition of Essex s stock are paid to or through a foreign office of a U.S. broker-dealer or a non-U.S. office of a foreign broker-dealer that is (1) a controlled foreign corporation for U.S. federal income tax purposes, (2) a person 50% or more of whose gross income from all sources for a specified three-year period was effectively connected with a U.S. trade or business, (3) a foreign partnership with one or more partners who are U.S. persons and who in the aggregate hold more than 50% of the income or capital interest in the partnership, or (4) a foreign partnership engaged in the conduct of a trade or business in the United States, then backup withholding and information reporting generally will apply unless the non-U.S. Holder satisfies certification requirements regarding its status as a non-U.S. Holder and the broker-dealer has no actual knowledge that the owner is not a non-U.S. Holder.

Non-U.S. Holders should consult their independent tax advisors regarding the tax consequences to them of an investment in Essex in light of their particular circumstances, including the application of withholding and backup withholding and the availability of and procedure for obtaining an exemption from withholding and backup withholding under current U.S. Treasury regulations.

State and Local Taxes

Essex and it stockholders may be subject to state or local taxation in various jurisdictions, including those in which Essex or they transact business or reside. The state and local tax treatment of Essex and its stockholders may not conform to the U.S. federal income tax consequences discussed above. Consequently, prospective stockholders should consult their own tax advisers regarding the effect of state and local tax laws on an investment in Essex s stock.

PLAN OF DISTRIBUTION

We may sell the Offered Securities to one or more underwriters for public offering and sale by them or may sell the Offered Securities to investors directly or through agents, which agents may be affiliated with us. We will name any such underwriter or agent involved in the offer and sale of the Offered Securities in the applicable Prospectus Supplement.

We may effect from time to time sales of Offered Securities offered pursuant to any applicable Prospectus Supplement in one or more transactions 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 Offered Securities upon the terms and conditions as set forth in the applicable Prospectus Supplement. In connection with the sale of Offered Securities, underwriters may be deemed to have received compensation from Essex or from the Operating Partnership in the form of underwriting discounts or commissions, and also may receive commissions from purchasers of Offered Securities for whom they may act as agent. Underwriters may sell Offered Securities to or through dealers, and such 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.

We may enter into derivative transactions with third parties, or sell securities not covered by this Prospectus to third parties in privately negotiated transactions. If the applicable Prospectus Supplement indicates, in connection with those derivatives, the third parties (or affiliates of such third parties) may sell Offered Securities covered by this Prospectus and the applicable Prospectus Supplement, including in short sale transactions. If so, the third

parties (or affiliates of such third parties) may use securities pledged by us or borrowed from us or others to settle those sales or to close out any related open borrowings of stock, and may use securities received from us in settlement of those derivatives to close out any related open borrowings of common stock. The third parties (or affiliates of such third parties) in such sale transactions will be underwriters and, if not identified in this Prospectus, will be identified in the applicable Prospectus Supplement or a post-effective amendment to this Registration Statement.

Any underwriting compensation we pay to underwriters or agents in connection with the offering of Offered Securities, and any discounts, concessions or commissions underwriters allow to participating dealers, will be set

Table of Contents

forth in the applicable Prospectus Supplement. Underwriters, dealers and agents participating in the distribution of the Offered Securities may be deemed to be underwriters, and any discounts and commissions they receive and any profit they realize on resale of the Offered Securities may be deemed to be underwriting discounts and commissions under the Securities Act of 1933, as amended (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. Any such indemnification agreements will be described in the applicable Prospectus Supplement.

Unless otherwise specified in the related Prospectus Supplement, each series of Offered Securities will be a new issue with no established trading market, other than Essex s Common Stock which is listed on the New York Stock Exchange. Any shares of Essex s Common Stock sold pursuant to a Prospectus Supplement will be listed on such exchange, subject to official notice of issuance. We may elect to list any Preferred Stock, Warrants or Debt Securities on any exchange, but we are not obligated to do so. It is possible that one or more underwriters may make a market in a series of Offered Securities, but will not be obligated to do so and may discontinue any market making at any time without notice. Therefore, we cannot assure you of the liquidity of the trading market for the Offered Securities.

If so indicated in the applicable Prospectus Supplement, we may authorize dealers, acting as our agent, to solicit offers by certain institutions to purchase Offered Securities from us at the public offering price set forth in such Prospectus Supplement, pursuant to delayed delivery contracts (Contracts) providing for payment and delivery on the date or dates stated in such Prospectus Supplement. Each Contract will be for an amount not less than, and the aggregate principal amount of Offered Securities sold pursuant to Contracts shall be not less nor more than, the respective amounts stated in the applicable Prospectus Supplement. Institutions with whom 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. Contracts will not be subject to any conditions except: (i) the purchase by an institution of the Offered Securities covered by its Contracts shall not, at the time of delivery, be prohibited under the laws of any jurisdiction in the United States to which such institution is subject and (ii) if the Offered Securities are being sold to underwriters, we shall have sold to such underwriters the total principal amount of the Offered Securities less the principal amount thereof covered by Contracts.

Certain of the underwriters and their affiliates may be customers of, engage in transactions with and perform services for, us in the ordinary course of business.

LEGAL MATTERS

The validity of the Offered Securities to be offered by Essex will be passed upon for us by Venable LLP and the validity of the Offered Securities to be offered by the Operating Partnership will be passed upon for us by Baker & McKenzie LLP. Baker & McKenzie LLP will also issue an opinion to us regarding certain tax matters described under Certain Material Federal Income Tax Considerations.

EXPERTS

The consolidated balance sheets of Essex Property Trust, Inc. and subsidiaries as of December 31, 2009 and 2008, and the related consolidated statements of operations, stockholders equity, noncontrolling interest and comprehensive income, and cash flows, for each of the years in the three-year period ended December 31, 2009, the related financial statement schedule III, and management s assessment of the effectiveness of internal control over financial reporting as of December 31, 2009 have been incorporated by reference herein, in reliance upon the reports of KPMG, independent registered public accounting firm, incorporated by reference herein, and upon

authority of said firm as experts in accounting and auditing.

KPMG LLP s report related to the consolidated financial statements refers to changes in methods of accounting for exchangeable bonds and for noncontrolling interest.

Table of Contents

2,600,000 Shares

7.125% Series H Cumulative Redeemable Preferred Stock
(Liquidation Preference $25 Per Share)

PROSPECTUS SUPPLEMENT

Joint Book-Running Managers

Wells Fargo Securities
Raymond James

Joint Lead Managers

Barclays Capital
RBC Capital Markets

Co-Managers

Baird
FBR
Janney Montgomery Scott
Morgan Keegan
Stifel Nicolaus Weisel

April 8, 2011